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

**Ninth periodic report submitted by Hong Kong,
China under article 18 of the Convention, due in
2018* ** *****

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- * The present document is being issued without formal editing.
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 - *** The annexes to the present report may be accessed from the web page of the Committee.



Contents

	<i>Paragraphs</i>	<i>Page</i>
Preamble		8
Article 1 - Defining discrimination.....	6-7	8
Definition of discrimination against women in the Sex Discrimination Ordinance	6	8
Reservations and declarations to the application of the Convention in the HKSAR	7	8
Article 2 - Obligations of State Parties.....	8-20	9
The Basic Law and the Hong Kong Bill of Rights	9	9
Legislation.....	10-12	9
Equal Opportunities Commission (EOC).....	13-15	9
Women’s Commission (WoC)	16-20	10
Article 3 - Appropriate measures.....	21-27	10
Gender mainstreaming.....	21-23	10
Studies, researches and data collection on women	24-27	11
Article 4 - Temporary special measures	28	11
Reservation entered in respect of this Article.....	28	11
Article 5 - Stereotyping and prejudices.....	29-48	12
Review of sexual offences	29	12
Efforts to eliminate discrimination on the grounds of sexual orientation and gender identity	30-31	12
Public education efforts	32	12
Control of pornography and sex discriminatory elements in the media.....	33-35	12
Protection of women against violence	36-48	13
Article 6 - Exploitation of women	49-63	15
Prostitution and trafficking of women	49-63	15
Article 7 - Equality in political and public life at the national level.....	64-70	17
Women in the Legislative Council, District Councils, the Election Committee and the Election of the Chief Executive of the HKSAR	64-66	17
Women in the Executive Council	67	17
Women in rural elections	68	18
Women in advisory and statutory bodies (ASBs).....	69	18
Women in public offices	70	18
Article 8 - Equality in political and public life at the international level.....	71	18
Officers representing the Government at international level.....	71	18
Article 9 - Equality in nationality laws	72	18
Article 10 - Equality in education.....	73-80	18
Overview of the current situation	73	18
Continuing education.....	74	19

Special education for girls with disabilities.....	75-78	19
Education provided for designated groups.....	79	19
Sex education.....	80	20
Article 11 - Equality in employment and labour rights.....	81-122	20
Reservations entered in respect of this Article.....	81-82	20
Women's participation and standing in the economy.....	83-84	20
Legislation against discrimination in employment.....	85-98	20
Administrative measures to address discrimination in employment.....	99	22
Retirement protection.....	100-102	22
Women and poverty.....	103-106	23
Employment services for women, youth and retraining programmes.....	107	23
Imported workers and foreign domestic helpers.....	108-118	24
Childcare facilities and services.....	119-120	25
Promotion of family-friendly employment practices (FFEPs).....	121	25
Equal pay for work of equal value.....	122	25
Article 12 - Equality in access to health facilities.....	123-134	26
Highlights of new developments.....	123-133	26
Highlights on services for women with special needs.....	134	27
Article 13 - Women in economic, social and cultural life.....	135-150	27
Social security.....	135-136	27
New arrival women and single parents.....	137	28
Enhanced counselling and other family services for women under separation/divorce.....	138	28
Women with disabilities.....	139-141	28
Women of ethnic minorities.....	142-148	28
Elderly women.....	149-150	29
Article 14 - Rural women.....	151-154	29
Reservation entered in respect of this Article.....	151	29
Rural elections.....	152-154	30
Article 15 - Equality in legal and civil matters.....	155-162	30
Reservations entered in respect of this Article.....	155	30
Women's legal status and civil rights.....	156-160	30
Appointment to the Judiciary.....	161	31
Women in prisons.....	162	31
Article 16 - Equality in family law.....	163-171	31
Review of minimum marriage age.....	163	31
Matrimonial litigation.....	164-168	31
Legislation regarding guardianship, wardship and adoption of children.....	169-171	32

Annexes

- 2A Major judicial decisions under the Sex Discrimination Ordinance
- 2B Highlights of the work of WoC
- 3A Statistical surveys / data systems collecting various types of regular statistics with breakdown by sex
- 5A Major developments concerning several areas of the review of sexual offences
- 5B Promotion of the Convention
- 5C Legislation protecting women against violence
- 5D Support services provided by Social Welfare Department
- 5E Services offered to victims of sexual violence, information system and professional training
- 6A Welfare and healthcare services for sex workers
- 10A Distribution of population aged 15 and above by educational attainment and sex
- 10B Student enrolment of programmes funded by University Grants Committee by level of study and sex
- 10C Student enrolment (headcount) of University Grants Committee-funded programmes by broad academic programme category and sex
- 10D Trainees enrolled in courses offered by training institutes of the Vocational Training Council
- 10E Number of academic staff by grade and sex of University Grants Committee-funded universities
- 11A Percentage of labour force by age and sex (excluding foreign domestic helpers)
- 11B Labour force participation rate by sex and age (excluding foreign domestic helpers)
- 11C Unemployment rate and underemployment rate by sex
- 11D Poor population and poverty rate by sex (excluding foreign domestic helpers)
- 11E Employment services for women, youth and retraining programmes
- 11F Foreign domestic helper's statutory labour rights and benefits
- 11G Policies and new developments in regulating employment agencies
- 11H Other support to foreign domestic helpers and related promotion and publicity efforts
- 11I Measures to assist migrant workers exposed to abuse
- 11J Enhancing child care services
- 11K Labour Department's work in promoting family-friendly employment practices (FFEPs)
- 12A Policy and measures that promote breastfeeding
- 12B Highlights on services for women with special needs
- 13A Services available to new arrivals and single parents
- 15A Women in prisons and girls' home

List of abbreviations

Action Plan	Action Plan to Tackle Trafficking-in-Persons and to Enhance Protection of Foreign Domestic Helpers
ASBs	Government's advisory and statutory bodies
ASCP	After School Care Programme
C&SD	Census and Statistics Department
CAT	Convention against Torture
CBMP	Capacity Building Mileage Programme
CCCs	Child care centres
CCF	Community Care Fund
CCS	Child care service
CEF	Continuing Education Fund
CGs	Consulate Generals
CMP	Case Management Programme
COIAO	Control of Obscene and Indecent Articles Ordinance
CoP	Commission on Poverty
CRC	Convention on the Rights of Child
CRPD	Convention on the Rights of Persons with Disabilities
CSSA	Comprehensive Social Security Assistance
DCs	District Councils
DCSS	Dementia Community Support Scheme
DDO	Disability Discrimination Ordinance
DECCs	District Elderly Community Centres
DH	Department of Health
DLR	Discrimination Law Review
DoJ	Department of Justice
EAs	Employment agencies
ECO	Employees' Compensation Ordinance
EDB	Education Bureau
EHS	Extended hours service
EO	Employment Ordinance
EOC	Equal Opportunities Commission
EPM	Employment Programme for the Middle-aged
ERB	Employees Retraining Board
ESA	Employment Services Ambassador
FCPSUs	Family and Child Protective and Services Units
FCs	Functional Constituencies
FDHs	Foreign domestic helpers
FFEPs	Promotion of family-friendly employment practices

FSDO	Family Status Discrimination Ordinance
GFP	Gender Focal Point
HAD	Home Affairs Department
HD	Housing Department
HKBORO	Hong Kong Bill of Rights Ordinance
HKMMS	Hong Kong Mental Morbidity Survey
HKSAR	Hong Kong Special Administrative Region
ICCPR	International Covenant on Civil and Political Rights
iES	Interactive Employment Service
IFSCs	Integrated Family Services Centres
ISCs	Integrated Services Centres
JIT	Inter-departmental Joint Investigation Team
JJO	Judges and Judicial Officers
KFR	Kaifong Representatives
LAB	Labour Advisory Board
LD	Labour Department
LEAs	Law enforcement agencies
LegCo	Legislative Council
LIFA	Low-income Working Family Assistance
LRC	Law Reform Commission
LWB	Labour and Welfare Bureau
MPF	Mandatory Provident Fund
NAs	New arrivals
NCS	Non-Chinese speaking
NCSC	Non-Civil Service Contract staff
NGOs	Non-governmental organisations
NSCCP	Neighbourhood Support Child Care Project
NSS	New Senior Secondary
OALA	Old Age Living Allowance
OAT	Obscene Articles Tribunal
PRC	People's Republic of China
RDO	Race Discrimination Ordinance
SBEPs	School-based educational psychology service
SDO	Sex Discrimination Ordinance
SEN	Special educational needs
SENCO	Special Educational Needs Coordinator
SLS	Supplementary Labour Scheme
SMW	Statutory minimum wage
STD	Sexually transmitted diseases
SWD	Social Welfare Department

SWHC	Standard Working Hours Committee
The Advisory Group	The Advisory Group on Eliminating Discrimination against Sexual Minorities
The Arrangement	Arrangement on Reciprocal Recognition and Enforcement of Civil Judgments in Matrimonial and Family Cases by the Courts of the Mainland and of the HKSAR
The Checklist	Gender Mainstreaming Checklist
The Committee	The Committee on Elimination of Discrimination against Women
The Government	The Government of the Hong Kong Special Administrative Region
The Guidelines	Administrative Guidelines on Promotion of Racial Equality
The Office	Family Mediation Coordinator's Office
The Study	Consultancy Study on the Long-term Development of Child Care Services
TIP	Trafficking-in-Persons
VREO	Village Representative Election Ordinance (Cap. 576)
WFA	Working Family Allowance
WoC	Women's Commission
WOPs	Work Orientation and Placement Scheme
YETP	Youth Employment and Training Programme

