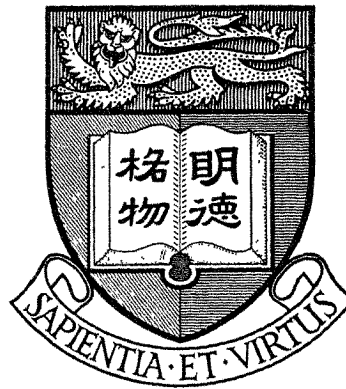


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Note:

Presentation materials from the following speakers are not available for inclusion in this compilation.

- Morning Session** Dr. Carmel Shalev, UN Committee on the Elimination of Discrimination against Women
Ms Catrina Lam Yuk Kuen, *Hong Kong Federation of Women's Centres*
- Afternoon Session** Dr. Grace C.L. Mak, *Dept. of Education, Chinese University of Hong Kong*

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12 March 1999

**Seminar on
Hong Kong and the Convention on the Elimination of All Forms of Discrimination
against Women organised by the
Centre for Comparative and Public Law of the Faculty of Law, and the Women's Studies
Research Centre, The University of Hong Kong**

**Saturday 28 November 1998, 9.00 a.m.-5.30 p.m.
Lecture T 4 Meng Wah Complex**



Morning Session: 9:00 a.m. - 1.00 p.m.

8:45 a.m.-9:15 a.m. Registration

9:15 a.m. – 10: 45 a.m. Opening Session
Chairperson: Ms Christine Loh

***The role of the Committee on the Elimination of Discrimination against Women under
the Convention on the Elimination of All Forms of Discrimination against Women***

Dr. Carmel Shalev, Member of the UN Committee on the Elimination of Discrimination
against Women; The Gertner Institute for Epidemiology and Health Policy Research.

Implementing the CEDAW Convention: the need for a central mechanism in Hong Kong

Dr. Fanny Mui-ching Cheung, Chairperson, Hong Kong Equal Opportunities
Commission

10:45 a.m. – 11:00 a.m. Morning tea break

11:00 a.m. – 1:00 p.m.
Chairperson: Ms Anna Wu

Promoting women's health in Hong Kong

Ms. Tessa Stewart, Hong Kong Federation of Women's Centres

Ms. Catrina Lam Yuk Kuen, Hong Kong Federation of Women's Centres

Trafficking of women and exploitation of prostitution

Sister Gray, Action for REACH OUT

Elderly women and poverty in Hong Kong

Ms. Fok Tin-man, Society for Community Organisation

Afternoon session: 2:15 p.m. – 5:30 p.m.

Chairperson: Ms Kavita Mathai, Convenor,

Women's Studies Research Centre

2:15 p.m. – 3:45 p.m

Education and women

Dr. Grace C.L. Mak, Department of Education, Chinese University of Hong Kong

Migrant workers – the position of foreign domestic helpers in Hong Kong

Ms. Connie Bragas-Regalado, United Filipinas in Hong Kong

Sex discrimination in the labour market – age discrimination, sexual harassment, the impact of the economic recession

Ms. Lam Ying Hing, Women Workers' Association

3:45 – 4:00 p.m.

Afternoon tea break

Chairperson: Mr Andrew Byrnes,

Director, Centre for Comparative and Public Law

4:00 p.m. – 5:15 p.m

Violence against women and girls

Ms. Edith Cheung, Harmony House;

Dr. Philip S L Beh, Faculty of Medicine, University of Hong Kong;

Ms. Priscilla Lui, Against Child Abuse;

Ms. Phyllis Wong, Association Concerning Sexual Violence Against Women

5:15-5:30 p.m.

Concluding comments

Conference Rapporteurs: Ms Catherine Ng, Hong Kong Polytechnic University; Ms Carole Petersen, School of Professional and Continuing Education, and Women's Studies Research Centre, University of Hong Kong

The Initial Report on the Hong Kong Special Administrative Region under the
Convention on the Elimination of All Forms of Discrimination against Women
Submission to the Legco Panel on Home Affairs by the Centre for Comparative
and Public Law, Faculty of Law, The University of Hong Kong

9 November 1998

Summary of principal recommendations*

Submission and publication of reports under the CEDAW Convention and other human rights treaties

1. We recommend that the Legco Panel on Home Affairs urge the Hong Kong SAR Government to:
 - make publicly available reports under human rights treaties in respect of Hong Kong as soon as they have been completed and despatched to the Ministry of Foreign Affairs; and
 - take up with the Ministry of Foreign Affairs the question of how to ensure that Hong Kong reports prepared in timely fashion are submitted expeditiously to the United Nations and considered within a reasonable period by the responsible committee; and
 - submit every two years to the Legislative Council a report outlining the steps taken to implement the Convention in the previous two years.

Implementation by the Hong Kong SAR Government of recommendations of UN treaty bodies

2. We recommend that the Panel request the Government to provide it, prior to the hearing before the CEDAW Committee in January 1999, with a detailed analysis of:
 - the recommendations made by United Nations treaty bodies in the period 1994-1997 in their concluding observations ;
 - the steps the Hong Kong Government has taken to give effect to those recommendations; and
 - where recommendations have not been implemented, why this has not been done.

* The full submission is available on the website of the Centre for Comparative and Public Law:
<http://www.hku.hk/ccpl/cedaw.htm>.

Incorporation of gender impact assessment into government policy-making and the legislative process

3. We recommend that the Panel:

- call on the Government to establish an effective machinery in the administration for the implementation of the Convention and for ensuring that the gender impact of policies is identified and evaluated in advance and incorporated into the formulation of the policies;
- call on the Government to formulate, in close consultation with women's groups and other appropriate parties, a regional plan of action for women, as called for by the Beijing Platform for Action adopted in 1995;
- insist that all new bills presented to the Council and requests for funding be accompanied by an analysis of the gender impact of the measures (as is required for financial implications and is proposed in relation to environmental impact);
- insist that all annual reports and other government reviews include an assessment by the reporting agency of the gender impact of their work to the extent that this is appropriate; and
- request the Government to provide a breakdown to the number of women and men who serve on the various statutory advisory boards and other advisory boards and to identify the steps it adopts (or could adopt) to ensure a representative number of women serve on these bodies.

Reservations and understandings

4. We recommend that the Panel request the Government to prepare, by no later than 31 December 1998, a report:

- indicating whether similar reservations have been made to obligations under other conventions which are in substance the same as the obligations in the CEDAW Convention which are subject to reservations;
- explaining in detail the practical impact of these reservations and understandings and why it considers their retention to be necessary; and
- providing a credible timetable for the review and removal of those reservations and understandings whose retention cannot be compellingly justified.

** Recommendations in relation to individual reservations and understandings appear in the text of the full submission at paras 23-49



The Women's Studies Research Centre (WSRC) is updating its mailing list. If you are not already a member and wish to join the Centre and to receive information about our seminars and conferences, please complete the following form and fax it to

ANDREW BYRNES, FAX NO 2559-3543

or send by mail to Women's Studies Research Centre, c/o Centre for Asian Studies, University of Hong Kong

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Membership in the WSRC is free of charge for all University of Hong Kong staff and students (Others are charged a one-time joining fee of \$50.) New members are welcome and all members are encouraged to attend our Committee meetings (held on the first Friday of every month, from 12:45 - 1:45 pm). To obtain more information about the WSRC, please contact Kavita Mathai (tel. 9239 3313; fax. 2540-00621; email. kavita@hk.super.net)

Committee on the Elimination of Discrimination against Women
Twentieth Session
19 January- 5 February 1999

Provisional Agenda

1. Opening of the session
2. Solemn declaration by the new members of the Committee
3. Election of officers
4. Adoption of the agenda and organization of work
5. Report of the Chairperson on activities undertaken between the nineteenth and twentieth sessions of the Committee
6. Consideration of the reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women
7. Implementation of article 21 of the Convention on the Elimination of All Forms of Discrimination against Women
8. Ways and means of expediting the work of the Committee
9. Provisional agenda of the twenty-first session
10. Adoption of the report of the Committee on its twentieth session

Annex

Proposed organization of work

Tuesday, 19 January 1999

404th meeting

10:00 a.m.

Item 1. Opening of the session

Item 2. Solemn declaration by the new members of the Committee

Item 3. Election of officers

Item 4. Adoption of the agenda and the organization of work

Item 5. Report of the Chairperson on activities undertaken between the nineteenth and twentieth sessions of the Committee

405th meeting

3:00 p.m.

Item 7. Implementation of article 21 of the Convention

**Item 8. Ways and means of expediting the work of the Committee
Working Group of the Whole**

Composition of Working Groups I and II and issues for discussion

Wednesday, 20 January 1999

10:00 a.m.

(Closed meeting)

Item 7. Implementation of article 21 of the Convention

Working Group of the Whole (presentations by Specialized Agencies and other entities of the United Nations on country information)

3:00 p.m.

(Closed meeting)

Item 7. Working Group of the Whole (presentations by non-governmental organizations).

Thursday, 21 January 1999

406th meeting

10:00 a.m

Item 6. Consideration of reports submitted by States parties

Algeria, initial report (CEDAW/C/DZA/1) Introduction by the State party's representative

407th meeting

3:00 p.m

Item 6. Consideration of reports submitted by States parties (continued)

Algeria, initial report (CEDAW/C/DZA/1) Questions by experts
Items 7 and 8. Working Group I

Friday, 22 January 1999

408th meeting

10:00 a.m

Item 6. Consideration of reports submitted by States parties

Kyrgyzstan, initial report (CEDAW/C/KGZ/1)
Introduction by the State party's representative

409th meeting

3:00 p.m

Item 6. Consideration of reports submitted by States parties (continued)

Kyrgyzstan, initial report (CEDAW/C/KGZ/1)
Questions by the experts
Items 7 and 8. Working Group II

Monday, 25 January 1999

410th meeting

10:00 a.m

Item 6. Consideration of reports submitted by States parties

Liechtenstein, initial report (CEDAW/C/LIE/1)
Introduction by State party's representative

411th meeting

3:00 p.m

Item 6. Consideration of reports submitted by States parties (continued)

Liechtenstein, initial report (CEDAW/C/LIE/1)
Questions by experts
Items 7 and 8. Working Group I

Tuesday, 26 January 1999

412th meeting

10:00 a.m.

Item 6. Consideration of reports submitted by States parties

China, combined third and fourth periodic reports (CEDAW/C/CHN/3 4 and Add.1)
Introduction by the State party's representative and replies to questions posed by experts.

413th meeting

3:00 p.m

Item 6. Consideration of reports submitted by States parties (continued)
China, combined, third and fourth periodic reports
(CEDAW/C/CHN/3-4 and Add.1)

Wednesday, 27 January 1999

414th meeting

10:00 a.m.

Item 6. Consideration of reports submitted by States parties (continued)
China, combined third and fourth periodic reports
(CEDAW/C/CHN/3-4 and Add.1)
Items 7 and 8. Working Group II

415th meeting

3:00 p.m

Item 6. Consideration of reports submitted by States parties (continued)
Replies (Algeria)
Items 7 and 8. Working Groups I and II

Thursday, 28 January 1999

416th meeting

Item 6.

10:00 a.m

Consideration of reports submitted by States parties
Replies (Kyrgyzstan)

417th meeting

3:00 p.m

Item 6. Consideration of reports submitted by States parties (continued)
Replies (Liechtenstein)
Items 7 and 8. Working Group of the Whole

Friday, 29 January 1999

418th meeting

10:00 a.m

Item 6. Consideration of reports submitted by States parties (continued)
Greece, combined second and third periodic reports
(CEDAW/C/GRC/2-3)
Introduction by State party's representative and replies to questions posed by experts.

419th meeting

3:00 p.m

Item 6. Consideration of reports submitted by States parties (Continued)
Greece, combined second and third periodic reports
(CEDAW/C/GRC/2-3)
Item 6. Working Group of the Whole, concluding comments on initial reports (Algeria).

Monday, 1 February 1999

420th meeting

10:00 a.m

Item 6. Consideration of reports submitted by States parties (continued)
Thailand, combined second and third periodic reports

(CEDAW/C/THA/2-3)

Introduction by State party's representative and replies to questions posed by the experts.

421st meeting

Item 6. Consideration of reports submitted by States parties (continued)

Thailand, combined second and third periodic reports

(CEDAW/C/THA/2-3)

Item 6. Working Group of the Whole, concluding comments on initial reports (Kyrgyzstan)

Tuesday, 2 February 1999

422nd meeting

10:00 a.m

Item 6. Consideration of reports submitted by States parties (continued)

Colombia, fourth periodic reports

(CEDAW/C/COL/4 and Add.1)

Introduction by State party's representative and replies to questions posed by experts.

423rd meeting

3:00 p.m

Item 6. Consideration of reports submitted by States parties (continued)

Colombia, fourth periodic reports

(CEDAW/C/COL/4 and Add. 1)

Item 6. Working Group of the Whole, concluding comments on initial reports Liechtenstein

Wednesday, 3 February 1999

10:00 a.m

Item 6. Working Group of the Whole, concluding comments on periodic reports China.

3:00 p.m

Item 6. Working Group of the Whole, concluding comments on periodic reports, Greece.

Thursday, 4 February 1999

10:00 a.m

Item 6. Working Group of the Whole, concluding comments on periodic reports, Thailand

3:00 p.m

Item 6. Working Group of the Whole, concluding comments on periodic reports Colombia.

Friday, 5 February 1999

424th meeting

10:00 a.m

Items 7 and 8. Reports of the Working Groups I and II

Item 9. Draft Provisional agenda for the twenty-first session.

425th meeting

Item 10.

3:00 p.m

Adoption of the report of the Committee on its twentieth session.

Report of the Hong Kong Association of
Business and Professional Women on the
Initial Report on the Hong Kong Special Administrative Region
under the Convention on the Elimination of All Forms of
Discrimination Against Women¹

November 1998²

I. Background Information on BPW

The Hong Kong Association of Business and Professional Women ("BPW") submits this report on the Initial Report on the Hong Kong Special Administrative Region under the Convention on the Elimination of All Forms of Discrimination Against Women (the "Initial CEDAW Report"). BPW is affiliated with the International Federation of Business and Professional Women, which has ECOSOC status at the United Nations. HKBPW has been actively promoting women's equality in Hong Kong for many years. In particular, BPW was active in lobbying for: the extension of CEDAW to Hong Kong; women's inheritance rights; and the enactment of the Sex Discrimination Ordinance (as well as other anti-discrimination legislation).

Section II provides a summary of BPW's principle recommendations. These recommendations are discussed in detail in Section III.

II. Summary of Recommendations

1. The Hong Kong Government needs to establish effective machinery (e.g. an Office on the Status of Women within the executive branch) for the implementation of the CEDAW Convention. At least one high-level official should be dedicated full-time to assessing and improving the status of women in Hong Kong. The Government is currently sidestepping many obligations under the Convention, apparently assuming that it has fulfilled them by creating an Equal Opportunities Commission. Of course, the Commission has an important role to play (in enforcement of the Sex Discrimination Ordinance, education and lobbying). However, it cannot be responsible for government policy making.

2. The Hong Kong Government should formulate, in consultation with women's organizations, a plan of action for women, as required by the Beijing Platform for Action adopted in 1995.

¹Prepared by Carole Petersen and Anne Godfrey (members of BPW) for distribution at the Seminar on Hong Kong and the CEDAW Convention, Centre for Comparative and Public Law, Faculty of Law, University of Hong Kong, 28 November 1998.

²This report may be revised before it is submitted to the CEDAW Committee. Comments are welcome and may be sent to Carole Petersen at the University of Hong Kong (tel: 2975-5707; fax: 2546-0295; email: carole@hkuspace.hku.hk). (BPW also welcomes new members and will send membership information if requested.)

3. As the current make-up of the legislature (which allocates 30 of the 60 seats to "functional constituencies") clearly discriminates against women, the Hong Kong Government should take steps to ensure better representation of women in statutory advisory bodies and other institutions of government. In view of the special history of discrimination in New Territories village elections, the Government should also be proactive in ensuring full compliance with the recent legislation prohibiting such discrimination.

4. The Hong Kong Government should remove (or at least narrow) the many unnecessary and/or overly broad reservations in the application of CEDAW to Hong Kong.

5. In particular, the Government should disclose its plans for reforming the Small House Policy (which is presently restricted to men) and a timetable for removing the reservation for said policy in the CEDAW Convention.

6. The Hong Kong Government should introduce legislation to prohibit age discrimination in Hong Kong, which disproportionately affects women workers.

7. The Government should consider reforming the offence of soliciting, as it makes female prostitutes vulnerable to harassment.

8. A programme of judicial training is urgently needed, to develop gender sensitivity among members of the Hong Kong judiciary.

9. In future, the Hong Kong Government should make its reports on the CEDAW Convention available to the public as soon as they are completed.

III. Discussion of Recommendations

Recommendation 1: The Hong Kong Government should create an Office on the Status of Women within the executive branch, with at least one high-level official, dedicated full-time to improving the status of women in Hong Kong.

Women's organizations fought long and hard for the enactment of the Sex Discrimination Ordinance and the extension of CEDAW to Hong Kong. The Equal Opportunities Commission is charged with the enforcement of the Ordinance, but it cannot be viewed as fulfilling all of the Hong Kong Government's obligations under the CEDAW Convention. The Commission's main role is to receive complaints of acts that are unlawful under the Sex Discrimination Ordinance. This limited focus means that the Commission is not taking the proactive steps required by the CEDAW Convention to address women's inequality. (Indeed, the Government has actually **resisted** efforts to list CEDAW and other international conventions under the terms of reference specified for the Commission.) Unfortunately, the Government also is not taking

those steps. Women have found that if they try to raise gender issues with the Government, it often simply refers them to the Equal Opportunities Commission -- which takes no action unless an unlawful act under the Sex Discrimination Ordinance is involved. Thus, the implications of CEDAW are often ignored.

As a result, many important problems simply are not being addressed. For example, there is no one in the Government charged with reviewing the gender implications of policies and proposed legislation. No one has drafted a Hong Kong plan of action, as called for by the Beijing Platform of Action adopted in 1995. No one is actively considering ways to increase representation of women in local government or to reduce women's inequality in the job market.

What is needed is effective machinery in the executive branch. At a minimum, this should include one full-time high-level government officer, one whose mandate is to improve the status of women in Hong Kong and whose job performance will depend entirely upon her effectiveness in this area. This would elevate the issue of the status of women and increase opportunities for progressive policy making. The present situation (in which the status of women is only one of many responsibilities of the Home Affairs Branch and thus receives inadequate attention) is simply not working.

Recommendation 2: The Hong Kong Government should formulate, in consultation with women's organizations, a plan of action for women, as required by the Beijing Platform for Action adopted in 1995.

The failure to prepare such a plan of action (more than three years after the Beijing conference) demonstrates a lack of commitment and must be remedied. This is not a task that can be fulfilled by the Equal Opportunities Commission (as it requires policy and resource commitments by the Hong Kong Government). This should be the first task of the person chosen to head an Office on the Status of Women.

Recommendation 3: The Hong Kong Government should take steps to ensure better representation of women in statutory advisory bodies and other institutions of government.

Hong Kong does not enjoy full democracy at this time. What is often overlooked, however, is that the current system for choosing the legislature and the Chief Executive is particularly disadvantageous for women. The system gives undue influence to prominent (and generally wealthy) leaders of male-dominated professions and the business community. For example, 30 of the 60 seats in the legislature are reserved for "functional constituencies". Most of these constituencies are small elitist groups, which tend to be dominated by men. Proposals to create a functional constituency to represent the interests of women who work in the home have been flatly rejected.

It should be noted that these 30 functional constituency seats

hold a great deal of power. Indeed, under the Hong Kong Basic Law, any bill, amendment, or motion proposed by a member of the Legislative Council will only pass if it receives a majority of **both groups** of legislators -- those elected by the functional constituencies and those elected by other methods (direct election and the "election committee"). This means that even if all of the directly elected representatives and 14 of the functional constituency representatives supported a bill that would benefit women (such as a bill to prohibit age discrimination) the bill could be defeated by the vote of only 16 of the functional constituencies.

The election law that created this male-dominated legislature was drafted by the current Hong Kong Government and approved by an entirely appointed "provisional legislature". At no time has the Government acknowledged the gender implications of such an undemocratic structure. In general, the Government also has made no effort to increase women's representation on statutory advisory boards and other groups that advise the Government on policy matters.

The New Territories village elections deserve special attention. Until recently, many villages overtly discriminated against women (by barring them from standing for election or from voting). Fortunately, as a result of an amendment to the Sex Discrimination Bill (which the Government strongly opposed), the Sex Discrimination Ordinance now prohibits such overt discrimination. However, women have reported that they still feel very intimidated by the male-dominated establishment in the villages, which discourages them from fully participating.

In its draft outline of topics for its Initial CEDAW Report, the Government did not even list the special problem of discrimination in village government. As a result of a request by the local women's movement, the Government did add a very short section on this issue to its Initial CEDAW Report. It states (at par. 52) that:

"It is now the policy of the Heung Yee Kuk, the Government's statutory adviser on New Territories matters, that village representatives should be elected on the basis of one-person-one-vote, equal voting rights for men and women, and fixed four-year term. Some 660 villages (or 94%) are already adopting this system. Others are expected to follow in the near future. . . . The Government will continue to promote compliance of the new rules in the remaining villages."

The Government does not describe, however, what it is actually doing to promote true compliance. If the villages are only adopting written rules that comply with the letter of the law, then that is not enough. The Government must also actively investigate whether women are being discouraged from exercising their rights -- a very likely scenario given the initial resistance of many villages to the new law. The need for more

proactive enforcement is demonstrated by the fact that a full three years after the enactment of the Sex Discrimination Ordinance, there are still only 10 female village representatives -- out of a total of approximately 1,000! (See Hong Kong's Initial CEDAW Report, par. 53.)

Clearly, more action is needed to help women achieve equality of representation in all levels of Hong Kong Government.

Recommendation 4: The Hong Kong Government should remove the unnecessary and/or overly broad reservations in the Convention. Those reservations which the Government insists on maintaining should be expressly justified and narrowed (in scope and time) to the extent possible.

We submit that the application of CEDAW should not be made subject to reservations unless: (1) the Government can justify the need for the reservation; and (2) the Government can show that it has drafted the reservation so as not to be overly broad.

These two principles have not been followed with respect to Hong Kong, where the application of CEDAW has been made subject to several vague and overly broad reservations, the justification for which is not clearly specified.

For example, Hong Kong's ratification of CEDAW contains a blanket reservation for the right to discriminate under immigration law regarding persons who do not have the right to enter or remain in Hong Kong. The Sex Discrimination Ordinance contains a similar exemption.

Immigration (particularly from mainland China) is a very sensitive issue in Hong Kong. In many cases, the persons "without a right to enter or remain" are not really strangers to Hong Kong -- rather they are immediate family members of Hong Kong residents. Women are often separated, for long periods of time, from their husbands or their children. This can have tragic results -- particularly where young children are separated from one or both of their parents and cannot receive the love and attention that they require.

We understand that the Hong Kong Government must control immigration and appreciate that this is not an easy task. However, we do not understand why the Government would need to reserve the right to discriminate against women in its immigration laws. It is our understanding that the Government has never justified this particular exemption or provided examples of when it is relevant. We call upon the Government to do so. If the reservation cannot be justified in its present form, then it should be removed or at least narrowed.

Recommendation 5: In particular, the Government should disclose its plans for reforming the Small House Policy (which only benefits men) and a timetable for removing the reservation for said policy in the Convention.

The application of CEDAW to Hong Kong is subject to a reservation for the preferential rights and privileges of New Territories male indigenous residents. The Sex Discrimination Ordinance contains a similar exemption, for Government discrimination in the application of the highly controversial "Small House Policy".

The Small House policy is essentially a social welfare policy. It was created in the early 1970's to address the problem of inadequate housing of indigenous residents of the New Territories who were generally not moving into the urban developments of the "New Towns". The Government also viewed it as a way to avoid opposition by New Territories indigenous residents to the development of the New Towns.

Under the policy, an "indigenous villager" may apply for a free building license to erect a house on his own land or (more importantly) be granted a building site on government owned land at a concessionary premium. But "indigenous villager" is defined under the policy as a male person who is descended through the male line from a resident in 1898 of a recognized village. As the value of land in the New Territories has increased, this policy has become extremely controversial in Hong Kong, both because it excludes women and because it favours indigenous residents.

The Government has (for many years) promised that it is "studying" the Small House Policy and planning to propose reforms. This promise has been made, once again, in the Government's Initial CEDAW Report: it claims that a review committee has been established and that the "aim" is to complete the review of the Small House Policy by the end of 1998. However, as of late 1998, no report has been released from this anonymous "committee". Moreover, according to the Government, this review will only form the basis for consultation with the Legislative Council and the Heung Yee Kuk (a male-dominated organization which has a long record of resisting reforms to increase women's rights in the New Territories). (See Hong Kong's Initial CEDAW Report, par. 173.)

It is clear that the Government plans to stall any reform of the policy for as long as possible. It is for this reason that it has resisted every attempt to put a time limit on the exemption for the Small House Policy in the Sex Discrimination Ordinance. We submit that this approach is entirely inconsistent with the Government's obligations under the CEDAW Convention

Recommendation 6: The Hong Kong Government should introduce legislation to prohibit age discrimination in Hong Kong, which disproportionately affects women workers.

The Hong Kong women's movement has lobbied for many years for the enactment of age discrimination legislation. Age discrimination in employment is a gender issue because:

1. it tends to affect women more than men (and at an earlier age); and

2. it is based, to a significant degree, on sexist notions, which value women more for their appearance than for their qualifications and experience.

Public consultation exercises (e.g. on the Green Paper on Equal Opportunities for Women and Men and on the Sex Discrimination Bill) have demonstrated that this is a real problem for Hong Kong women. Many women's organizations have made submissions complaining of age discrimination and asking that age, as well as sex discrimination, be addressed with legislation. In March 1995, Anna Wu (sponsor of the Equal Opportunities Bill, which would have prohibited age discrimination had it been enacted) received over 2000 letters from women complaining of age discrimination.

Yet the Hong Kong Government refuses to acknowledge that age discrimination is a gender issue and it has steadfastly opposed all efforts to enact legislation against it. Its only (reluctant) step has been to draft "voluntary" guidelines urging companies to avoid age discrimination. However as there are no sanctions for failing to follow the guidelines, they are ineffective. Indeed, victims of age discrimination cannot even seek the assistance of the Equal Opportunities Commission -- as there is no legislation bringing the problem within its jurisdiction. (A small sample of the many job advertisements that continue to discriminate on the basis of age is attached to this report for reference.)

We understand that a member of the Legislative Council plans to introduce, once again, an age discrimination bill. We submit that the Government should at least take a neutral position and cease its vigorous opposition to this bill. The Legislative Council (the only arguably representative body at that level of Government) should be permitted to decide the matter in the best interests of Hong Kong.

Recommendation 7: The Government should consider reforming the offence of soliciting, as it makes female prostitutes vulnerable to harassment.

It is not illegal in Hong Kong to be a prostitute or to provide sexual services for money. However, it is an offence to solicit for "an immoral purpose" in a public place or to loiter for the purpose of soliciting. Although this may appear to be a "gender neutral" offence, in practice it is discriminatory and can be used by the police to harass women prostitutes. Female prostitutes have complained that they are often accused of soliciting when they were not doing so or when they had, in fact, been approached by the male customer. Naturally, a prostitute will be reluctant to testify against her customer in such circumstances and thus may be unfairly convicted. The Government should consider repealing this offence or, at a minimum, amending it so as to do away with custodial sentencing.

Recommendation 8: A programme of judicial training is urgently needed, to develop gender sensitivity among members of the Hong

Kong judiciary.

Hong Kong judges often make remarks that reflect sexist attitudes or a lack of awareness of gender issues. For example, when deciding upon the sentences for defendants who have been convicted of rape or sexual assault, judges sometimes make remarks indicating that they have taken into account the sexual history of the victim. These comments imply that the rape of a sexually active woman is less serious than the rape of a woman who is not sexually active. In other cases, it has been reported that the judge commented on the occupation and/or the national origin of the victim -- again, implying that some women are less "pure" than others and therefore less deserving of protection from rape and sexual assault. All women, including entertainment workers and prostitutes, deserve the full protection of the law. This will only happen if judges receive training on gender issues.

Recommendation 9: In future, the Hong Kong Government should make its CEDAW Report available to the public as soon as it has been completed.

Hong Kong's Initial CEDAW Report was due to be submitted to the United Nations in October of 1997. It is our understanding that the Report was completed by that time. However, it was not submitted by China's Ministry of Foreign Affairs until one year later (apparently because the Chinese Government wanted to submit Hong Kong's Initial CEDAW Report together with updating reports on the Mainland).

Unfortunately, during this one year delay Hong Kong's Initial CEDAW Report was kept secret from the public. Now that we have finally received it, a good deal of the information is outdated. Even more troubling is the fact that NGO's (and the Legislative Council) have also been needlessly constrained in terms of the time that they can devote to studying, debating, and commenting upon on the Initial Report before the CEDAW Committee hearing in early 1999.

We submit that future reports should be made public as soon as they are completed. The Central Government has undertaken not to amend Hong Kong's reports, so there is no justification for keeping them secret for such a long period of time. This would give both the Legislative Council and local NGO's a better opportunity to monitor the extent to which CEDAW is actually being complied with in Hong Kong.

**Hong Kong Association of Business and Professional Women
GPO Box 1526
Central, Hong Kong**

Attachment to
Report of the Hong Kong Association
of Business and Professional Women

Examples of Job Advertisements that Discriminate on the Basis
of Age (appearing in Hong Kong Newspapers in November 1998)

Required by Ferrero Germany
Q.C. / Q.A. Supervisor
(Attractive offer for right candidate)

- Male/Female, F.7 or above, knowledge of ISO 9000 preferable
- Age 22-36, Independent & Mature
- Fluent in English and Cantonese
- Mandarin preferable
- Min. 3 years of factory quality supervision in plastic toys
- 5 days working in China

Interested parties, please call Mr. Tam or Mr. Abrate at
Tel No.: 2369 0887

A growing customer oriented Electronic Component manufacturer in Tsuen Wan invites applications for the following position:

Senior Clerk


- Form 7 or above
- Aged 25-35 years
- 5 years + experience is desirable
- Fluent in English and Chinese (Mandarin preferable)
- Can work independently / supervise junior clerks
- PC knowledge essential
- Typing speed - English 50 / Chinese 20 words per minute

Please apply with full resume, salary drawn & expected to: Box 5748 SCM Post

We are an expanding company and would like to invite a bright
ACCOUNTANT to join us.

- 28-35
- L.C.C. Higher or above
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- Mature, organised, good analytical & supervisory abilities
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- 輪班工作, 每週工作六天, 週六、日及公眾假期需當值;
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有意者請備履歷及薪金要求致函:

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海富中心第二座 1212 室
安樂影片有限公司
戲院運作部收

7807715

尖沙咀洋行

聘文員

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- ▣ 懂打字及電腦
- ▣ 無須經驗

有意者請電 2366-1301 孫小姐約見

觀塘時裝毛衫廠誠聘

倉務員

· 年45歲以下
· 懂電腦及有毛倉經驗

有意請電 2341 2368 馮小姐洽

Part Time Account Clerk

for Design at Causeway Bay

- 2-6pm, Mon-Fri,
- age 25-35, 3.5K-4K/month
- Full set of account books
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Please fax resume to 2895 2233

An expanding Limited Company
urgently requires:

MERCHANDISER

- * Age 23-30, F5 or above.
- * Min 2 years experience in sweater field.
- * Work independently.
- * Good command of English, Chinese.
- * Knowledge in issue Production Sheet and Sample Order.

SHIPPING

- * Form 6 or above.
- * Min 3 years Shipping experience, in sweater field is preferred.
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Interested parties, please call Miss Mok at 2428-0498 or sent full resume to 15-19, 2/F., LAM TIN STREET, KWAI CHUNG, N.T., HONG KONG.

(No agents, Please!)

59838

A Garment Manufacturer in Kwai Chung Urgently requires:-

(1) MERCHANDISER

- Age 25-35
- F5 graduate or above
- Good command of English & communication skills
- 3 years experience in garment field
- Computer knowledge

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- Age 25-35
 - F5 graduate
 - 3 years relevant working experience
 - Computer knowledge
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* We offer alternate Saturdays off, bank holidays, provident fund, free lunch, medical scheme, double pay and year-end bonus. Interested parties, please contact Miss Chan at 2494-0918 for interview.

(Employment Agencies are not welcome.)

59834



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- * 略懂打字及電腦操作優先

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2368 9006或

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98 號東海商業中心 507-513

中國事業部收

4129

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 - Good English is a must
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12106

火炭日資公司急聘

生產貨期管理員

- 有貿易、生產管理經驗者
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- 預科畢業，年齡20-35
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或傳真履歷致 2688-6131

岡部社長/汪小姐洽

18212

MERCHANDISER/ASST. MERCHANDISER

- ◆ M/F, age 22-28, F. 5 or above (w/Eng. passed)
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- ◆ Must be able to handle correspondence with overseas clients & good communication skill with supplier
- ◆ Good PC skill of using Eng. & Chn. Windows

Good salary will be offered to the right candidate plus medical & life insurance, provident fund & bonus, alternate Sat. off.
Please contact Miss Lau at 2799 0502 for interview.

**Seminar on
Hong Kong and the Convention on the Elimination of All Forms of
Discrimination against Women
organised by the
Centre for Comparative and Public Law of the Faculty of Law, and
the Women's Studies Research Centre,
The University of Hong Kong**

Research resources on CEDAW

Internet Sources	page 1
CEDAW in Hong Kong Homepage	page 2
UN CEDAW Homepage	page 4
Reporting under the Convention: how the process works And how NGOs can make use of it", Andrew Byrnes, Director, Centre for Comparative and Public Law	page 6
General recommendations of the Committee on the Elimination Of Discrimination against Women 1986-1997	page 9

Centre for Comparative and Public Law Research resources on CEDAW

Internet sources

- Centre for Comparative and Public Law "CEDAW in Hong Kong" at <http://www.hku.hk/ccpl/cedaw.html>. Including the following documents:
 - "Reporting under the Convention : how the process works and how NGOs can make use of it", Andrew Byrnes, Director, Centre for Comparative and Public Law (copy attached at page 6)
 - "Producing NGO shadow reports to CEDAW: a procedural guide", International Women's Rights Action Watch (IWRAP)
 - Links to the Hong Kong Government report under the Convention in both English and Chinese at http://www.info.gov.hk/hab/top_issue/index_e.htm
 - Submission by the Centre for Comparative and Public Law to the Hong Kong Legislative Council (Legco) Panel on Home Affairs on 9 November 1998.(Summary of recommendations blue paper in folder)
 - General recommendations by CEDAW 1986-1997 (copy attached page 9)
 - Links to more cedaw related web sites.

- The United Nations Division for the Advancement of Women at <http://www.un.org/womenwatch/daw/index.html> and CEDAW web site at <http://www.un.org/womenwatch/daw/> include:
 - Information on the both the Committee and the Convention including the text of reservations to the Convention and general recommendations and comments of the Committee.
 - The CEDAW Archives containing official documents of past sessions.

- International Women's Rights Action Watch, (IWRAP) at <http://www.igc.apc.org/iwraw/index.html>

- "A Select Bibliography of Women's Human Rights", at http://www.law.utoronto.ca/pubs/h_rghts.htm A bibliography covering the Convention and related matters by Rebecca J Cook and Valerie L Oosterveld. Updated and made available on-line by the Laskin Law Library at the University of Toronto.

- "CEDAW Impact Study", a list of resources prepared by the Centre for Refugee Studies at York University, Toronto at <http://www.yorku.ca/research/crs/iwrpweb/resources.htm>



[CCPL Homepage](#)

[Hong Kong Treaty Project](#)

Centre for Comparative and Public Law
Faculty of Law, The University of Hong Kong

CEDAW in Hong Kong

[SEMINAR November 28 1998 Register now](#)

[NEW Producing NGO shadow reports to CEDAW](#)

[NEW Submission to the Legco Panel by CCPL](#)

The Convention on the Elimination of All Forms of Discrimination against Women and Hong Kong

On 18 December 1979, the [Convention on the Elimination of All Forms of Discrimination against Women](#) was adopted by the United Nations General Assembly. It entered into force as an international treaty on 3 September 1981.

The Convention has applied to Hong Kong since 14 October 1996, when the United Kingdom Government extended the Convention to the then dependent territory of Hong Kong. On 1 July 1997 the People's Republic of China resumed sovereignty over Hong Kong, from that date the Convention has continued to apply to the Hong Kong Special Administrative Region pursuant to the assumption by the Central People's Government of the People's Republic of China of obligations under the Convention in relation to Hong Kong. [More information on the application of the Convention to Hong Kong, including details of reservations and declarations, both pre- and post-1 July 1997.](#)

The Committee on the Elimination of Discrimination against Women

The implementation of the Convention is monitored by the Committee on the Elimination of Discrimination against Women (CEDAW), which consists of 23 independent experts.

At least every four years the States Parties are expected to submit a national report to the Committee indicating the measures they have adopted to give effect to the provisions of the Convention. During its sessions the Committee members discuss these reports with Government representatives and explore with them areas for further action by the specific country.

The Government of the People's Republic of China has recently submitted its reports on the Hong Kong Special Administrative Region to the Committee. The Committee will consider these reports during its session in January 1999.

[More information on CEDAW Committee and Hong Kong](#)

[Reports to CEDAW: Hong Kong & advice for NGOs](#)

[CEDAW General Recommendations](#)

[CEDAW Related web links](#)

The Application of the Convention on All Forms of Discrimination

[Useful Dates](#)

against Women to Hong Kong

[Useful Links](#)

[back](#)

- [HK database: summary of application to Hong Kong](#)
 - [UN database: text of convention](#)
 - [UN database: all ratifications/reservations/declarations by States parties to the Convention](#)
-

[top](#)

Committee on the Elimination of Discrimination against Women and Hong Kong

Reports to CEDAW : Hong Kong and advice for NGOs

- [Reporting under the Convention](#): how the process works and how NGOs can make use of it, by CCPL.
- [New Producing NGO shadow reports to CEDAW: a procedural guide](#), by IWRAW.

A useful guide for NGOs written by the International Women's Rights Action Watch (IWRAW) and reproduced here with their permission. Also see the IWRAW web site at <http://www.igc.org/iwraw>.

- [The first report by Hong Kong under the CEDAW Convention](#)

The Government of the People's Republic of China recently submitted to the United Nations the initial report of the Hong Kong Special Administrative Region under the Convention. The report together with the combined 3rd and 4th periodic reports of Mainland China (and an updating report), will be reviewed in January 1999 by the Committee on the Elimination of Discrimination against Women.

[Hong Kong Government report under the Convention \(English version\)](#). The text of the most recent Hong Kong report (October 1998) available from the website of the Home Affairs Bureau of the Hong Kong Government.

[Hong Kong Government report under the Convention \(Chinese version\)](#). As above, in Chinese language.

- [Legco Panel on Home Affairs](#)
 - [Schedule of meetings](#)
 - [Papers, including NGO submissions](#)
 - [Submission to the Legislative Council Panel on Home Affairs by the Centre for Comparative and Public Law, Faculty of Law, The University of Hong Kong, 9 November 1998, on the Initial Report on the Hong Kong Special Administrative Region under the Convention on the Elimination of All Forms of Discrimination against Women.](#)

The Legislative Council (Legco) Panel on Home Affairs met on 9 November 1998 to discuss the Hong Kong Government's report under the Convention. The meeting included a presentation by the Government and presentations by local NGOs and academics, including the above submission by the Centre for Comparative and Public Law.

General comments and recommendations by CEDAW

- [General comments and recommendations by CEDAW 1986-1997](#) The Committee frequently makes general comments and recommendations to the States Parties on matters concerning the elimination of discrimination against women. Find here a compilation of general comments and recommendations made by CEDAW in respect to individual issues requiring consideration in light of obligations under the Convention.
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[top](#)



The United Nations

Convention on the Elimination of All Forms of Discrimination against Women

[The Convention](#) | [The Committee](#) | [Archives](#) | [Search](#)

[\[Click here for text only version of CEDAW documents\]](#)

The following links will provide a guide to more specific information about the Convention and the work of the Committee established under the Convention, and its aim to eliminate discrimination against women. [About CEDAW...](#)

- [The Convention on the Elimination of All Forms of Discrimination against Women](#) is the comprehensive human rights treaty which aims to advance the status of women. In this section information is provided about the status and the functions of the Convention and States Parties that have ratified or acceded to it. This section also describes work towards the elaboration of an optional protocol to the Convention which would allow for individuals to submit complaints.
- [The Committee on the Elimination of Discrimination Against Women](#) consists of 23 experts, elected in their personal capacity, each from different countries and backgrounds. This section contains information and documents relating to the last session of the Committee as well as upcoming sessions.
- [The CEDAW Archives](#) contain official documents of past sessions and other relevant information.
- [The SEARCH-link](#) connects directly to the economic and social development search engine of the UN Department for Policy Coordination and Sustainable Development. Using this search engine information can be found on the United Nations economic and social areas.

About the Convention

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is an international bill of rights for women. Acknowledging that the mere fact of women's humanity had been insufficient to guarantee women protection of their rights under existing human rights standards and mechanisms, it brings together in a single comprehensive human rights treaty, the provisions of previous United Nations instruments concerning discrimination on the basis of sex and extends them further, so as to create a tool dedicated to the elimination of all forms of discrimination against women.

The Convention requires States Parties to eliminate discrimination against women in the enjoyment of all civil, political, economic and cultural rights. It also establishes programmatic measures for States to pursue in achieving equal enjoyment by women and men of their human rights. States are obliged not only to work for equality in public life, for

example, in the realm of legal status and political participation, but also in private life. In pursuing CEDAW's goals, States Parties are encouraged to introduce measures of affirmative action designed to promote gender equality.

The Convention was adopted by the General Assembly in December 1979. Ratification was rapid, and the treaty came into force on September 3, 1981. As at December 1996, 154 countries - more than two-thirds of the members of the United Nations - are party to the Convention and an additional 4 have signed the treaty, binding themselves to do nothing in contravention of its terms.

