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\*\* Annexes can be consulted in the files of the Secretariat.

## List of abbreviations

API	Announcement in the public interest
Basic Law	Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China
CAPO	Complaints Against Police Office
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CMAB	Constitutional and Mainland Affairs Bureau
COMAC	Commissioner for Administrative Complaints
CPCE	Committee on the Promotion of Civic Education
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSD	Correctional Services Department
DDO	Disability Discrimination Ordinance
EOC	Equal Opportunities Commission
ExCo	Executive Council
FSDO	Family Status Discrimination Ordinance
GDP	Gross Domestic Product
HAD	Home Affairs Department
HKBOR	Hong Kong Bill of Rights
HKBORO	Hong Kong Bill of Rights Ordinance
HKSAR	Hong Kong Special Administrative Region of the People's Republic of China
ICAC	Independent Commission Against Corruption
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ImmD	Immigration Department
LegCo	Legislative Council
LWB	Labour and Welfare Bureau
NGOs	Non-Government organisations
NPC	National People's Congress
NPCSC	Standing Committee of the NPC
RDO	Race Discrimination Ordinance
RRU	Race Relations Unit
SDO	Sex Discrimination Ordinance
The Police	The Hong Kong Police Force
WoC	Women's Commission

## **I. General information**

### **A. Demographic, economic, social and cultural characteristics**

1. Relevant demographic indicators and social, economic and cultural indicators in respect of the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR) are at Annex A.
2. The population in Hong Kong at mid-2007 was 6.92 million. With the annual population growth ranging from 0.2% to 0.9% in recent years, the population at mid-2011 exceeded the 7 million mark (7.07 million). The population increase was mainly due to the continuous inflow of holders of Permit for Proceeding to Hong Kong and Macao from the Mainland of China and the natural increase during the period.
3. The majority of the population in Hong Kong are Chinese (94%). The number of ethnic minorities in Hong Kong was 451 183 (about 6% of the population) in 2011, with an increase of 31.8% over 2006. Among all the ethnic minorities in Hong Kong, the number of Indonesians increased markedly from 87 840 in 2006 to 133 377 in 2011, while their proportion in all ethnic minorities increased from 25.7% to 29.6%.
4. In terms of language most commonly used, 93.5% of Chinese aged five and over usually spoke Cantonese at home, followed by other Chinese dialects (other than Cantonese and Putonghua) (4.3%). On the other hand, among ethnic minorities aged five and over, English was the language most commonly spoken at home (44.2%), followed by Cantonese (31.7%).
5. Ageing of the population has continued. While the proportion of people aged under 15 fell from 13.7% in 2006 to 11.6% in 2011, the proportion of people aged 65 and over rose from 12.4% to 13.3%.
6. Hong Kong is a small and open economy. Hong Kong's per capita Gross Domestic Product (GDP) in 2010 stood at around \$246,700. Its economy has become increasingly service-oriented over the past decades, as manifested by a continued rise in the share of the service sectors in GDP from 87% in 2000 to 93% in 2010.
7. The diversification and restructuring of the economy will continue, with a view to broadening the economic base. The Government will consolidate the strengths of the traditional four pillar industries (namely financial services, tourism, trading and logistics, and business and professional services), and at the same time step up efforts to promote the growth of industries where Hong Kong enjoys clear advantages (including educational services, medical services, testing and certification services, environmental industries, innovation and technology, cultural and creative industries). The transformation towards a knowledge-based, high valued-added economy has led to a shift in manpower demand in favour of higher-skilled and better educated workers.

### **B. Constitutional, political and legal structure of the HKSAR**

#### **1. Constitutional document**

8. In accordance with the provisions of Article 31 and sub-paragraph 13 of article 62 of the Constitution of the People's Republic of China, and the relevant decisions of the National People's Congress (NPC) adopted at the Third Session of the Seventh NPC on 4 April 1990, the HKSAR was established on 1 July 1997. The Basic Law of the Hong

Kong Special Administrative Region of the People's Republic of China (Basic Law) came into effect on 1 July 1997.

9. The Basic Law is the most important legal document for the HKSAR to exercise a high degree of autonomy. It prescribes the relationship between the Central Authorities and the HKSAR, fundamental duties of the residents and the social, political, cultural and other systems to be practised in the HKSAR.

10. Among other matters, the Basic Law provides that:

(a) The NPC authorises the HKSAR to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication. The power of final adjudication of the HKSAR shall be vested in the Court of Final Appeal established in the Region;

(b) The executive authorities and legislature of the HKSAR shall be composed of permanent residents of Hong Kong;

(c) Under the principle of "one country, two systems", the socialist system and policies shall not be practised in the HKSAR and Hong Kong's previous capitalist system and way of life shall remain unchanged for 50 years;

(d) The laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravenes the Basic Law, and subject to any amendment by the legislature of the HKSAR;

(e) National laws shall not be applied in the HKSAR except for those listed in Annex III to the Basic Law<sup>1</sup> and that the laws listed therein shall be applied locally by way of promulgation or legislation by the Region. The Standing Committee of the NPC (NPCSC) may add to or delete from the list of laws in Annex III after consulting the Committee for the Basic Law of the HKSAR and the HKSAR Government;

(f) The HKSAR is authorised to conduct relevant external affairs on its own in accordance with the Basic Law using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organisations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields;

(g) The HKSAR remains a free port, a separate customs territory and an international financial centre. The HKSAR Government shall, on its own, formulate monetary and financial policies, safeguard the free operation of financial business and financial markets, and regulate and supervise them in accordance with law. The HKSAR safeguards the free flow of capital within, into and out of the Region. The HKSAR issues and manages its own currency;

(h) The HKSAR formulates its own policies on the development of education, science, culture, sports, labour and social welfare, and Hong Kong residents have the freedom of religious belief;

(i) Hong Kong residents enjoy a wide range of freedoms and rights; and

(j) The provisions of the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR.

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<sup>1</sup> National laws listed in Annex III to the Basic Law are at Annex B.

The freedoms and rights of Hong Kong residents will be dealt with under the section below on “General framework for the protection and promotion of human rights”.

## **2. Political system**

11. The Chief Executive of the HKSAR is the head of the Region, and is accountable to the Central People’s Government and the HKSAR in accordance with the provisions of the Basic Law. The Executive Council (ExCo) assists him in policy-making. The HKSAR Government formulates and implements policies, introduces bills, implements law and provides services to the community. The Legislative Council (LegCo) is the legislature of the HKSAR. District Councils – established in accordance with articles 97 and 98 of the Basic Law – are consulted on district administration and other affairs. There is an independent judiciary.