Preamble

1. This is the fourth 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 ninth report of the People's Republic of China (PRC) under the Convention.
2. Since the extension of the Convention to Hong Kong in 1996, the HKSAR Government (the Government) has all along adhered to the principles and provisions of the Convention in promoting women's development and advancement in all fields. The Government's commitment is demonstrated by the considerable progress that has been made in various areas of policy since the previous report. This report sets out the progress that has been made as well as some of the challenges that we face.
3. 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), District Councils (DCs), relevant non-governmental organisations (NGOs), women's groups and various professional bodies, 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 1 March to 31 May 2018 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 consulted and sought views from 18 DCs and some women's groups on the outline. Two public consultation sessions were also jointly organised with the Labour and Welfare Bureau (LWB) on 25 April and 16 May 2018. The outline was also discussed at the LegCo Panel on Constitutional Affairs on 26 May 2018.
4. 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 Government where applicable, have been incorporated in the relevant sections of the Report.
5. The Report will be made available to stakeholders, including the 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.

Article 1 - Defining discrimination

Definition of discrimination against women in the Sex Discrimination Ordinance

6. The definition of discrimination under the Sex Discrimination Ordinance (SDO) (Cap. 480) in relation to discrimination against women remains unchanged.

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

7. The Central Government of the People's Republic of China (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. The Government has reviewed the need of the continued applicability of the relevant reservations and declarations. We remain of the view that the seven reservations and declarations should not be withdrawn. Justifications for their continuation are elaborated under the relevant Articles.

Article 2 - Obligations of State Parties

8. The Committee on the Elimination of Discrimination against Women (the Committee) at paragraphs 10 – 11 of its previous concluding observations recommended full incorporation into domestic laws the provisions of the Convention. The Government is committed to implementing the principles and provisions of the Convention. While there is no single local legislation that seeks to implement the Convention in its entirety, various provisions of the Convention are covered under different pieces of local legislation. The Government also seeks to implement other provisions through administrative measures and public education as detailed under relevant Articles in this Report.

The Basic Law and the Hong Kong Bill of Rights

9. The Basic Law and the Hong Kong Bill of Rights Ordinance (HKBORO) (Cap.383) continue to protect the fundamental rights of residents of the HKSAR, including the right to equality and non-discrimination.

Legislation

The four anti-discrimination ordinances

10. Regarding the elimination of discrimination against women, the position in relation to the four anti-discrimination legislation (i.e. SDO, the Family Status Discrimination Ordinance (Cap. 527) (FSDO), the Disability Discrimination Ordinance (Cap. 487) (DDO) and the Race Discrimination Ordinance (Cap. 602) (RDO)) remains largely the same as reported in the previous report. They continue to render discrimination on the grounds of sex, marital status, pregnancy, disability, family status and race in the specified circumstances unlawful.

11. An updated list of the more significant court cases under the SDO is set out in Annex 2A.

12. The Equal Opportunities Commission (EOC) reviews the operation of the four pieces of anti-discrimination legislation on a regular basis and puts forward legislative proposals where necessary. Since the last report, several amendments have been made to the SDO pursuant to the review. For instance, in 2014, on EOC's recommendation, the Government extended the protection and territorial scope of the SDO to render unlawful any sexual harassment by customers against providers or prospective providers of goods, facilities or services. The prohibition of sexual harassment has also been expanded to cover harassment which occurs on a Hong Kong registered ship or aircraft even if it is outside the territory. The amendment affords protection to a large number of service providers in Hong Kong including approximately over 45 000 nurses, 12 000 flight attendants, 230 000 food and beverage workers and 260 000 retail workers.

Equal Opportunities Commission (EOC)

13. Since the last report, EOC continued its effort to investigate into complaints lodged with it on the grounds of sex, marital status and pregnancy. EOC also endeavours to redress grievances through conciliation. Where conciliation could not bring about settlement, EOC might offer appropriate assistance in litigation, including giving advice, arranging for the giving of advice or assistance by a solicitor or counsel, arranging for representation by any person in legal proceedings and any other form of assistance as appropriate.

14. EOC launched the Discrimination Law Review (DLR) in March 2013 to review comprehensively the four ordinances and made submissions on the DLR to the Government in March 2016. Among the eight recommendations of priority, four are related to amendments to the SDO, including:

- (a) To introduce express provisions in the SDO prohibiting direct and indirect discrimination on the grounds of breastfeeding (including the expression of milk) as a separate prohibited ground of discrimination;
 - (b) To amend the provisions of the SDO, RDO and DDO to provide protection from sexual, racial and disability harassment to persons in a common workplace;
 - (c) To amend the SDO and DDO to provide protection from sexual and disability harassment by management of clubs of members or prospective members; and
 - (d) To repeal the provisions of the SDO, FSDO and RDO which require proof of intention to discriminate in order to obtain damages for indirect discrimination.
15. The Government targets to submit the legislative proposals to the LegCo by end-2018.

Women's Commission (WoC)

16. The Committee raised concerns at paragraphs 50 - 51 of its previous concluding observations regarding WoC's mandate and resources to undertake gender mainstreaming and other activities.
17. Since the last report, WoC has stepped up efforts in promoting women's development, women's participation in public affairs and gender mainstreaming. In 2018, WoC has embarked on a re-organisation of its structure and examined the priority work areas to better focus its efforts and resources on areas that require attention. Details of the work of WoC are set out in Annex 2B.

The organisation, role and function of WoC

18. Some commentators suggested that the Government should consider upgrading WoC, for instance, by bringing WoC under the purview of the Chief Secretary for Administration or turning it into a statutory body. It was also suggested that WoC should be given an independent secretariat for more effective promotion of women's interests.
19. Since its establishment in 2001, all non-official members of WoC are appointed by the Chief Executive on the basis of the merit of individuals. They come from various backgrounds and possess knowledge and experience from various sectors. The wide range of background and expertise of the members can help WoC in promoting the well-being and interests of women in Hong Kong. Turning it into a statutory body may not be the most conducive way to advance the goals and missions of WoC. By taking an active role in advising the Government on policies and initiatives which are of concern to women, and acting as an intermediary between the Government and local women groups and NGOs, WoC can continue to create an enabling environment for women. It is also a common practice for Government's ASBs to receive secretariat support from a policy bureau.

Increase of resources for WoC

20. WoC receives Government funding to implement its programmes and secretarial support from a team of officers in LWB. Since the last report, LWB's actual expenditure in this respect increased by about 27.4% from HK\$24.8 million in 2011-12 to about HK\$31.6 million in 2017-18.

Article 3 - Appropriate measures

Gender mainstreaming

21. As mentioned in Annex 2B, the Government has all along been attaching great importance in promoting gender mainstreaming inside the Government by establishing a gender sensitive decision making process as well as promoting it to the society at large. This serves to fully implement gender mainstreaming by formally integrating gender perspectives and needs into the policy formulation process.

22. In addition to the gender implication assessment required for all major legislations and policies, gender-related trainings are provided to government staff (both civil servants and Non-Civil Service Contract (NCSC) staff) to raise their awareness of gender-related issues and the concept of gender mainstreaming since 2001. So far, more than 11 000 government staffs from various grades and ranks have attended gender-related training.

23. The GFP networks have grown considerably since the previous report, as reported in Annex 2B. Some commentators have suggested that the GFP networks should be further utilised to promote gender mainstreaming to the society at large. In this regard, LWB recognises the potential of the GFP networks and regularly provides platforms for the GFPs from various sectors to share experiences and good practices, such as organising lunch-time talks, seminars and briefing sessions on topics including gender mainstreaming, sexual harassment, good human resource management together with EOC and other relevant government departments. LWB will continue to explore ways to better connect the GFPs to create synergy.

Studies, researches and data collection on women

Collection of sex-disaggregated statistical data

24. To facilitate gender analysis and gender sensitive policy-making, the Government continues to collect and compile sex-disaggregated data. In this respect, the Census and Statistics Department (C&SD) collates and compiles a variety of sex-disaggregated statistics. Examples of such statistics are at Annex 3A.

25. Moreover, C&SD compiles on an annual basis a statistical publication entitled “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. Besides, a thematic webpage on gender statistics is established under C&SD’s website¹ to further facilitate the use of gender statistics by the general public. The contents of the publication and thematic webpage are subject to review periodically.

Surveys and researches conducted by WoC

26. Initiating and undertaking surveys and researches on women’s issues is part of the terms of reference of WoC. As featured in the Government’s Policy Address in 2014, LWB and WoC commissioned C&SD to conduct a survey on time use pattern and women’s employment, and the findings were released in July 2015.

Surveys and researches conducted by EOC

27. Since the submission of the previous report, EOC had conducted a number of studies that covered a wide range of topics related to sex discrimination, pregnancy discrimination, and sexual harassment. Recent examples include “Sexual Harassment – Questionnaire Survey for Social Service Sector (2017)”, and Sexual Harassment and Discrimination in Employment – Questionnaire Survey for Flight Attendants (2014).

