



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Consideration of reports submitted by States parties under  
article 18 of the Convention on the Elimination of All Forms  
of Discrimination against Women**

**Combined seventh and eighth periodic reports of States parties**

**Hong Kong, China\*, \*\*,\*\*\***

[20 January 2012]

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\* The present document is part of the State party report which comprises the reports of China (CEDAW/C/CHN/7-8), of Hong Kong, China (CEDAW/C/CHN-HKG/7-8) and of Macao, China (CEDAW/C/CHN-MAC/7-8).

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## List of abbreviations

ACA	Advisory Council on AIDS
API	Announcement in the Public Interest
ASB	Advisory and statutory body
ASCP	After-school Care Programme
AVP	Anti-Violence Programme
AWT	Average waiting time
BDF	Beat Drugs Fund
BIP	Batterer Intervention Programme
BRFS	Behavioural Risk Factor Survey
C&SD	Census and Statistics Department
CBMP	Capacity Building Mileage Programme
CCA	Committee on Child Abuse
CCDS	Comprehensive Child Development Service
CCPSA	Counselling centre for psychotropic substance abusers
CHEU	Central Health Education Unit
CIIF	Community Investment and Inclusion Fund
CMAB	Constitutional and Mainland Affairs Bureau
CoP	Commission on Poverty
COSH	The Hong Kong Council on Smoking and Health
CPCE	Committee on the Promotion of Civic Education
CPI	Central Personality Index
CR	Compassionate rehousing
CRPD	Convention on the Rights of Persons with Disabilities
CSD	Correctional Services Department
CSP	Cervical Screening Programme
CSSA	Comprehensive Social Security Assistance
DA	Disability Allowance
DCs	District Councils
DDO	Disability Discrimination Ordinance
DE	Disregarded Earnings
DECCs	District Elderly Community Centres
DH	Department of Health
DoJ	Department of Justice
DP	Discretionary places
DSH	Deliberate self-harm
DSW	Director of Social Welfare
DTRCs	Drug treatment and rehabilitation centres and halfway houses
DVO	Domestic Violence Ordinance
EAs	Employment agencies
EC	Election Committee
EDB	Education Bureau
EHCs	Elderly Health Centres
EO	Employment Ordinance
EOC	Equal Opportunities Commission
EPEV	Equal pay for work of equal value
EPM	Employment Programme for the Middle-aged
ERB	Employees Retraining Board
FCs	Functional Constituencies
FCPSUs	Family and Child Protective and Services Units
FCSCs	Family Crisis Support Centres
FCTC	Framework Convention on Tobacco Control
FDHs	Foreign domestic helpers

FFEP	Family-friendly employment practices
FHS	Family Health Service
FPAHK	Family Planning Association of Hong Kong
FPS	Forensic Pathology Service
FSCs	Family Services Centres
FSDO	Family Status Discrimination Ordinance
FSP	Family Support Programme
GDP	Gross Domestic Product
GFP	Gender Focal Point
GHS	General Household Survey
HA	Hospital Authority
HAB	Home Affairs Bureau
HAD	Home Affairs Department
HD	Housing Department
HES	Household Expenditure Survey
HKBOR	Hong Kong Bill of Rights
HKBORO	Hong Kong Bill of Rights Ordinance
HKU	University of Hong Kong
HKSAR	Hong Kong Special Administrative Region
HOST	Hotline and Outreaching Service Team
ICHDP	Integrated Child Health and Development Programme
IFSCs	Integrated Family Services Centres
ICCMW	Integrated Community Centre for Mental Wellness
IOCC	Interactive Online Cessation Centre
ISCs	Integrated Services Centres
ISS	International Social Service Hong Kong Branch
IT	Information technology
JJOs	Judges and judicial officers
LD	Labour Department
LegCo	Legislative Council
LRC	Law Reform Commission
LT	Labour Tribunal
LWB	Labour and Welfare Bureau
MAW	Minimum Allowable Wage
MCHCs	Maternal and Child Health Centres
MDS	Manpower Development Scheme
MECAB	Minor Employment Claims Adjudication Board
MHCCC	Mutual Help Child Care Centre
MPF	Mandatory Provident Fund
MSSUs	Psychiatric Medical Social Services Units
My STEP	Special Training and Enhancement Programme
MWO	Minimum Wage Ordinance
NAs	New arrivals
NECs	Neighbourhood Elderly Centres
NGOs	Non-governmental organizations
NSCCP	Neighbourhood Support Child Care Project
NSS	New Senior Secondary academic structure
OAA	Old Age Allowance
OSHO	Occupational Safety and Health Ordinance
OCHK	The Open University of Hong Kong
PEAK	Institute of Professional Education and Knowledge
PRC	The People's Republic of China
Previous concluding comments	The Committee's concluding comments of 10 August 2006
PTAs	Parent-Teacher Associations
QF	Qualifications Framework

QR	Qualifications Registry
RDO	Race Discrimination Ordinance
SARDA	The Society for the Aid and Rehabilitation of Drug Abusers
SCCCs	Smoking Counselling and Cessation Centres
SDO	Sex Discrimination Ordinance
SEs	Social enterprises
SEN	Special educational needs
SFAA	Student Financial Assistance Agency
SFS Scheme	Support for Self-reliance Scheme
SMW	Statutory minimum wage
SPD	Selective Placement Division
SSA	Social Security Allowance
SSAIP	Social Security Assistance Index of Prices
SSPA	Secondary School Places Allocation
STD	Sexually transmitted diseases
SWD	Social Welfare Department
TCO	Tobacco Control Office
TDC	Training and Development Centres
The Checklist	Gender Mainstreaming Checklist
The Committee	Committee on the Elimination of Discrimination against Women
The Convention	Convention on the Elimination of Discrimination of All Forms of Discrimination against Women
The Convention on Adoption	The Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption
The EXITERS project	The "Extending Care Patients Intensive Treatment, Early Diversion and Rehabilitation Stepping Stone" project
The Government	The Government of the Hong Kong Special Administrative Region
The Levy	The Employees Retraining Levy
The Mainland	Mainland China
The previous report	The second report of the HKSAR under the Convention submitted in 2004
The Statement	The Statement on the Treatment of Victims and Witnesses
TMCJH	Tuen Mun Children and Juvenile Home
TWGHs	Tung Wah Group of Hospitals
UGC	University Grants Committee
VHTs	Visiting Health Teams
VREO	Village Representative Election Ordinance
VRs	Village representatives
VSP	Victim Support Programme
WHCs	Woman Health Centres
WHO	World Health Organization
WoC	Women's Commission
WOPS	Work Orientation and Placement Scheme
YPTP	Youth Pre-employment Training Programme
YWETS	Youth Work Experience and Training Scheme

## I. Introduction

1. This is the third report of the Hong Kong Special Administrative Region (HKSAR) under the United Nations Convention on the Elimination of All Forms of Discrimination against Women (the Convention). It forms part of the combined seventh and eighth reports of the People's Republic of China (PRC) under the Convention.

2. In line with the established practice for the preparation of reports under other United Nations conventions, we have set out in an outline for consultation the broad subject headings and individual topics to be covered in the report. Following consultation with the Women's Commission (WoC), the outline for consultation was widely issued to stakeholders, including the Legislative Council (LegCo), relevant non-governmental organizations (NGOs) and women's groups, and was made available to the general public on the Internet and at all Public Enquiry Service Centres of District Offices of the Home Affairs Department (HAD). The public were invited to submit their views during the period from 14 June to 31 July 2010 on the implementation of the Convention in respect of those topics, and to suggest any additional topics that they considered should be included in the report. As the central mechanism to promote the well-being and interests of women in the HKSAR, WoC conducted a public consultation session on 30 June 2010. The outline was also discussed at the LegCo Panel on Constitutional Affairs on 19 July 2010.

3. We have carefully considered the views and comments received in drafting the Report. Issues raised by commentators during the consultation exercise, together with the respective responses of the HKSAR Government (the Government) where applicable, have been incorporated in the relevant sections of the Report.

4. The report will be made available to stakeholders, including LegCo, WoC, NGOs and women's groups, and will be distributed to the public at the Public Enquiry Service Centres of HAD and public libraries. An electronic version will also be made available on the Government website.

## II. Treaty-specific document

### Article 1- Defining discrimination

#### Definition of discrimination against women in the Sex Discrimination Ordinance

5. The Sex Discrimination Ordinance (SDO) (Chapter 480 of the Laws of Hong Kong, hereafter abbreviated as Cap. 480) defines "discrimination" to include both "direct discrimination" and "indirect discrimination". "Direct discrimination" means treating a person less favourably than another person in analogous circumstances because of the victimised person's sex, marital status, or pregnancy. "Indirect discrimination" involves imposing on everyone the same requirement or condition which, however, has a detrimental effect on a particular group of persons. Such requirement will constitute "indirect" discrimination under the Ordinance if there is no justification for the requirement. The definition of discrimination under SDO in relation to discrimination against women remains unchanged.

#### Reservations and declarations to the application of the Convention in the HKSAR

6. The PRC has entered seven reservations and declarations on behalf of the HKSAR in respect of the provisions of the Convention as applied to the latter in the light of the special circumstances in Hong Kong. We consider that these seven reservations and

declarations should be retained. Justifications for their continuation are elaborated under the relevant articles.

7. The PRC entered a reservation to paragraph 1 of article 29 of the Convention which also applies to the HKSAR. Since the matter of dispute settlement falls within the scope of foreign affairs relating to the HKSAR for which the Government of the PRC shall be responsible, it is the prerogative of the Government of the PRC to determine whether this reservation should continue to apply.

8. A reservation has also been entered by the PRC that none of the obligations under the Convention shall be treated as extending to the affairs of religious denominations or orders in the HKSAR. Reservation in relation to religious organizations is required as freedom of conscience and religious belief is protected by the Basic Law.

## **Article 2 -Obligations of States parties**

### **The Basic Law and the Hong Kong Bill of Rights**

9. The Basic Law and the Hong Kong Bill of Rights Ordinance (Cap. 383) (HKBORO) continue to protect the fundamental rights of residents of the HKSAR, including non-discrimination and equality. Please refer to the section on “Legal framework for the protection of human rights” in the common core document.

### **Legislation**

#### The anti-discrimination ordinances

##### *Overview*

10. Regarding the elimination of discrimination against women, the position in relation to the three anti-discrimination legislation (i.e. SDO, the Family Status Discrimination Ordinance (Cap. 527) (FSDO) and the Disability Discrimination Ordinance (Cap. 487) (DDO)) remains largely the same as reported in the previous report. They continue to render various forms of discrimination unlawful as described in paragraphs 4 to 7 of Part II of the previous report. The updated list of major court cases under SDO with the inclusion of *Wong Lai Wan Avril v. The Prudential Assurance Co. Ltd. & Anor* (which dealt with discrimination on grounds of “marital status” and “family status”) is set out in annex 2A.

11. Further to paragraph 10 of Part II of the previous report concerning the Equal Opportunities Commission (EOC)’s review on anti-discrimination legislation, SDO was amended in 2008 to extend unlawful sexual harassment to cover rendering the environment in which a person works, studies or undergoes training sexually hostile or intimidating. In this respect, EOC and the Education Bureau (EDB) have jointly developed education and publicity materials on prevention of sexual harassment in schools. Schools are encouraged to take reasonably practicable steps to ensure that the schools are free from any sexually hostile or intimidating environment. Training sessions were also conducted by EOC in early 2009 with attendance by over 600 school principals and teachers.

12. The Government is working with EOC on the remaining legislative proposals arising from EOC’s review on anti-discrimination legislation, taking into account the latest developments with a view to taking the proposals forward.

##### *The Race Discrimination Ordinance*

13. As foreshadowed in paragraph 293 of Part II of the previous report, the HKSAR had reviewed the issue of legislation prohibiting racial discrimination. After gauging the views of the public in a consultation exercise ended in February 2005, the Government introduced the Race Discrimination Bill which was passed by LegCo in July 2008.

14. The Race Discrimination Ordinance (Cap. 602) (RDO), which came into full operation in July 2009, aims at protecting the rights of individuals against discrimination, harassment and vilification on the grounds of race. Under RDO, race in relation to a person means the race, colour, descent, national or ethnic origin of the person. Racial group means a group of persons identified by reference to race, colour, descent, national or ethnic origin, and references to a person's racial group refer to any racial group into which the person falls.

15. RDO renders unlawful both direct and indirect racial discrimination in prescribed areas of activity, including education, employment and the provision of goods, services, facilities and premises. It enshrines the internationally accepted principle of proportionality in determining whether there is indirect discrimination. It also makes racial harassment (i.e. engaging in unwelcome conduct in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated by that conduct, where such conduct is engaged on the grounds of the race of that person and/or a near relative of that person) unlawful in the specified fields. In addition, RDO prohibits other unlawful acts relating to racial discrimination, including discriminatory practices and advertisements, aiding, instructing or procuring others to discriminate, as well as vilification.

16. RDO does not impose an obligation for affirmative action to bestow benefits on persons of a particular race or ethnic origin for meeting their special needs. However, RDO does not regard as racial discrimination special measures which are targeted at particular ethnic groups to the exclusion of others and are intended for bestowing benefits on ethnic minorities and promoting equal opportunities for them.

17. RDO affords effective safeguards for the rights of individuals, including ethnic minority women, against racial discrimination, while at the same time maintains proper respect and protection for the legitimate rights and freedoms of other people.

18. Some commentators expressed concern that RDO does not offer protection to some groups such as new arrivals (NAs), particularly women, from Mainland China (the Mainland) and urged the Government to extend the statutory protection to this particular group. As a matter of fact, RDO applies equally to all persons in Hong Kong, and safeguards their rights against discrimination on the grounds of race, irrespective of their nationality or immigration status. The protection is also equally available to both men and women.

19. It is also worth noting that the difference between NAs from the Mainland and the majority of other permanent residents in Hong Kong is not one based on "race". The vast majority of NAs from the Mainland are of the same ethnic origin as most of the permanent residents in Hong Kong. The differences among some in accent, dialect or certain personal habits do not distinguish them as a separate racial group. This notwithstanding, the relevant Government bureaux and departments have been providing various support measures to facilitate NAs from the Mainland to settle in Hong Kong and to integrate into the local community.

20. Some commentators expressed concern that the definition of "indirect discrimination" was too narrow. In fact, RDO defines indirect discrimination in the same manner as the other three anti-discrimination ordinances mentioned in paragraph 10 above. The proportionality test in the definition is also in line with the general principle under international human rights jurisprudence. The definition covers various requirements or conditions, including those involving language. Whether a particular requirement or condition would give rise to indirect discrimination would depend on the factual circumstances of the case.

21. Some commentators expressed concern over the application of RDO to the Government. While RDO does not contain a specific clause to cover all the functions and



powers of the Government, it binds the Government in all the areas specified in the Ordinance, such as employment, education and provision of services. Under the Basic Law and the HKBORO, the Government is prohibited from practising racially discriminatory acts in the exercise of its functions. In addition, there is an effective system which deals with complaints against a Government bureau or department. Any racially discriminatory act of the Government is also subject to the court's supervisory jurisdiction.

22. As the key consideration of RDO is to afford effective safeguards for the rights of individual against racial discrimination, while at the same time maintaining proper respect and protection for the legitimate rights and freedoms of others, RDO contains exception provisions which serve to clearly delineate the scope of control and regulation. Most of these mirror those in the other three anti-discrimination ordinances mentioned above. The drafting of RDO has taken into account local circumstances as well as international practice and experience of other common law jurisdictions with similar legislation. The exception provisions have also been critically examined to ensure that they are reasonable and necessary, and are consistent with the principles widely adopted by international human rights authorities.

#### *Discrimination on the grounds of sexual orientation*

23. With regard to discrimination on the grounds of sexual orientation, while there have been calls to urge the Government to legislate on this front, there is also strong opposition from some sectors of the community on various grounds including religious belief and family values. Our considered view is that, at this stage, self-restraint and education, rather than legislation, are the most appropriate means of addressing discrimination in this area. We will continue to address discrimination on grounds of sexual orientation and promote equal opportunities through public education and administrative means, with a view to fostering a culture of understanding, tolerance and mutual respect in the community.

#### Changes in other areas of the law

24. The following paragraphs provide an update on significant legislative changes the HKSAR has made in other areas of the law during the reporting period which aims to further safeguard women against any form of discrimination.

25. The Domestic Violence (Amendment) Bill 2007 (which was passed on 18 June 2008) amended the Domestic Violence Ordinance (Cap. 189) (DVO) to extend the scope of protection under DVO in the form of injunction against molestation by former spouses, former heterosexual cohabitants and their children as well as other immediate and extended family members. The Domestic Violence (Amendment) Bill 2009 (which was passed on 16 December 2009) further extended the scope of protection of the DVO to include also same-sex cohabitants, former same-sex cohabitants and their children. Further details in relation to domestic violence are set out under article 5.

26. On the other hand, the Domicile Ordinance (Cap. 596) changes the common law for determining the domicile of a married woman to the extent that a married woman's domicile will no longer depend on that of her husband. More details regarding women's legal status and civil rights are set out under article 15.

#### **The Equal Opportunities Commission**

27. The functions and powers of EOC remain largely the same as those set out in paragraphs 10 to 13 of Part II of the previous report, except that under the newly enacted RDO, EOC is also entrusted with the functions and powers to work towards the elimination of racial discrimination and promote equality of opportunity and harmony between persons of different racial groups, including dealing with individual complaints and providing legal assistance, and conducting formal investigations under RDO. The Government has provided additional resources to EOC for undertaking these tasks. EOC issued a Code of Practice on

Employment under RDO which came into operation in July 2009. It gives practical guidance to prevent racial discrimination and harassment, and to promote racial equality and harmony in employment-related matters. A detailed account of EOC's latest work is elaborated in paragraphs 54 and 92 to 101 of the HKSAR's common core document.

28. EOC continued its effort to investigate into complaints lodged with it on the grounds of sex, marital status and pregnancy. Between 2004 and 2009, EOC investigated 1 711 new complaints lodged under SDO. Amongst them, pregnancy discrimination remained the major area of complaints, amounting to 755 cases (44 per cent of the total). Of the others, 527 cases were complaints of sexual harassment, making up 31 per cent of SDO-related complaints. About 96 per cent of the sexual harassment complaints were lodged by female complainants. During the aforementioned period, EOC investigated 155 new complaints lodged under FSDO. Of them, the majority were related to employment, amounting to 90 per cent of the total. Work arrangement affecting the caring duty of the employees was the most common cause of these complaints.

29. EOC endeavours to redress grievance through conciliation. Between 2004 and 2009, about 66 per cent of the cases that underwent conciliation were able to reach amicable settlement. Where conciliation could not bring about settlement, EOC might offer appropriate assistance in litigation. During the aforementioned period, EOC received 84 and 10 applications for legal assistance under SDO and FSDO respectively, out of which 41 and 6 applications were granted assistance.

30. Some commentators noted that EOC has proposed to set up an Equal Opportunities Tribunal to handle alleged cases of discrimination under the existing anti-discrimination ordinances. In this respect, EOC is initiating discussions with the community and stakeholders before further pursuing the proposal with the Government. The Government will continue to liaise with EOC on the proposal and study the recommendations after EOC's further deliberation with the community.

31. Some commentators expressed concern over the lack of transparency for appointment of the new EOC Chairperson in February 2010. Under SDO, the appointment authority for the EOC Chairperson rests with the Chief Executive. To ensure transparency of the process, an open recruitment exercise was conducted. A selection board led by a non-official member was formed to consider the applications and to recommend the most suitable candidate to the Chief Executive. The recommendation was based on the merits of the candidates, assessed in accordance with published selection criteria including strong commitment to promoting equal opportunities, clear vision, impeccable integrity and good leadership qualities.

### **Women's Commission**

32. In paragraphs 15 and 16 of Part II of the previous report, we advised the Committee on the Elimination of Discrimination against Women (the Committee) on the establishment of WoC in January 2001 as a central mechanism in the HKSAR to advise the Government on the development and advancement of women, with the support of the then Health, Welfare and Food Bureau. Following the re-organization of the Government Secretariat of the HKSAR on 1 July 2007, WoC has been provided with executive support by the Labour and Welfare Bureau (LWB), which has taken over the responsibility for matters relating to the promotion of the interests and well-being of women in the HKSAR.

33. As of 31 March 2010, WoC comprised 23 members, including 20 non-official and three ex-officio members, and was chaired by a non-official. WoC receives an annual funding of about HK\$20 million (US\$2.56 million). A team of officers also provide secretarial support to assist WoC in achieving its mission of enabling women in the HKSAR to fully realise their due status, rights and opportunities in all aspects of life. WoC has adopted a three-pronged strategy, namely the provision of an enabling environment, empowerment of women through capacity building and public education, in promoting the

interests and well-being of women. Working groups and/or specific task forces have been set up to take forward work in these areas. Over the years, WoC has made significant achievements and has promoted collaboration among different stakeholders on issues relating to the interests and well-being of women.

#### Provision of an enabling environment

34. WoC believes that providing an enabling environment that facilitates women's advancement and eliminates barriers to participate in the community is crucial for achieving gender equality. In this connection, WoC has been playing an important role in advising the Government on strategies, policies and initiatives which impact on women and ensuring that women's needs and perspective are factored into the policy formulation process.

#### *Review of legislation, policies and programmes*

35. Since the submission of the previous report, WoC has reviewed and offered advice and suggestions to the Government on a number of legislation, policies and programmes covering a wide range of areas. These areas include domestic violence, health, social welfare and social security, legal aid, law reforms, education, population and sustainable development, services for disabled and ethnic minority women, women's participation in advisory and statutory bodies (ASBs), and employment, etc WoC meets regularly and discusses legislation/policies/programmes with the relevant Government bureaux and departments, and provides useful advice to the Government from women's perspective.

#### *Gender mainstreaming*

36. Since the submission of the previous report, gender mainstreaming remains a key strategy of WoC in achieving women's advancement and gender equality. We advised the Committee in paragraph 19 of Part II of the previous report that WoC developed an analytical tool in the form of a checklist (the Checklist) in 2002 to assist Government officers in applying gender mainstreaming in a more systematic manner. Since then, the Government has, with the assistance of WoC, applied the Checklist in different policy and programme areas. Apart from adopting the Checklist, staff of many bureaux and departments have also applied the gender mainstreaming concept in the course of their daily work, taking into account the needs and perspective of both genders. WoC published a booklet in 2006 to share the experience of applying the Checklist within the Government. In 2009, taking into account the experience gained in applying the Checklist and in implementing the gender mainstreaming concept by the Government over the years, WoC revised the Checklist in consultation with stakeholders, including women's groups, Gender Focal Points (GFPs) and academics specialised in gender issues, etc The revised Checklist has been provided to the Government bureaux and departments for application.

37. To enhance the awareness of gender-related issues and the concept of gender mainstreaming, gender sensitivity training has also been provided to public officers of different grades and ranks. Furthermore, to enhance support to public officers in handling gender-related issues, the Government has since 2003 set up a GFP network in all bureaux and departments. A similar GFP network was established in 2008 in the 18 District Councils (DCs) across the territory to facilitate the promotion of gender mainstreaming in community. Further details of the gender mainstreaming initiatives of WoC are set out under article 3.

#### *Family-friendly employment practices*

38. WoC believes that a family-friendly working environment in which women and men share family responsibilities would not only promote a better balance among work, family and life, but also enable women to participate more fully in various aspects of life. In this connection, WoC has since 2006 promoted the adoption of family-friendly employment practices (FFEP). To help promote FFEP in society, WoC has undertaken different FFEP-related initiatives such as conducting a research study jointly with EOC on the needs,

awareness and prevalence of FFEP in the HKSAR in 2006; producing promotional leaflets on FFEP for distribution to different sectors; and organizing a large-scale seminar on FFEP in collaboration with the Labour Department (LD) and other stakeholders in 2007, etc Details of promotional efforts on FFEP are set out in article 11.

#### *Research and survey*

39. To keep abreast of the changes of the status and needs of women in the HKSAR, WoC conducts researches and surveys from time to time. The results of the researches and surveys are useful reference for the formulation of policies on women's development. In the past few years, WoC conducted researches and surveys on FFEP, parent education, and the development of women in the HKSAR during the twentieth century. Another survey on people's perception of the status of women at home, at work and in social environments is underway. Other than initiating researches and surveys on women-related issues, WoC also maintains close communication with the Census and Statistics Department (C&SD) for the collection and analysis of sex-disaggregated data. This subject will be further elaborated under articles 3 and 5.

#### Empowerment of women

40. WoC is committed to helping women realise their full potential and participate actively in all aspects of public life. In this respect, WoC strives to create a more congenial social environment for women to develop themselves through capacity building so that they are better equipped to face challenges in life and become agents of change.

#### *Capacity Building Mileage Programme*

41. In paragraph 22 of Part II of the previous report, we advised the Committee that WoC was exploring the development of a capacity building framework to develop women's essential skills and potentials, taking into account the feedback from many women's groups that the education/training programmes provided at that time did not fully address the needs or interests of women, particularly homemakers. Against this background, WoC pioneered in March 2004 the Capacity Building Mileage Programme (CBMP), which was jointly implemented by the Open University of Hong Kong (OUHK), a radio broadcasting company and over 70 women's groups and NGOs.

42. CBMP is a flexible learning programme tailored to the needs and interests of women in general. Delivered through face-to-face courses, internet courses and radio programmes, CBMP allows women (including homemakers) to equip themselves with knowledge and skills such as finance management, interpersonal skills, health and other practical issues in daily lives, etc Since its launch, the cumulative number of enrolment has exceeded 35 000, in addition to the large network of audience reached through the radio programmes. Please refer to article 10 for details of CBMP.

#### *Nurturing caring families*

43. WoC also attaches great importance to empowering women and men to become quality parents for the purpose of building harmonious families and hence a harmonious society. Against this background, WoC conducted a research on core life values for parenting education in 2006, which aimed at identifying the core life values that parents should instill in their children. As a result, 32 core values were identified. In order to promote among the public quality parenting education and core values identified in the survey, WoC produced leaflets to introduce the results of the survey and the work that WoC had done in promoting quality parenting.

44. Through the pilot project on quality parenting in collaboration with DCs and community organizations, WoC has also impressed upon the community the importance of a caring family. The project has helped establish a district-based support network for parents to share experience and offer mutual help on parenting issues and to provide a platform for promoting quality parenting education.

*Women's safety*

45. Women's safety has always been a priority area of WoC. In view of the growing concern of society over domestic violence, WoC set up a dedicated working group in 2005 to conduct a review of the issue. The process was interactive and dynamic, involving over 50 NGOs, academics, women's groups as well as relevant Government departments. In 2006, WoC published a report entitled "Women's Safety in Hong Kong: Eliminating Domestic Violence" setting out a multi-dimensional strategy to eliminate domestic violence and putting forward 21 recommendations. Since then, WoC kept liaising with the relevant stakeholders and monitoring the situation. In a supplement to the report published in August 2009, WoC was pleased to note that many of its recommendations had been taken on board by the Government and good progress in eliminating domestic violence had been made. More details are set out under article 5.

*Women's participation in advisory and statutory bodies*

46. WoC believes that engaging more women in the decision-making process helps advance the status of women and benefits society by ensuring that the perspective and concern of women are fully reflected and taken into account. WoC has maintained close liaison with the Government to cultivate potential female candidates and to explore ways to enhance women's participation in Government ASBs. At the suggestion of WoC, the Government set a gender benchmark of 25 per cent as an initial working target for appointments to ASBs in 2004. With the concerted efforts of the Government and WoC, the overall participation rate of women in Government ASBs rose from 17.5 per cent in December 2000 to 28.1 per cent in March 2010. On the advice of WoC, the Government further raised the working target to 30 per cent with effect from June 2010. Details of women's participation in ASBs are set out under article 7.

Public education

47. Since the submission of the previous report, WoC has continued to organize various public education programmes seeking to reduce gender prejudice and stereotype in society and raise public awareness of gender-related issues. These include organizing conferences, forums, seminars and exhibitions, producing television series, radio programmes and Announcement in the Public Interest (API), as well as organizing various types of competitions and celebration events for the International Women's Day on 8 March every year, etc In particular, WoC attaches considerable importance to the promotion of gender awareness in school education to reduce gender stereotyping of students in their early stages of life and make a sustainable impact. A detailed account of WoC's efforts in public education since the submission of the previous report is provided under article 5.

Collaboration

48. To keep abreast of the latest developments on issues outside the HKSAR that are of concern to women, WoC maintains close liaison with women's organizations on the Mainland and abroad through participation in regional and international conferences, including the annual session of the United Nations Commission on the Status of Women and the Asia-Pacific Economic Cooperation Women Leaders Network meeting. In addition, visits to and meetings with women's organizations are organized from time to time to foster understanding on the work of promoting women's interests and well-being in different jurisdictions.

49. External liaison aside, WoC also treasures the contribution and active involvement of local women's groups in safeguarding the human rights of women, which was acknowledged by the Committee in its previous concluding comments. WoC acts as a bridge between the Government and the women's organizations in reflecting their concerns and needs. It maintains close partnership with local women's groups and NGOs in advancing the status of women in the HKSAR. WoC meets and exchanges views with these parties on a regular basis, and collaborates on suitable occasions. In 2007, WoC produced a

series of 5-minuter television programmes to showcase and acknowledge the contribution of women's groups in empowering women. In August 2009, WoC organized a large-scale conference entitled "Beyond Limits – Women in the 21<sup>st</sup> Century". On the day preceding the Conference, over 25 women's groups and NGOs showcased the different aspects of Hong Kong women in the twenty-first century in the pre-conference activity session. The pre-conference activity attracted a good turnout of attendees from different women organizations. There were calls for allocating more resources to WoC to carry out joint projects with women's groups for the promotion of women's interests. We would consider the suggestion in the context of strengthening the bridging role of WoC in the future.