### **(a) Chief Executive**

12. The Chief Executive leads the HKSAR Government and decides on government policies. He is responsible for the implementation of the Basic Law and other laws which, in accordance with the Basic Law, apply in the HKSAR. Moreover, he signs bills and budgets passed by the LegCo. He also nominates and reports to the Central People’s Government for appointment of principal officials. He appoints or removes judges of the courts at all levels and holders of public office in accordance with legal procedures. The Chief Executive also conducts, on behalf of the HKSAR Government, external affairs and other affairs as authorised by the Central Authorities.

13. The Basic Law provides that the Chief Executive of the HKSAR shall be selected by election or through consultations held locally and be appointed by the Central People’s Government. The method for selecting the Chief Executive shall be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

### **(b) Executive Council**

14. The ExCo assists the Chief Executive in policy-making. Under article 56 of the Basic Law, except for the appointment, removal and disciplining of officials and the adoption of measures in emergencies, the Chief Executive shall consult the ExCo before making important policy decisions, introducing bills to the LegCo, making subordinate legislation, or dissolving the LegCo. The Chief Executive in Council also determines appeals, petitions and objections under those ordinances that confer a statutory right of appeal. If the Chief Executive does not accept a majority opinion of the ExCo, he shall put the specific reasons on record.

15. The Council normally meets once a week. It is presided over by the Chief Executive. As provided for in article 55 of the Basic Law, members of the ExCo shall be appointed by the Chief Executive from among the principal officials of the executive authorities, members of the LegCo and public figures. Their term of office shall not extend beyond the expiry of the term of office of the Chief Executive who appoints them.

16. The current membership of the ExCo comprises the 15 Principal Officials appointed under the Political Appointment System and 14 non-official members.

### **(c) The structure of the Administration**

17. The Chief Executive is the head of the Government of the HKSAR. If the Chief Executive is not able to discharge his duties for a short period, such duties shall temporarily

be assumed by the three Secretaries of Departments, namely the Chief Secretary for Administration, the Financial Secretary, or the Secretary for Justice, in that order of precedence. The Government of the HKSAR comprises a Department of Administration, a Department of Finance, a Department of Justice, and various bureaux, divisions, and commissions.

18. There are currently 12 bureaux, each headed by a Policy Secretary, which collectively form the Government Secretariat. With certain exceptions, the heads of Government departments are responsible to the Secretaries of Departments and Policy Secretaries. The exceptions are the Commissioner of the Independent Commission Against Corruption, The Ombudsman and the Director of Audit, who function independently and are directly accountable to the Chief Executive.

19. A Political Appointment System has been introduced since 1 July 2002. Under the system, the Chief Secretary for Administration, the Financial Secretary, the Secretary for Justice and the 12 Policy Secretaries of the HKSAR Government are political appointees. They are responsible for specific policy areas and are accountable to the Chief Executive. They are at the same time appointed as Members of the ExCo and, together with other Non-Official Members of the Council, assist the Chief Executive in policy making. Under the system, there remains a permanent, professional and politically neutral civil service.

**(d) Legislative Council**

20. The powers and functions of the LegCo are specified in article 73 of the Basic Law. These include enacting, amending or repealing laws in accordance with the provisions of the Basic Law and legal procedures; examining and approving budgets introduced by the Government; approving taxation and public expenditure; receiving and debating the policy addresses of the Chief Executive; raising questions on the work of the Government; debating any issue concerning public interests; endorsing the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court; and receiving and handling complaints from Hong Kong residents.

21. Article 68 of the Basic Law provides that the LegCo of the HKSAR shall be constituted by election. The method for its formation shall be specified in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the LegCo by universal suffrage. Annex II to the Basic Law and the relevant decision of the NPC at its Third Session on 4 April 1990 prescribe the composition of the LegCo during its first three terms as follows.

<i>Membership</i>	<i>First term 1998-2000 (two years)</i>	<i>Second term 2000-2004 (four years)</i>	<i>Third term 2004-2008 (four years)</i>
(a) Elected by geographical constituencies through direct elections	20	24	30
(b) Elected by functional constituencies	30	30	30
(c) Elected by an election committee	10	6	-
<b>Total</b>	<b>60</b>	<b>60</b>	<b>60</b>

22. Annex II of the Basic Law provides that, if there is a need to amend the method for forming the LegCo after 2007, such amendments must be made with the endorsement of a two-thirds majority of all the members of the Council and the consent of the Chief Executive and they shall be reported to the NPCSC for the record. In 2007, the NPCSC promulgated a decision making it clear that the election of the fifth CE of the HKSAR in

the year 2017 may be implemented by the method of universal suffrage. And after the CE is elected by universal suffrage, the election of the LegCo of the HKSAR may be implemented by the method of electing all members by universal suffrage. In 2010, the HKSAR Government put forth a constitutional reform package, with a view to enhancing the democratic elements of the two electoral methods for 2012. The motions on the package was passed by the LegCo by two-third majority in June 2010 and endorsed by the NPCSC in August 2010. The local legislations were passed in March 2011.

23. After the passage of the local legislations on the two electoral methods for 2012, the HKSAR is divided into five geographical constituencies for the fifth term of the LegCo (2012-2016), each of which has five to nine seats. A total of 35 seats are returned by geographical constituencies through direct elections. Another 35 seats are returned from functional constituencies, including the new District Council (second) functional constituency. Under the new “one-person-two-votes” arrangement, more than 3.2 million electors can cast two votes, one for a candidate list in a geographical constituency and one for another candidate list in the new District Council (second) functional constituency. This new functional constituency treats Hong Kong as a single constituency and candidates are nominated from elected District Council members.

**(e) District Councils**

24. Eighteen District Councils were established in the HKSAR to advise the Government on all matters relating to the well-being of residents in the districts and to promote community building through carrying out various community involvement programmes including recreational and cultural projects, and undertaking environmental improvement projects within the districts. A District Council is composed of elected members, appointed members, and, in the case of District Councils in rural areas, the chairmen of Rural Committees as ex-officio members. For the fourth term District Councils (2012-2015), the HKSAR is divided into 412 constituencies, each returning one elected member. In addition, there are 68 appointed members and 27 ex-officio members.

**(f) Relevant statistics**

25. Relevant statistics on the political system, including the number of complaint cases received from the public on the conduct of major elections, and the voter turnout rates, are set out in Annex C.

**3. Administration of justice**

**(a) The judicial system of the HKSAR**

26. The legal system is firmly based on the rule of law, professional legal services, quality legal aid services, and a Judiciary which is independent of the executive authorities and the legislature.