◀ [Go back to top of the page](#)

◀ [Go to Division for the Advancement of Women](#)

[Acknowledgements](#)

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Division for the Advancement of Women.
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New York, NY 10017
USA

Fax +1-212-963-3463
Home Location=<http://www.un.org/womenwatch/daw>
✉ E-mail address: daw@un.org

REPORTING UNDER THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN:

HOW THE PROCESS WORKS AND HOW NGOS CAN MAKE USE OF IT

Prepared by the Centre for Comparative and Public Law, Faculty of Law, The University of Hong Kong

(Based on the information available to us as of October 1998)

<p>Stage 1: Submission of a report by the government The government submits a report on the steps it has taken to implement the Convention. The report is due within a year of the entry into force of the Convention for the country concerned.</p>	<p>Stage 1: Submission of a report on the HKSAR The first report on the HKSAR under the CEDAW Convention was due on 14 October 1997. The Chinese government submitted the report on 31 August 1998, together with a report updating the combined 3rd and 4th reports of China submitted earlier. The report on Hong Kong is available on the website of the Home Affairs Bureau (and in printed form from the Bureau) http://www.info.gov.hk/hab/top_issue/index_e.htm [English] http://www.info.gov.hk/hab/top_issue/index_c.htm [Chinese]</p>
<p>Stage 2: Pre-hearing preparation The Country Rapporteur (a member of CEDAW with primary responsibility for one country) prepares an analysis of the government's report. She sends this to a sub-committee of CEDAW ("pre-sessional working group"), which meets before the meetings of the full Committee. The working group also receives questions from other members of the Committee and compiles a list of questions in writing which is sent to the government. Non-governmental organisations may formally submit material to the pre-sessional working group and may be invited to attend in person to brief the working group.</p>	<p>Stage 2: Pre-hearing preparation The reports submitted by China (including that on the HKSAR) will be considered by the CEDAW Committee at its 20th session in January 1999. The pre-sessional working group will meet in the week of 11-15 January 1999, followed by the full Committee's 3-week session commencing on 19 January 1999. Material can be sent to the Country Rapporteur and/or to the pre-sessional working group through the Secretary, Committee on the Elimination of Discrimination against Women, Division for the Advancement of Women, United Nations. N.Y. N.Y. 10017 USA. FAX: (212) 963 3463. Sufficient copies should be sent to the Division, since they are not able to photocopy NGO material for distribution to members.</p>

<p>Stage 3: Public meeting with the government</p> <p>The full Committee meets with representatives of the government over a period of between 1 and 3 meetings (each meeting lasts about 3 hours). During these meetings the government is expected to respond to the written questions of the Committee and any additional questions posed by the Committee.</p>	<p>Stage 3: Public meeting with the government</p> <p>The Committee will meet with the Chinese delegation (likely to include a number of representatives of the HKSAR government) to discuss the reports relating to Mainland China and to Hong Kong.</p> <p>The date for these meetings has not yet been set, but is likely to be sometime between 21-28 January 1998.</p>
<p>Stage 4: The adoption of concluding comments by the Committee</p> <p>Following the meeting with the government, the Committee will adopt its <i>Concluding comments</i>, a 3-5 page document that sets out the Committee's assessment of the progress made in implementing the Convention, the major problem areas, and detailed recommendations of the steps it considers the government should take. This document will be provided to the government at the end of the Committee's session and made public shortly afterwards. These provide the basic lobbying tool for NGOs at the national level to use in their work of influencing government to give effect to the Convention.</p>	<p>Stage 4: The adoption of concluding comments by the Committee</p> <p>The Committee's session concludes on 5 February 1999, so the <i>Concluding comments</i> should be available on that day or early the following week. They will be posted within a relatively short time on the UN CEDAW website</p>

For further information and updates on developments, see the website of the Centre for Comparative and Public Law: <http://www/hku.hk/ccpl>. If you would like to be placed on an email list for future information, please send a message to abyrnes@hkusua.hku.hk.

REPORTING UNDER THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN:

HOW THE PROCESS WORKS AND HOW NGOS CAN MAKE USE OF IT

Formal stages of the procedure

Stage 1: Submission of a report by the government

The government submits a report on the steps it has taken to implement the Convention. The report is due within a year of the entry into force of the Convention for the country concerned.

Stage 2: Pre-hearing preparation

The Country Rapporteur (a member of CEDAW with primary responsibility for one country) prepares an analysis of the government's report. She sends this sent to a sub-committee of CEDAW ("pre-sessional working group"), which meets before the meetings of the full Committee. The working group also receives questions from other members of the Committee and compiles a list of questions in writing which is sent to the government.

Non-governmental organisations may formally submit material to the pre-session working group and may be invited to attend in person to brief the working group.

Stage 3: Public meeting with the government

The full Committee meets with representatives of the government over a period of between 1 and 3 meetings (each meeting lasts about 3 hours). During these meetings the government is expected to respond to the written questions of the Committee and any additional questions posed by the Committee.

Stage 4: The adoption of concluding observations by the Committee

Following the meeting with the government, the Committee will adopt its *Concluding observations*, a 3-5 page document that sets out the Committee's assessment of the progress made in implementing the Convention, the major problem areas, and detailed recommendations of the steps it considers the government should take. This document will be provided to the government at the end of the Committee's session and made public shortly afterwards. These provide the basic lobbying tool for NGOs at the national level to use in their work of influencing government to give effect to the Convention.

Unless the Committee requests additional information or a further report, the next report will be due 5 years after the due date for the report just considered.

General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

1. General Recommendation No. 1 (Fifth session, 1986) (Reporting)
2. General Recommendation No.2 (Sixth session, 1987)
3. General Recommendation No. 3 (Sixth session, 1987)
4. General Recommendation No. 4 (Sixth session, 1987)
5. General Recommendation No. 5 (Seventh session, 1988) (Temporary Special Measures)
6. General Recommendation No. 6 (Seventh session, 1988) (Effective National Machinery and Publicity)
7. General Recommendation No. 7 (Seventh session, 1988) (Resources)
8. General Recommendation No. 8 (Seventh session, 1988) (Implementation of article 8 of the Convention)
9. General Recommendation No. 9 (Eighth session 1989) (Statistical data concerning the situation of women)
10. General Recommendation No. 10 (Eighth session 1989) (Tenth anniversary of the adoption of the Convention on the Elimination of All Forms of Discrimination against Women)
11. General Recommendation No. 11 (Eighth session, 1989)(Technical advisory services for reporting obligations)
12. General Recommendation No. 12 (Eighth session, 1989)(Violence against women)
13. General Recommendation No. 13 (Eighth session, 1989)(Equal remuneration for work of equal value)
14. General Recommendation No. 14 (Ninth session, 1990)(Female circumcision)
15. General Recommendation No. 15 (Ninth session, 1990) (Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS))
16. General Recommendation No. 16 (Tenth session, 1991) (Unpaid women workers in rural and urban family enterprises)
17. General Recommendation No. 17 (Tenth session, 1991) (Measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product)
18. General Recommendation No. 18 (Tenth session, 1991) (Disabled women)
19. General Recommendation No. 19 (Eleventh session, 1992) (Violence against Women)
20. General Recommendation No. 20 (Eleventh session, 1992) (Reservations to the Convention)
21. General Recommendation No. 21 (Thirteenth session, 1994) (Equality in marriage and family relations)
22. General recommendation 22 (Fourteenth session, 1995) (Amending article 20 of the Convention)
23. General recommendation 23 (17th session, 1997) (Articles 7 and 8 of the Convention)

1. General Recommendation No. 1 (Fifth session, 1986)*

"Initial reports submitted under article 18 of the Convention should cover the situation up to the date of submission. Thereafter, reports should be submitted at least every four years after the first report was due and should include obstacles encountered in implementing the Convention fully and the measures adopted to overcome such obstacles."*

2. General Recommendation No. 2 (Sixth session, 1987)**

The Committee on the Elimination of Discrimination against Women, Bearing in mind that the Committee had been faced with difficulties in its work because some initial reports of States parties under article 18 of the Convention did not reflect adequately the information available in the State party concerned in accordance with the guidelines,

Recommends:

(a) That the States parties, in preparing reports under article 18 of the Convention, should follow the general guidelines adopted in August 1983 (CEDAW/C/7) as to the form, content and date of reports;

(b) That the States parties should follow the general recommendation adopted in 1986 in these terms:

"Initial reports submitted under article 18 of the Convention should cover the situation up to the date of submission. Thereafter, reports should be submitted at least every four years after the first report was due and should include obstacles encountered in implementing the Convention fully

☆See <http://www.un.org/womenwatch/daw/cedaw/conven.htm> for full and updated information on general recommendations and comments by CEDAW.

General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

and the measures adopted to overcome such obstacles." (* Contained in document A/41/45. ** Contained in document A/42/38.)

(c) That additional information supplementing the report of a State party should be sent to the secretariat at least three months before the session at which the report is due to be considered.

3. General Recommendation No. 3 (Sixth session, 1987)*

The Committee on the Elimination of Discrimination against Women, Considering that the Committee on the Elimination of Discrimination against Women has considered 34 reports from States parties since 1983, Further considering that, although the reports have come from States with different levels of development, they present features in varying degrees showing the existence of stereotyped conceptions of women, owing to socio-cultural factors, that perpetuate discrimination based on sex and hinder the implementation of article 5 of the Convention,

Urges all States parties effectively to adopt education and public information programmes, which will help eliminate prejudices and current practices that hinder the full operation of the principle of the social equality of women.

4. General Recommendation No. 4 (Sixth session, 1987)*

The Committee on the Elimination of Discrimination against Women, Having examined reports from States parties at its sessions, Expressed concern in relation to the significant number of reservations that appeared to be incompatible with the object and purpose of the Convention, Welcomes the decision of the States parties to consider reservations at its next meeting in New York in 1988, and to that end suggests that all States parties concerned reconsider such reservations with a view to withdrawing them.

5. General Recommendation No. 5 (Seventh session, 1988)**

Temporary special measures

The Committee on the Elimination of Discrimination against Women, Taking note that the reports, the introductory remarks and the replies by States parties reveal that while significant progress has been achieved in regard to repealing or modifying discriminatory laws, there is still a need for action to be taken to implement fully the Convention by introducing measures to promote de facto equality between men and women,

Recalling article 4.1 of the Convention, (* Contained in document A/42/38, ** Contained in document A/43/38.)

Recommends that States parties make more use of temporary special measures such as positive action, preferential treatment or quota systems to advance women's integration into education, the economy, politics and employment.

6. General Recommendation No. 6 (Seventh session, 1988)*

Effective national machinery and publicity

The Committee on the Elimination of Discrimination against Women, Having considered the reports of States parties to the Convention on the Elimination of All Forms of Discrimination against Women,

Noting United Nations General Assembly resolution 42/60 of 30 November 1987, Recommends that States parties:

1. Establish and/or strengthen effective national machinery, institutions and procedures, at a high level of Government, and with adequate resources, commitment and authority to:

(a) Advise on the impact on women of all government policies;

(b) Monitor the situation of women comprehensively;

(c) Help formulate new policies and effectively carry out strategies and measures to eliminate discrimination;

☆See <http://www.un.org/womenwatch/daw/cedaw/conven.htm> for full and updated information on general recommendations and comments by CEDAW.

General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

2. Take appropriate steps to ensure the dissemination of the Convention, the reports of the States parties under article 18 and the reports of the Committee in the language of the States concerned;
3. Seek the assistance of the Secretary-General and the Department of Public Information in providing translations of the Convention and the reports of the Committee;
4. Include in their initial and periodic reports the action taken in respect of this recommendation.

7. General Recommendation No. 7 (Seventh session, 1988)*

Resources

The Committee on the Elimination of Discrimination against Women, Noting General Assembly resolutions 40/39, 41/108 and in particular 42/60, paragraph 14, which invited the Committee and the States parties to consider the question of holding future sessions of the Committee at Vienna, (*Contained in document A/43/38)

Bearing in mind General Assembly resolution 42/105 and, in particular, paragraph 11, which requests the Secretary-General to strengthen coordination between the United Nations Centre for Human Rights and the Centre for Social Development and Humanitarian Affairs of the secretariat in relation to the implementation of human rights treaties and servicing treaty bodies,

Recommends to the States parties:

1. That they continue to support proposals for strengthening the coordination between the Centre for Human Rights at Geneva and the Centre for Social Development and Humanitarian Affairs at Vienna, in relation to the servicing of the Committee;
2. That they support proposals that the Committee meet in New York and Vienna;
3. That they take all necessary and appropriate steps to ensure that adequate resources and services are available to the Committee to assist it in its functions under the Convention and in particular that full-time staff are available to help the Committee to prepare for its sessions and during its session;
4. That they ensure that supplementary reports and materials are submitted to the Secretariat in due time to be translated into the official languages of the United Nations in time for distribution and consideration by the Committee.

8. General Recommendation No. 8 (Seventh session, 1988)*

Implementation of article 8 of the Convention

The Committee on the Elimination of Discrimination against Women, Having considered the reports of States parties submitted in accordance with article 18 of the Convention, Recommends that States parties take further direct measures in accordance with article 4 of the Convention to ensure the full implementation of article 8 of the Convention and to ensure to women on equal terms with men and without any discrimination the opportunities to represent their Government at the international level and to participate in the work of international organizations.

9. General Recommendation No. 9 (Eighth session, 1989)**

Statistical data concerning the situation of women

The Committee on the Elimination of Discrimination against Women, Considering that statistical information is absolutely necessary in order to understand the real situation of women in each of the States parties to the Convention, (* Contained in document A/43/38, ** Contained in document A/44/38.)

Having observed that many of the States parties that present their reports for consideration by the Committee do not provide statistics, Recommends that States parties should make every effort to ensure that their national statistical services responsible for planning national censuses and other social and economic surveys formulate their questionnaires in such a way that data can be disaggregated according to gender, with regard to both absolute numbers and percentages, so that interested users can easily obtain information on the situation of women in the particular sector in which they are interested.

☆See <http://www.un.org/womenwatch/daw/cedaw/conven.htm> for full and updated information on general recommendations and comments by CEDAW.

General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

10. General Recommendation No. 10 (Eighth session, 1989)*

Tenth anniversary of the adoption of the Convention on the Elimination of All Forms of Discrimination against Women the Committee on the Elimination of Discrimination against Women, Considering that 18 December 1989 marks the tenth anniversary of the adoption of the Convention on the Elimination of All Forms of Discrimination against Women, Considering further that in those 10 years the Convention has proved to be one of the most effective instruments that the United Nations has adopted to promote equality between the sexes in the societies of its States Members, Recalling general recommendation No. 6 (seventh session 1988) on effective national machinery and publicity, Recommends that, on the occasion of the tenth anniversary of the adoption of the Convention, the States parties should consider:

1. Undertaking programmes including conferences and seminars to publicize the Convention on the Elimination of All Forms of Discrimination against Women in the main languages of and providing information on the Convention in their respective countries;

2. Inviting their national women's organizations to cooperate in the publicity campaigns regarding the Convention and its implementation and encouraging non-governmental organizations at the national, regional and international levels to publicize the Convention and its implementation;

3. Encouraging action to ensure the full implementation of the principles of the Convention, and in particular article 8, which relates to the participation of women at all levels of activity of the United Nations and the United Nations system;

4. Requesting the Secretary-General to commemorate the tenth anniversary of the adoption of the Convention by publishing and disseminating, in cooperation with the specialized agencies, printed and other materials regarding the Convention and its implementation in all official languages of the United Nations, preparing television documentaries about the Convention, and making the necessary resources available to the Division for the Advancement of Women, Centre for Social Development and Humanitarian Affairs of the United Nations Office at Vienna, to prepare an analysis of the information provided by States parties in order to update and publish the report of the Committee (A/CONF.116/13), which was first published for the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, held at Nairobi in 1985. (* Contained in document A/44/38.)

11. General Recommendation No. 11 (Eighth session, 1989)

Technical advisory services for reporting obligations The Committee on the Elimination of Discrimination against Women, Bearing in mind that, as at 3 March 1989, 96 States had ratified the Convention on the Elimination of All Forms of Discrimination against Women, Taking into account the fact that by that date 60 initial and 19 second periodic reports had been received, Noting that 36 initial and 36 second periodic reports were due by 3 March 1989 and had not yet been received, Welcoming the request in General Assembly resolution 43/115, paragraph 9, that the Secretary-General should arrange, within existing resources and taking into account the priorities of the programme of advisory services, further training courses for those countries experiencing the most serious difficulties in meeting their reporting obligations under international instruments on human rights,

Recommends to States parties that they should encourage, support and cooperate in projects for technical advisory services, including training seminars, to assist States parties on their request in fulfilling their reporting obligations under article 18 of the Convention.

12. General Recommendation No. 12 (Eighth session, 1989)

Violence against women

The Committee on the Elimination of Discrimination against Women, Considering that articles 2, 5, 11, 12 and 16 of the Convention require the States parties to act to protect women against violence of any kind occurring within the family, at the workplace or in any other area of social life, Taking into account Economic and Social Council resolution 1988/27, Recommends to the States parties that they should include in their periodic reports to the Committee information about:

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

1. The legislation in force to protect women against the incidence of all kinds of violence in everyday life (including sexual violence, abuses in the family, sexual harassment at the workplace, etc.);
2. Other measures adopted to eradicate this violence;
3. The existence of support services for women who are the victims of aggression or abuses;
4. Statistical data on the incidence of violence of all kinds against women and on women who are the victims of violence.

13. General Recommendation No. 13 (Eighth session, 1989)*

Equal remuneration for work of equal value

The Committee on the Elimination of Discrimination against Women, Recalling International Labour Organisation Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, which has been ratified by a large majority of States parties to the Convention on the Elimination of All Forms of Discrimination against Women, Recalling also that it has considered 51 initial and 5 second periodic reports of States parties since 1983,

Considering that although reports of States parties indicate that, even though the principle of equal remuneration for work of equal value has been accepted in the legislation of many countries, more remains to be done to ensure the application of that principle in practice, in order to overcome the gender-segregation in the labour market,

Recommends to the States parties to the Convention on the Elimination of All Forms of Discrimination against Women that:

1. In order to implement fully the Convention on the Elimination of All Forms of Discrimination against Women, those States parties that have not yet ratified ILO Convention No. 100 should be encouraged to do so;
2. They should consider the study, development and adoption of job evaluation systems based on gender-neutral criteria that would facilitate the comparison of the value of those jobs of a different nature, in which women presently predominate, with those jobs in which men presently predominate, and they should include the results achieved in their reports to the Committee on the Elimination of Discrimination against Women;
3. They should support, as far as practicable, the creation of implementation machinery and encourage the efforts of the parties to collective agreements, where they apply, to ensure the application of the principle of equal remuneration for work of equal value.

(* Contained in document A/44/38.)

14. General Recommendation No. 14 (Ninth session, 1990)*

Female circumcision

The Committee on the Elimination of Discrimination against Women, Concerned about the continuation of the practice of female circumcision and other traditional practices harmful to the health of women, Noting with satisfaction that Governments, where such practices exist, national women's organizations, non-governmental organizations, specialized agencies, such as the World Health Organization, the United Nations Children's Fund, as well as the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities, remain seized of the issue having particularly recognized that such traditional practices as female circumcision have serious health and other consequences for women and children,

Noting with interest the study of the Special Rapporteur on Traditional Practices Affecting the Health of Women and Children, as well as the study of the Special Working Group on Traditional Practices,

Recognizing that women are taking important action themselves to identify and to combat practices that are prejudicial to the health and well-being of women and children,

Convinced that the important action that is being taken by women and by all interested groups needs to be supported and encouraged by Governments,

Noting with grave concern that there are continuing cultural, traditional and economic pressures which help to perpetuate harmful practices, such as female circumcision,

Recommends to States parties:

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

- (a) That States parties take appropriate and effective measures with a view to eradicating the practice of female circumcision. Such measures could include:
- (i) The collection and dissemination by universities, medical or nursing associations, national women's organizations or other bodies of basic data about such traditional practices;
 - (ii) The support of women's organizations at the national and local levels working for the elimination of female circumcision and other practices harmful to women;
 - (iii) The encouragement of politicians, professionals, religious and community leaders at all levels including the media and the arts to cooperate in influencing attitudes towards the eradication of female circumcision; (* Contained in document A/45/38 and Corrigendum.)
 - (iv) The introduction of appropriate educational and training programmes and seminars based on research findings about the problems arising from female circumcision;
- (b) That States parties include in their national health policies appropriate strategies aimed at eradicating female circumcision in public health care. Such strategies could include the special responsibility of health personnel including traditional birth attendants to explain the harmful effects of female circumcision;
- (c) That States parties invite assistance, information and advice from the appropriate organizations of the United Nations system to support and assist efforts being deployed to eliminate harmful traditional practices;
- (d) That States parties include in their reports to the Committee under articles 10 and 12 of the Convention on the Elimination of All Forms of Discrimination against Women information about measures taken to eliminate female circumcision.

15. General Recommendation No. 15 (Ninth session, 1990)*

Avoidance of discrimination against women in national strategies for the prevention and control of acquired immunodeficiency syndrome (AIDS)

The Committee on the Elimination of Discrimination against Women, Having considered information brought to its attention on the potential effects of both the global pandemic of acquired immunodeficiency syndrome (AIDS) and strategies to control it on the exercise of the rights of women, Having regard to the reports and materials prepared by the World Health Organization and other United Nations organizations, organs and bodies in relation to human immunodeficiency virus (HIV), and, in particular, the note by the Secretary-General to the Commission on the Status of Women on the effects of AIDS on the advancement of women and the Final Document of the International Consultation on AIDS and Human Rights, held at Geneva from 26 to 28 July 1989,

Noting World Health Assembly resolution WHA 41.24 on the avoidance of discrimination in relation to HIV-infected people and people with AIDS of 13 May 1988, resolution 1989/11 of the Commission on Human Rights on non-discrimination in the field of health, of 2 March 1989, and in particular the Paris Declaration on Women, Children and AIDS, of 30 November 1989, Noting that the World Health Organization has announced that the theme of World Aids Day, 1 December 1990, will be "Women and Aids", (* Contained in document A/45/38.)

Recommends:

- (a) That States parties intensify efforts in disseminating information to increase public awareness of the risk of HIV infection and AIDS, especially in women and children, and of its effects on them;
- (b) That programmes to combat AIDS should give special attention to the rights and needs of women and children, and to the factors relating to the reproductive role of women and their subordinate position in some societies which make them especially vulnerable to HIV infection;
- (c) That States parties ensure the active participation of women in primary health care and take measures to enhance their role as care providers, health workers and educators in the prevention of infection with HIV;
- (d) That all States parties include in their reports under article 12 of the Convention information on the effects of AIDS on the situation of women and on the action taken to cater to the needs of those women who are infected and to prevent specific discrimination against women in response to AIDS.

16. General Recommendation No. 16 (Tenth session, 1991)

Unpaid women workers in rural and urban family enterprises*

☆See <http://www.un.org/womenwatch/daw/cedaw/conven.htm> for full and updated information on general recommendations and comments by CEDAW.

General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

The Committee on the Elimination of Discrimination against Women, Bearing in mind articles 2 (c) and 11 (c), (d) and (e) of the Convention on the Elimination of All Forms of Discrimination against Women and general recommendation No. 9 (eighth session, 1989) on statistical data concerning the situation of women,

Taking into consideration that a high percentage of women in the States parties work without payment, social security and social benefits in enterprises owned usually by a male member of the family,

Noting that the reports presented to the Committee on the Elimination of Discrimination against Women generally do not refer to the problem of unpaid women workers of family enterprises,

Affirming that unpaid work constitutes a form of women's exploitation that is contrary to the Convention,

Recommends that States parties:

- (a) Include in their reports to the Committee information on the legal and social situation of unpaid women working in family enterprises;
- (b) Collect statistical data on women who work without payment, social security and social benefits in enterprises owned by a family member, and include these data in their report to the Committee; (* Contained in document A/46/38.)
- (c) Take the necessary steps to guarantee payment, social security and social benefits for women who work without such benefits in enterprises owned by a family member.

17. General Recommendation No. 17 (Tenth session, 1991)

Measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product*

The Committee on the Elimination of Discrimination against Women, Bearing in mind article 11 of the Convention on the Elimination of All Forms of Discrimination against Women, Recalling paragraph 120 of the Nairobi Forward-looking Strategies for the Advancement of Women, Affirming that the measurement and quantification of the unremunerated domestic activities of women, which contribute to development in each country, will help to reveal the de facto economic role of women, Convinced that such measurement and quantification offers a basis for the formulation of further policies related to the advancement of women, Noting the discussions of the Statistical Commission, at its twenty-first session, on the current revision of the System of National Accounts and the development of statistics on women,

Recommends that States parties:

- (a) Encourage and support research and experimental studies to measure and value the unremunerated domestic activities of women; for example, by conducting time-use surveys as part of their national household survey programmes and by collecting statistics disaggregated by gender on time spent on activities both in the household and on the labour market;
- (b) Take steps, in accordance with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and the Nairobi Forward-looking Strategies for the Advancement of Women, to quantify and include the unremunerated domestic activities of women in the gross national product;
- (c) Include in their reports submitted under article 18 of the Convention information on the research and experimental studies undertaken to measure and value unremunerated domestic activities, as well as on the progress made in the incorporation of the unremunerated domestic activities of women in national accounts. (* Contained in document A/46/38.)

18. General Recommendation No. 18 (Tenth session, 1991)

Disabled women*

The Committee on the Elimination of Discrimination against Women, Taking into consideration particularly article 3 of the Convention on the Elimination of All Forms of Discrimination against Women, Having considered more than 60 periodic reports of States parties, and having recognized that they provide scarce information on disabled women, Concerned about the situation of disabled women, who suffer from a double discrimination linked to their special living conditions, Recalling paragraph 296 of the Nairobi Forward-looking Strategies for the Advancement of Women, in which disabled women are considered as a vulnerable

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

group under the heading "areas of special concern", Affirming its support for the World Programme of Action concerning Disabled Persons (1982),

Recommends that States parties provide information on disabled women in their periodic reports, and on measures taken to deal with their particular situation, including special measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life.

19. General Recommendation No. 19 (Eleventh session, 1992)

Violence against women**

Background

1. Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.

2. In 1989, the Committee recommended that States should include in their reports information on violence and on measures introduced to deal with it (General recommendation 12, eighth session).

3. At its tenth session in 1991, it was decided to allocate part of the eleventh session to a discussion and study on article 6 and other articles of the Convention relating to violence towards women and the sexual harassment and exploitation of women. That subject was chosen in anticipation of the 1993 World Conference on Human Rights, convened by the General Assembly by its resolution 45/155 of 18 December 1990.

(* Contained in document A/46/38. ** Contained in document A/47/38.)

4. The Committee concluded that not all the reports of States parties adequately reflected the close connection between discrimination against women, gender-based violence, and violations of human rights and fundamental freedoms. The full implementation of the Convention required States to take positive measures to eliminate all forms of violence against women.

5. The Committee suggested to States parties that in reviewing their laws and policies, and in reporting under the Convention, they should have regard to the following comments of the Committee concerning gender-based violence.

General comments

6. The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.

7. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include:

- (a) The right to life;
- (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;
- (c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict;
- (d) The right to liberty and security of person;
- (e) The right to equal protection under the law;
- (f) The right to equality in the family;
- (g) The right to the highest standard attainable of physical and mental health;
- (h) The right to just and favourable conditions of work.

8. The Convention applies to violence perpetrated by public authorities. Such acts of violence may breach that State's obligations under general international human rights law and under other conventions, in addition to breaching this Convention.

9. It is emphasized, however, that discrimination under the Convention is not restricted to action by or on behalf of Governments (see articles 2 (e), 2 (f) and 5). For example, under article 2 (e) the Convention calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

Comments on specific articles of the Convention

Articles 2 and 3

10. Articles 2 and 3 establish a comprehensive obligation to eliminate discrimination in all its forms in addition to the specific obligations under articles 5-16.

Articles 2 (f), 5 and 10 (c)

11. Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them of the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. While this comment addresses mainly actual or threatened violence the underlying consequences of these forms of gender-based violence help to maintain women in subordinate roles and contribute to their low level of political participation and to their lower level of education, skills and work opportunities.

12. These attitudes also contribute to the propagation of pornography and the depiction and other commercial exploitation of women as sexual objects, rather than as individuals. This in turn contributes to gender-based violence.

Article 6

13. States parties are required by article 6 to take measures to suppress all forms of traffic in women and exploitation of the prostitution of women.

14. Poverty and unemployment increase opportunities for trafficking in women. In addition to established forms of trafficking there are new forms of sexual exploitation, such as sex tourism, the recruitment of domestic labour from developing countries to work in developed countries, and organized marriages between women from developing countries and foreign nationals. These practices are incompatible with the equal enjoyment of rights by women and with respect for their rights and dignity. They put women at special risk of violence and abuse.

15. Poverty and unemployment force many women, including young girls, into prostitution. Prostitutes are especially vulnerable to violence because their status, which may be unlawful, tends to marginalize them. They need the equal protection of laws against rape and other forms of violence.

16. Wars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women and sexual assault of women, which require specific protective and punitive measures.

Article 11

17. Equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the workplace.

18. Sexual harassment includes such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.

Article 12

19. States parties are required by article 12 to take measures to ensure equal access to health care. Violence against women puts their health and lives at risk.

20. In some States there are traditional practices perpetuated by culture and tradition that are harmful to the health of women and children. These practices include dietary restrictions for pregnant women, preference for male children and female circumcision or genital mutilation.

Article 14

21. Rural women are at risk of gender-based violence because traditional attitudes regarding the subordinate role of women that persist in many rural communities. Girls from rural communities are at special risk of violence and sexual exploitation when they leave the rural community to seek employment in towns.

Article 16 (and article 5)

22. Compulsory sterilization or abortion adversely affects women's physical and mental health, and infringes the right of women to decide on the number and spacing of their children.

23. Family violence is one of the most insidious forms of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

traditional attitudes. Lack of economic independence forces many women to stay in violent relationships. The abrogation of their family responsibilities by men can be a form of violence, and coercion. These forms of violence put women's health at risk and impair their ability to participate in family life and public life on a basis of equality.

Specific recommendations

24. In light of these comments, the Committee on the Elimination of Discrimination against Women recommends:

(a) States parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act;

(b) States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention;

(c) States parties should encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence;

(d) Effective measures should be taken to ensure that the media respect and promote respect for women;

(e) States parties in their report should identify the nature and extent of attitudes, customs and practices that perpetuate violence against women, and the kinds of violence that result. They should report the measures that they have undertaken to overcome violence, and the effect of those measures;

(f) Effective measures should be taken to overcome these attitudes and practices. States should introduce education and public information programmes to help eliminate prejudices which hinder women's equality (recommendation No. 3, 1987);

(g) Specific preventive and punitive measures are necessary to overcome trafficking and sexual exploitation;

(h) States parties in their reports should describe the extent of all these problems and the measures, including penal provisions, preventive and rehabilitation measures, that have been taken to protect women engaged in prostitution or subject to trafficking and other forms of sexual exploitation. The effectiveness of these measures should also be described;

(i) Effective complaints procedures and remedies, including compensation, should be provided;

(j) States parties should include in their reports information on sexual harassment, and on measures to protect women from sexual harassment and other forms of violence of coercion in the workplace;

(k) States parties should establish or support services for victims of family violence, rape, sex assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling;

(l) States parties should take measures to overcome such practices and should take account of the Committee's recommendation on female circumcision (recommendation No. 14) in reporting on health issues;

(m) States parties should ensure that measures are taken to prevent coercion in regard to fertility and reproduction, and to ensure that women are not forced to seek unsafe medical procedures such as illegal abortion because of lack of appropriate services in regard to fertility control;

(n) States parties in their reports should state the extent of these problems and should indicate the measures that have been taken and their effect;

(o) States parties should ensure that services for victims of violence are accessible to rural women and that where necessary special services are provided to isolated communities;

(p) Measures to protect them from violence should include training and employment opportunities and the monitoring of the employment conditions of domestic workers;

(q) States parties should report on the risks to rural women, the extent and nature of violence and abuse to which they are subject, their need for and access to support and other services and the effectiveness of measures to overcome violence;

(r) Measures that are necessary to overcome family violence should include:

(i) Criminal penalties where necessary and civil remedies in case of domestic violence;

(ii) Legislation to remove the defence of honour in regard to the assault or murder of a female family member;

(iii) Services to ensure the safety and security of victims of family violence, including refuges, counselling and rehabilitation programmes;

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

- (iv) Rehabilitation programmes for perpetrators of domestic violence;
- (v) Support services for families where incest or sexual abuse has occurred;
- (s) States parties should report on the extent of domestic violence and sexual abuse, and on the preventive, punitive and remedial measures that have been taken;
- (t) That States parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including, inter alia:
 - (i) Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including, inter alia, violence and abuse in the family, sexual assault and sexual harassment in the workplace;
 - (ii) Preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women;
 - (iii) Protective measures, including refuges, counselling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence;
- (u) That States parties should report on all forms of gender-based violence, and that such reports should include all available data on the incidence of each form of violence, and on the effects of such violence on the women who are victims;
- (v) That the reports of States parties should include information on the legal, preventive and protective measures that have been taken to overcome violence against women, and on the effectiveness of such measures.

20. General recommendation No. 20 (Eleventh session, 1992)

Reservations to the Convention*

1. The Committee recalled the decision of the Fourth Meeting of States parties on reservations to the Convention with regard to article 28.2, which was welcomed in General recommendation No. 4 of the Committee.
2. The Committee recommended that, in connection with preparations for the World Conference on Human Rights in 1993, States parties should:
 - (a) Raise the question of the validity and the legal effect of reservations to the Convention in the context of reservations to other human rights treaties;
 - (b) Reconsider such reservations with a view to strengthening the implementation of all human rights treaties;
 - (c) Consider introducing a procedure on reservations to the Convention comparable with that of other human rights treaties.(* Contained in document A/47/38.)

21. General recommendation 21 (thirteenth session, 1994)

Equality in marriage and family relations

1. The Convention on the Elimination of All Forms of Discrimination against Women (General Assembly resolution 34/180, annex) affirms the equality of human rights for women and men in society and in the family. The Convention has an important place among international treaties concerned with human rights.
2. Other conventions and declarations also confer great significance on the family and woman's status within it. These include the Universal Declaration of Human Rights (General Assembly resolution 217/A (III)), the International Covenant on Civil and Political Rights (resolution 2200 A (XXI), annex), the Convention on the Nationality of Married Women (resolution 1040 (XI), annex), the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (resolution 1763 A (XVII), annex) and the subsequent Recommendation thereon (resolution 2018 (XX)) and the Nairobi Forward-looking Strategies for the Advancement of Women.
3. The Convention on the Elimination of All Forms of Discrimination against Women recalls the inalienable rights of women which are already embodied in the above-mentioned conventions and declarations, but it goes further by recognizing the importance of culture and tradition in shaping the thinking and behaviour of men and women and the significant part they play in restricting the exercise of basic rights by women.

Background

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

4. The year 1994 has been designated by the General Assembly in its resolution 44/82 as the International Year of the Family. The Committee wishes to take the opportunity to stress the significance of compliance with women's basic rights within the family as one of the measures which will support and encourage the national celebrations that will take place.

5. Having chosen in this way to mark the International Year of the Family, the Committee wishes to analyse three articles in the Convention that have special significance for the status of women in the family:

Article 9

1. States parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States parties shall grant women equal rights with men with respect to the nationality of their children.

Comment

6. Nationality is critical to full participation in society. In general, States confer nationality on those who are born in that country. Nationality can also be acquired by reason of settlement or granted for humanitarian reasons such as statelessness. Without status as nationals or citizens, women are deprived of the right to vote or to stand for public office and may be denied access to public benefits and a choice of residence. Nationality should be capable of change by an adult woman and should not be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality.

Article 15

1. States parties shall accord to women equality with men before the law.

2. States parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. States parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Comment

7. When a woman cannot enter into a contract at all, or have access to financial credit, or can do so only with her husband's or a male relative's concurrence or guarantee, she is denied legal autonomy. Any such restriction prevents her from holding property as the sole owner and precludes her from the legal management of her own business or from entering into any other form of contract. Such restrictions seriously limit the woman's ability to provide for herself and her dependants.

8. A woman's right to bring litigation is limited in some countries by law or by her access to legal advice and her ability to seek redress from the courts. In others, her status as a witness or her evidence is accorded less respect or weight than that of a man. Such laws or customs limit the woman's right effectively to pursue or retain her equal share of property and diminish her standing as an independent, responsible and valued member of her community. When countries limit a woman's legal capacity by their laws, or permit individuals or institutions to do the same, they are denying women their rights to be equal with men and restricting women's ability to provide for themselves and their dependants.

9. Domicile is a concept in common law countries referring to the country in which a person intends to reside and to whose jurisdiction she will submit. Domicile is originally acquired by a child through its parents but, in adulthood, denotes the country in which a person normally resides and in which she intends to reside permanently. As in the case of nationality, the examination of States parties' reports demonstrates that a woman will not always be permitted at law to choose her own domicile. Domicile, like nationality, should be capable of change at will by an adult woman regardless of her marital status. Any restrictions on a woman's right to choose a domicile on the same basis as a man may limit her access to the courts in the country in which she lives or prevent her from entering and leaving a country freely and in her own right.

10. Migrant women who live and work temporarily in another country should be permitted the same rights as men to have their spouses, partners and children join them.

Article 16

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

1. States parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Comment

Public and private life

11. Historically, human activity in public and private life has been viewed differently and regulated accordingly. In all societies women who have traditionally performed their roles in the private or domestic sphere have long had those activities treated as inferior.

12. As such activities are invaluable for the survival of society, there can be no justification for applying different and discriminatory laws or customs to them. Reports of States parties disclose that there are still countries where de jure equality does not exist. Women are thereby prevented from having equal access to resources and from enjoying equality of status in the family and society. Even where de jure equality exists, all societies assign different roles, which are regarded as inferior, to women. In this way, principles of justice and equality contained in particular in article 16 and also in articles 2, 5 and 24 of the Convention are being violated.

Various forms of family

13. The form and concept of the family can vary from State to State, and even between regions within a State. Whatever form it takes, and whatever the legal system, religion, custom or tradition within the country, the treatment of women in the family both at law and in private must accord with the principles of equality and justice for all people, as article 2 of the Convention requires.

Polygamous marriages

14. States parties' reports also disclose that polygamy is practised in a number of countries. Polygamous marriage contravenes a woman's right to equality with men, and can have such serious emotional and financial consequences for her and her dependants that such marriages ought to be discouraged and prohibited. The Committee notes with concern that some States parties, whose constitutions guarantee equal rights, permit polygamous marriage in accordance with personal or customary law. This violates the constitutional rights of women, and breaches the provisions of article 5 (a) of the Convention.

Article 16 (1) (a) and (b)

15. While most countries report that national constitutions and laws comply with the Convention, custom, tradition and failure to enforce these laws in reality contravene the Convention.

16. A woman's right to choose a spouse and enter freely into marriage is central to her life and to her dignity and equality as a human being. An examination of States parties' reports discloses that there are countries which, on the basis of custom, religious beliefs or the ethnic origins of particular groups of people, permit forced marriages or remarriages. Other countries allow a woman's marriage to be arranged for payment or preferment and in others women's poverty forces them to marry foreign nationals for financial security. Subject to reasonable restrictions based for example on a woman's youth or consanguinity with her partner, a woman's right to choose when, if, and whom she will marry must be protected and enforced at law.

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Article 16 (1) (c)

17. An examination of States parties' reports discloses that many countries in their legal systems provide for the rights and responsibilities of married partners by relying on the application of common law principles, religious or customary law, rather than by complying with the principles contained in the Convention. These variations in law and practice relating to marriage have wide-ranging consequences for women, invariably restricting their rights to equal status and responsibility within marriage. Such limitations often result in the husband being accorded the status of head of household and primary decision-maker and therefore contravene the provisions of the Convention.

18. Moreover, generally a de facto union is not given legal protection at all. Women living in such relationships should have their equality of status with men both in family life and in the sharing of income and assets protected by law. Such women should share equal rights and responsibilities with men for the care and raising of dependent children or family members.

Article 16 (1) (d) and (f)

19. As provided in article 5 (b), most States recognize the shared responsibility of parents for the care, protection and maintenance of children. The principle that "the best interests of the child shall be the paramount consideration" has been included in the Convention on the Rights of the Child (General Assembly resolution 44/25, annex) and seems now to be universally accepted. However, in practice, some countries do not observe the principle of granting the parents of children equal status, particularly when they are not married. The children of such unions do not always enjoy the same status as those born in wedlock and, where the mothers are divorced or living apart, many fathers fail to share the responsibility of care, protection and maintenance of their children.

20. The shared rights and responsibilities enunciated in the Convention should be enforced at law and as appropriate through legal concepts of guardianship, wardship, trusteeship and adoption. States parties should ensure that by their laws both parents, regardless of their marital status and whether they live with their children or not, share equal rights and responsibilities for their children.

Article 16 (1) (e)

21. The responsibilities that women have to bear and raise children affect their right of access to education, employment and other activities related to their personal development. They also impose inequitable burdens of work on women. The number and spacing of their children have a similar impact on women's lives and also affect their physical and mental health, as well as that of their children. For these reasons, women are entitled to decide on the number and spacing of their children.

22. Some reports disclose coercive practices which have serious consequences for women, such as forced pregnancies, abortions or sterilization. Decisions to have children or not, while preferably made in consultation with spouse or partner, must not nevertheless be limited by spouse, parent, partner or Government. In order to make an informed decision about safe and reliable contraceptive measures, women must have information about contraceptive measures and their use, and guaranteed access to sex education and family planning services, as provided in article 10 (h) of the Convention.

23. There is general agreement that where there are freely available appropriate measures for the voluntary regulation of fertility, the health, development and well-being of all members of the family improves. Moreover, such services improve the general quality of life and health of the population, and the voluntary regulation of population growth helps preserve the environment and achieve sustainable economic and social development.

Article 16 (1) (g)

24. A stable family is one which is based on principles of equity, justice and individual fulfilment for each member. Each partner must therefore have the right to choose a profession or employment that is best suited to his or her abilities, qualifications and aspirations, as provided in article 11 (a) and (c) of the Convention. Moreover, each partner should have the right to choose his or her name, thereby preserving individuality and identity in the community and distinguishing that person from other members of society. When by law or custom a woman is obliged to change her name on marriage or at its dissolution, she is denied these rights.

Article 16 (1) (h)

25. The rights provided in this article overlap with and complement those in article 15 (2) in which an obligation is placed on States to give women equal rights to enter into and conclude contracts and to administer property.

26. Article 15 (1) guarantees women equality with men before the law. The right to own, manage, enjoy and dispose of property is central to a woman's right to enjoy financial independence, and in many countries will be

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

critical to her ability to earn a livelihood and to provide adequate housing and nutrition for herself and for her family.