50. In 2007, the Family Council was set up to advise the Government on the formulation of policies and strategies for supporting and strengthening the family. Some commentators were concerned that with the establishment of the Family Council, the role of WoC would be weakened. It should be emphasized that the Family Council provides a high-level platform for cross-bureau and cross-sectoral discussion of major issues from the family perspective. On the other hand, WoC is a central mechanism responsible for promoting the well-being and interests of women. In view of the close correlation between family and women matters, the Chairperson of WoC is appointed as an ex-officio member of the Family Council. This enables WoC to offer views to the Family Council from women's perspective, and facilitates communication and co-operation between WoC and the Council.

51. In response to some commentators' concern about the effectiveness of WoC as a central mechanism, we are of the view that WoC has been playing an effective and important role in advising the Government on matters of concern to women from a strategic perspective. Since its establishment, WoC has been providing the Government with valuable advice on a wide range of policy issues covering welfare, education, participation in public affairs, safety, employment, sustainable development and health, etc. Moreover, WoC also maintains close liaison with women's groups and relevant NGOs, and effectively reflects their views to the Government to facilitate better consideration of women's needs and perspective in the policy-decision process. As a result of the work of WoC, the Government has, for example, adopted and subsequently increased the gender benchmark for participation in ASBs. In addition, after extensive consultation with WoC and the stakeholders concerned, the Government has also strengthened the legal protection as well as services for victims of domestic violence in recent years. WoC will continue to keep a strategic overview on women's issues, and develop a long-term vision and strategy for the development and advancement of women in the HKSAR.

### **Article 3- Appropriate measures**

#### **Basis for protection of human rights and fundamental freedom**

52. An extensive framework is in place in the HKSAR for the protection of human rights, as elaborated in the section of "General framework for the protection and promotion of human rights" in the Common Core Document. The protection applies equally to men and women in Hong Kong.

53. The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) entered into force for the PRC, including the HKSAR, on 31 August 2008. The initial report of the HKSAR of the PRC under UNCRPD was submitted to the United Nations on 31 August 2010.

54. The purpose of UNCRPD is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. The principles of UNCRPD, as stated in its article 3, include equality between men and women.

55. Article 6 of UNCRPD provides that States Parties shall take measures to ensure the full and equal enjoyment by women and girls with disabilities of all human rights and fundamental freedoms, recognizing that women and girls with disabilities are subject to multiple discrimination. Article 6 further provides that States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in UNCRPD. Article 16, paragraph 5 of UNCRPD also provides that States Parties shall put in place effective legislation and policies, including women-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted. In addition, article 28, paragraph 2(b) of UNCRPD requires States Parties to take appropriate steps to ensure access by persons with disabilities, in particular women and girls with disabilities, to social protection programmes and poverty reduction programmes.

56. Relevant legislative and administrative measures in relation to women with disabilities will be further discussed under article 13.

57. In addition to the Convention and UNCRPD, other international human rights instruments applicable to Hong Kong include the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights as mentioned in paragraph 25 of Part II of the previous report.

58. As mentioned under article 2, SDO, RDO, FSDO and DDO provide for the elimination of discrimination against persons on the grounds of sex, race, family status and disability respectively.

### **Gender mainstreaming**

59. WoC had developed the Checklist to facilitate gender sensitive analysis and evaluation of gender impact of policies and programmes by the Government. Since the introduction of the Checklist in 2002, the Government has been progressively adopting the concept of gender mainstreaming as well as the Checklist in different policy and programme areas. As of March 2010, the Checklist has been applied to nearly 40 specific policy and programme areas that are of relevance to women, ranging from health, education, social welfare services, women's participation in ASBs, to the design of public buildings and facilities, and Government statistics collection, etc In addition, staff of many bureaux and departments have also applied the gender mainstreaming concept in the course of their daily work, taking into account the needs and perspective of both genders.

60. Taking into account the practical experience gained in applying the Checklist and in implementing the gender mainstreaming concept by the Government over the years, WoC reviewed and revised the Checklist in 2009 to provide better assistance to Government officials in incorporating gender needs and perspective into policy formulation and programme development processes in a more systematic manner.

61. Since 2003, we have established a network of GFPs in all bureaux and departments to facilitate promotion of gender mainstreaming in the Government. GFPs, who are mostly officers at directorate level, serve as the resource person for their respective bureau and department and as the liaison point in implementing gender mainstreaming. They also assist in raising awareness and understanding of gender-related issues in their respective organizations. GFPs meet from time to time to discuss ways to further promote gender mainstreaming and gender awareness in the Government.

62. On the advice of GFPs, the Government has produced an information leaflet on gender mainstreaming and developed a web-portal on gender mainstreaming for reference by all civil servants. It comprises information about gender mainstreaming and its application and provides hyperlinks to useful websites. It also includes examples of

different policy or programme areas that have applied gender mainstreaming. Since July 2009, the web-portal has been uploaded to the website of LWB to enhance public understanding of the Government's work in promoting gender mainstreaming.

63. To apply gender mainstreaming in various policy areas, it is crucial to first develop a better understanding and awareness of gender-related issues within the civil service. To this end, the Government has been providing training to civil servants to raise their awareness of gender-related issues and the concept of gender mainstreaming. Over 4 800 civil servants of different grades and ranks have attended seminars and workshops on gender-related issues. Some departments, including the Customs and Excise Department and Social Welfare Department (SWD), have incorporated gender-related training into their regular training programme.

64. As a major partner of the Government in promoting gender mainstreaming, WoC has put in strenuous efforts in enhancing public awareness of the concept. In particular, WoC published an experience sharing booklet in January 2006 entitled "Gender Mainstreaming: Hong Kong Experience" to consolidate the experience of implementing gender mainstreaming by relevant bureaux and departments. The booklet contains 12 cases of successful applications of the concept by Government bureaux and departments.

65. To promote gender mainstreaming in the community, WoC has established a GFP network in DCs since 2008. Each of the 18 DCs has now designated a member as the GFP to facilitate communication and collaboration with WoC. WoC members paid regular visits to DCs to introduce the concept of gender mainstreaming and discussed with them worthy projects that were conducive to women's development and well-being. For example, in response to WoC's invitation, a number of DCs organized women's leadership training programmes to develop the leadership potential of women in the districts. Some other DCs also set up dedicated working groups or task forces to discuss gender-related issues and organize activities for empowering women at district level.

66. Some commentators were concerned about the progress of implementing gender mainstreaming in the Government. As mentioned above, the Government has been applying gender mainstreaming in different policy and programme areas in a progressive manner. Other than the specific areas to which the Checklist has been applied, staff of Government bureaux and departments have also adopted the concept of gender mainstreaming in the course of their daily work. We will continue to enhance understanding of gender mainstreaming on the part of public officers by strengthening our training and promotion on gender mainstreaming within the Government.

67. There were also calls for the Government to consider adopting gender budgeting. Similar to gender mainstreaming, the objective of gender budgeting is to ensure that both men and women have equitable access to, and benefit from society's resources and opportunities, with the aim of achieving women's advancement and gender equality. In formulating its budget, the Government has in fact taken into consideration women's needs in different areas. For example, in the areas of education, social welfare and health, the three largest components in Government's recurrent spending, about half of the service users are women. It reflects that women can already benefit from society's resources on a par with men in Hong Kong. We would nonetheless keep in view development of gender budgeting around the world. In the meantime, we would continue to strengthen our efforts in implementing gender mainstreaming.

#### **Studies, research and data collection on women**

68. The Government attaches much importance to the collection and compilation of sex-disaggregated data which are important for gender analysis and gender sensitive policy-making. In this respect, C&SD collects and compiles a variety of sex-disaggregated statistics. Examples of such statistics are set out in annex 3A. A considerable proportion of these statistics is already published in the Department's statistical reports. More detailed



breakdowns, which may not have been included in the reports owing to space constraint, can also be made available upon request for meeting the specific needs of data users.

69. Apart from statistics shown in annex 3A, C&SD has also compiled annually since 2001 a comprehensive statistical publication on gender statistics, “Women and Men in Hong Kong – Key Statistics”. This annual publication provides handy sex-disaggregated statistics from a wide variety of sources, which helps reflect the social and economic situation of women and men in the HKSAR including their demographic characteristics, educational levels, employment situation, health condition, and participation in public affairs, etc Besides, a thematic webpage on gender statistics under C&SD's website was launched in early 2010 to further facilitate the use of gender statistics by the general public.

70. Making reference to C&SD's annual publication and supplemented by other useful data collected through various sources, WoC also publishes regularly statistical booklets highlighting key figures in relation to women and men in the HKSAR. The booklets serve as handy and useful references for women's groups, the general public and the international community to understand the progress and development of women in the HKSAR.

71. In addition, WoC has continued to initiate and undertake independent surveys and researches on women's issues in order to gain a better understanding of the situation of women in the HKSAR as well as to facilitate the formulation of women-focused strategies in the promotion of women's interests and well-being. The following studies were conducted after the submission of the previous report:–

(a) A thematic household survey on time use and factors affecting women's participation in society published in September 2003;

(b) A research on FFEP in Hong Kong in collaboration with EOC, published in June 2006;

(c) A study on core life values for parenting education which consisted of literature review, focus group discussions and in-depth interviews with parents, education practitioners, experts in the parenting field. At the same time, surveys targeting school principals, school social workers, parents' representative of the Parent-Teachers Associations (PTAs), parents and their children were also conducted. The findings of the study were released in September 2006;

(d) A study on the development history of women in Hong Kong, including highlights of women's development in Hong Kong, women pioneers during the last century, changes in the status of women over the past two decades and the development of women's groups. Results of the study were featured in WoC's exhibition “Women of Hong Kong – A Century of Development and Contribution” held in 2007;

(e) A telephone survey on community perception on gender issues in terms of gender stereotyping, gender mainstreaming, empowerment, women's contribution, major concern of Hong Kong women in the next five to ten years, and the overall situation of gender equality in the HKSAR. The findings of the survey were published in March 2009.

72. WoC is carrying out a large-scale household survey to assess the different perceptions between men and women towards the current status of women in the HKSAR in the areas of family, economic participation and social participation. The findings will be released in late 2010.

#### **Article 4- Temporary special measures**

73. Regarding measures to improve the interests and well-being of women in the long run as well as special measures provided for under SDO and maternity protection, the position remains the same as reported in paragraphs 39 to 41 of Part II of the previous report.

**Reservation entered in respect of this article**

74. The Government of the PRC understands, on behalf of the HKSAR, that the main purpose of the Convention, in the light of the definition contained in article 1, is the reduction, in accordance with its terms, of discrimination against women, and does not therefore regard the Convention as imposing any requirement upon the HKSAR to repeal or modify any of its existing laws, regulations, customs or practices which provide for women to be treated more favourably than men, whether temporarily or in the longer term. Undertakings by the PRC Government on behalf of the HKSAR under article 4, paragraph 1, and other provisions of the Convention are to be construed accordingly.

**Article 5- Stereotyping and prejudices****Survey by Women's Commission on gender stereotyping**

75. As reported in paragraphs 42 and 43 of Part II of the previous report, WoC has been conducting surveys which aim at gauging the community's views and perceptions of gender-related issues, including the extent of gender stereotyping in society. According to the latest survey conducted by WoC in 2009, gender stereotyping was still prevalent in Hong Kong and gender inequality still persisted in society. Gender stereotyping was found to be more common among male and the older age groups while the younger age groups were more receptive to the concept of gender equality.

**Public education efforts**

76. The Government, in conjunction with WoC, continues to make every effort to address and eliminate gender stereotypes in education and mass media. The efforts made since the previous report are elaborated below.

Promotion of the Convention

77. In collaboration with WoC, the Government has been making continuous efforts in organizing publicity and public education programmes to enhance public understanding of the Convention. These initiatives include holding roving exhibitions in venues including public libraries, district community centres and Government buildings, as well as commissioning over 150 interactive educational drama shows for primary and secondary schools across the territory. In addition, publicity materials including brochures, cartoon booklets, videos and newsletters were produced and widely distributed in order to promote public awareness of the Convention.

78. To further enhance the understanding of the rights of women among the general public, a series of district-based public education activities were organized by the women's groups including seminars, slogan design competitions, ambassador training programmes, drama competitions and district carnivals, etc

Women's Commission

79. Besides efforts to promote the Convention, WoC has also launched various public education and publicity programmes aimed at reducing gender prejudice and stereotyping in society and raising public awareness of gender-related issues. Since the previous report, WoC has launched the following public education programmes:

(a) WoC Conference 2006 with the theme of "Together We Build a Harmonious Community", which attracted over 400 delegates from Hong Kong and the Mainland. The event provided an opportunity for people from all sectors who were concerned about women issues to discuss issues related to the well-being of women and to explore future directions and strategies to promote gender equality and the status of women in Hong Kong;

(b) WoC Conference 2009 entitled "Beyond Limits - Women in the 21st Century", which served as a platform for reviewing the HKSAR's implementation of the Convention and for participants to discuss issues related to the development and well-being of women as well as to exchange views on future direction and strategies to further promote gender equality and the status of women in the HKSAR. The Conference was attended by over 500 people with representatives of women's groups, relevant NGOs, professional bodies, Government officials and students, etc.;

(c) Two series of APIs on television and radio covering the topics of nurturing caring families and domestic violence;

(d) Two 10-episode television drama and docudrama series each with ten independent stories on issues covering women's capacity building, gender awareness, caring families, women's safety, gender prejudices and barriers, etc.;

(e) A 24-episode of 5-minuter television series to showcase the achievements and contribution of local women's groups and NGOs in empowering women, helping them to build self-confidence and independence, and living a more colourful life. Topics covered included work-life balance, housewives, women with disabilities and women's health, etc.;

(f) An exhibition entitled "Women of Hong Kong - A Century of Contribution and Development" to present the history of Hong Kong women's development in various aspects and to enhance gender awareness of the public, together with an essay competition;

(g) Radio programmes on gender-related issues such as FFEP, women's economic participation, etc.;

(h) A debate competition on gender issues for tertiary and secondary students in 2008 with the aim to generate interest, awareness and more thorough understanding of various gender issues among the students;

(i) Annual celebration of International Women's Day including talks on topics covering "Women in Leadership", "Men and Women: An Equal Partnership" and "Women's Participation - An Economic Development Imperative", etc.;

(j) A short video filming competition on gender awareness for secondary students in 2010. A workshop to enhance youngsters' gender awareness and sense of gender equality was also organized; and

(k) A "Forum on Preventing Sexual Harassment in Universities" in 2004 and an "Orientation Camp Game Design Contest to Promote Gender Awareness" in 2005 in collaboration with the EOC.

80. WoC is planning to launch a new television drama series in 2011 which will focus on the common experiences among Hong Kong women of different age groups in the 21<sup>st</sup> century and how they cope with different challenges.

#### The Equal Opportunities Commission

81. EOC continues to promote gender equality through various public education programmes and initiatives. These programmes and initiatives include:

(a) Publications of guidelines and references which are disseminated via seminars, training workshops and community outreach;

(b) Regular updates of the latest information and developments relating to gender equality on the EOC homepage. The website contains resources for preventing sex discrimination in pay, online training module on preventing sexual harassment on campus, Frequently Asked Questions on sexual harassment in schools, and docudrama episodes on gender issues;

(c) Seminars and conferences to promote public understanding of sex and family status discrimination. For example, the “Advancement in Gender Equality – The Swedish and Hong Kong Stories” in 2007 focused on the gender equality advancement in recent years and the “Forum on Preventing Sexual Harassment in Universities” in 2004 which discussed a range of methods to combat sexual harassment in an educational environment;

(d) 1 679 talks on anti-discrimination legislation delivered to 82 852 participants from Government departments, schools, business, community groups and other interested organizations from 2004 to 2009;

(e) Fifty exhibitions held in popular shopping centres and railway stations since 2004 to promote equal opportunities concepts and legislation;

(f) A Community Participation Funding Programme which supports and encourages community organizations to develop projects promoting equal opportunities. About 30 per cent of the projects approved from 2004 to 2009 focused on promoting gender equality and the general equal opportunities concepts;

(g) Public education targeting youth:

(i) Sponsored drama performances and puppet shows in schools;

(ii) Special education television programmes on equal opportunities to enhance the public’s understanding of the ordinances;

(iii) Youth mentorship programme “Career Challenge” which aims at eliminating gender and disability stereotypes organized since 2002;

(iv) To raise students’ awareness of gender equality and as an effort to prevent sexual harassment in an educational environment, an “Orientation Game Design Contest – to Promote Gender Awareness” was held in 2005; and

(h) Advertising campaigns:

(i) Bus advertisements conveying the equal opportunities message;

(ii) Two APIs relating to pregnancy discrimination on television, 9 docudramas on SDO and FSDO since 2004 and 26 episodes of radio programme on SDO/FSDO were broadcast on Radio Television Hong Kong and Commercial Radio 1 since 2006; and

(iii) Exhibition booths at different expos, such as the annual SME Expo and other conference events.

82. Although women’s sexuality is no longer a taboo in Hong Kong, it is questionable whether or not the blatant sexualisation of women’s bodies in the media is liberating. In 2008, EOC commissioned a study to gain a better understanding of public perception of the female gender portrayal in the media, effect of media materials on such perception and sexual stereotyping of women. The research findings show that magazines and newspapers depicting sexual norms and stereotypes may have a profound influence on the public, particularly teenagers’ perceptions about sex, body image and social norms. Many people are uncomfortable with gender representation in advertisements and news pictures, and yet they assume that community would find them acceptable, possibly on the grounds that their broad and regular exposure to these types of media is an indication of common acceptance by society. It is a matter of concern that these sexual contents reinforce gender stereotypes of women as sexual objects and are valued by reference to their physical appearance. Some of the survey findings have been integrated into the “Liberal Studies Teaching Kit” developed by EOC for the Senior Secondary Curriculum of the Liberal Studies. It is anticipated that the kit can enhance critical thinking of the young generation and raise their awareness about the impact of media on gender stereotypes and gender roles in society.

### Committee on the Promotion of Civic Education

83. As mentioned in paragraph 47 of Part II of the previous report, the Committee on the Promotion of Civic Education (CPCE) is an advisory body formed under the auspices of the Home Affairs Bureau (HAB) to promote civic education outside schools and to enhance the general public's civic awareness. The policy responsibility over human rights and equal opportunities was transferred from HAB to the Constitutional and Mainland Affairs Bureau (CMAB) on 1 July 2007. Nonetheless, as human rights education is part and parcel of civic education, CPCE continues to promote in its publications public understanding of and respect for human rights as and when suitable opportunities arise, such as publishing articles to promote concepts of human rights, equal opportunities and elimination of discrimination. CPCE has also granted and will continue to grant sponsorship under its Community Participation Scheme to community organizations to organize activities to promote human rights education.

### **Control of pornography and sex discriminatory elements in the media**

84. Regarding the control of pornography and sex discriminatory elements in the media, the position remains largely the same as explained in paragraphs 49 to 52 of Part II of the previous report, except that the Prevention of Child Pornography Ordinance (Cap. 579) was enacted in 2003, details of which are given in the following paragraphs. Moreover, the Government initiated a review of the Control of Obscene and Indecent Articles Ordinance in 2008. The report of the first round of public consultation was published in July 2009. In light of the public views collected in the first round of public consultation, the Government is considering the way forward for the review. Views received, including those on the composition of the Obscene Articles Tribunal, will be taken into account in the review.

### The Prevention of Child Pornography Ordinance

85. The Prevention of Child Pornography Ordinance, enacted in 2003, strengthens protection for children against sexual exploitation in the form of child pornography, child pornographic performance and child sex tourism. To effectively combat child pornography, the Ordinance targets demand at source. Possession of child pornography is a serious offence and is punishable by imprisonment of up to five years and a fine of up to HK\$1 million (US\$0.13 million). Offenders convicted of producing, publishing or advertising child pornography are punishable by imprisonment of up to eight years and a fine of up to HK\$2 million (US\$0.26 million).

86. To combat sex tourism, the Ordinance also extends the application of 24 sexual offence provisions under the Crimes Ordinance (Cap. 200) to acts committed against children outside Hong Kong. The 24 offences are listed in Schedule 2 of the Crimes Ordinance, which are reproduced in annex 5A.

87. Moreover, any person making or advertising any arrangement relating to child sex tourism, or procuring a child for making pornography or pornographic performance, is punishable by imprisonment of up to ten years and a fine of up to HK\$3 million (US\$0.38 million).

88. In a recent judgement, the Court of Appeal provided four-level sentencing guidelines<sup>1</sup> on a first-time offender convicted of possession of child pornography. Under the

<sup>1</sup> The four-level sentencing guidelines are as follows:

Level-1 (images depicting erotic posing with no sexual activity): Community service order, probation, or fine where the number of offending articles is small (say 20 or less); one to six months imprisonment where the number of offending articles is large or the depictions are extremely suggestive.

guidelines, sentences will be considerably increased, which will enhance the deterrent effect of the law.

89. The Hong Kong Police Force (the Police) have used the new powers under the Ordinance to strengthen their enforcement against child pornography, and will continue to maintain close liaison with overseas law enforcement agencies and local organizations to share information and intelligence, monitor the overall situation, and update the latest development on investigation skills for combating child pornography and child sex tourism activities.

### **Protection of women against violence**

#### International instruments

90. As set out in paragraph 54 of Part II of the previous report, the Government is committed to adhering to the principles of international conventions including the Convention, the Convention against Torture and the Convention on the Rights of Child, which provide for, among other things, protection of women against violence. Article 16 of UNCRPD which has entered into force for the PRC including the HKSAR in August 2008 also calls upon state parties to take all appropriate measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects. In addition to protection by the Basic Law and HKBORO, various policies and measures, details of which to be set out in the ensuing paragraphs, have been taken by the Government in fulfilling its commitment to eliminating all forms of violence against women under the Convention.

#### Legislation protecting women against violence

91. As reported in paragraph 56 of Part II of the previous report, the Crimes Ordinance and the Offences against the Person Ordinance (Cap. 212) continue to apply to protect women against violence. In addition to the enactment of the Prevention of Child Pornography Ordinance mentioned above, the Evidence (Miscellaneous Amendments) Ordinance 2003 amended the Evidence Ordinance (Cap. 8) and the Criminal Procedure Ordinance (Cap. 221) to remove the deficiencies in the rules relating to husbands and wives giving evidence for and against each other in criminal proceedings.

92. As mentioned in paragraph 25 under article 2, the former DVO was first enacted in 1986 to enable a party to a marriage, or a man and a woman in cohabitation relationship, to obtain quick and temporary relief from molestation by applying to the court for an injunction order. In paragraph 58 of Part II of the previous report, we advised the Committee that we would take into account the suggestions and proposals received in reviewing the scope of the former DVO.

93. After careful consideration, we have, through the Domestic Violence (Amendment) Ordinance 2008 and the Domestic Violence (Amendment) Ordinance 2009, amended the former DVO to enhance protection for victims of domestic violence. In particular, the coverage of the Ordinance has been extended to include spouse, former spouse and their children; cohabitants and former cohabitants, whether of the same sex or of the opposite

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Level-2 (sexual activity between children, or solo masturbation by a child): An immediate custodial sentence of up to nine months depending on the number of depictions but even a few depictions will generally attract a custodial sentence.

Level-3 (non-penetrative sexual activity between adults and children): six to 12 months' imprisonment depending on the number of depictions involved.

Level-4 (penetrative sexual activity between children and adults, sadism or bestiality): 12 months (even for a few images) to 36 months' imprisonment.

sex, and their children; as well as immediate and extended family members. Other major amendments included empowering the court to –

(a) Vary or suspend an existing custody or access order in respect of the child concerned when the court makes an exclusion order under the Ordinance;

(b) Attach an authorization of arrest to the injunction order if the court reasonably believes that the respondent will likely cause bodily harm to the applicant or the child concerned; and

(c) Require the abuser to attend an anti-violence programme (AVP) as approved by the Director of Social Welfare (DSW), with a view to changing his/her attitude and behaviour that lead to the granting of the injunction order.

94. In reviewing the Ordinance, the Government consulted different sectors of the community including LegCo, WoC, women's groups, NGOs and sexual minority groups. Deputations were also invited to attend the relevant LegCo meetings to express their views on the subject.

95. Some commentators were concerned that stalking remained a social problem that had yet to be adequately addressed under existing laws and policies. They urged the Government to take on the relevant recommendation of the Law Reform Commission (LRC) to legislate against such harassment. The Government is currently studying LRC's report on stalking in depth for formulating the way forward, and is making preparation for undertaking public consultation on the subject.

#### Domestic violence

##### *Budget allocation*

96. In its previous concluding comments, the Committee recommended that the Government should allocate sufficient resources to combat all forms of violence against women, including domestic violence, and to provide details about budget allocation in its next periodic report.

97. As stated in paragraph 59 of Part II of the previous report, we have adopted a three-pronged approach, namely the provision of preventive, supportive and specialised services for the prevention and handling of domestic violence. In addition to providing services for victims of domestic violence, we consider that supporting needy families through, for example, the provision of childcare services, family crisis intervention, counselling services, etc., would help prevent and resolve family conflicts which might otherwise turn violent. To this end, we have allocated considerable resources to SWD in implementing services under this three-pronged approach for individuals and families in need. SWD's expenditure in this respect increased from some HK\$1.3 billion (US\$167 million) in 2004-05 to HK\$1.8 billion (US\$230 million) in 2009-10.

98. To enhance SWD's capability in handling domestic violence cases, the number of social workers in the Family and Child Protective and Services Units (FCPSUs) of SWD increased from 105 in 2004-05 to 168 in 2010-11, representing an increase of 60 per cent. This pool of experienced social workers responsible for handling serious/high-risk domestic violence cases in SWD is complemented by another 1 000 social workers helping families in trouble in the Integrated Family Services Centres (IFSCs) and Integrated Services Centres (ISCs) operated by SWD and NGOs.

##### *Preventive measures*

99. Since the previous report, the Government has strengthened its support and services for individuals and families at risk of domestic violence. The following paragraphs set out efforts of the Government and other service units in this regard.

100. We advised the Committee in paragraph 61 of Part II of the previous report that 15 pilot IFSCs were set up. SWD has since restructured all the traditional Family Services Centres (FSCs) and related units such as the Family Support and Resource Centres and Counselling Units to form 61 IFSCs (40 operated by SWD and 21 by NGOs) across the territory. IFSCs provide a continuum of preventive, supportive and remedial services such as parent-child activities, enquiry service, resource corner, volunteer development service, outreaching service, support/mutual help/therapeutic groups, educational and developmental groups and programmes, tangible service, financial assistance, counselling and referral service, etc. to meet the changing needs of individuals and families in a holistic manner.

101. In addition to the services provided by IFSCs, we have launched the following initiatives to foster family relationship and provide needy families with early intervention and support –

(a) To encourage families at risk to receive early support, the “Family Support Programme” (FSP) was launched in IFSCs/ISCs, FCPSUs and Psychiatric Medical Social Services Units (MSSUs) starting from 2006 to proactively reach out to vulnerable families, including those susceptible to domestic violence, psychiatric and social isolation problems and were unmotivated to seek help. Between April 2007 and March 2010, FSP had successfully engaged a total of 35 126 individuals/families in IFSC/ISC/FCPSU services or community services. A total of 3 421 volunteers had been recruited as Family Support Persons in 61 IFSCs, two ISCs and 11 FCPSUs under FSP as at end-March 2010;

(b) The seven Family Support Networking Teams operated by NGOs in old urban areas continued to provide outreaching and networking as well as timely intervention to vulnerable families;

(c) SWD commissioned an NGO to operate the new Hotline and Outreach Service Team (HOST) with effect from October 2008. HOST is responsible for manning a 24-hour hotline and for providing outreach service to specific groups in case of emergency warranting immediate intervention by social workers. Since December 2009, HOST has extended its outreach services to cases involving suspected spouse battering;

(d) Clinical psychologists of SWD continued to provide professional support to the people (including victims of domestic violence and sexual violence) in need as described in paragraph 71 of Part II of the previous report;

(e) Since its establishment in 2002, the Community Investment and Inclusion Fund (CIIF) has been providing seed funding to support community-initiated projects that seek to, among others, foster better family relationship and encourage the building of networks among families, thereby strengthening their capabilities to deal with domestic violence. The Fund had supported more than 200 projects involving around HK\$200 million (US\$25.6 million) since its establishment. More details of the Fund will be discussed under article 13;

(f) To sustain the development of parent education, EDB, with the support of the Committee on Home School Co-operation, organized a series of activities such as theme-based seminars, annual symposium, conceptual/skill-based training and production of school profiles annually. EDB also provided grants to the PTAs of schools and the Federations of PTAs of 18 districts to organize home-school cooperation and parent education activities.

102. Parents are responsible for taking care of their young children. That said, to assist parents who are unable to do so temporarily because of work or other reasons (including reasons associated with domestic violence), SWD and NGOs provide a wide range of day and residential child care services to meet their needs. In 2008, SWD launched the pilot Neighbourhood Support Child Care Project (NSCCP) through NGOs and community groups. NSCCP aims to provide parents in need with more flexible child care services in addition to the regular ones, and promote community participation and mutual assistance.



NSCCP has two service components – home-based child care service for children aged under six, and centre-based care groups for children aged three to under six. Flexibility has been provided, with operating hours covering evenings, some weekends and public holidays. Fee subsidy is available for low-income families in need. Feedbacks from service users, carers, service operators and other stakeholders have been positive.

