

## PSHA's opening statement at United Nations hearing on ICCPR

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Following is the opening statement by Permanent Secretary for Home Affairs, Mrs Carrie Lam, at the United Nations hearing of Hong Kong Special Administrative Region's second report in light of the International Covenant on Civil and Political Rights in New York today (March 20, New York time):

Madam Chair, distinguished Members,

As the Permanent Secretary for Home Affairs of the Hong Kong Special Administrative Region (HKSAR) Government, it gives me great honour to have this opportunity to address you on the implementation of the International Covenant on Civil and Political Rights (ICCPR) in the HKSAR. I wish first of all to thank Ambassador Zhang Yishan, Deputy Permanent Representative of the People's Republic of China to the United Nations, for making the necessary arrangements for our attendance and for his kind introductory remarks.

The HKSAR is fully committed to the protection of human rights. This commitment and these efforts span our various government bureaux and departments. I have with me today the key stakeholders and they are:

- \* Mr Robert Allcock, Solicitor-General and his colleague, Ms YM Lai from the Department of Justice;
- \* Mr Joseph Lai, Deputy Secretary for Constitutional Affairs and his colleague from the Constitutional Affairs Bureau, Miss Stella Chui;
- \* Ms Linda So and Mr Charles Wong from the Security Bureau; and
- \* my Home Affairs Bureau colleagues, Mr John Dean, Ms Amy Yeung, and Ms Cynthia Tong.

Madam Chair, we see the submission of the report to your Committee, the subsequent response to the Committee's questions and the hearing process as a valuable opportunity for the promotion of dialogue between our Government and the international community as embodied by you and Members of this Committee as well as other Treaty Monitoring Bodies of the United Nations. Within Hong Kong, through consultations with legislators, NGOs and interested members of the public in the compilation of the report, the process has much added value in stimulating public

awareness of and interest in the ICCPR and in human rights in general. At this juncture, I would like to pay tribute to our Honourable Members from the HKSAR's Legislative Council and our NGO friends who have travelled so far to be with us here today. Their presence at this hearing ensures that the Committee will be presented with a wide range of views and perspectives. Although we may not always see the issues, or even the facts, in the same light, as one would normally expect of relationships between Government and NGOs, we extend to them our greatest respect for their advocacy and passion. After all, it is the divergence of views existing in Hong Kong and the freedom of expression we uphold that make Hong Kong a civil society that we are so proud of.

I wish also to express our deepest appreciation to the Committee for its list of issues transmitted to us dated December 7, 2005. These pertinent questions have given us the opportunity to provide updates on developments in some key areas after the finalisation of the Second Report in 2004 and its formal submission to the Committee in January, 2005. I do not intend to speak at length on our detailed response to the list of issues or other subjects covered in the Second Report. I will confine my opening remarks to taking Members through the development on three specific issues which, in my view, fully illustrate our positive response to views of the UNHRC and our continuous progress in safeguarding human rights. Let me begin by recounting our work on the ethnic minorities.

#### Legislating against racial discrimination

Members may recall that in the HKSAR's First Report to this Committee in 1999, we took the view, as supported by public consultations, that legislation against racial discrimination was not considered appropriate at that particular time in Hong Kong. Instead, the HKSAR Government would persist with efforts to raise public awareness. Through educational initiatives, incurring a total of some US\$4.6 million these last several years, we have fostered a culture of mutual understanding, respect and tolerance among people of different races. However, our minds have never been closed on legislation and we took serious note of the Committee's then concern as expressed in its concluding observations that no legislative remedies were available to individuals in respect of discrimination on the grounds of race. In June, 2003, following extensive consultations initiated by the Government, we announced the Government's intention to legislate against racial discrimination. This was reported to Members in our Second Report. To actively take the matter forward, and given the wide-ranging implications, the Government issued a consultation paper on the

proposed legislative framework in September, 2004, to collect public opinion on the proposal. The consultation exercise ended on February 8, 2005. It has attracted a very large response, with some 240 submissions and, on analysing the findings, it was clear to us that there were many technical questions that would need to be ironed out before we could present the Bill.