27. Article 19 of the Basic Law provides that the HKSAR shall be vested with independent judicial power, including that of final adjudication. The courts of the HKSAR shall have jurisdiction over all cases in the Region, except that the restrictions on their jurisdiction imposed by the legal system and principles previously in force in Hong Kong shall be maintained. The courts of the HKSAR shall have no jurisdiction over acts of state such as defence and foreign affairs. The courts of the Region shall obtain a certificate from the Chief Executive on questions of fact concerning acts of state such as defence and foreign affairs whenever such questions arise in the adjudication of cases. This certificate shall be binding on the courts. Before issuing such a certificate, the Chief Executive shall obtain a certifying document from the Central People’s Government.

28. The courts of justice comprise the Court of Final Appeal, the High Court (which consists of the Court of Appeal and the Court of First Instance), the District Court, the Magistrates' Courts, the Lands Tribunal, the Labour Tribunal, the Small Claims Tribunal, the Obscene Articles Tribunal and the Coroner's Court. The courts hear and determine all criminal trials and civil disputes, whether between individuals or between individuals and Government of the Region.

29. Article 82 of the Basic Law provides that the power of final adjudication of the HKSAR shall be vested in the Court of Final Appeal of the Region, which may as required invite judges from other common law jurisdictions to sit on the Court of Final Appeal. Article 83 further provides that the structure, powers and functions of the courts of the HKSAR at all levels shall be prescribed by law.

30. Article 92 of the Basic Law provides that judges and other members of the judiciary of the HKSAR shall be chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions. Article 88 of the Basic Law further provides that judges of the courts of the HKSAR shall be appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, persons from the legal profession and eminent persons from other sectors.

31. Judges have security of tenure. Article 89 of the Basic Law provides that a judge of a court of the HKSAR may only be removed for inability to discharge his or her duties, or for misbehaviour, by the Chief Executive on the recommendation of a tribunal appointed by the Chief Justice of the Court of Final Appeal and consisting of not fewer than three local judges. The Chief Justice of the Court of Final Appeal of the HKSAR may be investigated only for inability to discharge his or her duties, or for misbehaviour, by a tribunal appointed by the Chief Executive and consisting of not fewer than five local judges and may be removed by the Chief Executive on the recommendation of the tribunal and in accordance with the procedures prescribed in the Basic Law.

**(b) Relevant statistics**

32. From 2007 to 2011, the relevant statistics on the administration of justice in respect of the HKSAR set out below. Statistics relevant to the sentencing of offenders and death in custody are set out in Annex D.

**Incidence of violent death and life threatening crimes reported**

<i>Crime</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Murder and manslaughter	18	36	47	35	17
Attempted murder	7	4	4	2	4

**Number of persons arrested for violent or other serious crimes**

<i>Crime</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Murder and manslaughter	25	42	35	35	19
Wounding and serious assault	6 498	5 985	5 878	5 225	5 289
Robbery	682	611	428	376	410
Drug trafficking	1 420	1 489	1 569	1 413	1 357

**Number of reported cases of sexually motivated violence**

<i>Crime</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Rape	107	105	136	112	91
Indecent assault	1 390	1 381	1 318	1 448	1 415

**Number of Police officers per 100 000 persons**

	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Police officers	395.3	392.9	397.9	397.4	398.6

**Number of judges and judicial officers**

	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Judges and judicial officers	154	161	154	158	158

**Statistics on legal aid**

	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
(1) No. of legal aid applications	3 765	3 413	3 816	3 907	3 888
(2) No. of applications refused on merits	1 152	1 012	899	957	949
(3) No. of applications granted legal aid	2 507	2 235	2 800	2 740	2 795
(4) Applicants granted legal aid with nil contribution out of (3)	2 305	2 046	2 546	2 472	2 547
(as % of (3))	(91.94%)	(91.54%)	(90.93%)	(90.22%)	(91.13%)

**4. Non-government organizations**

33. Article 27 of the Basic Law guarantees that Hong Kong residents shall have freedom of association and the right and freedom to form and join trade unions, and to strike. Article 18 of the Hong Kong Bill of Rights (HKBOR), which corresponds to article 22 of the ICCPR, also guarantees the freedom of association. In Hong Kong, all organisations including companies, societies, trade unions and credit unions must be registered by authorities under applicable ordinances such as the Companies Ordinance (Cap. 32) and the Societies Ordinance (Cap. 151).

**Exemption of tax**

34. Subject to certain limitations, charitable institutions or trusts of a public character are exempt from tax under section 88 of the Inland Revenue Ordinance (Cap. 112). Charities wishing to enjoy the tax exemption may apply to the Inland Revenue Department.

35. For an institution or a trust to be a charity, it must be established for purposes which are exclusively charitable according to law. The law defining the legal attributes of a charity is based upon case law developed through court decisions.

36. A summary of the purposes that may be accepted as charitable, in accordance with case law, are:

- (a) Relief of poverty;

- (b) Advancement of education;
- (c) Advancement of religion; and
- (d) Other purposes of a charitable nature beneficial to the community not falling under any of the preceding heads.

37. While the purposes under the first three heads may be in relation to activities carried on in any part of the world, those under head (d) will only be regarded as charitable if they are of benefit to the Hong Kong community.

## **II. General framework for the protection and promotion of human rights**

### **A. Application of international human rights treaties to the HKSAR**

38. The list of international treaties that are applicable to the HKSAR and the relevant information is at Annex E.

### **B. Legal framework for the protection of human rights**

#### **1. Rule of law**

39. The fundamental basis for the protection of human rights is the rule of law maintained by an independent judiciary (see paragraphs 26 to 31 above). The principles that inform the rule of law are:

(a) *The supremacy of the law*: No individual is punishable or can lawfully be made to suffer personally or financially except for a breach of law established before the independent courts. Where, under the law, an official or an authority has discretion to make a decision, that discretion must be exercised legally, fairly and reasonably. Where it does not do so, the decision must be capable of successful challenge before the courts. The Basic Law guarantees the right of Hong Kong residents to institute legal proceedings in the courts against the acts of the executive authorities and their personnel; and

(b) *Equality before the law*: Article 25 of the Basic Law provides that all Hong Kong residents shall be equal before the law. Article 22 provides that all offices set up in the HKSAR by departments of the Central People's Government, or by provinces, autonomous regions, or municipalities directly under the Central Government and personnel of these offices shall abide by the laws of the Region. Article 14 provides that members of the garrison shall, in addition to abiding by national laws of China, abide by the laws of the HKSAR. Article 35 provides that Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel. No Government authority or official, and no individual, is above the law. All persons, regardless of race, rank, politics, religion or sex, are equal before the law and subject to the same law. Individuals and the HKSAR Government have the same access to the courts to enforce legal rights or defend an action.