103. Some commentators suggested that the Government should increase the amount of subsidies provided for carers under NSCCP to act as an incentive for more women to participate as carers. It is important to note that NSCCP is not an employment scheme. Its main objectives are to provide needy parents with flexible mode of child care service and promote community participation and neighbourhood support. Some commentators called on the Government to consider extending the service to children aged six and above. We believe that the After-school Care Programme (ASCP) targeting children aged six to 12, instead of NSCCP, can better meet their needs. Services provided under ASCP include homework guidance, meal service, parental guidance and education, skills learning and social activities, etc. Having said that, in exceptional circumstances (e.g. when there is an urgent need for child care services because of emergency), service operators will provide temporary service to children aged six or above on a discretionary basis to ensure that the children concerned can be properly taken care of.

104. To enhance public awareness of the importance of strengthening family solidarity and encourage needy people to seek early help, SWD has launched the “Strengthening Families and Combating Violence” Publicity Campaign since August 2002. Under this Campaign, a variety of territory-wide and district-based programmes are organized each year along the five major themes, namely: the prevention of child abuse, spouse battering, abuse of the elderly, sexual violence and suicide, with emphasis on the importance of cross-professional, cross-sectoral, cross-departmental collaboration and community involvement in combating domestic violence.

*Supportive and specialised services to victims of domestic violence*

105. The number of newly reported battered spouse and child abuse cases whose victims were female in the past few years was as follows:

**Newly reported battered spouse cases with female victims**

<i>Year</i>	<i>Number of Newly Reported Cases</i>
2003	2 925
2004	2 990
2005	3 153
2006	3 749
2007	5 169
2008	5 575
2009	4 012

**Newly reported child abuse cases with female victims**

<i>Year</i>	<i>Number of Newly Reported Cases</i>
2003	303
2004	362
2005	462
2006	467
2007	571
2008	508
2009	589

106. It is believed that undermined family solidarity owing to the rapid demographic, social and economic changes, as well as the heightened awareness of seeking early intervention, contributed to the increase in the number of newly reported cases above. To tackle the situation, SWD has strengthened its supportive and specialised services for victims of domestic violence, as detailed in the ensuing paragraphs.

107. The specialised FCPSUs of SWD handle the majority of the child abuse and battered spouse cases. They provide the needy with integrated services including outreaching, crisis intervention, casework and group work treatment, as well as statutory protection of children. Other support services such as financial assistance, legal aid, psychological assessment and treatment, housing assistance, and child care services, etc. are also arranged in collaboration with relevant Government bureaux or departments as appropriate. The number of FCPSUs expanded from 5 district teams in 2000 to 11 district teams in 2010, and the number of social workers serving in FCPSUs correspondingly increased from 55 to 168 during the same period.

108. To cope with increasing service demand and provide more accessible services to the needy in districts where domestic violence cases are frequently reported, SWD set up an additional Clinical Psychology Unit specialising in domestic violence in August 2008. This unit works closely with the social workers of FCPSUs and has developed assessment tools as well as individual and group treatment packages specifically for the clinical management of domestic violence cases.

109. Apart from expanding its professional units, SWD has also introduced improvement and new measures in combating domestic violence. We have allocated additional resources to strengthen social work support for the refuge centres for women during and after office hours since October 2005. In addition, a new refuge centre (the 5<sup>th</sup>), commenced operation in 2009, provides a total of 40 additional places for the female victims and their children, thereby increasing the total number of places from 120 in 2001 to 260 in 2010.

110. With victims' interest and safety in mind, the Police have adopted a "one family one team" approach and deployed the same investigation unit to follow up cases concerning the same family since 2006. The Police have also implemented the Victim Management Workflow under which a consistent and coordinated approach in victims handling is adopted and proactive measures that are commensurate with the level of risk and gravity of individual cases are taken.

111. SWD has recently implemented a new Victim Support Programme for Victims of Family Violence (VSP). The programme is funded by the Government and run by an NGO to enhance support services to victims of domestic violence, particularly those undergoing the judicial process. Under the programme, victims will be provided with information on the legal proceedings and community resources (such as legal aid service, accommodation and childcare support, etc.). They will also be provided with emotional support and

companionship as appropriate when going through the judicial process. It is expected that through close collaboration with case workers, the victims will be empowered and supported to resume normal life as soon as possible.

#### *Prosecution*

112. The Committee has expressed concern over the low prosecution rate of domestic violence cases in its previous concluding comments. From 2006 to 2009, the number of domestic violence crime cases handled by the Police were 1 811, 2 505, 2 341 and 2 373 respectively. Of these, 1 408, 2 199, 2 060 and 1 951 were dealt with by the Court in the respective years, accounting for 77.7 per cent, 87.8 per cent, and 88 per cent and 82.2 per cent of the number of cases reported to the Police during the respective periods.

113. With a view to protecting victims of domestic violence, pursuing the perpetrators of violence and bringing them to justice, the Department of Justice (DoJ) established a working group in 2006 to identify measures to protect the interests of victims. In November 2006, the working group issued “The Policy for Prosecuting Cases involving Domestic Violence” which provides guidelines to prosecutors on how victims of domestic violence should be treated and their interests protected. Apart from explaining domestic violence and the role of the prosecutor, it also provides guidance on prosecuting practice, encourages the avoidance of delay, prioritizes victim support, reviews the use of bind-over orders, and seeks appropriate levels of sentencing for offenders.

114. DoJ has also implemented a number of measures to fast-track cases of domestic violence. For example, prosecutors are requested to provide legal advice on domestic violence cases within seven working days upon receipt of the case files from the Police. If delay is unavoidable, the victim will be informed of the position by the Police, and the reasons for the delay. The prosecutors will ensure that all the procedures in Court can be done in a fast-track manner. The prosecutors will also apply for an early trial date and, at the same time, if appropriate; the prosecutors will seek to make an application for the witness/victim to give evidence by video link. Domestic violence cases will be tried in Chinese to save time for translation.

115. The Committee also suggested in its previous concluding comments that women’s access to justice should be enhanced. To assist victims of domestic violence to undergo judicial proceedings, the Director of Public Prosecutions under DoJ issued “The Statement on the Treatment of Victims and Witnesses” (the Statement) in September 2009. The Statement provides guidelines to ensure that prosecutors focus on the interests of victims and witnesses, and pay full regard to their rights in handling criminal cases. According to the Statement, prosecutors should, for example, seek to expedite the processing of cases, particularly those involving children and other vulnerable witnesses. Where justified, prosecutors should make appropriate applications to the Court for measures to address the specific needs of witnesses, such as the use of screens to shield witnesses from the accused while testifying, and the use of two-way closed circuit television to enable witnesses to give evidence outside the courtroom through a televised link. Prosecutors should also ensure that witnesses are aware of the arrangements at Court and the availability of facilities, and that witnesses are kept informed of the progress of the cases, and their rights to privacy and confidentiality respected. These measures will help alleviate the anxiety of victims of domestic violence cases during the judicial proceedings.

116. Some commentators suggested that a specialised court be set up to expedite the handling of domestic violence cases. The Judiciary considers that the need for such a separate domestic violence court has yet to be established. The following considerations are relevant. Firstly, the Family Court would, whenever circumstances warrant, give priority to urgent applications relating to domestic violence cases, e.g. applications related to removal of children or injunction applications. Secondly, on the handling of domestic violence cases, a mechanism has been put in place since October 2008 to enable expedited listing of

suitable domestic violence cases. The latter mechanism has been working satisfactorily and should address concerns over the timely handling of domestic violence cases.

*Treatment and counselling for perpetrators of domestic violence*

117. SWD's support services cover not only victims but also perpetrators of domestic violence. In March 2006, SWD launched a two-year pilot project entitled "Batterer Intervention Programme" (BIP). The pilot project was divided into two parts: Part I was conducted by an NGO, targeting batterers involved in less serious spouse battering cases that might not be known to any existing social service providers. Extensive publicity and promotional activities were conducted in order to reach out to potential clients, helping them realise the gravity of their problems and motivating them to join the BIP groups. Part II of the pilot project was conducted by SWD and was characterised by the inclusion of a comparison group and an experimental group to facilitate outcome evaluation. A total of 267 batterers received specialised treatment under BIP during the pilot period. The pilot project showed that the programme was effective in reducing violence by the abusers and in improving their marital situation. In view of the effective results, SWD has now incorporated BIP as a regular intervention service for batterers.

118. In addition, as mentioned in paragraph 93(c) above, SWD has launched the AVP which seeks to change the abusers' attitude and behaviour. AVP is psycho-educational in nature and is suitable for different types of abusers. NGOs have been engaged in delivering the programme. With the enactment of the Domestic Violence (Amendment) Ordinance 2009, the programme has been extended to cover same-sex cohabitants since January 2010.

*Safety report by Women's Commission*

119. In view of the growing concern over domestic violence, WoC published a report entitled "Women's Safety in Hong Kong: Eliminating Domestic Violence" in January 2006. It aimed to put forward a broad framework to conceptualise domestic violence in Hong Kong, and to outline strategies to address victims' empowerment, prevention of violence, timely and effective intervention, as well as community education and support.

120. After consulting over 50 organizations and relevant Government departments, WoC recommended that a multi-disciplinary intervention model should be adopted in tackling domestic violence. WoC recommended five key approaches, namely women's empowerment; prevention, education and community support; early identification and intervention; criminal justice responses; and research, data-sharing and dissemination of findings. WoC also put forward 21 recommendations covering law reform, services, publicity, professional knowledge-sharing, gender mainstreaming and gender-related training, early identification and intervention, etc.

121. In August 2009, WoC published a supplement to the report entitled "Women's Safety in Hong Kong: Eliminating Domestic Violence – An Update and the Next Step" to review the progress made since the first report was issued in January 2006. WoC was pleased to note that good progress had been made on various fronts, such as amendments to DVO, new enhancement measures launched by the Police in handling domestic violence cases, strengthening of welfare services and support for victims of domestic violence and intervention programme for abusers, enhanced public awareness of the problem through public education, and training for frontline professionals, etc. WoC also paid tribute to NGOs, community groups and women's organizations which launched programmes and activities at both community and neighbourhood levels to complement the Government's efforts in strengthening community support networks and enhancing public awareness of domestic violence.

*Research*

122. To improve the understanding of domestic violence and identify appropriate prevention and intervention strategies, SWD commissioned the University of Hong Kong

(HKU) to conduct a study on Child Abuse and Spouse Battering. The study was completed in June 2007 and, as a result, risk assessment tools were developed for use by the trained professionals in handling child abuse and battered spouse cases.

#### Services offered to victims of sexual violence

123. In its previous concluding comments, the Committee encouraged the Government to re-establish the Hong Kong rape crisis centres to ensure that victims of sexual violence receive specific attention and counselling in full anonymity. Following a review of sexual violence-related services, the Government introduced a new, comprehensive, and one-stop service model involving multi-disciplinary assistance for victims of sexual violence in 2007. A new crisis intervention and support centre, the CEASE Crisis Centre, funded by the Lotteries Fund of SWD and operated by an NGO on a three-year pilot basis, was set up in March 2007 to provide timely, professional and specialised services to victims of both genders and their family members on a 24-hour basis. Services provided by the CEASE Crisis Centre include short-term accommodation for adult victims of sexual violence and individuals/families facing domestic violence or in crisis, a 24-hour hotline for the public, counselling services and immediate outreach/crisis intervention, etc. In view of the satisfactory performance of the Centre, and the positive feedback received from service users and frontline professionals concerned, SWD has, since January 2010, provided recurrent funding to continue the Centre's operation. Separately, RainLily, another crisis centre for victims of sexual violence mentioned in paragraph 87 of Part II of the previous report, continues its operation with funding support from the Community Chest.

124. On the law enforcement front, to ease the anxiety of child/mentally incapacitated victims of sexual violence in recounting their ordeals, the Police have set up the Vulnerable Witness Interviewing Suites to provide a friendly environment and "one-stop" facilities for conducting video-recorded interview and, if necessary, forensic examination.

125. The Government is committed to combating sexual violence. The Police handle all reports related to sexual violence professionally and conduct thorough investigation. If sufficient evidence of an offence is obtained, the Police will take firm and decisive action to effect arrest. The Police will also combat sexual offences through prevention and education, and provide suggestions such as ways to avoid falling victim of sexual offences. In addition, we will continue to monitor local and overseas trends of sexual violence cases in order to improve our service for victims.

126. Some commentators expressed concern over the preventive measures for sexual violence against girl child and mentally incapacitated persons. They urged the Government to report progress on enabling employers of persons undertaking child-related work and work relating to mentally incapacitated persons to check criminal conviction records for sexual offences of their employees. In this regard, LRC conducted a consultation exercise in 2008 to consider whether a scheme for the registration of offenders convicted of sexual offences should be established. A report was issued by LRC in February 2010 which recommended, as an interim measure, the establishment of an administrative scheme which would enable employers of persons undertaking child-related work and work relating to mentally incapacitated persons to check their employees' criminal conviction records for sexual offences. In the long run, LRC would consider whether a comprehensive legislative scheme should be introduced, without unjustifiably infringing the privacy and other rights of the offenders or their family members. The Government is considering LRC's recommendations.

#### Cross-sector collaboration on combating violence

127. Some commentators suggested that collaboration among professionals on combating violence should be further promoted. The Government shares the view that collaboration among different government departments, professionals and NGOs is important to the prevention and handling of domestic and sexual violence.

128. As reported in paragraph 89 of Part II of the previous report, the Committee on Child Abuse (CCA) and the Working Group on Combating Violence continue their roles of advising the Government on the strategies and measures in addressing the problem of child abuse, spouse battering and sexual violence.

129. At the district-level, District Co-ordinating Committees on Family and Child Welfare and District Liaison Groups on Family Violence were set up across the territory for the professionals concerned to discuss measures to step up collaboration in handling domestic violence cases, in particular the high risk cases, at the district level.

130. At the case level, social workers of FCPSUs and other units providing casework services, when necessary, will convene multi-disciplinary case conferences to share their knowledge and information on a particular case, with a view to collectively formulating the most appropriate welfare plans for the persons-in-need.

131. The Government attaches great importance to the safety of victims. Collaboration between SWD and the Police in handling high-risk domestic violence cases has been strengthened. Specific measures include –

(a) *Non-Consensual referral for High Risk Cases* – a referral mechanism has been set up since 2003 by which the Police will, with victims' consent, refer victims and/or alleged perpetrators of domestic violence cases to SWD for follow-up services. Under the mechanism, non-consensual referrals could also be made if the case is assessed as high-risk and a Superintendent of the Police, having personally reviewed the case, decides that such referral is warranted. An acknowledgement system is also put in place to strengthen the communication between frontline Police officers and social workers during the case referral process. Upon receiving a Police referral, the social workers will acknowledge receipt and inform the Police of the contact details of the responsible social worker, and whether or not the victims and/or batterers have responded to the services provided;

(b) *Emergency Referral Mechanism for High-Risk Cases* – if a domestic violence case is considered to be of high risk and the situation warrants emergency removal and/or referral at any stage, the Police will make immediate arrangements for temporary accommodation and/or approach the SWD outreach team for immediate crisis intervention;

(c) *Direct Referral Line for the Police* – to facilitate the Police to seek urgent professional advice and/or immediate social work support in handling urgent and high-risk cases, a 24-hour Direct Referral Line was set up in October 2006 between SWD and the Police. If necessary, social workers will perform outreach duties with the Police to handle crisis situations.

132. SWD also maintains close liaison with the Housing Department (HD) to provide housing assistance to individuals and families (including victims of domestic violence) who have genuine and imminent housing problem as explained in paragraph 91 of Part II of the previous report. In 2007, the procedures of housing assistance were further streamlined. Under the new arrangement, HD will undertake initial screening and eligibility vetting for all applications. For applications which do not meet the criteria under HD's prevailing policies but there appear to be social or medical grounds warranting special consideration, HD may seek advice and assistance from SWD or NGOs concerned as necessary.

133. The Government and NGOs have made tremendous efforts in providing child welfare services for the needy families. That notwithstanding, occasional child deaths have aroused public concern. After consulting CCA and making reference to overseas experience, SWD launched a pilot project on Child Fatality Review in February 2008. The project aims to identify patterns and trends of children's death from the child death cases which occurred in 2006 and 2007, with a view to formulating prevention strategies and promoting multi-disciplinary and inter-agency cooperation in the prevention of child death. The Review Panel of the pilot project, which comprises representatives from different fields such as medical, clinical psychology, social welfare, legal, education, academia and parents,

issued its first report in January 2010 on the review results of the child death cases in 2006. The Review Panel also recommended a number of improvement measures for reference by the relevant Government bureaux/departments. At the time of preparing this Report, the Review Panel is reviewing child death cases which occurred in 2007, and an evaluation of the pilot project. The final report will be released in early 2011.

#### Information system

134. SWD manages central information systems to monitor the trends of newly reported battered spouse, sexual violence and child abuse cases. The statistics collected provide useful and objective reference for the department's service provision as well as strategies in combating domestic violence.

135. Separately, the Police maintain an Enhanced Central Domestic Violence Database which captures information of domestic violence, child abuse, elder abuse and missing persons reported to the Police in the past three years. It automatically generates alert messages on repeated cases occurring within a defined period of time for the attention of supervisory officers. The database facilitates better assessment of individual cases and enables officers to make a more informed judgement of the circumstances and the risk level of the case.

136. Some commentators suggested that a central data bank should be set up for the purpose of combating domestic violence. Currently, both the Police and SWD collect statistics concerning domestic violence cases. Nevertheless, the statistics collected serve different purposes. For the Police, the data collected is for police intervention and crime prevention purposes, while for SWD, the data forms the basis for providing support and preventive services for victims of domestic violence and families at risk. Where necessary, the Police and SWD exchange information on domestic violence cases upon obtaining the subject's consent.

#### Training to professionals

137. The Committee suggested in its previous concluding comments that the HKSAR should seek to improve gender sensitivity training for judicial and law enforcement officials, health professionals and social workers on violence against women. The following paragraphs set out details in this regard.

##### *Social workers*

138. It is important to equip social workers with knowledge and skills to enable them to identify cases at risk of domestic violence early and to render assistance to the needy families and individuals. To this end, SWD continues to provide in-service and refresher training for social workers, which aims to enhance, among other things, the sensitivity of social workers in attending to the specific needs of the victims and families in need. Taking the opportunity of the enactment of the Domestic and Cohabitation Relationships Violence Ordinance, SWD also organized additional training to frontline social workers.

##### *Police*

139. The Police issued a new assessment tool, namely the Emergency Referral Questionnaire, in November 2006 to assist frontline officers in identifying and assessing the risk factors of the families involved in domestic violence incidents. An action checklist has also been introduced to assist frontline officers in conducting initial investigation at the scene of a domestic violence case.

140. The Child Protection Policy Unit of the Police has introduced various training programmes to enhance the capabilities of frontline officers in handling domestic violence cases. These programmes cover domestic violence dynamics, psychology of parties involved, questioning techniques, risk assessment, conflict management and service interface with welfare units, etc. The Police have also conducted training to raise officers'

sensitivity in handling domestic violence cases involving same sex cohabitants in the light of the enactment of the Domestic and Cohabitation Relationships Violence Ordinance that came into effect in January 2010.

#### *Health professionals*

141. The Department of Health (DH) provides training for healthcare professionals on gender awareness in collaboration with other organizations. Healthcare professionals of the Family Health Service (FHS) of DH periodically attend training programmes organized by SWD on case handling skills as well as courses conducted by clinical psychologists on empowering approach in interviewing.

142. In addition, staff in the Forensic Pathology Service (FPS) of DH are taught the new service model for handling adult sexual violence cases as well as skills to promote care and service to victims through the “Review Meeting on New Service Model for Handling Adult Sexual Violence Cases” organized by SWD. This is an annual multi-disciplinary meeting for SWD, the Police, the Hospital Authority (HA), FPS of DH and the CEASE Crisis Centre to share and exchange views and experience on handling adult sexual violence cases.

143. HA also seeks to enhance the awareness of healthcare staff in detecting and treating victims of sexual violence through various training. The Accident and Emergency Departments of public hospitals have developed guidelines for healthcare staff on the management of victims of sexual violence and sexual assault, including the procedure and attitude for handling these cases, as well as the reporting and referral mechanism to ensure that the victim is treated in a safe, confidential and protected manner.

#### *Judiciary officers*

144. The Judicial Studies Board provides training programmes for judges and judicial officers (JJO) at all levels. The Board organizes and coordinates JJOs’ participation in various professional training courses, international/local conferences, seminars and visits every year. In June and December 2007, experience-sharing sessions on dealing with domestic violence cases and related issues were organized. As part of its on-going efforts to update JJOs on issues of public concern, new legislation and crime trends, the Judiciary will continue to organize suitable training programmes for JJOs.

#### *Multi-disciplinary training*

145. SWD continues to provide cross-sector training programmes as mentioned in paragraph 101 of Part II of the previous report. For example, on-going training programmes on risk assessment skills, micro-counselling, crisis intervention, treatment of batterers, child protection special investigation, clinical supervision, etc. are provided for social workers, the Police and other professionals. These joint training opportunities facilitate sharing of professional knowledge and good practices among different disciplines. In 2009-10, SWD organized over 100 training programmes for more than 7 000 participants from the department, NGOs and other related disciplines. Apart from the above programmes, training is also provided at the district level to meet the specific needs of individual districts. In addition, dialogue with the Family Court has been maintained to facilitate the processing of court cases involving domestic violence.

## **Article 6- Exploitation of women**

### **Prostitution and trafficking of women**

146. As reported in paragraph 105 of Part II of the previous report, the Crimes Ordinance is the tool to combat exploitation of persons for sexual purposes.



Measures against trafficking of women and girl-child prostitution

147. The Government takes all trafficking allegations seriously. Our law enforcement departments are fully committed to combating all forms of trafficking in persons and have been taking effective measures in a comprehensive manner in terms of enforcement, prosecution, prevention, victim identification and protection.

148. Effective guidance and training are provided to law enforcement officers to equip them with sufficient knowledge in identifying and providing assistance to victims of trafficking. The Government provides support and assistance services to victims of trafficking including urgent intervention, counselling and other support services. Services including shelter, welfare, medical and psychological assistance are available to victims of trafficking through a range of sources. Women victims of trafficking requiring protection are provided with temporary accommodation if necessary.

149. Trafficking in persons is a transnational crime and the Government has been maintaining a close working relationship with local consulates and foreign law enforcement agencies with a view to combating human trafficking through various means including liaison and intelligence exchange, joint investigation and operations, provision of evidence under Mutual Legal Assistance and victims' protection.

150. Hong Kong is neither a destination for human trafficking nor a place of origin for exporting illegal migrants. Over the years, cases of human trafficking were rare. The relevant statistics are as follows:

<i>Year</i>	<i>Human trafficking cases</i>
2005	3
2006	3
2007	4
2008	1
2009	2

151. We do not have separate statistics in relation to trafficking of children for the purpose of prostitution.

152. To combat sex tourism and child prostitution, the Prevention of Child Pornography Ordinance was enacted in 2003 to provide extra-territorial effect to a list of sexual offences under the Crimes Ordinance to criminalise the arranging and advertising of child sex tours as mentioned under paragraphs 85 to 87 under article 5.

153. The Government is committed to combating all kinds of illegal prostitution activities, especially prostitution activities organized by syndicates and those involving underage girls. The Police will continue to take proactive enforcement action to combat these activities, and will adjust their strategies having regard to circumstances to ensure effective law enforcement.

Assistance available and protection rendered to sex workers

154. Under the laws of Hong Kong, it is illegal for third parties to use prostitution of others as a means of exploitation. The Government spares no effort in combating organized prostitution and vice activities that may cause nuisance to the public. Some commentators suggested that the current law is conducive to discrimination against sex workers and may directly or indirectly deprive sex workers of their right to free choice of work. However, the current legislative regime tolerates the operation of "one sex worker apartments" while criminalising the operation of vice activities involving more than one sex worker. This arrangement strikes a reasonable balance between the human rights and privacy of sex workers on the one hand, and the well-being of other members of community and the prevailing moral values of community on the other. From the law and order perspective, the

existing vice-related offences help contain the opportunity for organized exploitation of sex workers.

155. The Government also takes note of the concern from commentators regarding the safety of sex workers. To address this concern, the Police have adopted various measures to enhance communication with sex worker concern groups and enhance safety protection offered to sex workers. Apart from meeting with sex worker concern groups from time to time to discuss issues of concern, the Police offer crime prevention advice and disseminate information to sex workers alerting them to the modus operandi of crimes targeting sex workers and the description of wanted suspects of related cases. Besides, police officers at the district level maintain liaison with sex workers in their operational areas to facilitate bilateral intelligence exchange for combating crime.

156. Sex workers in need of welfare services and who are willing to accept external intervention may receive counselling and welfare assistance provided by the 61 IFSCs and two ISCs. Assistance such as financial relief, counselling, housing assistance, referral services, etc. can be arranged to help them tide over the hardship they may encounter upon giving up prostitution. Social workers of SWD will render statutory supervision to sex workers below the age of 18 by way of initiating Care or Protection proceedings pursuant to the Protection of Children and Juveniles Ordinance (Cap. 213) if necessary. Residential care may be arranged as appropriate to ensure the provision of adequate care to prevent them from being exploited.

157. On the other hand, free regular check-up, screening, treatment, counselling and education services for the prevention of sexually transmitted diseases (STD) are offered to sex workers who are local residents in the six STD clinics. Details will be covered in article 12.

#### Application of laws against violence to prostitutes

158. Existing laws relating to violence against women, for example, rape, buggery, indecent assault and other assaults, apply equally to sex workers as to any other women in society. Protection is rendered to all women irrespective of whether they are sex workers or not.

### **Article 7- Equality in political and public life at the national level**

#### **Women in the Legislative Council, District Councils and the Election Committee for the Election of the Chief Executive of the HKSAR**

159. The political system of the HKSAR is explained in paragraphs 11 to 25 of the common core document. As explained in paragraph 115 of Part II of the previous report, women have equal rights as men to vote and to stand for elections to District Councils and the Legislative Council, including functional constituencies (FCs). This right is safeguarded by the Basic Law. Under the relevant legislation, a person's gender is not a criterion, either direct or indirect, to qualify a person as an elector or a candidate in elections, including FCs elections.

160. Female electors constitute around half of the registered electorate. In the 2008 LegCo election, there were 1.67 million registered female electors on the electoral register, representing 49.7 per cent of all the registered electors in Hong Kong. This compared with 1.63 million (49.3 per cent) and 1.57 million (48.9 per cent) registered female electors in the 2007 DCs election and 2004 LegCo election respectively. Furthermore, out of the 1.52 million voters who cast their votes in the 2008 LegCo election, 48.9 per cent were female. The corresponding figures for the 2007 DCs election and the 2004 LegCo election were 50 per cent and 48.7 per cent respectively.

161. Women in the HKSAR also stand as candidates in the elections to the LegCo and DCs. In the 2008 LegCo election, 38 candidates (18.9 per cent) out of the 201 candidates were women. Eleven of them were elected making 18.3 per cent of the membership of the 60-member legislature. For the 2007 DCs election and the 2004 LegCo election, the number of female candidates was 167 (18.4 per cent of 907 candidates) and 26 (16.4 per cent of 159 candidates) respectively. The number elected was 78 (accounting for 19.3 per cent of 405 elected members) and 11 (accounting for 18.3 per cent of 60 elected members) respectively.

162. The Government does not agree that the electoral system of FCs may constitute indirect discrimination against women, a concern expressed in the previous concluding comments. As explained in paragraph 159 above, the current electoral system does not contain structural obstacles to equal political participation by women. The FCs represent substantial and important sectors of community, such as education, labour, social welfare, health care and businesses. The electorate of the existing 28 FCs is delineated in accordance with a set of clearly established criteria. The legislation governing voter registration in FCs does not have any differential treatment as to gender. Indeed, a total of 117 814 female electors have registered in the FCs under the 2010 Final Register, making up 56.2 per cent of total registered electors. Of the 11 serving female LegCo Members, four were returned from the FCs. There is no evidence that the elections for the FCs have put female candidates in a disadvantaged position. Moreover, under the proposal made by the Government to LegCo in October 2010 for the five new FC seats to be added to LegCo in 2012, the five seats are to be elected by all registered electors who currently do not have a right to vote in the existing FCs on a one-person-one-vote basis. In other words, all registered voters, irrespective of gender, occupation or profession, or whether they are in the labour market, will have the right to vote in one of the existing or new FCs.

163. Women and men also enjoy the same right to vote and to stand for election of members of the Election Committee (EC), which is responsible for electing the Chief Executive of the HKSAR. For the current-term EC, 664 members were returned through elections<sup>2</sup>, i.e. the 2006 EC subsector elections, in which there were 112 844 female registered voters, representing 55.1 per cent of the overall number of registered individual voters<sup>3</sup>. A total of 1 107 candidates stood for the subsector elections, out of whom 156 (14.1 per cent) were female. Among these female candidates, 87 were elected. Following the subsector elections, the current-term EC was constituted in 2007. It had 109 female members (at the time of the third-term Chief Executive election in 2007), ten more when compared to the EC of the previous term (at the time of the second-term Chief Executive election in 2002).

164. There have been calls from some commentators for adding a new women subsector in the EC. Under the proposal made by the Government to LegCo in October 2010 for the increase of the number of EC members from the current 800 to 1 200 in 2012, we do not propose to add any new subsectors, because the new subsectors which may be considered (including small and medium sized enterprises, youth and women) include many organizations with very diverse nature in their respective fields. It would be difficult to include all organizations in such subsectors. If only some of the organizations are designated as part of the electorate, other organizations may raise questions on the eligibility criteria for registration. Having considered the difficulty in and the time required

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<sup>2</sup> Apart from the 664 seats filled by members returned by elections, the Election Committee also comprises 96 ex-officio members (i.e. Hong Kong deputies to the National People's Congress and Members of the LegCo) and 40 members nominated by six designated religious bodies.