Article 4 - Temporary special measures

Reservation entered in respect of this Article

28. The positions remain as reported under the same Article in the previous report in relation to measures to improve the interests and well-being of women in the long run as well as special measures provided for under the SDO and maternity protection.

¹ <https://www.censtatd.gov.hk/hkstat/sub/so180.jsp>.

Article 5 - Stereotyping and prejudices

Review of sexual offences

29. The Committee raised concerns in paragraphs 55 and 56 of the previous concluding observations regarding the review of sexual offences being carried out by the Law Reform Commission (LRC). Major developments concerning several areas of the review are set out in Annex 5A.

Efforts to eliminate discrimination on the grounds of sexual orientation and gender identity

30. In paragraphs 68 - 69 of the previous concluding observations, the Committee urged the HKSAR to intensify its efforts to eliminate discrimination against lesbian, transsexual and transgender women in employment, education and in their access to health care services. The Government has always been committed to promoting equal opportunities for persons with different sexual orientation and gender identity, including lesbian, transsexual and transgender women, with a view to nurturing the culture and values of inclusiveness and mutual respect in the community.

31. The Advisory Group on Eliminating Discrimination against Sexual Minorities (the Advisory Group) was established in June 2013 to advise on matters relating to concerns about discrimination faced by sexual minorities in Hong Kong, as well as aspects and extent of such discrimination. The Government has been actively taking forward the Advisory Group's recommendations which included preparing training resources, drawing up a voluntary charter on non-discrimination, enhancing public education and publicity, reinforcing support services, and conducting further study on measures of other jurisdictions. In the past five years, we allocated a total of \$9.8 million for the publicity and education programmes as well as \$4 million to the Equal Opportunities (Sexual Orientation) Funding Scheme to provide funding support for worthwhile community projects which aim at promoting equal opportunities for sexual minorities. Besides, the Government continues to promote non-discrimination in the workplace by appealing to employers in Hong Kong to adopt the Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation.

Public education efforts

Promotion of the Convention

32. The Committee recommended at paragraph 11 of its previous concluding observations that efforts to intensify the dissemination of the Convention and the Committee's general recommendations should be made. The Government attaches great importance to the promotion of the Convention and the dissemination of the Committee's concluding observations. Details of such efforts are further set out in Annex 5B.

Control of pornography and sex discriminatory elements in the media

33. Regarding the control of pornography and sex discriminatory elements in the media, the position remains largely the same as explained in paragraphs 49 to 50 of Part II of the second report and paragraph 5.10 of the previous report, except that reference to the Broadcasting Authority in paragraph 50 of Part II of the second report should be replaced by the Communications Authority, which was set up in 2012 as the unified regulator of the broadcasting and telecommunications industries in Hong Kong.

34. With respect to the review of the Control of Obscene and Indecent Articles Ordinance (COIAO) (Cap. 390) mentioned in the previous report, the Government conducted a second round of public consultation in 2012. Having considered the public views received in the two rounds of public consultation, in 2015 the Government proposed to implement a number of statutory and administrative measures to enhance the regulatory regime of the COIAO. For

example, with respect to the composition of the Obscene Articles Tribunal (OAT), the Government proposed to increase the number of adjudicators at each hearing of the OAT in order to broaden the representativeness of the OAT. Furthermore, the Government proposed to increase the maximum penalty under the law to enhance its deterrent effect. The Government is working on the legislative amendments to the COIAO.

The Prevention of Child Pornography Ordinance (Cap. 579)

35. The position remains largely the same as reported in paragraphs 5.10 – 5.15 of the previous report. To ensure all child pornography cases are handled professionally, the Police introduced the “Manual of Practice – Prevention of Child Pornography Ordinance” in 2015 for compliance by Police officers.

Protection of women against violence

International treaties

36. The Committee at paragraph 55 of its previous concluding observations urged the Government to allocate adequate resources to ensure the effective combat of all forms of violence against women, including domestic violence. The Government is committed to protecting women from all forms of violence under the Convention, the Convention against Torture (CAT), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD), which continue to apply to the HKSAR.

Legislation protecting women against violence

37. The law deals with domestic violence and sexual violence by imposing criminal sanctions for acts of violence and providing civil remedies to the victims. Details are set out in Annex 5C.

Measures to prevent and tackle domestic violence

Preventive measures

38. The Government continues to adopt a three-pronged approach, namely the provision of preventive, supportive and specialised services for the prevention and handling of domestic violence. To this end, we have allocated considerable resources to the Social Welfare Department (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 in 2004-05 to HK\$3.1 billion in 2016-17.

39. To enhance SWD's capability in handling domestic violence cases, the number of social workers in its Family and Child Protective and Services Units (FCPSUs) increased from 105 in 2004-05 to 168 in 2010-11, representing an increase of 60%. As announced in the 2018-19 Budget, the Government will allocate additional resources from 2018-19 to increase the manpower of FCPSUs of SWD for enhancing the child protection and family support services, including outreaching service, counselling and group activities. Besides, additional funding will be allocated to enhance the Educational Programme on Stopping Domestic Violence in order to provide support for children who have witnessed or been exposed to domestic violence and victims of domestic violence, and to help batterers or people who might resort to violence to stop using violence, with a view to protecting children from harm. These two enhanced services involve an additional annual recurrent expenditure of about HK\$43 million. Other relevant support services by SWD are set out in Annex 5D.

Law enforcement

40. The Police are committed to prevent and tackle domestic violence, and have formulated a set of policies and procedures for handling cases of domestic violence to reduce the risk and strengthen the protection of victims.

41. 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. All Police Districts have “Designated Domestic Violence Units” for investigating serious domestic violence cases, whereas the “high-risk” non-crime domestic violence cases identified are handled by crime investigation units.

42. 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. In addition, the “Enhanced Central Domestic Violence Database”, which contains information on previous domestic violence/domestic incidents, could facilitate the officers to identify risk factors of a family and conduct a risk assessment effectively. Based upon the assessment result, the Police will take appropriate action to minimise the risk, such as detaining the offender, arranging accommodation or counselling, or other assistance for the victims and their families in conjunction with SWD or other relevant agencies.

Prosecution

43. The Department of Justice (DoJ) is committed to improving the way in which cases involving domestic violence are conducted as well as protecting the special needs and interests of vulnerable witnesses. A prosecutor at directorate rank has been assigned as the policy coordinator of vulnerable witnesses cases to ensure that there is a sufficient pool of experienced and dedicated prosecutors who have a specific mandate to uphold the interests of victims and witnesses at every stage of criminal proceedings.

44. The *Prosecution Code* of DoJ provides guidelines to prosecutors on how to deal with domestic violence cases. Prosecutors must have regard to the “Guidelines for Prosecuting Domestic Violence Cases” issued by the Prosecutions Division of the Department.

45. In addition, the Prosecutions Division has issued *The Policy for Prosecuting Cases involving Domestic Violence* (2009) which provides detailed guidelines to prosecutors on how victims of domestic violence should be treated and their interests protected. *The Statement on the Treatment of Victims and Witnesses* (2009) has also been issued to indicate how DoJ considers victims and witnesses should be treated, and the means by which prosecutors will safeguard their interests.

46. Various administrative procedures have been adopted to ensure that domestic violence cases are processed expeditiously and the specific needs of the witnesses are addressed. Prosecutors would take appropriate measures to protect the privacy and address the psychological impact on victims and witnesses in sexual offence cases. Appropriate applications may be made to the court for the use of screens to shield witnesses from the accused while testifying, the use of two-way closed circuit television to enable witnesses to give evidence outside the courtroom through a televised link, the exclusion of the public from the court, etc. In June 2017, the Government introduced a Bill into the LegCo seeking to enable the court to permit complainants of specified sexual offences (e.g. rape, indecent assault, etc.) to give evidence by way of a live television link, so as to protect them from the embarrassment or ordeal of being exposed to public sight and the anxiety arising from the need to physically face the assailants during the trial. The Bill was passed by the LegCo in April 2018.

Services offered to victims of sexual violence, information system and professional training

47. To ensure that victims of sexual violence receive specific attention and counselling in full anonymity, the Government introduced a new, comprehensive and one-stop service model involving multi-disciplinary assistance for victims of sexual violence in 2007. Under the model, SWD works in consultation with the Police, Department of Health (DH) and Hospital Authority (HA) to provide coordinated, timely and professional assistance to the victims. An NGO is commissioned to operate the Multi-purpose Crisis Intervention and Support Centre (namely, CEASE Crisis Centre) which assigns designated social workers who act as the case managers to coordinate and provide immediate support and follow-up services to the victims. Details of the services offered, information system for capturing relevant information of domestic violent cases, as well as training for professionals are set out in Annex 5E.

48. SWD has recently started reviewing the one-stop services with a view to identifying areas for improvement. These include enhancing multi-disciplinary coordination for referral and support services through interdepartmental liaison events and regular meetings; stepping up publicity for the services by all concerned bureaux/departments/agencies; reviewing and updating the list of designated venues in public hospitals as well as exploring new/alternative venues for the provision of dedicated physical space for the one-stop services; reviewing the capture of data and reporting mechanism on sex violence cases for better planning of services etc. It is expected that the review will be completed by end 2018.