#### **2. Human rights guarantees in the Basic Law**

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

- (a) Equality before the law;

- (b) Freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike;
- (c) Freedom of the person; freedom from torture; freedom from arbitrary or unlawful arrest, detention or imprisonment; freedom from arbitrary or unlawful search of the body; and right against arbitrary or unlawful deprivation of life;
- (d) Freedom from arbitrary or unlawful search of, or intrusion into, one's home or other premises;
- (e) Freedom and privacy of communication;
- (f) Freedom of movement within the HKSAR and freedom of emigration to other countries and regions and freedom to travel and to enter or leave the Region;
- (g) Freedom of conscience; freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public;
- (h) Freedom of choice of occupation;
- (i) Freedom to engage in academic research, literary and artistic creation, and other cultural activities;
- (j) Right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies; right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel;
- (k) Right to social welfare in accordance with law; and
- (l) Freedom of marriage and right to raise a family freely.

41. Persons in Hong Kong other than Hong Kong residents shall, in accordance with law, enjoy the rights and freedoms of Hong Kong residents prescribed by Chapter III of the Basic Law. In addition, permanent residents of the HKSAR enjoy the rights to vote and to stand for election in accordance with law.

### **3. Effect of other human rights instruments in HKSAR law**

42. According to Article 39 of the Basic Law:

“The provisions of the ICCPR, the ICESCR and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR.

The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article.”

43. In general, and as is usual in common law systems, treaties that apply to Hong Kong (including human rights treaties) do not themselves have the force of law in the domestic legal system of Hong Kong. They cannot directly be invoked before the courts as the source of individual rights. However, the courts will, when possible, construe domestic legislation in such a way as to avoid incompatibility with international treaties that apply to Hong Kong. The usual method of giving effect in local law to treaty obligations (when these require some change in existing laws or practice) is to enact specific new legislation<sup>2</sup>.

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<sup>2</sup> An example is the Crimes (Torture) Ordinance (Cap. 427 of the Laws of the HKSAR) which was

Where this results in the creation or definition of specific legal rights and where these rights are denied or interfered with (or there is the threat of such action), a remedy will be available in the courts through the ordinary procedures of civil litigation; or the law may provide criminal sanctions.

#### **4. Hong Kong Bill of Rights Ordinance**

44. The Hong Kong Bill of Rights Ordinance (Cap. 383) (HKBORO) was enacted in June 1991 specifically to give effect in local law to the provisions of the ICCPR as applied to Hong Kong. It achieves this by setting out a detailed HKBOR, the terms of which are almost identical to those of the ICCPR.

#### **5. Legal aid**

45. Eligible applicants receive legal aid through the provision of the services of a solicitor and, if necessary, a barrister in court proceedings to ensure that any person who has reasonable grounds for pursuing or defending a legal action is not prevented from doing so by lack of means. Publicly funded legal aid services are provided through the Legal Aid Department and the Duty Lawyer Service.

##### **(a) Legal Aid Department**

46. The Legal Aid Department provides legal representation to eligible persons in both civil and criminal cases heard in the Court of Final Appeal, the Court of Appeal, the Court of First Instance, the District Court and the Magistrates' Court (for committal proceedings). Civil legal aid is available for proceedings covering major areas of livelihood of the community ranging from family disputes to immigration matters and to coroner's inquests. The grant of legal aid is not subject to a residence requirement. Applicants must satisfy the Director of Legal Aid of their financial eligibility (the means test) and of the justification for legal action (the merits test). In civil cases, the Director has discretion to waive the upper limits of the means test in meritorious applications where a breach of the HKBORO or the ICCPR as applied to Hong Kong is an issue. In criminal cases, the Director has the same discretion if he considers it in the interest of justice to do so. Subject to the means test (unless waived by a judge), it is mandatory to grant legal aid to an applicant charged with murder, treason or piracy with violence. For other criminal offences, provided the applicant passes the means test, a judge may grant legal aid notwithstanding that legal aid has been refused on merits by the Director.

##### **(b) The Duty Lawyer Service**

47. This Service complements the legal aid services provided by the Legal Aid Department. It operates three schemes that respectively provide legal representation (the Duty Lawyer Scheme), legal advice (the Legal Advice Scheme) and legal information (the Tel Law Scheme). In addition, the Service started operating the Convention against Torture Scheme on a pilot basis since December 2009. The Duty Lawyer Scheme offers legal representation to defendants (juvenile and adult) charged in the Magistracies who cannot afford private representation. It also provides legal representation to persons who are at risk of criminal prosecution as a result of giving incriminating evidence in Coroner's inquests. Applicants are subject to a means test and merits test, based on the "interest of justice" principle in accordance with Article 14 of the ICCPR and article 11 of the HKBOR. The Legal Advice Scheme and the Tel Law Scheme respectively provide members of the public

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enacted to give effect in Hong Kong to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

with free legal advice through individual appointments and taped information on the legal aspects of everyday problems. The Convention against Torture Scheme provides legal assistance to persons who have made a claim to the Immigration Department (ImmD) under Article 3 of CAT.

(c) **Legal Aid Services Council**

48. The Legal Aid Services Council, an independent statutory body, was established in 1996. Its role is to oversee the administration of the legal aid services provided by the Legal Aid Department and advise the Chief Executive on legal aid policy.

**6. Office of the Ombudsman**

49. The Ombudsman – formerly known as the Commissioner for Administrative Complaints (COMAC) – is an independent authority established under The Ombudsman Ordinance<sup>3</sup> (Cap. 397). The Ombudsman investigates and reports on grievances arising from maladministration. “Maladministration” includes such things as inefficient, bad or improper administration, unreasonable conduct (such as delay, discourtesy and lack of consideration), abuse of power or authority and unjust or discriminatory procedures. Members of the public can complain directly to The Ombudsman, who can also initiate investigations on his own volition and may publish investigation reports of public interest. Additionally, The Ombudsman is empowered to investigate complaints of non-compliance with the Code on Access to Information.

50. Since December 2001, the Office of The Ombudsman has severed its links with the Administration and has become an independent corporation sole with full autonomy and statutory powers to conduct its own administrative and financial business. The Ordinance also specifies that The Ombudsman is not a servant or agent of the Government.

51. Subject to The Ombudsman Ordinance, The Ombudsman may obtain any information and documents from such persons as he thinks fit. He may summon any person to provide information relating to his investigations and may enter any premises of the organisations under his jurisdiction to conduct investigations. He also has sufficient means with which to ensure that his recommendations are heard and acted upon.

52. After investigating a complaint, The Ombudsman is empowered to report his opinion and reasons, together with a statement of any remedy and recommendation that is considered necessary, to the head of the organisation affected. If the recommendation is not acted upon within a reasonable timeframe, the Ombudsman may report the matter to the Chief Executive. He may also do so if he believes that there has been a serious irregularity or injustice done. Such reports are bound by law to be laid before the Legislative Council.