27. In countries that are undergoing a programme of agrarian reform or redistribution of land among groups of different ethnic origins, the right of women, regardless of marital status, to share such redistributed land on equal terms with men should be carefully observed.

28. In most countries, a significant proportion of the women are single or divorced and many have the sole responsibility to support a family. Any discrimination in the division of property that rests on the premise that the man alone is responsible for the support of the women and children of his family and that he can and will honourably discharge this responsibility is clearly unrealistic. Consequently, any law or custom that grants men a right to a greater share of property at the end of a marriage or de facto relationship, or on the death of a relative, is discriminatory and will have a serious impact on a woman's practical ability to divorce her husband, to support herself or her family and to live in dignity as an independent person.

29. All of these rights should be guaranteed regardless of a woman's marital status.

Marital property

30. There are countries that do not acknowledge that right of women to own an equal share of the property with the husband during a marriage or de facto relationship and when that marriage or relationship ends. Many countries recognize that right, but the practical ability of women to exercise it may be limited by legal precedent or custom.

31. Even when these legal rights are vested in women, and the courts enforce them, property owned by a woman during marriage or on divorce may be managed by a man. In many States, including those where there is a community-property regime, there is no legal requirement that a woman be consulted when property owned by the parties during marriage or de facto relationship is sold or otherwise disposed of. This limits the woman's ability to control disposition of the property or the income derived from it.

32. In some countries, on division of marital property, greater emphasis is placed on financial contributions to property acquired during a marriage, and other contributions, such as raising children, caring for elderly relatives and discharging household duties are diminished. Often, such contributions of a non-financial nature by the wife enable the husband to earn an income and increase the assets. Financial and non-financial contributions should be accorded the same weight.

33. In many countries, property accumulated during a de facto relationship is not treated at law on the same basis as property acquired during marriage. Invariably, if the relationship ends, the woman receives a significantly lower share than her partner. Property laws and customs that discriminate in this way against married or unmarried women with or without children should be revoked and discouraged.

Inheritance

34. Reports of States parties should include comment on the legal or customary provisions relating to inheritance laws as they affect the status of women as provided in the Convention and in Economic and Social Council resolution 884D (XXXIV), in which the Council recommended that States ensure that men and women in the same degree of relationship to a deceased are entitled to equal shares in the estate and to equal rank in the order of succession. That provision has not been generally implemented.

35. There are many countries where the law and practice concerning inheritance and property result in serious discrimination against women. As a result of this uneven treatment, women may receive a smaller share of the husband's or father's property at his death than would widowers and sons. In some instances, women are granted limited and controlled rights and receive income only from the deceased's property. Often inheritance rights for widows do not reflect the principles of equal ownership of property acquired during marriage. Such provisions contravene the Convention and should be abolished.

Article 16 (2)

36. In the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, States are urged to repeal existing laws and regulations and to remove customs and practices which discriminate against and cause harm to the girl child. Article 16 (2) and the provisions of the Convention on the Rights of the Child preclude States parties from permitting or giving validity to a marriage between persons who have not attained their majority. In the context of the Convention on the Rights of the Child, "a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier". Notwithstanding this definition, and bearing in mind the provisions of the Vienna Declaration, the Committee considers that the minimum age for marriage should be 18 years for both man and woman. When men and women marry, they assume important responsibilities. Consequently, marriage should not be permitted before they have attained full maturity and capacity to act.

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

According to the World Health Organization, when minors, particularly girls, marry and have children, their health can be adversely affected and their education is impeded. As a result their economic autonomy is restricted.

37. This not only affects women personally but also limits the development of their skills and independence and reduces access to employment, thereby detrimentally affecting their families and communities.

38. Some countries provide for different ages for marriage for men and women. As such provisions assume incorrectly that women have a different rate of intellectual development from men, or that their stage of physical and intellectual development at marriage is immaterial, these provisions should be abolished. In other countries, the betrothal of girls or undertakings by family members on their behalf is permitted. Such measures contravene not only the Convention, but also a women's right freely to choose her partner.

39. States parties should also require the registration of all marriages whether contracted civilly or according to custom or religious law. The State can thereby ensure compliance with the Convention and establish equality between partners, a minimum age for marriage, prohibition of bigamy and polygamy and the protection of the rights of children.

Recommendations

Violence against women

40. In considering the place of women in family life, the Committee wishes to stress that the provisions of general recommendation 19 (eleventh session) concerning violence against women have great significance for women's abilities to enjoy rights and freedoms on an equal basis with men. States parties are urged to comply with that general recommendation to ensure that, in both public and family life, women will be free of the gender-based violence that so seriously impedes their rights and freedoms as individuals.

Reservations

41. The Committee has noted with alarm the number of States parties which have entered reservations to the whole or part of article 16, especially when a reservation has also been entered to article 2, claiming that compliance may conflict with a commonly held vision of the family based, inter alia, on cultural or religious beliefs or on the country's economic or political status.

42. Many of these countries hold a belief in the patriarchal structure of a family which places a father, husband or son in a favourable position. In some countries where fundamentalist or other extremist views or economic hardships have encouraged a return to old values and traditions, women's place in the family has deteriorated sharply. In others, where it has been recognized that a modern society depends for its economic advance and for the general good of the community on involving all adults equally, regardless of gender, these taboos and reactionary or extremist ideas have progressively been discouraged.

43. Consistent with articles 2, 3 and 24 in particular, the Committee requires that all States parties gradually progress to a stage where, by its resolute discouragement of notions of the inequality of women in the home, each country will withdraw its reservation, in particular to articles 9, 15 and 16 of the Convention.

44. States parties should resolutely discourage any notions of inequality of women and men which are affirmed by laws, or by religious or private law or by custom, and progress to the stage where reservations, particularly to article 16, will be withdrawn.

45. The Committee noted, on the basis of its examination of initial and subsequent periodic reports, that in some States parties to the Convention that had ratified or acceded without reservation, certain laws, especially those dealing with family, do not actually conform to the provisions of the Convention.

46. Their laws still contain many measures which discriminate against women based on norms, customs and socio-cultural prejudices. These States, because of their specific situation regarding these articles, make it difficult for the Committee to evaluate and understand the status of women.

47. The Committee, in particular on the basis of articles 1 and 2 of the Convention, requests that those States parties make the necessary efforts to examine the de facto situation relating to the issues and to introduce the required measures in their national legislations still containing provisions discriminatory to women.

Reports

48. Assisted by the comments in the present general recommendation, in their reports States parties should:

(a) Indicate the stage that has been reached in the country's progress to removal of all reservations to the Convention, in particular reservations to article 16;

(b) Set out whether their laws comply with the principles of articles 9, 15 and 16 and where, by reason of religious or private law or custom, compliance with the law or with the Convention is impeded.

Legislation

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

49. States parties should, where necessary to comply with the Convention, in particular in order to comply with articles 9, 15 and 16, enact and enforce legislation.

Encouraging compliance with the Convention

50. Assisted by the comments in the present general recommendation, and as required by articles 2, 3 and 24, States parties should introduce measures directed at encouraging full compliance with the principles of the Convention, particularly where religious or private law or custom conflict with those principles.

22. General recommendation 22 (fourteenth session, 1995)

Amending article 20 of the Convention

The Committee on the Elimination of Discrimination against Women, Noting that the States parties to the Convention on the Elimination of All Forms of Discrimination against Women, at the request of the General Assembly, will meet during 1995 to consider amending article 20 of the Convention, Recalling its previous decision, taken at its tenth session, to ensure effectiveness in its work and prevent the building up of an undesirable backlog in the consideration of reports of States parties, Recalling that the Convention is one of the international human rights instruments that has been ratified by the largest number of States parties,

Considering that the articles of the Convention address the fundamental human rights of women in all aspects of their daily lives and in all areas of society and the State, Concerned about the workload of the Committee as a result of the growing number of ratifications, in addition to the backlog of reports pending consideration, as reflected in annex I, Concerned also about the long lapse of time between the submission of reports of States parties and their consideration, resulting in the need for States to provide additional information for updating their reports,

Bearing in mind that the Committee on the Elimination of Discrimination against Women is the only human rights treaty body whose meeting time is limited by its Convention, and that it has the shortest duration of meeting time of all the human rights treaty bodies, as reflected in annex II,

Noting that the limitation on the duration of sessions, as contained in the Convention has become a serious obstacle to the effective performance by the Committee of its functions under the Convention,

1. Recommends that the States parties favourably consider amending article 20 of the Convention in respect of the meeting time of the Committee, so as to allow it to meet annually for such duration as is necessary for the effective performance of its functions under the Convention, with no specific restriction except for that which the General Assembly shall decide;

2. Recommends also that the General Assembly, pending the completion of an amendment process, authorize the Committee to meet exceptionally in 1996 for two sessions, each of three weeks' duration and each being preceded by pre-session working groups;

3. Recommends further that the meeting of States parties receive an oral report from the Chairperson of the Committee on the difficulties faced by the Committee in performing its functions;

4. Recommends that the Secretary-General make available to the States parties at their meeting all relevant information on the workload of the Committee and comparative information in respect of the other human rights treaty bodies.

24. General recommendation No 23 (seventeenth session, 1997)

Articles 7 and 8 political and public life*

Background

1. The Convention on the Elimination of All Forms of Discrimination against Women places special importance on the participation of women in the public life of their countries. The preamble to the Convention states in part:

"Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity".

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

2. The Convention further reiterates in its preamble the importance of women's participation in decision-making as follows:

"Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields".

3. Moreover, in article 1 of the Convention, the term "discrimination against women" is interpreted to mean:

"any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field".

4. Other conventions, declarations and international analyses place great importance on the participation of women in public life and have set a framework of international standards of equality. These include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Political Rights of Women, the Vienna Declaration, paragraph 13 of the Beijing Declaration and Platform for Action, general recommendations 5 and 8 under the Convention, general comment 25 adopted by the Human Rights Committee, the recommendation adopted by the Council of the European Union on balanced participation of women and men in the decision-making process and the European Commission's "How to Create a Gender Balance in Political Decision-making".

5. Article 7 obliges States parties to take all appropriate measures to eliminate discrimination against women in political and public life and to ensure that they enjoy equality with men in political and public life. The obligation specified in article 7 extends to all areas of public and political life and is not limited to those areas specified in subparagraphs (a), (b) and (c). The political and public life of a country is a broad concept. It refers to the exercise of political power, in particular the exercise of legislative, judicial, executive and administrative powers. The term covers all aspects of public administration and the formulation and implementation of policy at the international, national, regional and local levels. The concept also includes many aspects of civil society, including public boards and local councils and the activities of organizations such as political parties, trade unions, professional or industry associations, women's organizations, community-based organizations and other organizations concerned with public and political life.

6. The Convention envisages that, to be effective, this equality must be achieved within the framework of a political system in which each citizen enjoys the right to vote and be elected at genuine periodic elections held on the basis of universal suffrage and by secret ballot, in such a way as to guarantee the free expression of the will of the electorate, as provided for under international human rights instruments, such as article 21 of the Universal Declaration of Human Rights and article 25 of the International Covenant on Civil and Political Rights.

7. The Convention's emphasis on the importance of equality of opportunity and of participation in public life and decision-making has led the Committee to review article 7 and to suggest to States parties that in reviewing their laws and policies and in reporting under the Convention, they should take into account the comments and recommendations set out below.

Comments

8. Public and private spheres of human activity have always been considered distinct, and have been regulated accordingly. Invariably, women have been assigned to the private or domestic sphere, associated with reproduction and the raising of children, and in all societies these activities have been treated as inferior. By contrast, public life, which is respected and honoured, extends to a broad range of activity outside the private and domestic sphere. Men historically have both dominated public life and exercised the power to confine and subordinate women within the private sphere.

9. Despite women's central role in sustaining the family and society and their contribution to development, they have been excluded from political life and the decision-making process, which nonetheless determine the pattern of their daily lives and the future of societies. Particularly in times of crisis, this exclusion has silenced women's voices and rendered invisible their contribution and experiences.

10. In all nations, the most significant factors inhibiting women's ability to participate in public life have been the cultural framework of values and religious beliefs, the lack of services and men's failure to share the tasks associated with the organization of the household and with the care and raising of children. In all nations, cultural traditions and religious beliefs have played a part in confining women to the private spheres of activity and excluding them from active participation in public life.

11. Relieving women of some of the burdens of domestic work would allow them to engage more fully in the life of their communities. Women's economic dependence on men often prevents them from making important

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

political decisions and from participating actively in public life. Their double burden of work and their economic dependence, coupled with the long or inflexible hours of both public and political work, prevent women from being more active.

12. Stereotyping, including that perpetrated by the media, confines women in political life to issues such as the environment, children and health, and excludes them from responsibility for finance, budgetary control and conflict resolution. The low involvement of women in the professions from which politicians are recruited can create another obstacle. In countries where women leaders do assume power this can be the result of the influence of their fathers, husbands or male relatives rather than electoral success in their own right.

Political systems

13. The principle of equality of women and men has been affirmed in the constitutions and laws of most countries and in all international instruments. Nonetheless, in the last 50 years, women have not achieved equality, and their inequality has been reinforced by their low level of participation in public and political life. Policies developed and decisions made by men alone reflect only part of human experience and potential. The just and effective organization of society demands the inclusion and participation of all its members.

14. No political system has conferred on women both the right to and the benefit of full and equal participation. While democratic systems have improved women's opportunities for involvement in political life, the many economic, social and cultural barriers they continue to face have seriously limited their participation. Even historically stable democracies have failed to integrate fully and equally the opinions and interests of the female half of the population. Societies in which women are excluded from public life and decision-making cannot be described as democratic. The concept of democracy will have real and dynamic meaning and lasting effect only when political decision-making is shared by women and men and takes equal account of the interests of both. The examination of States parties' reports shows that where there is full and equal participation of women in public life and decision-making, the implementation of their rights and compliance with the Convention improves.

Temporary special measures

15. While removal of de jure barriers is necessary, it is not sufficient. Failure to achieve full and equal participation of women can be unintentional and the result of outmoded practices and procedures which inadvertently promote men. Under article 4, the Convention encourages the use of temporary special measures in order to give full effect to articles 7 and 8. Where countries have developed effective temporary strategies in an attempt to achieve equality of participation, a wide range of measures has been implemented, including recruiting, financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, setting numerical goals and quotas and targeting women for appointment to public positions such as the judiciary or other professional groups that play an essential part in the everyday life of all societies. The formal removal of barriers and the introduction of temporary special measures to encourage the equal participation of both men and women in the public life of their societies are essential prerequisites to true equality in political life. In order, however, to overcome centuries of male domination of the public sphere, women also require the encouragement and support of all sectors of society to achieve full and effective participation, encouragement which must be led by States parties to the Convention, as well as by political parties and public officials. States parties have an obligation to ensure that temporary special measures are clearly designed to support the principle of equality and therefore comply with constitutional principles which guarantee equality to all citizens.

Summary

16. The critical issue, emphasized in the Beijing Platform for Action,⁵ is the gap between the de jure and de facto, or the right as against the reality of women's participation in politics and public life generally. Research demonstrates that if women's participation reaches 30 to 35 per cent (generally termed a "critical mass"), there is a real impact on political style and the content of decisions, and political life is revitalized.

17. In order to achieve broad representation in public life, women must have full equality in the exercise of political and economic power; they must be fully and equally involved in decision-making at all levels, both nationally and internationally, so that they may make their contribution to the goals of equality, development and the achievement of peace. A gender perspective is critical if these goals are to be met and if true democracy is to be assured. For these reasons, it is essential to involve women in public life to take advantage of their contribution, to assure their interests are protected and to fulfil the guarantee that the enjoyment of human rights is for all people regardless of gender. Women's full participation is essential not only for their empowerment but also for the advancement of society as a whole.

The right to vote and to be elected (article 7, para. (a))

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

18. The Convention obliges States parties in constitutions or legislation to take appropriate steps to ensure that women, on the basis of equality with men, enjoy the right to vote in all elections and referendums, and to be elected. These rights must be enjoyed both de jure and de facto. 19. The examination of the reports of States parties demonstrates that, while almost all have adopted constitutional or other legal provisions that grant to both women and men the equal right to vote in all elections and public referendums, in many nations women continue to experience difficulties in exercising this right.

20. Factors which impede these rights include the following:

(a) Women frequently have less access than men to information about candidates and about party political platforms and voting procedures, information which Governments and political parties have failed to provide. Other important factors that inhibit women's full and equal exercise of their right to vote include their illiteracy, their lack of knowledge and understanding of political systems or about the impact that political initiatives and policies will have upon their lives. Failure to understand the rights, responsibilities and opportunities for change conferred by franchise also means that women are not always registered to vote;

(b) Women's double burden of work, as well as financial constraints, will limit women's time or opportunity to follow electoral campaigns and to have the full freedom to exercise their vote;

(c) In many nations, traditions and social and cultural stereotypes discourage women from exercising their right to vote. Many men influence or control the votes of women by persuasion or direct action, including voting on their behalf. Any such practices should be prevented;

(d) Other factors that in some countries inhibit women's involvement in the public or political lives of their communities include restrictions on their freedom of movement or right to participate, prevailing negative attitudes towards women's political participation, or a lack of confidence in and support for female candidates by the electorate. In addition, some women consider involvement in politics to be distasteful and avoid participation in political campaigns.

21. These factors at least partially explain the paradox that women, who represent half of all electorates, do not wield their political power or form blocs which would promote their interests or change government, or eliminate discriminatory policies.

22. The system of balloting, the distribution of seats in Parliament, the choice of district, all have a significant impact on the proportion of women elected to Parliament. Political parties must embrace the principles of equal opportunity and democracy and endeavour to balance the number of male and female candidates.

23. The enjoyment of the right to vote by women should not be subject to restrictions or conditions that do not apply to men or that have a disproportionate impact on women. For example, limiting the right to vote to persons who have a specified level of education, who possess a minimum property qualification or who are literate is not only unreasonable, it may violate the universal guarantee of human rights. It is also likely to have a disproportionate impact on women, thereby contravening the provisions of the Convention.

The right to participate in formulation of government policy (article 7, para. (b))

24. The participation of women in government at the policy level continues to be low in general. Although significant progress has been made and in some countries equality has been achieved, in many countries women's participation has actually been reduced.

25. Article 7 (b) also requires States parties to ensure that women have the right to participate fully in and be represented in public policy formulation in all sectors and at all levels. This would facilitate the mainstreaming of gender issues and contribute a gender perspective to public policy-making.

26. States parties have a responsibility, where it is within their control, both to appoint women to senior decision-making roles and, as a matter of course, to consult and incorporate the advice of groups which are broadly representative of women's views and interests.

27. States parties have a further obligation to ensure that barriers to women's full participation in the formulation of government policy are identified and overcome. These barriers include complacency when token women are appointed, and traditional and customary attitudes that discourage women's participation. When women are not broadly represented in the senior levels of government or are inadequately or not consulted at all, government policy will not be comprehensive and effective.

28. While States parties generally hold the power to appoint women to senior cabinet and administrative positions, political parties also have a responsibility to ensure that women are included in party lists and nominated for election in areas where they have a likelihood of electoral success. States parties should also endeavour to ensure that women are appointed to government advisory bodies on an equal basis with men and that these bodies take into account, as appropriate, the views of representative women's groups. It is the Government's fundamental responsibility to encourage these initiatives to lead and guide public opinion and

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

change attitudes that discriminate against women or discourage women's involvement in political and public life.

29. Measures that have been adopted by a number of States parties in order to ensure equal participation by women in senior cabinet and administrative positions and as members of government advisory bodies include: adoption of a rule whereby, when potential appointees are equally qualified, preference will be given to a woman nominee; the adoption of a rule that neither sex should constitute less than 40 per cent of the members of a public body; a quota for women members of cabinet and for appointment to public office; and consultation with women's organizations to ensure that qualified women are nominated for membership in public bodies and offices and the development and maintenance of registers of such women in order to facilitate the nomination of women for appointment to public bodies and posts. Where members are appointed to advisory bodies upon the nomination of private organizations, States parties should encourage these organizations to nominate qualified and suitable women for membership in these bodies.

The right to hold public office and to perform all public functions (article 7, para. (b))

30. The examination of the reports of States parties demonstrates that women are excluded from top-ranking positions in cabinets, the civil service and in public administration, in the judiciary and in justice systems. Women are rarely appointed to these senior or influential positions and while their numbers may in some States be increasing at the lower levels and in posts usually associated with the home or the family, they form only a tiny minority in decision-making positions concerned with economic policy or development, political affairs, defence, peacemaking missions, conflict resolution or constitutional interpretation and determination.

31. Examination of the reports of States parties also demonstrates that in certain cases the law excludes women from exercising royal powers, from serving as judges in religious or traditional tribunals vested with jurisdiction on behalf of the State or from full participation in the military. These provisions discriminate against women, deny to society the advantages of their involvement and skills in these areas of the life of their communities and contravene the principles of the Convention. The right to participate in non-governmental and public and political organizations (article 7, para. (c))

32. An examination of the reports of States parties demonstrates that, on the few occasions when information concerning political parties is provided, women are under-represented or concentrated in less influential roles than men. As political parties are an important vehicle in decision-making roles, Governments should encourage political parties to examine the extent to which women are full and equal participants in their activities and, where this is not the case, should identify the reasons for this. Political parties should be encouraged to adopt effective measures, including the provision of information, financial and other resources, to overcome obstacles to women's full participation and representation and ensure that women have an equal opportunity in practice to serve as party officials and to be nominated as candidates for election.

33. Measures that have been adopted by some political parties include setting aside for women a certain minimum number or percentage of positions on their executive bodies, ensuring that there is a balance between the number of male and female candidates nominated for election, and ensuring that women are not consistently assigned to less favourable constituencies or to the least advantageous positions on a party list. States parties should ensure that such temporary special measures are specifically permitted under anti-discrimination legislation or other constitutional guarantees of equality.

34. Other organizations such as trade unions and political parties have an obligation to demonstrate their commitment to the principle of gender equality in their constitutions, in the application of those rules and in the composition of their memberships with gender-balanced representation on their executive boards so that these bodies may benefit from the full and equal participation of all sectors of society and from contributions made by both sexes. These organizations also provide a valuable training ground for women in political skills, participation and leadership, as do non-governmental organizations (NGOs).

Article 8 (international level)

Comments

35. Under article 8, Governments are obliged to ensure the presence of women at all levels and in all areas of international affairs. This requires that they be included in economic and military matters, in both multilateral and bilateral diplomacy, and in official delegations to international and regional conferences.

36. From an examination of the reports of States parties, it is evident that women are grossly under-represented in the diplomatic and foreign services of most Governments, and particularly at the highest ranks. Women tend to be assigned to embassies of lesser importance to the country's foreign relations and in some cases women are discriminated against in terms of their appointments by restrictions pertaining to their marital status. In other

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instances spousal and family benefits accorded to male diplomats are not available to women in parallel positions. Opportunities for women to engage in international work are often denied because of assumptions about their domestic responsibilities, including that the care of family dependants will prevent them accepting appointment.

37. Many permanent missions to the United Nations and to other international organizations have no women among their diplomats and very few at senior levels. The situation is similar at expert meetings and conferences that establish international and global goals, agendas and priorities. Organizations of the United Nations system and various economic, political and military structures at the regional level have become important international public employers, but here, too, women have remained a minority concentrated in lower-level positions.

38. There are few opportunities for women and men, on equal terms, to represent Governments at the international level and to participate in the work of international organizations. This is frequently the result of an absence of objective criteria and processes for appointment and promotion to relevant positions and official delegations.

39. The globalization of the contemporary world makes the inclusion of women and their participation in international organizations, on equal terms with men, increasingly important. The integration of a gender perspective and women's human rights into the agenda of all international bodies is a government imperative. Many crucial decisions on global issues, such as peacemaking and conflict resolution, military expenditure and nuclear disarmament, development and the environment, foreign aid and economic restructuring, are taken with limited participation of women. This is in stark contrast to their participation in these areas at the non-governmental level.

40. The inclusion of a critical mass of women in international negotiations, peacekeeping activities, all levels of preventive diplomacy, mediation, humanitarian assistance, social reconciliation, peace negotiations and the international criminal justice system will make a difference. In addressing armed or other conflicts, a gender perspective and analysis is necessary to understand their differing effects on women and men.

RECOMMENDATIONS

Articles 7 and 8

41. States parties should ensure that their constitutions and legislation comply with the principles of the Convention, and in particular with articles 7 and 8.

42. States parties are under an obligation to take all appropriate measures, including the enactment of appropriate legislation that complies with their Constitution, to ensure that organizations such as political parties and trade unions, which may not be subject directly to obligations under the Convention, do not discriminate against women and respect the principles contained in articles 7 and 8.

43. States parties should identify and implement temporary special measures to ensure the equal representation of women in all fields covered by articles 7 and 8.

44. States parties should explain the reason for, and effect of, any reservations to articles 7 or 8 and indicate where the reservations reflect traditional, customary or stereotyped attitudes towards women's roles in society, as well as the steps being taken by the States parties to change those attitudes. States parties should keep the necessity for such reservations under close review and in their reports include a timetable for their removal.

Article 7

45. Measures that should be identified, implemented and monitored for effectiveness include, under article 7, paragraph (a), those designed to:

- (a) Achieve a balance between women and men holding publicly elected positions;
- (b) Ensure that women understand their right to vote, the importance of this right and how to exercise it;
- (c) Ensure that barriers to equality are overcome, including those resulting from illiteracy, language, poverty and impediments to women's freedom of movement;
- (d) Assist women experiencing such disadvantages to exercise their right to vote and to be elected.

46. Under article 7, paragraph (b), such measures include those designed to ensure:

- (a) Equality of representation of women in the formulation of government policy;
- (b) Women's enjoyment in practice of the equal right to hold public office;
- (c) Recruiting processes directed at women that are open and subject to appeal.

47. Under article 7, paragraph (c), such measures include those designed to:

- (a) Ensure that effective legislation is enacted prohibiting discrimination against women;
- (b) Encourage non-governmental organizations and public and political

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General recommendations by the Committee on the Elimination of Discrimination against Women 1986-1997☆

associations to adopt strategies that encourage women's representation and participation in their work.

48. When reporting under article 7, States parties should:

- (a) Describe the legal provisions that give effect to the rights contained in article 7;
- (b) Provide details of any restrictions to those rights, whether arising from legal provisions or from traditional, religious or cultural practices;
- (c) Describe the measures introduced and designed to overcome barriers to the exercise of those rights;
- (d) Include statistical data, disaggregated by sex, showing the percentage of women relative to men who enjoy those rights;
- (e) Describe the types of policy formulation, including that associated with development programmes, in which women participate and the level and extent of their participation;
- (f) Under article 7, paragraph (c), describe the extent to which women participate in non-governmental organizations in their countries, including in women's organizations;
 - (g) Analyse the extent to which the State party ensures that those organizations are consulted and the impact of their advice on all levels of government policy formulation and implementation;
- (h) Provide information concerning, and analyse factors contributing to, the under-representation of women as members and officials of political parties, trade unions, employers organizations and professional associations.

Article 8

49. Measures which should be identified, implemented and monitored for effectiveness include those designed to ensure a better gender balance in membership of all United Nations bodies, including the Main Committees of the General Assembly, the Economic and Social Council and expert bodies, including treaty bodies, and in appointments to independent working groups or as country or special rapporteurs.

50. When reporting under article 8, States parties should:

- (a) Provide statistics, disaggregated by sex, showing the percentage of women in their foreign service or regularly engaged in international representation or in work on behalf of the State, including membership in government delegations to international conferences and nominations for peacekeeping or conflict resolution roles, and their seniority in the relevant sector;
- (b) Describe efforts to establish objective criteria and processes for appointment and promotion of women to relevant positions and official delegations;
- (c) Describe steps taken to disseminate widely information on the Government's international commitments affecting women and official documents issued by multilateral forums, in particular, to both governmental and non-governmental bodies responsible for the advancement of women;
- (d) Provide information concerning discrimination against women because of their political activities, whether as individuals or as members of women's or other organizations.

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9:15 a.m. – 10: 45 a.m. Opening Session

**Implementing the CEDAW Convention: the need for a central
mechanism in Hong Kong**

**Dr. Fanny Mui-ching Cheung,
Chairperson, Hong Kong Equal Opportunities Commission**

**Seminar on
Hong Kong and the Convention on the Elimination of All Forms of
Discrimination against Women
organised by the
Centre for Comparative and Public Law of the Faculty of Law, and the
Women's Studies Research Centre,
The University of Hong Kong**

Saturday 28 November 1998, 9.00 a.m.-5.30 p.m.

**Implementing the CEDAW Convention: the need for a
Central Mechanism in Hong Kong.**

Dr Fanny M. Cheung

CEDAW: Its Implementation in the SAR

**Organised by the Centre for Comparative and Public Law and the
Women's Studies Research Centre
The University of Hong Kong**

28 November 1998

**Dr. Shalev, Associate Professor Byrnes, Ms. Mathai, Fellow
Speakers, Distinguished Guests:**

**I would like to thank the Centre for Comparative and Public
Law and the Women's Studies Research Centre for organising this
forum to discuss a most important topic for women: the
implementation of CEDAW in Hong Kong.**

Introduction

**Many of you here remember that, back in 1993, women's
organizations first asked for the extension of CEDAW to Hong Kong
and for the establishment of a Women's Commission to address
issues of discrimination against women. The call for such a
commission went unanswered even though at that time there were
already in existence, in other parts of the world, at least 28 Ministers,**

12 Ministries, and over 30 national government offices addressing the needs of women. In the 18 APEC (Asia-Pacific Economic Cooperation) economies of which Hong Kong is a member, high-level government offices on women's affairs are in place in 10 member economies. These offices are separate and distinct from other national institutions that are established to promote equal opportunities or human rights. In the British Commonwealth countries, such as U.K. and Australia where independent commissions on equal opportunities have been established, there are also separate government ministries on women's affairs.

EOC and CEDAW

In 1996, the Equal Opportunities Commission was established under the Sex Discrimination Ordinance. Later in the same year, CEDAW was extended to Hong Kong. These were significant advances in protecting the rights of women. Nevertheless much more is needed to bring CEDAW into effect.

The full implementation of CEDAW requires the Government's commitment, the collaboration of the related institutions, and the involvement of NGOs. A strong focal point is needed to address the multi-faceted concerns of women using CEDAW as a guiding framework. Such a focal point is lacking.

The Initial Report on the Hong Kong Special Administrative Region under Article 18 of the Convention on the Elimination of All Forms of Discrimination Against Women states that despite

“[suggestions] that a Women’s Commission be set up to provide a focal point to address matters of concern for women, the Government considers it neither necessary nor desirable as at the top level of the Administration, the Policy Groups chaired by the Chief Secretary for Administration and attended by senior representatives of the bureaux concerned, already provide the necessary co-ordination among the various bureaux” (Part II, para.19).

The EOC is not aware of the existence of a regular Policy Group specifically addressing matters of concern for women. NGOs continue to look for a focal point to whom they could address women’s concerns on policy and service in areas affecting women such as education, employment, violence against women, health, welfare, security, and the like. With nowhere else to turn to, these groups have tried to seek such a focus within the EOC.

NGOs expect the EOC to fulfill the functions of a women’s commission. This expectation is fostered by the Government as reflected by its inclusion of the EOC in the same paragraph of the CEDAW Report (under the heading “Co-ordination of Implementation of the Convention”) by stating, “the Equal Opportunities Commission – an independent statutory body – is in place to promote equal opportunities between the two genders and implement the Sex Discrimination Ordinance (Part II, para. 19).

Unfortunately, the EOC was established by statute and only given the responsibility for the administration of three anti-discrimination laws: the Sex Discrimination Ordinance, the

Disability Discrimination Ordinance, and the Family Status Discrimination Ordinance. We were specifically told that the monitoring and implementation of SAR's obligations under CEDAW was not among the portfolio items given to the EOC. The EOC is regarded by Government as an NGO and not one of the state parties. What the EOC can do for the women in Hong Kong is in relation to its work in the administration of the three anti-discrimination laws, which does not cover the broader remit of CEDAW.

I have to point out also that under the Sex Discrimination Ordinance, both women and men are protected from discrimination on the ground of their sex and marital status. Although discrimination against women on the ground of their gender is much more prevalent, we have the responsibility of protecting all persons from sex discrimination. Males constitute about 20 percent of our complainants under the SDO. Many of our male clients are wary that we would be helping women only in the administration of the SDO.

While the EOC is not specifically set up to implement CEDAW, we play a significant part in fulfilling some of the obligations under CEDAW as indicated by the coverage of EOC's work in the Government's CEDAW Report. We are doing what we can to eliminate discrimination against women within the jurisdiction of the anti-discrimination ordinances.

Employment

As shown from our operational experience and research, discrimination against women in the employment field constitutes a major concern.

Seventy percent of the 501 complaints we have handled (up to the end of October, 1998) were in the employment area. Women frequently come to us about their problems on being rejected for a position they had been selected for because they were pregnant and could not take X-rays during the pre-employment medical check-up. They come to us about being dismissed on return from maternity leave; about being sexually harassed or on having to work in a sexually hostile environment. They come to us when they are discriminated against because of their disability or for health reasons.

Thirty-three percent of 163 cases under the SDO has been in the area of sexual harassment, 29 percent on sex discrimination, 21 percent on pregnancy discrimination, 10 percent on the basis of marital status, and 10 percent on being victimised by the employer or supervisor as a result of a complaint on discrimination. So far, the success rate for the cases that have gone through conciliation is 75.8 percent. Settlement terms include monetary compensation, letters of apology, enactment of policies to guard against discrimination, reinstatement, promotion, or transfer.

Since its establishment, the EOC has eliminated discriminatory job advertisements, on the basis of sex. Before the law came into effect at the end of 1996, sex-specific recruitment advertisements in newspapers ran as high as 37 percent. After a series of educational campaigns and legal actions, there is practically no such advertisement since mid 1997.

The EOC has approved nine out of 20 applications for legal assistance, which include cases of employment disputes on sex or pregnancy discrimination and sexual harassment in the work place. Despite the fact that we do not have a separate legal fund, we manage by squeezing current resources to support what we consider to be important court actions. We could have more court cases if the complainants were not reluctant to pursue court action for various reasons.

Some complainants want to protect their privacy and not expose themselves to the public limelight in an open court system. Others may find the legal process daunting; or they may not want to jeopardise their future employment prospects. For example, a foreign domestic worker was granted legal assistance to seek redress on a sexual harassment case but decided not to go to court as she did not want her new employer to consider her “a trouble maker”. After repeated consultations with our Legal Advisor, she insisted that the case be dropped. Other cases may not end up in court as the parties decide to settle out of court.

Prevention plays an important function in eliminating discrimination. An important step in preventing discrimination in the employment field is to educate employers and employees. In the past two years, we have worked with employers to acquaint them with the laws so that the employers would not violate the rights of the employees. Among the first materials we produced are the Codes of Practice for each of the anti-discrimination laws and a series of pamphlets on Good Management Practice which give guidance on how to prevent discriminatory practices. This year, we are advising employees about their rights by publishing the *DDO and I* which tells the individual about their rights under the Disability Discrimination Ordinance. A similar publication is being drafted on the *SDO and I* and the *FSDO and I*. Another series of topical brochures have been drafted on "Know Your Rights" relating to Sexual Harassment, Pregnancy Discrimination, and Family Status Discrimination.

Census studies show that, despite the improvement in women's educational attainment, women's labour force participation remains at 48% in 1997 compared with 45% in 1977. One major barrier to women's access to equal opportunities in the employment field is the lack of adequate child care for working class women. The EOC urges the Government to address the child care needs of women. If better day care provisions can be made, it will enable women to participate in the labour force. The Government should consider providing day care centres in Housing Estates. This is especially important for single parents who would prefer earning their own living rather than depending on welfare for their support.

Other areas in employment that need addressing include appropriate job training and retraining programmes that meet women's needs, as well as the need for provision of economic support to women who provide "unpaid services" within the family. These women meet great hardship when they get older with no retirement benefits.

Education

Education is a most important area for women. Young girls can come through the process as confident individuals or as young women with low self-esteem setting lower objectives and accepting a discriminatory lot in life. Young boys can come through the education process with perceptions of the relative positions of males and females in society that either supports discriminatory attitudes or with mind sets that endorse equal opportunities in our society. Education, therefore, can help to break the discriminatory cycle or perpetuate it.

This is why EOC is targeting its public education efforts in the schools. We are working to promote the concept of equal opportunities from childhood by developing educational programs for students beginning with pre-school. We are working with the Department of Education to bring equal opportunities messages to primary school students in the form of puppet shows and we are developing ETV curriculum for the secondary school. A research project on "sexual stereotyping in text books" is also being planned.

Education is so important that we selected it as the first target of EOC's program to fight systemic discrimination. We are conducting a formal investigation into the Secondary School Places Allocation System to see if it disadvantages one sex from another. Another area we will be looking into is "segregated education programs". For example, does a school systematically place all boys in technology classes and all girls in domestic science classes?

Health

In August this year, we sponsored a special workshop on "women with disabilities". The workshop discussed the problems disabled women have in the areas of health, family, parenting, and economic sufficiency. Participants at the workshop decided to establish a regional network among women with disabilities and a regional newsletter has been started for this purpose. Local participants now meet regularly to discuss follow-up actions to secure better services for women and for women with disabilities.

Equality in Political and Public Life at the National Level

An area that needs addressing is on the Equality in Political and Public Life at the National Level (para. 44-58). The Government's Initial Report implies that the current level is adequate. It gives percentages showing that 25 % of the directorate level personnel is female; that 16 percent of the 1998 Legislative Council are women; and that approximately 10 percent of the Municipal Councils and the District Boards are female. The EOC

does not consider this as adequate female participation in political and public life.

There is no plan by the Government to remove the social and cultural barriers to political participation by women. We feel that a good way for Government to train women for public leadership is through its appointment process. The Initial Report states that women are not discriminated against in appointment to Advisory and Statutory Bodies. The Report does not give numbers or percentages of women serving in “350 of these bodies, with a membership of over 3,500”. The Report stresses that members are appointed on their own merits and gender is not a relevant consideration in making appointments. An independent count by the EOC, shows that only 14.5% of the members of these advisory bodies are female. We have urged the Government, as a start, to take a more positive step in this direction. More women should be appointed to advisory statutory bodies as serving on these bodies has proved to be a good training ground for persons in public office.

Other areas of needs

There are many other areas that need addressing.

For example, the Initial Report on CEDAW does not mention services for violence against women other than that for battered spouses. Aside from law-enforcement, services need to be provided for victims of rape, indecent assault, trafficking of women, and the like. Only limited services and training are now offered by

volunteers and women's groups and these are not all funded by the Government.

The growing number of immigrant women need special assistance of all kinds. They face adaptation problems as well as the same issues of violence against women, housing, etc. I cannot possibly name all the areas here but I am sure the other speakers will address them more comprehensively later today.

One important problem I have not yet addressed today is the economic survival of women's NGOs. With the economic downturn, the Government is cutting its budget and so are the major sources of funding -- the Community Chest and the Jockey Club. Who will be providing needed services for women if our women's NGOs have no funds to hire staff?

Even the Government depends on these NGOs for services. For example, the Initial Report talks about police training for the handling of domestic violence. What it does not mention is that the awareness training for front-line officers are provided by the same women NGOs who are being economically squeezed.

The Government's Role

The Government has no overall plan or programme to cope with the many concerns of women. It takes a lot more than the EOC to "eliminate all forms of discrimination against women". While the EOC can be very effective in the areas where we have been given

jurisdiction, we can only help the aggrieved persons the best we can and refer them to other authorities or services in areas in which we have no jurisdiction.

In some cases, there is no authority to address these issues. A simple example is a recent advertisement showing a man sawing a woman mannequin into many separate parts. We felt that the advertisement denigrated women and encouraged violence against women. We approached several different government agencies to express our concern and found that since it was a print advertisement and was not pornographic in nature, no government agency could address this issue. On the other hand, if the advertisement was in the electronic media, we could refer the complaint to the Broadcasting Authority. Besides the gap in the machinery to deal with different forms of media, the relevant authorities and the media need to be sensitised to the negative impact of sexual stereotypes and denigration of women.

The EOC continues to join the call of women's NGOs on the need to have a high-level focal point to develop policy, administer funding, and coordinate government services to implement CEDAW. The EOC believes it would be more effective to have a central mechanism, within the Government, reporting directly to the Chief Executive or to the Chief Secretary for Administration. A governmental focal point, with NGO involvement, would be more effective since a body outside of the Government cannot coordinate government policies and services for women.

The need for a central mechanism was included in the Beijing Platform for Action endorsed by 180 nations in 1995, including the United Kingdom and China. The mechanism, defined as “a national machinery for the advancement of women, is to be the central policy coordinating unit inside government. Its main task is to support government-wide mainstreaming of a gender-equality perspective in all policy areas.”

The Government, as part of the UK delegation in 1995, endorsed the Beijing Declaration. We ask that the Government implement the Beijing Platform for Action and establish a central mechanism to implement and monitor the SAR's obligations under CEDAW. The mechanism should promote gender equality and the full participation of women in the economic, social, cultural and political life of the Special Administrative Region. This central mechanism should involve as well as support actions by women NGOs and other partners seeking to advance equality for women by addressing women's needs. It should:

- i. deal with issues in CEDAW;
- ii. formulate policies on women;
- iii. advise on the impact on women of all government policies;
- iv. direct funding into areas based on these policies;
- v. address women's problems;
- vi. compile gender statistics and analyses;
- vii. act as a clearing house on training programmes for women.

At present, there is no such government program or mechanism. Government agencies are not knowledgeable about the needs of women or the provisions of CEDAW and there is no plan of action. Women in need have to look for support from the many women's NGOs which have not been granted government funding.

In conclusion, the EOC urges the government to set up a high-level central mechanism on women's affairs in order to fulfill its obligations under CEDAW and the Beijing Platform for Action.

Thank you very much for giving me the opportunity to share our concerns with you today and I look forward to hearing the different areas of needs raised by the other distinguished speakers.

11:00 a.m. – 1:00 p.m.

Promoting women's health in Hong Kong

**Ms. Tessa Stewart,
Hong Kong Federation of Women's Centres**

**Seminar on
Hong Kong and the Convention on the Elimination of All Forms of
Discrimination against Women
organised by the
Centre for Comparative and Public Law of the Faculty of Law, and the
Women's Studies Research Centre,
The University of Hong Kong**

Saturday 28 November 1998, 9.00 a.m.-5.30 p.m.