Article 6 - Exploitation of women

Prostitution and trafficking of women

Measures against women trafficking and girl-child prostitution

49. Currently, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol) does not apply to Hong Kong. Whilst we note the Committee's recommendation at paragraphs 56 - 57 of its previous concluding observations to consider, inter alia, extending the applicability of the Palermo Protocol to Hong Kong, we are mindful, given the HKSAR's liberal visa regime, of the adverse implications to our effective immigration controls and possible abuses by overstayers and illegal migrants if the Palermo Protocol, in particular the provision requiring State parties to consider adopting measures that permit victims of Trafficking-in-Persons (TIP) to remain in the territory, is applied to the HKSAR. Having considered these implications, we have no plan to extend the Palermo Protocol to the HKSAR.

“Multi-legislation” approach to TIP

50. As regards the Committee's recommendation to adopt comprehensive anti-trafficking legislation in Hong Kong, the Committee is invited to note that the HKSAR addresses TIP through various pieces of local legislation, such as the Crimes Ordinance (Cap. 200), which prohibits TIP to or from Hong Kong for the purpose of prostitution, amongst others; the Human Organ Transplant Ordinance (Cap. 465) which prohibits commercial dealings in human organs; the Prevention of Child Pornography Ordinance (Cap. 579), which prohibits child pornography; the Immigration Ordinance (Cap. 115) which prohibits arrangement for an unauthorised entrant to Hong Kong and employing illegal workers; the Employment Ordinance (Cap. 57) which imposes criminal liability on employers involved in non-payment, under-payment of wages or delay in payment of wages, failure to grant rest days and statutory holidays to employees; and other relevant ordinances which prohibit such crimes as assault, forcible taking or detention of persons with intent to sell him or her, child abduction, deception and blackmail, etc. This “multiple-legislation” approach provides law enforcement agencies (LEAs) and prosecutors with more flexibility in investigating and prosecuting TIP cases.

51. Also, the Prosecution Code published in 2013 by DoJ added a new paragraph on “Human Exploitation Cases” to provide guidance to prosecutors as to what may amount to TIP and exploitation and the proper approach to be adopted in cases involving these elements. The definition of TIP as set out under the Palermo Protocol is adopted in the Code. A new chapter on “Human Exploitation” is further added to the Prosecution Manual 2017.

52. Our ongoing efforts to combat TIP are set out in the ensuing paragraphs.

High-level policy steer

53. The Government has established in March 2018 a high-level Steering Committee, chaired by the Chief Secretary for Administration, with the Secretary for Security and Secretary for Labour and Welfare as the vice-chairmen and relevant department heads as members. The Steering Committee will offer strategic steer in respect of tackling TIP and enhancing the protection of foreign domestic helpers (FDHs); formulate and monitor the full

implementation of the “Action Plan to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Helpers in Hong Kong” (the Action Plan); and ensure the provision of adequate resources to the relevant bureaux and departments for the effective implementation of the Action Plan.

54. The Action Plan outlines a package of multi-faceted measures that are comprehensive, strategic and targeted, and which cover victim identification, protection and support, investigation, enforcement, prosecution and prevention as well as partnership with different stakeholders.

Inter-departmental co-operation

55. In addition to the newly established Steering Committee, there are established mechanisms for inter-departmental co-operation in combating TIP such as the Inter-departmental Joint Investigation Team (JIT), and an inter-departmental TIP Working Group established in 2010 to enhance enforcement strategy against TIP, monitor the overall situation of TIP and formulate the overall strategy for combating TIP in the HKSAR.

56. In 2016, a “Guideline on Inter-departmental Cooperation for the Handling of Suspected Cases of Trafficking in Persons” was issued to provide guidance on the general principles and procedures to enhance inter-departmental co-operation among Government bureaux / departments in anti-TIP work. In April 2017, the Prosecutions Division of DoJ has assigned a designated desk to oversee and co-ordinate cases involving TIP issues handled or submitted by various LEAs for legal advice.

Victim identification

57. Since 2015, LEAs have gradually introduced a pilot screening mechanism under which officers will conduct a two-tier screening on vulnerable persons (including sex workers, illegal immigrants, etc.) who are arrested or who put themselves forward to the authorities with a view to ascertaining whether they are TIP victims. The mechanism has been implemented in the Immigration Department, Hong Kong Police Force and Hong Kong Customs and Excise Department. It will continue to be extended to other department (e.g. to the Labour Department (LD) to cover FDHs).

Protection and assistance for victims

58. As regards the Committee’s concluding observations on intensifying efforts to ensure the rehabilitation and social integration of victims, including by strengthening assistance, protection and support provided to TIP victims, the Committee is invited to note that the Government already provides holistic and humane protection, support, and assistance to TIP victims, including witness protection programme; provision of welfare support and assistance, provision of financial assistance, consideration of proper arrangements during prosecution process, visa extension and fee waiver, exceptional approval for FDHs to change employers in the HKSAR, etc.

Training and partnership

59. Training on anti-TIP is offered to the officers of LEAs, LD, SWD and prosecutors, etc. In 2017, over 1 800 government officials have received local / overseas anti-TIP training. Relevant LEAs have included the theme of TIP into their induction training for all officers.

60. As regards the Committee’s concluding observations on intensifying efforts aimed at bilateral, regional and international cooperation to prevent trafficking, the Committee is invited to note that the Government already co-operates with other jurisdictions, including Australia, the European Union, etc. and other NGOs to provide specialised training workshops on TIP to officers from various bureaux / departments. The Government also actively participates in international conferences and workshops to identify the best practice to combat TIP and share TIP intelligence and experience. The LEAs always maintain close liaison with foreign consulates to conduct investigation on TIP cases.

61. Besides, one of our Action Plan initiatives is to step up co-operation with major FDH-sending countries, such as enhancing high-level exchanges between governments to

understand each other's latest policy developments and discuss issues of mutual concern; and conducting local publicity activities there to promote FDHs' lawful interests in Hong Kong and various protective measures available.

62. The Government had meeting with NGOs for gauging their view on implementation of the Action Plan. The Government will continue to engage with NGOs to regularly exchange views on smooth referral of potential cases to suitable authority for follow up, necessary victim assistance, outreach, research, public awareness campaigns and training workshops, etc. Our anti-TIP efforts are kept under regular review. The Government will maintain close liaison with foreign consulates, the local civil society and international counterparts to fight against the crime.

Assistance available and protection rendered to sex workers

63. We note that the Committee has also in its previous concluding observations expressed concerns in relations to the legislative provisions on "vice establishment". Some commentators suggested repealing legislative provisions on "vice establishment". Our position regarding the issue remains as reported in the previous report. In brief, we are of the view that 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. It also helps contain the opportunity for organised exploitation of sex workers. Welfare and healthcare services for sex workers are set out in greater details in Annex 6A.

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

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

64. In HKSAR, women enjoy equal rights as men to vote and to stand for elections to DCs and the LegCo, including Functional Constituencies (FCs), as explained in paragraph 7.1 of the previous report. 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.

65. The Government does not agree that there is any relationship between the electoral system of FCs and the participation of women in political life, a concern expressed in the previous concluding observations made by the Committee at paragraphs 58 - 59. Our views have been set out in paragraph 7.4 of the previous report. Indeed, a total of 124 181 female electors have registered in the 28 traditional FCs under the 2017 Final Register, making up 56% of total registered electors whereas a total of 1.78 million female electors have registered in the DC(second)FC under the 2017 Final Register, making up 50.7% of total registered electors. There is no evidence that the elections for the FCs have put female candidates in a disadvantaged position.

66. The fifth-term Chief Executive election was held in March 2017. Mrs Carrie Lam, one of the three validly nominated candidates, was the first female validly nominated candidate in the history of Chief Executive elections of the HKSAR. On 26 March 2017, Mrs Lam was elected by the Election Committee and became the fifth-term and the first female Chief Executive of the HKSAR, with her term of office starting from 1 July 2017.

Women in the Executive Council

67. The Executive Council is presided over by the first female Chief Executive in Hong Kong and comprises 32 members among which five are women (15.6%).

Women in rural elections

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

Women in advisory and statutory bodies (ASBs)

69. In maintaining a system of ASBs, a wide cross-section of the community and relevant organisations can participate in the process of policy-making and public service planning. Currently, there are around 490 ASBs. As at December 2017, the women's participation rate of ASBs with Government-appointed non-official members has increased to 32.4% from 28.1% in 2010.

Women in public offices

70. Since the previous report, female participation in the Civil Service has increased steadily. The percentage of female staff in the Civil Service has risen from 34.6% in 2009 to 37.2% in 2016. Furthermore, the number of female directorate officers in the Civil Service has increased from 396 in 2009 to 470 in 2016. In December 2017, female civil servants made up 37.6% of top positions (directorate officers). In the 5th Term Government of the HKSAR, the Chief Executive, the Secretary for Justice and the Secretary for Food and Health are women. As at 31 March 2018, half of the 18 Permanent Secretaries (the most senior civil servants) were females.