53. The Ombudsman has jurisdiction over nearly all Government departments of the HKSAR and major statutory bodies. The Hong Kong Police Force and the Independent Commission Against Corruption (ICAC) are not subject to The Ombudsman’s investigation, except for cases of non-compliance with the Code on Access to Information. Complaints against these departments are handled by discrete, dedicated bodies (see paragraphs 57 and 58 below).

**7. The Equal Opportunities Commission**

54. The Equal Opportunities Commission (EOC) was established under the Sex Discrimination Ordinance (SDO) in May 1996 and started full operation in September that

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<sup>3</sup> Formerly known as the COMAC Ordinance.

year. The Commission is responsible for conducting formal investigations, handling complaints, encouraging conciliation between parties in dispute, providing assistance to aggrieved persons in accordance with the four anti-discrimination ordinances. It undertakes research programmes and public education to promote equal opportunities in the community. The Commission is also empowered to issue codes of practice to provide practical guidelines to facilitate public compliance with the laws on equal opportunities. Accordingly, it issued Codes of Practice on Employment in relation to the SDO and the Disability Discrimination Ordinance (DDO) in December 1996 and revised the latter in 2011 to provide updated information on the developments of the law to ensure its continued usefulness as a reference tool. It issued similar codes in relation to the Family Status Discrimination Ordinance (FSDO) in March 1998 and the Race Discrimination Ordinance (RDO) in July 2009. The Code of Practice on Education under the DDO was issued in July 2001 to assist educational establishments in fulfilling the requirements of the DDO.

55. Please refer to the section on “Information on non-discrimination and equality” below for further details in relation to the anti-discrimination ordinances and the work of the EOC.

## **8. Privacy Commissioner for Personal Data**

56. The Personal Data (Privacy) Ordinance provides for regulation over the collection, holding, processing and use of personal data in both the public and private sectors. Its provisions are based on internationally accepted data protection principles. The Ordinance applies to personal data the access to or processing of which is practicable whether it is recorded in electronic, paper file, or audio-visual forms. The Ordinance provides for an independent statutory authority, the Privacy Commissioner for Personal Data, to promote, monitor and enforce compliance with its provisions. The Commissioner’s responsibilities include, among others, promoting awareness and understanding of the Ordinance, issuing codes of practice on how to comply with the Ordinance, examining proposed legislation that may affect the privacy of individuals in relation to personal data, and enforcing the Ordinance.

## **9. Complaints and investigations**

### **(a) The Police**

57. The Complaints Against Police Office (CAPO) investigates complaints about the conduct and behaviour of members of the Hong Kong Police Force (the Police). The CAPO’s investigations are monitored and reviewed by the statutory Independent Police Complaints Council established under the Independent Police Complaints Council Ordinance which took effect on 1 June 2009. The Council’s main functions include observing, monitoring and reviewing the handling and investigation of reportable complaints by CAPO and making recommendations in respect of the handling or investigation of such complaints, and identifying any fault or deficiency in the practices or procedures adopted by the Police that has led or might lead to reportable complaints and making recommendations in respect of such practices or procedures. The Council comprises non-official members appointed by the Chief Executive from a wide spectrum of the community.

### **(b) The Independent Commission Against Corruption**

58. Established in 1977, the ICAC Complaints Committee is responsible for monitoring and reviewing the ICAC’s handling of non-criminal complaints against the ICAC and its officers. Being an independent committee appointed by the Chief Executive, the ICAC Complaints Committee comprises mainly Executive and Legislative Councillors and a

representative of The Ombudsman. Complaints against the ICAC or its officers can be made direct to the ICAC Complaints Committee as well as the ICAC at any of its offices. The investigation of such complaints is handled by a special unit of the Operations Department of the ICAC. When the unit has completed its investigation of a complaint, its conclusions and recommendations are submitted to the ICAC Complaints Committee for consideration.

**(c) Other disciplined services**

59. Other disciplined services departments maintain clear guidelines and procedures for handling complaints. For example, the Correctional Services Department (CSD), which runs HKSAR's prisons, has a Complaints Investigation Unit to manage its grievance redress system for staff, prisoners, and members of the public. These persons may also direct their complaints to the Chief Executive, members of the LegCo, The Ombudsman, visiting Justices of the Peace and other law enforcement agencies such as the ICAC and the Police. The existing complaint channels are considered effective in view of the number and the nature of complaints handled.

60. The ImmD applies complaints procedures set out in the Immigration Service Standing Orders made by the Director of Immigration under the authority of the Immigration Service Ordinance (Cap. 331). Complaints about abuse of authority or maltreatment by service members can be made to the Director of Immigration and are investigated promptly in accordance with the procedures in the Standing Orders. To ensure that all complaints are properly handled, a Complaints Review Working Party examines the results of investigations, conducts reviews and recommends follow-up action whenever necessary. Persons who consider that they have been improperly treated or that their cases have been mismanaged also have access to The Ombudsman. If there is prima facie evidence that a member of the Immigration Service has committed a criminal offence, the Immigration Service will immediately report the matter to the Police for further investigation. Disciplinary procedures against Immigration Service staff are also governed by the Immigration Service Ordinance and the Immigration Service Standing Orders. Under Section 8 of the Immigration Service Ordinance, unlawful or unnecessary exercise of authority resulting in loss or injury to any person is a disciplinary offence.

**C. Framework within which human rights are promoted**

**1. Promotion of public awareness of the human rights treaties**

61. The Constitutional and Mainland Affairs Bureau (CMAB) of the HKSAR Government is responsible for coordinating and overseeing the implementation of policies relating to human rights and equal opportunities, including the promotion of public awareness of the rights and obligations stipulated in the human rights treaties applicable to Hong Kong. The Labour and Welfare Bureau (LWB) of the HKSAR Government is responsible for matters and human rights treaties relating to women and disability, including the relevant human rights treaties applicable to Hong Kong.

**(a) Dissemination of human rights treaties in the HKSAR**

62. The HKSAR Government is committed to the promotion of the rights as enshrined in the human rights treaties applicable to Hong Kong. The promotion work is carried out through various channels including media campaigns in the form of television and radio announcement in the public interest (API). For example, an API produced by the CMAB to promote respect of children's rights as enshrined in the Convention on the Rights of the Child (CRC), namely, the right to life, development, protection and participation, was launched in June 2009. A major publicity campaign, including a series of television

thematic docudrama and documentary, a package of television and radio APIs, and advertisements on newspapers and public transport facilities has been launched by LWB since August 2009 to promote the spirit and values enshrined in the United Nations Convention on the Rights of Persons with Disabilities (CRPD). A series of publicity programmes in the form of roving exhibitions, school educational dramas and district activities have been carried out by LWB on an on-going basis to promote public awareness on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

63. The Government also produces bilingual booklets on the text of the human rights treaties (in both Chinese and English, the official languages of the HKSAR). Furthermore, publications such as bilingual booklets, newsletters and leaflets on these treaties, with illustrations of the principal provisions and in languages which are easy to understand, are published. These publications aim to enhance the promotion of the treaties to members of the public, including parents and children. The publications are widely distributed to the public, including schools, libraries, district offices and non-government organisations (NGOs), and have been uploaded onto the Government website.