<sup>3</sup> According to the latest Final Register published in 2010, there are 118 873 female voters registered for the subsectors, representing 55.7 per cent of the overall number of registered individual voters in the various subsectors.

for achieving a consensus on the generally accepted eligibility criteria for registration for any new subsectors, it would be desirable to maintain the status quo of keeping the existing subsectors, which are broadly representative.

#### **Women in the Executive Council**

165. As of March 2010, seven out of 29 members (24.1 per cent) of the Executive Council are female.

#### **Women in rural elections**

166. Issues relating to women in rural elections are covered under article 14 “Rural Women”.

#### **Women in advisory and statutory bodies**

167. The network of Government ASBs is a distinctive feature of the system of the Government. It includes executive bodies and advisory bodies. The executive bodies discharge duties necessary for the effective and just functioning of society. They include boards of directors for public corporations, public bodies or trust funds, and bodies serving regulatory or discipline functions, and dealing with appeals. Many of the advisory bodies provide information and recommendations on a wide spectrum of areas that range from fundamental livelihood issues such as housing and education, affairs of particular districts to highly specialised and technical subjects such as handling of dangerous goods and AIDS prevention. As at 31 March 2010, there were 5 679 Government appointed non-official members serving on some 430 ASBs.

168. Members of ASBs are appointed on merit, taking into account their abilities, expertise, experience, integrity and commitment to public service, having regard to the functions and nature of ASBs concerned and relevant statutory requirements for statutory bodies. The Government maintains a database of individuals interested in serving in ASBs, namely the Central Personality Index (CPI), to facilitate the appointing authorities’ identification of suitable candidates.

169. To enhance the level of women's participation in these bodies, the Government has taken a proactive approach. For example, respective appointing authorities would be reminded around six months before the expiry of membership to take into account gender balance when making appointments. All bureaux have been encouraged to invite talented female to contribute their curriculum vitae for inclusion in the CPI.

170. The Government has been working closely with WoC in promoting women’s participation in ASBs over the years. Taking into account the advice of WoC, the Government has, since 2004, set a gender benchmark of 25 per cent as an initial working target for appointment to ASBs. The women’s participation rate in ASBs reached the target of 25 per cent in overall terms in December 2005 as compared with 20.3 per cent in December 2002. As at end-March 2010, 28.1 per cent of the appointed members were women. The Government considers that the gender benchmark should be further raised in the longer term to be in line with international norms. After a review of the latest situation in early 2010, the Government decided to raise the gender benchmark target from 25 per cent to 30 per cent with effect from June 2010. The Government will closely monitor the situation and continue its efforts in promoting women’s participation in ASBs.

171. In order to encourage more women to participate in ASBs, WoC has issued letters to women’s associations and professional institutions, inviting them to encourage women who are able and willing to participate in the work of ASBs to contribute their curriculum vitae to the CPI.

**Women in public offices**

172. The position regarding the Government policy on recruitment and promotion as reported in paragraph 123 of Part II of the previous report remains the same.

173. Over the past ten years, female participation in the Civil Service has increased steadily. The percentage of female staff in the Civil Service has risen from 33 per cent in 1999 to 34.6 per cent in 2009. Furthermore, the number of senior female directorate officers in the Civil Service has increased from 270 in 1999, to 316 in 2004, and to 396 in 2009. In March 2010, female civil servants made up 32.1 per cent of top positions (directorate officers). Six out of 17 Permanent Secretaries (the most senior civil servants) were female. Among the 20 Principal Officials, the Secretary for the Civil Service, Secretary for Development, Secretary for Transport and Housing and Secretary for Commerce and Economic Development are female.

**Nurturing women leaders**

174. Some commentators considered that women still faced challenges and difficulties in participating in decision-making and other public affairs. This might be attributed to the traditional role of women as family care-givers which inhibits them from stepping into the public arena, lack of family support and understanding, etc. The commentators recommended that the Government should allocate more resources to assist women's groups in training and cultivating more women leaders and to provide a more supportive environment for women to participate in decision-making and public affairs. In this respect, the Government has been working closely with WoC and relevant parties to put forward programmes to train up women leaders. For example, a learning module on women leadership was introduced in CBMP in 2009. It covers areas including enhancing the interpersonal, presentation and leadership skills of women. The Government and WoC members also paid regular visits to DCs to introduce the concept of gender mainstreaming and discuss with them worthy projects that are conducive to women's development and well-being. In response to WoC's invitation, a number of DCs have organized women's leadership training programmes to develop the leadership potential of women in the districts. Some other DCs have also set up dedicated working groups or task forces to discuss gender-related issues and to organize activities for empowering women at the district level.

**Article 8- Equality in political and public life at the international level****Officers representing the Government at international level**

175. Officers at directorate ranks as well as those posted at Hong Kong Economic and Trade Offices on the Mainland and overseas often represent HKSAR. Posts in the Civil Service are filled by the best suitable officers, irrespective of gender. Officers are selected purely on the basis of relevance to their work and exigencies of the service. Female officers are given the same consideration as male officers. As at 31 March 2010, females made up 32.1 per cent of directorate officers. Among the 14 Hong Kong Economic and Trade Offices in the Mainland and overseas, seven are headed by female officers.

176. Furthermore, female officials have actively represented the Government in the work of international organizations and participated in various international fora such as those under Asia-Pacific Economic Cooperation, World Trade Organization, World Health Organization (WHO) and International Labour Organization. Women continued to make up a substantial number of members in the Government team attending hearings of various United Nations human rights treaties. It is also worth noting that the former Director of Health of the HKSAR Government, Dr Margaret Chan, has assumed the post of Director-General of the WHO since 2006.

## **Article 9- Equality in nationality laws**

177. The position remains as reported in paragraphs 127 and 128 of Part II of the previous report in relation to acquisition and transmission of nationality and the Immigration Ordinance (Cap. 115).

## **Article 10- Equality in education**

### **Overview of the education status of women in Hong Kong**

178. Opportunities to education and training are important elements in empowering and enabling women to participate fully in society in different aspects. With social advancement in Hong Kong, the overall educational attainment of both women and men improved markedly. For Hong Kong as a whole, women appeared to have a lower level of educational attainment than men. However, this was because the figures included older generation women who generally had a smaller chance of receiving education when they were young. Of the female population aged 15 and over, 74 per cent had attended secondary education and above in 2009, compared with 81 per cent for men (annex 10A).

### **Primary and secondary education**

#### New Senior Secondary academic structure

179. As Hong Kong develops into a knowledge-based economy, a new academic structure for the senior secondary education and higher education (three years in the senior secondary with the length of a normal undergraduate degree to be extended from three to four years) was implemented in September 2009 starting from Secondary 4. Under the New Senior Secondary (NSS) academic structure, all Secondary Three graduates can directly proceed to senior secondary education. All students, regardless of sex, can study up to Secondary Six of the senior secondary level and sit for the Hong Kong Diploma of Secondary Education examination.

#### Provision of free senior secondary education through public sector schools

180. The Government has been providing nine-year free and universal basic education (six years of primary education and three years of junior secondary education) through public sector schools since 1978. To demonstrate the Government's commitment to education and to respond positively to calls from the community, we have extended free education to include senior secondary education provided by public sector secondary schools, regardless of sex, starting from the 2008-09 academic year.

181. The NSS academic structure and the extension of nine years of free education to 12 years have facilitated equal access to education in Hong Kong for both male and female. All students, regardless of sex, are entitled to benefit from six years of secondary education. Every student has the opportunity to study the four core subjects: Chinese Language, English Language, Mathematics and Liberal Studies. All students can also choose two to three electives from a diverse range of subjects including Technology and Living (formerly Home Economics) as well as Design and Applied Technology, which are currently selected by both genders at the senior secondary level. The NSS curriculum is designed in such a manner that all students have the same opportunity to study subjects that best suit their interests, needs and abilities, be they boys or girls, for whole-person development and life-long learning.

#### Secondary School Places Allocation System

182. The Education Commission conducted a comprehensive review on the Secondary School Places Allocation (SSPA) System in 2003. The recommendations to increase the discretionary places (DP) quota from 20 per cent to 30 per cent to allow students to apply to

two secondary schools instead of one at the DP stage, and to set aside 10 per cent of the central allocation places for allocation unrestricted by school nets with a view to further enhancing the choices for parents, were accepted by the Government in December 2005. The revised SSPA System, which upholds the principle of equality in rights and opportunities for girls and boys, has been implemented with effect from the 2007 allocation cycle.

#### Improvement in school curriculum and policies

183. The school curriculum in Hong Kong provides all students with a broad and balanced curriculum with essential learning experiences and diversified learning opportunities to develop their potential. All students, irrespective of gender, have equal opportunities to study all offered subjects in their schools and to acquire knowledge, develop generic skills and nurture positive values and attitudes with a view to achieving the overall aims of education for life-long learning and whole-person development.

184. All primary school students, irrespective of gender, study the same curriculum. At the junior secondary level, EDB also provides a wide range of subjects to equip students with the necessary prior knowledge for the study of a more diversified senior secondary curriculum. Diversification in the new senior secondary curriculum can be seen, for instance, in the subject of Technology and Living which is designed for all students, irrespective of gender and background knowledge, including students from boys' schools without prior learning. Likewise, the subject of Design and Applied Technology is designed to cater for students of both genders.

185. The Government is committed to the promotion of whole-person development of students. The promotion of values, such as "Respect and Care for Others" and "Responsibility", is highlighted in the school curriculum since the curriculum reform in 2001. Promotion of concepts and values on gender awareness is achieved by the school curriculum, such as the subject General Studies at primary level, Liberal Studies in secondary schools as well as Moral and Civic Education in both primary and secondary schools. Through the school curriculum, students should be able to understand the importance of gender equality, gender roles and relationships, differences among people and the need to respect the rights of others, appreciate multiple values, learn how to respect and care for others, as well as to maintain harmonious relationships with other people. In recent years, WoC collaborates with the EDB to ensure that gender issues, including gender awareness, are adequately covered in the school curriculum.

186. Some commentators were concerned that dress code imposed by many primary and secondary schools on teachers and students may violate the principle of gender equality. The Government is committed to promoting the principle of equal opportunities and eliminating all forms of discrimination. EDB has reminded schools through circulars and the "School Administration Guide" that in formulating and revising their school policies and procedures, they should observe the principle of equal opportunities and avoid any form of discrimination apart from compliance with the anti-discrimination ordinances (including SDO). Schools should not subject their staff members and students to discrimination or unfair treatment owing to their race, gender, and disability, etc

#### **Post-secondary education**

187. For post-secondary level education, which includes Associate Degree and Higher Diploma programmes, students are admitted on the merit of their academic attainment and prior learning experiences, irrespective of gender. In the 2008-09 academic year, female students accounted for around 48 per cent of the student population undertaking sub-degree programmes. The corresponding figures for publicly- funded and self-financing sub-degree programmes were around 42 per cent and 51 per cent respectively.

**Higher education**

188. On university education, recent statistics on the total enrolment of all programmes funded by University Grants Committee (UGC) in annex 10B indicate that there are slightly more female than male students. In the 2009-10 academic year, 53.9 per cent of the students were female. It should be noted that HKSAR's tertiary education institutions have adopted a policy of equality for students of both sexes. The admission criteria are based mainly on academic achievements and they are the same for women and men.

189. Female students have a stronger presence in the fields of social sciences; arts and humanities; education; medicine, dentistry and health; and business and management. While there are more male first degree graduates and post-graduates in the fields of physical sciences, and engineering and technology, statistics show an increasing participation of female students. In the 1997-98 academic year, 63 per cent of the degree graduates from physical sciences and 83 per cent from engineering and technology were male, and the figures had decreased to 62 per cent and 71 per cent respectively in the 2008-09 academic year. A similar trend is also found in these two programme categories at post-graduate level. Detailed statistics are set out in annex 10C. On the whole, more female students are now taking part in the post-graduate study programmes, and the percentage of female graduates in post-graduate programmes increased from 39 per cent in 1997-98 academic year to 52 per cent in the 2008-09 academic year.

190. On study programmes, Government-funded gender studies are offered at the postgraduate level. Course electives on areas like family and gender studies, gender and society, gender psychology, sexuality and cultural politics, etc. are available for undergraduate students. Also, all tertiary institutions have their own established mechanisms or procedures for handling sexual harassment cases, including setting up committees/working groups which will consider sexual harassment cases and promote equal opportunities within the campus, designating an Equal Opportunities Officer; and publishing policy documents, guidelines and codes for students and staff on sexual harassment and equal opportunities in general.

**Vocational education**

191. Women also enjoy equal access to vocational training as men. Such information has been covered in paragraph 137 of Part II of the previous report. There are more female trainees enrolled in vocational training courses offered by the Vocational Training Council. In 2001-02, only 36.1 per cent of the students enrolled were female and the figure in 2008-09 rose to 47.2 per cent. Detailed figures on vocational training in the HKSAR are set out in annex 10D.

**Continuing education**

192. To prepare people for the advent of the knowledge-based economy, the Government has been promoting life-long learning and encouraging Hong Kong people to actively enhance their own knowledge and skills. To this end, EDB has been providing financial assistance to adult learners attending evening courses on mainstream curriculum for secondary education. These courses which are open to all Hong Kong residents including new arrivals and ethnic minorities are all co-educational. According to statistics, about 50 per cent of the learners are female. EDB will continue to uphold the principles of equal opportunity.

193. Offering higher education to all adults, OUHK adopts a policy of open access and equality for both sexes. In the 2009-10 academic year, there were 9 310 female students enrolled in programmes of various levels, constituting 52.3 per cent of the total student population.



194. In promoting continuing education among women and men, some new measures have been adopted in recent years. They include:

#### Continuing Education Fund

195. As explained in paragraph 151(a) of Part II of the previous report, the HK\$5 billion (US\$640 million) Fund was established in 2002. In July 2009, as a one-off measure in view of the economic downturn in the wake of the financial tsunami, an additional HK\$1.2 billion (US\$154 million) was injected into the Fund. Eligible applicants continue to be reimbursed 80 per cent of their tuition fees up to a maximum of HK\$10,000 (US\$1,280), on successful completion of an approved course. As at 31 March 2010, over 555 000 applicants had applied for the subsidy and 57 per cent of them were women.

#### Project Yi Jin<sup>4</sup>

196. Project Yi Jin is a programme launched in 2000 to provide an alternative route for further studies. It is open to all secondary school leavers and adult learners, irrespective of sex. It is skill-based with an emphasis on biliteracy, trilingualism, information technology (IT) application and practical subjects. There were a total of 12 232 students taking part in the full-time Project Yi Jin in 2009-10 of which 32 per cent were female. More male students took courses related to IT while more female students took courses like Beauty Therapy and Make-up. Gender differences in other subjects were not apparent.

197. A tracking survey on full-time Yi Jin graduates for 2007-08 was conducted. The results show that the pass rates of the female and male students were very similar and were around 60 per cent. Also, the patterns of job type, job nature and monthly salary of the graduates did not suggest any gender differences.

#### Qualifications Framework

198. The Hong Kong Qualifications Framework (QF) was launched in May 2008. It provides a platform to promote lifelong learning and hence enhance the competitiveness of the workforce in Hong Kong. The QF is a seven-level hierarchy that orders and supports qualifications of academic, vocational and continuing education sectors, and is underpinned by a robust quality assurance mechanism. All qualifications recognized under QF are quality assured. Information on qualifications and learning programmes that have been quality assured and recognized under QF are uploaded on a Qualifications Registry (QR) and made available over the internet free of charge to the public. Through QR, learners and employers can easily check and compare the level of locally accredited qualifications. Learners with different educational backgrounds, whether they are female or male, can also make use of QR to map out their own study pathways.

#### Life-long learning for women – the Capacity Building Mileage Programme by the Women’s Commission

199. WoC launched CBMP in 2004 as a key initiative in empowering women by way of continuing education. CBMP is a flexible learning programme tailored to the needs and interests of women. It is delivered through radio broadcasting, internet and face-to-face courses delivered by NGOs. Courses include managing inter-personal relationships, finance management, health and other practical issues in women’s daily life.

200. Since its launch, CBMP has encouraged women of different backgrounds and educational levels to pursue life-long learning and self-development. Feedback from students is that they have benefited from the programme in terms of increased interest in learning, enhanced confidence and knowledge in resolving problems in daily life, and

<sup>4</sup> Project Yi Jin, with Chinese meaning of “determination to advance”, is a bridging programme to provide an alternative route and to expand the continuing education opportunities for secondary schools learners and adult learners.

sharpened communication skills which help improve their inter-personal relationships in family and employment contexts.

201. CBMP recorded a cumulative enrolment of over 35 000 since 2004, in addition to the large network of audiences reached through the radio programme. According to a survey conducted in 2008, it was estimated that about 720 000 people had listened to the radio programme in the year preceding the survey.

202. Starting from 2007, the Government has provided funding to support the continued operation of CBMP, such that CBMP course fees have been set at a relatively low level to provide affordable learning opportunities for women. Additional resources have recently been allocated to expand CBMP programmes and provide fee remissions to women with financial difficulty.

#### **Special education for girls with disabilities**

203. All children with special educational needs (SEN) enjoy equal opportunities to receiving education in the HKSAR regardless of their gender. In consideration of the assessment and recommendations of specialists or medical practitioners, parents may have their children enrolled in special schools or ordinary schools. EDB provides resources and professional support for public sector schools to help them cater for the needs of their students with SEN. Schools may deploy their resources flexibly to support students, regardless of their gender, according to their SEN. At present, the majority of the public sector schools, including special schools, are co-educational (except for the boys' schools or girls' schools for children with behavioural and emotional difficulties), and girls and boys have equal rights to free education up to senior secondary level. The principle of equal opportunity is, and will continue to be, upheld in special education in Hong Kong.

204. Some commentators were concerned about the rights of education for girls with disabilities under the NSS academic structure. With the implementation of the NSS academic structure with effect from the 2009-10 academic year, all eligible students, including those with disabilities and regardless of gender, are provided with free senior secondary education in ordinary or special schools in the public sector. It is a norm that students complete their primary and secondary education under the respective academic structures. There are, however, special circumstances where individual students of special schools may need to extend their years of study owing to various reasons. All along we have a mechanism in place to allow individual students in need and with valid reasons, regardless of gender, to extend their years of study in special schools. To tie in with the implementation of the NSS academic structure, EDB has deployed resources to implement improvement measures on the mechanism on extension of years of study for students in special schools from the 2010-11 academic year.

#### **Education provided for designated groups**

205. Education opportunities for non-Chinese speaking students, children with no right to stay and newly arrived children/young people from the Mainland are equal for both male and female. The relevant details have been set out under article 13 of our third report under the International Covenant on Economic, Social and Cultural Rights.

#### **Sex education**

206. Sex education is an integral part of the school curriculum. Important priority values, including respect and care for others, responsibility and commitment, are to be nurtured in students so that they can exercise proper value judgement when they come across challenges arising from puberty and discussing sexuality issues. Moreover, schools are also encouraged to provide opportunities for students to discuss sexuality issues from multiple perspectives. Sex Education is covered in different Key Learning Areas and subjects of both the primary and secondary curricula, such as General Studies in primary

schools and Liberal Studies in secondary schools as well as Moral and Civic Education in both primary and secondary schools. Apart from classroom teaching, schools organize other learning activities, such as talks, forums, debates and visits to further strengthen students' understanding of sex, and enhance their ability to analyze and judge sex-related social issues with rational and responsible attitudes. To support the implementation of sex education in schools, EDB regularly organizes teacher professional development programmes. In addition, different themes of websites and learning and teaching resource materials are produced for teachers' reference and use.

#### **Financial assistance for students**

207. The Government ensures that no student is denied access to education because of a lack of means. The Government Student Financial Assistance Agency (SFAA) provides financial assistance and administers scholarship schemes to students from kindergarten to tertiary levels. Eligibility is based on the financial need of the applicants and, in the case of scholarships, on merit regardless of gender.

208. The Government continues to operate the financial assistance schemes for needy kindergarten to secondary school students, as well as the means-tested financial assistance schemes for needy post-secondary and tertiary students and the non-means-tested loan scheme for these students and students pursuing continuing and professional education programmes mentioned in paragraph 141 of Part II of the previous report. Since the 2007-08 academic year, the Government has implemented the Pre-primary Education Voucher Scheme to provide non-means-tested fee subsidies for parents with children attending kindergarten classes in eligible local non-profit-making kindergartens. With the extension of free and universal education from primary and junior secondary levels to senior secondary level from the 2008-09 academic year, the Senior Secondary Fee Remission Scheme ceased to operate. All the financial assistance schemes administered by SFAA provide assistance for both male and female students.

209. Scholarships to students are normally based on merit and the majority of them are provided by private donors and organizations. Most scholarships are open to students of both sexes although some are made available only to female students.

#### **Gender awareness education for teachers**

210. As mentioned in paragraph 185 above, our primary and secondary school curricula have covered contents of gender issues to teach students to respect the opposite sex, and cultivate in them the positive values of "Respect and Care for Others" and "Gender Equality". EDB will continue to organize regular professional development programmes to deepen teachers' knowledge and develop their pedagogical repertoire to promote education on gender issues, including gender awareness, in the school curriculum.

#### **Women in the teaching profession**

211. Women have always enjoyed equal employment opportunities with men in the teaching profession. In fact, female teachers consistently out-numbered their male counterparts in the last three academic years (i.e. 2006-07 to 2008-09). During this period, the ratio of female to male teachers stood at 56 per cent and 44 per cent respectively.

212. In the higher education sector funded by UGC, there has been a slight increase in females taking up professor and reader grades in recent years. Taking the two grades together, the percentage of females rose from 11 per cent in 2005/06 to 13 per cent in 2009/10. A staff profile by grade and by sex of UGC-funded institutions in recent years is set out in annex 10E.

## **Article 11- Equality in employment and labour rights**

### **Reservations entered in respect of this article**

213. The Government of the PRC reserves the right for the HKSAR to apply any non-discriminatory requirement for a qualifying period of employment for the application of the provisions contained in article 11, paragraph 2. We consider that the existing requirement of a continuous contract for entitlements to maternity leave and maternity leave pay is necessary, taking into account the need to strike a balance between the interests of employers and employees.

214. The PRC Government also reserves, for the HKSAR, the right to apply all its legislation and the rules of pension schemes affecting retirement pensions, survivors' benefits in relation to death or retirement (including retirement on grounds of redundancy), whether or not derived from a social security scheme. A number of occupational retirement schemes registered under the Occupational Retirement Schemes Ordinance (Cap. 426) have been in place before the Convention on the Elimination of All Forms of Discrimination against Women was extended to the HKSAR in 1996. As the employers and administrators of these registered occupational retirement schemes are not entitled to alter the terms which would adversely affect some scheme members, they have difficulties in removing the existing discriminatory terms. We trust that the number of such schemes is decreasing and will phase out in the course of time.

### **Women's participation and standing in the economy<sup>5</sup>**

215. Improved educational attainment; marriage postponement and increased prevalence of spinsterhood among women have been conducive to the growing participation of women in the labour force. In 2009, 50 per cent of the female population aged 15 and above were economically active and they accounted for 43 per cent of the labour force. The bulk of the female labour force was in the age group of 20-49. These persons together made up 34 per cent of the labour force. Detailed statistics on labour force by sex and age are given in annex 11A.

216. Reflecting both the increasing aspiration of women to take up paid employment and the growing employment opportunities for them, the labour force participation rate for females in the 30-49 age group rose steadily in the past decade. However, the labour force participation rate for females aged 15-29, same as their male counterpart, dropped over the years, as more young people preferred to pursue higher education, along with an increase in education opportunities. The labour force participation rate for both males and females aged 60 and above was generally on an uptrend over the past decade, as less people in that age group retired. Detailed statistics on the labour force participation rates by sex and age are given in annex 11B.

217. In the HKSAR, males and females have equal access to all levels of education. The nine-year universal basic education introduced since 1978 has provided opportunities for all members of society, including women, to acquire the necessary knowledge and skills for their areas of pursuit. By 2009, 35 per cent of all the female employed persons had attained post-secondary education. The corresponding figure for the male employed persons was 32 per cent (annex 11C).

218. The unemployment rate for females is generally lower than that for males. In 2009, the unemployment rates for females and males were 4.4 per cent and 6.2 per cent respectively (annex 11D). After excluding foreign domestic helpers (the great majority of them are females), the unemployment rate for females was 5.1 per cent and the gap between

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<sup>5</sup> The statistics under this section have excluded FDHs.

the unemployment rate for males and females narrowed. The remaining gender differential in unemployment rate was mainly attributable to much higher unemployment rates for males than females in male dominating industries such as construction and transportation sectors.

219. In general, along with the expansion in education and training opportunities, there has been a steady rise in the proportion of women at the higher end of the occupation hierarchy (annex 11E). Also, women have continued to enjoy a wide choice of occupations in recent years. Over the past decade, employment opportunities for married women were on the rise. In 2009, ever married women accounted for 27 per cent of the total employed population (excluding foreign domestic helpers (FDHs) (annex 11F).

220. The proportion of employed females in total employment increased slightly to 44 per cent in 2009. No notable changes in the proportion of employed females were observed in various sectors as compared with 2008 (annex 11G).

### **Legislation against discrimination in employment**

#### Equal employment rights and opportunities

221. The general legislative protection against discrimination in the employment field remains as reported in paragraphs 161 to 162 of Part II of the previous report.

#### Discrimination based on marital status and pregnancy

222. SDO continues to provide statutory protection against discrimination on the grounds of marital status and pregnancy as elaborated in paragraphs 163 and 164 of Part II of the previous report. In addition, FSDO, which came into effect in November 1997, renders it unlawful to discriminate against a person, including a woman, who has family status in specified areas of activity similar to those covered under SDO. As mentioned in paragraph 27 of Part II of the previous report, FSDO provides protection to those who have responsibility for the care of an immediate family member.

223. The position of the Employment Ordinance (Cap. 57) (EO) on protection against dismissal during pregnancy and maternity leave remains as explained in paragraphs 165 and 166 of Part II of the previous report.

224. A pregnant employee with a continuous contract (i.e. employed by the same employer for four weeks or more, with at least 18 hours worked in each week) who has served a notice of pregnancy to her employer will be entitled to protection against dismissal. An employer who breaches the relevant provision will be liable to pay maternity leave pay, wages in lieu of notice and a further sum of one month's wages. The employer shall also be guilty of an offence and liable upon conviction to a fine of HK\$100,000 (US\$12,800). In 2009, eight summonses relating to the termination of the employment contract of a female employee after she had applied for maternity leave were taken out, as a result of which six employers were convicted.

#### Sexual harassment

225. Further to the position as mentioned in paragraph 167 of Part II of the previous report, the protection against sexual harassment under SDO has been enhanced, as explained in paragraph 11 of this report under article 2.

#### Maternity leave and maternity leave pay

226. The provisions under EO ensure that female employees are provided with adequate maternity benefits and protection. A female employee employed under a continuous contract immediately before the commencement of her maternity leave and having given notice of pregnancy to her employer is entitled to a ten-week maternity leave. She is also eligible for maternity leave pay at the rate of four-fifths of her wages if she has been

employed under a continuous contract for not less than 40 weeks immediately before the commencement of maternity leave.

227. Starting from December 2006, medical certificates issued by registered Chinese medicine practitioners, in addition to those issued by registered medical practitioners, have also been recognized for the purpose of employees' entitlement to maternity benefits and protection.

228. Effective from July 2007, an employee's average wages in the preceding 12 months have been adopted as the basis for calculating maternity leave pay. By adopting a longer reference period of 12 months as the basis of calculation, the payment to employees can be more equitable, stable and predictable. The amendment also made it clear that all components of wages as defined under EO, however designated or calculated, are to be included in the calculation of the relevant statutory entitlements.

229. Some commentators suggested that the Government should lengthen the statutory maternity leave period. They also recommended that infant care leave should be given to employees. It should be emphasized that the present provisions on maternity-related leave benefits under EO have been formulated following extensive consultations which had taken into account the local socio-economic situation and have struck a reasonable balance between employees' interests and employers' affordability. Any change to the present provisions would require thorough community discussions with a view to forging a consensus for change.

230. The Government has been actively promoting direct and frank communication between employers and employees to discuss employment conditions and work arrangements. Employers are encouraged to adopt employee-oriented good people management measures and implement FFEP, including the provision of special leave and implementation of flexible work arrangement, to help employees balance their work and family responsibilities. More about the Government's work in promoting FFEP is detailed in paragraphs 309 to 314 below.

#### Protection for part-time and casual workers

231. All male and female employees covered by EO, irrespective of their hours of work and length of service, are entitled to the rights and benefits such as payment of wages, restriction on deductions from wages, granting of statutory holidays and protection against anti-union discrimination, etc. Employees engaged under a continuous contract are further entitled to other employment benefits under EO such as rest days, paid statutory holidays and annual leave, sickness allowance, severance payment and long service payment, etc., subject to their fulfilment of the respective qualifying requirements as specified in EO. An employee engaged under a continuous contract is defined as one who has been employed under a contract of employment by the same employer for four weeks or more and has worked for 18 hours or more in each week (i.e. fulfilling the "4-18" requirement).

232. Comments have been made on the need to review the prevailing EO, in particular, the "4-18" requirement which could cause possible exploitation of part-time workers, who are allegedly mainly female.