Article 8 - Equality in political and public life at the international level

Officers representing the Government at international level

71. Officers at directorate ranks as well as those posted at Hong Kong Economic and Trade Offices on the Mainland and overseas often represent the HKSAR. Among the 16 Hong Kong Economic and Trade Offices in the Mainland and overseas, ten are headed by female officers. Furthermore, female officials have actively represented the Government in the work of international organisations and participated in various international fora such as those under Asia-Pacific Economic Cooperation, World Trade Organisation, World Health Organisation and International Labour Organisation. Women continued to make up a substantial number of members in the Government team attending hearings of various United Nations human rights treaties.

Article 9 - Equality in nationality laws

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

Article 10 - Equality in education

Overview of the current situation

73. 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 has improved markedly. Female and male students have equal access to education opportunities at all levels and female students are faring well academically. Relevant statistics are set out in Annex 10.

Continuing education

74. The Continuing Education Fund (CEF) was established in 2002 to encourage our workforce to pursue continuing education and self-enhancement by providing subsidy for the course fees. As at 31 March 2018, nearly 840 000 applicants applied for subsidy and 57% of them were women. Further to the announcement in the 2018-19 Budget, the Government obtained approval of the LegCo in May 2018 to raise the total provision to CEF to HK\$16.2 billion (US\$2,077 million). We will also roll out a series of enhancement measures in April 2019, including doubling the subsidy ceiling per applicant to HK\$20,000 (US\$2,560), extending the upper age limit from 65 to 70, expanding the scope of CEF courses to all eligible courses registered in the Qualifications Register, streamlining administrative arrangements, and enhancing quality assurance of CEF courses.

Special education for girls with disabilities

75. The Committee expressed concerns in paragraphs 60 – 61 of its previous concluding observations regarding education for women and girls with disabilities, particularly those with intellectual disabilities. The Government is committed to provide all children with special educational needs (SEN), regardless of their gender, with equal opportunities to receiving education in the HKSAR.

76. To support schools in catering for students with SEN, EDB has been providing public sector ordinary primary and secondary schools with additional resources, professional support and teacher training. In the 2016/17 school year, the school-based educational psychology service (SBEPS) has covered all public sector ordinary schools. Starting from the 2017/18 school year, EDB, by phases in three years, provides each public sector ordinary primary and secondary school with an additional teaching post to facilitate the assignment of a designated teacher in school as Special Educational Needs Coordinator (SENCO) to support integrated education. In the 2017/18 school year, 244 schools were each provided with a post for SENCO. The SENCO provision would be extended to about another 35% of the schools in the 2018/19 school year and to the remaining in the 2019/20 school year. The SENCO would assist the school in planning, coordinating and implementing the Whole School Approach to integrated education in order to further cultivate an inclusive school culture and enhance the effectiveness of the support given to students with SEN irrespective of their gender.

77. The EDB has also been providing resources and support for special schools to help their students develop their potential and prepare for further studies or provide post-school services regardless of their gender. The relatively smaller class size of special schools facilitates more individualised support to cater for students' diversity. Specialists including speech therapist, physiotherapist, occupational therapist, educational psychologist, school nurse, school social worker, etc., are provided for special schools based on the types of disabilities of their students. Additional resources are also provided for special schools to cater for students with medical complexity or multiple disabilities.

78. The New Senior Secondary (NSS) academic structure was implemented in the 2009/10 school year. Since then, more than 100 additional regular teaching posts have been provided for the 61 aided special schools. Additional allied health staff and resources are also provided to improve the special education services in different types of special schools, including 9 speech therapists, 39 occupational therapists and 39 occupational therapist assistants. EDB will further enhance the provision of school nurse and school social worker in special schools starting from the 2018/19 school year. It is estimated that an addition of 51 school nurses and 18 school social workers will be provided.

Education provided for designated groups

79. Education opportunities for non-Chinese speaking (NCS) students, children with no right to stay and newly arrived children/young people from the Mainland are equal for both male and female. Regardless of gender, EDB offers various support services to assist them

in integrating into Hong Kong society and overcoming learning barriers. The relevant details have been set out under Article 23.20(b) and Article 27.3 to 27.15 of the fourth report under the International Covenant on Civil and Political Rights (ICCPR).

Sex education

80. Sex education is part of values education, an integral component of our school curriculum. Learning elements related to sex education, including gender equality, are included in the Key Learning Areas, subjects such as General Studies in primary schools, Liberal Studies in secondary schools and the curricula of moral and civic education of primary and secondary schools. Apart from classroom teaching, schools organise other learning activities such as talks, visits and exhibitions, etc. to provide students with holistic learning experiences conducive to their whole-person development.

Article 11 - Equality in employment and labour rights

Reservations entered in respect of this Article

81. 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(2) of the Convention. Regarding the Committee's view, at paragraphs 8 – 9 of its previous concluding observations, that consideration should be given to withdrawing the reservation, we consider that the existing requirement of a continuous contract for entitlements to statutory maternity leave and maternity leave pay is necessary, and taking into account the interests of both employers and employees.

82. The Government's position regards the reservation of the right to apply all its legislation and the rules of pension schemes affecting retirement pensions, survivors' benefits and other benefits in relation to death or retirement (including retirement on grounds of redundancy), whether or not derived from a social security scheme remains unchanged as explained in paragraph 11.2 in the previous report.

Women's participation and standing in the economy

83. In 2017, 51% of the female population aged 15 and above were economically active and they accounted for 45% of the labour force. A large proportion of the female labour force was in the age group of 30-59, which accounted for 33% of the total labour force. Detailed statistics on labour force and labour force participation rate by sex and age are given in Annex 11A and Annex 11B.

84. The unemployment rate for females is generally lower than that for males. In 2017, the unemployment rates for females and males were 2.9% and 3.4% respectively (Annex 11C). After excluding foreign domestic helpers (the great majority of them are females), the unemployment rate for females was 3.4% and the gap between the unemployment rates for males and females narrowed.

Legislation against discrimination in employment

Equal employment rights and opportunities

85. The general legislative protection against discrimination in the employment field remains unchanged. In general, women enjoy the same rights as men to participate in the labour force and in the jobs of their choices. These rights are also protected and ensured by the SDO.

Discrimination based on marital status, pregnancy and breastfeeding

86. The statutory protection against discrimination on the grounds of marital status and pregnancy under the SDO and FSDO remains as explained in paragraph 11.10 of the previous report.

87. Besides the SDO and FSDO, the Employment Ordinance (Cap. 57) (EO) provides protection against dismissal during pregnancy and maternity leave and the position remains as reported in paragraph 11.11 of the previous report.

Sexual harassment

88. As stated in paragraph 12, the Government has extended the protection and territorial scope of the SDO through the Sex Discrimination (Amendment) Ordinance 2014.

Maternity leave and maternity leave pay

89. We note the Committee's view in paragraphs 62 – 63 in its previous concluding observations regarding maternity leave. To improve maternity benefits for female employees, as announced in the 2017 Policy Address, the Government is conducting a review on improving statutory maternity leave. The review will take into account the needs of working women and the affordability of enterprises, and will make reference to international standards and statutory maternity benefits of other places.

Paternity leave

90. With effect from 27 February 2015, eligible male employees are entitled to 3 days' paternity leave to be taken consecutively or separately for each confinement of their spouse/partner. The paternity leave shall carry pay at a daily rate of fourth-fifths of their average wages if they fulfil other requirements as stipulated in the law.

91. Some commentators welcomed the introduction of paternity leave but suggested that it should be further extended. As announced in the 2017 Policy Address, the Government has proposed to extend the duration of statutory paternity leave to five days and the Labour Advisory Board (LAB)² and the LegCo Panel on Manpower are supportive of the proposal. The Government has introduced a Bill to increase statutory paternity leave to five days into the LegCo in June 2018.

Protection for part-time and casual workers

92. The position of the EO on protection for part-time and casual workers remains as reported in paragraph 11.19 of the previous report.

93. As reported to the Committee in paragraphs 11.20 – 11.21 of the previous report, the Government reviewed the continuous contract requirement³ under the EO and put forth different possible approaches of improvement for the consideration of the LAB. After rounds of in-depth deliberations in 2013 and 2014, employers' and employees' representatives of the LAB could not reach a consensus owing to the complexity of the issue and the divergent views of different stakeholders. The Government has planned to conduct a new round of statistical survey to capture the latest characteristics and employment patterns of employees working short duration and/or working hours and would revisit this issue at the LAB at an opportune time.

Working conditions

94. The position remains as reported in paragraphs 11.22 – 24 of the previous report.

² LAB is a representative tripartite consultative body advising the Government on labour matters.

³ 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 ("4-18 requirement").

Statutory minimum wage (SMW)

95. The SMW rate, initially set at HK\$28 (US\$3.6) per hour in May 2011, was increased to HK\$30 (US\$3.8) in May 2013, HK\$32.5 (US\$4.1) in May 2015, and HK\$34.5 (US\$4.4) in May 2017. The Minimum Wage Commission is conducting a new round of review on the SMW rate and will submit a recommendation report to the Chief Executive in Council by end-October 2018.