64. The processes undertaken by the HKSAR Government in consulting the public in preparing reports to the United Nations treaty monitoring bodies, publication of the report, dissemination of concluding observations of the United Nations treaty monitoring bodies to the public and discussing them with stakeholders concerned also provide opportunities for promoting the human rights treaties to the public. These are elaborated below under the section on “Reporting process”.

**(b) Human rights education among public officials and professionals**

65. The HKSAR Government provides training and education to Government officials including legal officers and operational staff of the disciplinary forces in relation to the Basic Law, which provides the constitutional guarantees for human rights protection in the HKSAR, and other human rights subjects such as application of human rights treaties, equal opportunities and the HKBORO.

*(i) Government officials in general*

66. The Civil Service Bureau and the Civil Service Training and Development Institute organise seminars for Government officers at different ranks. These include seminars on the Basic Law, equal opportunities (in collaboration with the EOC and/or NGOs) and other areas of human rights.

67. Major components of the CRPD, the HKBORO and the anti-discrimination ordinances have also been incorporated into seminars and courses for newly recruited Government officers. We also organise tailored courses for departments with frequent and extensive contacts with members of the public with a view to enhancing the knowledge of the officers on applying CRPD, the anti-discrimination ordinances and related code of practice in their daily work.

68. In addition to the above, training is provided to Government officers of different grades and ranks to raise their gender awareness and understanding of gender-related issues. Such training includes seminars and workshops which cover CEDAW and other instruments that protect women’s interests and their application in Hong Kong. The LWB has also developed a web-portal and a web course on gender mainstreaming for reference by all Government officers.

(ii) *Legal officers*

69. The Department of Justice organises training sessions for Government legal officers. Some of those sessions deal with international human rights law and human rights protection under the Basic Law. Others focus on specific areas according to the specialised needs of the different divisions of the Department. For example, the Prosecutions Division of the Department of Justice organises criminal advocacy courses for prosecutors and during which prosecutors are acquainted with the Juvenile Offenders Ordinance (Cap. 226), the Protection of Children and Juveniles Ordinance (Cap. 213), relevant international standards, and the court proceedings in relation to the juvenile justice system. Counsel of the Department also attend seminars and conferences organised by universities and academic institutions and overseas conferences on human rights.

(iii) *Operational staff of the disciplinary forces*

70. Training of disciplined services invariably includes reference to human rights. The ImmD, the Customs and Excise Department and the CSD have incorporated lectures on the HKBORO and gender-related trainings into their regular in-service and training programmes for new recruits. Human rights and equality principles are part of the foundation training for the Police Force's new recruits and probationary inspectors. The continued training programmes for in-service officers also cover these topics.

71. The ICAC provides training and issues orders to all investigating officers to ensure compliance with the statutory requirements concerning the treatment of victims, witnesses and suspects. Officers are trained to treat all suspects and witnesses in accordance with the Basic Law and Bill of Rights Ordinance. To this end, the ICAC provides training to officers on voluntariness of admissions and confessions to ensure that there is no oppression, violence or threats, and particular attention is paid to Article 3 of the Hong Kong Bill of Rights (no torture or inhuman treatment) and Article 6 (rights of persons deprived of their liberty). The ICAC is also bound by the ICAC (Treatment of Detained Persons) Order (Cap. 204A) Laws of Hong Kong, which imposes statutory duties on the Commission in respect of the rights, treatment and well-being of all persons arrested and detained by the ICAC. The ICAC has promulgated Commission Standing Orders that deal with the treatment of witnesses, victims and suspects.

(c) **Human rights training for judges, judicial officers and support staff of the Judiciary**

72. Hong Kong's Judiciary operates within the international world of the Common Law and follows developments in all areas of law - including human rights law - in other common law jurisdictions. The Judicial Studies Board provides continuing education and training for judges and judicial officers. Human rights law is one of many areas that are emphasised. They participate in visits and human rights seminars both locally and overseas. Talks on anti-discrimination ordinances and seminars on the Personal Data (Privacy) Ordinance are arranged regularly for the support staff of the Judiciary to enhance their understanding and knowledge on these ordinances and to raise their awareness on human rights, equal opportunities and protection of personal data. Staff also attend the training on Basic Law organised by the Civil Service Training and Development Institute.

(d) **Promotion of human rights in general**

73. The Committee on the Promotion of Civic Education (CPCE) is an advisory body under the Home Affairs Bureau to promote civic education outside schools and to enhance general public's civic awareness. As human rights education forms part and parcel of civic education, CPCE continues to promote public understanding of and respect for human rights when it promotes civic education. Separately, a Basic Law Promotion Steering

Committee, chaired by the Chief Secretary for Administration, was established in January 1998 to guide promotional strategy.

74. The EOC, an independent statutory body to enforce the anti-discrimination ordinances, also has the important function of promoting equal opportunities in respect of sex, disability, family status and race. Please refer to the section on “Information on non-discrimination and equality” below on the work of the EOC.

75. The HKSAR Government also promotes the rights under the international human rights treaties applicable to the HKSAR through other measures, such as sponsoring and co-operating with NGOs to promote awareness and public education through funding schemes and other initiatives.

**(e) Promotion of human rights in schools**

76. Education in schools is an important aspect in the promotion of children’s rights and human rights in general. Human rights education is integral to the school curriculum and is addressed in a wide range of subjects at different key stages of learning. These curriculum areas have been strengthened in the core subject of Liberal Studies implemented at senior secondary level starting from the 2009-10 school year. Students are provided with ample opportunities to develop concepts and values in relation to human rights in the existing school curriculum. Important concepts and values on human rights, such as the right to life, freedom (e.g. speech and religion), privacy, respect for all peoples (e.g. different nationalities and their cultures, and ways of life), equality (e.g. gender equality), anti-discrimination and gender awareness (e.g. race and sex) are discussed through the learning and teaching of various subjects in primary and secondary schools. Students’ concepts and understanding of human rights are strengthened progressively from a basic understanding of the rights and responsibilities to more complex concepts of human rights.