233. To cater for any possible development in the labour market in recent years, the Government is conducting a review of the definition of continuous contract under EO which comprises, inter alia, collection of relevant statistical data and information from employees and employers, as well as consultation of relevant stakeholders. As "continuous contract" is the basis for determining an employee's eligibility for certain statutory employment benefits under EO, any amendment to this statutory definition could have far-reaching implications for the labour market and community as a whole. Therefore, the Government will thoroughly consider the local circumstances in taking forward the review to ensure that a reasonable balance is struck between the interests of employers and employees.

Working conditions

234. The Occupational Safety and Health Ordinance (Cap. 509) (OSHO) and its subsidiary regulations seek to ensure the safety and health of employees at work. The legislation provides the same standard of protection for the occupational safety and health of male and female employees in all sectors. The Occupational Safety and Health Regulation (Cap. 509A) also specifies pregnancy as one of the factors to be considered in the risk assessment of manual handling operations.

235. As provided by EO, an employer may not allocate heavy, hazardous or harmful work to a pregnant employee upon her production of a medical certificate with an opinion as to her unfitness to handle such work. If the employee is already performing such work, the employer shall within 14 days release her from that work.

236. The Factories and Industrial Undertakings Ordinance (Cap. 59) and its subsidiary regulations are the principal legislation on industrial safety and health. They prescribe requirements for the prevention of industrial accidents and diseases, including detailed rules for certain trades and work processes. The relevant provisions apply to industrial undertakings such as factories, quarries, shipbuilding, construction work and catering establishments. Under the legislation, the proprietor of an industrial undertaking has a general duty to ensure the safety and health of his/her employees at work and the same standard of protection is provided for male and female employees.

Statutory minimum wage

237. The Minimum Wage Ordinance (Cap. 608) (MWO) was passed by the LegCo in July 2010. It aims to establish a statutory minimum wage (SMW) regime which provides an hourly wage floor at HK\$28 (US\$3.6) to forestall excessively low wages without unduly jeopardizing Hong Kong's labour market flexibility, economic growth and competitiveness or causing significant loss in low-paid jobs. Under the SMW regime, the same standard of statutory wage protection applies to male and female employees across the board. Exemption is provided for specified student interns and work experience students as well as live-in domestic workers who live free of charge in the same dwelling as the employers (to be elaborated below in paragraphs 272 to 274). An evidence-based approach was adopted in setting the SMW rate through data research and analysis in addition to extensive consultations with stakeholders. This approach will be strictly adhered to in the future review of the hourly wage rate.

238. If everything proceeds well and allowing time for the community to gear up for implementation, the SMW will come on stream in the first half of 2011 and benefit local grassroot workers including female low-paid employees. It is noteworthy that of the 314 600 employees covered by the initial SMW rate of HK\$28, 61.4 per cent are female.

Standard/maximum working hours

239. Some commentators considered that the Government should also consider legislating for standard/maximum working hours. Having regard to the multifarious nature of different occupations and sectors, regularising working hours is a complicated issue that would entail far-reaching socio-economic implications and this needs to be handled with care. The Government has undertaken to embark on a feasibility study on introducing standard working hours in the HKSAR.

240. Currently, all employees (including female employees) and their employers are free to negotiate the terms and conditions of their employment, including the hours of work and compensation for overtime work, provided that the terms and conditions of service must not be worse than the provisions in EO.

241. Notwithstanding this, we appreciate that consistently long working hours may affect employees' health, family and social lives. Therefore, EO lays down provisions on employees' entitlements to rest days, statutory holidays and paid annual leave. Besides,

OSHO stipulates that employers must, so far as reasonably practicable, ensure the occupational safety and health of their employees. This includes the provision of appropriate rest breaks for employees when necessary. In this connection, the Committee on Occupational Safety and Health of the Labour Advisory Board has formulated the Guide on Rest Breaks to encourage employers and employees to work out through consultation rest break arrangements suitable for the employees while meeting the operational needs of the business, taking account of the different practices of the respective trades.

242. To encourage frank communication between employers and employees on their needs, including arrangements for working hours and rest periods, the Government has been actively promoting harmonious labour relations and enlightened FFEP which will be further discussed in paragraphs 309 to 314 below.

#### Mandatory Provident Fund

243. With the Mandatory Provident Fund (MPF) Schemes legislation coming into force on 1 December 2000, there is now a system of privately managed, employment-based MPF schemes to provide financial benefits for members of the paid workforce, irrespective of gender, when they retire. Except for exempted persons, employees and the self-employed aged between 18 and 65 are required to join MPF schemes. Mandatory contributions are calculated on the basis of 5 per cent of an employee's relevant income, with the employer matching the employee's contribution. Self-employed persons also have to contribute 5 per cent of their relevant income. The participation rate of employers, employees and self-employed persons in MPF schemes, which are regulated by the Mandatory Provident Fund Scheme Authority, reached 99.9 per cent, 99.9 per cent and 75.5 per cent respectively at the end of 2009. Employers, employees and self-employed persons can opt to make extra, voluntary contributions in addition to the mandatory contributions. Female and male employees and self-employed persons have equal access to and are treated equally under the schemes.

244. Some commentators recommended that various groups, including women who were homemakers, persons with disabilities, elders, the unemployed and FDHs should acquire pension rights through their inclusion in MPF. It should be emphasized that the MPF system, which is an employment-based retirement protection system, reflects the consensus of society after prolonged public discussion and detailed deliberation by the legislature.

#### Retirement protection

245. MPF is just one of the three pillars of Hong Kong's retirement protection system. Together with the non-contributory social security system explained under article 13, and voluntary private savings, Hong Kong has adopted the three-pillar model for retirement protection.

246. The Government is studying the sustainability of the three pillars, and will consider the findings of the study and other pertinent factors before deciding on the future course of action. Important factors to be considered include safeguarding traditional family values, maintaining the overall economic competitiveness and simple tax system of Hong Kong, and ensuring the sustainable development of the existing social security system.

### **Administrative measures to address discrimination in employment**

#### Efforts to address sex discrimination

247. As mentioned in paragraph 172 of Part II of the previous report, EOC has drawn up two sets of Code of Practice on Employment to provide practical guidance in facilitating compliance with SDO and FSDO by the public (including both employers and employees). From EOC's operational experience, the majority of the complaints received under SDO are employment-related. In this connection, EOC is planning to revise the existing Codes of



Practice under SDO and FSDO as part of their review exercises to update these Codes to keep up with Hong Kong's socio-economic development.

248. Gender equality has been a core subject of EOC's work. The EOC has been regularly conducting training, workshops and talks on various issues related to sex discrimination such as sexual harassment and pay parity for all stakeholders including human resources practitioners, women's groups, trade unions and FDHs.

Efforts to address discrimination based on pregnancy

249. LD promotes the awareness of female employees of their rights and benefits in respect of maternity protection under EO through various channels including talks and roving exhibitions. Free publications on relevant legislative provisions are also distributed to female employees and their employers.

250. On the other hand, pregnancy discrimination accounts for nearly half of the complaints lodged with EOC under SDO. On average, about 150 complaints of pregnancy discrimination were received annually in the last three years. EOC has launched a media campaign to raise awareness on this issue and also published a booklet on pregnancy discrimination.

**Women and poverty**

251. The median monthly employment income for females was HK\$10,000 (US\$1,282) in 2009, as compared with HK\$12,000 (US\$1,538) for males. In other words, the median monthly employment income of females amounted to 83 per cent of the corresponding figure for males in that year.

252. Some commentators were concerned about the situation of women in poverty and urged the Government to review its poverty alleviation policy. The Government attaches great importance to poverty alleviation work and, to this end, adopts a pragmatic and multi-pronged approach. We are committed to providing a safety net and a wide range of free or highly subsidized services in the areas of housing, healthcare and education, etc. to help the disadvantaged and low-income groups meet their basic needs. We consider that the key to tackling poverty lies in promoting economic growth, thereby creating more job opportunities. We provide training and retraining opportunities to raise the competitiveness and skills of our workforce, in particular the middle-aged and low-income earners. At the same time, we continue to invest in education and child development to enhance social mobility and reduce inter-generational poverty.

253. All along, the Government has been implementing poverty alleviation measures and welfare services to assist the needy as appropriate, having regard to the actual circumstances. Abiding by the principle of gender equality, the Government will ensure that welfare policies and programmes are not discriminatory against male or female, and that every Hong Kong resident, irrespective of gender, will have equal access to social welfare resources.

254. Some commentators have called for the reinstatement of the Commission on Poverty (CoP). With the conclusion of the work of CoP in 2007, the Government set up the Task Force on Poverty, headed by the Secretary for Labour and Welfare, to coordinate the Government's efforts in alleviating poverty and follow up CoP's recommendations, most of which have already been implemented.

255. To upgrade women's skills and raise their employability, continuing education and retraining opportunities are provided to women as reported under articles 10 and 11 respectively. Employment services are available to women who wish to seek jobs, as elaborated in the ensuing paragraphs. To support parents who cannot take care of their children because of work, the Government has also put in place various kinds of child care

services, and has been striving to increase the flexibility of the services. Details of the child care services provided by the Government are set out in paragraphs 302 to 308 below.

#### **Employment services for women**

256. LD provides convenient and free-of-charge employment services to all job seekers, including women, through its 12 Job Centres, the Interactive Employment Service website and vacancy search terminals installed at various convenient locations throughout the territory. In 2009, a total of 181 468 job seekers registered for LD's employment services, of whom 96 202 (53.0 per cent) were female.

257. LD also administers special employment programmes to meet the specific needs of particular categories of job seekers. The Job Matching Programme, introduced in April 1995, offers in-depth interviews, counselling, job matching and, where appropriate, referrals to tailor-made retraining courses. Of the 10 508 registrants of the Programme in 2009, 5 816 (55.3 per cent) were female.

258. Middle-aged women who are seeking employment may also join the Employment Programme for the Middle-aged (EPM). The Programme was launched in May 2003 to encourage, through the provision of a training allowance, employers to take on unemployed job seekers aged 40 or above and provide them with on-the-job training. Starting from 29 June 2009, LD has enhanced EPM by increasing the financial incentive to employers and extending the subsidy period. As at the end of March 2010, a total of 47 430 job seekers were placed into employment under EPM, of whom 27 077 (57.1 per cent) were female.

259. A Work Trial Scheme was implemented from June 2005 to enhance the employability of job seekers who have special difficulties in finding employment. During the one-month work trial, participants will be arranged to work in participating organizations. Upon satisfactory completion of the work trial, they will receive an allowance contributed by the participating organization and LD. As at the end of March 2010, a total of 3 001 job seekers were placed into work trials, of whom 1 716 (57.2 per cent) were female.

260. LD has been taking on-going measures to eliminate discriminatory practices in recruitment. LD vets vacancy information carefully to ensure that no restrictive requirements based on sex or age, are included in the vacancies received. Employers will be advised to remove any restrictive requirements detected, or their request for placing such vacancies will be refused.

#### **Youth training and employment programmes**

261. LD administers the Youth Pre-employment Training Programme (YPTP) and the Youth Work Experience and Training Scheme (YWETS) to provide a full range of pre-employment and on-the-job training to young people aged 15 to 24 with educational attainment at sub-degree level or below.

262. Since the respective inception of YPTP and YWETS in 1999 and 2002, YPTP had trained more than 90 000 young people, of whom 44.4 per cent were female; whereas YWETS had assisted more than 62 200 in securing employment, of whom 48.3 per cent were female.

263. In September 2009, YPTP and YWETS were enhanced and integrated into a "through-train" programme – YPTP • YWETS – to provide seamless and comprehensive youth training and employment support.

264. The revamped programme targets all young people aged 15 to 24 with educational attainment at sub-degree level or below. It has no ceiling on enrolment and will flexibly admit all eligible young people, irrespective of gender.

265. In addition, LD set up in December 2007 and March 2008 respectively two Youth Employment Resource Centres to provide one-stop service on employment and self-employment to young people aged between 15 and 29. The two Centres aim to provide support to young people to start their career on the right track, enhance their employability, facilitate their access to the latest labour market information and help them secure a firm footing in the labour market for sustainable development. In 2009, the two Centres provided services to 71 680 young people. As at the end of March 2010, they registered 32 174 young people as members, of whom 16 794 (52.2 per cent) were female.

### **Retraining programmes**

266. As set out in paragraph 188 of Part II of the previous report, the Employees Retraining Board (ERB) has continued to retrain workers who had lost their jobs to acquire new skills and to seek re-employment. Eligible service targets, irrespective of gender, can apply for enrolment of ERB courses. Since its inception in 1992, and by 31 March 2010, ERB has provided about 1.5 million training places. ERB courses, which are designed to meet market needs, have been well received by female trainees in particular. Over the past ten years, females represented about 70 per cent and 80 per cent of the total number of trainees in the full-time and part-time courses of ERB respectively.

267. To benefit more people by enabling them to maintain their employability in a knowledge-based society, since December 2007, ERB has expanded its service targets from local residents aged 30 or above with an education attainment of Secondary Three or below, to those aged 15 or above with education at sub-degree level or below. In other words, in addition to serving the original targets of the more matured members of the workforce, those aged 15 to 29 with higher education attainment are also eligible for ERB services now. In 2008, ERB also conducted a strategic review on its future directions. Stakeholders and the public were consulted during the process. The recommendations of the strategic review were endorsed by the Government in early 2009. ERB is in the course of implementing the recommendations, providing more comprehensive and diversified training and retraining to its service targets. To better reflect its new scope of services, ERB has rebranded the “Employees Retraining Scheme” as “Manpower Development Scheme” (MDS). Women of different backgrounds with varying needs, benefit from the training and retraining programmes under MDS.

268. As set out in paragraph 190 of Part II of the previous report, ERB has continued to provide domestic-helper training places to meet the training needs. Most of the places have continued to be taken up by women who seek to re-enter the labour market or to change field. In March 2009, ERB expanded its “Integrated Scheme for Local Domestic Helpers”, which was started in 2002 as a one-stop diversified household and personal care service, and rebranded it as “Smart Living”. Under the rebranded scheme, free referral services covering post-natal care, child care, elderly care, support for attending medical appointments, out-patient care, preparation of meals, care for plants/pets, household cleaning, stand-in service for FDHs who are on leave, etc., are provided.

### **Social enterprises**

269. Social enterprises (SEs) are organizations which apply market-based strategies to achieve specific social objectives, including creation of opportunities for the socially disadvantaged (including unemployed women) to become self-reliant through provision of employment or training opportunities. The Government will continue to encourage the development of SEs, with a view to providing effective help to the socially disadvantaged groups.

**Imported workers and foreign domestic helpers**Protection under labour legislation

270. As at end-March 2010, there were around 1 600 imported workers under the Supplementary Labour Scheme, and around 273 600 FDHs, employed in Hong Kong.

271. The Government attaches great importance to protecting the rights of all migrant workers (including imported workers and FDHs). It grants equal statutory rights and benefits to migrant workers as local workers regardless of their race or sex, and has provided additional rights and benefits to migrant workers, not enjoyed by local workers, including the prescription of a Standard Employment Contract for FDHs and migrant workers each, which sets out their basic employment terms such as wage level and provision of free accommodation and free medical treatment, etc

272. Among others, EO and the Employees' Compensation Ordinance (Cap. 282), the two major pieces of labour legislation in Hong Kong, are applicable to both local and migrant workers regardless of sex. As such, migrant workers of both sexes enjoy the same and full labour rights and benefits as local workers, e.g. rest days, statutory holidays, annual leave, long service payment and employee's compensation, etc. Female migrant workers also enjoy the same entitlement to maternity protection under EO as local female employees (details of which are set out in paragraphs 223, 224, 226-228 and 235 above). Furthermore, all anti-discrimination ordinances (including SDO, FSDO and RDO) also apply to migrant workers, protecting them against discrimination on the grounds of sex and race, etc. They are also eligible to apply for the Legal Aid Scheme provided by the Government and are subject to the same eligibility criteria as local residents.

273. In respect of MWO which provides for an across-the-board SMW as stated in paragraphs 327 and 328 above, live-in domestic workers are exempted from SMW, irrespective of their sex, race and place of origin. Some commentators were concerned whether the exemption would constitute discrimination with disproportionate impact on women employees.

274. In arriving at the decision to exempt live-in domestic workers, the Government had considered views of stakeholders and all relevant circumstances. One of the major considerations for the exemption is the distinctive working patterns of live-in domestic workers, i.e. residing in the employer's home, working and living in the same place, which render calculating and recording of working hours practically impossible, while SMW is set on an hourly basis. The exemption of live-in domestic workers also reflects the provision of in-kind benefits arising from dwelling in the household of their employers free of charge. Such in-kind benefits include provision of free accommodation and usually free food by the employers, as well as savings from the transport cost.

275. For FDHs in particular, to protect their rights and benefits, the Government has since the early 1970s introduced the mandatory Standard Employment Contract for employment of FDHs in Hong Kong to clearly spell out their basic employment terms. As stipulated in the Contract, employers are required to pay FDHs a wage not lower than the prevailing Minimum Allowable Wage (MAW), and to provide free accommodation and free food (or food allowance in lieu), free passage from and to the FDH's place of origin and Hong Kong, free medical treatment, irrespective of whether the ailment is work-related, etc. MAW, while not statutory, has been mandatory and effective in giving wage protection to FDHs. Underpayment of MAW is tantamount to committing a criminal wage offence under EO, and liable to a maximum fine of HK\$350,000 (US\$45,000) and three years' imprisonment upon conviction.

276. Some commentators were concerned about the long working hours for FDHs. There is no statutory standard working hours in Hong Kong. Given the distinctive working pattern of live-in domestic workers (including FDHs) as explained in paragraph 274 above,

and the different circumstances and needs of different households employing live-in domestic workers, it would be appropriate for the FDHs and their employers to negotiate the working time arrangement.

277. As the arrangements regarding working hours and holidays (including provision of statutory holidays, paid annual leave and not less than one rest day (i.e. a continuous period of not less than 24 hours) in every period of seven days under EO) are equally applicable to both local employees (including local domestic workers) and FDHs, there is no discrimination against FDHs.

278. Since October 2003, FDH employers have been required to pay the Employees Retraining Levy (the Levy) of HK\$400 (US\$51) per month for each FDH. The importation of FDHs has since been designated as a labour importation scheme under the Employees Retraining Ordinance (Cap. 423) so that the Levy is channelled into the Employees Retraining Fund for provision of training and retraining to local workers under ERB. It is established policy that priority in employment should be accorded to local workers. Should employers import low-skilled workers (including FDHs) owing to operational/household needs, they should contribute to the training and retraining of the local workforce. In other words, we are but treating the importation of FDHs and other low-skilled workers in a like manner.

279. Some commentators were of the view that the imposition of the Levy of HK\$400 (US\$51) in 2003 on FDH employers was tantamount to imposing a tax on FDHs as the latter's MAW was reduced by the same amount in the same year. We must reiterate that the imposition of the Levy on FDH employers serves its own policy reasons as mentioned in the above paragraph, while MAW has been reviewed regularly in accordance with a long-established mechanism since its inception in the early-1970s, taking account of the changes in the economic and employment situations as reflected through a basket of economic indicators. In 2006, the Court of Appeal upheld the ruling that the imposition of the Levy on FDH employers was not a tax on FDHs.

280. To help mitigate the impact of rising inflation and alleviate the financial burden on the employers of all imported labour, including those of FDHs, in the wake of the local economic downturn in 2008, the Government has suspended the collection of the Levy for a period of five years with effect from 1 August 2008. The Government's overall policy, however, remains that the operating expenses of ERB should be primarily met by the Levy income and that employers of low-skilled imported labour should contribute towards the training and retraining of the local workforce. In the long run, collection of the Levy is essential in ensuring steady and sufficient financial resources for ERB to enhance the employability of the local workforce so as to maintain Hong Kong's economic competitiveness.

#### Support services for foreign domestic helpers

281. The Government launched a scheme in 1994 to establish a number of centres for FDHs to gather and organize activities on their rest days.

282. The Government identifies suitable sites for the establishment of these centres and oversees the overall implementation of the scheme. The finance, management and promotion of these centres are undertaken by the Hong Kong Bayanihan Trust, a non-profit-making organization formed by a group of Philippine businessmen working in Hong Kong. The centres provide a wide variety of facilities such as library and computer rooms, as well as a wide range of training courses for FDHs.

283. In addition, CMAB provides a range of support services for ethnic minorities in Hong Kong, which are available to FDHs. Such services include the publication of "Your Guide to Services in Hong Kong" as mentioned in paragraph 296 of Part II of the previous report, the Mobile Information Service at the airport and urban areas to distribute the guide and information leaflets which provide information on labour rights and equal opportunities

to FDHs and other members of the ethnic minorities, and interpretation services, language classes, counselling and other programmes provided by four support service centres for ethnic minorities established in 2009. These measures are elaborated under article 13 of this report.

#### Channels to file employment claims

284. There is an effective mechanism for imported workers and FDHs to seek redress if their statutory or contractual employment benefits are infringed. They may lodge claims with LD which would provide free conciliation service to assist them in resolving their disputes with employers. In 2009, LD handled two claims lodged by imported workers admitted under the Supplementary Labour Scheme, and 3 075 claims lodged by FDHs. If a claim cannot be resolved by conciliation, the migrant worker may seek adjudication at the Labour Tribunal (LT) (if the claim amount exceeds HK\$8,000(US\$1,026)) or the Minor Employment Claims Adjudication Board (MECAB) (if the claim amount does not exceed HK\$8,000(US\$1,026)).

#### Related promotional and publicity efforts

285. To promote awareness among the imported workers, FDHs, employers and employment agencies (EAs) of their rights and obligations, LD launches extensive promotional and publicity activities every year including publishing guidebooks and leaflets in different languages (including Tagalog, Bahasa Indonesia and Thai) in addition to English and Chinese, regarding employment rights and benefits as well as the channels available to aggrieved workers for enquiries and complaints against their employers. In addition, exhibitions, seminars and information kiosks are staged for the same cause. In 2009, LD held over 12 such functions.

286. In addition, relevant publications are distributed to FDHs free of charge upon their arrival at Hong Kong, while advertisements of key messages on the rights and benefits of FDHs in their languages are placed in newspapers in Hong Kong to enhance their understanding of the relevant legislative provisions governing their terms and conditions of employment. Seminars and exhibitions for FDHs on employment rights and benefits are organized on their rest days at their favourite gathering places to facilitate their participation.

#### Two-week rule

287. As a general policy, if an imported worker's or an FDH's employment is prematurely terminated, the worker or FDH is allowed to remain in Hong Kong for the remainder of the permitted limit of stay, or for two weeks from the date of termination, whichever is shorter. The rationale of the "two-week rule" is to allow sufficient time for the worker or FDH to prepare for departure, and to maintain effective immigration control by deterring job hopping and unauthorized employment after termination of contract. The policy does not preclude imported workers or FDHs from working in Hong Kong again after returning to their place of domicile. The cost of return flights is fully borne by the employer. Suitable flexibility is allowed for special cases (such as the employer is in financial difficulty; the family is emigrating; or there is evidence that FDH has been abused) where the Government may exercise discretion to permit FDHs whose contracts have been prematurely terminated to change employment without having to return to their place of domicile. From January to March 2010, 1 353 such applications (81.8 per cent of the total number of such applications) were approved.

288. In the event that an FDH has to stay in Hong Kong to settle labour dispute, he/she may apply for extension of stay in Hong Kong. Flexibility will be exercised to extend the FDH's stay on visitor condition to enable him/her to wait for the conclusion or determination of the case.

289. The Committee has, in its previous concluding comments, raised concern that the “two-week rule” would push FDHs to accept employment which may have unfair or abusive terms and conditions in order to stay in Hong Kong. It also urged the Government to repeal the “two-week rule” and to implement a more flexible policy regarding FDHs. We considered that the rule, with suitable flexibility allowed, was effective in deterring job hopping of FDHs after premature termination of contract. The Government will regularly review the rule’s effectiveness. There is no plan to vary or repeal the rule at the moment.

Measures to assist migrant workers exposed to abuse and custodial violence

*Avenues for assistance and redress*

290. In the unfortunate event of migrant workers being subject to abuse or custodial violence, they are protected under Hong Kong’s legal system in the same way as local workers are in like circumstances.

291. As mentioned in paragraph 284, all imported workers and FDHs in Hong Kong have free access to advice, conciliation and enquiry services regarding their employment rights and benefits provided by LD.

292. Measures are in place for workers to seek redress and assistance in case they suffer from maltreatment or abuse by their employers. The aggrieved worker may terminate the employment contract prematurely without notice or payment in lieu and lodge claims at LD for statutory and contractual entitlements against the employer. For FDHs, apart from the above, they may also approach the Immigration Department and apply for change of employers on grounds of maltreatment, if they can supply sufficient evidence to demonstrate the alleged maltreatment. The workers may also report the case to the Police for assistance.

*Enforcement of the Employment Ordinance*

293. As stated above, both migrant and local workers enjoy the same employment rights and benefits under local labour legislation in Hong Kong. We encourage migrant workers, especially FDHs, who are overcharged by their EAs in Hong Kong (please see details in paragraphs 296 to 297 below regarding monitoring of and enforcement action against EAs) or whose statutory or contractual rights have been infringed to approach LD for advice and assistance, and seek civil redress under an effective mechanism from either LT or MECAB (please see the details in preceding paragraph 284).

294. Alongside our conciliation and related services to assist FDHs to pursue their civil claims, LD will investigate all such complaints promptly and thoroughly and will take rigorous enforcement action against offences, including wage offences, under EO. Prosecution action will be instituted where there is sufficient evidence and where the aggrieved worker is willing to act as prosecution witness.

295. With LD’s stepped-up prosecution efforts and with more FDHs successfully persuaded to come forward as prosecution witnesses, LD secured 124 convicted summonses against FDH employers for wage offence in 2009. Among these wage offenders, one employer was sentenced to imprisonment.

*Monitoring of and rigorous enforcement against employment agencies*

296. The Government has taken note of the concern raised by the Committee in its previous concluding comments on possible abuses perpetrated by EAs against FDHs. The operation of EAs is governed by Part XII of EO and the Employment Agency Regulations (Cap. 57A). An EA can only charge job seekers, including FDHs, a commission of not more than 10 per cent of the first month’s salary received on successful placement. Any EA contravening the Regulations is liable to a maximum fine of HK\$50,000 (US\$6,400) upon conviction. In addition, the Commissioner for Labour may refuse to issue or renew a licence of an EA, or may revoke a licence upon justifiable grounds.

297. In order to safeguard the interests of job seekers, LD regulates the operation of EAs through licensing, inspection and investigation upon complaints to ensure their compliance with the law. In 2009, LD conducted a total of 1 326 inspections to 2 002 EAs, and 944 of the inspections were conducted to EAs engaged in placement of FDHs in Hong Kong. In 2009, a total of six EAs were convicted, two of which involved overcharging FDHs. LD also revoked two EA licences subsequent to the licensees' conviction of overcharging FDHs. As a precautionary measure, LD issues letters to EAs regularly, reminding them to operate their agencies in strict compliance with the relevant legal provisions.

298. However, Hong Kong's labour laws, like other domestic laws, have no extra-territorial jurisdiction, and thus cannot possibly regulate any malpractices of EAs in other countries including those countries from which some of our imported workers including FDHs originate. In this connection, we have appealed repeatedly to the relevant consulate-generals in Hong Kong and their Government officials to tackle such problem at source.

*Regular dialogue with concerned groups*

299. Since certain problems, such as overcharging by EAs in FDHs' place of origin, can only be tackled at source, we keep in close liaison with the consulates of FDHs' countries in Hong Kong to convey to them our concern and appeal for their help to convey same messages to their respective governments. We also maintain contact with NGOs who are involved in FDH matters in a concerted effort to protect the migrant workers' employment rights in Hong Kong.

300. The United Nations' International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Convention has not been ratified by the PRC and has not been applied to the HKSAR. Notwithstanding this, the Government attaches great importance to protecting the employment rights and benefits of migrant workers in Hong Kong. The Migration for Employment Convention (Revised), 1949 (No. 97) of the International Labour Organization has been applied to Hong Kong since 1980, and it has remained applicable to the HKSAR after the PRC resumed the exercise of sovereignty over Hong Kong on 1 July 1997. This Convention lays down certain principles and minimum standards for application to migrant workers for employment, such as the maintenance of an adequate and free service to assist the migrant workers and to supply them with accurate information; measures to facilitate departure, journey and reception; and provisions of appropriate medical services and equality of treatment in matters concerned. Besides, it is set out in HKBORO that all persons, local or migrant workers alike, are entitled to equal protection of the law without discrimination on any grounds such as race, colour, sex, language, religion, national or social origin or other status.

301. Migrant workers enjoy the same statutory rights and protection as local workers under local legislation. In addition to statutory benefits, provisions have been laid down in the Standard Employment Contract of FDHs stipulating provision of the MAW, free accommodation and free food (or food allowance in lieu), free medical treatment, free return passage to and from Hong Kong and FDH's place of origin, etc In addition, the right of workers, local or migrant alike, to form and join trade unions is guaranteed by article 27 of the Basic Law and article 18 of HKBOR.

**Childcare facilities and services**

302. It is the responsibility of parents to take care of their young children. To support parents who are unable to take care of their children temporarily because of work or other reasons, SWD has all along been providing subvention to NGOs to run a variety of child care services. To better meet the service demands, SWD has enhanced/re-engineered our childcare services in recent years. Key measures are as follows –



Harmonizing the services of independent childcare centres and kindergarten-cum-childcare centres

303. In the past, childcare centres and kindergartens provide similar nursery and care services to the same target group of service users. For more effective use of resources, these services were harmonized and their target users re-delineated in 2005. Independent childcare centres supervised by SWD have been redefined as day care services for children under the age of three, whereas kindergarten-cum-childcare centres which are administered by EDB are for children aged below six. A Joint Office for Pre-primary Services staffed by both EDB and SWD was set up under EDB to provide one-stop services to kindergarten-cum-childcare centres. As at end-March 2010, there were 690 independent childcare centre places and 80 517 kindergarten-cum-childcare centre places.