96. The implementation of SMW has been smooth, and the employment earnings of low-income workers have shown discernible improvement. In December 2017 to February 2018, the average monthly employment earnings of full-time employees⁴ in the lowest decile group rose by a cumulative 55.8% (or 23.3% in real terms after discounting inflation) as compared with the quarter before the introduction of SMW. The positive income prospects, coupled with a largely stable labour market, have helped attract more people, especially older female to enter or re-enter the labour market.

Working hours policy

97. The Government set up in April 2013 the Standard Working Hours Committee (SWHC) to explore working hours policy options suitable for the socio-economic situation in Hong Kong. The SWHC submitted a report with its recommendations in January 2017, which was endorsed by the Government in June 2017 as a general framework for guiding future formulation of the working hours policy.

98. Given the divergent views on the legislative proposals put forward by the SWHC, the Government will continue to listen to the views of the community so as to identify feasible options of enhancing the working hours policy. Meanwhile, LD has through its industry-based tripartite committees, which comprises representatives from employers, employees and the Government, kick-started the work of formulating 11 sector-specific working hours guidelines. These guidelines will cover suggested working hours arrangements, overtime compensation methods and good working hours management measures for employers' reference and adoption so as to improve the working hours arrangement of employees (including female employees).

Administrative measures to address discrimination in employment

99. EOC has drawn up a total of four sets of Code of Practice on Employment to provide practical guidance in facilitating compliance with four anti-discrimination ordinances by the public (including both employers and employees). From EOC's operational experience, the majority of complaints received under the SDO are employment-related. In this connection, EOC is currently revising the existing Code of Practice under the SDO as part of their review exercise to update the Code to keep up with Hong Kong's socio-economic development.

Retirement protection

100. Hong Kong takes into account the multi-pillar model advocated by the World Bank and has adopted four pillars, including the multi-tier social security system (the zero pillar), the Mandatory Provident Fund (MPF) Scheme and other occupation-based retirement scheme (the second pillar), voluntary savings (the third pillar), as well as public services, family support and personal assets (the fourth pillar).⁵

101. The Commission on Poverty (CoP) conducted a public engagement exercise entitled "Retirement Protection Forging Ahead" from December 2015 to June 2016. In early 2017, the Government announced a series of measures to strengthen the retirement protection system to address the various needs of elderly persons in terms of social security, medical,

⁴ Excluding government employees and live-in domestic workers to whom SMW does not apply.

⁵ The multi-pillar model advocated by the World Bank does not require the presence of all five pillars. Instead, it stresses that a one-size-fits-all retirement protection system does not exist.

community care, financial management, etc. The relevant measures are being implemented progressively.

102. As committed in the 2017 Policy Address, the Government put forth in March 2018 a preliminary idea on abolishing the arrangement of offsetting severance payment and long service payment under the EO with employers' mandatory contributions under the MPF System so as to preserve the MPF contributions for the retirement of employees. The 2018-19 Budget has earmarked HK\$15 billion for implementing the measures to abolish the "offsetting" arrangement. The Government would refine the preliminary idea in the light of the views collected from major stakeholders including the business and labour sectors.

Women and poverty

Overview

103. In 2016, the poor population and poverty rate of females were generally higher than those of males, mainly because more females (especially those who were older and retired) resided in economically inactive households with no employment earnings. The proportion of females receiving social security is prone to be higher. The share of females residing in households benefiting from the major social security schemes was also higher than the corresponding figures for males. As such, the gap between the male poverty rate and that of females narrowed slightly after policy intervention. Detailed statistics on poor population and poverty rate by sex are given in Annex 11D.

Commission on Poverty

104. The Government reinstated in December 2012 the CoP. Chaired by the Chief Secretary for Administration and comprising both ex-officio members and non-official members from various sectors in the community, the CoP has been an important platform for deliberation on poverty alleviation initiatives, with particular emphasis on fostering tripartite partnership among the community, the business sector and the Government.

Low-income Working Family Scheme

105. In order to encourage self-reliance through employment and alleviate inter-generational poverty, the Low-income Working Family Assistance (LIFA) Scheme was introduced in May 2016 to provide financial support to low-income working families who are not receiving the Comprehensive Social Security Assistance (CSSA). The subsidies under the LIFA were tied to employment and working hours to encourage self-reliance. The Scheme has also put in place a lower working hour requirement for single parents to meet their special needs. As at end-March 2018, about 40 000 families (about 145 000 persons) benefitted from the LIFA.

106. The Government has conducted a comprehensive review of the LIFA Scheme in 2017 and introduced a series of enhancements with effect from 1 April 2018, including extending the Scheme to cover singleton households, allowing household members to aggregate their working hours, relaxing the income requirements, increasing the rates of allowances, etc. The LIFA Scheme was also renamed as the Working Family Allowance (WFA) Scheme. It is believed that the new arrangements under the WFA Scheme will benefit more working low-income households (including women and single parents).

Employment services for women, youth and retraining programmes

107. LD and Employees Retraining Board provide a wide range of employment services and retraining programmes to job seekers, including women, as well as youth. Details of these services and programmes are set out in Annex 11E.

Imported workers and foreign domestic helpers

Protection under labour legislation

108. As at end-March 2018, there were around 4 800 imported workers under the Supplementary Labour Scheme (SLS) and over 376 000 foreign domestic helpers (FDHs) employed in Hong Kong.

109. The EO and the Employees' Compensation Ordinance (Cap. 282) (ECO) are applicable to both local and migrant workers, irrespective of their sex or race, as explained in paragraphs 11.60 and 11.65 in the previous report.

110. In its previous concluding observations, at paragraphs 64 – 65, the Committee was concerned over comments that FDHs were experiencing discrimination on the basis of their sex and/or gender and ethnic backgrounds, and that FDHs were subjected to lower wages, fewer holidays and longer working hours than that prescribed by law. The Committee is invited to note that the HKSAR is one of the few places in the world which grants to FDHs statutory labour rights and benefits same as those enjoyed by local workers. Details of HKSAR's policies and measures in this regard are set out in Annex 11F.

111. The Government has taken note of the Committee's recommendation in its previous concluding observations which urged the HKSAR to adopt legislation that fulfils the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organisation. The said Convention has not been ratified by the PRC and has not been applied to the HKSAR at present. Nevertheless, as explained in the above paragraphs and Annex 11F, domestic workers, including FDHs, are already accorded equal and full protection as other workers under Hong Kong labour laws, and FDHs further enjoy additional rights and benefits prescribed in their SEC that are not usually available to local workers. We will continue to monitor the implementation of the said Convention in other places and study the feasibility of its application to the HKSAR as and when appropriate.

Regulation of employment agencies

112. The Government has taken note of the concern raised by the Committee in its previous concluding observations on possible abuses by employment agencies (EAs) against FDHs. The Government has all along been taking rigorous enforcement actions against the malpractices of EAs. Details of policies and new developments in this regard since the previous report are set out in Annex 11G.

Support for FDHs

113. As reported under Article 6, the Government announced in March 2018 a comprehensive Action Plan to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Helpers in Hong Kong (Action Plan) endorsed by a high-level, inter-bureaux/departamental Steering Committee chaired by the Chief Secretary for Administration. The Action Plan outlined a package of multi-faceted measures to tackle trafficking-in-persons and enhance protection of FDHs, including strengthening support and assistance to FDHs being exploited. Among other things, LD would set up a new dedicated FDH Division to ensure effective implementation of measures to enhance protection of FDHs, including setting up a dedicated channel (e.g. hotline with interpretation services) to provide support services to FDHs. Other support to FDHs and related promotion and publicity efforts are set out in Annex 11H.

Two-week rule

114. The Committee has, in its concluding observations, recommended extending the "two-week" rule to ensure FDHs whose contracts have been terminated have sufficient time to search for other employment or file suits against their former employers. However, 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 unauthorised employment after termination of contract; it is not to facilitate them to find new employers. 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.

115. Suitable flexibility is allowed for special cases 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 February 2018, 1 058 such applications (88.8% of the total number of such applications) were approved.

116. 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.

“Live-in” requirement

117. The “live-in requirement” forms the cornerstone of the HKSAR’s policy of importing FDHs. As in many other jurisdictions in the world, it has been the Government’s established policy that priority in employment should be given to the local workforce, and importation of workers should only be allowed where there is confirmed manpower shortage in a particular trade that cannot be filled by local workers. Based on this principle, FDHs have been imported since the early 1970s to meet the shortfall of local “live-in” domestic workers. Given that there is no shortage in the supply of local non-“live-in” domestic workers, any change to the “live-in requirement” will go against the rationale for importing FDHs and the fundamental policy that local employees should enjoy priority in employment. The legality of the “live-in requirement” was upheld by the Court of First Instance in its ruling on 14 February 2018 in respect of a judicial review application (HCAL 210/2016).

Measures to assist migrant workers exposed to abuse

118. Measures to assist migrant workers exposed to abuse are set out in Annex 11I.

Child care facilities and services

119. The Government attaches great importance in enhancing child care services to create a more enabling environment for women to make an informed choice to join or remain in the workforce.