HK FEDERATION OF WOMEN'S CENTRES: CEDAW SUBMISSION

ARTICLE 12. Equality in access to health services

INTRODUCING A NEW PHILOSOPHICAL ORIENTATION

A wider definition of health

Using the Beijing Conference definition of 'health' as being a state of 'physical, psychological and social well-being, and not just the absence of disease, we need to expand our philosophy of what constitutes health care in Hong Kong. At present we are relying on a purely clinical medical model that focusses on problems, diseases and conditions, rather than seeing health care as being a process of promoting joint responsibility between doctor and patient, with an emphasis on primary health care, health promotion and community development.

At present, the HK Government health services mainly reflect a purely medical model, in that they target problems, diseases or conditions they have identified as 'unique, more prevalent or more serious for women generally or for some sub-group of women; and those problems for which the risk factors or interventions are different for women' (Ward, 1989; see also Public Task Force on Women's Health, 1985). Thus we have services which approach women's health in a fragmented way, focussing primarily on either physical presentation of reproductive health related illnesses, or health service provision for the general public which are not designed with any awareness of gender sensitivity (See 'Initial Report on the Hong Kong Special Administrative Region', Section 120: 'Government Strategy and Targets').

Although the section on policy is headed 'Government Strategies and Targets', it is difficult to see any mention of what actual strategies or targets exist in what follows, or indeed any evidence of real policy making for the future addressing women's needs. Accordingly, in our paper, we will argue that the Government needs to develop programmes that recognise the specific physical, psychological and social factors affecting women's health and well-being throughout their lives, recognising women's health maintenance as being related to their lives as workers, at home or in paid employment, and to their varying needs at stages of the life-cycle other than just their reproductive years.

NEED FOR GENDER SENSITISATION IN POLICY MAKING

As stated before, the World Health Organisation's holistic definition of health looks at the effects on women's well-being of the social and cultural environment in which they live. This affects equality of access to services, since Chinese culture is still largely patriarchal in its underpinnings, with more weight put on men's interests and independence than that of women. For example, since in Hong Kong many women as well as men are still influenced by the cultural values that place them as individuals as secondary to their familial roles as daughter, mother, or mother-in-law (Gallin, 1986; Koo, 1985), they put less emphasis on identifying or meeting their own needs than they do those of family members. This especially applies to recently arrived women from the mainland. Also, "cultural attitudes to sexuality and privacy appear to restrain them from discussing with doctors their 'women's health' needs" (George, 1990)

LINK BETWEEN GENDER, CULTURE AND ACCESSIBILITY

Thus awareness of problems women have in obtaining and accessing services due to an ability to put their own needs forward as a result of their gender conditioning needs to be addressed when providing services, or the services themselves may be there, but not taken up. Satisfaction with services has been shown to be related to the sensitivity with which they are delivered and to an egalitarian mode of communication between doctor and patient (George, 1990). Professionals need to know in which areas they need to be sensitive, in order to be effective, as well as to be educated to have an approachable style of presentation.

Cultural taboos for women about discussing their 'private parts' with anyone, or even thinking about them at all, means of course that the topic of women and their own sexuality is one that remains largely unaddressed in Hong Kong, women having difficulty discussing these issues even for strictly health maintenance purposes, especially since most of them are easily intimidated or constrained by merely being in the presence of a professional anyway. Contrast this then with men's comfort level in thinking about their sexual equipment, talking about sex, or meeting their sexual needs, and we can see the difference right away between men and women's comfort level in this area.

WOMEN'S MENTAL HEALTH

Social issues that impinge on women's mental health from their gender conditioning or gender roles also need to be addressed. We could include here the psychological effects of social situations, such as isolation in a high-rise flat with few outside contacts whilst caring for the young, blind, sick or disabled; their husband's feeling they have the right to take on second wives or mistresses; having a violent husband; having just arrived from the Mainland, only to encounter many unforeseen difficulties, including poverty and prejudice; double role strain, living with a difficult mother-in-law, working and having no decent child care arrangements, and so on. Women need to be taught negotiation and empowerment strategies to protect their own health, rather than attending clinics and getting medicines for somatised or stress related outcomes that follow on from these situations.

OUR EXPERIENCE OF WOMEN'S PROBLEMS IN THIS AREA

We have direct experience of how many women may have problems, due to their conditioning not to dwell on areas that are taboo, impacts on the interface between them, health education, and the uptake of services, at our women's centres, especially in the provision of STD's and AIDS education, but also in other areas, as the second part of this paper will show. Thus in order to give basic education to local women on how to protect themselves against STD's and HIV/AIDS, we find we first have to gain women's trust and confidence in other areas and in other ways before they can even tolerate discussing the topic, much less feeling confident to address their own needs for safety with the men in their lives. Enforcing their point of view over their partner's is almost an even more difficult proposition. Yet the reality is that STD's are rapidly rising in the local population.

IMPACT OF LACK OF BASIC SEX EDUCATION

Similarly, other health education regarding women's reproductive organs has to be presented at a very basic level first, since they are so unaware of the functions of their own reproductive and sexual organs, as basic sex education in Hong Kong schools often isn't in fact covered properly, if at all. Yet these are the very areas of a woman's body where some of their most important health issues and events will occur. Education needs to be provided in a suitable format, taking these things into consideration, if it is to be productive. Leaflets that work well in other cultures may need to be redesigned in order to be effectively used here, especially for the many aging women we have who have a very low educational level, leaving them largely functionally illiterate in terms of accessing health education through many usual channels. The same thing applies to many women who have recently arrived from the Mainland.

ROLE OF MEN

The role of men for the health status and care of women is frequently overlooked. We can see from the above that especially regarding her sexual health, greater emphasis needs to be placed on men's involvement regarding the spread of STD's and AIDS. For example, the STD clinics in Hong Kong need to more to strategise around the problem of men not reporting to their spouse if they have contracted and been treated for a sexually transmitted disease, informing them of consequences such as infertility possibly resulting for the wife, even if she seems to be asymptomatic at the time. They need to be educated to take a responsible and non-sexist attitude to women and girls, and to be sensitised to the adverse health implications of restricting the right of women to determine their own health and safety needs and treatment.

MEASURING WOMEN'S HEALTH

SETTING UP APPROPRIATE MECHANISMS AND INDICATORS

We do not find any evidence of real targets or indicators for use as a baseline in the Government's Initial Report that can be used to measure any progress in five year's time. In order to plan, implement and monitor the effectiveness of services, health professionals and their professional associations need to understand and use a broad spectrum of data. At present this is not available, partly due to statistics collection and research not being co-ordinated under a useful over-all framework. Professionals in the field need to combine specific measures derived from their services with broad measures about the welfare of women and adolescents to obtain a more comprehensive assessment of women's health individually, as well as within the context of family and the community, as per the wider holistic definition as to what real health includes.

REPORTING TO CEDAW: NEED FOR WOMEN'S HEALTH UNIT

More specifically, the focus should be for health professionals, reproductive health organisations and women's organisations to meet together to determine which relevant public health procedures for reporting to CEDAW need to be incorporated in indicators that can be useful in monitoring the Government's progress in this area. This all highlights the continuing glaring need for the Government to finally address policy making for women in a decent way, and the fact that the Health and Social Welfare Department has no full policy on women. The Health and Welfare Department should help set up a Women's Health Unit, which can then organise. This all highlights the continuing glaring need for the Government to finally address policy making for women in a decent way, and the fact that the Health and Social Welfare Department has no full policy on women the cross-organisational structures from within which this can be carried out.

UPDATING HEALTH MEASUREMENT MODELS

Crude statistics of maternal mortality, low fertility rates and high life expectancy for women and listing services provided as in the Government's Initial Report demonstrates Hong Kong's real strengths. However, planning our health care provision still relying on measuring models that were appropriate when Hong Kong was not so advanced educationally or economically is not appropriate. We hope the Government will in the future be looking at models from countries who are more sophisticated in their health care provision, no longer relying mostly on the bio-medical model, having moved towards a more client centred, user-friendly approach.

CHANGE NEEDED AT HIGHEST LEVELS

This means changes at the highest level of planning and thinking are needed, not just minor adjustments and a limited new service thrown out now and then. Hong Kongers are ready for this, and are no longer ready to accept that what professionals and civil servants decide is best for them may actually be so. They want their self-determined needs to be taken into consideration. This kind of overall change in mind-set would then impact well on women as high frequency users of health care.

PROMOTING QUALITATIVE RESEARCH

Only by addressing these new aspirations at the fundamental levels that go right to the basics in academia and training models will health professionals adapt to this new perspective. They need to be given the tools to adapt through research that goes into this area that is useful to them. The types of research method are significant if these issues are to be developed properly. Qualitative rather than quantitative methods need to be employed. This will only happen if government actively fosters a change of entrenched mind-set that is currently leaving much useful qualitative research out in the cold regarding funding opportunities and professional kudos, due to an overwhelming emphasis on qualitative methodology and a traditional medical model perspective towards addressing women's health issues.

SPECIFIC INDICATORS

Measures for and detailed statistics on abortion, including surveys of the numbers of Hong Kong women who go across the border for pregnancy termination; for violence against women; quality of care; adolescent sexual and reproductive health; condom use; number of teenage girls smoking; cardiovascular disease; cancers; osteoporosis; diabetes and post-natal depression need to be set up as soon as possible. Some other key indicators are:

- positive STD prevalence in pregnant women
- percentage of women screened for haemoglobin levels who are anaemic
- percentage of obstetric and gynaecology admissions owing to abortion

percentage of women of reproductive age at risk of pregnancy who report trying for a pregnancy for two years or more, particularly in women over 40

reported incidence of urethritis in men

screenings for cervical and breast cancer

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FOCUS AREAS FOR CHANGE IN THE NEXT FIVE YEARS

- 1. Primary prevention**
- 2. Widening the philosophy of services**
- 3. Women's health needs should be looked at throughout their life span**
- 4. Client autonomy and user-feedback**
- 5. Development of specific indicators**

Overview of services and their accessibility

It is clear that in the area of the family planning, ante and post-natal care women have reasonable access to low cost services. However, areas such as screening for breast and cervical cancer, pre- menopausal, post menopausal education and counselling programmes have not been recognised as relevant health needs. This shown that government 's focus only on the health needs of women during their reproductive years.

At the moment, there are 47 maternal and child health clinics all over in Hong Kong, which provided ante-natal, post-natal care, family planning and child care, but only 6 clinics provided cervical screening for women of age over 30 whom must married and have family planning with the clinic. Therefore women under 30 or not married are excluded.

There are other well women 's clinic (non-governmental) provided health checks for women, nevertheless, there is always a waiting list and fees is not cheap either

International research shown that both breast cancer and cervical cancer affects younger women as well as older women. At present, there is no service for such age group.

The present gaps in women's health service

There are 3 women's health centres situated in Chai Wan (for Hong Kong residents), Nam Tin (for Kowloon residents) and Tuen Mun(for New Territories residents); providing services for women between 45-64 years old only. The opening hours are 9a.m. to 5p.m.

*If you are in employment, you have to take a day off to have health check.
Do you think women can afford a day off for health check in present economic downturn?*

The 47 maternal and child health clinic only provided limited services to specific groups of women.

Case. one of our members had been sterilized and was told she does not require any

more service from the clinic She was told she does not need any more cervical smear

Does it mean when you have done your chore i e. produced babies, you do not need any more health provisions.

Actually in our survey shown that 30% of women do not know where they can have health checks

80% have not had breast x-ray.

40% never have any cervical smear

70% states that the fees are expensive and the location is too far away

90% believe that government should provide free screening service for breast and cervical cancer

The government had set up the women's health centres since 1990, as the population is increasing, the resources and services remain the same, therefore the service is incompatible

Gender sensitivity in provision of services

25% women chose to attend government clinic

40% women chose to attend private clinic

Even women have limited resources, they chose to attend private clinic

It is because the limitation and restriction on age, time and location, furthermore, women feel that they have been treated badly in government clinic. They do not feel comfortable in terms of service and attitude as the front line staff do not have the sense of gender sensitivity.

A gender sensitivity retraining programme should be provided for all the front line staffs.

Promotion of health education

90% women do not have any knowledge of breast cancer, cervical cancer, menopause and post-natal depression.

50% women do not know how to self-examine their breast.

45% never have any cervical smear.

These shown that women do not aware the significance of preventive health and have very limited knowledge of their own health.

Though there is a central health education unit in different locations, the efficient of passing the health message to women remains a case to answer.

Our recommendations based on our survey

The government should set up more women's health centres in different regions according to the ratio of the population. The service hours should be extended outside office hours or be flexible in order to cater different needs of women. The age should be extended to above 45 and below 65.

The centre is aim to provide cheap and accessible service to women to counter the present inadequate service.

Government should implement a gender sensitivity re-training programme for all the front line staffs so that they are aware the needs and be more sympathetic to women

Government should take a more active role in promoting health education, raise women's awareness towards their own health needs either through community education or working with the regional organisations and schools.

RECOMMENDATIONS FOR A WOMEN'S HEALTH PROGRAMME

Following on from Beijing, between now and the next CEDAW submission, the government needs to start addressing health from a more holistic viewpoint, and developing some comprehensive policy directives that include a real forward looking strategy. Proper measuring procedures need to be instituted, with clear targets and appropriate monitoring mechanisms.

WOMEN'S HEALTH UNIT

In order to reach these objectives, a Women's Health Unit needs to be established within the Health and Welfare Branch. At present, there is a Student Health Services Unit, Elderly Unit etc. established in recognition of the particular health needs and health risks of these groups. Women's health needs are tackled adhoc, and feedback from patients show their Women's Health Centres are not nearly as successful as they could be. Other health providers in Hong Kong need to be made aware of the need to have a gender perspective.

Such a Unit could co-ordinate Hong Kong-wide services and research under specific at-risk areas, leading to better use of existing knowledge and resources. Research needs to be of the kind that addresses issues of qualitative service delivery, which will need special promotion in the usual academic research channels, as at present 'hard statistics' and high-tech orientation tend to take precedence.

EXISTING GOVERNMENT HEALTH REVIEW

The government is still in the process of developing a major overhaul of health delivery for Hong Kong. This is an extremely important exercise, with ramifications that will especially hit women, since they tend to use health services more than men. Rather than presenting us as usual with a *fait accompli* consultation document at the end of this process that demonstrates an enormous ignorance of women's issues, with everything being dealt with piecemeal, we would ask them to include a women's perspective from the beginning, where it counts.

Since all health systems are being re-assessed, this is an ideal time to introduce some of the Beijing Forward Looking Strategies now. Women's needs and views should be solicited and taken seriously at an early stage, otherwise the effort and resources put into policy and planning may be wasted, as indicated by Australian research that has highlighted the fact that much health policy and planning for women often has no discernable impact on concerns raised by women themselves.

MANAGED HEALTH CARE

Women's perspectives need to be addressed especially in the area of privatised services and managed health care. Other women's groups in the region have registered great concern about some of the effects on women's health of the introduction of managed health care, and we would be happy to help the government access avenues to address these concerns in advance through some regional health networks we belong to.

HEALTH INSURANCE

Health insurance needs to be looked into in-depth in order to predict its effect on women, for example, if they separate from their spouses, or if their spouses die. Access to and utilisation of services are affected by income and education, and this group of women are known to be more likely to become poor when they become single, so their needs especially ought to be addressed.

Other minority groups also need special attention, such as the disabled, victims of domestic violence, single parents, recently arrived Mainland women, migrant workers, sex workers, and women whose partners engage in high-risk sexual behaviour

11:00 a.m. – 1:00 p.m.

Trafficking of women and exploitation of prostitution

**Sister Ann Gray,
Action for REACH OUT**

**Seminar on
Hong Kong and the Convention on the Elimination of All Forms of
Discrimination against Women
organised by the
Centre for Comparative and Public Law of the Faculty of Law, and the
Women's Studies Research Centre,
The University of Hong Kong**

Saturday 28 November 1998, 9.00 a.m.-5.30 p.m.



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HKSAR Government Report on CEDAW

I have been invited today to speak to you on the section of the Government Report on CEDAW which states "State Parties shall take all appropriate measures, including legislation to suppress all forms of traffic in women and exploitation of prostitution of women". The bulk of the HKSAR Government's report on this area concentrates on the Crimes Ordinance which, according to #40, "provides for several offences which are designed to prevent the exploitation of persons for sexual purposes". In reality, however, the Crimes Ordinance provides very little protection for local women who are exploited by pimps or forced into the sex industry because of their husbands' drug habits.

#41 then deals with the section of this Ordinance, Trafficking in persons to or from Hong Kong. "A person who takes part in bringing another person into or out of Hong Kong for the purpose of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment of 7 years". In Annexe D we are then provided with a list of statistics which lists the number of arrests made and the maximum penalties imposed but, unfortunately, not the number of convictions made so the actual situation of trafficking in Hong Kong is not made clear. In actual fact, it is extremely difficult to secure basic information or even statistics on the situation of women trafficked in or out of Hong Kong.

In 1996, as a member of Action for REACH OUT I was approached by the Global Alliance Against Trafficking in Women to assist them in collecting information to be included in a report on trafficking in women and forced prostitution to be presented to the Special Rapporteur on Violence against Women. Despite having a copy of a letter from the Special Rapporteur requesting cooperation on the compilation of this report, neither the Police nor Immigration Department was willing to provide the necessary statistics. A request to the Correctional Services Department for 2 representatives from the Global Alliance Against Trafficking in Women to meet with some of the women being held in detention centres in Hong Kong because they had entered Hong Kong illegally or because of Breach of Condition of Stay was also met with refusal.

The Government in its report is also silent about the situation of hundreds of young women working in the night clubs of Wanchai. Most of these come from Thailand and the Philippines, recruited by agencies who produce a contract written in Chinese, the translation of which assures them that they are going to work in Hong Kong as dancers. But on arrival here they soon realise that the work includes offering sexual services to clients. True, there is no coercion involved but family financial constraints and the added burden of having paid a lot of money to arrange this job and the leave their country usually means that they are not free to return home until the end of their contract.

Then there are the others who come to Hong Kong on a tourist visa and find themselves working on the streets or clubs. Action against this kind of trafficking tends to be limited to arresting the women who, on conviction of the offence Breach Of Condition of Stay, are immediately sentenced to three months imprisonment, or fifteen months if they have entered Hong Kong illegally. If you attend court sessions in North Kowloon

Magistracy you will hear of many cases of young women in such circumstances having worked in Hong Kong for a few days only being faced with this kind of custodial sentence. What happens to the families left behind, usually in China or Thailand while they serve their custodial sentences? Although the Police Department will insist they are more concerned with the arrest of syndicates and the organisers of such trafficking, the arrest of the women themselves is obviously much easier and there never appears to be any evidence that that there was ever an investigation into whether or not they are the victims of trafficking.

When asked about forced prostitution in Hong Kong, the Police Department will always say that 99.9% of women involved in the sex industry in Hong Kong are involved willingly. But what about the .1% (or more) who come here having signed a contract to work as a waitress or dancer and then find themselves locked up and coerced into having sex with clients and receiving no payment until the debt incurred from their travel to Hong Kong and accommodation here is paid off? Obviously, women like this will have no access to health or social services. If they are able to escape, most are too traumatised by their experience and afraid of reprisals against their families to report to the police. Those who do are then dependent on the services of NGO's as Police neither offer a safe place in which they can stay nor any kind of financial assistance while they are waiting for the arrest and trial of the organisers of such trafficking. Less than three years ago Action for REACH OUT had one such case where a 17 year old Filipina succeeded in escaping and told how she had been given drugs and often forced to serve more than 20 clients a night. She had no freedom of movement and was denied the right to refuse certain customers or to perform certain sexual acts.

Keeping in mind that in Hong Kong it is not illegal to be a prostitute, or to provide sexual services to another for money, or to use the services of a prostitute, there is another offence covered by the Crimes Ordinance which is not mentioned in the Government's report - that of "Soliciting for an Immoral Purpose" and yet this is the offence for which most prostitutes working from the streets of Hong Kong are arrested. The Government reports that the offences covered by the Crimes Ordinance are not gender specific. Is it not strange then that it is mainly women who are arrested for this offence and are constantly found guilty then sentenced to heavy fines and custodial sentences? I agree that no one wants to be walking along the street and be solicited for an immoral purpose but what is the situation actually like? In Action for REACH OUT we conduct an outreach programme at least five times a week on the streets of Yau Ma Tei, Sham Shui Po and Tsuen Wan. Take Sham Shui Po for an example - the women's working area is a dark, dimly lit street which is the location for a market during the day but after 9 pm the stalls are all closed and no business is conducted in the area. Most people in the area are usually just passing through. Here, the women wait for the clients and offer sexual services in nearby villas where they rent a room upstairs. If a policeman witnesses a woman approaching a client and hears her saying "\$300 includes everything", she will be arrested and charged with soliciting. However if the Police are on an exercise of entrapment, they can ask a woman how much money she wants and if she answers him, she will again be arrested and charged with soliciting. When the Vice Squad was challenged that the policeman was the actually the one who had solicited her, we were told that that is not how the law is interpreted. Once again, this is an easy arrest.

In August of this year, it was highlighted in the Oriental Daily newspaper that the Police are now employing a new tactic - placing pressure on male clients of prostitutes to act as a witness and state that the woman solicited him. If the client refuses or shows reluctance, the Police merely threaten to inform his family what he has been doing. This sounds bad enough but what actually happens is that the Police go upstairs in the villa on a routine check of the landlord's licence and just happen to find the woman and her client in the middle of a sexual transaction. On the strength of the client's version of what happened, an account of which is often prompted by the Police, the woman is then arrested for soliciting - not for receiving money for having sex - even though the act of soliciting has not been witnessed by the Police.

Once arrested, she is taken to the Police station and charged with the offence but if her version of the sequence of events and that of the Police differs, pressure is still placed on her to sign the statement prepared by the Police. Until Action for REACH OUT intervened and clarified that the women had the right not to sign such a statement, any woman who refused to sign had "uncooperative" written on the statement, an action which was sure to influence the magistrate before whom she stood for trial. Even now we still have occasions of being notified of cases where women have been refused to be released on bail solely because they were unwilling to sign a statement with which they disagreed.

In the report the Government states that assistance is available to prostitutes but the phraseology used again gives the impression of dealing with a deviant group. Are the services of the Family Service Centres only available to those "willing to accept help" or will the Government be proactive in promoting and offering these services and consider that a sex worker in need, like every other woman in Hong Kong has the right to this assistance? In Hong Kong as in many other countries sex workers belong to a marginalised group in our society. Which marginalised group in society will take the initiative to seek services, especially from government? Our experience has been that sex workers are generally not aware of the services available to them and require accompanying of Action for REACH OUT staff because even when they know of the services they are afraid to apply themselves because of the fear of discriminatory treatment because of the work in which they are involved. Careful reading of the Government's report will allow us to see that these services, however, are available to them "when giving up prostitution". What if they wish to continue to be involved in prostitution but require assistance?

The final section of the Government report on Trafficking and Exploitation of prostitution insists that the fact that a woman is a prostitute is immaterial to the enforcement of laws relating to violence against women, an example of which is rape. And yet when Action for REACH OUT was being set up we went to the Police Stations in Tsim Sha Tsui, Yau Ma Tei, Mong Kok, Wanchai to ask a few questions, one of which was how many cases of prostitutes reporting having been raped did they receive. In each Police Station, the reaction was laughter accompanied by the question - How can they be raped if they are working as prostitutes? And only last week the South China Morning Post printed an article entitled "Witness enraged by prostitute tag". An alleged rape victim became enraged when a barrister branded her a prostitute. She became furious and tearful when the defence barrister claimed she provided her massage clients with sexual services. Even supposing she did, what connection does this have with her accusation of rape?

It would appear that the Government in Hong Kong sees prostitution as a social problem to be solved but constant arrest and harassment such as that just outlined merely serves to push sex workers underground where they will have no or very little access to services which they require. Instead of ensuring that sex workers work in a safe environment free from harassment and health hazards, allowing women to choose the occupation option of participating in the commercial sex industry as in other types of legitimate employment the Government treats sex workers as social misfits to be reformed and is exposing them to the possibility of various forms of exploitation. With such misconceived attitudes, the Administration is unlikely to be taking the lead to chart a plan of action to progressively tackle this age old social issue with passion and foresight.

11:00 a.m. – 1:00 p.m.

Elderly women and poverty in Hong Kong

**Ms. Fok Tin-man,
Society for Community Organisation**

**Seminar on
Hong Kong and the Convention on the Elimination of All Forms of
Discrimination against Women
organised by the
Centre for Comparative and Public Law of the Faculty of Law, and the
Women's Studies Research Centre,
The University of Hong Kong**

Saturday 28 November 1998, 9.00 a.m.-5.30 p.m.

Elderly Women and Poverty in Hong Kong

Introduction

This presentation is focused on the elderly women's poverty situation in Hong Kong Special Administrative Region (HKSAR). From the colonial rule transit to the HKSAR, the poverty problem remains unchanged in our society. The poor is still the poor and the poverty problem still exists. We are very disappointed that the government not only lacks courage to combat the inequalities, but also further obscures the plight situation of elderly women in the Initial Report on the HKSAR under the CEDAW. The Government does not perform its responsibility to protect the elderly women in full enjoyment of political, social and economic rights under CEDAW.

The Hidden Poverty in A City Of Plenty

Though H.K. is a city of plenty with pretty handsome of reserves of HKD\$446 billion (about USD\$57.5 billion) in 1998, the poverty problem is very serious. As reflected by the Gini-coefficient in the past twenty years, the widening disparity between the rich and the poor is very alarming. Gini-coefficient is increasing rapidly from 0.43 in 1971, to 0.48 in 1991 and up to 0.52 in 1996 (Table 1). The Gross Domestic Product of H.K. is rated as top-10 over the world, however our poverty gap is much wider than other developing countries. It is our deep shame that HK's rating of 79 in poverty gap level among 93 countries in 1998.

Adopting the Organization for Economic Cooperation and Development's (OECD) definition of poor households and low-wage workers, it is estimated that in H.K. 18% of adult members belonged to this category. At present, about 700,000 people are low-wage workers with a monthly income of \$5,000 (half of the median income). 61% of them are economically inactive or outside the working population like retirees, housewives and students¹. The old persons share the majority of the population of poorer households. It clearly shows that our senior citizens are the most disadvantaged vulnerable group.

H.K. is in an aging population. In 1998, there are 930,000 elderly people aged over 60, about 14.1% of the total population. The aging population will increase to 1,620,000 in 2016, about 19.8% of the total population (Table 2). 52.6% of the aging population are old women². Having the longer life expectancy, elderly women are more victimized than men as they have

¹ Education and Manpower Bureau. LegCo Panel on Manpower. Paper No. CB(2) 521/98-99

² Census and Statistics Department, H.K. H.K. population projections 1997-2016.

to undergo longer and never-ending poor life.

Lack of 'Old Age Pension Scheme'

H.K. does not have comprehensive old age pension scheme. Over 60% of the 6.5 million population are not entitled to any form of retirement protection. Worse still, over 90 % of our senior citizens do not receive any retirement payment. The establishment of the Mandatory Provident Fund (MPF) Schemes in 1998, it would not benefit the existing aging population as they are all excluded from the Scheme. In fact, the MPF would take at least 30 years to yield meaningful returns to the existing workforce.

Furthermore, the MPF Schemes do not protect the retirement of housewives who are unpaid workers. Housewives' contribution does not yield financial rewards and they are economically dependent on their husbands or families. Women's economic status is subordinate to men. Women play the caring role and they contribute time and spirit to the family. However, the government does not recognize women's contribution. We are sure that the elderly women in poverty after retirement will exist endlessly.

Residual Social Welfare System

The suffering of the deprived in H.K. is not due to the scarce of social resources. Instead, the ruling ideology of the government is oriented towards economic development and capital accumulation. She places the outlet of solving the poverty problems mainly on individual or one's family, rather than the intervention of social welfare policy. The government always emphasized that the availability of Comprehensive Social Security Assistance (CSSA) Scheme is an adequate safety net for the poor elderly. But the harsh reality is that about 120,000 elderly cases of welfare assistance are in a minimum living standard without dignity.

At present, there are 340,000 people receiving CSSA. 75% of them are the elderly persons. In fact, it is a rapid increase in elderly recipients. The growth rate for old people receiving the CSSA in the past ten years is about 3 times (Table 3). According to the Report on Review of CSSA Scheme in 1996, 52% of old recipients aged over 60 is women. It clearly shows that elderly women are more victimized than men.

From the research on expenditure pattern of low expenditure households in H.K., the single elderly recipients only spend HKD 994 (about USD 128) a month on food expenditure in 1994/95³. However, we are more surprised that the Health and Welfare Branch suggested

³ Research on expenditure pattern of low expenditure households in H.K. in 1996 H.K. Council of

the single elderly recipients spending HKD 688 (about USD89) per month on food expenditure, about HKD7.6 (about USD1) each meal in 1994/95 (Table 4). If the officials who allocate these payments tried to live it for a month, they might be more realistic in fixing the amounts in this costly city.

It is a well-known fact that the elderly people need greater medical expenses yet in H.K. As one gets older, one has to keep a tighter budget on their daily expenses and their monthly expenditure is being distorted. The Chinese elderly people usually adopt traditional herb medicine and Chinese medicine. But this great medical expenditure is not covered by the welfare assistance. Medical expenditure shares a great part of their welfare assistance.

In 1998, the standard rate of the CSSA for the single elderly is around 25% of the median wage. It implies that the elderly recipients cannot have a certain living standard as the other people. The 10-20% increase in real terms of the elderly's monthly payment is by no means adequate for their needs. The existing welfare amount, HKD2,555 (USD\$329.7) is still very distant from the recommendation for an increase up to HKD3,000 (USD\$387 in 1998 price) basic amount for a single elderly by Dr. Stewart MacPherson's survey. The elderly recipients are forced to live under poverty. It really does make a mockery of the much vaunted respect for old age in this society.

Actually, we work with many poor elderly women in urban areas and old public rental housing estates. The spectacle of a frail, CSSA old lady living in 40 sq. feet small cubicle is a characteristic sight here. An 84-year-old single old lady living in 5-storeyed old private building without lift in Shamshuipo, Madam Kwong Ling Woon has suffered from severe rheumatism of her legs and nutrient-deficient for several years. She spends HKD500-800 (USD64.5-103.2) a month on the medicine injections in the private clinic and Chinese herb medicine to relieve pain of her legs. In order to save money for her medical expenditure, she uses about HKD8-10 per meal. She only prepares soup once a week. She dares not dine out or buy new clothes because of her tight budget. The inhuman and indecent living condition is ironically existing in our affluent society.

Poor Working Environment of the Elderly Women

Certainly, regular exercise is the finest recipe for health in old age. But it is too hard for about 120,000 elderly workforce being forced to work in slavery conditions and struggle for basic needs. The proportion of elderly in the working population dropped from 31.5% in 1981 to 12.9% in 1998⁵. With such meager earning power, the old persons spend over 10 hours on picking up cardboard boxes by hauling a trolley through the traffic. They can only earn about HKD5 (USD0.65) a day or HKD150 (USD19.4) a month. A catty of cardboard boxes (about 600 grams) cost HKD15 cents (USD0.02).

The elderly women work for long hours for little return. 38% of elderly women workforce earn less than HKD3,999 (USD516) per month, which is sharply higher than only 16% of male working elderly in this monthly income category. On the other hand, 57.3% of the male elderly working population have over HKD6,000 (USD774) monthly income, whereas only 34% of the female elderly workforce in this category⁶ (Table 5). It depicts the inequalities of economic status of elderly women and men. Elderly women are forced to work at causal jobs like domestic servants, cleaners in restaurants or housing estates, collecting cardboard boxes for resale, etc. The changing economy and 5% soaring unemployment rate had forced many elderly people out of work, while those still in the workforce faced harsh conditions due to their weak bargaining power.

From the survey on working elderly people, 74.3% of the interviewees worked more than 9 hours a day and over 60% worked 26 days or more a month. In addition, nearly half rated their working environment as poor while only 10% thought their working condition good. The interviewees' monthly income ranged from HKD150 to HKD9,000 (USD19 to 1,161)⁷. In fact, the working elderly are being exploited as most of them are not under the labour protection of the Employment Ordinance. Perhaps the following case of Madam Wu Woon Ying can illustrate how she works in the slavery conditions.

A 60-year-old single lady Madam Wu is working as a cleaner for the cleansing company in the Mass Transit Railway. She works from 7 a.m. to 5 p.m. without taking rest and earns HKD3,650 (USD471) a month. She gets HKD14 (USD1.8) an hour. Actually, she has already been working for this company for five years, but her salary has been increased only HKD450 (USD58) within five years. Indeed, she greatly suffers from negative real growth rate of wage. Besides, no labour protection such as double pay, paid sick days is provided to her. 55% of her monthly income is used to pay the rent of small cubicle of 60 sq. feet in old private

⁵ H.K. Government, 1996 by-census & Quarterly Report on General Household Survey (Jan-March 98)

⁶ H.K. Government, 1996 by-census

building in Shamshupo She works so hard everyday in order to keep herself in food and stave off debt. 'Life is too hard for me. Survival to 80-year-old is too heavy.' She said. It is really a hard battle for them.

Conclusion

To conclude, the socio-economic rights of the elderly women have not been safeguarded by the HKSAR Government. Actually, the over-weighted business interests in our confining political arena does not bring wealth and fruits to our senior citizens. In the Government's Initial Report on the HKSAR under CEDAW, the Government only emphasizes that the Mandatory Provident Fund Scheme and the existing social welfare policy could provide adequate protection for our elderly female retirees. Nevertheless, the report fails to acknowledge the slavery condition under which a large portion of our female elderly have been subject to for their survival. Very little improvement has been achieved in combating poverty and the plight of the poor is no difference from those of the 50s. We strongly urge the Government to fulfill its obligation under CEDAW to ensure the equal access of our elderly women to retirement protection and other economic, social and political rights.

Society for Community Organization

28 November 1998

⁷ Survey Report on the working elderly in H.K. in 1998. Society for Community Organization

Table 2: The H.K. population projections 1998-2016

Year	Population aged over 60	The percentage of elderly women over the total female population
1998	937,900	14.9
2000	981,000	15
2002	1,018,900	15.1
2004	1,045,400	14.9
2006	1,093,200	15.2
2008	1,173,000	15.8
2010	1,273,100	16.8
2012	1,380,600	17.6
2014	1,491,500	18.7
2016	1,620,900	19.8

Source: Census and Statistics Department, H.K.

Table 3: The number of cases of elderly people aged over 60 receiving public assistance or CSSA

Year	The Number of Elderly Cases
1987	42,135
1988	43,099
1990	44,806
1991	47,182
1992	51,867
1993	61,026
1994	72,486
1995	84,243
1996	98,765
1997	112,067
1998 (Sept)	118,188

Source: Census and Statistics Dept, Monthly Digest 1987-1998

Table 4: The budget of monthly basic needs expenditure for a single elderly recipient (1994/95)

Group of commodities/services	Monthly expenditure (94/95)
Food	687.8
Fuel and Light	110.7
Clothing	202
Durable goods	254.1
Furniture	106.2
Transportation	96.9
Others	66.5
Total	1,524.2

Source: Report on Review of CSSA in March 1996, Health and Welfare Branch.

Table 5: Working Population aged 60 & above by sex and monthly income from main employment 1996

Monthly Income	Male	Female	Total
<\$2,000	5,439 (4.7%)	2,575 (8.5%)	8,014 (5.5%)
\$2,000-\$3,999	13,017 (11.4%)	8,977 (29.6%)	21,994 (15.2%)
\$4,000-\$5,999	30,446 (26.6%)	8,470 (27.9%)	38,916 (26.8%)
\$6,000-\$9,999	35,009 (30.5%)	5,290 (17.4%)	40,299 (27.8%)
\$10,000-\$19,999	18,168 (15.9%)	2,079 (6.9%)	20,247 (14%)
\$20,000 & above	12,537 (10.9%)	2,958 (9.7%)	15,495 (10.7%)
Total	114,616 (100%)	30,349 (100%)	144,965 (100%)

Source: Census and Statistics Dept, 1996 by-census

2:15 p.m. – 3:45 p.m.

**Migrant workers – the position of foreign domestic helpers in
Hong Kong**

**Ms. Connie Bragas-Regalado,
United Filipinas in Hong Kong**

**Seminar on
Hong Kong and the Convention on the Elimination of All Forms of
Discrimination against Women
organised by the
Centre for Comparative and Public Law of the Faculty of Law, and the
Women's Studies Research Centre,
The University of Hong Kong**

Saturday 28 November 1998, 9.00 a.m.-5.30 p.m.

HONG KONG AND THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Good afternoon everyone! I would like to thank Mr. Byrnes and the Faculty of Law to grant me this privilege to talk on the situation of foreign domestic helpers in Hong Kong.

I. Asian Migration: A Brief Background

The influx of Asian migrants in Hong Kong to work as domestic helpers was in the 70s when the Hong Kong economy started to leap. They come from countries like the Philippines, Thailand, Indonesia, Nepal, Sri Lanka and other poor Asian countries., where there is abject poverty and high unemployment rate. On the other hand, Hong Kong opened its door to foreign domestic helpers so that housewives and other members of the family could be liberated from housework and could participate in the economic production.

In 1974, there were only 881, 787 came from the Philippines and 94 from other countries. As of July 1998, there are 178, 458 foreign domestic helpers: Philippines – 141,803; Indonesia – 28,348; Thailand 5,303; India 1,200; Sri Lanka – 1,172; Nepal – 588; Pakistan – 59; Myanmar – 36; Malaysia – 44; Bangladesh – 33; Singapore – 5; others – 67. The first three countries which are most populated are: 1) Filipinos – 79.46; Indonesians 15.88; Thais 2.97. Almost 90 per cent of foreign domestic helpers are women.

II. The Situation of Foreign Domestic Helpers in Hong Kong

Generally speaking, the migrant workers in Hong Kong are relatively satisfied as far as financial reward is concerned. They will bear all the hardships entailed with migration as long as it will produce relative stability to their families.

But it is not all bed of roses.

Homesickness, gross violation of contract by employers, physical abuse, sexual harassment or rape. Maltreatment such as frequent shoutings, denials of one's meal for slightest mistake, underpayment, forced to illegally work in factories, shops, or offices, endorsement, obvious display of distrust by employer, discrimination and many others are but some of the obstacles that they have to hurdle with. There are some who were not able to bear the difficulties that resulted to depression, nervous breakdown and even serious mental illness.

The Mission for Filipino Migrant Workers has recorded 731 new cases from January to August 1998. Problems include. 1) long working hours - 385; 2) no private room - 307; 3) insufficient food - 162; 4) illegal work - 103; 5) maltreatment - 80; 6) delayed payment of salary - 58; 7) day off of less than 24 hours - 54; 9) physical abuse/abuse - 44; 10) 33 confiscation of official documents - 33; 11) sickness - 25; 12) sexual harassment - 8, and; 13) rape - 2. (Please see attached sheet for more details).

III. *The Convention on the Elimination of All Forms of Discrimination against Women, Bill of Rights Ordinance and the Basic Law*

A. *The Ideals*

The presence of migrant workers in Hong Kong became a major social and political issue. It has been recognized that migrant workers and members of their families being non-nationals residing in states of employment or in transit are unprotected population whose rights are often not addressed by the national legislation and by their own states of origin. They should be viewed as more than laborers or economic entities. They are social entities with families and have rights accordingly including that of family reunification.

Hong Kong is bound to the International Convention of the Elimination of All Forms of Racial Discrimination. The Government's Twelfth Report on implementation of the Convention states that:

"The Government, satisfied that racial discrimination is not a problem in Hong Kong, has not considered it necessary to introduce any law aimed at eradicating racially discriminatory behavior and practices."

For the purpose of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

The Hong Kong Bill of Rights assure everyone's equality before the law.

Article 4 of the Basic Law provides that the HK SAR shall safeguard the rights and freedoms of residents of the HK SAR and of other persons in the Region in accordance with law. The Basic Law guarantees a wide range of freedoms and rights, including -

- (a) equality before the law;
- (b) freedom of speech, of the press and of publication, freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike;

- (c) freedom of the person; freedom from torture; freedom from arbitrary or unlawful arrest, detention and imprisonment, freedom from arbitrary or unlawful search of the body; and right against arbitrary or unlawful deprivation of life;
- (d) freedom from arbitrary or unlawful search of, or intrusion into, one's home or other premises; among others.

B. The Realities

1. **FDHs and Discrimination against Pregnant Women**
 - 1.1 Non hiring of pregnant FDH
 - 1.2 Early termination of contract of pregnant FDH
 - 1.3 Side "contract" re: no pregnancy during the effectivity of the contract
 - 1.4 Employer-initiated abortion
 - 1.5 Abortion due to fear of termination of contract
 - 1.6 Employers of Overseas Domestic Helpers Association opposed amendment on maternity Protection. FDHs may now qualify for maternity benefits after working for four weeks.
2. **FDHs and Access to Facilities and Services**
 - 2.1 Filipinas as eye sores and rubbish - Business establishments in Central rallied to get rid of Filipinas in Statue Square and its vicinity because it disrupted their business operations on Sundays.
 - 2.2 Maids not allowed to use swimming pools
 - 2.3 Maids not allowed to stand in the MTR Exit in Statue Square
 - 2.4 Maids are designated in certain areas in exclusive clubs
 - 2.5 A maid refused medication because the hospital was worried of who will pay the bill since she has a tourist visa, since she was terminated by her employer.
 - 2.6 Maids are not anymore allowed to advertise for employment opportunities in Wellcome Supermarkets and Park n" Shops.
 - 2.7 A shelter which housed displaced Asian domestic helpers, is under review on the status as charitable institution The Hong Kong government said that domestic helpers are not poor and needy and therefore not qualified to operate as charitable institution.

IV. NEW CONDITIONS OF STAY (NCS) OR THE TWO-WEEK RULE

The "two weeks" rule is a matter of policy decided by the Governor in Council and applied by the Immigration Department. It was not a "law" passed through the normal legislative process with any debate, for instance, in Legco. It is simple government dictate, imposed at the whim of the government and changed at the whim of the government.

Very simply, under its terms, an FDH is committing a criminal offense if she remains in Hong Kong for more what is the reason for termination - be she beaten, indecently assaulted, not paid wages, has her passport withheld, is not provided with even a ticket to leave Hong Kong. If there is a cause for complaint against the employer, she may apply to the Immigration Department for a visitor's visa, which may be granted or not at the discretion of the Department for such time, however long or short the Department in its absolute discretion may impose, and upon payment of fees to the Department

If she files a monetary claims at the Labour Department, her visa is extended but she is not allowed by the Immigration Department to take up jobs. The Hong Kong government does not extend financial assistance or other welfare assistance such as shelter while the case is ongoing. They are housed in shelters run by non-government organizations and church organizations, but they have limited resources to accommodate displaced domestic helpers.