304. Occasional childcare service (for parents who cannot take care of their children occasionally) and extended hour childcare services (for parents who need day care services outside normal operating hours) continue to be available at some of these centres. In 2009-10, there were 494 aided occasional child care service places with an average utilisation of 49 per cent, and 1 230 extended hours service places with an average utilisation of 77 per cent.

Enhancing existing childcare services and launching new services

305. Over the past few years, SWD has enhanced its childcare services and launched new services which are flexible in operation mode and hours to better meet service demand. Initiatives in this area include –

(a) *Mutual Help Child Care Centre (MHCCC) service* – as mentioned in paragraph 205 of Part II of the previous report, SWD provides support to social welfare agencies, church bodies and women's associations, etc. to set up MHCCCs on a self-financing and non-profit-making basis. MHCCC service is delivered by parents and volunteers in the form of mutual help in the neighbourhood. Each MHCCC provides occasional childcare to a maximum of 14 children under the age of six. Since January 2008, we have strengthened MHCCC service through subsidizing operators to provide service in the evenings, at weekends and on holidays, thereby enhancing the flexibility of the operation hours of the service;

(b) *Day small group home service and day foster care service* – previously, small group homes and foster care families only provided residential care services for children. In 2007, SWD enhanced these two kinds of services. Their service hours are longer and more flexible (say, up to 10 p.m. in the evening) compared with other regular services; and

(c) *NSCCP* – as mentioned in paragraph 102, SWD launched NSCCP on a pilot basis for three years since October 2008. The project has two service components: (i) home-based childcare service for children aged under six; and (ii) centre-based care group for children aged three to under six. Carers in the neighbourhood are hired and trained to take care of children at the carers' homes (home-based childcare service) or at centres run by the service operators (centre-based care group). The operating hours of the two services under NSCCP cover the evenings, some weekends and some public holidays.

306. As mentioned in paragraph 206 of Part II of the previous report, ASCP provides half-day care services for children aged six to 12 whose parents cannot take care of them outside school hours. The programme is operated on a self-financing and fee-charging basis by NGOs. Services provided under the programme include homework guidance, meal service, parent guidance and education, skill learning and other social activities, etc. As at end-March 2010, there were 137 ASCP service units providing a total of 5 579 service places. SWD continues to provide full fee waiving or half fee reduction subsidies under ASCP for needy low income families or recipients of Comprehensive Social Security Assistance (CSSA).

307. Some commentators suggested that the Government should explore the possibility of subsidizing schools to provide after-school childcare services to students in need. The role of schools is mainly to allow students to have a balanced development in regard to whole-person education through formal curriculum and opportunities for other learning experiences. For the latter, EDB has been encouraging schools to collaborate with community organizations, including opening up school premises to support community services and activities.

308. In line with the Government's policy on poverty alleviation, EDB has, starting from 2005, implemented the "School-based After-school Learning and Support Programmes" to enable schools and NGOs to organize after-school activities to provide support to the needy students with a view to improving their learning effectiveness, broadening their learning experiences outside classroom and raising their understanding of community and sense of belonging. With effect from 2010-11, the annual provision of the programme has been increased significantly from HK\$75 million (US\$9.6 million) to HK\$175 million (US\$22.4 million) to facilitate their whole-person all-round development. We will continue to encourage collaboration between schools and NGOs in order to sustain the effectiveness of the programme and provide support to the needy students in their own neighbourhood.

#### **Promotion of family-friendly employment practices**

309. FFEP refer to programmes provided by companies or organizations designed to help employees balance their work and family roles. The overriding objective of these policies and practices is to assist employees in managing their family responsibilities while also maintaining employment by offering more choices of flexible and varied work arrangements to cater for their needs. To facilitate women to participate in the labour force, it is important to provide an enabling environment in which women and men, can share out family responsibilities and fully develop their potential through participation in society in all aspects whilst at the same time achieve a better balance between work, family and life.

310. Making the workplace family-friendly is a shared responsibility of the community. As the largest employer in the HKSAR, the Government has introduced the five-day week initiative for its work-force by phases since July 2006, with a view to reducing the work pressure of staff and improving the quality of their family lives, without impairing the overall level and efficiency of Government services. At present, there are over 100 000 civil servants working five days a week.

311. LD has been acting as one of the facilitators in encouraging employers to adopt FFEP, including the provision of special leave and implementation of flexible work arrangement, in the light of the circumstances of the employees and operational needs of the establishments, with a view to assisting employees fulfil their work and family responsibilities simultaneously. On-going publicity activities to promote FFEP and related good people management practices include organizing briefings and sharing sessions for employers and human resources practitioners as well as staging roving exhibitions at various locations throughout the territory. Two large-scale seminars were organized in 2007 and 2009 for employers' associations, trade unions, employers and human resources practitioners to enhance public awareness on the subject. In 2008, a series of newspaper supplements were issued to showcase exemplary employers and their experience in the implementation of FFEP. To further promote a family-friendly workplace, a booklet on good people management and FFEP was published to illustrate various successful cases in 2009.

312. The feedback collected by LD from regular contacts with various stakeholders also shows that employers in general are becoming more receptive to the idea of implementing FFEP. For example, according to the two questionnaire surveys conducted in 2006 and 2008 among member organizations of LD's Human Resources Managers Clubs, the percentage of

organizations providing paternity leave to employees increased from 16 per cent to 21 per cent. Another example is that in 2007-08, about 1 200 companies which took part in the Caring Company Scheme organised by the Hong Kong Council of Social Service adopted family-friendly measures for employees. In 2008-09, the number of such companies further increased to more than 1 400. In 2009-10, 1 740 companies provided paid leave for employees to take care of urgent personal or family matters.

313. As mentioned in paragraph 38 above, WoC has also undertaken a series of FFEP-related initiatives. In January 2006, WoC and EOC conducted a joint research study which focused on the needs, awareness and prevalence of FFEP in the HKSAR. It was found that both the awareness and the prevalence of FFEP in the HKSAR were low despite the fact that most employees support the implementation of FFEP. To further promote the concept of FFEP, a series of promotional and co-operation projects were launched between 2006 and 2009. It is encouraging to see that FFEP is gaining momentum in Hong Kong in recent years.

314. Some commentators suggested that the Government should consider providing incentives for companies to adopt FFEP. They also recommended the Government to consider enacting legislation for paid paternity leave and compassionate leave. We believe that there is a business case for employers to adopt FFEP as the practices should boost staff morale and enhance their productivity at work. We consider that individual employers are in the best position to decide which FFEP should be adopted, having regard to their own circumstances and the views of staff. We would like to reiterate that the present provisions for leave benefits under EO have been formulated having regard to the local socio-economic circumstances and have struck a reasonable balance between the interests of employees and affordability of employers. Any change to the present provisions must be premised on a careful examination of the implications and general community acceptance.

#### **Equal pay for work of equal value**

315. Further to paragraphs 212 to 214 of Part II of the previous report regarding the study on equal pay for work of equal value (EPEV) conducted by EOC, EOC considers that as there was no evidence of EPEV discrimination in respect of the jobs examined in the study it had commissioned, and taking into account the complexity of the issue, introducing new legislation on EPEV is not opportune for the time being. Instead, EOC will promote and implement the principle of EPEV by continuing its regulatory roles through its complaint handling mechanism, addressing unequal pay for equal work through, if the situation so warrants, the self-initiated investigation mechanism, organizing public education programmes and reviewing the Code of Practice on Employment under SDO.

316. EOC considers that a systematic and free of sex bias approach to pay determination is more advisable in the given context, taking into account market forces and valid factors affecting individuals' pay such as performance, competencies and seniority. Following the study on the issue, EOC has undertaken public education initiatives to promote the concept of EPEV. It has published, for reference by employers and the general public, a set of guidebooks, namely "Guide to Employers on Equal Pay between Men and Women under SDO", "An Illustration on Developing an Analytical Job Evaluation System Free of Sex Bias", "An Equal Pay Self-audit Kit: A Proactive Approach for Employers to Achieve Equal Pay", and "An Easy Read Guide". These guidebooks provide practical guidance to employers on ensuring that their pay practices are free of sex bias. Following the publication of the guidebooks, EOC organized workshops and seminars to further promote EPEV. Both the publications and workshops were well received.

## Article 12- Equality in access to health facilities

### Women's health status in the HKSAR

#### Mortality and major causes of deaths

317. In 2009, the female crude death rate was 4.9 per 1 000 women, compared to the population crude death rate of 5.9 per 1 000 population. The age-specific death rates of females were lower than males in all age groups. On average, females live longer than males with life expectancy at birth of 85.9 years and 79.7 years for females and males respectively. Maternal mortality ratio remained low at 2.4 per 100 000 registered live births.

#### Disease incidence and prevalence

318. Malignant neoplasm is the main cause of morbidity in women in the HKSAR. According to the Hong Kong Cancer Registry, a total of 24 342 new cases of cancers were diagnosed in 2007, of which 46.5 per cent occurred in women. Cancer of the breast (23.9 per cent) was the most common among women followed by cancer of the colorectum (15.3 per cent), lung (12.7 per cent), corpus uteri (5.2 per cent), and ovary (4.1 per cent). It was observed that 37.2 per cent of the cancers among females occurred in the sex-specific sites, i.e. breast and reproductive organs in contrast to only 10.0 per cent among men.

319. Heart diseases are prevalent among women in Hong Kong. According to the Special Topics Report No. 48 of the General Household Survey (GHS) by C&SD, the prevalence of heart diseases among women was estimated to be 1.9 per cent as compared to 2.0 per cent in men in 2006-07. For hypertension, the prevalence in women was estimated to be 8.5 per cent while the corresponding figure for men was 7.8 per cent.

320. Diabetes mellitus is a significant concern for women's health because of its long-term effects including a greater risk of heart diseases, cerebrovascular disease and blindness. In the GHS report mentioned above, it was estimated that the prevalence of diabetes mellitus in women was 3.4 per cent which was comparable to that for men (3.2 per cent) in 2006-07.

321. Mental health problems have become increasingly significant in the HKSAR. In the GHS report mentioned above, the prevalence of mental illness or mood disorder in women was estimated to be 1.4 per cent in 2006-07, which was higher than that in men (1.0 per cent). In 2009, the female age-standardized suicide rate was 8.1 per 100 000 standard population, compared to 15.2 per 100 000 standard population for males. In a report on deliberate self-harm (DSH) published by HKU, the female to male ratio of DSH rates was reported to drop significantly from 2.09 in 1997 to 0.96 in 2003. The female DSH rate was 40.8 per 100 000 women in 2003 while the figure for male was 42.4 per 100 000 men. These figures were based on in-patients admitted by the Accident and Emergency Departments of public hospitals after being diagnosed with DSH. A local study published in 2005 estimated that the prevalence of postpartum depression among women six-week postnatally was 19.8 per cent as measured by the Edinburgh Postnatal Depression Scale.

322. STD recorded in public STD clinics remained quite steady over the past four years. STD affect more male attendees than female attendees at a ratio of 1.45:1 in 2009. Almost all infected women are the result of heterosexual infections.

#### Health-related behaviour

323. According to the latest figures in 2007-08, 11.8 per cent of the population aged 15 or above were daily cigarette smokers as compared to 14.0 per cent in 2005. Of these daily cigarette smokers, 15.6 per cent were females. Smoking prevalence among females dropped from 4.0 per cent in 2005 to 3.6 per cent in 2007-08. The prevalence of daily cigarette smoking among teenage girls aged 15 – 19 showed a decreasing trend from 2.6 per cent in 2000 to 1.2 per cent in 2007-08.

324. Overweight or obesity increases the risk of a range of health problems such as coronary heart disease, diabetes, and joint disease. According to the Behavioural Risk Factor Survey (BRFS) April 2009 conducted by DH, nearly 30 per cent of women aged 18-64 were overweight or obese (with a BMI  $\geq$ 23.0) while the corresponding figure for men was 49.2 per cent.

325. Imbalanced or poor diet can lead to obesity or specific nutrient deficiency. BRFS April 2009 revealed that 73.8 per cent of women consumed less than five servings of fruit and vegetable per day as compared to 85.2 per cent for men. For meat consumption, 23.2 per cent of women ate more than six taels (around 225 grams) of meat per day while the corresponding figure for men was 31.9 per cent. Furthermore, according to the Population Health Survey 2003-2004 conducted by DH and HKU, 6.2 per cent of women aged 15 and above ate food with high fat content at least once a day as compared to 9.9 per cent for men.

326. Lack of physical activity is recognized as an important contributory factor not only for obesity but also hypertension and injury. In BRFS April 2009, in female population, 54.6 per cent and 68.6 per cent reported not doing moderate and vigorous exercise respectively in the past seven days as compared to 51.1 per cent and 55.8 per cent respectively for male.

327. Practice of unsafe sex is responsible for unwanted pregnancy and/or various STD. According to the survey of Family Planning Knowledge, Attitudes and Practice conducted by the Family Planning Association of Hong Kong (FPAHK) in 2007, 80 per cent of married women aged 15 to 49 were currently practising contraception. The proportion of those using the male condom had steadily increased from 20 per cent in 1982 to 63 per cent in 2007. On the other hand, FPAHK's Youth Sexuality Study 2006 showed that 8 per cent of secondary school girls aged around 13 to 17 had experienced sexual intercourse. Among them, 47 per cent used the male condom to protect themselves.

### **Access to care**

#### Health services for women

328. The Government offers comprehensive preventive, promotive, curative and rehabilitative health care services for women of all ages through DH, HA and other Government-funded health organizations. These services are described below.

329. The public services are complemented by the private health care sector. The private sector has a valuable role to play in the provision of care in that it is more flexible in responding to patients' request and offers users more choices and a wider range of services, but at a higher cost.

330. Some commentators considered that the public health care service for women currently provided in Maternal and Child Health Centres (MCHCs) are inadequate and their opening hours do not cater for working class women. At present, the Government operates three Woman Health Centres (WHCs) and ten MCHCs which provide woman health service, comprising health education, counselling, and assessment according to individual needs. To meet the need of working women, the women health service in all WHCs and MCHCs is now provided in the morning of the 2<sup>nd</sup> and 4<sup>th</sup> non-public holiday Saturdays of each month.

#### Preventive and promotional services

##### *Cervical cancer screening*

331. DH launched a population-based Cervical Screening Programme (CSP) in 2004 in collaboration with both public and private health care providers. The Programme promotes the practice of regular cervical smears to reduce the incidence of cervical cancer in Hong Kong. It aims to raise the awareness and skills of health care providers in the prevention of cervical cancer. The programme launched the Cervical Screening Information System,

which is an electronic registry available free of charge through internet to women in Hong Kong. The registry allows women to access information regarding their own cervical screening as well as receiving reminders for subsequent cervical smears.

*Prevention of breast cancer*

332. Breast cancer is the most common cancer amongst women in Hong Kong. DH educates women on the importance of primary prevention of breast cancer through its clinical services and health educational programmes. Some basic examples of preventing breast cancer include adopting a diet rich in vegetables and fruits, avoidance of alcohol, regular physical activity, weight management and breastfeeding each child for a longer duration. DH also promotes the importance of breast awareness. By encouraging women to learn how their breasts look and feel at different times of the month and with advancing age, women can observe their breast condition so that any abnormal changes can be detected early and immediate medical attention sought. For women with risk factors for breast cancer development, screening mammography is provided at WHCs.

333. Some commentators recommended that the Government provides subsidies for grassroot women to conduct physical check-ups and appropriate screening tests (including clinical breast examination and CSP). The Working Group on Primary Care will develop conceptual models and preventive protocols for age/gender group-specific health problems and other major diseases. These models and protocols will form the basis to guide initiatives in enhancing primary care for different age/gender groups.

334. Commentators also suggested that the Government should launch universal breast cancer screening campaigns. To better combat and prevent cancer, the Government set up the Hong Kong Cancer Coordinating Committee (HKCCC) in 2001. It is chaired by the Secretary for Food and Health, with membership comprising cancer experts, academics, clinicians from the public and private sectors, and public health professionals. The cancer prevention and screening expert panel under HKCCC make recommendations on the strategies for cancer prevention and screening based on the latest medical evidence. Although breast cancer is the most common cancer for women in Hong Kong, the expert panel considers that there is not enough scientific evidence to recommend clinical breast examination or mammography screening for the general female population who have no symptoms as a tool for population-based breast cancer screening. The expert panel recommended that more clinical research on the cost-effectiveness of a local territory-wide population-based breast cancer screening in Hong Kong, as well as on the views of local women to breast cancer screening, was needed.

*Services in connection to child birth*

335. A comprehensive antenatal shared-care programme is provided for pregnant women in MCHCs, in collaboration with the Obstetric Department of public hospitals, to monitor the whole pregnancy and delivery process. Postnatal mothers are provided with physical checkups and advice on family planning. They are also given help and support to adapt to life changes through experience sharing in support groups and individual counselling.

336. As women's mental health has a great impact on their families and the well being of their children, early identification and intervention of mental illness in women is important. The Comprehensive Child Development Service (CCDS) has been implemented in phases since July 2005 in MCHCs. Using MCHCs as the major platform, it aims to ensure early identification of the varied needs of children and their families so that appropriate services can be made available to them in a timely manner. The CCDS comprises four components, namely early identification and management of (i) at-risk pregnant women; (ii) mothers with postnatal depression; (iii) families with psychosocial needs; and (iv) pre-primary children with physical, developmental and behavioural problems. Under CCDS, Maternal and Child Health nurses are trained to identify mothers

with probable postnatal depression using the Edinburgh Postnatal Depression Scale or clinical assessment, and to provide those mothers with supportive counselling. Visiting psychiatric nurses and psychiatrist from HA hospitals provide on-site counselling and specialized support to mothers with special need. Where necessary, mothers are referred to psychiatry department in HA hospitals for follow-up or to IFSCs to receive social services support.

*Childcare knowledge and skills*

337. Recognizing women's important role in caring for the family especially children, mothers are equipped with the necessary knowledge and skills of childcare. The core components of the Integrated Child Health and Development Programme (ICHDP) provided at MCHCs include parenting, immunisation, and health and developmental surveillance. Under ICHDP, anticipatory guidance on child care, child development and positive parenting are provided to all parents during the antenatal period and throughout the pre-school years of children. For parents of children with early signs of behavioural problems or parents who encounter difficulties with parenting, a structured group training programme on positive parenting skills, the Positive Parenting Programme, is offered. Children with significant health, developmental or behavioural problems are referred to specialists or the Child Assessment Service for further management where appropriate. Furthermore, information related to child care is accessible through DH's website and an information hotline to the general public.

338. DH continues to promote breastfeeding among pregnant women and nursing mothers as an effective means of enhancing maternal and child well being. Committed to this cause, DH promulgates a breastfeeding policy and implements the "Ten Steps to Successful Breastfeeding" and "International Code of Marketing of Breastmilk Substitutes" in MCHCs. All pregnant women and their families attending MCHCs are educated about the benefits and importance of breastfeeding. Mothers who wish to breastfeed are given practical guidance and support in managing breastfeeding problems. A breastfeeding hotline is operated to provide professional advice to mothers with lactation problems. Workshops are conducted for working mothers to get them well prepared for continuing breastfeeding upon resumption of work. A breastfeeding information kit for expectant and lactating mothers and their families is distributed at MCHCs to raise public awareness on breastfeeding and solicit community support for breastfeeding mothers. Besides, DH is in the process of developing an education kit for medical practitioners to equip them with the updated knowledge and skills for providing counselling and professional support to breastfeeding mother-baby dyads.

339. The Government recognizes the importance of setting up breastfeeding rooms in public areas. The Advisory Guidelines on Babycare Facilities were published in August 2008 for reference by all Government departments and public organizations. As at end-2009, there are 130 babycare rooms established in Government premises. In the coming few years till 2013, a minimum of 50 new babycare rooms will be provided in Government premises. Moreover, the Government published in February 2009 the Practice Note on the Provision of Babycare Rooms in Commercial Buildings to promote and provide guidance for setting up babycare rooms in private commercial premises. Property developers have responded favourably to the Practice Note. Moreover, the Urban Renewal Authority has made it a mandatory tendering requirement for babycare rooms to be provided, with reference to the Practice Note, at all medium-to-large shopping arcades.

340. HA encourages nursing mother to breastfeed their babies. The Breastfeeding Promotion Subcommittee under the HA Steering Committee on Breastfeeding holds training programmes every year to unify force in breastfeeding promotion to the public and arouse staff awareness in supporting and protecting breastfeeding. Breastfeeding information booklets, leaflets and education videos are produced. HA also provides clinical instruction in helping mothers to establish breastfeeding skills after giving birth; and has

arranged talks, exhibitions and seminars for pregnant women, nursing mothers, and parents. In addition, distribution of free samples of milk powder for marketing purposes was prohibited in HA hospitals from 1 April 2010.

341. Some commentators suggested that the Government should step up efforts in providing a breastfeeding-friendly environment, including provision of more breastfeeding facilities and promotion of public understanding for mothers to nurse in public. The Government's efforts in promoting breastfeeding facilities are set out in paragraphs 339 and 340 above. The department has been actively working with community stakeholders in organizing various publicity and health promoting activities. "Breastfeeding Action Day" was held on 30 July 2010 with more than 1 100 participating mothers. The aim was to promote community awareness and gain public support for breastfeeding in public places. In addition, the department has also published feature articles in newspapers and gave media interviews on breastfeeding.

#### *Sexual and reproductive health*

342. Under FHS of DH, women are provided with education on sexual health at various life stages. Safe sex is emphasized to reduce the chance of contracting STD and developing cervical cancer. Counselling and referral for women with sexual problems are provided as appropriate. Family planning services are provided at MCHCs at a nominal charge to women of childbearing age to enable them to decide freely and responsibly the number and spacing of children. Appropriate contraceptive methods are prescribed according to individual needs. Counselling and referral for women with infertility problems, unwanted pregnancy or who request sterilisation are made as appropriate. Cervical cancer screening is provided in all WHCs and MCHCs.

343. The Government-subsidized FPAHK also plays an important role in providing sexual and reproductive health services in the HKSAR. It runs six birth control clinics, three youth health care centres and a mobile clinic, providing a range of health services encompassing fertility regulation, sexual and reproductive health check-up, pre-marital and pre-pregnancy preparation, menopause service, sex therapy and youth counselling. It also runs seven Women's Clubs to promote family planning, women's health and family life education at grassroots level. In 2007, FPAHK introduced sex therapy to help couples overcome sexual problems.

#### *Health education*

344. Health education is provided at the point of health care service delivery to promote healthy lifestyles and combat important health risk factors such as obesity and lack of exercise. As a recurrent annual theme, promotion of breastfeeding is staged around the World Breastfeeding Week in August to emphasize the importance of breast milk as the single source of nutrients for babies up to the age of six months, as well as for mother and child bonding.

345. Health education is also provided at school and community settings. For instance, DH has launched the "EatSmart@school.hk" Campaign and the "EatSmart@restaurant.hk" to cultivate healthy eating practices so that the public have easier access to information on balanced nutrition.

346. HA has also established the Smart Patient Website as a one-stop internet platform to provide information about major diseases and healthcare procedures for patients, carers as well as the general public. Information about female specific diseases and relevant operation procedures is available on the website to enhance public understanding about these diseases and help patients better manage their diseases.

347. The Health Care and Promotion Fund aims to step up efforts on health promotion and disease prevention, and provide assistance to those patients in need. Since 1999, the



Fund granted HK\$14.79 million (US\$1.9 million) to 38 health promotion projects, and HK\$17.49 million (US\$2.24 million) to 36 research projects.

#### *Controlling smoking*

348. It is the Government's policy to introduce tobacco control measures in a multi-pronged and step-by-step approach, in line with world trends, the community's wishes and the WHO's Framework Convention on Tobacco Control (FCTC). Smoking is a complex social phenomenon. Legislation, publicity and public education, enforcement, high tobacco tax and provision of smoking cessation services all play a part in its control.

349. The Smoking (Public Health) Ordinance (Cap. 371), which is part of the framework on tobacco control, was first enacted in 1982. The Ordinance is reviewed from time to time, with the latest amendments made in 2006 to expand the statutory no-smoking areas to all indoor workplaces and public places and to strengthen the regulation on advertisement, promotion, packaging and labelling of tobacco products.

350. Smoking is now banned at all indoor areas of workplaces and other indoor public places such as restaurants, bars, karaoke establishments, covered public transport facilities and other designated areas including childcare centres, schools, hospitals, escalators and parks. The fixed penalty system for smoking offences came into operation in September 2009. Since then, any person who smokes or carries a lighted cigarette, cigar or pipe in designated no-smoking areas and on public transport carriers will be liable to a fixed penalty of HK\$1,500 (US\$190). The exemption of no display of tobacco advertisement for licensed hawkers also ended on 31 October 2009 and Hong Kong was free from tobacco advertisements thereafter.

351. Article 6 of the WHO FCTC obliges parties to the Convention to adopt tax and price measures to reduce tobacco consumption. Tobacco duty was increased by 50 per cent in February 2009 and tobacco duty now constitutes around 60 per cent of the retail price of cigarettes in Hong Kong. In 2010, the Government proposed to remove all duty-free concessions for tobacco products for incoming passengers, with only an exception for small quantities for self-consumption. The aim is to further reduce the number of smokers and encourage smokers to give up smoking.

352. The Tobacco Control Office (TCO) was established under DH in February 2001. It aims to coordinate the Government's tobacco control efforts and promote a smoke-free culture in Hong Kong through intersectoral collaboration and community mobilisation. TCO has the following three major functions, i.e., conduct health education and promotion, enforcement of the Smoking (Public Health) Ordinance, and coordination of smoking cessation services.

353. An Integrated Smoking Cessation Hotline was established by TCO to provide telephone counselling on smoking cessation by Registered Nurses. In addition, a computerized call handling system in Cantonese, Putonghua and English was set up to provide 24-hour information on smoking cessation and medication. The hotline has recently been enhanced to cover smoking cessation services provided by other organizations, so that callers can select their own service provider. DH also runs smoking cessation clinics to provide counselling services and medication treatment for people with nicotine dependence. As of 31 March 2010, a total of 3 482 clients had joined the enhanced smoking cessation programme at smoking cessation clinics of DH. The percentage of female clients increased from 16.7 per cent to 18.5 per cent in 2009. The smoking cessation rate ranged from about 30 per cent to 40 per cent at 52-week after treatment which is comparable to experience overseas.

354. The TCO has developed a web-based platform called Interactive Online Cessation Centre (IOCC). It serves as a virtual smoking cessation centre to facilitate smokers to give up smoking. The initial phase of IOCC was launched at TCO's website in March 2009. As

of 31 March 2010, the cumulative hit count of IOCC was 37 831 and 423 persons had registered to receive email advice on smoking cessation from IOCC.

355. TCO also promotes smoke-free culture to the public through other channels including health talks, games, health education materials and publicity through the mass media. In January 2009, TCO launched a television and radio API called “Be Good to Yourself”. It targeted female smokers and encouraged quitting by projecting the positive and healthy image of women who had given up smoking. From January to October 2009, smoking cessation messages were also incorporated in some 200 episodes of a popular local television comedy series.

356. To step up its efforts on smoking prevention and cessation, DH entered into a funding and service agreement with a local NGO, the Tung Wah Group of Hospitals (TWGHs), to provide a 3-year pilot community-based smoking cessation programme which commenced in January 2009. The programme covers a comprehensive range of activities and services including smoking cessation services, education for the public, training for healthcare professionals and research projects. Four smoking cessation centres have been established throughout the territory to provide free smoking cessation service. The operation hours of the centres include evenings and weekends to improve accessibility for the users. As of 31 March 2010, the four TWGHs integrated centres on smoking cessation had provided smoking cessation treatment to 960 smokers.

357. HA launched the Smoking Counselling and Cessation Service in 2002 targeting in-patients, out-patients and walk-in smokers, their families as well as the general public, although there is no specific programme solely for smoking women. Ten Smoking Counselling and Cessation Centres (SCCCs) were established at the launch of the Service. To facilitate accessibility, the Service has expanded to two full-time and 30 part-time SCCC in operation territory-wide where patients could receive individual or group face-to-face counselling and telephone follow-up services from professional counsellors, i.e. nurse or pharmacist, for up to 12 months according to protocol and Nicotine Replacement Therapy where appropriate. A quit line was also set up for the public to enquire about related information and make reservations for counselling sessions.

358. In addition, the first female-targeted smoking cessation programme in Hong Kong, conducted by the Department of Nursing Studies of HKU during 2006-2009, was supported through the Health Care and Promotion Fund.

359. The Hong Kong Council on Smoking and Health (COSH) is an NGO subvented by the Government to protect and improve the health of the community by informing and educating the public on the harm of smoking; engaging in research into the cause, prevention and cure of tobacco dependence; and advising the Government and any community organizations on matters relating to smoking and health. COSH conducted publicity and community involvement campaigns with particular emphasis on discouraging smoking in public places and in workplaces. Innovative programmes, such as the No-smoking Day in the Workplace, were devised. Other than publicity and education programmes, COSH also operates a telephone hotline to receive enquiries, suggestions and complaints from members of the public on matters related to smoking and health.