Consultancy Study on the Long-term Development of Child Care Services

120. The Government commissioned the Department of Social Work and Social Administration of The University of Hong Kong in December 2016 to conduct a Consultancy Study on the Long-term Development of Child Care Services. The Study reviews the existing child care services in Hong Kong and draws on the experience of other places in providing child care services. It also conducts an in-depth analysis of the objectives, contents, targets, financing modes, service models, demand and supply situation, facility planning, manpower and training, etc. of child care services in Hong Kong, and makes recommendations on the long-term development. It is expected that the Study will be completed within 2018. Details of enhancement to child care services are set out in Annex 11J.

Promotion of family-friendly employment practices (FFEPs)

121. LD has been acting as one of the facilitators in encouraging employers to adopt FFEPs. The work of LD in this regard is set out in Annex 11K.

Equal pay for work of equal value

122. EOC has continued to promote the concept of equal pay for work of equal value through publications and organising training sessions. EOC also produced three supplementary informative booklets to provide other practical information on equal pay

issues and has arranged talks and workshops for employers, women's groups and other stakeholders.

Article 12 - Equality in access to health facilities

Highlights of new developments

Preventive and promotional services

Cervical cancer screening

123. In addition to the Cervical Screening Programme, DH has also rolled out a three-year pilot scheme funded by the CCF in December 2017, under which service providers from three NGOs will reach out to the community to encourage low-income women to receive free or subsidised cervical cancer screening and provide them with health education on prevention of cervical cancer.

Colorectal cancer screening

124. The Government announced in the 2014 Policy Address the planning and implementation of a pilot programme that subsidises colorectal cancer screening for specific age groups. In September 2016, DH launched the three-year Colorectal Cancer Screening Pilot Programme to provide subsidised screening for asymptomatic Hong Kong residents born in the years 1946 to 1955 to prevent colorectal cancer. In the 2018-19 Budget, the Government announced that the Programme will be regularised and the screening age will be progressively extended to 50-75 by phases in coming years.

Promoting Breastfeeding

125. Since the last report, policy and measures that promotes, supports and protects breastfeeding has been strengthened. Details are set out in Annex 12A.

Mental health

126. Mental health problems have become increasingly significant in the HKSAR. The Hong Kong Mental Morbidity Survey (HKMMS), the first territory-wide face-to-face psychiatric epidemiological study conducted in Hong Kong during 2010 to 2013, estimated that the one-week prevalence of any common mental disorders⁶ in Chinese women aged 16-75 was 16.9%, which was higher than that in men (9.4%). In 2016, the female age-standardised mortality rate due to suicide was 5.7 per 100 000 standard population, compared to 13.7 per 100 000 standard population for males.

127. In the past few years, the resources allocated by the Government on mental health services have been increasing. The annual expenditure has increased from over HK\$5 billion in 2013-14 to around HK\$6.45 billion in 2017-18.

128. Following the conclusion of a mental health review conducted during 2013 to 2017, the Mental Health Review Report was published by the Food and Health Bureau (FHB) in April 2017 with 40 recommendations made for the enhancement of the mental health services in Hong Kong. Based on the recommendations of the mental health review, FHB has set up a standing Advisory Committee on Mental Health in December 2017 to follow up on the implementation of the 40 recommendations, to advise the Government on mental health policies as well as to assist the Government in further enhancing various mental health services. Amongst other initiatives, the Advisory Committee has steered the conduct of prevalence studies on mental health for different age groups with first phase of studies commencing in early 2019.

⁶ Including depressive episode, generalised anxiety disorder, mixed anxiety and depressive disorder, phobia, obsessive compulsive disorder and panic disorder.

129. Since 2010, HA has implemented a number of new initiatives, including the launch of the Case Management Programme (“CMP”), the introduction of peer support element in the CMP, the introduction of a 24-hour psychiatric advisory hotline, the enhancement of multi-disciplinary support for common mental disorder clinics, etc., with a view to strengthening community support and improving waiting time for psychiatric services.

130. FHB, in collaboration with HA and SWD, launched a two-year pilot scheme named the Dementia Community Support Scheme (“DCSS”) in February 2017 to provide support services to elderly persons with mild or moderate dementia and their carers in the community through 20 District Elderly Community Centres (DECCs). The DCSS will be regularised in February 2019 and extended to all 41 DECCs in 2019-20 to benefit more elderly persons (including women) in need.

131. DH launched the Joyful@HK Campaign, a three-year territory-wide promotion programme, in January 2016. DH is planning to launch an on-going mental health education and destigmatisation campaign in 2019.

132. At the MCHC level, a Comprehensive Child Development Service has been implemented to identify mothers with probable postnatal depression. Clients suspected to have postnatal depression will be referred to HA’s specialist services if necessary. In collaboration with public hospitals, postnatal mothers are also provided with physical checkups, advice on family planning and support to adapt to life changes through experience sharing in support groups and individual counselling.

HIV prevention

133. In the coming years, HIV prevention and care for women will be enhanced. As stated in the “Recommended HIV/AIDS Strategies for Hong Kong (2017-2021)” – published by the Hong Kong Advisory Council on AIDS, HIV education, condom use and regular testing should be strengthened in non-Chinese Asians, and Africans, the majority of whom are women. Services should be sensitive to their needs. Moreover, feasibility and the logistics of re-testing pregnant women to further eliminate mother-to-child HIV transmission during the latter part of pregnancy will be explored.

Highlights on services for women with special needs

134. The Government continues to ensure the provisions of services for women with special needs, such as women with disabilities, elderly women, drug abusers, sex workers and ethnic minorities, imported workers and foreign domestic helpers, as reported in the previous report. Details of such services are set out in Annex 12B.

Article 13 - Women in economic, social and cultural life

Social security

135. The Comprehensive Social Security Assistance (CSSA) Scheme and the Social Security Allowance (SSA) Scheme continue to form the mainstay of HKSAR’s social security system. In 2017-18, the total recurrent expenditure of the Government on social security was HK\$42,900 million, equivalent to 11.8% of the Government’s total recurrent expenditure for the year, showing a substantial increase as compared with 2009-10 (total recurrent expenditure at HK\$27,900 million). While social security is provided to eligible persons regardless of gender, 54% of the recipients were female (as at end-March 2018).

136. It is noteworthy that the Old Age Living Allowance (OALA), the Guangdong Scheme and the Fujian Scheme were introduced under the SSA Scheme since the previous report. The OALA (currently at HK\$2,600) was launched in April 2013 to supplement the living expenses of elderly persons aged 65 or above with financial needs. A higher level of allowance (Higher OALA currently at HK\$3,485 per month) was implemented since June 2018 to strengthen the financial support for elderly persons with more financial needs. Separately, the Guangdong Scheme and the Fujian Scheme were launched in October 2013

and April 2018 respectively to allow eligible elderly persons who choose to reside in Guangdong or Fujian Province to receive Old Age Allowance (also an allowance under SSA Scheme; currently at HK\$1,345 per month).

New arrival women and single parents

137. New arrivals (NAs) and single parents can have access to a continuum of comprehensive family, training, employment and housing services from SWD, HD, and ERB. Details of such services are set out in Annex 13A.

Enhanced counselling and other family services for women under separation/divorce

138. To strengthen the support for divorced/divorcing families (including women), the Government provides additional resources of about \$56 million from 2018-19. It is planned to set up by phases five specialised co-parenting support centres to provide in particular child visitation service for divorced parents. The centres would also be planned to provide co-parenting counselling and parenting co-ordination service, structured parenting groups or programmes, as well as child-focused counselling, groups or programmes. To enable early intervention and identification of families with divorce risk, and provide pre-divorce counselling services, additional manpower resources are provided for the Integrated Family Service Centres operated by SWD and the 11 FCPSUs.

Women with disabilities

139. The Government takes suitable legislative and administrative measures to protect women, including women with disabilities, against discrimination on any ground, and ensure their development, advancement and empowerment, thereby facilitating their enjoyment of the rights under the UNCRPD. The measures taken by Government in this respect were elaborated under Article 6 of the second report of the HKSAR under the UNCRPD.

140. Pursuant to the 2016 Policy Address, to further strengthen the employment support provided for job seekers with disabilities, LD has implemented a two-year pilot scheme since September 2016 to provide in-depth psychological and emotional counselling service to needy job seekers. This serves to alleviate emotional problems of job seekers with disabilities arising from the state of their disabilities or their personal or family matters, so as to help them concentrate on job search and settle in their new jobs promptly, thereby realising their potentials in employment.

141. LD also administers the Work Orientation and Placement Scheme (WOPS) to encourage employers to hire persons with disabilities. As announced in the 2018-19 Budget, LD will enhance WOPS in 2018 by increasing the amount of allowance payable to employers engaging job seekers with disabilities.

Women of ethnic minorities

142. The Government is committed to combating racial discrimination. The Government issued in 2010 the Administrative Guidelines on Promotion of Racial Equality (the Guidelines) to provide general guidance to relevant Government bureaux and departments and 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. The coverage of application of the Guidelines has extended from 14 to 23 authorities. Relevant authorities have consistently put in place measures to assist ethnic minorities.

143. Considerable progress has been made in strengthening employment services to EM. LD provides comprehensive and free employment services to all job seekers, including female EM job seekers. All job centres of LD provide a wide range of dedicated employment

services to cater for the employment needs of EM job seekers. LD also organises large-scale and district-based inclusive job fairs to enhance the employment opportunities of EM job seekers.