V. *The New Proposals to Cut Wages and other Benefits for FDHs – a discriminatory*

There have been persistent calls for a reduction in wages and other benefits of FDHs in Hong Kong. Provisional Urban Councilor, Ms. Jennifer Chow Kit-bing's proposal to lower the current minimum wage of FDHs (\$3,860) by 20 per cent (\$772) to \$3,88, was followed by a proposal from the Employers of Overseas Domestic Helpers Association which called for the FDHs' monthly wages by 35 per cent to \$2,500. It is understood that a private member's bill is to be introduced in the LegCo soon calling for a reduction of wages and other benefits of FDHs. More recently, Ms. Chow has proposed that FDHs should also be required to work 16 hours a day as in Singapore. These measures are being proposed ostensibly as a means of alleviating the economic hardships of their respective employers brought on by the current economic crisis.

VI. *Recommendations to the Hong Kong Government*

Foreign domestic helpers have been campaigning against legislation and policies and ordinances implemented by Hong Kong government. It is high time that the government would look into possible legislation on anti-discrimination to curb the problem. Discrimination cases committed by government officials particularly the Immigration Department, Labor Department, Police Department and other government agencies such as hospitals, legal aid department, etc.

The Convention of the Elimination on All Forms of Discrimination Against Women, the Bill of Rights Ordinance and the Basic Law will only have its merits when effectively implemented by the Hong Kong government. Discrimination happens everywhere and that it is an everyday experience among foreign domestic helpers.

I hope that the participants in this seminar would work together with the Hong Kong government to minimize if not to eliminate discrimination in Hong Kong.

Thank you very much.

2:15 p.m. – 3:45 p.m.

**Sex discrimination in the labour market – age discrimination,
sexual harassment, the impact of the economic recession**

**Ms. Lam Ying Hing,
Women Workers' Association**

**Seminar on
Hong Kong and the Convention on the Elimination of All Forms of
Discrimination against Women
organised by the
Centre for Comparative and Public Law of the Faculty of Law, and the
Women's Studies Research Centre,
The University of Hong Kong**

Saturday 28 November 1998, 9.00 a.m.-5.30 p.m.

Report on Female's Employment Situation in Hong Kong : responding the Initial Report of SAR government on CEDAW

OUTLINE

1. General comment
2. Employment Right
 - Participation Rate (Article 5, para 23, para 98-103)
 - Age Discrimination (para 90)
 - Pregnancy Benefits (Article 11, para 86, para 95,)
 - Salary Difference Between Two Sexes
 - Women and Poverty
 - Discrimination Towards New Arrived Women
3. Employment Services provided to Women
 - Retraining Programmes (para 108)
 - The work of Labour Department (para 105-107)
4. Unemployment and Retirement Benefits
5. The Work of Equal Opportunity Commission (para 94)
6. Conclusion and Suggestion

Report on Female's Employment Situation in Hong Kong : responding the Initial Report of SAR government.

1. General Comment

Although CEDAW is extended to Hong Kong after the handover, SAR government did little to eliminate discrimination towards women. With the economic recession, the situation of working women became more worse.

Since the 1990s, the employment pattern for women employees in HK has been in a state of causalisation. Part-timers, temporary, substitute and contract workers are very common. These are not what women employees want. They want a full-time, stable job on a reasonable salary. But during their job-seeking or even under employment, they are always in an unfavourable situation, for example, discrimination on age, underpay, unnecessary harsh working terms. In addition to inadequate social security and service, the powerless situation of women employee is exploited by employers.

However in the Initial Report of HKSAR, HK government said that most employees "have already taken the attitude and idea for providing equal employment opportunity for both sexes", making people doubt that if the government has satisfied with the attitude of present employers on male and female employees. The statement also arouse doubts that the government simply ignores the fact of employers suppressing women workers' wage by exploiting their status as women and their age. Generally speaking, when women work in the public domain or choose their career, the issues of sex and age are still not protected by the law. Discrimination simply exists, and women cannot have the same rights or opportunity as men.

2. Employment right

● Participation Rate (Article 5, para 23, para 98-103)

A government report stated that, "working population participation rate for age 20 to 39 has been increasing for the past 10 years", and "decreasing female working population over 60 is the result of prosperous economy and women sharing economic growth and prosperity". This inevitably hides the situation faced by women workers.

According to government statistics, female unemployed in second quarter of 1997 are 23,900, which is 1.9% of female working population, female unemployed in fourth quarter 1997 and second quarter 1998 are 29,500 (2.2%) and 48,000 (3.7%) respectively, showing that female workers unemployment population is increasing. Furthermore, we believed that the real female unemployed are greater than the above figure, because many so-called housewives (statistically not included in working population) do want to continue working in the public domain. But they are suppressed by the unreasonably low wage offered, and find that the wage they earned is not enough even for expenditure of home keeping and children.

Gender stereotyping in employment situation of HK is still severe, the sexual segregation is clearly seen. Wage and benefit of occupations mainly taken up by men is

better than the that by women. According to statistical figures in 1998, women employees on the managerial grade are only 52,600 (20.7% of total workers in that grade), and male managers are 201,000 (79.3%). Women employees in the professional grade are 48,500 (29.2%), while male professionals are 117,600 (70.8%), women employees on the clerical grade are 416,900 (70.5%), while male clerks are 174,400 (29.5%). Women unskilled workers are 312,700 (54.3%), while male unskilled workers are 263,300 (45.7%).

Moreover, the participation rate of women in different age group show that gender stereotype hinder the job development of women workers. In 1997, 80% of women between the age of 20-29 were involved in the labour force. Between the age of 30-39, the number dropped to 64% and for age between 40-49, the number dropped drastically to 53%. The society expects women to take up greater family responsibility than to develop job career. With the insufficient childcare facilities and elderly services keep women at home carers to the family, thus women became economically dependent on spouse and other family members.

● Age discrimination (para 90)

It is commonly known that women over 30 are under age discrimination when they try to find a job. According to data released by the Statistics Department, age medium of working population from first quarter of 1997 to first quarter of 1998 is: 38 for men and 33 for women. These figures show that age requirement of labour market is younger for women, compared to men.

Many women who are barred from the labour market because of age, including women workers from the declining manufacturing sector (industrial transformation) and women with children who are grown up, are between 30 to 50. Although they are still in the prime of their lives, they are usually banned from employment due to "old age". For example, age requirement for shop salesperson is under 30, and even some electronics factories refuse to employ women workers over 30

● pregnancy benefits (Article 11, para 86, para 95.)

After several revisions, the present rule for maternity leave is: according to a continuous contract, a pregnant employee can have no-pay maternity leave when she have worker for at least 26 weeks, she could have 10 weeks of paid maternity leave when she have worker for at least 40 weeks. But wage during maternity leave is only 4/5 to normal wage. In other word, 1/5 wage of pregnant employees is deducted. This inevitably increases the economic pressure of pregnant employees.

Many women lose employment opportunity because of pregnancy. For example, waitresses in restaurants do not receive suitable job arrangement when they are pregnant and are forced to resign. And in many other sectors, married women employees have fewer chances for promotion and less wage increase.

● Salary Difference Between Two Sexes

Wage medium for all workers in 1997 is \$10,000, but within the category of unskilled workers, wage medium for women (who make up 54.3%) is \$3,900, when men's is \$8,000.

Female wage medium is only as half as men's, showing that wage of women employee is relatively low.

There is still wage difference between female and male in the same kind of occupation. For example, in 1997, the median wage of male in Managers and Administrators is \$28,000, but female in same occupation only gets \$25,000.

● Women and Poverty

According to the third Quarterly Report on General Household Survey, there are about 295,000 person who has monthly income less than the half of median wage (that is \$5,000). Among them, 250,000 are women which occupy 83.3% of the total "working poverty" population. To state more clearly, low wages among women workers is not due to trend of performing part-time jobs. From the statistics, 140,000 women engage in jobs lower than \$5,000 still need to work over 30 hours per week.

● Discrimination Towards New Arrived Women

Everyday, there are 150 new arrivals from Mainland China coming to HK for family unity. Half of them are women, who know little about the HK society and lack of supporting resources. Some of them need a job because of family economic pressure, with little negotiating power, they are exploited with very low wages, long working hours, heavy workload and even lack of labour protection. While resources had been largely devoted to family and children, women in her unique situation had not been concerned and care about. Their circumstances illustrate that HK government have not put adequate resources to protect new arrived women from discrimination and exploitation.

3 *Employment Services provided to Women*

● Employees Retraining Programmes (para 108)

Since the restructuring of economic situation, ex-factory-workers in Hong Kong find difficulties in getting a new job. SAR government then set up the Employees Retraining Programmes aiming at equip them with new skills. However, the truth is that there is a serious decrease in job vacancies after the de-industrialization. Thus, the reason of severe unemployment among middle aged women (who formerly participated in manufactory industry) is lack of job. Therefore, retraining programme cannot solve the problem. Although they had been retrained, the Programme failed to upgrade their skills. More importantly, they still cannot find a job as most employers do not recognized the qualification from this Programme.

● The work of Labour Department (Article 11, para 105-107)

The job matching programme is merely decoration than solving the unemployment problem. In 1997, total job seekers registered in Labour Department is 117,424, only 22.2% (which accounted for 26,162 person) get a job through this service. In the period of 1 April 1995 to 31 December 1997, the Job Matching Programme registered 21210 job seekers and secured 15054 job offers, which only counted 21.1% of the unemployment population (71,300) in 1997.

The report also stated that no complaints had been on age discrimination although Labour Department has set up services to deal it in 1997. This does not show that no age discrimination occurred, but made obvious that this services had not been promoted. None of our members told us that they are informed of this complaint channel.

4. Retirement Benefits (Article 13, para 134)

In Hong Kong, no retirement benefits given to citizens. The provisional Legislative Council adopted the bill of Compulsory Provident Retirement Fund, which require contribution of both employers and employees whose monthly income higher than \$4,000. It is really discriminatory policy since it neglect the welfare of 500,000 women who participate in low wage and unstable work, and the housewives who devoted lifetime to take care the family members.

5. The work of Equal Opportunity Commission (para 94)

The Commission is the only institution in Hong Kong responsible for promoting gender equality. However, its work seem not enough. First of all, the Commission stress on the equity of men and women, but neglect the fact that female is placed in a disadvantaged position inside our society. To enhance gender equality, the Commission should carry out more mechanisms to eliminate the discrimination towards female.

Moreover, the work of EOC confines only to 3 ordinances; i.e. the Sex Discrimination Ordinance, the Disability Discrimination Ordinance, and the Family Status Discrimination Ordinance. Since age discrimination is a long-term and severe employment barrier towards middle aged women, the EOC and government refused to formulate legal restriction on it.

6 Conclusion and suggestion

To achieve gender equality and realize the spirit the CEDAW, SAR government as well as EOC should take more firm position to eliminate discrimination towards women. We have the following suggestions:

- ◆ To set up minimum wage system, in order to protect the reasonable return for women workers and to narrow the discrepancy between female and male workers.
- ◆ To formulate legal restriction on age discrimination.
- ◆ To review and set up mechanism to assist new arrived women in understanding their own rights
- ◆ To increase the childcare and elderly services.
- ◆ To reconsider the Comprehensive Retirement Scheme which also protect the late life of working women and housewives.
- ◆ To formulate legal protection on full pay for maternity leave of women workers.

Table 4 Employed persons by Monthly employment earnings and Sex, 1st Quarter 1997

表四 一九九七年第一季按每月就業收入及性別劃分的就業人數

<u>Monthly employment earnings (HK\$)</u> <u>每月就業收入(港元)</u>	<u>Male</u> <u>男</u>	<u>Female</u> <u>女</u>	<u>Overall</u> <u>合計</u>
< 3,000	14 200	47 100	61 300
3,000 - 3,999	13 400	140 100	153 500
4,000 - 4,999	31 900	57 000	88 800
5,000 - 5,999	57 300	71 200	128 600
6,000 - 6,999	94 300	86 500	180 800
7,000 - 7,999	121 900	80 200	202 100
8,000 - 8,999	180 200	100 900	281 100
9,000 - 9,999	136 300	73 000	209 300
10,000 - 14,999	487 500	204 900	692 400
15,000 - 19,999	250 400	134 600	385 000
20,000 - 29,999	242 000	125 100	367 100
≥ 30,000	251 600	88 700	340 300
Total 總計	1 880 900	1 209 300	3 090 200

Note : There may be a slight discrepancy between the sum of individual items and the total owing to rounding.

註釋 : 由於進位原因，個別項目的數字加起來可能與總數略有出入。

Figure 33 Work of the Employment Services Division in 1997
圖33 1997年就業科的工作

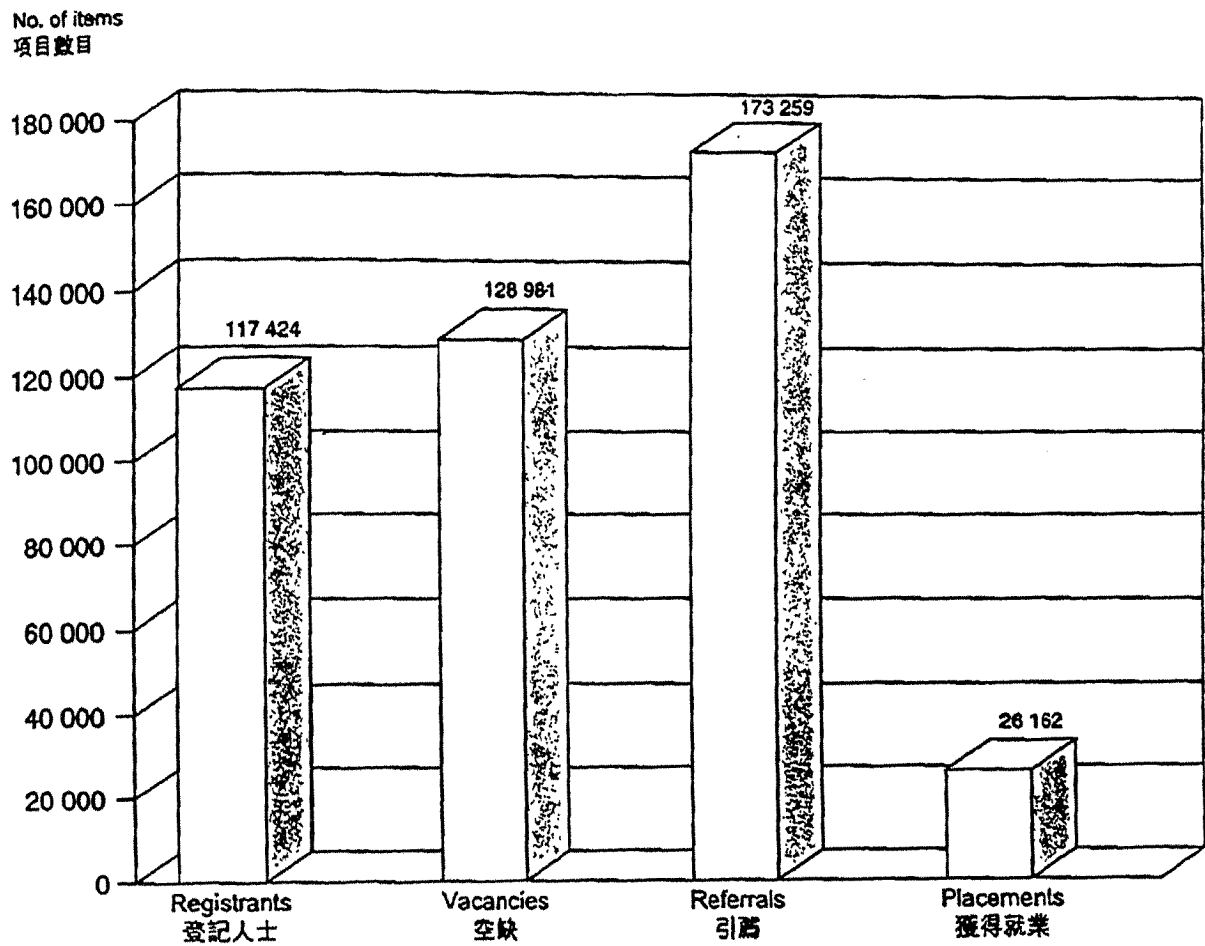


表 3F 按性別及職業劃分的就業人數

Table 3F Employed persons by Sex and Occupation

性別/職業 Sex / Occupation	1997 第二季 Q2		1998 第一季 Q1		1998 第二季 Q2	
	人數 No. ('000)	百分比 %	人數 No. ('000)	百分比 %	人數 No. ('000)	百分比 %
男 Male						
經理及行政級人員 Managers and administrators	178.8	5.7	187.2	5.9	201.0	6.3
專業人員 Professionals	103.1	3.3	111.8	3.5	117.6	3.7
輔助專業人員 Associate professionals	319.7	10.3	317.5	10.0	304.5	9.5
文員 Clerks	171.9	5.5	173.6	5.5	174.4	5.4
服務工作及商店銷售人員 Service workers and shop sales workers	263.2	8.5	268.2	8.5	272.9	8.5
工藝及有關人員 Craft and related workers	349.2	11.2	347.5	11.0	363.9	11.4
機台及機器操作員及裝配員 Plant and machine operators and assemblers	228.2	7.3	243.5	7.7	237.0	7.4
非技術工人 Elementary occupations	280.5	9.0	266.1	8.4	263.3	8.2
其他 Others	6.5	0.2	6.8	0.2	6.4	0.2
小計 Sub-total	1 901.0	61.1	1 922.1	60.7	1 941.0	60.6

表 3F (續) 按性別及職業劃分的就業人數

Table 3F (Cont'd.) Employed persons by Sex and Occupation

性別/職業 Sex / Occupation	1997 第二季 Q2		1998 第一季 Q1		1998 第二季 Q2	
	人數 No. ('000)	百分比 %	人數 No. ('000)	百分比 %	人數 No. ('000)	百分比 %
女 Female						
經理及行政級人員 Managers and administrators	41.4	1.3	49.5	1.6	52.6	1.6
專業人員 Professionals	48.5	1.6	48.2	1.5	48.5	1.5
輔助專業人員 Associate professionals	189.8	6.1	188.6	6.0	191.2	6.0
文員 Clerks	405.0	13.0	412.7	13.0	416.9	13.0
服務工作及商店銷售人員 Service workers and shop sales workers	172.9	5.6	184.6	5.8	182.3	5.7
工藝及有關人員 Craft and related workers	12.1	0.4	12.6	0.4	11.4	0.4
機台及機器操作員及裝配員 Plant and machine operators and assemblers	51.0	1.6	45.5	1.4	44.7	1.4
非技術工人 Elementary occupations	289.6	9.3	300.9	9.5	312.7	9.8
其他 Others	1.6	#	1.9	0.1	3.0	0.1
小計 Sub-total	1 211.8	38.9	1 244.5	39.3	1 263.2	39.4

表 3A 按性別及年齡劃分的就業人數
Table 3A Employed persons by Sex and Age

性別/年齡組別 Sex/Age group	1997 第一季 Q1		1997 第四季 Q4		1998 第一季 Q1	
	人數 No.	百分比 %	人數 No.	百分比 %	人數 No.	百分比 %
	(000)		(000)		(000)	
男 Male						
15 - 19	43.1	1.4	44.9	1.4	38.7	1.2
20 - 29	396.8	12.8	410.6	12.6	393.9	12.4
30 - 39	610.7	19.8	625.9	19.2	613.4	19.4
40 - 49	489.3	15.8	529.0	16.3	520.7	16.4
50 - 59	238.6	7.7	258.0	7.9	257.6	8.1
≥ 60	102.4	3.3	100.3	3.1	97.8	3.1
小計 Sub-total	1 880.9	60.9	1 968.8	60.5	1 922.1	60.7
年齡中位數 Median age	38		38		38	
女 Female						
15 - 19	32.6	1.1	33.5	1.0	32.9	1.0
20 - 29	397.9	12.9	414.0	12.7	399.1	12.6
30 - 39	426.3	13.8	441.4	13.6	430.7	13.6
40 - 49	254.0	8.2	279.1	8.6	265.9	8.4
50 - 59	80.2	2.6	95.8	2.9	95.4	3.0
≥ 60	18.3	0.6	20.7	0.6	20.5	0.6
小計 Sub-total	1 209.3	39.1	1 284.7	39.5	1 244.5	39.3
年齡中位數 Median age	33		33		33	
合計 Overall						
15 - 19	75.7	2.4	78.4	2.4	71.6	2.3
20 - 29	794.8	25.7	824.6	25.3	793.1	25.0
30 - 39	1 037.0	33.6	1 067.3	32.8	1 044.1	33.0
40 - 49	743.3	24.1	808.2	24.8	786.6	24.8
50 - 59	318.9	10.3	353.9	10.9	353.0	11.1
≥ 60	120.6	3.9	121.1	3.7	118.3	3.7
總計 Total	3 090.2	100.0	3 253.4	100.0	3 166.6	100.0
年齡中位數 Median age	36		36		36	

Table 3 Employed persons by Hours of work during the seven days before enumeration and Sex, 1st Quarter 1997

表三 一九九七年第一季按統計前七天內的工作時數及性別劃分的就業人數

<u>Hours of work</u> <u>工作時數</u>	<u>Male</u> <u>男</u>	<u>Female</u> <u>女</u>	<u>Overall</u> <u>合計</u>
< 20	92 500	67 900	160 500
20 - 29	105 300	95 300	200 600
30 - 34	48 500	39 600	88 200
35 - 39	182 100	195 000	377 100
40 - 44	420 300	324 500	744 900
45 - 49	533 200	223 300	756 500
50 - 54	199 800	86 200	286 000
55 - 59	37 400	12 100	49 600
≥ 60	261 700	165 200	426 900
Total 總計	1 880 900	1 209 300	3 090 200

Note : There may be a slight discrepancy between the sum of individual items and the total owing to rounding.

註釋 : 由於進位原因，個別項目的數字加起來可能與總數略有出入。

Table 2 Median monthly employment earnings by Occupation of main employment and Sex, 1st Quarter 1997

表二 一九九七年第一季按主業所屬職業及性別劃分的每月就業收入中位數

Occupation of main employment 主業所屬職業	Male 男 (HK \$) (港元)	Female 女 (HK \$) (港元)	Overall 合計 (HK \$) (港元)
Managers and administrators 經理及行政級人員	28,000	25,000	27,000
Professionals 專業人員	30,000	25,000	28,000
Associate professionals 輔助專業人員	15,000	16,000	16,000
Clerks 文員	10,000	10,000	10,000
Service workers and shop sales workers 服務工作及商店銷售人員	10,500	8,000	9,800
Craft and related workers 工藝及有關人員	10,000	8,000	10,000
Plant and machine operators and assemblers 機台及機器操作員及裝配員	10,000	6,000	9,800
Elementary occupations 非技術工人	8,000	3,900	6,000
Others 其他	N.A.	N.A.	6,500
Overall 合計	12,000	9,000	10,000

Table 1 Median monthly employment earnings by Industry of main employment and Sex, 1st Quarter 1997

表一 一九九七年第一季按主業所屬行業及性別劃分的每月就業收入中位數

Industry of main employment 主業所屬行業	Male 男 (HK \$) (港元)	Female 女 (HK \$) (港元)	Overall 合計 (HK \$) (港元)
Manufacturing 製造業	12,000	7,500	10,000
Construction 建造業	10,000	9,500	10,000
Wholesale, retail and import/export trades, restaurants and hotels 批發、零售、進出口貿易 飲食及酒店業	12,000	8,500	10,000
Transport, storage and communications 運輸、倉庫及通訊業	11,000	11,500	11,000
Financing, insurance, real estate and business services 金融、保險、地產及商用服務業	15,000	14,000	15,000
Community, social and personal services 社區、社會及個人服務業	14,500	8,000	10,000
Others 其他	13,000	7,000	12,000
Overall 合計	12,000	9,000	10,000

4:00 p.m. – 5:30 p.m.

Violence against women and girls

**Ms. Edith Cheung,
Harmony House**

**Seminar on
Hong Kong and the Convention on the Elimination of All Forms of
Discrimination against Women
organised by the
Centre for Comparative and Public Law of the Faculty of Law, and the
Women's Studies Research Centre,
The University of Hong Kong**

Saturday 28 November 1998, 9.00 a.m.-5.30 p.m.

The situation of DOMESTIC VIOLENCE AGAINST WOMEN in Hong Kong

Responding to the

INITIAL REPORT of THE HKSAR on CEDAW

Article 5 : Stereotyping and Prejudices

“Protection to Women Against Violence”

By Edith Chang, Executive Director of
HARMONY HOUSE LIMITED

A) INTRODUCTION

In different culture or societies, women are explicitly or implicitly regarded as subordinate to men and are expected to perform sex-stereotyped roles and functions in a couple relationship or social relationships. These traditional values do not only form justifications for men to use violence against women when their power are being challenged; to prevent public to protect or rescue women from violence; but also inhibit women's rights for freedom in their personal development.

Domestic violence against women is a common form of gender-based violence and was brought to public's attention in United Kingdom and United States in the late 70's. However, the issue was only made aware to the Hong Kong population in the mid-80's. In the past fifteen years, though legislation was established and social services was provided, the approach and perspective adopted are 'family integrity' which confines women in the prescribed role of caretaker, functional supporter to men.

B) SIZE and SEVERITY of the PROBLEM

According to the statistics of Harmony House Ltd., a non-government organization concerning itself with the problem of domestic violence against women, around 2,000 women and their 2,500 children were admitted in the shelter (with capacity of 40 women and children at any time) and around 30,000 hotline calls were received in the past thirteen years of operation.

The above statistics only reveals the tip of the iceberg. All along, the size and severity of the problem of domestic violence against women is not known as there is no central record system set up by the Hong Kong government to register the cases. It reflects the low priority and concern that the Hong Kong addressed to this social problem.

Until the formation of interdepartmental Working Group on Battered Spouse in April, 1995, a central statistical system on Spouse Battering was set up in 1997. In 1997/98, 1,200 cases are registered and amongst them, 1,153 victims (96.1%) are women. The statistics clearly reflects that domestic violence is a gender-based violence in which woman is often the victim. In fact, we still believe that there are many more unreported cases hidden behind the doors of 'family secret' and restricted by the male chauvinism.

C) CURRENT PROVISIONS AND RECOMMENDATIONS

In the HKSAR initial report on CEDAW, *violence against women* is particularly mentioned under *Article 5 – Stereotyping and Prejudices (para. 28-39)* in which the government stated out the existing measures to protect women against violence in three areas :

- Legislation
- Special Training
- Service Provisions

In the following, we shall examine the existing situation and further propose recommendation in respect of the three aspects.

I) Legislation

The Crimes Ordinance, Offences Against the Person Ordinance and Domestic Violence Ordinance are described as the legislation protecting women against violence. Except the Domestic Violence Ordinance, the former two ordinances in fact are the general laws protecting anyone in any relationship in the society.

a) Legislation on Stalking

As for the Domestic Violence Ordinance, it only deals with physical abuse with injuries for couple in marital relationship. However, for those who are not in marital relationship such as ex-husband - ex-wife, boyfriend - girlfriend, or the form of abuse being psychological such as threat and social isolation or sexual, legal protection under this ordinance is not granted. Therefore, the *legislation of 'stalking'* should be supplemented and enforced.

b) Legislation on Marital Rape

According to the statistics of Harmony House Ltd., 37% of the admitted women in 97/98 are sexually abused by their partners. Many expressed that their partners would regard sexual intercourse as the women's obligation to men even though violence or force is involved, or sexually disease is transmitted. Not like other countries such as United Kingdom, women in marital relationship in Hong Kong are not protected with the *legislation on marital rape*. They can only tolerate the rapist of husband.

c) Mandatory Counselling for Abusers

Domestic violence against women in Hong Kong is often dealt in passive protection of women. However, alternate intervention in proactive manner has never been explored. *Mandatory counselling* for abusers should be thoroughly examined for further prevention of domestic violence..

d) Mandatory Reporting on Domestic Violence

According to the statistics of Harmony House Ltd., more than half of the women admitted to the shelter (50.3% in 97/98) tolerated the abuse for more than five years until the frequency and severity of abuse increase to the extent they cannot tolerate, or abuse is spread to the children. *Mandatory reporting* of domestic violence allows early intervention and reflects government's concern to the problem..

II) Education and Training for Professionals

a) Police

In the HKSAR Report on CEDAW, police is emphasized as they are always the first line of professionals in handling cases of domestic violence. In the past year, the Hong Kong Police Force did initiate an operation guideline and internal training for their force to strengthen police's role and skills in this aspect. It is also true that Harmony House Ltd. had provided training to their 1,600 officers; however, the agency relying on donation and facing financial difficulties did not receive any training fund from the police or the government.

Although training is provided to the police, only 15% of the women admitted in the shelter of Harmony House Ltd. in 96/97 considered police's intervention as effective in helping them to stop further violence. Many expressed that police were called many times and the women were suggested to tolerate more, to shape up themselves, for the sake of family integrity. The police's predominant values that 'domestic violence is only a family dispute' and 'women's toleration as solution to the problem' often keep women in violent situation.

b) Legal and Medical Professionals, Social Workers

The similar values do not only exist among police but also other professionals such as judges, lawyers, social workers and medical staff whom the women in domestic violence usually seek help from. Continuing *Education and training*, not so much on procedure, but *on value, attitude, understanding and sensitivity towards the women in domestic violence* is far more important in the elimination of discrimination against women. In this aspect :

1. Legal Department,
2. Legal Aid Department,
3. Social Welfare Department
4. Other NGOs in social service
5. Hospital Authority
6. Hong Kong Police Force

should take a more initiative action to bring in specialized people for training.

III) Social Service Provisions

Although in the HKSAR report on CEDAW, a wide range of services are said to be provided to protect women against violence, much shortfalls are identified :

a) Generic vs. Specificity in Nature of Services

Except the services of the three temporary shelters and the two hotlines operated by the NGOs, all other services are generic for any one in the public. If the women do not have a thorough grasp of the specific service, they need to search their way in the sea of services before appropriate help is received.

b) Short of Funding

The situation was made even worse the hotlines which function as the crisis lines for women in domestic violence, do not receive any funding support from the government for manpower or publicity. This further creates hurdles for these NGOs to made services known to the needy women.

On the other hand, the only one community education project (Family Ideal Community Education Project of Harmony House Ltd.) focusing on the prevention of spouse abuse is not subvented by the government at all.

c) Family vs. Individual Perspective in Service Provision

Almost all the social services are provided with the fundamental value of ‘*Family Integrity*’. For example, the child care services are provided with the belief that women’s prescribed role in the family as child caretaker. The insufficient provision of child care services always inhibit women’s, but not the men’s opportunities to be employed in the labour market.. This makes women to be financially dependent on their partners and deprives them from the choices in other personal development.

Another example is the community education for the prevention of domestic violence against women. Family life education is provided with the focus of harmonious family whereas the TV and Radio announcement, publication of poster and pamphlet by the Working Group on Battered Spouse emphasize help seeking at early stage. However, no messages on gender equality in relation to violence against women was propagated.

d) Fragmentation vs Multi-disciplinary Network of Services

Although there seem to be comprehensive range of services for women in domestic violence, services are in fact fragmented, without perspective in multi-discipline and co-ordination among various government and non-government bodies. The women have to rely on themselves to search their way out through from one to another organization.

A woman shared that she has reported to police five times, gone to hospital twice, seen to social workers many times before she knows about the information on shelter of which she finds it the most important and imminent resource she needs. *Multi-agency streamlining* should be examined to enhance service integration.

D) OTHERS

Mass media is an effective and influential means of community education. In Hong Kong, although the Equal Opportunities Commission is responsible to administer the Sex Discrimination Ordinance, it is very common to read across many discriminative terms degrading, humiliating or sexually objectifying women in the daily press. This already helps to create and uphold the massive culture of male chauvinism and destroy the survival and growth of values and attitude in gender equality.

In fact, education on gender equality should be incorporated in the formal curriculum of education system, even beginning at early childhood.

E) CONCLUSION

The Convention on the Elimination of All Forms of Discrimination Against Women was extended to Hong Kong in order to promote gender equality complying with Human Rights. To implement the convention, the Hong Kong government holds the responsibility to take a more proactive rather than reactive role in the :

- establishment and enforcement of legislation,
- improvement in service quality, provision and integration
- education for public and professionals
- setting up central pool of funding

In order to achieve this, the government should set up a *Central Mechanism such as Women's Commission* to oversee women's issues, to formulate policy for women and to monitor service implementation.

- E n d -

4:00 p.m. – 5:30 p.m.

Violence against women and girls

**Dr. Philip S L Beh,
Faculty of Medicine, University of Hong Kong**

**Seminar on
Hong Kong and the Convention on the Elimination of All Forms of
Discrimination against Women
organised by the
Centre for Comparative and Public Law of the Faculty of Law, and the
Women's Studies Research Centre,
The University of Hong Kong**

Saturday 28 November 1998, 9.00 a.m.-5.30 p.m.

DRAFT SHADOW REPORT ON THE INITIAL REPORT OF THE HKSAR

GOVERNMENT ON CEDAW

ARTICLE 5

STEREOTYPING AND PREJUDICES

VICTIMS OF RAPE

AUTHORS

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The authors were brought together as individuals to form a Subgroup of the Advocacy Group for Reproductive and Sexual Health of HK Women.

EXECUTIVE SUMMARY

Victims of rape are still subject to stereotyping and prejudice. The prevalence of these prejudices have resulted in uncoordinated and ineffective care and treatment services for victims of rape. The absence of an identifiable body within government to formulate policies and monitor their implementation across government departmental boundaries is a major issue which needs to be urgently addressed.

Attitudes towards rape victims are negative amongst the general public as well as amongst professionals involved in responding and caring for victims of rape^{1, 2}. This in turn has impeded necessary changes to the legislation, to service provisions and the training of the various sectors that make up the criminal justice, welfare and education systems.

Supporting information are attached in the Appendices.

We wish to recommend that a women's policy body be established by the HK Government to develop a comprehensive policy to educate the public and the "professionals" against the existing prejudices against victims of rape. This body should be given the administrative authority to direct interdepartmental co-ordination and improvement of staff training and as well as provision of care and support services to victims of rape.

CONTENTS

1. Introduction
2. Figures and facts
3. Rape Legislation
4. Care and welfare services
5. Criminal Justice System
6. Education
7. Concluding remarks
8. Appendices -
 - Appendix 1 Attitude to Rape Victims Survey Score - Comparison of 25 countries.
 - Appendix 2 Fig.1 - Annual Police Figures on Rape 1985-97.
Fig.2 - Annual Rape Figures from The Family Planning Association of Hong Kong 1981-97.
Fig.3 - Annual Figures of 'Known' Rape 1985-97.
Fig.4 - Crime Victimization Surveys Estimates of sexual and indecent assault 1978-94.
 - Appendix 3 Laws of Hong Kong, Crimes Ordinance Cap 200 Section 118, 154 and 156
 - Appendix 4 Victims Charter
 - Appendix 5 'Rape in Hong Kong: an overview of current knowledge' published in Journal of Clinical Forensic Medicine (1998) 5, 124-128.
9. List of References

1. INTRODUCTION

Rape is still a taboo subject in Hong Kong. Lee & Cheung³ in their study reported that this was associated with traditionalism. This has resulted in victims preferring to suffer in silence and not presenting themselves to care agencies. The numbers that report to the police and as such pass through the criminal justice systems are even smaller. It is always difficult to predict the number of victims who do not come forward, yet the few sources of data available suggest that under-reporting is significant (see Section 2)

The negative attitudes towards rape victims is not only found amongst the lay public but also is prevalent amongst professionals including police officers, doctors, lawyers, judges, etc. Published studies have found that the attitudes towards rape victims in Hong Kong are lacking behind those of countries such as the U.K., Germany, New Zealand, U.S., etc.¹ (Appendix 1)

Studies done by local researchers have also found that attitudes were negative amongst police officers⁴. A more recent study has also found that attitudes amongst doctors were quite negative and what was even more troubling was that a female doctor had equally negative attitudes towards rape victims².

With this pervasive, unchallenged prejudice towards the rape victims, legislation, organisational changes and services for rape victims have not improved and have remained "hostile" for the rape victim. Crisis response is bewildering and uncoordinated, long term care is often not provided because of the lack of co-ordination between the crisis response professionals and the other agencies that provide the long term care and support.

2. FIGURES AND FACTS

The annual number of reported rapes as published in the Hong Kong Police Force Annual Reports⁶ are reproduced in Figure 1. The percentage of these which are detected are also shown in Figure 1. (Appendix 2)

The Family Planning Association of Hong Kong in their annual reports⁷ also publish data of victims of rape treated at their various clinics. They include victims who have made police reports and those who have refused to make police reports. This is shown in Figure 2. (Appendix 2)

Combining the data from these two reports will show us a clearer picture of the annual numbers which are obviously higher than the published data. Figure 3. (Appendix 2)

Data from the Crime Victimization Surveys conducted by the Census & Statistics Department of the HK Government are also presented in Figure 4. (Appendix 2) These data show that a substantial proportion of victims are not reporting to the police⁵. This we believe is a reflection of the prevailing prejudice against victims of rape

3. RAPE LEGISLATION

The relevant legislation covering rape can be found in the Crimes Ordinance, Cap 200 of the Laws of Hong Kong, Section 118^s. (Appendix 3) Progressive legislation such as marital rape laws, expansion of the definition of sexual penetration and strict shield laws have not been introduced. Rape shield laws can be found under Section 154 and 156 of the Crimes Ordinance^s, (Appendix 3) but their enforcement are at the interpretation and discretion of judges. The exercise of this judicial discretion appears variable and arbitrary.

The absence of marital rape legislation have seen wives being raped despite expressing clearly they did not wish to have sexual intercourse with their husbands because of a fear of contracting sexually transmitted diseases from "philandering husbands". Wives are also unable to file complaints against husbands for rape whom they have fled from, but where legal separation have not been formalised.

Victims are also not able to protect themselves from rapists who may be acquaintances, ex-lovers or husbands from "stalking" them as there are no legislation against "stalking".

4. CARE AND WELFARE SERVICES

A) The Health & Welfare Branch

This is the overall government body charged with the provision of care and welfare services.

i.) The Social Welfare Department

Apart from administering the Compensation Scheme for Victims of Violent Crime, the Social Welfare Department is remarkable in the absence of services it provides for victims of rape. Crucial acute and long term psychological counselling and support for victims of rape are not available.

ii.) The Department of Health

Through the Forensic Pathology Service, rape victims are provided with a 24 hour service where crucial forensic examination is performed and forensic samples collected. This service is however "prosecution" oriented and victims are not provided with any form of treatment, medical or psychological care. The report of the examination is provided to the police with the victim's consent but is rarely provided to the victim herself. Crucial screening for pregnancy and sexually transmitted diseases are not always provided. Referrals to crucial after-care support services such as psychological counselling, post-coital contraception, etc. are not provided. Victims are also unable to chose to be examined by a female doctor if they so wish as there has been no effort to recruit female doctors into this service despite on and off complaints. Yet, there is no shortage of female

doctors in Hong Kong, the latest health & manpower survey revealing that there are 1 female doctor for every 3.5 male doctors.

The Social Hygiene Clinics provide screening and treatment for sexually transmitted diseases but there is no mechanism whereby victims of rape are seen after office hours, nor is there a mechanism where victims of rape are seen separately from the usual users of the clinics.

The AIDS Advisory Group have yet to decide on the provision of HIV screening and counselling for victims of rape.

B) The Hospital Authority

The Hospital Authority oversees all public and subvented hospitals and as such has responsibility over the provision of emergency services as well as gynaecological services in these hospitals. There is currently no co-ordinated "sexual assault" units in any of the hospitals. Rape victims are often transferred back to the Forensic Pathology Services for a second "forensic examination" despite having been examined by doctors in the hospitals. The practice often stems from doctors in the hospitals hoping to avoid being involved with the criminal justice system. There is also no training for staff on the needs and requirements of victims of rape. Support staff such as medical social workers and clinical psychologists are also not been utilised to help in the provision of care for victims of rape.

C) The HK Family Planning Association

Through its Youth Health Care Centres, The Family Planning Association of Hong Kong provide the most comprehensive care currently available to victims of rape in Hong Kong. Victims are provided with medical as well as psychological care. Services are available in one location and victims do not have to travel from one clinic to another to obtain the services they require. The one negative aspect of the services available is that the services are only available during office hours, although a 24-hour computerised hotline provides information to rape victims regarding how to seek help. Staff at these centres are also reluctant to conduct a "forensic examination" for victims.

D) Other NGO's

Counselling services are provided to victims of rape by the Association of Women Against Violence. Some other NGO's such as The Samaritans Hotline Services provide a 24-Hour hotline service that include some counselling services for victims of rape. Overall, services for rape victims are very poorly advertised not only to victims of rape but also to other professionals who are involved in the care of rape victims.

E) The Private Health Care System

Little is known about what services are provided if any. It is however possible that there are victims of rape who are cared for by private health care because they do not wish to report their case to the police and they also do not wish to use "public" services for fear of being "identified".

We therefore suggest that an integrated care and welfare service be established urgently so that victims of rape can be well informed of their situation and options and are provided with a comprehensive after-care that include medical care, psychological counselling and social support. Procedures should be streamlined and repeated examinations avoided.

5. CRIMINAL JUSTICE SYSTEM

A) The Hong Kong Police Force

It investigates all crime including rape. Much effort has been made to improve the response of police officers to rape victims with the use of more female officers to interview victims and/or accompany victims. Training has also been introduced to teach officers to address issues of prejudices and stereotyping of rape victims. New, well equipped examination and interview suites have also been opened for use by rape victims. Despite all these efforts, victims frequently report insensitive and difficult encounters in their dealings with police officers when they have made police reports. Much more attention and determination is needed from the police before genuine attitude changes can take place at the front-line where officers deal with victims of rape. New facilities should be used and victims provided comprehensive medical and psychological care at such facilities. Victims however should still be provided with a choice of where and when they want to provide statements, undergo forensic examinations, etc. Victims still frequently complain about the need to provide statements at police stations, the need for long periods of "interrogation". Cases of victims being passed from one station to another on the basis of "police district and boundaries" have been particularly distressing. Police should make use of the 'video statements' and as such avoid the repetitive statement recording process when cases have to be administratively transferred. Police officers need to remind themselves to explain and report to victims of rape the progress of an investigation and its outcome. Police officers should receive frequent re-training to ensure that they are kept well informed of changes in legislation, changes in the availability of services, etc.