We were not put off by the complexity of the subject, nor the sometimes lukewarm reception we received from some quarters. We are now finalising the drafting of the Bill and aim to have this introduced into the Legislative Council before the end of its current session. Meanwhile, we are continuing with our public education efforts as in the course of the public consultations, we were reminded that legislation must go hand-in-hand with public education. These efforts will be steered by the Committee on the Promotion of Racial Harmony: a multi-ethnic, multi-cultural body that advises the Government on promotion strategies for fostering communal harmony and inter-cultural understanding.

Madam Chair, I am acutely aware of the fact that the Committee's concluding observations in respect of article 26 applies equally to discrimination on the grounds of sexual orientation and no doubt, distinguished Members and our NGO friends are eager to see similar legislative effect on this and other forms of inter-personal or inter-communal discrimination. In keeping with our overall style of government, our approach has been one of seeking to balance a vision to take the lead ahead of popular consensus and caution to build greater community understanding and support. At the end of the day, legislative proposals require the majority support of our legislators who in turn could not ignore public opinion. I can assure you, Madam Chair and Members, that this is indeed the current state of our work in respect of discrimination on the grounds of sexual orientation in light of the difficulties posed by deeply held traditional values and beliefs in Hong Kong. Let me tell Members a bit about that work.

In September, 2004, we set up a Sexual Minorities Forum to provide a formal and regular channel of communication between the Government and persons of different sexual orientation. The Forum has since met several times and has attracted a positive response. In May, 2005, we set up a Gender Identity and Sexual Orientation Unit in Home Affairs Bureau whose work is to seek actively to promote equal opportunities for gays, lesbians, and transgender persons. We operate a funding scheme to support worthwhile community projects on sexual orientation. We believe that, as in the case of racial harmony, this work will have some influence in bringing

about attitude changes and, will help promote non-discrimination and nurture a culture of greater acceptance and mutual respect, thereby fostering a general climate of acceptance that in time to come will be a useful forerunner to the introduction of legislation.

## Developing democracy in the HKSAR

I now turn to another topic that I suspect, based on the submissions put before the Committee, will have a high place on the Committee's agenda for this hearing, namely electoral arrangements for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008.

Let me state at the outset that Hong Kong's electoral system shall be determined in accordance with the Basic Law. Our electoral system is appropriate to Hong Kong's circumstances and gives rise to no incompatibility with provisions of the Covenant as applied to the SAR.

As Members are aware, upon ratification of the ICCPR in 1976, the British Government entered a reservation, reserving the right not to apply sub-paragraph (b) of article 25 in so far as it might require the establishment of an elected Executive or Legislative Council (LegCo) in Hong Kong. After reunification, in accordance with the Central People's Government's notification to the United Nations Secretary-General dated June 20, 1997 and Article 39 of the Basic Law, this reservation continues to apply to the HKSAR.

Notwithstanding the reservation, both the Central Authorities and the SAR Government are fully committed to promoting constitutional development in accordance with the Basic Law. Articles 45 and 68 of the Basic Law provide that the ultimate aim is the election of the Chief Executive (CE) and all members of the LegCo by universal suffrage. These two Basic Law Articles further provide that progress towards this ultimate aim shall be made in the light of the actual situation of Hong Kong and in accordance with the principle of gradual and orderly progress.

Since 1997, we have been making steady progress on constitutional development. The first-term CE was elected by a Selection Committee comprising 400 representatives, mostly elected, from different sectors of the Hong Kong community. For the second term CE election, the size of the Election Committee (EC) was doubled to 800. Most members of the EC were elected from different sectors of

the community covering the business, professional, labour, social services, religious and political sectors.