144. Since 2014, LD has implemented the Employment Services Ambassador (ESA) Programme for EMs, under which Youth Employment and Training Programme trainees who can communicate in EM languages are employed as ESAs to undergo on-the-job training at job/recruitment centres for six months to help EM job seekers use various job search facilities and services. Since the implementation of ESA Programme for EMs, LD has employed 117 trainees, of whom 86 (73.5%) were female.

145. Pursuant to the 2017 Policy Address, LD has since May 2017 engaged two employment assistants proficient in EM languages at two selected job centres on a pilot basis to further strengthen employment support for EM job seekers. Apart from partnering with experienced employment officers in providing personalised employment services for EM job seekers, these employment assistants conversant with EM languages and cultures also help LD proactively reach out to EMs with employment needs and encourage them to make use of LD's employment services.

146. ERB provides dedicated training courses delivered in English to suit EMs' aspirations and training needs. In 2018-19, ERB has reserved 800 training places to offer 32 dedicated courses for EMs. ERB could arrange teaching assistants who can speak English and EM languages to provide interpretation services or guidance in class to assist those who have difficulties in understanding English. EMs who have completed the dedicated placement-tied training courses are provided with a longer period of six-month placement follow-up services.

147. ERB also offers subsidies for training bodies to develop supplementary training materials and learning support for EMs who can speak and comprehend Cantonese to attend training courses for the general public.

148. ERB collaborates with HAD to offer training courses at its Support Service Centres for Ethnic Minorities. EMs can also make use of an array of support services, including industry specific seminars, taster courses, workshops, training consultancy service, etc. Training Consultants also offer outreaching training consultancy service to EMs with a view to providing them with suitable training and employment information. ERB also issues promotional leaflets in English and multiple EM languages as well as course prospectus in English, and places advertisements in newspapers in English and in EM languages.

Elderly women

149. Through the Single Elderly Persons Priority Scheme, public rental housing units are continued to be provided for the elderly on a priority basis.

150. Also, HA undertakes adaptation works/home modification as necessary and bears the full cost incurred for the sitting/prospective elderly tenants as well as families with members over 60. If required, advice from physiotherapists or medical officers will be sought for the appropriate conversion work.

Article 14 - Rural women

Reservation entered in respect of this Article

151. 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. The position with regard to the definition of "indigenous" population as well as succession of land properties in the New Territories and review of land policy remains as reported in the previous report.

Rural elections

152. After the Village Representative Election in 2011, the Government conducted a comprehensive review on the electoral arrangements of the three-tier rural elections. Subsequently, the provisions in the Village Representative Election Ordinance (Cap. 576) (VREO) and other related legislation were extended to cover the election of Kaifong Representatives (KFR) who are members of the Rural Committee of Cheung Chau and Peng Chau, two outlying islands in Hong Kong. The VREO was thus renamed as Rural Representative Election Ordinance in 2014 and KFR elections are regulated by statute from 2015 onwards.

The 2015 Rural Ordinary Election

153. Since the previous report, two rural ordinary elections were held in 2011 and 2015 respectively. The number of registered electors in 2011 was about 182 700 and 47.3% were female electors. In 2015, it was the first time that KFR elections were conducted under the electoral legislation and the supervision of the Electoral Affairs Commission. The number of registered electors increased to about 198 700 (among which about 9 100 were KFR electors) and 47.66% were female electors, making up almost half of the registered electors. The number of female candidates was 39 in 2011 (2.23% of total number of candidates), and it was increased by 79% to 70 in 2015 (3.75% of total number of candidates). The number of elected female rural representatives increased from 30 in 2011 to 49 in 2015, representing an increase of 63%.

154. The Government will continue its efforts to encourage eligible persons of either sex to register as electors and participate in the election as candidates. We will enhance publicity to encourage participation of women in the coming Rural Ordinary Election to be held in 2019. We will also closely monitor the number of female candidates and the number of female rural representatives elected.

Article 15 - Equality in legal and civil matters

Reservations entered in respect of this Article

155. The reservations entered in respect of this Article will continue to be maintained.

Women's legal status and civil rights

156. All the rights recognised in Bill of Rights, as set out in HKBORO, are enjoyed by everyone without distinction of any kind, including sex.

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

157. 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 second report remains unchanged.

Treatment of women in court

158. Generally speaking, women are not being treated less favourably than men in the courts because of their sex. For measures available to assist women testifying in sexual offence cases in the courts, please see the discussion under Article 5.

Access to legal aid

159. To ensure that people who have reasonable grounds to institute or defend legal proceedings will not be precluded from doing so because of a lack of means, publicly-funded legal aid services are provided to eligible applicants passing the means test and merits test as stipulated in the Legal Aid Ordinance (Cap. 91), regardless of whether or not they are Hong

Kong residents. In 2017, among all legal aid applications, there were 8 559 female applicants and 41% of them were granted legal aid while 46% of the 10 285 male applicants were granted legal aid.

Others

160. As reported in paragraph 15.8 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 2018, there were a total of 750 587 persons on the Common Jurors' List of whom 382 094 (i.e. 51%) were female.

Appointment to the Judiciary

161. Gender is not a relevant consideration in judicial appointment. As at 31 March 2018, there were 54 females (i.e. 33%) out of a total of 164 Judges and Judicial Officers, compared to 36 females (22%) in 2010.

Women in prisons

162. The position regarding women in prisons remains largely as explained in paragraphs 15.11 and 15.12 of the previous report. Some background information is set out in Annex 15A.

Article 16 - Equality in family law

Review of minimum marriage age

163. In the light of paragraphs 66 and 67 of the concluding observations on minimum marriage age, as well as the LRC Report on Child Custody and Access published in 2005, the Government commissioned a study through the Family Council in June 2018. The study will examine, among other things, issues related to minimum marriage age, including the relationship between marriage age and divorce rate as well as length of marriage in overseas jurisdictions, and conduct analysis on the situation in Hong Kong. We will take into account the findings of the study before formulating the way forward.

Matrimonial litigation

Family mediation

164. In 2017, the Family Mediation Coordinator's Office ("the Office") held 454 information sessions with 954 attendees to assist couples to consider mediation to resolve their matrimonial disputes. In May 2018, the Office merged with the Mediation Information Office of the Judiciary to become the Integrated Mediation Office, furthering the objective of providing a focal point of enquiry for mediation in proceedings on matrimonial and family matters, as well as other civil cases.

Maintenance orders

165. The Government has introduced a series of measures to improve the maintenance system through legislative and administrative means to enhance the effectiveness of the system of collection of maintenance payments and enforcement of maintenance orders. Key measures taken to date include relaxing the requirement for the Court to make an attachment of income order, imposing interest or surcharge against defaulting maintenance payers as well as stepping up the publicity and education work.

166. Some commentators have suggested that a Maintenance Board or an intermediary body to assist divorced women in the enforcement of maintenance order should be set up, and relevant studies should be carried out. In this regard, the Government commissioned a

consultancy study through the Family Council on various issues related to marriage and divorce in June 2018 to facilitate our consideration of the way forward.

The arrangement on Reciprocal Recognition and Enforcement of Civil Judgments in Matrimonial and Family Cases by the Courts of the Mainland and of the HKSAR

167. On 20 June 2017, the Government signed the *Arrangement on Reciprocal Recognition and Enforcement of Civil Judgments in Matrimonial and Family Cases by the Courts of the Mainland and of the HKSAR* (the Arrangement) with the Supreme People's Court of the PRC. The Arrangement establishes a mechanism for reciprocal recognition and enforcement of civil judgments in matrimonial and family cases between Hong Kong and Mainland China, thereby providing better safeguards to families, in particular, parties to cross-boundary marriages and their children.

168. The Arrangement will come into effect after both sides have completed their respective internal procedures. Specifically it will be implemented in the Mainland by way of a judicial interpretation and in Hong Kong by way of legislation.

Legislation regarding guardianship, wardship and adoption of children

The Adoption Ordinance

169. The Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption continues to be implemented in Hong Kong through the Adoption Ordinance (Cap. 290).

The Guardianship of Minors Ordinance

170. The recommendations made by the Report on Guardianship of Children of the LRC have been implemented through the Guardianship of Minors (Amendment) Ordinance 2012: the amended provisions of the Guardianship of Minors Ordinance (Cap. 13) have improved the legal arrangements relating to the appointment, removal and powers of guardians, and assisted parents in making guardianship arrangements for their children in the event of their deaths, thereby contributing to the best interests of children.

The Child Abduction and Custody Ordinance

171. The Child Abduction and Custody Ordinance (Cap. 512) gives effect in the HKSAR to the Hague Convention on the Civil Aspects of International Child Abduction. In 2002, the LRC published the *Report on International Parental Child Abduction* with recommendations dealing with the law relating to child abduction across international borders by parents in contested custody cases. All the recommendations have been implemented by the Child Abduction Legislation (Miscellaneous Amendments) Ordinance 2014, empowering the law enforcement agencies to hold a child suspected of being abducted at any border control point where there is an order issued by the court prohibiting the child from leaving Hong Kong (or where an application for such an order has been made to the court) so that the child can be returned to the custodial parent or taken to a place of safety.