#### *Mental health*

360. The Government is committed to promoting mental health. We seek to ensure that a comprehensive range of mental health services, including prevention, early identification, medical treatment, rehabilitation and community support services, are provided to people in need on a continuous basis. The services are equally available to women and men. We promote the use of a multi-disciplinary and cross-sectoral team approach in delivering mental health services with a view to catering for the needs of mental patients in a holistic manner. In the past few years, the resources allocated by the Government on mental health services each year had been increasing and the annual expenditure was over HK\$3 billion

(US\$385 million). The expenditure in 2009-10 amounted to HK\$3.77 billion (US\$483 million).

361. Allowing the early discharge of mental patients with stabilized condition to receive treatment in community can facilitate their rehabilitation and reduce the chance of relapse of their illness. It is the international trend to focus on community and ambulatory services in the treatment of mental illness. Under this direction, HA has implemented a number of new initiatives in recent years to strengthen community psychiatric services, including implementing the “Extending Care Patients Intensive Treatment, Early Diversion and Rehabilitation Stepping Stone” (EXITERS) project to provide rehabilitation training to long-stay psychiatric patients with a view to facilitating their early discharge and re-integration into the community, launching a pilot programme to provide post-discharge community support to frequently readmitted psychiatric patients, implementing the “Recovery Support Programme” to provide recovery community support to discharged psychiatric patients in need, and enhancing psychogeriatric outreach services.

362. To further strengthen mental health services, HA is launching two new initiatives in 2010-11 to support two categories of mental patients. With regard to persons with severe mental illness, HA will pilot a case management programme in individual districts to provide continuous and personalized intensive support to them in community settings. For persons with common mental disorders, HA will enhance the treatment for them by providing more timely assessment and treatment services in psychiatric specialist outpatient clinics and primary care settings.

363. DH has produced a variety of health education materials to promote mental health, with one specifically targeted at women. These health education materials not only provide information directly to the public, but also facilitate other organizations to promote mental health. Information on mental health is available at all clinics/health centres and health education centres of DH as well as the webpage and the 24-hour health education hotline of the Central Health Education Unit (CHEU).

364. SWD also provides a wide range of services to enhance community support for persons with mental health problems and their families and carers. These services include the Community Mental Health Intervention Project; Community Rehabilitation Day Services; Community Mental Health Care Services Training and Activity Centre for Ex-mentally Ill Persons; and Community Mental Health Link. These services cater for the different stages of the social rehabilitation of the service users, and seek to improve their social adjustment capabilities, prepare them to re-adjust to community living, help them develop their social and vocational skills and raise public awareness of the importance of mental health.

365. For further service enhancement, SWD set up the first Integrated Community Centre for Mental Wellness (ICCMW) in March 2009 to provide one-stop, accessible and integrated community mental health support services to discharged mental patients, persons with suspected mental health problems, their families and carers and residents living in the district. ICCMWs will work closely with HA to provide timely community support to persons with severe mental illness discharged from hospitals under HA’s Case Management Programme as mentioned in paragraph 361 above. Details of the above measures taken by SWD were also elaborated under article 19 of the initial report of the HKSAR under UNCRPD.

366. Some commentators considered that most of the carers of persons with mental health problem were women. To relieve their burden, the Government should provide them with support services. In fact, the Government strives to provide suitable support services for carers of persons with disabilities (including persons with mental health problem) with a view to facilitating them to discharge family duties, relieve their pressure and facilitate their community living. Details of the various types of support services provided by the

Government to family carers were set out under articles 19 and 23 of the initial report of the HKSAR under UNCRPD.

#### *HIV prevention*

367. The Government-appointed Advisory Council on AIDS (ACA) provides policy advice on all aspects of HIV/AIDS prevention, care and control. The DH AIDS Unit provides secretariat support to ACA and also operates the Government's HIV surveillance system, prevention programmes and care services.

368. ACA advises on strategy development in women and engages organizations and individuals involved in HIV/AIDS advocacy, education and services to support strategies formulation at the ACA level through its Community Forum on AIDS. The HIV prevention and health promotion activities for women are conducted by the Government, NGOs and women organizations which incorporate HIV/AIDS in their programmes for women.

369. By the end of first quarter of 2010, a minority (19.7 per cent) of the infected individuals (4 544) are female. The male-to-female ratio increased from about 3:1 in 2001 to 4:1 in 2009 as a result of the wider spread of the disease among men who have sex with men. Almost all infected women are the result of heterosexual infections. Mother-to-child transmission constitutes a unique route for HIV spread. As at the end of the first quarter of 2010, 24 children contracted the virus from their HIV-infected mothers.

370. Women are provided with counselling on the practice of safe sex and voluntary HIV testing by DH. In 2009, 17 per cent of the HIV testing service users were women. A universal voluntary HIV testing and relevant treatment services for pregnant women were introduced in September 2001 to prevent the transmission of the virus to the unborn child. From January 2009 to June 2010, 78 604 HIV tests were performed in the public service, of which 13 were positive. For the same period, the antenatal HIV testing opt-out rate averaged at 1.54 per cent.

371. The Red Ribbon Centre, a clearing house of AIDS education resources established by DH under the sponsorship of the AIDS Trust Fund, was opened in 1997. The Centre was designated as UNAIDS (Joint United Nations Programme on HIV/AIDS) Collaborating Centre in December 1998. The Centre produces education materials and periodicals, and organizes training programmes and publicity activities for the general public, specific target groups and professionals. Some community organizations such as the St. John's Cathedral HIV Education Centre, Hong Kong Federation of Women's Centres Action for Reachout, Community Health Organization for Intervention, Care and Empowerment and AIDS Concern also play an active role in the prevention of HIV infection and health promotion for general-risk women and higher-risk female sex workers.

372. Although the number of annual reports from heterosexual HIV transmission has remained largely stable since 2001, the cumulative number of HIV infected women continued to increase. The Report of Community Assessment and Evaluation on HIV Prevention for Women and Children in Hong Kong 2006 has included under its recommended set of guiding principles the key message that gender equity, empowerment and sensitivity should be incorporated in the development of programmes on HIV prevention, treatment and care.

373. In the coming years, programmes on HIV prevention and care for women will be enhanced as necessary through: (a) the efforts of mainstreaming including women organizations and AIDS NGOs, with the support of the Government; and (b) the expansion of treatment and care capacities for HIV positive women.

#### Ambulatory care

374. A comprehensive range of public ambulatory services including accident and emergency services, general and specialist outpatient services, and outreach services are

provided by HA. Obstetrics and gynaecology specialist services are specially designed to cater for the needs of women.

#### In-patient service

375. In-patient services are provided by the 38 public hospitals with bed provision, which accounted for around 90 per cent of total patient days treated in the HKSAR. Services are equally available to women and men. Similar to ambulatory services, in-patient obstetrics and gynaecology specialist services are provided to cater for the needs of women.

#### **Enabling resources for care**

376. As mentioned earlier, it is Government policy that no one should be denied adequate medical treatment through lack of means. To meet this commitment, the Government heavily subsidizes various health care services using tax revenue. Most of the preventive and promotional services are provided at very low rates, or free of charge. The user fees for public medical services, including both in-patient and out-patient services, are heavily subsidized by the Government, with user fees only accounting for 4 per cent of the full cost of service. A fee waiver mechanism is in place for those who cannot even pay for this heavily subsidized rate. The public expenditure on health increased from HK\$32 billion (US\$4.1 billion) or 2.3 per cent of Gross Domestic Product (GDP) in 1997-98 to HK\$37 billion (US\$4.8 billion) or 2.5 per cent of GDP in 2006-07.

#### **Highlights on services for women with special health needs**

##### Women with disabilities

377. Disabled women in the HKSAR are provided with equal treatment and access to health facilities and services like other person in community. DH has been closely liaising with the Architectural Services Department on barrier-free access improvement works regarding necessary barrier-free access facilities. Most of MCHCs and WHCs have barrier-free access in clinic buildings. Selected MCHCs and WHC have wheelchair accessible gynaecological examination tables for women in wheelchairs. There are ongoing projects to further improve the barrier-free access facilities and services for women with disabilities.

##### Elderly women

378. Elderly women enjoy equal access to health facilities and services like other people in the community. A comprehensive range of in-patient, out-patient and community outreach services are provided by HA. To cater for the special health problems faced by the elderly, DH established the Elderly Health Services in 1998 to enhance primary health care for the elderly with the aim to improve their self-care ability, encourage healthy living, and strengthen carers' support to minimize illness and disability. This is achieved through 18 Visiting Health Teams (VHTs) and 18 Elderly Health Centres (EHCs) in the 18 districts.

379. VHT collaborates with other elderly service providers. They outreach into the community and residential care settings to provide health education, support and training for elders and their carers. Adopting a family medicine approach and staffed by a multi-disciplinary team comprising doctors, nurses, dietitians, clinical psychologists, physiotherapists and occupational therapists, EHCs address the multiple health needs of the elderly by providing preventive, promotional, and curative services to persons aged 65 or above. In 2009, a total of 38 500 elderly were enrolled in EHCs, of whom 65 per cent were women. The health education and promotion activities delivered by VHTs and EHCs are tailored to the needs of specific target groups. These may be in the form of talks, support groups or skills training, addressing various health problems including those specific to, or more common, among women such as "breast and cervical cancer", "osteoporosis", "fall prevention" and "urinary incontinence".

Drug abusers

380. Hong Kong adopts a multi-modality approach to cater for the treatment and rehabilitation needs of drug abusers with varying backgrounds and circumstances<sup>6</sup>. The services, available to both male and female drug abusers, may be grouped into the following categories –

(a) Counselling centres for psychotropic substance abusers (CCPSAs) subvented by SWD provide counselling services and other assistance to psychotropic substance abusers and youth at risk;

(b) Substance Abuse Clinics run by HA provide medical treatment to drug abusers with psychiatric problems;

(c) Methadone treatment programme provided by DH offers both maintenance and detoxification options for opiate drug dependent persons of all ages through a network of 20 methadone clinics on an out-patient mode. They operate daily including Sundays and public holidays. Counselling services at methadone clinics are provided by an NGO — the Society for the Aid and Rehabilitation of Drug Abusers (SARDA);

(d) Forty residential drug treatment and rehabilitation centres and halfway houses (DTRCs) run by 17 NGOs. Twenty of them are subvented by DH or SWD whereas 20 are non-subvented, operated by NGOs ; and

(e) Compulsory drug treatment programmes at drug addiction treatment centres operated by the Correctional Services Department (CSD) for persons aged 14 years or above who were found guilty of offences punishable by imprisonment and addicted to drugs.

381. Among the 40 DTRCs, a total of 11 subvented and non-subvented DTRCs are currently providing services to female drug abusers. They are run by Barnabas Charitable Service Association, Christian Zheng Sheng Association, Operation Dawn, St Stephen's Society, SARDA, and Wu Oi Christian Centre. To cater for the needs of young clients with babies and children, SARDA has provided a separate room in one of the centres for young mothers.

382. The Government has always been conscious of the needs of female drug abusers. Through our on-going monitoring system (notably the Central Registry of Drug Abuse), we have observed a rising trend of reported young female drug abusers under the age of 21 from 958 in 2002 to 1 145 in 2009. This is in line with the increase in the number of reported young male drug abusers, from 2 044 in 2002 to 2 214 in 2009. We have also paid close attention to the utilisation of DTRCs. The numbers of admission of female drug abusers, especially those aged below 21 increased much more rapidly than their male counterparts in 2006, 2007 and 2009. Nevertheless, the total number of reported female drug abusers decreased from 3 186 in 2002 to 2 748 in 2009.

383. In view of the special needs of women, the Government has been giving priority to Beat Drugs Fund (BDF) applications with programmes targeting female drugs abusers. Successful applications include –

(a) Barnabas Charitable Service Association continually supports female drug addicts through different projects and means. In 2004-2007, they implemented three BDF projects designed to provide rehabilitated female drug abusers with out-patient counselling service, training, reintegration programme, enhancement of their motherhood skill, etc. In

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<sup>6</sup> The different service modalities may refer to the different points of intervention, different target groups (e.g. opiate users or psychotropic substance abusers), different treatment approaches (e.g. medical-based or faith-based), different aims (e.g. detoxification, maintenance or psychiatric treatment), or other differences.

2009-10, they recruited mentors for female rehabilitated drug abusers under their project "Mentorship Programme";

(b) Caritas Hong Kong's "Life Architect" aims at reaching hidden young female drug abusers through contacts in various night entertainment venues to approach and motivate the females to participate in various counselling services; and

(c) "i-meta" Art Project organized by the Hong Kong Lutheran Social Service, Lutheran Church - Hong Kong Synod provided female substance abusers with creative art therapeutic workshops, vocational training, counselling sessions, drama performance and art exhibitions.

384. In the Fifth Three-year Plan on Drug Treatment and Rehabilitation Services in Hong Kong (2009-11), released by the Narcotics Division of Security Bureau in April 2009, the need to consider the changing needs of female and other special groups for service enhancement and resource provision was highlighted, and agencies were encouraged to make good use of BDF to organize programmes that aim at responding to their needs. In the 2010-11 BDF funding exercise, programmes targeting specific groups, including young female drug abusers, for more effective preventive education or intervention will continue to be regarded as one of the priority areas.

385. To further demonstrate the Government's resolve in the anti-drug cause, in 2010-11 the Government injected a non-recurrent capital of HK\$3 billion (US\$384 million) to BDF. The injection will provide BDF with a larger income to support effective and innovative programmes which would help address the drug issue in both the short and long term.

386. In light of the increasing prevalence of young drug abusers, the Government has also made available resources for opening four new CCPSAs, bringing the total number to 11 with a territory-wide and more accessible geographic coverage. In the residential treatment setting, we plan to increase the capacity in existing DTRCs, help operators launch new programmes, enhance education (and vocational training elements), and provide better help for rehabilitated youngsters to return to schools and community. In taking forward these initiatives, the special needs of young female drug abusers, among others, would be taken into account.

#### Sex workers

387. Free regular check-up, screening, treatment, counselling and education services for the prevention of STD are offered to sex workers who are local residents in six STD clinics of DH.

388. The AIDS Unit in DH carries out HIV prevention health promotion programmes, offers free HIV testing and counselling services, and provides an integrated public health and clinical programmes for the general public and at-risk population, including female sex workers.

389. The Government also subsidizes and assists NGOs to run HIV prevention, testing and care programmes for sex workers through the AIDS Trust Fund and the Red Ribbon Centre.

#### Ethnic minority, imported workers and foreign domestic helpers

390. All persons in Hong Kong, including ethnic minority women and imported workers such as FDHs, can receive medical treatment at public hospitals and clinics. At present, ethnic minority women and imported workers who are holders of the Hong Kong Identity Card issued under the Registration of Persons Ordinance (Cap. 177) are charged the same subsidized rate as that for local residents for medical treatment at public hospitals and clinics.

## Article 13- Women in economic, social and cultural life

### Social security

#### An overview of the social security system in Hong Kong

391. The CSSA Scheme and the Social Security Allowance (SSA) Scheme continue to be the mainstay of Hong Kong's social security system. Both Schemes are non-contributory. The CSSA Scheme is means-tested and is designed to provide financial support to families in need to meet their basic needs. The SSA Scheme is largely non-means-tested and aims to help the severely disabled and elders meet their special needs through the Disability Allowance (DA) and Old Age Allowance (OAA) respectively. A person, irrespective of gender, can receive assistance under the CSSA Scheme or one of the allowances under the SSA Scheme.

392. As described in paragraph 263 of Part II of the previous report, the standard payment rates under the CSSA Scheme and rates of allowances under the SSA Scheme are adjusted annually to maintain their purchasing power, in accordance with the movement of the Social Security Assistance Index of Prices (SSAIP). SSAIP measures price changes in goods and services consumed by CSSA households. It is compiled by C&SD of the Government, and its weighting system (i.e. the relative expenditure shares of individual items of goods and services covered by the index) is updated every five years by SWD on the basis of the findings of the Household Expenditure Survey (HES) on CSSA Households. The survey collects information on the expenditure on all commodities and services consumed by CSSA households. All local CSSA households with at least one eligible member receiving the standard rate are covered in the survey. At the time of compiling this report, SWD was conducting a new round of HES on CSSA Households.

#### Government expenditure on social security

393. In 2009-10, the Government spent HK\$27.9<sup>7</sup> billion (US\$3.6 billion) on CSSA and SSA, equivalent to 12.5 per cent<sup>8</sup> of total recurrent Government expenditure and 1.7 per cent<sup>9</sup> of the GDP for the year. By way of comparison, the corresponding figures ten years ago for 1999-2000 were HK\$18.5 billion (US\$2.4 billion), 10.2 per cent of the total recurrent Government expenditure and 1.4 per cent of GDP.

#### The Comprehensive Social Security Assistance Scheme

394. The CSSA Scheme remains our safety net for individuals and families who cannot support themselves financially for reasons such as old age, illness, disability, single parenthood, unemployment and low earnings. Divorced women in financial need owing to insufficient maintenance payments from their ex-spouses can also apply for CSSA. As at the end of March 2010, 287 822 households and 479 167 persons were receiving CSSA. Amongst these recipients, around 52 per cent were female recipients. In 2009-10, CSSA payments averaged HK\$3,884 (US\$498) a month for single persons and HK\$9,738 (US\$1,248) for families of four, respectively 39.8 per cent and 99.7 per cent of the median wage.

#### *Eligibility criteria*

395. As explained above, the CSSA Scheme is means-tested, and applicants for CSSA must have been a Hong Kong resident for at least seven years. There will inevitably be

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<sup>7</sup> Figure of 2009-10 is provisional (including one additional month of standard rate of CSSA payment and one additional month of allowance to OAA and DA recipients respectively).

<sup>8</sup> The total recurrent Government expenditure used in the calculation of the percentage is the revised estimate for 2009-10.

<sup>9</sup> The GDP used in the calculation of the percentage is the preliminary figure for 2009-10.



persons who fail to meet the CSSA eligibility criteria for one reason or another but we believe that the current eligibility criteria strike a balance between helping the needy and ensuring prudent and effective use of public money. This is important for maintaining the sustainability of a social security scheme which is non-contributory, has no quota, and is funded entirely out of the Government's general revenue.

396. The system, however, provides for certain exemptions and discretion such that in genuinely deserving or exceptional circumstances, the safety net can be extended to cover people in need. The special arrangement for NAs who cannot meet the residence requirements is a case in point. Apart from exempting those applicants for CSSA aged below 18 from the residence requirements, in exceptional circumstances DSW can exercise discretion to grant CSSA to an adult who does not meet the residence requirements. Between 1 January 2004 and 31 March 2010, discretion was exercised on 7 233 CSSA applications in which the applicants did not meet the seven-year residence requirement. As at the end of March 2010, there were 22 666 CSSA recipients (including those living in the 7 233 households mentioned above and still on CSSA) who were NAs having lived in Hong Kong for less than seven years.

397. To determine whether discretion should be exercised to waive the seven-year residence requirement, DSW will take into account all relevant factors of the case to establish whether there is genuine hardship. Each case is considered on its own merits. The main factors which will be taken into consideration include the applicant's means of livelihood after arrival; the cause of his present hardship; resources and other assistance available to him; and the possibility of his returning to his place of origin.

398. Where an applicant not meeting the seven-year residence requirement works and is earning a monthly income of not less than HK\$1,630 (US\$209), discretion would normally be exercised in consideration of his efforts to become self-supporting. However, if the applicant is available for full-time work but is working less than 120 hours a month, the applicant is required to join the Support for Self-reliance (SFS) Scheme as a condition of receiving assistance as elaborated below.

*From welfare to self-reliance*

399. As at the end of March 2010, there were 32 560 unemployed CSSA cases, accounting for 11.3 per cent of all households on CSSA, which was similar to the situation ten years ago.

*The Support for Self-reliance Scheme*

400. As explained in paragraph 254 of Part II of the previous report, we introduced in June 1999 a package of policy measures to promote self-reliance. This included the SFS Scheme, which was designed to encourage and help unemployed, able-bodied CSSA recipients return to work. Other new measures include strengthened controls to prevent fraud and abuse, and rationalisation of benefit levels for larger households to take account of economies of scale. These measures were taken in response to public concern about the rapid growth in CSSA caseload and expenditure and the need to guard against the emergence of a dependency culture.

401. The SFS Scheme was intensified in June 2003 to strengthen the welfare to self-reliance arrangements. It now comprises three main components –

(a) *The Active Employment Assistance Programme/Integrated Employment Assistance Scheme* – participants are empowered to overcome work barriers, enhance employability and find paid jobs through personalized employment assistance. They will have access to current employment-related information, training/retraining opportunities, and other support services or employment assistance programmes;

(b) *The Community Work programme* – through participation in unpaid community work, unemployed CSSA recipients are helped to develop work habit, improve

social skills, increase self-esteem and confidence and get themselves prepared for rejoining the workforce;

(c) *The Disregarded Earnings (DE) arrangement* – as an incentive for CSSA recipients to find work and continue working, a portion of their monthly earnings from employment will not be deducted from their CSSA entitlement. Since December 2007, we have relaxed the eligibility criterion for DE from being on CSSA for not less than three months to two months, and have raised the no-deduction limit of the monthly DE from the first HK\$600 (US\$77) to the first HK\$800 (US\$103) of income. The maximum monthly DE is HK\$2,500 (US\$321) at present.

#### *The Special Training and Enhancement Programme*

402. The Special Training and Enhancement Programme (My STEP) was launched in 2006 to provide long-term CSSA able-bodied unemployed youths with employment assistance services that incorporated elements of structured motivational or disciplinary training. The objective is to help the participating youths enhance their self-image and self-confidence, and move towards self-reliance through taking up employment or returning to mainstream schooling. Up to the end of March 2010, 1 096 young CSSA recipients had participated in My STEP. Among these participants, 441 (40.2 per cent) had secured employment or returned to mainstream schooling for at least one month; 371 (33.9 per cent) had secured employment or returned to mainstream schooling for at least three months; whilst 86 (7.8 per cent) had left the CSSA net. SWD has implemented the new phase of My STEP since October 2009 to provide at least 700 unemployed CSSA recipients aged 15 to 29 with enhanced employment assistance services.

#### *The New Dawn Project*

403. Special assistance is available to single parents and child carers under the CSSA Scheme. First, we set higher standard rates for them (ranging from HK\$1,590 (US\$204) to HK\$1,990 (US\$255), which are respectively HK\$275 (US\$35) and HK\$360 (US\$46) higher than those for other able-bodied adults) and provide single parents and child carers with a monthly supplement of HK\$255 (US\$37) to recognize the special difficulties they face in bringing up a family. Second, we recognize their need to get ready for active employment as their children grow up and no longer require full-time care. The Government has therefore implemented since 2006 the New Dawn Project to replace the Ending Exclusion Project described in paragraph 256 of Part II of the previous report. The New Dawn Project helps single parents and child carers on CSSA whose youngest child is aged between 12 and 14 moves towards self-reliance by engagement in paid employment. Project participants are assisted by NGOs commissioned by SWD to actively seek paid employment of not less than 32 working hours per month. Up to the end of March 2010, a total of 19 375 CSSA recipients had participated in the New Dawn Project.

#### The Social Security Allowance Scheme

404. The main features of the SSA Scheme remain essentially the same as explained in paragraphs 260 to 262 of Part II of the previous report. As at the end of March 2010, 627 816 persons were receiving allowances under the SSA Scheme, of whom 497 942 persons were receiving OAA at the rate of HK\$1,000 (US\$128) applicable since January 2009, and 129 874 DA at the rate of HK\$1,280 (US\$164) (Normal DA) or HK\$2,560 (US\$328) (Higher DA). The above rate for OAA was 60 per cent and 42 per cent higher than the previous rates of HK\$625 (US\$80) for recipients aged below 70 and HK\$705 (US\$90) for recipients aged 70 or above respectively. About 54.8 per cent of OAA recipients and 52.4 per cent of DA recipients were women. Apart from the seven-year residence requirement mentioned in paragraph 395 above, SSA applicants must also have resided in Hong Kong continuously for at least one year immediately before the date of application.

### **Tax allowance**

405. As mentioned in paragraph 268 of Part II of the previous report, women and men have the same rights and obligations in the Hong Kong tax system. They are eligible for a number of allowances including basic allowance or married person's allowance, child allowance, dependent parent/grandparent allowance, dependent brother/sister allowance, disabled dependent allowance and single parent allowance.

### **Community Investment and Inclusion Fund**

406. As mentioned in paragraph 269 of Part II of the previous report, the Government established the HK\$300 million (US\$38.5 million) CIIF in 2002 to provide seed money to support projects that promote social capital development and encourage mutual support through cross-sectoral collaboration. As at end-March 2010, about 200 projects involving around HK\$200 million (US\$25.7 million) had been approved under CIIF. Among these approved projects, the service targets of 66 were women with disadvantaged background, and the amount of funding involved was around HK\$64.8 million (US\$8.31 million). The main objectives of these projects were to empower and build capacity among the women in need through cross-sectoral partnerships and mutual support networks, so as to enhance their confidence and ability to cope with adversities.

### **New arrival women**

407. The daily quota of One-Way Permits for people from the Mainland to rejoin their families in Hong Kong was increased from 105 to 150 with effect from July 1995. The Government aims to identify the changing demographic profile of NAs and streamline services to meet the changing needs.

408. The most noticeable change to NAs in Hong Kong was the increase in the number of females aged 25 or above in the past years, i.e. from around 35 per cent of the total NAs of all ages in 1998 to around 56 per cent in 2009. NAs aged 25 or above accounted for about 67 per cent of the total NAs in 2009 as compared to only 38 per cent in 1998. The proportion of males aged 25 or above also increased from 3.2 per cent to 10.7 per cent during the same period. As for children and youngsters arriving at Hong Kong in 2009, the distribution between male and female was similar, accounting for about 16.7 per cent and 16.3 per cent of the total NAs respectively.

409. We provide services to facilitate the newly arrived women from the Mainland to integrate into the new environment. Our strategy is to foster effective coordination within Government and to maintain a close partnership between Government and the NGOs that provide services to NAs. The Steering Committee on New Arrival Services coordinates Government departments on issues relating to services for NAs. In addition, the Permanent Secretary for Home Affairs will lead a dedicated team to step up and coordinate efforts in this regard. The team will monitor closely the service needs of NAs during the adaptation period, so as to ensure that the support services can meet their needs. Moreover, the team will enhance collaboration with NGOs and district organizations to facilitate the early integration of NAs and ethnic minorities into the local community.

#### *Support services for new arrivals*

410. At the time when the previous report was prepared, dedicated support service was provided to NAs and their families mainly through eight post-migration centres. A review commissioned by SWD and conducted by HKU in 2001 recommended that a new integrated family service model should be adopted to meet the changing demands for family services. Under the integrated family service model, one-stop family services are provided to needy persons and families, including NAs and their families, in a holistic manner. Having tried out the new service model from 2001 to 2004, SWD considered that the new service model could meet service demands more effectively. In 2005, SWD consolidated all FSCs and

other family service units to form IFSCs. Since then, NAs and their families can have access to a continuum of comprehensive family services in a one-stop manner at the 61 IFSCs over the territory. Family services are now available to them in a more convenient, accessible and holistic way. Groups and programmes targeting NAs and their families are organized at these centres from time to time.

411. With the funding support from SWD, the International Social Service Hong Kong Branch (ISS) continues to provide services to NA families and individuals. Services provided include counselling, emergency assistance, groups and activities, volunteer training and referral to other service units, etc. SWD has also linked up its Departmental Hotline with the New Arrival Hotline operated by ISS since July 2009. The New Arrival Hotline provides support by way of providing information, guidance, regular concern calls, etc. to those who have arrived in Hong Kong for less than six months. Since July 2010, SWD has provided ISS with additional recurrent funding to operate a service team at the Lo Wu Control Point (a control point at the boundary between the HKSAR and the Mainland). Services provided include provision of information about social services in Hong Kong and referrals to appropriate service units for follow-up.

412. Some commentators recommended that the Government should re-establish the post-migration centres operated by SWD. We consider that the IFSC service mode is the preferred mode for the delivery of family services to specific target groups, including NAs, since the 61 IFSCs over the territory can provide them with more accessible, convenient and comprehensive services in a one-stop manner without labelling effect as compared with the then post-migration centres. In IFSCs, NAs may also have access to services which were unavailable at the post-migration centres, such as intensive counselling, assessment on application for compassionate rehousing and referral for clinical psychologist service, etc.

413. In October 2008, SWD commissioned HKU to conduct a review on the implementation of the IFSC service mode. The review indicated that in addressing the needs of specific target groups including NAs, IFSCs, located in their places of residence, gave them the natural platform for integration into the community. The review confirmed our belief that specific target groups should continue to be served by IFSCs under the integrated service mode.

414. As explained in paragraph 275 of Part II of the previous report, ERB provides training programmes to help raise the employability of NAs. Applicants, including NAs, who meet the entry requirements may enrol into a wide array of training and retraining courses provided by ERB in order to adapt to the job market requirements in Hong Kong. As at 31 March 2010, about 138 500 NAs had completed training courses offered by ERB, 92 per cent of whom were female. Furthermore, residents including NAs may enrol in evening courses on secondary education for adult learners with Government financial assistance. These courses enable the NAs to acquire local academic qualifications which will help improve their employability.