B) Department of Justice

Decisions on the prosecution of a rape case rests with the Prosecution section of the Department of Justice, victims of rape are often left in the dark as to the decisions taken and the rationale of such decisions. Even when cases are to be prosecuted in court, victims of rape are rarely interviewed by the prosecuting counsel prior to a trial. There is currently no victim support services where the victim is briefed on the process of the trial. The victim of rape is hardly ever consulted as to how she would like the case to progress. Prosecuting lawyers do not receive much training on sensitivity towards rape victims. They are often unaware of the short or long term effects of rape on victims. The promulgation of the Victim's Charter (Appendix 3) was a move in the right direction. Adherence to the pledges made under this should be the next logical step.

C) The Judiciary

Current rape legislation allow judges the sole privilege of deciding on the need of questioning of a victims sexual history. The exercise of this discretion appears arbitrary from case to case. Sentencing for cases found guilty by a jury are also difficult to

understand as the factors that judges consider as mitigating circumstances are often tainted with negative stereotyping of victims of rape. Victims of rape are not considered vulnerable witnesses and are not as such able to use the Closed circuit TV system available for victims of Incest and Child abuse.

6. EDUCATION

Hong Kong needs to be educated on the real issues of rape. Negative stereotyping and prejudices against rape victims need to be corrected through the planning and implementation of a curricula in schools and universities that encourage gender equality and sensitivities.

Resources should be targeted at the design of such curricula and programs for schools as well as for the general public. Academic institutions should be encouraged to study the whole spectrum of rape related issues, much of which remains unknown⁹ in the Hong Kong context. (Appendix 5)

7. CONCLUDING REMARKS

The current situation in Hong Kong for victims of rape is unacceptable. Between now and the next CEDAW Report, the Government should with top priority set up an independent central mechanism at a high level in government which is identifiable and which will formulate policies and monitor the implementation of such policies across departmental boundaries. They should develop channels for contact and liaison with all groups in the community that care about these issues.

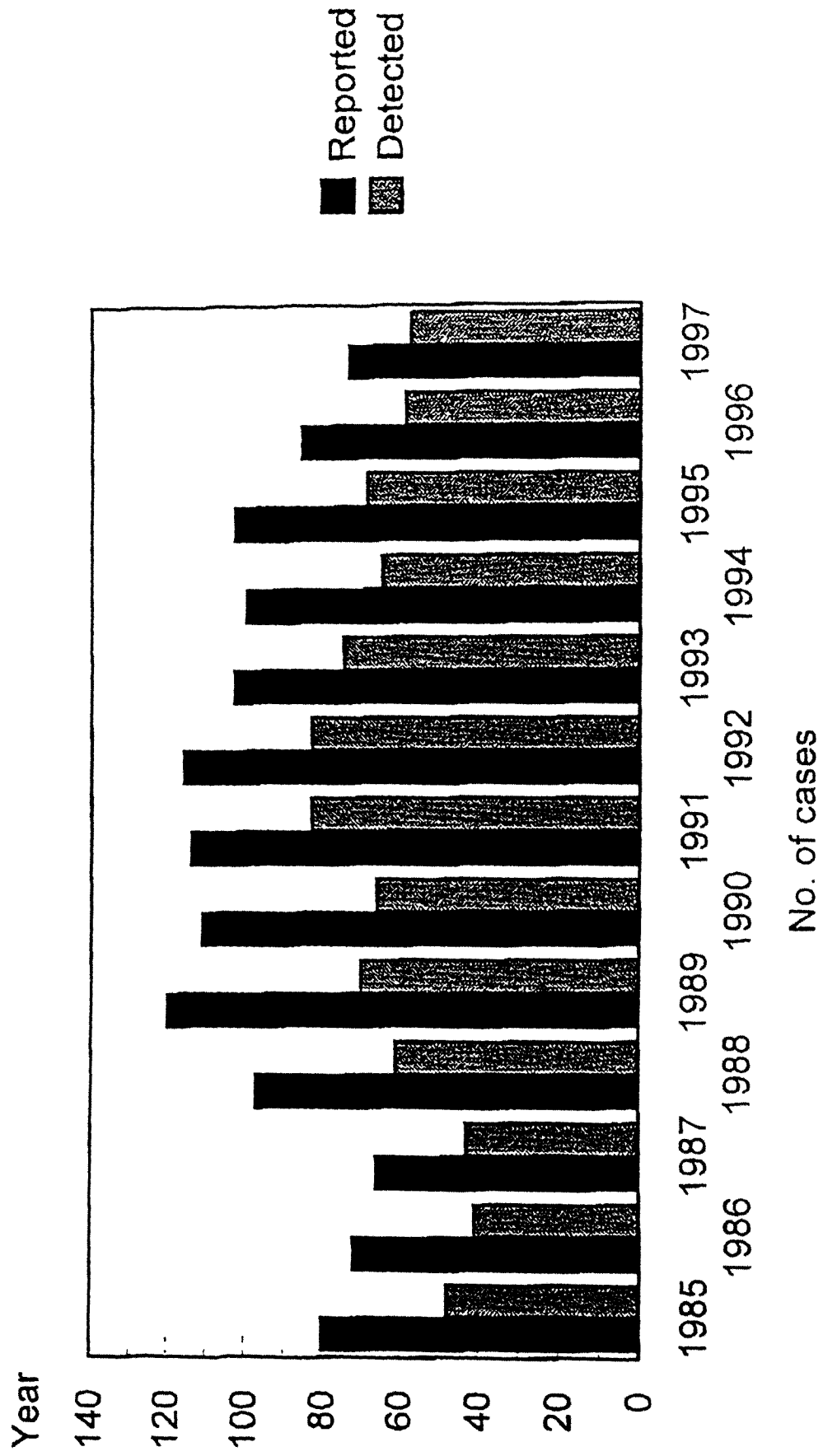
Current services for victims of rape should be reviewed and reorganised with an emphasis on better co-ordination of existing services, governmental and non-governmental. Adherence to the pledges under the Victim's Charter should be better promulgated and enforced.

Attitude to Rape Victims Survey Scores

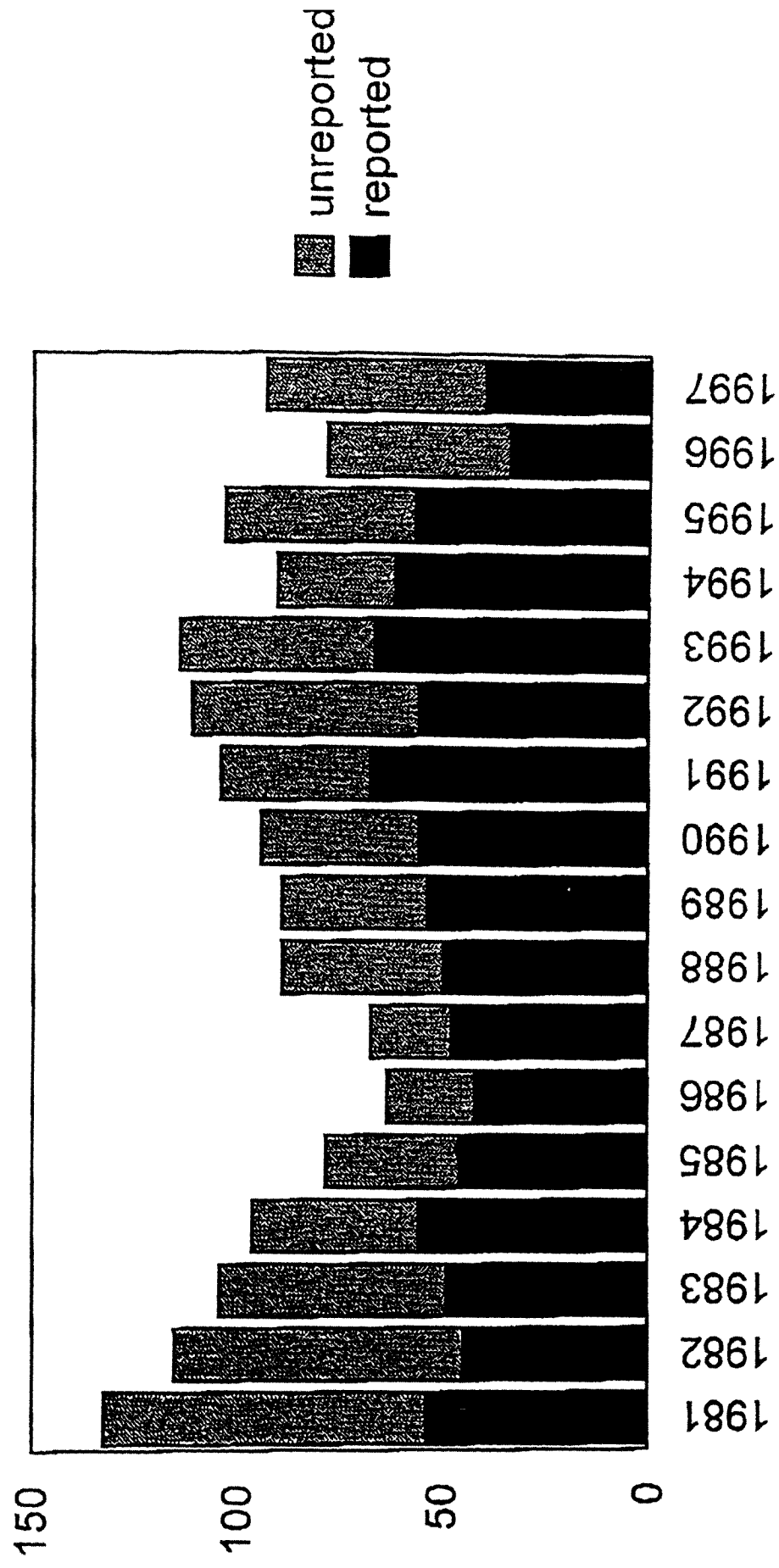
	ARVS Scores
United Kingdom	18.3
Germany	20.9
New Zealand	21.8
United States	26.2
Australia	27.5
Canada	29.5
Barbados	30
Israel	32
Hong Kong	32.9
Singapore	36.2
Turkey	39.2
Mexico	39.7
Zimbabwe	39.8
India	40.6
Malaysia	51.6

Taken from Colleen A. Ward "Attitudes toward Rape" SAGE
Publication 1995

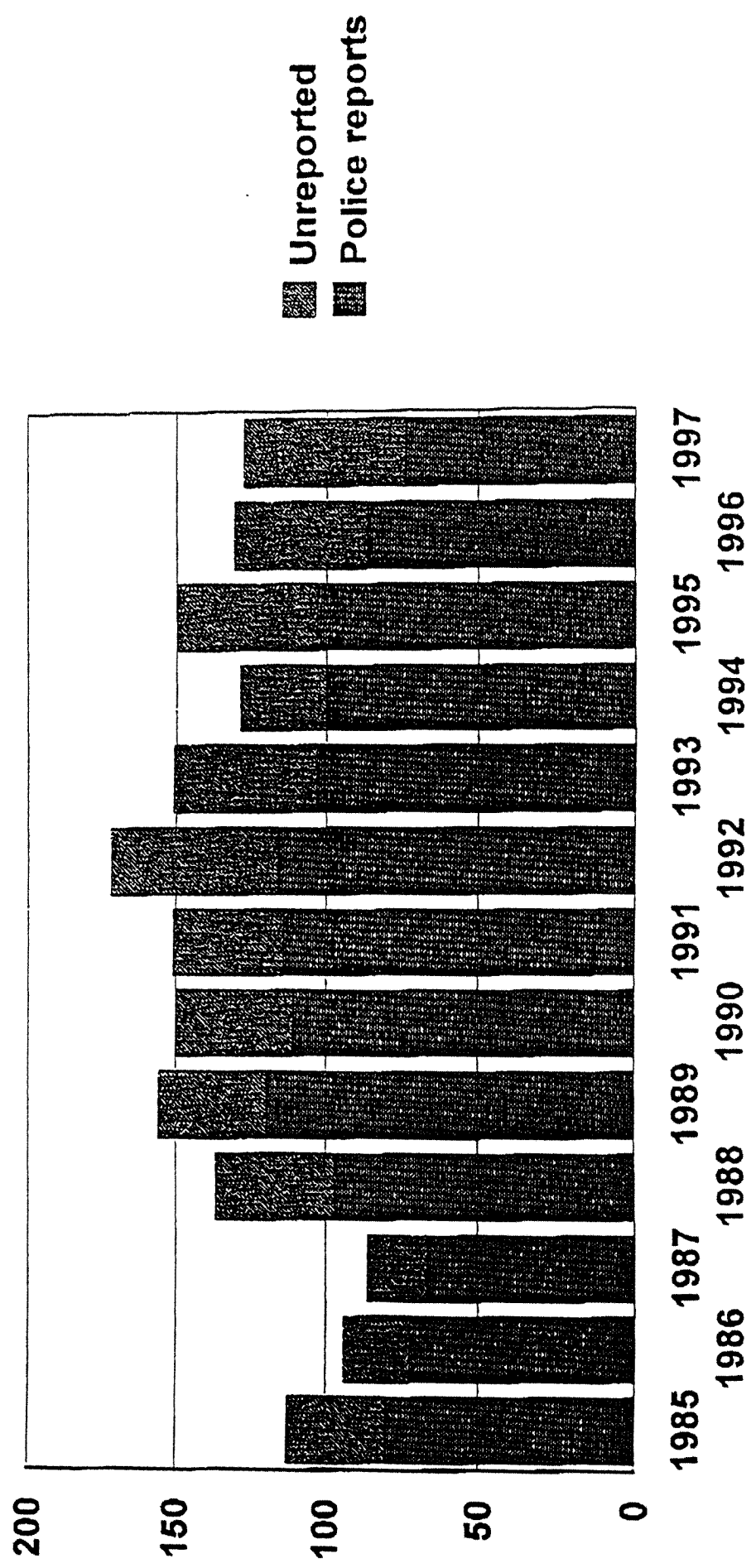
(Fig. 1) Reported rape and their detection
 Data from police annual reports 85-96



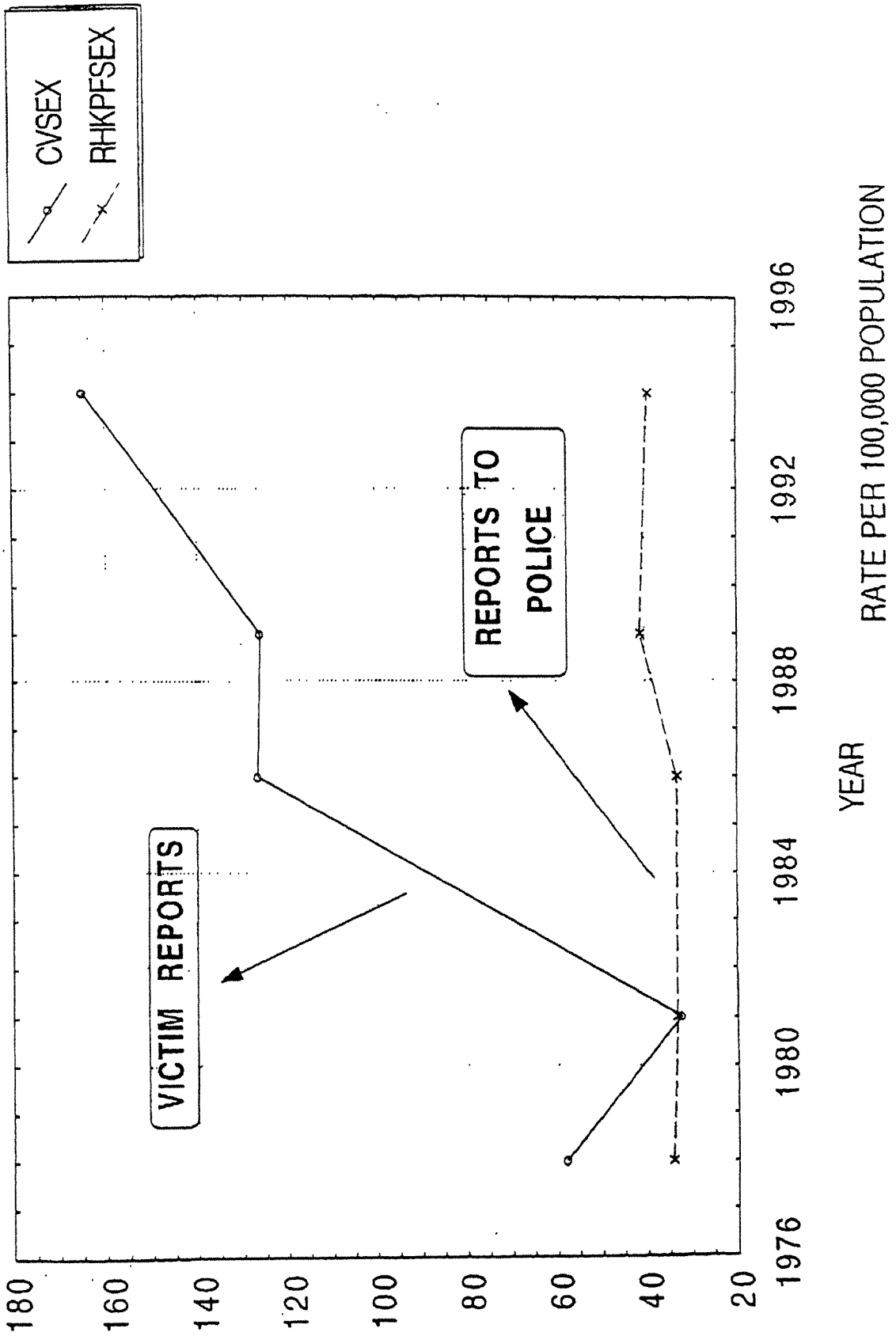
(Fig. 2) Rape cases seen by the FPA
(1981-1996)



Actual number of known rape cases in HK (85-97)



CVS & RHKPF ESTIMATES OF SEXUAL AND INDECENT ASSAULT 1978-1994



(2) Subject to subsection (3), any person who without lawful authority or reasonable excuse—

(a) interferes with any lock, bar or other thing used to close any premises or place subject to a closure order; or

(b) enters or is in any premises or place that has been closed under a closure order,

shall be guilty of an offence and shall be liable on conviction to a fine of \$10,000 and to imprisonment for 6 months.

(3) Subsection (2) does not apply—

(a) where the closure order is no longer in force or is suspended under section 153I;

(b) to a public officer acting in the course of his duty;

(c) to a person who has the permission in writing of a magistrate.
(*Added 69 of 1990 s. 7*)

Restrictions on evidence and on publishing details regarding identity

154. Restrictions on evidence at trials for rape etc.

(1) If at a trial before the High Court any person is for the time being charged with a rape offence or indecent assault to which he pleads not guilty (whether or not at the trial he, or any other person, is for the time being charged with an offence which is not a rape offence or indecent assault), then, except with the leave of the judge, no evidence and no question in cross-examination shall be adduced or asked at the trial, by or on behalf of any defendant at the trial, about any sexual experience of a complainant with a person other than that defendant. (*Amended 32 of 1979 s. 2*)

(2) The judge shall not give leave in pursuance of subsection (1) for any evidence or question except on an application made to him in the absence of the jury by or on behalf of a defendant; and on such an application the judge shall give leave if and only if he is satisfied that it would be unfair to that defendant to refuse to allow the evidence to be adduced or the question to be asked.

(3) In subsection (1) "complainant" (申訴人) means a woman upon whom, in a charge for a rape offence or indecent assault to which the trial in question relates, it is alleged that rape or indecent assault was committed, attempted or proposed. (*Amended 32 of 1979 s. 2*)

(4) Nothing in this section authorizes evidence to be adduced or a question to be asked which cannot be adduced or asked apart from this section.
(*Added 25 of 1978 s. 4*)
{*cf. 1976 c. 82 s. 2 U.K.*}

(2) 除第(3)款另有規定外，任何人無合法權限或合理辯解而——

(a) 干預任何用以封閉受封閉令規限的任何處所或地方的鎖、門門或其他物品；或

(b) 進入或身在任何已根據封閉令封閉的處所或地方，即屬犯罪，一經定罪，可處罰款\$10,000及監禁6個月。

(3) 第(2)款並不適用於以下情況或以下的人——

(a) 封閉令已不再有效或已根據第153I條暫停執行；

(b) 在執行職務中行事的人員；

(c) 獲執法官官准許的人。

(*1990年修訂第7條增補*)

對證據及發布有關身分詳情之限制

154. 就強姦等進行的審訊中對證據之限制

(1) 在高等法院席前進行的審訊中，如任何人當其時被控強姦罪行或渠等投犯而不認罪(不論在審訊中該被告人或其他人當其時是否被控上述罪行以外的其他罪行)，除非獲得法官的許可，否則在該審訊中任何被告人或其代表不得提出有關申訴人與該被告人以外的其他人的性經驗的證據，或在審訊中提出有關此事的問題。(1979年第32號第2條修訂)

(2) 除非被告人或其代表於陪審團退席時向法官申請，否則法官不得依據第(1)款就任何證據或問題給予許可；法官接獲該項申請後，如信納其被告須被告人或其代表提出該等證據或問題會對被告人不公平時則須給予許可，亦只有在此情況下才可給予許可。

(3) 在第(1)款中，“申訴人”(complainant)指在有關審訊關乎的強姦罪行或渠等投犯的控罪中，指那遭人強姦或渠等投犯，或指稱遭人企圖強姦或渠等投犯，或指稱有人打算將其強姦或渠等投犯的女子。(1979年第32號第2條修訂)

(4) 本條並無規定，授權任何人提出若非因本條的規定則不能提出的證據或問題。

(*1978年第25號第1條增補*)
{*比照1976 c. 82 s. 2 U.K.*}

155. Application of s. 154 to committal proceedings, District Court and summary trials

(1) Where, on a hearing under Part III of the Magistrates Ordinance (Cap. 227), a magistrate inquires into a rape offence or indecent assault, then, except with the consent of the magistrate, evidence shall not be adduced and a question shall not be asked at the hearing which, if the hearing were a trial at which a person is charged with a rape offence or indecent assault and each of the accused at the hearing were charged at the trial with the offences of which he is accused at the hearing, could not be adduced or asked without leave in pursuance of section 154. (*Amended 32 of 1979 s. 3*)

(2) On an application for consent in pursuance of subsection (1) for any evidence or question the magistrate shall—

(a) refuse the consent unless he is satisfied that leave in respect of the evidence or question would be likely to be given at a relevant trial;

(b) give the consent if he is so satisfied.

(3) Where a person charged with a rape offence or indecent assault is tried for that offence either in the District Court or summarily before a magistrate under Part V of the Magistrates Ordinance (Cap. 227) or in a juvenile court under the Juvenile Offenders Ordinance (Cap. 226) section 154 shall have effect in relation to the trial as if— (*Amended 32 of 1979 s. 3*)

(a) the words "in the absence of the jury" in subsection (2) thereof were omitted; and

(b) for any reference to the judge there were substituted—

(i) in the case of a trial in the District Court, a reference to the District Judge before whom the trial takes place;

(ii) in the case of a trial before a magistrate, a reference to the magistrate;

(iii) in the case of a trial in a juvenile court, a reference to the juvenile court.

(*Added 25 of 1978 s. 4*)
(*cf. 1976 c. 82 s. 3 U.K.*)

156. Anonymity of complainants

(1) Subject to subsection (9)(a), after an allegation is made that a specified sexual offence has been committed no matter likely to lead members of the public to identify any person as the complainant in relation to that allegation shall either be published in Hong Kong in a written publication available to the public or be broadcast in Hong Kong except as authorized by a direction given in pursuance of this section.

155. 第 154 條對交付審判程序、地方法院審訊及簡易程序審訊的適用範圍

(1) 凡裁判官在根據《裁判官條例》(第 227 章)第 III 部進行的聆訊中，對強姦罪行或褻瀆後行查訊，而倘若該聆訊是任何人被控犯強姦罪行或褻瀆後行的審訊，以及該聆訊中的各被控人在該審訊中均被控以其在該聆訊中的控罪，即須依據第 154 條取得許可，方可提出某項證據或問題，則除非獲得裁判官的同意，否則在該聆訊中亦不得提出該項證據或問題。 (*由 1979 年第 32 號第 3 條修訂*)

(2) 裁判官接獲任何人依據第 (1) 款就任何證據或問題提出申請以取得同意後——

(a) 除非自願在有關審訊中相當可能會就該項證據或問題給予許可，否則須拒絕給予同意；

(b) 如信納在有關審訊中相當可能會就該項證據或問題給予許可，則須給予同意。

(3) 凡被控犯強姦罪行或褻瀆後行的人因該罪行在地方法院受審，或根據《裁判官條例》(第 227 章)第 V 部簡易程序在裁判官席前受審，或根據《少年犯條例》(第 226 章)在少年法庭受審，則第 154 條對於該審訊具有效力，猶如該條—— (*由 1979 年第 32 號第 3 條修訂*)

(a) 已略去第 (2) 款中“於聆訊審訊時”一段文字；及

(b) 凡促進大法官之處，均代之以下列提述——

(i) 如在地方法院某地方法院法官席前進行審訊，則為對該地方法院法官的提述；

(ii) 如在某裁判官席前進行審訊，則為對該裁判官的提述；

(iii) 如在某少年法庭進行審訊，則為對該少年法庭的提述。

(*由 1978 年第 25 號第 4 條增補*)
(*比照 1976 c. 82 s. 3 U.K.*)

156. 申訴人身分的保密

(1) 除第 (9)(a) 款另有規定外，在有人指稱發生指明性罪行後，凡相當可能會致使公眾識別與該項指稱有關的申訴人身分的事項，除依據本條所發出的指示許可者外，不得在香港於可供公眾閱讀的書刊中發布或在香港廣播。

(2) 任何人被控犯指明性罪行的審訊開始前，該人或可預期在審訊中被申訴人提出證據指稱的其他人，如依據本款向法官申請發出指示，並使法官信納——

complainant may be expected to give evidence at the trial applies to a judge for a direction in pursuance of this subsection and satisfies the judge—

(a) that the direction is required for the purpose of inducing persons to come forward who are likely to be needed as witnesses at the trial; and

(b) that the conduct of the applicant's defence at the trial is likely to be substantially prejudiced if the direction is not given.

the judge shall direct that subsection (1) shall not, by virtue of the accusation alleging the offence aforesaid, apply in relation to the complainant.

(3) If after the commencement of a trial at which a person is charged with a specified sexual offence a new trial of the person for that offence is ordered, the commencement of any previous trial at which he was charged with that offence shall be disregarded for the purposes of subsection (2). [cf. 1976 c. 82 s. 5(2) U.K.]

(3A) A direction that subsection (1) shall not apply in relation to such complaint or such matter as is specified in the direction may be given, where it is necessary for the purpose of seeking information which may lead to the arrest of a person responsible for an alleged specified sexual offence, or is for any other reason in the public interest—

(a) by a police officer of the rank of Senior Superintendent or above, where the complainant consents in writing to such a direction being given; or

(b) by the Attorney General in any other case, and notice of any such direction shall be published in the Gazette. (*Amended 26 of 1980 s. 2*)

(4) If at a trial at which a person is charged with a specified sexual offence the judge or, as the case may be, the District Judge, magistrate or juvenile court, is satisfied that the effect of subsection (1) is to impose a substantial and unreasonable restriction upon the reporting of proceedings at the trial and that it is in the public interest to remove or relax the restriction, the judge or, as the case may be, the District Judge, magistrate or juvenile court, shall direct that subsection (1) shall not apply to such matter relating to the complainant as is specified in the direction; but a direction shall not be given in pursuance of this subsection by reason only of an acquittal of a defendant at the trial.

(5) If a person who has been convicted of an offence and given notice of an application for leave so to appeal against the conviction, or notice of an application for leave so to appeal, applies to the Court of Appeal for a direction in pursuance of this subsection and satisfies the Court—

(a) that the direction is required for the purpose of obtaining evidence in support of the appeal; and

(b) that the applicant is likely to suffer substantial injustice if the direction is not given,

(a) 該指示需予發出以誘使相當可能需要他在審訊中擔任證人的人前來作證；及

(b) 如不發出該指示，相當可能會在實質上不利於申請人在審訊中所作的辯護，

則雖有指稱有上述罪行的指控，法官須指示第(1)款並不應藉該項指控而適用於申請人。

(3) 任何人被控犯指明罪行的審訊開始後，如有命令就該罪行重新審訊該人，則就第(2)款而言，無須理會以往該人被控該罪行的審訊曾開始進行。(比照1976 c. 82 s. 5(2) U.K.)

(3A) 凡為尋求可致使對指稱的指明罪行須負責任的人被逮捕的資料，或基於公眾利益的其他理由，而需發出指示，規定第(1)款不適用於指示內指明的申請或事項，則——

(a) 在中斷人以書面同意下，指示可由高級警司或以上職級的警務人員發出；或

(b) 在其他情況下，指示可由律政司發出，並須在憲報刊登該指示的公告。(由1980年第26號第2條增補)

(4) 在任何人被控犯指明罪行的審訊中，大法官、地方法院法官、裁判官或少年法庭(視屬何情況而定)如信納第(1)款的規定會有對審訊中法律程序的報導施加實質而不合理限制的效果，並信納解除或放鬆該項限制有利公眾利益，則大法官、地方法院法官、裁判官或少年法庭(視屬何情況而定)須指示第(1)款不適用於指示內指明與申請人有關的事項；但不得僅因被告人在審訊中被裁定罪名不成立，而依據本款發出指示。

(5) 任何人被裁定罪名成立，而就該項裁定向上訴法院發出提出上訴的通知或發出申請上訴許可的通知後，如依據本款向上訴法院申請發出指示，並使上訴法院信納——

(a) 該指示需予發出以取得證據支持該項上訴；及

(b) 如不發出該指示，相當可能會在實質上對申請人不公平，

the Court shall direct that subsection (1) shall not, by virtue of such allegation of a specified sexual offence as is specified in the direction, apply in relation to a complainant so specified.

(6) Subsection (5) shall apply in relation to a conviction of an offence tried summarily as mentioned in section 155(3), and, in so applying for references to the Court of Appeal there shall be substituted references to a judge and the reference to notice of an application for leave to appeal shall be omitted. [cf. 1976 c. 82 s. 5(3) U.K.]

(7) For the purposes of this section an allegation of a specified sexual offence is made if—

- (a) it is made to a police officer; or
 - (b) a complaint is made to or an information is laid before a magistrate alleging that a person has committed a specified sexual offence against the complainant; or
 - (c) a person appears before a magistrate or a court charged with a specified sexual offence against the complainant; or
 - (d) a person is committed for trial at the High Court on a charge alleging a specified sexual offence against the complainant; or
 - (e) an indictment charging a person with a specified sexual offence against the complainant is preferred before the High Court,
- and references in this section to an allegation of a specified sexual offence shall be construed accordingly. (Replaced 26 of 1980 s. 2)

(8) In this section—

"broadcast" (廣播) means a broadcast by wireless telegraphy of sound or visual images intended for general reception;

"complainant" (申訴人), in relation to an allegation of a specified sexual offence, means the person against whom the offence is alleged to have been committed; and

"written publication" (書刊) includes a film, a sound track and any other record in permanent form but does not include an indictment or other document prepared for use in particular legal proceedings.

(9) Nothing in this section—

- (a) prohibits the publication or broadcasting, in consequence of an allegation of a specified sexual offence, of matter consisting only of a report of legal proceedings other than proceedings at, or intended to lead to, or on an appeal arising out of, a trial at which a person is charged with that offence; or
 - (b) affects any prohibition or restriction imposed by virtue of any other enactment upon a publication or broadcast,
- and a direction in pursuance of this section does not affect the operation of subsection (1) at any time before the direction is given.

(Added 25 of 1978 s. 4. Amended 32 of 1979 s. 3; 26 of 1980 s. 2; 90 of 1991 s. 23)

[cf. 1976 c. 82 s. 4 U.K.]

則雖有指示內指明指明性罪行的指稱，上訴法院須指示第(1)款並不憑藉該項指稱而適用於指示內指明的申訴人。

(6) 第(5)款適用於第155(3)條所述的循简易程序審訊的罪行的定罪，但適用時，該款中凡提及上訴法院時，須代之以提及法官，而凡提及發出申請上訴者可的通知時，則予以省略。〔比照1976 c. 82 s. 5(3) U.K.〕

(7) 就本條而言，凡有下列情形，即為作出指明性罪行的指稱——

- (a) 向警務人員作出該項指稱；或
- (b) 向裁判官作出申請或在裁判官席前提出告發，指稱某人當對申訴人犯指明性罪行；或
- (c) 某人在裁判官或法庭席前，被控對申訴人犯指明性罪行；或
- (d) 某人因一項指稱對申訴人犯指明性罪行的控罪，被交付高等法院審判；或
- (e) 一項公訴在高等法院席前提出，指控某人對申訴人犯指明性罪行，而在本條中，凡提及指明性罪行的指稱時，亦須闡此解釋。〔由1980年第26號第2條代替〕

(8) 在本條中——

"申訴人" (complainant) 就指明性罪行的指稱而言，指該指稱為所犯罪行的對象的人；

"書刊" (written publication) 包括影片、膠帶及其他永久形式的紀錄，但不包括公訴書或為供某一法律程序使用而製備的其他文件；及

"廣播" (broadcast) 指透過無線電訊供大眾接收的聲音或影像廣播。

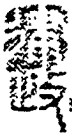
(9) 本條並無規定——

- (a) 禁止由於指明性罪行的指稱而就只包括關於法律程序(但任何人被控該罪行的審訊的法律程序，或旨在引致該審訊的法律程序，或因該審訊而產生的上訴的法律程序則除外)的報導的事項作發布或廣播；或
- (b) 影響憑藉其他成文法則而施加於任何發布或廣播的禁制或限制，

而依據本條發出的指示，並不影響在指示發出前任何時間第(1)款的施行。

(由1978年第25號第4條增補。由1979年第32號第3條修訂；由1980年第26號第2條修訂；由1991年第90號第23條修訂)

〔比照1976 c. 82 s. 4 U.K.〕

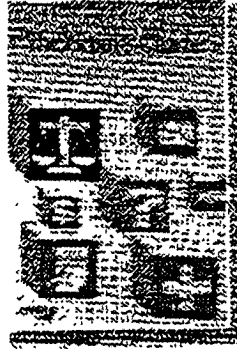


Victim's Charter

(Note: This publication was issued by the former "Legal Department" which became the "Department of Justice" on 1 July 1997. Also on that date, the post of "Attorney General" was replaced by the "Secretary for Justice". The publication is now in the process of being revised and updated and will be re-issued.)

The charter sets out the rights and duties of victims of crime.

"All members of the community who come into contact with the criminal justice system, but particularly victims of crime, are entitled to know what their obligations are in helping the law enforcement agencies and, in return, what standard of service they can expect to receive from those involved in the criminal justice system."



The Victim's Charter

Topics include:

- who is a victim?
- the duty to help maintain law and order
- the victim's right to be treated with courtesy and respect
- the victim's right to have a proper response to complaints of crime
- the victim's right to information - reporting the crime
- the victim's right to information - investigation and prosecution
- the victim's right to proper facilities at court
- the victim's right to be heard
- the victim's right to seek protection
- the victim's right to privacy and confidentiality
- the victim's right to prompt return of property
- the victim's right to support and aftercare
- the victim's right to seek compensation.

BACK

ORIGINAL COMMUNICATION

Rape in Hong Kong: an overview of current knowledge

P. S. L. Beh

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SUMMARY. This paper summarises all published and unpublished material available on the topic of rape in Hong Kong. Data including epidemiology, victim profile, assault characteristics, are presented. Most of the data shown are from the 15-year period between 1981 and 1995. Gaps in knowledge are highlighted so as to direct the attention of local researchers and overseas research collaborators.

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INTRODUCTION

A search of the literature reveals a paucity of published material about rape in Hong Kong, predominantly from official statistics as contained in crime figures published in the annual reports of agencies such as the Hong Kong Police Force¹ and the Family Planning Association.² Some work has been done by Cheung and Chung,³ and Cheng et al⁴ on rape attitudes; Lee and Lau⁵ on sex crimes and sentencing; Kwan⁶ on victim support services; Lu⁷ on offender profiles; and Andry⁸ on actions required to address problems concerning rape and sexual crimes. Apart from Lu⁴ and Kwan,⁵ work has not been based on direct involvement with rape victims or offenders. The author reviewed the records of 350 victims of reported rape seen at the Hong Kong Island office of the Forensic Pathology Service.⁹ In Hong Kong, doctors from the Forensic Pathology Service are called upon by the police to examine victims of all reported rapes. This paper is a review and summary of all these data. This paper is by no means a comprehensive review of all that should be known about rape in Hong Kong. If anything, it will be a stimulus for further focussed research that will allow a clearer and better understanding of the occurrences of rape in Hong Kong.

INCIDENCE AND TREND

Hong Kong is no different from other countries in that rape is an under-reported crime.¹⁰ Table 1 shows published police figures from 1985 to 1996.¹ The annually reported incidence of rape varied from a low of 66 in 1987 to a high of 120 in 1989. This represents a rate of from 2.5 per 100 000 females to 4.2 per 100 000 females. The detection rate of these reported cases varies from a low of 57% in 1986 to a high of 73% in 1991 and in 1993. The figures published by the Hong Kong Family Planning Association (FPA),² an organization that provides a range of support services for rape victims, are shown in Table 2. It is clear from these two tables that not all victims of rape make police reports. Cheung and Law,¹⁰ using victimization surveys conducted by the Census and Statistics Department of the Hong Kong Government, suggested that from one-quarter to one-half of sex-crime victims do not make police reports. It must be pointed out that these estimates were based on all sex-crimes and not rapes alone. It is, however, safe to say that at the very least one-third of rape victims are non-reporting, as can be seen from the number of non-reporting victims seen by the FPA. The annual figures of known rapes appear to be stable or even slightly decreasing in the period between 1985 and 1996: rates rising from 2.5:100 000 to 4.2:100 000 and dropping again to 2.7:100 000. These rates are very low and it is unclear how much of it is affected by non-reporting

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VICTIM PROFILE

The age-distribution of rape victims is shown in Table 3. It can be seen that victims are found in all age groups

Table 1 Annual reported rapes and their detection rates¹

Year	Reported rapes	Detected Rapes	Detection rate
1985	80	48	60%
1986	72	41	57%
1987	66	43	65%
1988	97	61	63%
1989	120	70	58%
1990	111	66	60%
1991	114	83	73%
1992	116	83	72%
1993	103	75	73%
1994	100	65	65%
1995	105	69	67%
1996	86	59	69%

with a concentration in the young age groups.²² This is similar to the data published by the FPA (Table 4). It is alarming that over 60% of victims were under the age of 21. Not surprisingly, therefore, the largest group of victims were students, followed by factory, construction and office workers. The youngest victim was 4 years and 2 months, and the oldest 66 years old. In both sets of data, students formed the predominant group of victims. One hundred and sixty-nine (48%) of the victims had previous sexual experience.⁹ This needs to be borne in mind when victims are found to have no genital injuries.

ASSAILANT PROFILE

Police figures (Table 5) show that assailants are also from all age groups, with the largest number from the 21-30 age group followed closely by that of the 16-20 age group.¹ Lu⁷ showed that the convicted rape offenders had a higher incidence of family pathology and incidence of subcultural orientation: a history of unemployment; a history of offending; and a higher level of premeditation in carrying out the offence when compared to offenders convicted of indecent assault. His study was, however, based on a small sample of 17 rape offenders and 24 indecent assault offenders. More research is clearly appropriate

VICTIM-ASSAILANT RELATIONSHIP

The author's work showed that the victim was acquainted with the assailant in 53% of cases.²³ Of the stranger rapes, 20% also involved robbery. Rape by more than one attacker was reported in 23% of cases. More research is needed to compare the different group of victims, i.e. stranger vs. acquaintance rape, single attacker vs. 'gang' rapes, etc. In particular, the author found that, of the acquaintance rape victims, 21% of the victims had been attacked on more than

Table 2 Data of victims of rape seen at the Family Planning Association²

Year	Victims who have reported	Victims who have not reported	Total
1981	54	79	133
1982	45	71	116
1983	49	56	105
1984	56	41	97
1985	46	33	79
1986	42	22	64
1987	48	20	68
1988	50	40	90
1989	54	36	90
1990	56	39	95
1991	68	37	105
1992	56	56	112
1993	67	48	115
1994	62	29	91
1995	57	47	104
1996	34	45	79

Table 3 Age distribution of victims seen at the Forensic Pathology Office (82-91)

Age-group of victims	Number
Under 10 year	13
10-16	76
16-20	82
20-30	117
30-40	46
40-50	12
50-60	3
Over 60	1

one occasion by the assailant and there was invariably a long interval between the assault(s) and the report. It is likely that some of the reasons behind the long delay in reporting are self-blame and worries about not being believed.

LOCATION OF THE RAPE

Not surprisingly, for a densely populated and built-up area such as Hong Kong, over 78% of the rapes occur indoors:²⁴ 42% of these are in the premises of the assailant; 30% are in the victims' homes; 16% of the rapes occur in hotel/motel rooms; and 13% in lifts, back staircases, and on rooftops or in refuse rooms of high-rise apartment blocks.² Measures have been initiated to improve security in such high rises, with the installation of surveillance cameras in lifts and strategic areas of high rises. It is the author's firm belief that these measures can go a long way to minimize the occurrence of not only rape, but also other crimes committed in such places, such as robbery. Only 15% of rapes occur outdoors, usually in poorly-lit parks, beaches, trails and inside parked vehicles. The data from the FPA also show a similar pattern.⁹

Table 4 Age group distribution of victims seen at the Family Planning Association

Year	Under 16	16-20	Over 21
1981	31	43	42
1982	35	56	42
1983	33	36	36
1984	26	29	42
1985	22	29	28
1986	22	19	22
1987	28	20	20
1988	29	31	30
1989	33	29	28
1990	N/A	N/A	N/A
1991	35	31	39
1992	39	43	30
1993	39	40	36
1994	26	25	40
1995	38	25	41
1996	30	25	24

TIME OF ASSAULT

Rape occurs at any time.⁷ Over one-half of assaults are, however, concentrated in the period between 20:00 and 04:00 hours. This fact alone highlights the need for all rape-related services to be available round the clock. Data are, however, unavailable on the time it takes before a victim of reported rape is seen by police and, perhaps more importantly, before being seen by medical personnel. This author found that 63% of victims were medically examined within 24 h of the reported rape.