77. Besides, students may also get acquainted with the concepts and values of human rights through various school-based programmes, such as class teacher periods, assemblies, talks, as well as other learning experiences such as discussion forums, debates, services and visits.

78. Civic education, human rights education and education against discrimination are integral to the curriculum and are addressed in a wide range of subjects at different key stages of learning such as General Studies at primary level, curricula under the Personal, Social and Humanity Education at secondary level, the core subject of Liberal Studies implemented in the New Senior Secondary curriculum and Moral and National Education Subject to be developed by the Ad Hoc Committee on Moral and National Education under the Curriculum Development Council, and expected to be implemented at secondary and primary levels. The Education Bureau, on the basis of the current school curriculum, deepen students’ understanding of the Basic Law and the related provisions and concepts relating to human rights and the rule of law by developing a series of learning and teaching packages for senior primary and junior secondary students and put in place a Basic Law assessment database. To support schools in promoting the concepts and values pertaining to these curriculum areas, professional development programmes and resources support are provided to empower teachers’ professional capability to implement these curricula. Relevant learning activities and programmes are provided to deepen students’ understanding of the concepts and values relating to civic education, human rights education and education against discrimination.

**(f) Participation of NGOs in promotion of human rights**

79. A number of organisations are dedicated to the promotion of human rights in Hong Kong. Some focus on a particular aspect of human rights such as the rights of ethnic

minorities, children, persons with disabilities, or women. Others have a wider scope, embracing all, or most of, the issues addressed in the human rights treaties.

80. The HKSAR Government has increasingly engaged or collaborated with NGOs in matters relevant to the promotion of human rights. This include seeking their views during the preparation of reports in respect of the HKSAR under the United Nations human rights treaties and in considering follow-up actions on the Concluding Observations, seeking their views on issues of policy and other matters concerning human rights, as well as co-operation on public promotion and provision of support services.

81. To strengthen the liaison with the NGOs, a number of forums have been established to provide platforms for exchanging views with NGOs on various issues concerning human rights. These include:

(i) *Human Rights Forum*

82. The Forum first met in October 2003. It provides a platform for NGOs to have regular meetings with the Government for discussions on various human rights issues, including the implementation of various human rights treaties as well as other issues of concern, such as those on ethnic minorities and human rights education.

(ii) *Children's Rights Forum*

83. The Children's Rights Forum aims to provide a platform for exchanging views on matters concerning children's rights among the Government, children's representatives, NGOs focusing on children's rights and other human rights NGOs. The first meeting was held on 2 December 2005.

(iii) *Ethnic Minorities Forum*

84. The Forum provides a channel of communication between the Government and Hong Kong's ethnic minority communities and organisations dedicated to serving them. It helps to identify the concerns and needs of the ethnic communities and discuss possible ways of addressing them. The first meeting was held on 30 July 2003.

(iv) *Sexual Minorities Forum*

85. The Forum was established in 2004. It provides a platform for the Government, NGOs and interested parties to exchange views on issues concerning sexual minorities in Hong Kong, including the promotion of equal opportunities for people with different sexual orientations and transgendered persons.

86. The agenda and notes of the meetings of the above forums are publicly available on the Government website.

## **2. Reporting process**

87. The Central People's Government submits reports in respect of the HKSAR under various human rights treaties applicable to the HKSAR. Under the established practice, the HKSAR Government would consult the public in the drafting of each report. The HKSAR Government would set out in an outline the broad subject headings and individual topics that it envisages to cover in the report. The outline would be widely distributed to stakeholders, including the LegCo and members of relevant forums, and to the general public through various means such as the HKSAR Government's website. Discussions with members of the relevant forums and NGOs would be arranged. The public are also invited to suggest additional topics that ought to be included in the report. The outline would also

be discussed at the LegCo, and usually representatives of interested NGOs would be invited by the LegCo to present their views.

88. Comments and suggestions raised by commentators would be considered. Respective responses of the HKSAR Government would be incorporated in the relevant sections of the reports as appropriate.

89. The HKSAR section of the report will be made available, in both English and Chinese, to stakeholders, including the LegCo and interested NGOs, and will be distributed to the public at the Public Enquiry Service Centres of the Home Affairs Department (HAD), public libraries and the Government website, after the report has been submitted to the United Nations and released by the United Nations. The report would also be discussed at the LegCo.

### **Follow-up to concluding observations of human rights treaty bodies**

90. In accordance with the established practice, following the issue of the concluding observations by the human rights treaty bodies, we would widely disseminate the concluding observations among all levels of society, including the LegCo, the relevant Government bureaux and departments, the Judiciary, NGOs and other interested parties. At the same time, we would also issue a press release to the media on the concluding observations and the preliminary response of the HKSAR Government. The concluding observations would also be made available to the public through the Government website. We would discuss the concluding observations and the HKSAR Government's initial response with the LegCo and relevant forums. Follow up actions on the concluding observations would also be discussed from time to time at the LegCo and at various forums as appropriate.

## **3. Information on non-discrimination and equality**

91. The general constitutional and legislative framework to guarantee equality before the law, as well as the relevant institutional framework, has been described above in respect of the framework on the protection of human rights.

### **(a) Equal Opportunities Commission**

92. As outlined above, the EOC is responsible for the implementation of four anti-discrimination ordinances in the HKSAR and promotion of equal opportunities in the respective areas. These ordinances are outlined below.

#### **(i) *Anti-discrimination ordinances***

93. The SDO and the DDO came into full operation in December 1996. Under the SDO, it is unlawful to discriminate against or harass a person on the grounds of sex, marital status or pregnancy in the specified areas of activities. The law applies to both males and females. Under the DDO, it is unlawful to vilify a person with a disability in public, or discriminate against or harass a person on the ground of disability in the specified areas of activities.

94. The FSDO came into force in November 1997. Under the FSDO, it is unlawful to discriminate against a person on the ground of family status. Family status means the status of having a responsibility for the care of an immediate family member. Immediate family member, in relation to a person, means someone who is related to the person concerned by blood, marriage, adoption or affinity.

95. The RDO came into full operation in July 2009. Race in relation to a person means the race, colour, descent, national or ethnic origin of the person. It is unlawful under the

RDO to vilify a person on the ground of race in public, or discriminate against or harass a person on the ground of race, in specified areas of activities.

96. The areas of activities covered by the four abovementioned ordinances are broadly the same, including employment; education; provision of goods, facilities or services; disposal or management of premises; eligibility to vote for and to stand for election of public bodies; and participation in clubs.

(ii) *Investigation and conciliation*

97. The EOC investigates into complaints lodged under the four ordinances and encourages conciliation between the parties in dispute. Where conciliation fails, a complainant may apply to the EOC for other forms of assistance including legal assistance. The EOC also conducts formal investigation into discriminatory practices where appropriate.