As regards LegCo, the Basic Law provides for a steady increase in the number of seats returned by geographical constituencies based on universal suffrage – 20 in the first term (which started in 1998), 24 in the second term (which started in 2000) and 30 in the third term (which started in 2004). It is perhaps worth noting that the voter turnout (over 1.7 million or over 55% of the registered voters) and the number of contesting candidates (159) in the 2004 LegCo election were both historic highs.

The SAR Government was keen to further open up the electoral system for the CE election in 2007 and the LegCo election in 2008. In January 2004, the CE established the Constitutional Development Task Force to come up with proposals for the electoral arrangements for 2007 and 2008.

The Government's package, if approved by LegCo, would have broadened substantially the public's participation in the two elections and brought further progress to Hong Kong's constitutional development within the parameters of the Basic Law and the Decision of the Standing Committee of the National People's Congress (NPCSC) in April 2004. For the CE election, we proposed to double the EC membership to 1,600 and more than 400 of the members would have been elected directly or indirectly by more than three million voters. As for LegCo, through allocating the 10 additional seats equally to geographical constituencies and the District Council functional constituencies, close to 60% of all LegCo seats would have been elected directly or indirectly by more than three million voters.

Although the package had majority support in the community and more than half of all LegCo Members, regrettably it did not have the required two-thirds majority support of all the members of the Legislative Council. Hence, the package cannot be processed further.

In accordance with the Interpretation made by the NPCSC on April 6, 2004, if no amendment is made to the methods for selecting the CE and for forming the LegCo as stipulated in Annexes I and II of the Basic Law, the relevant provisions relating to the two methods in Annexes I and II of the Basic Law will still be applicable. In the circumstances, the 2007 CE and 2008 LegCo elections will be held on the basis of the existing arrangements.

Still, the SAR Government is determined to take forward Hong Kong's democratic development in accordance with the Basic Law. To respond to the community's aspirations, the CE initiated the discussion for formulating a roadmap for universal suffrage through the Commission on Strategic Development in November last year. The aim of the Commission is to reach conclusions on the design of a universal suffrage system for the CE and the LegCo by early 2007. We very much hope that these will provide a basis for us to commence our next stage of work.

### Combating domestic violence

I would like to end by speaking very briefly on a subject very close to my heart, which was also raised in the Committee's list of issues. As the HKSAR's former Director of Social Welfare, my greatest sorrow in that job was to see children neglected and the occurrence of family violence or tragedies. Over these years, in the light of changing circumstances, the Government has intensified its work and allocated additional resources in tackling domestic violence and child abuse. Our strategy to combat domestic violence comprises preventive measures such as community education and public awareness, support services for victims ranging from housing and financial assistance to counselling, and specialised services and crisis intervention round-the-clock. On the legislation side, we are reviewing the Domestic Violence Ordinance to determine whether, and if so, how the protection to victims of domestic violence may be strengthened. In the coming months, the Social Welfare Department will initiate a Family Support Programme throughout the territory to increase connection with vulnerable families and their access to support services. We will pilot two batterer-intervention programmes to address the needs of batterers and breaking their cycle of violence. As usual, the Government will work in partnership with NGOs in delivering these initiatives.

### Conclusion

As the world is bracing for major challenges brought about by globalisation and technological advancement, basic rights and freedoms must be defended and defended vigorously. In Hong Kong, human rights and freedoms are guaranteed constitutionally by the Basic Law. And the rule of law and an independent judiciary, also guaranteed by the Basic Law, provide the fundamental basis for human rights protection in Hong Kong.

Madam Chair, at the risk of stating the obvious, I take the opportunity to reiterate our total commitment to the support of the Covenant as applied to Hong Kong, and as enshrined in our constitutional document, the Basic Law. My team and I are ready to answer any questions the Committee may wish to ask. Should we find ourselves unable to do so on the spot, we will do our utmost to make good the deficiency with minimal delay.

Thank you.

Ends/Tuesday, March 21, 2006