CHARACTERISTICS OF THE ASSAULT

Weapons were used in only 18% of reported rapes, threats made in 29% of cases and physical force used in 44% of cases.⁸ These facts highlight, yet again, the myth that victims of rape must show bodily injuries. In this study, the use of alcohol and/or drugs was reported in only 19% of the cases. The assault involved vaginal penetration only in 84% of the cases, vaginal and anal penetrations in 3% of the case, vaginal and oral penetrations in 6% of cases, and penetration of all three orifices in 1% of cases. The low percentage of reported anal and oral penetrations is likely to be due to victims under reporting such assaults as well as to investigators not posing the questions owing to a combination of inexperience and embarrassment of the investigator as well as the victim. Ejaculation was reported in only 51% of the cases. It is uncertain if this percentage is due to true non-ejaculation of the assailant. If indeed, it were, it

Table 5 Age-group distribution of persons arrested/prosecuted¹

Year	7-15 year	16-20	21-30	31-60	61 and over
1986	3	12	25	10	0
1987	5	34	20	10	0
1988	7	40	26	19	0
1989	5	31	47	18	0
1990	10	39	32	24	1
1991	10	27	27	21	1
1992	3	28	30	21	3
1993	5	32	33	27	0
1994	0	19	35	28	2
1995	5	29	38	28	1
1996	6	22	20	17	2

would support the argument that rape is not about male sexual gratification. This is further supported by the finding that only 40% of the victims had their clothing totally removed. The use of condoms was reported in only 4% of cases, highlighting the need for post-assault pregnancy screening as well as screening for sexually transmitted diseases.

POST-RAPE VICTIM BEHAVIOUR

Thirty-eight per cent of victims of reported rape cleaned or washed their genitalia immediately after the rape.⁹ Their reactions are perfectly understandable, but such action decreases the likelihood of obtaining forensic evidence, in particular the detection of semen from the assailant. Many rape crisis centres issue advice to victims to refrain from cleaning or washing the perineum, this is, however, advice that is more easily given than observed. A properly organized response, whereby the victim is examined at the earliest possible opportunity, may be a more realistic approach, as DNA techniques can now be used successfully on even a very minute quantity of material: theoretically one cell is sufficient!

MEDICAL FINDINGS

Only 35% of victims showed signs of bodily injuries.⁸ Bleeding from genital injuries was noted in only 12% of victims. Vulval injuries were found in only 8% of victims. Recent hymenal injuries were found in only 10% of victims. Such a lack of injuries is likely to be a result of the inability or futility of the victims' resistance, as well as the fear of injury and death. This finding has helped the author effectively refute suggestions by defence lawyers that victims of rape should exhibit more injuries.

SERVICES AVAILABLE FOR RAPE VICTIMS IN HONG KONG

All victims of reported rapes are seen by a trained forensic doctor from the Forensic Pathology Service of the Department of Health. This service is available round the clock and every day of the year. These doctors will provide reports and give evidence in legal proceedings. The FPA of Hong Kong provides a comprehensive range of after-care services including birth control, screening for sexually transmitted diseases and, more importantly, psychological counselling. Victims with serious injuries are admitted to hospital where they will be treated for their injuries by the appropriate specialists. Several volunteer agencies offer counselling services, however, their activities are not well publicised and are not always known to victims. There is also an absence of a systematic coordination of all these services, whereby the various service providers work together to provide a 'total' service for the victim.

ATTRITION RATE OF REPORTED RAPES

Very little is known in this area. The perception of the author and colleagues working with rape victims is that the prosecution rate is low and the conviction rate even lower. Working from data published by the police on reporting and detection rates, and those published by Lee and Lau¹ in their study of cases in the High Court in the period 1981-1986, this author estimated that assailants were convicted of a crime in 22% of cases and of rape in only 18.6% of cases. Accurate data, however, can only be obtained if a prospective follow-up study is conducted.

SENTENCING FOR RAPE CONVICTIONS

The legislation provides for a life sentence on conviction for rape. Lee and Lau¹ in their study showed that the average sentence was between 5 and 7 years on conviction for a single charge of rape and from 6 to 12.3 years for conviction for multiple charges. The study also highlighted the fact that sentencing appears quite consistent, but the rationale is often not known. In cases where it is known, the reasons provided for discounted sentences highlight the strong influence of rape myths on members of the judiciary, in particular, their notion that women who have had previous sexual experience are somehow 'less damaged' and less likely to suffer long-term effects of the assault. Another often-quoted myth is that because the victim had not suffered serious bodily injury, the assailant was entitled a discounted sentence.

RAPE LEGISLATION

The current rape legislation in Hong Kong can be found in part XII of the Crimes Ordinance (Cap 200). Section 118 defines rape as unlawful sexual intercourse with a woman who at the time of the intercourse does not consent to it, and at the time the assailant knows that she does not consent to the intercourse or is reckless as to whether she consents to it.¹¹ Section 123 states that unlawful sexual intercourse with a girl under 13 shall be liable, on conviction, to life imprisonment. Section 154 deals with restrictions on evidence of the previous sexual experience of the victim, except with the leave of the judge. Section 156 provides for the anonymity of the victim. Many of the more recent legislative changes, such as the redefinition of rape to include any penetration of bodily orifices and marital rape have yet to be discussed in Hong Kong.

CONCLUSION

It is acknowledged that this paper represents the results of various studies conducted during different periods of time by different authors and some of the findings represent estimates of the author. It is, however, an effort to collate what is available with regard to the studies on rape known to the author. The purpose of this paper would have been achieved if it had provided a reference point for future research as well as highlighting the obvious gaps where future research and services could be targeted. Indeed, efforts are now being made to do a prospective in-depth study of rape, whereby it is hoped that victims can be interviewed and followed through from assault and reporting to treatment, counselling, trial and recovery. It is felt that the gaps identified can only be addressed by such a prospective study. We realize, however, that such a study will require the work and cooperation of a dedicated team from various backgrounds. Such a prospective study will also help to coordinate the available services into a truly comprehensive and total service for victims.

ACKNOWLEDGEMENTS

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4:00 p.m. – 5:30 p.m.

Violence against women and girls

**Ms. Priscilla Lui,
Against Child Abuse**

**Seminar on
Hong Kong and the Convention on the Elimination of All Forms of
Discrimination against Women
organised by the
Centre for Comparative and Public Law of the Faculty of Law, and the
Women's Studies Research Centre,
The University of Hong Kong**

Saturday 28 November 1998, 9.00 a.m.-5.30 p.m.

**Seminar on
Hong Kong and the Convention on
The Elimination of All Forms of Discrimination Against Women**

Violence Against Girls

By

Priscilla Lui

Director of Against Child Abuse

Secretary of HK Committee on Children's Rights

November 28, 1998, Saturday

- 1. Introduction**
- 2. Child Abuse**
 - 2.1 Child Sexual Abuse**
 - 2.2 Child Pornography**
 - 2.3 Child Left Unattended**
- 3. Girl's Conceptual Development**
- 4. Women Suffering from Postpartum Depression**
- 5. Gender Equality : Where We Stand**

**Seminar on
Hong Kong and the Convention on the Elimination of
All Forms of Discrimination against Women
By Priscilla Lui,
Director of Against Child Abuse & Secretary of
Hong Kong Committee on Children's Rights**

November 28, 1998 Saturday

I. Introduction

The purpose of this paper is to highlight some areas of concerns facing the girl child in Hong Kong. Though my topic given is violence against girls, I'll try to also cover some areas beyond violence, which may be similarly harmful to the girl child in Hong Kong.

Being an affluent society, in many aspects Hong Kong measures up to the developed world. Because of this impression, people tend to underestimate problems that the community encounters, particularly those appearing in its very subtle forms. Because of this impression, attention and resources were often inadequately devoted to the improvement of such problems that the community genuinely encounters, particularly those appearing in its very subtle forms.

The Initial Report on the Hong Kong Special Administrative Region under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women is an important and useful document reflecting Hong Kong's establishment. Nevertheless there is no special in-depth discussion about the girl child who is unique and often times even more vulnerable. Furthermore, in general, it did not reflect the will to unravel inadequacies and the drive to seek improvement.

2. Child Abuse

2.1 Child Sexual Abuse

The Initial Report under Article 5 discussed about Pornography and Protection to Women against Violence and under Article 11 Discrimination and Sexual Harassment. There was no special coverage about the girl child who is more vulnerable, more at risk of sexual harassment and there is no discussion about sexual harassment at home, in school and in the community.

The Hong Kong community's concern in the area of child sexual abuse has accelerated in the 90's. From 2% of all child abuse cases reported in 1990 (11 out of 429 cases), we witnessed a drastic increase to 30% of all reported child abuse cases in 1997 (242 out of 815). (1) Out of these child abuse cases, 60% of the children victims were girls and 40% were boys. The percentage of girl victims in child sexual abuse cases was even higher, 80% were girls and 20% were boys.

Regarding people who abuse in general, housewives in particular made up the largest group. This reflects the concern that child rearing still mainly falls on the shoulder of women. The stresses and isolation, in addition to prevailing believe in the practice of corporal punishment, often contribute to abuse. However in child sexual abuse situations, male abusers, almost 90%, dominate the scene.

Though we should not forget that boys were also being identified as victims and female identified as abusers, the high percentage of girl-victims and male abusers caused grave concern.

We applaud the change of government policy in the handling of child abuse cases, from a generic to a specialized approach and her taking an active role in amending legislation, introducing administrative measures, improving training and publicizing the problem is also recognized. Refer to Appendix II : Changes Relating to Child Sexual Abuse.

However the strong emphasis solely on criminal investigation, prosecution and stiffer penalty for sexual offences is not going to solve the problem. The strong

legal flavour sometimes threatened victims and families to seek help for fear of splitting families and jailing abusers who are often family members or acquaintances.

The exaggeration of 'not to contaminate evidence' is often so strong that it blocks effective participation. Non-legal Professionals became cautious and sometimes distant themselves from the victim who is thus left to struggle alone during the most stressful process after disclosure. The statutory involvement has thus contributed to further pain and trauma and chances of children recanting have therefore further increased.

We advocate a holistic approach :

- a. to tackle the factors underlying abusive behavior,
- b. to allocate adequate resources attending to the welfare, therapy and after care of children, perpetrators and families,
- c. to widen sentencing options to include effective rehabilitation programmes and community services for relevant parties, and
- d. to be consistent in interpreting abuse and in sentencing (2).

Furthermore, the hands of the statutory parties are sometimes tied for lack of evidence or parental cooperation. Such cases may return to non-statutory parties. The role of family members and various professionals in identifying abuse, facilitating disclosure and ensuring safety of children must be encouraged and supported.

However at the present moment in Hong Kong there is every indication that those with the least real case experience, e.g. child care workers, teachers and the least knowledgeable about sexual abuse are the first point of contact for reports or disclosure. We are therefore not surprised to witness children not referred to relevant parties, being hastily referred to the statutory parties or back and forth to different parties. Before the new changes, we witnessed a girl being referred back and forth to nine different parties for interview and physically checked up by four different parties of the opposite gender. After the changes, we witnessed another girl being referred to six different parties and had to be checked up three times by professionals of the opposite gender. The improvement is certainly insignificant.

Everyone expects an 'expert' to handle the case. The safest and easiest way to protect oneself is to hand the child to someone else. But no expert is readily produced without undergoing thorough training and being exposed to abundant practice opportunities. The present fragmented approach must be properly addressed. Genuine and sensible inter-agency, or inter-disciplinary collaboration and sharing, should be encouraged. The Privacy Ordinance should be respected and not used simply out of ignorance or as a matter of convenience to hide information or to keep others away. To include necessary parties, GOs and NGOs, parents and perhaps children, at suitable points of time are beneficial to all parties. Multidisciplinary training and sharing may enable one to appreciate the other and to look at the problem from different angles. Legal professionals, police officers, lawyers and magistrates, need to be viewed as partners of the child protection team and they need to view others as partners in the whole exercise as well.

Extensive and early education for the public, adults and children in Sex Education is essential. The enormous number of children and youth using the Dr Sex Hotline (450, 000 hotlines made in two years) (3) reflected a genuine desire for sex related information. Half of these calls were made by the 11-20 year-olds, 18.52% by the 10 & under. Topics enquired were 34% intercourse, 19.3% masturbation, 18.7% sexual gratification, 15.2% safe sex and 12.8% commercial sexual activities or prostitution. The existing sex education in schools needs to be reviewed as it is obviously not meeting genuine needs. We propose to publicize a counselling and reporting hotline to enable children and youth to seek help.

2.2 Child Pornography

The community is beginning to recognize different types of sexual abuse : those with or without physical contact; intra or extra-familial; with or without violence. Issues we always believe remote and non-existing in Hong Kong such as paedophiles, child prostitutions, child pornography etc. are actually so real.

Hong Kong has no laws treating child pornography as a specific offence. The government does not keep statistics on seizures of pornographic materials or prosecutions for distributing pornographic specifics to children. However

informal Police Department figures reveal that this is a problem.

In the past 3-year child pornographic materials seized include :

- 500 magazines
- 405 floppy disks
- 138 photos
- 62 VCDs
- 53 video tapes
- 31 bulletin board system
- one with 1,295 active users created by Hong Kong based pedophiles
- 30 postings to a news group
- 21 web sites
- 10 e-mail address
- 4 CD-Roms
- 2 Gigabytes

We need a sound data collection system to document the extent of child pornography, child sex tourism and other child-related problems. Hong Kong needs specific legislation against production, sale and distribution, import/export publication and possession of child pornography. We also need legislation to prohibit child sex tourism. Legislation including extraterritorial jurisdiction in prosecuting Hong Kong-based international sex tourists for acts committed abroad needs to be seriously considered. Furthermore we need legislation to protect children using the Internet and those used on the Internet.

The Security Bureau's November 1998 Consultation on child pornography and child sex tourism and the proposed legislation changes is timely and covers many of the above areas discussed.

2.3 Child Left Unattended

In the Initial Report under Article 11 para 109-113 discussed about child-care facilities. An important related area which needs to be addressed is Children Left Unattended.

a. Child Deaths

The Hong Kong Coroners Reports 1989 - 1997 recorded a total of 126 home alone children from the 0-9 age group and 4 from the 9-20 age group (81 boys and 49 girls) who died because of different reasons.

b. Childhood Injury

The Childhood Injury Prevention Research Group on Home Injury among Hong Kong Children focused on the records of Accident & Emergency (A & E) Department at the Prince of Wales Hospital for a six-month period October 1996 to April 1997. 3845 Shatin children age 15 and below made 3940 visits to the A & E Department. Half of these were home injury cases. Translating this back into the underlying population, very roughly about 3 out of 1000 Shatin children suffer a serious or suspected serious home injury in a six-month period.

Childhood risk to home injury exhibits distinct sex difference and age trend in Shatin, Hong Kong. 12 out of 1000 girls and 17 out of 1000 boys suffer home injury. Such indications of sex and age effects allude commonly to an underlying complexity of parental, familial and cultural factors in child care, child rearing, child development and home life arrangement; a scientific knowledge of which is necessary for effective childhood injury prevention and education.

c. Child Unattended Prevalence Study

The Special Topics Report No. 17 (8)⁴ collected data on Leaving Children aged 12 and below unattended at home and Keeping of cats and dogs in households. It estimated that about 110 000 children aged 12 and below in about 73 900 domestic households had been left unattended at home during the 7 days before the enumeration (DBE) by some 78 200 persons aged 16 and over who were usually responsible for taking care of them. Over 50% of them aged 10-12; another 37% 6-9; and 10% 3-5. Some 52.6% of these 110 000 children were boys and the rest 47.7% were girls. Though the rate of children left unattended at home was about the same for boys and girls, this is still a valid area of concern in Hong Kong.

Reasons given for leaving children unattended were 'went to market/supermarket' (58.5%), followed by 'went to work' (27.9%). The other two popularly cited reasons were 'accompanied another child in the household to/from school' (3.7%) and 'leisure shopping' (2%).

About 12 500 persons left children under 6 unattended at home and among them, only 700 (5.5%) had tried to seek help from childcare centre for occasional childcare service. The remaining 11 800 persons (94.5%) had not done so. The most popular reason was 'no need for they thought that the duration of leaving the children unattended at home was short (31.9%)'. The next two most popular reasons were 'not aware of the provision of the services' (14.5%) and 'no need because other elder siblings (aged 6-15) were at home to take care of them.

As for the 75 600 persons taking care of the 6-12, only 3100 persons (4%) had tried to seek help from non-profit making after-school care services. The rest 72 600 (95%) had not. The three most popular reasons were : no need for children were old enough to take care of themselves, no need for the duration was short' and not aware of the provision of the services (15.1%).

We recommend a package for protection to include :

- a. Comprehensive and on-going education for children & care-givers,
- b. Mutual Help Programmes,
- c. Accessible, affordable, flexible and more options of child care, and
- d. Legislation to protect children from being left unattended

3. Girl's Conceptual Development

Dr Lau Sing, Dennis Chan and Patrick Lau's research project on "Suicide : Its Relationships with Depression, Loneliness, Self-concept and Stress among School Children and Teenagers in Hong Kong" (5) illustrates a deterioration of the girls' self-concept in the secondary school years.

It was observed that though girls scored higher in general in primary school years in the area of self concept and lower in depression, suicide ideation and hostility, in their secondary school years and entering adolescence, their self-concept decline. They scored higher in depression scales, including emotionality. A lack of positive experience in girls also warrants attention.

According to the findings of Education Convergence (6) troubled girls turning to violence has increased. Teachers inadequately trained in this area found it increasingly difficult to control unruly schoolgirls. Causes of girls' problems were mainly emotional instability, family problems and love affairs. Rebellious and violent acts involved : self-inflicted injuries, smoking and gang fighting. Girls were also found more reluctant to discuss problems with parents, teachers and parents less willing to contact others for help. The adverse impact of media violence and the glorification of triads and male figures were also mentioned.

More opportunities should indeed be provided for adolescent girls to develop their potentials and strengthen their ability to express their emotions appropriately.

4. Woman Suffering From Postpartum Depression

The Initial Report under Article 4 para 21, 22 and Article 11 para 95-97, 114-115 discussed about Maternity Protection and measures adopted. Under Article 12, 1. The report discussed about Equality in Access to Health Facilities, Provision of Service by the Hospital Authority and the Department of Health. However the problem of Postpartum Depression suffered by some 4% of women after postnatal period was not mentioned.

In accordance with Dr Lee Tak Sing's assessment of Postpartum Depression in his Mental Health Report, about 4% of women suffer postpartum depression after delivery. In Hong Kong every year an average of 70,000 women gave birth to a newborn, around 3000 suffer postpartum depression (7). They were proven to be weaker in tangible support, affectionate, positive social interaction, emotional support and information support. The more serious cases may turn suicidal or infanticidal.

Physiological factors such as hormonal changes naturally were of significance. However social factors must be properly addressed including marital relationship, in-law relationship and other social support.

At the present moment specialized services and research in this are lacking. It is recommended that

- a. Hospitals and private gynecologists to include in their assessment the assessment of the prenatal and postnatal support systems,
- b. Prenatal courses to be introduced more comprehensively and extensively to include husbands, significant family members and domestic helpers..
- c. Maternity and Child Health Centres to consider prenatal and postnatal home visitation programmes.
- d. Special attention to new immigrants, single mothers.

5. Gender Equality : Where We Stand

Regarding Gender Equality in general, Dr Fanny Cheung in her Hong Kong Gender Equality Status Study (8) succinctly emphasized the significance of objective and subjective indicators in the assessment of the status of gender equality.

Two significant Gender Equality Perception Study conducted in 1994 and 1996 reflected that general respondents observed inequality towards women : the deprivation of the right of inheritance of women in the New Territories at that time, sexual harassment in work place, working women heavily shouldering family responsibility and household chores, the subordinate status of women conveyed by the mass media, and a quarter of the 1994 survey respondents indicated parents still valued boys more than girls. Half of the respondents of the 1996 survey, believed that gender discrimination is a popular phenomenon. In this study alone there were 83 people (4%) who had actually experienced discrimination and 75% of them were women and 25% male.

Regarding Objective Indicators, the Population Crisis Committee (1988) compared five significant indicators including Health Care, Marriage and Children, Education, Employment, Social Security. In general Hong Kong ranked top twenty and belongs to the upper middle range. In the area of Health Care, Hong Kong ranked first twenty, in Asia she came the same as Japan, in Marriage and Children Hong Kong ranked first twenty but lower than Tai Wan and China. In Education Hong Kong ranked the middle, lower than Tai Wan, Japan and Singapore. In employment Hong Kong ranked first twenty and was the highest in Asia. In social security Hong Kong ranked middle, parallel to Japan and China, slightly higher than Singapore and Tai Wan.

The United Nations Development Program (1994) Human Development Report has indicated if one considers gender variance when working out Human Development Indicator (HDI), many countries average ranking will be lowered. In the case of Hong Kong, the average ranking being 24th, but considering gender variance then she is lowered to the 30th. As in the case of Japan, she went down from the 3rd to the 19th.

Dr Cheung also pointed out some observations from local studies on objective indicators. In the area of Education, from the 70's to this point of time, education level for both gender has increased, in the 12-18 age group, girls exceeds boys (e.g. in 1991, 12-16 yr. boys 92%, girls 96%; 17-18 yr. boys 54%, girls 63%).

However, compared this with Employment statistics of youth, there was a significant decrease with female as compared with male youth. (Female Youth : 1976 - 48%; 1993 - 20% and male youth : 1976 - 42%; 1993 - 28%)

Regarding employment rate, there is an anticlimax after age 25 - 29 for women. There is a significant relationship with the predominant role women shouldered in the area of child rearing and home management. Very often women were left with no choice but to retire as housewives taking care of children and household chores.

Many Hong Kong fathers are working such long hours that they are almost strangers to their children. A Study indicated that an average Hong Kong father spent 6 minutes a day with their children. Daniel Petre, author of the book *Father Time* (9) is right in saying that "there remains in much of the corporate world an "anti-family entrenched corporal culture" where men are "sucked into believing that they have to work long hours to be successful". There is a danger that our generation is losing forever a sense of what fathering is all about.

This is indeed a violation of Article 5 Stereotyping and Prejudices a). & b). and Article 11, 1. a) The right to work as an inalienable right of human being and c) the right to free choice of profession and employment... These women are left with no choice at all.

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張妙清博士
平等機會委員會主席
香港青年研究論壇 Hong Kong Youth Research Forum
香港青年協會 The Hong Kong Federation of Youth Groups
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4:00 p.m. – 5:30 p.m.

Violence against women and girls

**Ms. Phyllis Wong,
Association Concerning Sexual Violence Against Women**

**Seminar on
Hong Kong and the Convention on the Elimination of All Forms of
Discrimination against Women
organised by the
Centre for Comparative and Public Law of the Faculty of Law, and the
Women's Studies Research Centre,
The University of Hong Kong**

Saturday 28 November 1998, 9.00 a.m.-5.30 p.m.

**Comments on the initial report of the HKSAR Government on CEDAW
Article 5: Stereotyping and Prejudices**

Topic : Sexual Violence Against Women

By: Phyllis Wong, Association Concerning Sexual Violence Against Women

Summary:-

- 1 The HKSAR fails to address the problem of sexual violence against women. Protection of women against sexual violence such as rape and indecent assault is neglected in the CEDAW report .
- 2 The HKSAR Government has not been doing enough to address the problem of sexual violence against women in terms of legal protection, providing supportive services to victims of sexual violence and advocating community education to prevent the problem.
- 3 As mentioned in the shadow report presented by Dr. Philip Beh, the existing services provided by the Government and the NGO are un-coordinated and not well publicized. This view is also reflected in the community survey conducted by our Association in November last year. (Appendix I) Only about 12% of the respondents claimed that they would seek help from social services if they were raped. The public in general and female in particular have no idea where to seek help if women are raped. We can imagine how helpless the victims will be when they face the crisis. Government, however, is not supportive to offer assistance to the NGO, which is providing services for victims of sexual violence. An example is our Association's application to the Government Information Services for an airtime to publicize our hotline and counseling services that was turned down. We are distressed not only by the result, but also the mentality of this Department handling the application. The reason for declining our request was due to their perception that the number of rape cases is decreasing and their belief that women in Hong Kong are aware of their rights and thus assume that female victims will have no problem in the help seeking process. As a result, they find that the need for publicity is not obvious. The misconception of the Department is upsetting. According to research both locally and overseas, victim blaming is

still prevalent. Fearing of the negative labels, many victims would not seek help and suffer in silence. Such phenomenon could explain the low reporting rate. Our Association has been conducting several community education activities since our establishment in March 1997. During our contacts with the public, we found that the public in general are very sensitive and reactive to rape issue. Many of them refuse to take our leaflet and souvenir once they recognize these stuff are related to sexual violence. It reflects that "rape" is still taken as a "taboo" in our society. It is no wonder sexual violence in Hong Kong is still so invisible and remained so hidden. As a result, publicity and education to encourage victims to break the wall of silence and seek help from organizations providing services they need are extremely important. It is also necessary to raise public concern and awareness on issues of sexual violence against women. In this respect, the Government can and should play a vital role.

- 4 In terms of legal protection, there are rooms for improvement. a) the definition of rape should be widened. b) legal advice given to the victim and inform her the rights and procedures of the court proceeding are important to support the victim as we all know it is very distressing for the victim to face the intensive questioning by the defendant counsel during the court hearing. c) victims who are in vulnerable position should be allowed to use the closed circuit TV system during court hearing.
- 5 In our community survey mentioned above (appendix 1), 70% of the female respondents indicated that they would report to the police if raped. It thus reflects the police officers play a very important role in handling cases of rape. Training and guideline provided to the frontline police officers is necessary to ensure the quality of services offered to victims. Victims will also seek help from other professionals such as doctors and social workers. Therefore, training for these professionals to increase their understanding of rape and its hidden issues of prejudice and stereotypes against women are equally important. We believe that helping professionals who are gender sensitive and do not possess negative stereotypes towards victims are important.
- 6 24-hour rape crisis supportive service for rape victims is important to provide immediate care and support during the crisis. Comprehensive services provided should include crisis counseling, escort, providing legal advice, as well as running of survivors' group and long term counseling to help victims to heal and recover from the traumatic experience. To prevent the problem of sexual

violence against women and dispel negative stereotypes towards rape victims, education in community and school levels is also required to promote gender equality and mutual respect. The Education Department should include "sexual violence" in the sex education design and provide training for schoolteachers to raise their awareness and understanding on this serious social problem. From the result of our community survey (Appendix 1), 64 % of the female respondents who will take measure to protect themselves in facing the threat of sexual attack reveal that they will go back home earlier. Less than 10% of the respondents will take positive and pro-active measures such as bringing an alarm or taking self-defense courses. The result reflects that the threat of violence has restrained women's mobility and choices of daily activities. This phenomenon should be paid great attention in order to provide a safe living environment for women to have equal opportunities to develop themselves and enjoy lives. In addition, self-defense course is also a good means to help females to protect themselves and to raise their self-confidence that they do possess strength to handle sexual attacks. At present, comprehensive services cover remedial, developmental and preventive aspects in dealing with the problem of sexual violence against women are lacking. The Government has no excuse to turn a deaf ear. She should commit herself by taking a pro-active role in areas such as co-ordinate existing services provided by government and non-government organizations, to launch legal reform to better protect victims of sexual violence, and to invest more resources to develop comprehensive services for victims and in the prevention of the problem. Setting up of Anti-sexual violence Funds for NGO to provide supportive services and launch community education should be considered by the Government.

* END *

**REPORT OF A COMMUNITY SURVEY
ON WOMEN'S RESPONSE ON SEXUAL VIOLENCE AGAINST WOMEN**

BY

Association Concerning Sexual Violence Against Women

12/1997

關注婦女性暴力協會 問卷調查結果

1. 調查目的

- 1.1 了解女性對近期性暴力案件的反應，以其如何採取方法保護自己的人身安全。
- 1.2 了解女性在受到性侵犯時將會採取的求助方式。
- 1.3 了解女性受到非禮的普遍程度。

2. 調查方法

在九七年十一月末，協會的義工朋友在港九六區（包括柴灣、官塘、屯門、旺角、沙田、紅磡）進行街頭問卷調查。訪問的對象為女性。共獲得有效問卷五百八十三份。我們亦透過社會服務機構、教會和大學內派發問卷，回收有效問卷一百三十一份。共得七百一十四份問卷。

3. 調查結果

- 3.1 **獨行的危機感增加**：超過六成（63.9%）的受訪女性承認由於近期強姦案件，而增加獨行時的危機感。但是，當被問及有否想過自己會成為強姦案的受害人時，只有27%的受訪者曾經想過。大部份（71.4%）受訪者從沒有想過。1.8%則不願作答。
- 3.2 **保護措施**：有超過七成（73.7%）的受訪者表示會因近期的強姦案而採取一些措施去保護自己。在這些女性中，有超過六成（64%）表示會減少夜歸機會，超過四成（44%）會找親友陪同歸家、只有7.8%的受訪者會選擇帶備防狼用品，3%的受訪者選擇學習自衛術。8%選擇其他。其中大部份表示會提高警覺。
- 3.3 **很少人有被非禮的經驗**：只有不足三成（26.8%）的受訪者承認過去曾經被非禮。大部份（71.4%）表示未曾有被非禮的經驗。1.8%受訪女性拒絕作答。

- 3.4 求助模式和對象：絕大部份（92.9%）的受訪者表示如果不幸被強姦，會向外界求助。求助的對象依百分比的多少分別為家人（73%）、警方（70%）、朋友（38%）、醫院（17.6%）、社會服務機構（12.8%）和學校（3%）。
- 3.5 不向外界求助的因由：有3.2%的受訪者表示不會向任何人及機構求助。她們的原因最主要是不想再面對這件事（52%）和怕被其他人知道（34.7%）。亦有3.2%的受害者對會不會求助沒有意見。
- 3.6 受訪者的年齡組合：受訪者大部份為21-30歲（41.3%）、其次是15-20歲（23.6%），以後依次為31-40歲（19.9%）、15歲以下（8.4%）及40歲以上（6.6%）

4. 分析

4.1 必須正視性侵犯威脅：

- 從調查中發覺女性關注近期的強姦案件。強姦案使女性感到自身安全受到威脅而產生危機感。她們並會因此採取措施去保護自己。
- 但是，這種危機感未能使女性積極地去正視遭受強姦的可能，只是採取逃避的態度。所以，當被問及有沒有想到自己會成為強姦受害人時，只有不足三成被訪女性曾經考慮過。在我們的街頭訪問中，不少受訪者反應強烈，表示不會這樣想。
- 我們越能正視強姦的威脅，便越能積極面對、採取有效的保護方法。在我們的調查中亦發現，有想過自己會成為強姦受害人的女性，在危機感增加及會否採取保護措施上，回答肯定答案的百分比均比沒有想過的受訪者為高。

4.2 保護自身安全的措施過於被動：

- 女性對強姦威脅採取迴避態度，也同樣反映在她們保護自己的措施上。調查中，大部份女性選擇的保護方法都是比較消極和被動，限制了自己行動的自由和範圍。而極少會採用一些相對積極，有反擊準備的保護方法，例如帶備防狼用品或學習自衛術。這種被動，以及不採取加強自己的實力和應變能力的態度，只會強化對強姦犯的恐懼，一旦事到臨頭便減低了應付和反抗的能

力。

- 調查反映出對強姦事件的傳統觀念仍然根深柢固。例如仍然認為女子夜歸是遭受到性侵犯的主要原因。卻沒有考慮到不少的強姦案件是發生在熟悉的人及環境裏。亦會在不同的地點、時間和環境發生。

4.3 社會服務機構未能發揮作用

- 調查顯示絕大部份的受訪者都會向外界求助。不過求助的對象仍主要是非正式的支援系統，例如家人和朋友。正式的支援系統，除了警方外，所得的百分比都偏低
- 受害人向最親近的人尋求支持是重要亦無可厚非。但是，在情緒大受沖擊的混亂時期，家人朋友往往亦備受困擾，她/他們的反應可能令受害人更受傷害（例如抱怨受害人夜歸以給人可乘之機）。受害人及其家人能得到有經驗人士的支援和開解，取得必要的社會資源以渡過危機是必要的。同時這些外界的支援是越快提供、越能降低受害者的傷害。
- 社會服務機構本是最適合負責在情緒上支援受害者及其家人渡過難關。但是，只有 12.8%的受訪者選擇向社會服務機構求助。顯示在公眾心目中，社會服務機構在這方面的角色並不明顯。沒有一個形象清晰、專責輔導性暴力受害人的機構使公眾能立即聯想起來向之求助。故此，女性一旦受到性暴力傷害，便會倍感孤單和無助。

4.4 警方的角色重要：

- 調查顯示有 七成 的受訪者表示會向警方求助。這是一件令人鼓舞的事，反映出現代女性比過去更敢於向警方舉報。不少受訪者毫不遲疑便選擇警方作為求助對象，反映警方在強姦案中扮演重要角色。警方往往是受害人接觸的第一個外間機構，故此，必須加強警方在支援和提供轉介服務的功能。
- 我們對七成受訪者表示會報警這數字有一定的保留。因為，根據外國的調查，估計只有 10%至 50%的強姦案受害人會報警。在香港的一個研究亦指出，只有 18%至 29%遭受性侵犯的受害人會報警。向家計會求助的性暴力受害人只 50%至 68%報警。因此，實際的強姦數字和報案數字會有很大的出入。今次調查的高報案率可能反映出理想與現實的差距。女性基本上認同強姦是一種嚴重罪行，認為必須將強姦犯繩諸於法。但是，當事到臨頭，受害人面對的

的壓力可能令她最後有截然不同的選擇。

4.1 被非禮的經驗：

- 我們對於只有 26.8%的受訪者承認有被非禮的經驗感到意外。因為在私下的交談中身邊的朋友承認有被非禮經驗的大不乏人。在九二年一項有關性騷擾的調查中，也有接近一半（48%）的受訪者表示在過去兩年，身體有被不必要的觸摸及摩擦的經驗。這可能是由於今次調查是街頭訪問，受訪者因為尷尬，不願對陌生人承認。另一可能是受訪者對非禮的定義不理解。

5. 建議

在街頭訪問中，我們發覺性暴力在不少女性心中仍然是一個禁忌。即使面對同性，亦不願公開討論。有些女性聽到性暴力三個字已急急避開。有些家長甚至不準同行女兒接受訪問，又或者要她們避開，不願她們聽到內容。

這種將性暴力神秘和恐懼化，只會令我們對性暴力採取消極逃避的態度。在受訪者的回答裏亦同樣反映出這種被動的態度。對性暴力的禁忌一日不打破，我們和我們的下一代便會生活在被侵犯的恐懼，以及無能為力的錯覺中。

因此，我們建議必須在公眾教育、擴大支援和加強現有服務三方面著手。

5.1 政府的角式責無旁貸

沒有政府投入資源，上述三方面的工作便無從推展。政府必須在公眾教育、擴大資源投入和加強現有服務三方面積極推展工作。

5.1.1. 推展公眾教育：教育內容包括打破對性暴力、特別是對受害人的偏見、預防性暴力和加強自衛能力、不幸受到侵犯後求助的途徑、身心如何渡過危機等等。公眾教育應該透過現有的機構，例如學校、傳媒、社會服務機構等全面展開。

5.1.2. 成立反性暴力教育基金，以供民間團體申請，促使教育工作能更靈活，更廣泛地推行。

5.1.3. 設立專門處理性暴力的支援服務機構，這不單方便建立形象，使受害人和其家人能迅速尋求幫助。並且令受害人不用像目前一般奔走各機構間，將痛苦的經驗重覆。我們相信一群有經驗的輔導工作者對受害人及其家人在處理危機上會有更大的幫助。

5.1.4. 成立跨部門工作組，加強現有服務的聯繫和轉介，以便更全面地提供服務和對社會需要及有關政策作出檢討和改善。

5.2 加強警方現行服務

越多人願意向警方求助，越反映出警方支援性暴力受害人的重要作用。因此，警方在性暴力案件中不單要執法，更要負起支援和轉介工作。受害人能夠克服身心的傷害，對警方的執法工作也大有裨益（例如願意出庭作證）。

5.2.1. 制訂處理性暴力案件的工作指引，加強有關人員對受害人處境的認識，以及明確工作步驟和確立轉介後續服務的工作。

中國香港特別行政區
平等機會委員會

消除對婦女一切形式歧視公約
非政府組織報告

1998年11月

引言

平等機會委員會(委員會)於1996年5月根據法規成立，目前負責執行三條反歧視法例：《性別歧視條例》、《殘疾歧視條例》和《家庭崗位歧視條例》。委員會受政府全資資助，主席和委員都由香港特別行政區行政長官任命。

提交補充性質的非政府組織報告

2. 由於委員會並非政府組織，香港特區政府在撰寫「香港特別行政區根據《消除對婦女一切形式歧視公約》第十八條提交的第一次報告」時，並未諮詢委員會或邀請委員會參與。委員會現提交一份非政府組織報告，為第一次報告作補充。委員會為撰寫此報告，曾與超過20個非政府婦女團體舉行了兩次諮詢會議。與會者一致同意特區政府所需的措施以實施《消除對婦女一切形式歧視公約》並監督政府履行對公約的責任。

3. 由特區政府提交的第一次報告稱，儘管「有些評論者以為政府應設立一個“婦女事務委員會”，協調各方面有關婦女事務的工作。其實政府最高層各個政策小組，已對各決策局的工作提供了必需的協調及統籌，這些政策小組都由政務司司長擔任主席及各有關決策局的高級官員出席。因此，政府認為並無必要成立一個“婦女事務委員會”。」(第19段)

4. 委員會不知道有一個常設及專責有關婦女事務的政策小組。非政府婦女團體繼續找尋一個可以協調婦女政策及在教育、就業、婦女受暴力對待、衛生、福利、安全等範疇為婦女提供服務的機制。在別無選擇下，這些團體便把委員會當作這樣的一個機制。

5. 雖然委員會並非專為實施《消除對婦女一切形式歧視公約》而成立，但是正如政府在有關報告中提到委員會的工作，委員會在履行公約的某些責任方面扮演了舉足輕重的角色。委員會根據反歧視條例賦與的管轄權限，竭力消除對婦女的歧視。

6. 委員會在其管轄權限內各範疇的工作均達到成效。例如，在反歧視條例所涵蓋的僱傭範疇，委員會便成功地消除帶有歧視成分的招聘廣告。在懷孕歧視和性騷擾方面，委員會亦做了不少工作，協助婦女爭取合理的補償。但對於影响婦女就業又不屬委員會管轄權限的範疇，我們的工作效果則有所局限。例如，委員會不能提供託兒服務使婦女可以就業。

7. 委員會於 1996 年成立時，有關監督和協調特區履行對《消除對婦女一切形式歧視公約》的責任並非委員會的職責。委員會僅負責執行三條反歧視條例，並不包括實施和監督公約全部範圍的執行情況。

香港特別行政區為實施《消除對婦女一切形式歧視公約》的所需

8. 委員會繼續聯同香港其他非政府婦女團體要求設立一個由高層領導的負責機構以制訂政策，撥出經費和協調政府服務以落實《消除對婦女一切形式歧視公約》。我們相信，婦女事務需由一個設於政府，直接向行政長官或政務司司長負責的中央機制負責，將更為有效。因為獨立於政府外的委員會無法協調政府的婦女服務，政府機構在這方面的作用會更大。

9. 這中央機制的目標應是實施《消除對婦女一切形式歧視公約》並監督特區履行對公約的責任，以推廣兩性平等，令特別行政區婦女在經濟、社會、文化和政治生活方面有全面參與。這中央機制應邀請婦女及其他有關團體參與，並對這些關注婦女需要和謀求提高婦女平等地位的團體所做的工作加以支持。它應：

- i. 處理與《消除對婦女一切形式歧視公約》有關的課題
- ii. 制定婦女政策
- iii. 就一切政府政策對婦女的影響提出意見
- iv. 基於這些政策，直接向有需要的範疇撥款
- v. 着手解決婦女問題
- vi. 編纂有關兩性的統計數字和分析
- vii. 作為婦女培訓項目的資訊服務中心

10. 香港的婦女團體在 1993 年首次要求設立婦女事務委員會時，世界各地至少已有 28 位部長、12 個部門及超過 30 個全國性政府機關專門處理婦女需要。香港參照英國和澳洲的法律制定反歧視條例和成立平等機會委員會，而該兩國都同時設有政府部門專責婦女事務。香港參與的亞太經濟合作組織的 18 個經濟區內，有 10 個成員已在政府內設立專責婦女事務的高層政府機關。這些機關都是有別於其他為推動平等機會或人權而設立的獨立委員會。

有需要設立這樣的中央機制嗎？

11. 香港特別行政區政府在第一次報告中表示，目前在實施《消除對婦女一切形式歧視公約》的工作已足夠，讓我們分析其中一些例子。

12. 第 5 條：定型及偏見(第 23-39 段)

- 婦女工作人口：「1996 年已婚婦女佔就業人口的 21%，1986 年則只有 18%」—

儘管婦女在接受教育方面情況已有改善，婦女參與工作的比率於 1997 年仍只有 48%，而 1977 年則為 45%。這比率相對於其他已發展國家而言仍然偏低。其中一個主要障礙是，為在職婦女而設的托兒設施不足。委員會促請香港政府着手解決在職已婚婦女托兒服務的需要。

- 教育：報告列舉了委員會的一系列的公眾教育計劃 —

委員會做了不少公眾教育計劃以消除基於性別、殘疾和家庭崗位的歧視態度，可是，由於委員會本身的權責不只於消除對婦女的歧視，所以能集中於消除性別定型觀念的資源實在有限。政府並未規劃出策略，以採取措施落實第 5 條。

- 公民教育：「一直以提倡平等機會為工作重點」—

性別定型和偏見都不是推廣公民教育的重點。報告未清楚說明在這範疇中花在女性平等機會的開支預算比率有多少。

□ 政府刊物：

除了在《性別歧視條例》通過時及《消除對婦女一切形式歧視公約》延伸至香港時刊印了推介資料外，政府未出版任何以女性作唯一重點的刊物。

□ 色情作品：

欠缺渠道對付電視、電台或報刊上貶低婦女但未必屬淫褻性質的廣告。電子及印刷傳媒這方面的法律之間仍有不協調和涵蓋不足的地方。

□ 保障婦女免受暴力對待：

在妥善處理婦女所受的暴力對待方面，香港仍欠缺一套整體方案或計劃。儘管政府於 1995 年成立了由多個政府部門、醫院管理局和福利機構代表組成跨部門的防止虐待配偶工作小組，但該工作小組至今仍無法協調政府部門間的工作，例如警方所在辦公時間以外無法轉介家庭暴力受害人往政府的庇護所。報告亦未提及婦女遇到的其他暴力問題。政府除了厲行法治外，尚需為強姦、非禮、販賣婦女人口等的受害人提供服務。目前只有由志願人士和婦女團體提供有限服務及訓練，而這些服務和訓練工作都沒有得到政府的資助。