(iii) *Education and promotion*

98. The EOC is committed to promoting the concept of equal opportunities through education and promotion. The EOC builds partnership with the Government and NGOs in working towards the elimination of discrimination. Public education and publicity programmes to raise awareness and promote better understanding of equal opportunities concepts include organising talks, seminars and workshops for different target groups; publishing quarterly newsletters; organising roadshows and exhibitions; developing programmes for students and producing TV and radio announcements and programmes. In order to encourage community participation, the Community Participation Funding Programme on Equal Opportunities is in place to assist community groups to organise their own activities to promote equal opportunities. The EOC also seeks to achieve its vision through partnership projects with all sectors in the community. Calendar and tailor-made training programmes are conducted to raise awareness of discrimination and harassment within organisations and Government departments to equip them with the skills to deal with the situation should such problems arise.

(iv) *Research and Policy Advocacy*

99. The EOC commissions various research studies and baseline surveys to examine why discrimination takes place, the overall attitudes and perceptions of equal opportunities within the community. The research studies will help the EOC to develop its strategy, monitor the attitude change and provide benchmarks for future studies. Besides, the Policy and Research Committee of the EOC would also advise on measures to be taken by the EOC in conducting policy advocacy and related follow-up actions.

(v) *Review of relevant legislation and issuing codes of practice and guidelines*

100. The EOC keeps under review the anti-discrimination ordinances and submit proposals for amendments to the Government as it thinks fit. It also issues codes of practice under the ordinances and other guidelines. The Codes of Practice on Employment are issued to assist employers and employees in understanding their responsibilities under the ordinances and to provide practical guidelines to management on procedures and practices that can help prevent discrimination and other unlawful acts in the workplace.

101. Copies of the codes of practice under the four ordinances as well as a series of other publications explaining the provisions of the ordinances are available at the EOC office and its website. The EOC website also provides up-to-date information on equal opportunities issues in Hong Kong and around the world.

**(b) Administrative measures on promotion of non-discrimination and equality****(i) Women**

102. Since the extension of the CEDAW to Hong Kong in October 1996, we have been striving to adhere to the principles of CEDAW and promote public awareness of the Convention.

103. The HKSAR Government set up the Women's Commission (WoC) in 2001 as a high-level central mechanism to advise and assist the HKSAR Government on women's issues and to champion for women's interests. The WoC is tasked to take a strategic overview on women issues, develop a long-term vision and strategy for the development and advancement of women, and to advise the HKSAR Government on policies and initiatives which are of concern to women.

104. To achieve its mission of enabling women in Hong Kong to fully realise their due status, rights and opportunities in all aspects of life, the 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 interest and well-being of women. Apart from offering advice to the HKSAR Government on women-related policies and initiatives, the Commission also commissions researches and surveys, organises publicity and public education programmes and maintains close liaison with women's groups and different sectors of the community with a view to promoting interests of women in Hong Kong.

**(ii) Ethnic minorities**

105. In respect of the promotion of racial equality, besides legislation, we believe that public education and support services are also important for better integration of ethnic minorities into the community. We have, over the years, launched various initiatives to promote racial harmony and to assist integration of the ethnic minorities in Hong Kong.

106. The Committee on the Promotion of Racial Harmony was established in 2002 to advise the HKSAR Government on public education and publicity in this area. The Race Relations Unit (RRU), established also in 2002 by the Government, serves as the secretariat to the Committee on the Promotion of Racial Harmony and implements the programmes and activities.

107. The RRU operates a number of programmes to promote racial equality and facilitate the integration of ethnic minorities into society, either by organising activities or through sponsoring the work of NGOs. Such programmes include language programmes, integration activities, radio programmes in the languages of the ethnic minorities, and community teams to provide support services to the ethnic minority groups. Starting from 2009, we have 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.

108. In 2010, the HKSAR Government also 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 concerned, and to take this into account in their formulation, implementation and review of relevant policies and measures.

(iii) *Children's rights*

109. In the HKSAR, matters concerning children cover a wide range of policies. They are taken care of by the respective policy bureaux of the HKSAR Government. The best interests of the child are necessary considerations in all relevant decision-making, including legislative proposals and policies, and are taken into account as a matter of course. Advice would be sought from Government experts on human rights and international law where necessary to ensure compliance.

110. Certain child-related policies and measures may involve more than one bureau or department. Mechanisms are in place within the HKSAR Government for co-ordinating and handling policies that involve different bureaux and departments. Mechanisms within the Administration continue to serve the need of co-ordinating policies and measures among Government bureaux and departments, ensuring that adequate consideration is given to the interests of children.

111. In 2006, the HKSAR Government established the Children's Rights Education Funding Scheme, which provides financial support for community organisations to carry out educational projects to raise public awareness and understanding of the Convention on the Rights of the Child and the children's rights enshrined in it. The Scheme accepts open application for funding on an annual basis. The HKSAR Government also collaborates with NGOs from time to time to undertake worthy projects for the promotion of children's rights.

(iv) *People of different sexual orientation and transgendered persons*

112. We have been promoting equal opportunities for people of different sexual orientation and transgendered persons through various measures. In addition to setting up a Sexual Minorities Forum mentioned above, we also set up a Gender Identity and Sexual Orientation Unit in 2005 to promote equal opportunities for the sexual minorities. Since 1998, we have been operating a funding scheme to support worthwhile community projects which aim at promoting equal opportunities on grounds of sexual orientation or gender identity, or seek to provide support services for the sexual minorities. The Administration will continue to promote equal opportunities for sexual minorities through public education and publicity measures such as poster campaigns and broadcasting APIs through radio.

(v) *Persons with disabilities*

113. The CRPD entered into force for China and applied to the HKSAR on 31 August 2008. States Parties to the Convention undertake to adopt all appropriate legislative, administrative and other measures for the implementation of the rights of persons with disabilities recognised in the Convention. With the existing DDO affording protection against discrimination on the ground of disability, and the Mental Health Ordinance (Cap. 136) safeguarding the rights of mental patients, the HKSAR has been well positioned to meet the objectives of this Convention.

114. Measures have been taken to ensure that all bureaux and departments are fully aware of the need to take due account of this Convention's provisions in formulating policies and implementing programmes. The HKSAR Government will also continue to work with the Rehabilitation Advisory Committee, the principal advisory body to the HKSAR Government on matters pertaining to the well-being of persons with disabilities and the development and implementation of rehabilitation policies and services in Hong Kong, the rehabilitation sector and the community at large to ensure compliance with the Convention, to provide support to promote participation by persons with disabilities in society and to facilitate the enjoyment of their rights under this Convention. The HKSAR Government has also been actively promoting the spirit and core values of this Convention to the community.

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