415. To ensure that the training needs of NAs are better addressed, ERB has organized a series of dedicated training courses with a view to enhancing their employability and facilitating their integration into society. In 2008, ERB has revamped the "Job Search Skills Course" into the "Module Certificate in Employment Set Sail" course, which seeks to enhance NAs' understanding of the local labour market, job-seeking skills and channels as well as assist them in developing a positive work attitude. ERB has also responded to the requests of NAs and launched a pilot placement-tied training course known as "Certificate in Foundation Skills for Employment" in May 2010. The pilot course aims to provide NAs, especially newly-arrived women, with more comprehensive foundation skills training. Trainees are provided with three months' placement follow-up services upon completion of training in an effort to assist them in seeking employment. The course is provided for free and trainees with an attendance rate of 80 per cent or above are eligible for a training allowance. The course covers training on foundation English and IT applications,

as well as an introduction to community resources, local transport networks and local labour market. It also seeks to help trainees build up their confidence, enhance soft skills training, and strengthen trainees' ability to adapt to the job market. To cater for trainees with childcare needs, ERB has arranged with SWD to provide childcare services through its NSCCP to provide free childcare service during the training period.

416. With the merging of the two Employment and Guidance Centres for NAs with Job Centres in January 2005, NAs, including NA women, may now seek employment services in any of the 12 Job Centres of LD. Each Job Centre has set up a resource corner and conducted regular tailor-made employment briefings for NAs to facilitate their job search.

417. As described in paragraph 278 of Part II of the previous report, the Hong Kong Housing Authority relaxed the residence requirement on several occasions in the past years to facilitate the integration of NAs into the local community. Currently, irrespective of whether the main applicant can satisfy the residence rule, if at least half of the members of the applicant family satisfy the seven-year residence rule at the time of allocation, a public rental housing flat will be allocated to them when their turn is due. All members under the age of 18 are deemed to have satisfied the seven-year residence rule if either they have established the birth status as permanent residents in Hong Kong or, regardless of their place of birth, one of their parents has resided in Hong Kong for seven years. Besides, any eligible person with imminent housing needs may apply for Compassionate Rehousing (CR) upon SWD's recommendation for early rehousing.

418. Given the changing profiles of NA women, their demand for services varies over time. To keep track of their changing needs, HAD conducts regular surveys on the needs of NAs. The survey results are shared with different Government bureaux and departments as well as NGOs to facilitate planning and re-targeting services when necessary.

419. Since 1996, HAD has published a handbook to provide information on various services in traditional and simplified Chinese characters. The contents of the handbook are updated regularly. The handbook also includes information for female NAs such as welfare services, medical services, family planning, employment services, etc The contents of the handbook have been uploaded onto the Internet, and distributed to NAs through district offices, relevant Government departments and NGOs.

420. In addition, since 2007, HAD has also allocated resources to those districts with a higher concentration of NAs and the disadvantaged in the community to facilitate district organizations to organize activities (such as workshops, interest classes, visits, camps and other activities) to assist NAs to integrate into the local community as soon as possible.

### **Single parents**

421. As mentioned in paragraph 282 of Part II of the previous report, the revised conditional tenancy arrangements for public housing introduced in November 2001 as well as the established practice that all deserving cases recommended by SWD are eligible for CR, have enabled couples undergoing divorce proceedings to be rehoused separately with/without child(ren) while awaiting the award of divorce decree. The number of women who had benefited from such policies were as below –

<i>Year</i>	<i>No. of Women</i>
2007-08	467
2008-09	449
2009/10	494

422. Under the current policy on housing arrangement for divorced couples living in public rental housing, the tenancy is usually granted to the party having the custody of child(ren). If the single divorcee (any gender) being displaced from the public rental

housing flat is genuinely homeless, an interim housing unit may be offered subject to his/her fulfilment of the eligibility criteria (including Comprehensive Means Test and Domestic Property Test).

423. At the time when the previous report was prepared, dedicated support service was provided to single parent families mainly through five single parent centres. As mentioned in paragraph 410 above, SWD consolidated all FSCs and other family service units to form IFSCs in 2005. Since then, single parent families, like NA families, can have access to a continuum of comprehensive family services, including some services which were not available in the then single parent centres, at the 61 IFSCs over the territory. As mentioned in paragraphs 412 and 413 above, the review on the implementation of the IFSC service mode commissioned by SWD in October 2008 confirmed the Government's belief that specific target groups, including single parent families, should continue to be served by IFSCs under the integrated service mode.

424. Paragraph 284 of Part II of the previous report mentioned that outreaching service for single parent families is provided for early identification and intervention of their problems. Our outreaching service has been enhanced as SWD has launched a FSP since 2007 to assist vulnerable families that are unwilling to seek help, including single parent families. Under the programme, Family Support Network Teams comprising volunteers and professional social workers proactively reach out to needy persons (including single parent families) and refer them to appropriate support services for early intervention.

#### **Women with disability**

425. The Government takes suitable legislative and administrative measures to ensure the development, advancement and empowerment of women, including women with disabilities, thereby facilitating their enjoyment of the rights and fundamental freedoms of UNCRPD. The measures taken by Government in this respect were elaborated under article 6 of the initial report of the HKSAR under UNCRPD.

426. The Selective Placement Division (SPD) of LD, operating from three offices, provides free placement services to help place persons with disabilities in open employment. Apart from providing employment counselling and arranging job matching and referral, placement officers will prepare persons with disabilities for job interviews beforehand and, where necessary, accompany them to attend such interviews. Placement officers will also provide follow-up services after a job seeker has been placed.

427. In 2009, SPD recorded 3 185 registrations, of whom 1 441 (45.2 per cent) were female and achieved 2 436 placements, of whom 1 215 (49.9 per cent) were female.

428. SPD administers the Work Orientation and Placement Scheme (WOPS) to enhance employment opportunities for persons with disabilities. WOPS was launched in April 2005 with a view to encouraging employers to offer job vacancies for persons with disabilities through a three-month trial placement. To further improve the employment opportunities of persons with disabilities amidst the economic challenge in 2009, LD has enhanced WOPS by increasing the financial incentive to employers and extending the subsidy period. As at 31 January 2010, WOPS achieved a total of 1 653 placements, of whom 783 (47.4 per cent) were female.

#### **Women of ethnic minorities**

429. The Government is committed to combating racial discrimination. Our policy is to facilitate the integration of ethnic minorities, including ethnic minority women, into community, while preserving their cultural characteristics. The latest position on the legislation against race discrimination has been described in this report under article 2.

430. The RDO affords legislative safeguards for the rights of individuals, including minority women, against racial discrimination, while at the same time maintaining proper respect and protection for the legitimate rights and freedoms of others.

431. As regards administrative measures, the Race Relations Unit as mentioned in paragraph 297 of Part II of the previous report continues to provide a range of support services, either by implementing its own programmes or through sponsoring the work of NGOs. The activities include radio programmes in the languages of the ethnic minorities both for their entertainment and to keep them up-to-date with local news and important government announcements, community support teams to provide services to the ethnic minority groups through members of their own community, and a Mobile Information Service initiative, providing ethnic minority NAs with relevant information to public services and channels to seek assistance.

432. Furthermore, starting from 2009, Government has provided funding for four NGOs to establish and operate four support service centres for ethnic minorities in Hong Kong. They provide Chinese and English language training, orientation programmes, counselling and referral services, interest classes, and other support services to ethnic minorities. One of the four centres provides telephone and on-site interpretation services to facilitate ethnic minorities' access to public services.

433. The support service centres have organized a number of language and computer courses, orientation and familiarisation programmes (such as visits to government departments and travelling by public transport), interest classes (e.g. cooking classes and embroidery classes) and mutual support groups to assist the integration of ethnic minorities into community. A number of these programmes are tailored for ethnic minority women taking into account their specific cultural and gender needs. These programmes are normally held in the afternoon, given their need to take care of their families. Nursery support service is also provided by some centres to facilitate their joining of the programmes.

434. The Ethnic Minorities Forum, set up in July 2003, provides a channel of communication between the Government and ethnic minority communities and organizations dedicated to serving them. It helps to identify the concerns and needs of ethnic communities and discuss possible ways of addressing them.

435. As mentioned in paragraph 297 of Part II of the previous report, the Committee on the Promotion of Racial Harmony, with membership selected from ethnic minority communities and their representatives, continued to advise the Government on promotion of racial harmony, including provision of support services to ethnic minorities.

436. In 2010, the Government issued administrative guidelines to provide general guidance to concerned Government bureaux and departments and relevant public authorities to promote racial equality and ensure equal access by ethnic minorities to public services in key areas, and to take this into account in their formulation, implementation and review of relevant policies and measures.

437. As regards the equal opportunities funding scheme mentioned in paragraph 295 of Part II of the previous report, following the full implementation of RDO in July 2009, EOC has expanded the scope of its own funding scheme to include the element of race in providing funding to encourage NGOs, community groups and schools to initiate their own projects on equal opportunities. It forms an integral part of EOC's work in promoting equal opportunities and racial harmony.

438. WoC was concerned about the circumstance of ethnic minority women in Hong Kong who might have specific needs and problems. To understand their situation and concern, WoC held meetings with experts and relevant government departments. Sharing sessions were also arranged for some ethnic minority women to exchange views with WoC

on issues of their concern. WoC will maintain dialogue with them and reflect their views to relevant parties as appropriate.

### **Elderly women**

439. Any eligible persons in need of public rental housing assistance, including those single elderly women, may apply for public rental housing through the Waiting List. Through the Single Elderly Persons Priority Scheme, public rental housing flats are provided for the elderly on a priority basis. In this regard, the Housing Authority pledges to maintain the average waiting time (AWT) for single elderly persons at two years. At present, AWT for single elderly persons is 1.1 years. Besides, any eligible person with imminent housing needs may apply for CR upon SWD's recommendation for early rehousing. CR is a form of housing assistance, which aims at providing assistance for individuals and families with genuine and imminent housing problems which cannot be solved by themselves. For elderly people who are victims of domestic violence with genuine and imminent housing problems which cannot be solved by themselves, they may apply for CR. SWD will consider their application and recommend eligible applicants to HD for allocation of public rental housing units.

440. Having due regard to the special needs of some elderly persons, HD will conduct some adaptation works in the public rental housing flats occupied or to be occupied by the elderly persons such as converting the bath tub into a shower area with a grab rail provided free of charge upon request from the elderly sitting or prospective tenants aged 60 or above to ensure safety during bathing.

### **Loans, mortgages and credit**

441. It is unlawful for anyone who provides banking or insurance facilities to discriminate against a person on the grounds of sex. The position remains essentially the same as reported in paragraph 298 of the previous report.

### **Recreation, sport and cultural life**

442. In 2009-10, total expenditure for arts activities funded by the Government amounted to over HK\$2.7 billion (US\$0.35 billion). Women artists are treated on a par with their male peers.

443. In 2009-10, the Leisure and Cultural Services Department continued to promote "Sport for All" policy aiming at offering sports opportunities to all regardless of race, class, sex or disability. The department managed a wide range of recreation and sports facilities throughout the 18 districts and organized some 35 800 recreation and sports programmes for more than 2 167 000 participants from all walks of life. Most of the programmes were funded by DCs. Among the 2 167 000 participants taking part in our programmes, 1 159 000 were female, representing 53.5 per cent of the overall participation rate.

444. Since 2008-09, the annual provision to DCs to organize community involvement activities has increased to HK\$300 million (US\$38 million). Through the funding, DCs organize various community involvement activities in partnership with local organizations or Government departments with a view to meeting district needs and creating a people-based network of compassion, care, support, respect and mutual support. The activities funded by DCs include women-related programmes.

## **Article 14- Rural women**

### **Reservation entered in respect of this article**

445. On behalf of the HKSAR, the PRC Government has declared that laws applicable in the New Territories of the HKSAR which enable male indigenous villagers to exercise



certain rights in respect of property and which provide for rent concessions in respect of land or property held by indigenous persons or their lawful successors through the male line will continue to be applied.

### **Definition of “indigenous” population in Hong Kong**

446. In the context of succession of land properties in the New Territories, rent concessions and rural elections, an “indigenous inhabitant” means a person who was in 1898 a resident of an established village<sup>10</sup> in Hong Kong or who is descended through the male line from that person. In the context of Small House Policy, an “indigenous villager” means a male person at least 18 years old who is descended through the male line from a resident in 1898 of a recognized village<sup>11</sup>.

### **Succession of land property in the New Territories and review of land policy**

#### Rent concession

447. Rent concessions in respect of certain rural properties owned by indigenous villagers are provided for under article 122 of the Basic Law. Article 122 of the Basic Law stipulates that in the case of old schedule lots, village lots, small houses and similar rural holdings, where the property was on 30 June 1984 held by, or, in the case of small houses granted after that date, where the property is granted to, a lessee descended through the male line from a person who was in 1898 a resident of an established village in Hong Kong, the previous rent shall remain unchanged so long as the property is held by that lessee or by one of his lawful successors in the male line. We consider it necessary to retain reservation 5 to ensure consistency between the application of the Convention in the HKSAR and the Basic Law.

#### Small House Policy

448. Reservation in relation to article 5 also provides for the continuation of the Small House Policy. Under the Policy, a male indigenous villager may apply, once in his lifetime, to build a small house on his own land or Government land (if available).

449. The Government notes that the Committee expressed concern on the Small House Policy in its previous concluding comments.

450. The Government indicated in the previous report that a review on the Small House Policy was being conducted. Since the Small House Policy involves a host of complicated legal, land use and planning issues, the review needs to be carried out prudently and will necessarily take time. The Government will consult rural community and the community at large when specific proposals are available.

### **Rural elections**

451. There are three levels of election in the villages of the New Territories, which are the election of village representatives (VRs), Rural Committees and Heung Yee Kuk. The Heung Yee Kuk is an advisory and consultative body established by law for the New Territories.

452. A system of village representation evolved in the New Territories over the last century. The arrangements for electing VRs also developed over time. In August 1994, the Heung Yee Kuk promulgated a set of guidelines known as Model Rules for the conduct of

<sup>10</sup> “Established village” is defined to mean a village that was in existence in 1898 and which the Director of Lands has satisfied himself was then in existence.

<sup>11</sup> A ‘recognized village’ is one which is shown on the list of recognized villages approved by the Director of Lands.

VR Elections (the Model Rules), which were adopted by the majority of the villages. In December 2000, in the judicial review proceedings initiated by two villagers challenging the validity of the electoral arrangements for the office of VRs of their villages, which were based on the Model Rules, the Court of Final Appeal ruled that the electoral arrangements used in those two villages in 1999 were inconsistent with HKBORO and SDO.

453. The Government recognized the need to reform VR elections to ensure that they are conducted in an open, fair and honest manner and that they are consistent with HKBORO and SDO. The Village Representative Election Ordinance (Cap. 576) (VREO) was hence enacted on 14 February 2003. Since the commencement of VREO, two village ordinary elections were held in 2003 and 2007 respectively.

454. In accordance with VREO, VRs are members of their respective Rural Committees, of which the Chairmen and Vice-Chairmen are elected on a one-person-one-vote basis. This forms the second level of the rural electoral system. The Chairmen and Vice-Chairmen of the Rural Committees are ex-officio Councillors of the Heung Yee Kuk. They are eligible to elect the Chairman and Vice-Chairmen of the Heung Yee Kuk on a one-person-one-vote basis. This is the third level of the rural electoral system. Women and men enjoy equal rights at both levels.

455. Currently, there are 28 women serving as VRs. Seven women are serving as Executive Committee members of the Rural Committees whereas five are Councillors of the Heung Yee Kuk.

456. Some commentators considered that although the number of women participating in rural elections was on the rise, the participation rate was still low. Hence, the Government should provide resources for women's groups (especially for those in rural areas) to raise the awareness of women indigenous inhabitants in rural affairs. More efforts should also be made to encourage rural women to participate in rural elections. It should be pointed out that whether a person would participate in rural elections is entirely a matter of his or her own choice. This notwithstanding, for the VR elections to be held in 2011, we will continue to step up publicity to encourage a wider participation of women. We will also closely monitor the rate of female participation in the voter registration, candidate nomination and voter turn-out, as well as the number of female VRs elected. It should be noted that women made up about 46 per cent - 47 per cent of the total number of registered electors for the VR elections held in 2003 and 2007, while during the same period the total number of registered electors rose from 158 000 to 170 000. This percentage remains consistent when the number of registered electors in the Provisional Register which increased to over 183 000 in the 2011 VR election. As regards the number of female candidates, it rose from 29 in 2003 to 35 in 2007, representing an increase of 21 per cent. The number of female VRs elected also rose from 17 in 2003 to 28 in 2007, representing an increase of 65 per cent.

## **Article 15- Equality in legal and civil matters**

### **Reservations entered in respect of this article**

457. On behalf of the HKSAR, the PRC Government has entered a declaration on article 15, paragraph 3, of the Convention that only those terms or elements of a contract or other private instrument which are discriminatory in the sense described are to be deemed null and void, but not necessarily the contract or instrument as a whole. The Government does not believe that it would be in the interests of women if the whole of a contract containing discriminatory elements were to be deemed null and void.

458. Also, a reservation has been entered by the PRC Government on behalf of the HKSAR on the immigration legislation governing the entry into, stay in and departure from the Region contained in article 15, paragraph 4. The relevant laws of Hong Kong on the

prevention and preclusion of persons (irrespective of sex) entering and remaining in Hong Kong who do not have the right of abode in Hong Kong is essential to the safeguard of the security and stability of the HKSAR.

### **Women's legal status and civil rights**

459. As mentioned in paragraph 314 of Part II of the previous report, all the rights recognized in HKBOR, as set out in HKBORO, are enjoyed by everyone without distinction, including sex. The position remains unchanged since the previous report.

#### Women's rights to make contracts in their own name and to administer property

460. The position regarding women's rights to make contracts in their own name and to administer property as mentioned in paragraph 315 of Part II of the previous report remains unchanged.

#### Treatment of women in court

461. Legislative amendments were made in 2003 to make a person competent to give evidence on behalf of his or her spouse or to give evidence against his or her spouse. The Evidence (Miscellaneous Amendments) Ordinance 2003 amends the Criminal Procedure Ordinance. Section 57 of the Criminal Procedure Ordinance now provides that the spouse of an accused shall be compellable to give evidence for the prosecution and on behalf of the accused or a co-accused if the offence charged –

- (a) Involves an assault on or an injury to the husband or wife of the accused;
- (b) Involves causing the death of or other harm to a child of the family under 16;
- (c) Is a sexual offence against a child of the family under 16; or
- (d) Consists of attempting or conspiring to commit or aiding or inciting the commission of an offence falling within (a), (b) or (c) above.

#### Access to legal aid

462. As mentioned in paragraph 317 of Part II of the previous report, to ensure that people who have reasonable grounds have sufficient means to instigate or defend in legal proceedings, the Legal Aid Scheme is provided to those eligible applicants passing a means test and a merits test, regardless of whether or not they are Hong Kong residents. The eligible applicants are provided with legal representation by a solicitor and, if necessary, a barrister in civil or criminal proceedings before the courts in Hong Kong. Legal aid is available, inter alia, to cases in the District Court, the Court of First Instance, the Court of Appeal and the Court of Final Appeal. In 2009, for both civil and criminal legal aid applications, there were 9 566 female applicants and 52 per cent of them were granted legal aid while 56 per cent of the 11 607 men were granted legal aid.

#### Others

463. The position regarding the Married Persons Status Ordinance (Cap. 182) remains as explained in paragraphs 318 of Part II of the previous report.

464. As reported in paragraph 319 of Part II of the previous report, eligible women and men are entitled to serve on juries as there is no restriction under the Jury Ordinance (Cap. 3) on service of jurors by virtue of gender. As at 31 March 2010, there were a total of 538 656 persons on the Common Jurors' List of whom 261 589 (i.e. 49 per cent) were female.

465. In paragraph 320 of Part II of the previous report, it was mentioned that a study was being carried out by LRC on the grounds for determining domicile, in which the domicile of married women was being reviewed. As mentioned in paragraph 26 of article 2, an amendment was made to the Domicile Ordinance which changes the common law for

determining the domicile of a married woman to the extent that a married woman's domicile will no longer depend on that of her husband.

#### **Appointment to the Judiciary**

466. Article 92 of the Basic Law stipulates that judges and other members of the judiciary of the HKSAR shall be chosen on the basis of their judicial and professional qualities. Gender is not a relevant consideration in judicial appointment. As at 31 March 2010, there were 36 females (i.e. 22 per cent) out of a total of 162 JJOs.

#### **Women in prisons**

467. CSD is responsible for the safe and humane custody of persons committed by the courts to prison and the detention of persons committed for criminal proceedings. CSD has developed over the years a penal system placing increasing importance on correction and rehabilitation of inmates. On this basis, comprehensive treatment and training programmes have been put in place for different classes of prisoners such as young prisoners, drug dependants, first offenders or recidivists, irrespective of gender.

468. The provisions in law including the Prisons Ordinance (Cap. 234), the Training Centres Ordinance (Cap. 280), the Drug Addiction Treatment Centres Ordinance (Cap. 244), the Rehabilitation Centres Ordinance (Cap. 567), and the Mental Health Ordinance (Cap. 136), provide for an effective system to ensure that the rights of prisoners are protected and all prisoners are treated equally. Vocational training, educational programmes and various services are provided to cater for different classes of prisoners, regardless of gender. In some cases, special protection and treatment are provided owing to gender considerations. For example, female prisoners are in all cases kept in entirely separate facilities, or part of a prison, apart from male prisoners. Under no circumstances will a prisoner be searched by an officer of the opposite sex. Babies newly born of female inmates may stay with their mothers until they are three years old.

469. Currently, CSD operates four female institutions. We reported in the previous report that there was a sharp upsurge in female penal population since end-2000, and the increase was mainly due to the rapid increase in imprisonment rate for those females from the Mainland charged with "breach of condition of stay". The situation has been improving in recent years. The following table shows the recent trend in female penal population.

<i>Year</i>	<i>Number of Female Inmates</i>	<i>Number of Certified Accommodation</i>	<i>Occupancy Rate</i>
2005	2 289	1 341	171 per cent
2006	2 240	2 009	111 per cent
2007	2 178	2 014	108 per cent
2008	2 232	2 044	109 per cent
2009	1 932	2 083	93 per cent

470. A redeveloped female institution commenced operation in July 2010 providing 1 400 penal places and rehabilitation facilities. The overall occupancy rate of female institutions as at mid-October 2010 was 93 per cent.

#### Girls' homes

471. SWD has been providing various rehabilitation services, including residential training, to maladjusted children/juveniles and young offenders with the objective of helping them get back to the right track. To enhance the quality of care and supervision of the residents, the Tuen Mun Children and Juvenile Home (TMCJH) was set up in March 2007 by co-locating six correctional and residential homes (including boys' and girls' homes) under SWD. TMCJH is a modern multi-purpose residential complex serving as a

place of refuge, place of detention, remand home, probation home and reformatory school for children and juveniles in legal custody. Services and programmes provided by TMCJH include education and vocational training tailor-made and provided by the Vocational Training Council, individual counselling and group work programmes, community service, recreational activities, medical and health care and clinical psychological service. Since the setting up of the institution, about 73 per cent of the child/juvenile residents have returned to schools or joined the workforce upon completion of their rehabilitation training as directed by the courts.

### **Refugees and asylum seekers**

472. We note the previous concluding comments suggesting the extension of the 1951 Convention relating to the Status of Refugees to Hong Kong.

473. Hong Kong's unique situation, with its small geographical area, dense population and easy access from different parts of the world, makes us vulnerable to possible abuses if the 1951 Convention were to be extended to Hong Kong. We maintain a firm policy of not granting asylum and have no obligation to admit individuals seeking refugee status under the 1951 Convention. Applications for refugee status lodged in Hong Kong are handled by the Hong Kong Sub-office of the United Nations High Commissioner for Refugees.

474. On humanitarian grounds, the Government offers in collaboration with NGOs and on a case-by-case basis, assistance-in-kind to needy individuals to prevent them from destitution while their applications for refugee status are under processing. The types of assistance provided include temporary accommodation, food, clothing, other basic necessities, appropriate transport allowances, counselling and medical services. The package of assistance offered varies according to the needs and personal situations of the individual.

## **Article 16- Equality in family law**

### **Rights in respect of marriage and family**

475. The rights in respect of marriage and family continue to be provided for as explained in paragraphs 325 to 326 of Part II of the previous report.

#### The Marriage Ordinance

476. As mentioned in paragraph 326 of Part II of the previous report, the right of men and women to enter into monogamous marriage with their full and free consent is guaranteed under the Marriage Ordinance (Cap. 181). Bigamy was rendered illegal under the Offences against the Person Ordinance. The Marriage Ordinance also provides that the marriageable age is 16 and for marriage under the age of 21, consent of a parent, guardian or a District Judge is necessary.

### **Matrimonial litigation**

#### Legislation regarding maintenance and property rights

477. The position in relation to legislation regarding maintenance and property rights remains as explained in paragraph 327 of Part II of the previous report. A recent court case concerning equal and non-discriminatory distribution of assets between the spouses on dissolution of marriage under the Matrimonial Proceedings and Property Ordinance (Cap.192) is set out at annex 16A.

#### Civil Justice Reform

478. The Judiciary introduced a three-year family mediation pilot scheme in May 2000. A Mediation Coordinator's Office was set up in the Family Court Building. The Mediation

Coordinator held information sessions to assist couples to consider mediation to resolve their matrimonial disputes. Data collected indicated that considerable success was achieved in the promotion of the use of mediation in family disputes. Almost 80.5 per cent of the respondents who used the service of the Mediation Coordinator's Office were "satisfied" or "very much satisfied" with the mediation service received. More than 60 per cent of the respondents agreed that they were able to discuss disputed issues with their spouses through the mediation service in a peaceful and reasonable manner. In view of the high user's satisfaction rate and high agreement rate, the pilot scheme was made permanent.

479. In March 2005, the Government launched a one-year pilot scheme to establish whether extending funding to mediation of legally aided matrimonial cases could be justified. Under the pilot scheme, both the legally aided person and the other party were invited to join the scheme on a voluntary basis. In 2009, the Legal Aid Department included costs of mediation in legally aided matrimonial cases as a part of legal costs.

#### Maintenance orders

480. The Interest and Surcharge on Arrears of Maintenance Ordinance 2003, which levies interest and surcharge on arrears of maintenance, came into operation on 1 May 2005. The Ordinance aims to address the difficulties encountered by some maintenance payees in collecting maintenance payments and enforcing maintenance orders. Where a maintenance payer does not pay the full amount or does not pay punctually according to a maintenance order, a maintenance payee is entitled to interest automatically in respect of the arrears of maintenance accrued. A surcharge on maintenance arrears will be levied against a maintenance payer who defaults without reasonable excuse. The Ordinance empowers the court to order a maintenance payer to pay a surcharge up to 100 per cent of the total arrears of maintenance accrued.

481. The Government will continue the efforts to address the difficulties that maintenance payees experience in the following areas:

- (a) Relaxing the circumstances in which Attachment of Income Orders are issued;
- (b) Empowering the court to impose interests and surcharge against defaulting maintenance payers;
- (c) Relaxing the requirement that judgement summonses for the recovery of maintenance arrears must be served personally on the maintenance payers;
- (d) With the use of a standard letter, maintenance payees can request relevant Government departments (Immigration Department, Transport Department and HD) to search their records for addresses of defaulting maintenance payers who are to be sued for arrears for free; and
- (e) Educating the public on the subject of maintenance, including the responsibility of maintenance payers, the rights of the maintenance payees and also the services available for maintenance payees when they encounter a default in maintenance payment.

#### Recovery of maintenance from overseas

482. The position remains as explained in paragraph 333 of Part II of the previous report.

### **Legislation regarding guardianship, wardship and adoption of children**

#### The Adoption Ordinance

483. A major development in our adoption policy subsequent to the previous report is the implementation of the Hague Convention on Protection of Children and Co-operation in

respect of Intercountry Adoption (the Convention on Adoption) in Hong Kong since January 2006. The Convention on Adoption sets out a framework for cooperation in inter-country adoptions and provides safeguards to ensure that inter-country adoptions are made in the best interest of the child. Amendments were made to the Adoption Ordinance (Cap. 290) to give legislative effect to the Convention on Adoption in Hong Kong.

484. Under the Adoption Ordinance, women and men enjoy the same rights in both local and overseas adoption and regardless of whether they are parents of the infant to be adopted and applicants for an adoption order. The only exception is that adoption orders will not be made in respect of a female infant in favour of a male sole applicant, unless the court is satisfied that there are special circumstances justifying the making of the adoption order. The purpose of such an exception is to protect female infants to be adopted from the danger of sexual abuse/other sex offences.

#### The Guardianship of Minors Ordinance

485. The Guardianship of Minors Ordinance (Cap. 13) mentioned in paragraph 335 of Part II of the previous report consolidates the law relating to the guardianship of minors. Under this Ordinance, a mother has the same rights and authority as a father. In case the parents separate or divorce, either parent may apply to court for an order requiring the payment of maintenance for the minor by the parent who does not have custody of the minor.

486. Between 2002 and 2005, LRC published a series of four reports recommending law reforms relating to the guardianship and custody of children. One of the reports, the Report on Guardianship of Children, recommends amendments to the Guardianship of Minors Ordinance with a view to simplifying the law and procedures for parents to appoint guardians for their children to take up their parental responsibilities upon their deaths. The proposed legislative amendments will not affect the equal treatment between men and women under the Ordinance and the provisions in relation to the making of maintenance order by the court. Amendments will soon be made to the Ordinance to implement the recommendations.

#### The Child Abduction and Custody Ordinance

487. The Convention on the Civil Aspects of International Child Abduction continues to be implemented in Hong Kong through the Child Abduction and Custody Ordinance (Cap. 512). One of the four LRC reports mentioned in paragraph 486 above, namely the Report on International Parental Child Abduction, recommends amendments to the Child Abduction and Custody Ordinance to further enhance the protection for children against abduction and improve the existing legislation. The proposed legislative amendments will not affect the equal treatment between men and women under the Ordinance. Amendments will be made to the Ordinance to implement the recommendations in due course.

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