13. 第 7 條：本國政治和公共生活的平等權利(第 44-58 段)

□ 立法會選舉(1998)：

香港特別行政區登記選民中 47.7% 是女性，但立法會議員中僅 16% 是女性，而在兩個市政局和區議會方面，女議員的比率分別為 12% 和 11%。政府並無計劃消除妨礙婦女參政的社會及文化因素。

□ 諮詢團體和法定機構內的女性：

報告並未提及全港 350 個諮詢團體及法定機構中超過 3500 位成員中女性的比率。報告強調，成員是以本身的專長而獲得委任，性別並非一個相關的考慮因素。但獨立調查顯示，女成員只佔 14.5%。政府並未說明在提倡婦女

參與政治及公共生活方面做過甚麼工作。我們促請政府在這方面採取更積極的措施，作為第一步，應委任更多婦女加入諮詢團體和法定機構，因為在這些諮詢架構的服務，確實是培植公職人士的良好場所。

總結

14. 香港特別行政區政府在實施《消除對婦女一切形式歧視公約》和與北京《行動綱領》有關的續後行動時，需要有中央機制去擬出策略和訂出行動計劃，或監督政府履行對公約責任方面的工作。目前尚未有這樣的政府計劃或機制。政府機關對於有關條文都認識有限，也缺乏行動計劃。

15. 我們在撰寫此補充報告時，曾諮詢非政府婦女團體，他們都關注到由於缺乏中央機制為婦女政策作出規劃和為婦女事務作協調，所以許多關鍵的婦女問題都得不到關注。

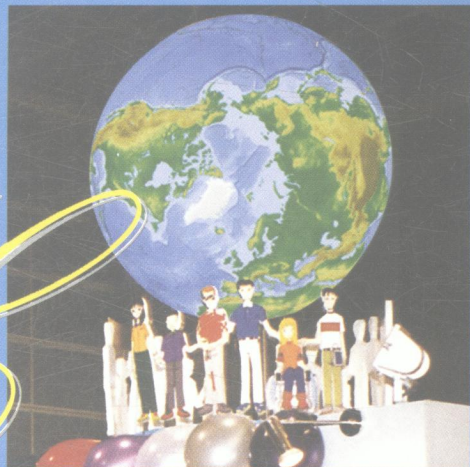
16. 委員會認為，政府應設立專責婦女事務的高層中央機制以履行對公約的責任。



平等機會委員會
EQUAL OPPORTUNITIES COMMISSION

平等機會委員會通訊

EOC news



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芳芳的心願：

人人互相尊重

對於蕭芳芳來說，燦爛的電影生涯，遠不及浩瀚的知識領域吸引。但尋求學問，卻又還不及小孩子純真的臉孔更牽動她的心。因此，剛自美國得到心理學碩士學位，她就連忙發起設立「護苗基金」，希望早日開展防止兒童性侵犯的公眾教育工作。她說：「我自小就受到傅雷的影響，他曾說有知識就應該用知識去幫人…投入這護苗運動，或許就是基於一份傻傻的使命感。」

也就是這份使命感，再加上平等機會委員會的誠意邀請，令她在今年年初，答應出任平等機會大使。其實，那時她正忙於應付畢業前的課程，但是她覺得平等機會實在十分重要。

對她來說，一個社會最重要的就是人與人之間的互相尊重。

因此她希望藉著提倡平等機會，改變社會一些根深蒂固的歧視觀念。

明星也受過

歧視

芳芳六歲就開始拍電影，八歲就得過「最佳童星獎」，其後拍過幾百齣電影，在多次影展中獲「最佳女主角」的盛譽。不過，她走過的道路也不盡平坦。就單以歧視來說，她也不能免疫。

「在1996年平等機會委員會成立以

前，市民對平等機會這個觀念比較陌生。許多人或多或少都受過某些不平等的待遇。」芳芳說：「尤其以前，女性的地位不高。許多人見你是女人，在言談之間已流露歧視。」她憶述自己在六十年代有一次在母親的陪同下和片商談片約。對方是五名男士，說話不留情面，殊不客氣。十六歲的芳芳覺得對方盛氣凌人，忍不住中途離席到洗手間哭了一場。年少的她深深體會到，要在以陽剛霸氣為主導的社會站穩腳，必須要堅強。

平等精神



芳芳覺得七十年代以後，由於政府廢除妾制度，再加上許多婦女走出廚房，投入社會工作，重覓自己的個人身份，因此男女不平等的情況已大有改善。「還要多謝菲律賓傭人，沒有她們，很多香港婦女仍要困在家中呢。」芳芳說。

「已走上這條路，就不能放棄。」

亦是在七十年代，芳芳離港赴美求學，實踐她進修學士的理想。畢業回港後，繼續在幕前演出，也參與過幕後工作。到九十年代，芳芳在拍《女人四十》和《虎度門》等經典電影之餘，不忘重拾書本，修讀碩士課程。這條路可不易走，因為耳患和腰傷都是前進的荊棘。芳芳的耳疾尤其令她困擾。每天24小時的耳鳴令她無法集中精神，甚至不能成眠。聽課時要戴助聽器，但戴久了卻又頭痛欲裂。「耳患帶來許多不便。」芳芳說。「但已走上這條路，就不能放棄。」

對於不愉快的經歷，和耳疾帶來的痛苦，芳芳都輕輕帶過。她是個比較樂觀及正面的人，「不愉快的事，我沒有記住，因為那樣會很不快樂。」她記得的不是耳患的痛苦，而是在美國Regis大學進修期間，校方體恤她的情況，特別為她安排教授用麥克風講課，為她提供了平等的聽課機會。而在畢業禮上，更有人用手語作傳譯。這些都符合反歧視法例中「合理的遷就」的精神。

其實，平等機會，簡單來說就是尊重每一個人，體察每一個人的需要，讓每個人都能發揮所長。

主席獻辭

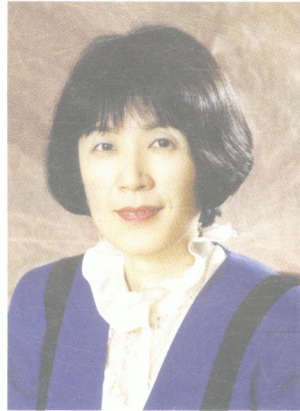
Message from the Chairperson

「復康國際第十一屆亞太區大會」已於1998年8月28日圓滿結束，在舉行五天會議的同時，又舉行了為期四天的「九八復康國際展覽」。來自香港和世界各地的與會者，有機會就康復服務工作以及推廣殘疾人士的平等機會等問題進行探討，交流心得及意見，互相分享經驗。

平等機會委員會積極參與今次會議，委員會委員及職員分別擔任會議的主辦者、顧問、主持人及講員等。委員會亦主辦了一個以「婦女與殘疾」為題的工作坊。全世界有殘疾的婦女約有三億人，但大多數因為是女性又是殘疾人而遭受到雙重歧視。這個工作坊首先在香港把有殘疾婦女的需要，包括性和生育權、家庭及養育兒女、以及經濟自足等問題提出公開討論，共有超過一百二十位來自世界各地及本地的代表參加。工作坊亦引發一群與會的本地有殘疾婦女宣布組織一個自助團體，和建立起國際交流網絡。

復康國際會議再次提醒我們，為確保社會上的殘疾人士得享平等機會，我們仍需繼續努力。從委員會收到的投訴統計數字中看到，自1996年9月20日委員會開始運作以來，至1998年8月31日，委員會共接到473宗與殘疾有關的投訴，且數字每月都有增加。

要消除歧視，除了執行法例外，還需輔以公眾教育。委員會新近出版《殘疾歧視條例與我》單張共八款，講述法例對不同殘疾人士的保障，藉以提高市民對殘疾人士權利的認識，連同其他刊物如《良好管理常規》單張和《殘疾歧視條例僱傭實務守則》等，供市民免費索閱。



張妙清博士
Dr. Fanny CHEUNG Mui-Chin

The 11th Rehabilitation International Asia & the Pacific Regional Conference was successfully concluded on August 28, 1998. During the five-day conference and the 4-day International Exhibition on Rehabilitation '98, people in Hong Kong as well as all over the world participated in the exploration and exchange of knowledge, information, and experiences in the provision of rehabilitation services and the promotion of equal opportunities for persons with disabilities.

The EOC was an active participant in the event. Our Commission members and staff were among the conference organizers, advisors, facilitators and presenters. The EOC also hosted a special workshop on the issues of women with disabilities. There are 300 million women with disabilities in this world, but many face double discrimination as women and as persons with disabilities. Their concerns, including sexuality, reproductive rights, family and parenting, and economic self-sufficiency were put on the public agenda for the first time in Hong Kong in this special workshop. Over 120 international and local delegates attended the workshop. As a result, a self-help group for women with disabilities was formed by the local participants and an international network was established.

The RI Conference reminds us once again that there is still a lot to be done in ensuring equal opportunities for persons with disabilities to participate in our society. Looking at our complaint statistics since the commencement of EOC's operation on September 20, 1996 till August 31, 1998, the Commission handled a total of 473 disability-related complaints, with the number on the rise each month.

To eliminate discrimination, legislation needs to be supported by public education. We have added a new series to our publications to raise public awareness on the rights of persons with disabilities. The eight leaflets under the *DDO & I Series* address concerns of specific disabilities, and may be obtained from the EOC free of charge as other publications including *the Code of Practice on Employment under the DDO* and pamphlets under the *Good Management Practice Series*.



平等機會委員會的主要職能之一是調查與歧視有關的投訴，並致力調解以達致和解。今期報導了兩宗成功調解的個案，基於保密理由，個案中的人物身份已經刪改。

成功調解個案

放假後遭解僱 (殘疾歧視個案)

阿思自1993年起在一間採購公司任職主管，負責船務訂單。為了治病，阿思於1997年3月至5月放了三個月病假。其後於六月上班，但即被公司解僱。

阿思感到沮喪難過，於是向平等機會委員會投訴，指公司及公司總裁基於她的殘疾而歧視她。

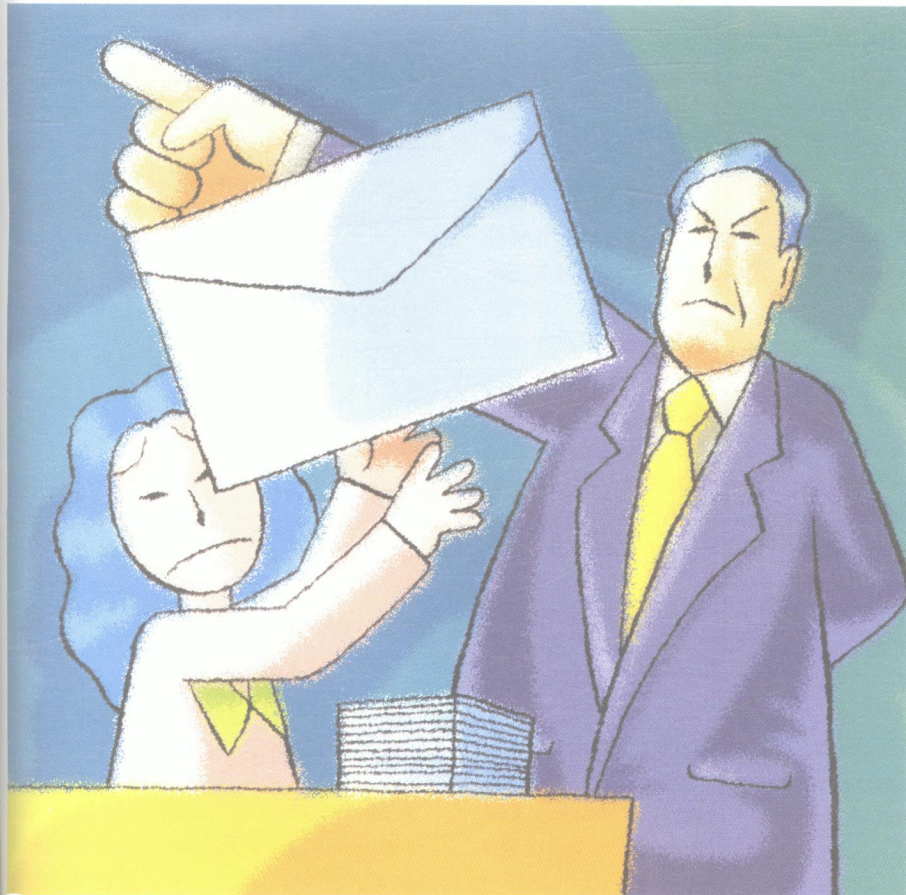
委員會於是接觸兩名答辯人，他們表示解僱阿思是因她工作表現欠佳。他們說阿思的書

寫能力及管理技巧都達不到工作要求，這些缺點在過去三年的工作表現評核報告中已有指出。不過，委員會在調查時發現上述報告把阿思的整體表現評為滿意。

答辯人願意出席調解會議，會議期間，雙方達成和解，條件是第二答辯人(公司)同意給予阿思一筆約相等於她三個月薪酬的款項，而阿思則同意以此作為整件事圓滿和解的條件。阿思其後亦終止對第一答辯人所作的投訴。

根據《殘疾歧視條例》，如基於某僱員的殘疾而歧視他/她，因而解僱他/她，或使他/她蒙受不利，即屬違法。僱主對待殘疾僱員時，不應給予較差的待遇。

One of the main functions of the Equal Opportunities Commission (EOC) is to investigate complaints of discrimination and endeavour to settle the complaints by conciliation. In this issue, two conciliated cases are presented. For reason of confidentiality, the identity of the parties involved has been omitted.



Complaint Cases Dismissal after Sick Leave

(A case of discrimination on ground of disability)

Ms C was a supervisor of a merchandising company responsible for shipping orders and had worked in the company since 1993. Ms C took three months of sick leave from March to May 1997 as she had to undergo a treatment programme. When she returned to work in June, she was dismissed by the company.

Frustrated and hurt, Ms C filed a complaint with the EOC against the president of the company and the company itself for disability discrimination.

When the EOC contacted the two respondents, they said that Ms C was dismissed on the ground of poor performance. They said that her writing ability and management skills could not cope with the job requirements and that such weaknesses had been reflected in her performance appraisal reports for the past three years. However, during EOC's investigation, it was found that the overall performance of Ms C had been rated as satisfactory in the said reports.

The respondents were willing to attend a meeting for conciliation. During the meeting, the two parties reached a settlement which stated that the company, that is the second respondent, would pay Ms C a sum of money of about three months' wages while Ms C agreed to treat this as a full settlement of the matter. Ms C then requested that the complaint against the first respondent be discontinued.

Under the Disability Discrimination Ordinance (DDO), it is unlawful to discriminate against an employee on the ground of disability by dismissing the employee or subjecting him or her to any other detriment. An employer should not treat employees with a disability less favourably.



成功調解個案 性騷擾及使人受害個案

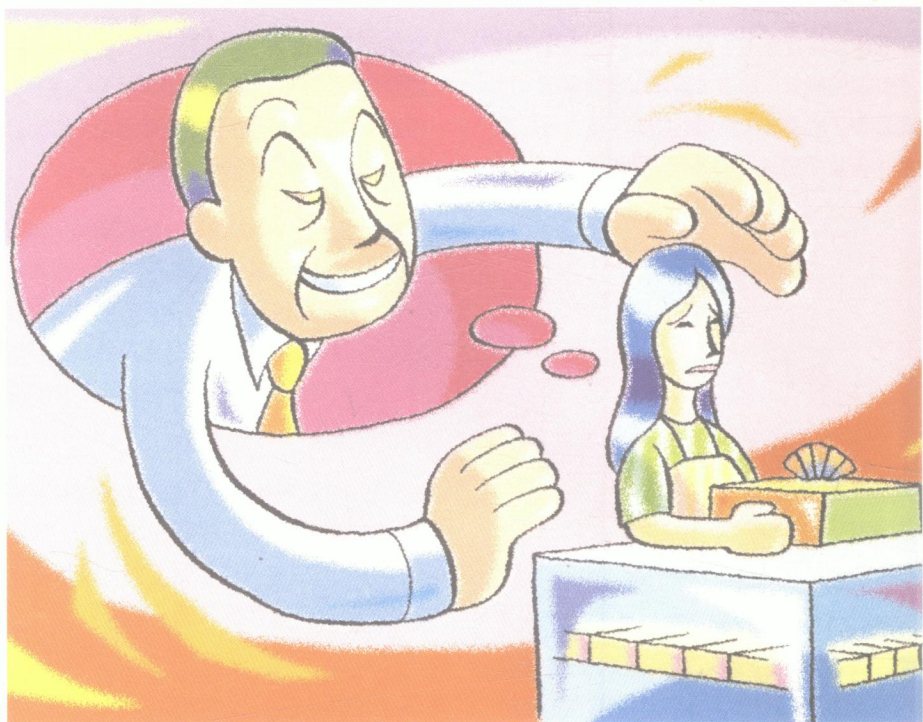
小雅向平等機會委員會投訴，在過去六個月她在酒店餐廳當侍應時，屢次受到上司性騷擾。小雅曾向酒店管理層投訴，但他們沒對投訴採取任何行動。小雅後來被調派到餅店工作，薪金遠比她當侍應時為少。她指稱這是因她較早時曾提出性騷擾的投訴而遭受針對。

於是，委員會聯絡小雅的上司，他反指稱小雅惡意地提出投訴，理由是因為他曾拒絕給小雅增加顧客小帳。小雅否認上司的反駁，並堅持要上司向她作出書面道歉。她還要求返回酒店餐廳工作。

委員會職員清楚地向小雅的上司及管理層傳達了投訴人的要求後，再向他們解釋各自在《性別歧視條例》下所需承擔的責任。經委員會調解後，酒店同意恢復小雅的前職，讓她當侍應，小雅的上司也同意向小雅作書面道歉，以解決此事。

根據《性別歧視條例》，僱主有責任防止在工作地方發生性騷擾，而僱員也要對自己在受僱期間所作的行為負上個人責任。性騷擾是指任何不受歡迎並涉及性的行徑，而任何合理的人都應會預料到受這種行徑騷擾的人會感到被冒犯、侮辱或驚嚇。

根據《性別歧視條例》，僱主如因某人指稱其他人曾作出《性別歧視條例》中所指的違法作為，而給予該人較差的待遇，即屬違法。在這種情況下受到較差的待遇，《性別歧視條例》的定義稱之為「使人受害」。



Complaint Cases A Sexual Harassment and Victimisation Case

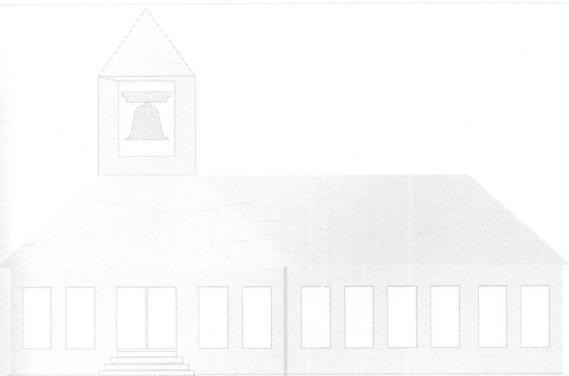
Miss A complained to the EOC that she had been sexually harassed by her supervisor. That happened on several occasions over six months while she was working as a waitress in a hotel restaurant. She had complained to the hotel management but they did not act on her complaint. She was subsequently transferred to work in the cake shop where she earned much less than she had been earning as a waitress. She alleged that she was victimised as a result of her earlier complaint of sexual harassment.

When the EOC contacted Miss A's supervisor, he made a counter allegation that Miss A made a malicious complaint because he had refused to raise her share of customers' tips. Miss A denied his counter allegation and insisted that he had to apologise to her in writing. She also requested to go back to work in the hotel restaurant.

After giving a clear message about the request of the complainant, the EOC staff had also explained to Miss A's supervisor as well as the hotel management their respective liability under the SDO. As a result of the EOC's conciliation efforts, the hotel agreed to resume Miss A to her former position as a waitress. Her supervisor also agreed to settle the case by providing an apology letter.

Under the Sex Discrimination Ordinance (SDO), employers are responsible for preventing sexual harassment in the workplace while employees may be personally liable for their conduct in the course of their employment. Sexual harassment is any unwelcome sexual behaviour in which a reasonable person would anticipate that the subject of attention would be offended, humiliated or intimidated.

Under the SDO, it is also unlawful for employers to treat a person less favourably because he or she has made an allegation that another person has acted unlawfully under the SDO. This treatment is defined as "Victimisation" in the SDO.



平等機會委員會

對「中學學位分配辦法」

展開正式調查

平等機會委員會主席張妙清博士於八月初宣布委員會將會對「中學學位分配辦法」展開正式調查，調查包括制度背後的政策及對香港學生的影響。

正式調查將對「中學學位分配辦法」的現行學位分配辦法作詳細研究，目的是要根據良好的平等機會守則對有關制度提出建議。

這次是平等機會委員會自1996年5月成立以來首次根據《性別歧視條例》賦予之權力展開正式調查。

平等機會委員會將會調查：

- 「校內成績」的評定方法是如何制定及實際運作；
- 校外「學業能力測驗」是如何制定及實際運作；
- 把學生歸入不同「成績組別」的做法；及
- 如何根據「中學學位分配辦法」按成績評定和「成績組別」分派學位

平等機會委員會曾收到小六男女生家長的查詢，他們認為「中學學位分配辦法」會令子女受到不公平的對待。這些家長認為，子女的教育前途因其性別而受到影響。

委員會在現階段未有足夠資料確定此制度是否有歧視成分，或它是否會使一個性別較另一個性別佔優。無論如何，這是社會上很多家長都關注的事，對莘莘學子也有長遠的影響。

調查工作將會參照確保男女學生得到最大教育利益的平等機會法則及常規進行，並會對有關制度提出適當的建議。預計調查工作將需時六個月完成，委員會屆時將公開有關調查結果和建議。

EOC Launches

Formal Investigation into Secondary School Allocation Scheme

Dr. Fanny Cheung, Chairperson of the EOC, announced in early August 1998 that the EOC would launch a Formal Investigation into the Secondary School Places Allocation System, including the policy behind and the impact it has on the students of Hong Kong.

The purpose of a formal investigation is to make recommendations for good equal opportunities practices in the Secondary School Places Allocation System, based on a detailed examination of the existing practice.

This was the first time the EOC invokes its power under the SDO to conduct a formal investigation since it was established in May 1996.

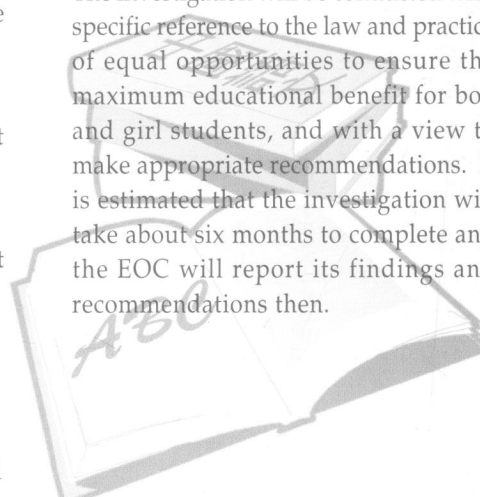
In the investigation, the EOC will inquire into:

- how the internal assessment system in schools was developed and how it operates in practice;
- how the external academic aptitude test (AAT) was developed and how it operates in practice;
- the practice of banding pupils;
- how places are allocated under the Secondary School Places Allocation System as a result of assessment and banding.

The EOC has received enquiries from concerned parents of both boys and girls in Primary Six Grade who feel that the Secondary School Places Allocation System has treated their sons or daughters unfairly. These parents believe that the educational prospects of their children have been affected on the ground of their sex.

At this stage, the EOC does not have enough information to determine as to whether the system is discriminatory or not, or whether it disadvantages one sex over the other. It is nevertheless a matter of concern of many parents in the community and has long term implications for all students.

The investigation will be conducted with specific reference to the law and practice of equal opportunities to ensure the maximum educational benefit for boy and girl students, and with a view to make appropriate recommendations. It is estimated that the investigation will take about six months to complete and the EOC will report its findings and recommendations then.





11th 復康國際 亞太區大會 Rehabilitation International Conference

復康國際第十一屆亞太區大會於1998年8月23日至8月28日假座香港會議及展覽中心舉行。36國合共1700名代表蒞臨香港參與這項盛事。

大會的精彩活動包括講座、工作坊、展覽、錄像播映等。為了促進殘疾人士的自助運動以及復康服務的發展，委員會積極參與了這項有意義的活動。

這次復康國際大會中，委員會於1998年8月25日協辦了「婦女與殘疾」工作坊，來自海外的婦女領袖在為期半天的工作坊上發表了以「性及生育權利」、「家庭及養育子女」、「經濟自足」等為題的演說。會上又發表了對香港殘疾婦女所作的一項調查結果。於1998年8月27日舉行名為「婦女關係網絡」的跟進會議上，參加者進一步交流經驗，及交換了日後推動殘疾婦女平等的策略。

委員會於1998年8月27日主持了另一個工作坊：「平等機會齊共創」，各代表在會上討論了有關殘疾的各方面問題。除了舉辦工作坊外，委員會更透過大型海報，發表了有關「大眾對殘疾人士態度的基線調查」的結果。

委員會亦在「九八復康國際展覽」上向公眾



復康國際大會展覽館內的地球模型展示出「平等精神、一視同仁」的口號以及播放有關殘疾歧視電視劇集的大型電視螢幕。

The EOC booth at the RI conference can be easily recognised by the global tower illustrating "Equal Opportunities for All" and the video wall showing disability discrimination episodes.

介紹本身的工作，又宣揚殘疾人士應該享有平等機會的訊息。委員會亦考慮到不同殘疾的人士的需要，展出的展板兼有凸字版，攤位高度亦遷就輪椅使用者的需要。

The 11th Rehabilitation International (RI) Asia and the Pacific Regional Conference cum Campaign 98 for the Asian and Pacific Decade of Disabled Persons 1993-2002 was held in Hong Kong during 23 to 28 August 1998 at the Convention and Exhibition Center. Some 1,700 delegates from 36 countries came to Hong Kong for this important event.

There were seminars, workshops, exhibitions and video sessions, just to name a few exciting activities. The Equal Opportunities Commission actively participated in this meaning event which was expected to bring about progress to the development of the self-help movement of persons with a disability and rehabilitation services.

In the RI Conference, the EOC co-organised the "Women with Disabilities" workshop held on 25 August 1998. The half-day session consisted of presentations by women leaders from overseas on the issues of sexuality and reproductive

rights, parenting and family, and economic sufficiency. Findings of a survey on women with disabilities in Hong Kong were also presented. A follow up session - Women Networking - was held on 27 August 1998, during which the participants exchanged experience and strategies for future action to promote the equality of women with disabilities.

Another workshop chaired by the EOC — "Achieving Equal Opportunities" was held on 27 August 1998 where delegates discussed different issues relating to disability. In addition to organizing workshops, the EOC also took part in one of the poster presentation sessions and presented the results of a baseline survey on public attitudes towards persons with a disability.

In the International Exhibition on Rehabilitation'98 the EOC also introduced the work of the EOC and promoted the message that persons with a disability deserve equal opportunities. Special attention was given to ensure that the needs of people with different disabilities were met. For example, the display boards were also in braille and the counter top level was adjusted to suit the need of the wheelchair users.



在「婦女與殘疾」工作坊上，平等機會委員會主席張妙清博士發表開幕演說

Dr. Fanny Cheung, Chairperson of the EOC, delivered an opening speech at the "Women with Disabilities" Workshop.

婦女 與 殘疾 Women with Disabilities



在「婦女與殘疾」工作坊上，約130位來自世界各地的復康界代表就殘疾婦女的平等機會問題交換意見

About 130 RI delegates from different parts of the world gathered at the "Women with Disabilities" workshop where they exchanged views on equal opportunities for women with disabilities.

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美國第一夫人 會晤本港婦女領袖

U.S. First Lady's

Meeting with Hong Kong Women Leaders



美國總統夫人希拉莉會晤本港婦女領袖，公開討論婦女事務。出席座談會的婦女領袖包括（由左至右）：律政司副國際法律專員紀慧玲、美國國務卿奧爾布賴特、平等機會委員會主席張妙清博士、美國第一夫人希拉莉、政務司司長陳方安生以及消費者委員會主席胡紅玉（亦為平等機會委員會委員）。

Mrs. Hillary Clinton's meeting with women leaders in Hong Kong put women's issues on the public agenda. Participants in the forum included (from left to right): Ms. Lena Chi, Deputy Law Officer of the Department of Justice; Ms Madeleine Albright, US Secretary of State; Dr. Fanny Cheung, Chairperson of Equal Opportunities Commission; Mrs. Hillary Clinton, First Lady of USA; Mrs. Anson Chan, Chief Secretary for Administration; Ms Anna Wu, Chairperson of Consumer Council (also an EOC member).

美國總統夫人希拉莉於1998年7月3日與香港婦女領袖會面，討論本地婦女地位。婦女事務不單只是一些婦女團體關注的事情，更是國際議程中的一重要部份。出席的本地婦女領袖包括行政長官夫人董趙洪娉、政務司司長陳方安生、平等機會委員會主席張妙清博士、行政會議成員王葛鳴、立法局議員陸恭蕙、廣播處長張敏儀、消費者委員會主席胡紅玉、庫務局局長俞宗怡、律政司副國際法律專員紀慧玲及大律師公會主席余若薇。與會人士從個人及社會的角度討論本港婦女的情況，包括婦女健康、婦女角色、生育科技、房屋、反失婚歧視及法律對兩性的影響等。

Mrs. Hillary Rodham Clinton's meeting with women leaders in Hong Kong on July 3 1998 have highlighted the status of local women. Women's concerns are not the fringe interests of a few women's groups, but part of the respectable international agenda. Leading women figures including Mrs. Betty Tung, wife of Chief Executive of HKSAR; Mrs. Anson Chan, Chief Secretary for Administration; Dr. Fanny Cheung, Chairperson of the Equal Opportunities Commission; Dame Rosanna Wong, Member of the Executive Council; Ms Christine Loh, Member of the Legislative Council; Ms Cheung Man

Yee, Director of Broadcasting; Ms Anna Wu, Chairperson of the Consumer Council; Ms Denise Yue, Secretary for the Treasury; Ms Lena Chi, Deputy Law Officer of the Department of Justice and Ms Audrey Eu, Chairman of the Hong Kong Bar Association discussed the situation of women in Hong Kong from a personal and a social perspective. Subjects ranged through women's health, the role of women, reproductive technology, housing, stigma-free divorce and the gender impact of legislation.



平等機會 齊歡營

Equal Opportunities Day Camp



平等機會委員會公眾教育及研究專責小組增選委員莊陳有先生(前排左一)及行政總裁何蔡慧兒女士(前排右一)在1998年7月26日的「平等機會齊歡營」開幕儀式上與一班演藝界紅星合照。該日營是平等機會委員會與香港電台合辦「太陽計劃」連串活動中的一項，參加日營的青年朋友更寓學習於娛樂，玩遊戲之餘，也討論有關平等機會的問題。太陽計劃除了舉辦日營外，其他活動包括，在香港電台播放一輯描述不同歧視處境個案的廣播劇。另外，又於1998年9月11日舉行「平等機會舞台表演大賽」，透過不同表演形式宣揚平等機會訊息。

Mr. Chong Chan-yau, Co-opted Member of the EOC Public Education and Research Committee (left in front row) and Mrs Angela Ho, Chief Executive of the EOC (right in front row), shared a cheerful moment with a number of popular artistes at the kick-off ceremony of the Equal Opportunities Day Camp held on 26 July 1998. The camp, where young people enjoyed a day of fun while learning and debating about equal

opportunities issues, is part of the series of programmes co-organised by the EOC and the RTHK under the Solar Project. In addition to the day camp, a series of radio segments featuring different scenarios of discrimination was broadcast on the RTHK and a talent quest show presenting the concepts of equal opportunities through a variety of performances was held on 11 September 1998.

匯聚

平等機會 SHOW

Talent Quest



「匯聚平等機會SHOW」的冠軍得獎者是曹舒菊英老人中心宣藝創舍。一群長者透過話劇表演，演譯出各種不同形式的歧視，以宣揚平等機會觀念。

The champion of the Talent Quest Show was HKMEA Jane Shu Tsoo Social Centre for the Elderly. The elderly talents put on a drama performance to illustrate different forms of discriminations and promote the concept of equal opportunities.

「匯聚平等機會SHOW」於1998年9月11日在香港國際展覽中心舉行。七支參賽隊伍分別以話劇、音樂演出，朗誦和趣談等不同類型節目表達平等機會觀念。張妙清博士與眾影視紅星和參與機構的代表在「平等精神一視同仁」的標語前為比賽揭幕。

The Equal Opportunities Talent Quest show was held on 11 September 1998 at the Hong Kong International Trade and Exhibition Centre. Seven contesting groups presented the concept of equal opportunities through different types of performances such as drama, musical performance, recital and talk show. Dr. Fanny Cheung, together with the popular artistes and representatives of the participating organisations started off the performance with the Slogan "Stand Up for Equal Opportunities".





「街坊小子」 的一封信

A Letter from the Kids on the Block

親愛的朋友：

你們好！我們是一個非常特別的木偶劇團，名叫「街坊小子」。我們的衣着和行為跟真實的小朋友一樣，身高體形亦相若。當中也有代表傷殘小朋友的木偶人物。今年我們有一個特別的使命，就是要到全港各小學宣揚平等機會的訊息。

我們於1978年在美国出生。你們知道是誰帶我們到香港的嗎？是香港復康會和香港弱能兒童護助會帶我們來的。自1995年開始，我們在香港已經表演過很多有趣的劇目。

今年平等機會委員會與教育署攜手合作，帶我們「街坊小子」到全港各小學表演。目的是鼓勵小朋友多學習關於殘疾及性別的問題，以培養傷健共融的意識及不歧視別人的正確態度。

平等機會委員會的大朋友對我們說：「我們相信，自小學習平等機會的理念，學習尊重別人及體驗弱勢群體的感受，可以讓年青一代自小培養新的價值觀。」

我們很高興能到全港各小學表演。表演的內容包括視障、聽力受損、弱智、肢體傷殘、自閉症及男女平等題目。

小學生可以在表演過程中直接向我們提出問題。這種獨特的溝通方法能讓學生在安穩的環境中學習接受及尊重別人，尤與自己不同的人。

我們喜歡與其他小朋友交往，相信到各學校的表演一定很好玩！欲知詳情，請聯絡平等機會委員會。希望表演時能見到你們。請保持聯絡！

街坊小子
敬上



街坊小子木偶劇場
KIDS ON THE BLOCK

Dear friends,

Hi! Our name is "Kids on the Block" and we are a special group of puppets which dress and act like real kids. Nearly life-size, some of us represent kids with disabilities. This year our special mission is to promote equal opportunities in primary schools.

We were born in the United States in 1978. Do you know who brought us to Hong Kong? It is the Hong Kong Society for Rehabilitation and the Society for the Relief of Disabled Children. We have been performing on various interesting topics in Hong Kong since 1995.

This year the Equal Opportunities Commission and the Education Department will join hands to bring us — the Kids on the Block — to primary schools. The objective is to encourage children to learn more about disability and gender issues and adopt sensitive and non-discriminatory attitudes.

"We believe that learning equal opportunities from childhood will enable new sets of values to be cultivated from

a young age based on respect for human dignity and empathy for those who are less privileged than they are," that's what our friends at the EOC told us.

We are thrilled about this school programme under which we will give performances to primary school kids on the following topics: visual impairment, hearing impairment, mental handicap, physical handicap, autism and gender equality.

Students will be able to ask us questions directly during each show. This unique form of communication has proven to provide a safe environment for kids to learn how to accept and respect others' differences.

We love to interact with other kids and we are sure that the performances are going to be exciting! Please contact the EOC for more details. We hope to see you at the coming performances. Stay in touch!

Sincerely yours,

Kids on the Block



查詢及投訴

Enquiries and Complaints

Enquiries and Complaints received during the period 1/1/98-31/8/98

自 98 年 1 月 1 日至 98 年 8 月 31 日之查詢及投訴數目

	Total 總數
Total no. of enquiries 查詢總數	6221
General enquiries 一般查詢	4572
Specific enquiries 具體事項查詢	1649
Total no. of complaints 投訴總數	370
Complaints for investigation & conciliation 需作出調查及調解之投訴	274
Other Complaints 其他投訴	
(1) Discriminatory Advertisement 歧視性廣告	8
(2) Other fields 其他範疇	88



《平等機會委員會通訊》以季刊形式出版，除有凸字版本外，亦載於委員會互聯網頁。

我們的網址為：<http://www.eoc.org.hk>

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電話：2511 8211 傳真：2511 8142

This newsletter is published quarterly and is also available in Braille version and on our Homepage.

Our address on the Internet is

<http://www.eoc.org.hk>

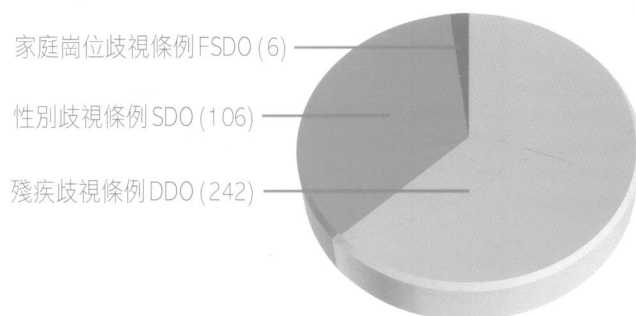
Address: Unit 2002, 20/F.,
Office Tower, Convention Plaza,
1 Harbour Road, Wanchai, Hong Kong.

Tel : 2511 8211 Fax : 2511 8142

1 Complaints Handled 經處理的投訴

Complaints for investigation and conciliation 需作出調查及調解之投訴

	Total 總數
SDO 性別歧視條例	106
Employment field 僱傭範疇	93
Non-employment field 其他範疇	13
DDO 殘疾歧視條例	242
Employment field 僱傭範疇	153
Non-employment field 其他範疇	89
FSDO 家庭崗位歧視條例	6
Employment field 僱傭範疇	6
Non-employment field 其他範疇	0



Complaints for investigation and conciliation (from 1.1.98 to 31.8.98)
需作出調查及調解之投訴 (自 1.1.98 至 31.8.98)

2 Other Complaints 其他投訴

	Total 總數
(i) Discriminatory Advertisement 歧視性廣告	
SDO 性別歧視條例	18
DDO 殘疾歧視條例	3
FSDO 家庭崗位歧視條例	0
(ii) Other fields 其他範疇	
SDO 性別歧視條例	14
DDO 殘疾歧視條例	90
FSDO 家庭崗位歧視條例	3

Wish from Fong-fong : Everyone Respecting Each Other

To Josephine Siao Fong-fong, wisdom is better than fame. Being a good therapist is more important than a film career, and personal success of any kind pales into insignificance when compared to the trust and innocence of children.

Making sure her feelings are not just empty talk, after acquiring her Master's degree in psychology in the United States, Fong-fong set up the End Child Sexual Abuse Foundation. This Foundation aims to prevent child sexual abuse through extensive public education programs. She said, "As a child, I was deeply influenced by Fu Lei. He used to say that we should use our knowledge to help others.... today, I am involved in the "Protect our Seedlings" program partly from the sense of mission that his words inspired."

This same sense of mission led to her to become an Equal Opportunities Ambassador when she was invited by the Equal Opportunities Commission to take on the role earlier this year. Even though she was in the middle of her graduation projects, she agreed to the role because of her commitment to equal opportunities in Hong Kong.

To her, one of the most important aspects of society is mutual respect and she would like to see some of the more deep-rooted discriminatory attitudes in Hong Kong changed by the promotion of equal opportunities.

Even a Popular Star Experiences Discrimination

Fong-fong started her acting career as a child of six, winning "The Best Child Actress" award when she was eight. She subsequently starred in hundreds of films and gained the "Best Actress"



"Once I've started, I would not give up"

award together with numerous other accolades in several film festivals. However, the road to success was never smooth, she met much discrimination along the way.

"Before the setting up of the Equal Opportunities Commission in 1996, not many people had been exposed to the concept of equal opportunity. A lot of people had in fact experienced some degree of unfair treatment. The status of women in the business circles was very low and many people showed discrimination in their attitudes and in the way they talked to women." She recalled an incident from the 60s when, with her mother, she met several film producers with regard to a film contract. The five men were so rude and overbearing to the sixteen year old actress that, even before the meeting was over, she ended up crying in the washroom. She learnt her lesson and realized that she would have to be a lot tougher and stronger to keep her feet in a society dominated by men like these.

On a happier note however, Fong-fong feels that equality between the sexes has greatly improved since the 70s. She thinks this is due to a combination of circumstances, leading to a change in attitudes and the abolition of male-dominated traditions such as keeping concubines. As women have abandoned their traditional roles, they have created new identities for themselves in society. She said: "We must thank the many Filipino domestic helpers who have made this possible. Without them, many housewives in Hong Kong would still be trapped at home."

In the 70s, Fong-fong left for America to further her studies. After graduating, she returned to Hong Kong to continue her acting career, getting involved in production work behind the cameras. In the 90s when working on the acclaimed movies "Summer Snow" and "The Men", she was also working hard on her master's degree. It was a difficult time, apart from the pressure of work, she was also plagued by hearing problems and a back injury. The hearing problem in particular troubled her, the ringing in her ears making it very difficult to concentrate on what she was doing during the day and impossible to sleep at night. When attending lessons, she had to wear a hearing aid but kept it on for a long time it would cause a headache. Talking about it now she says: "Hearing was a real problem, but once I've started, I would not give up."

Fong-fong does not talk a great deal about the difficulties or pain caused by her hearing problem. She takes a positive view saying: "I do not think about pain and unhappiness because it only makes me more unhappy if I do. I would rather remember the kindness of Regis University where I studied. They did a lot of things to make it easier for me." The University made special arrangements for professors to use microphones during class, giving her the opportunity to hear what everyone else in the classes was hearing, and during her graduation ceremony, there was a sign language interpreter. From an equal opportunity point of view, all these activities fit into the "reasonable accommodation" specified under Hong Kong's anti-discrimination laws.

After all, equal opportunity means respect for each other. It also means observing the rights of others and making sure that everyone has a chance to develop their potential.

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