

**For information
on 17 February 2014**

Legislative Council Panel on Constitutional Affairs

**The third report of the Hong Kong Special Administrative Region
under the International Covenant on
Economic, Social and Cultural Rights**

Purpose

This paper sets out the Administration's arrangements for the hearing of the third report of the Hong Kong Special Administrative Region (HKSAR) under the International Covenant on Economic, Social and Cultural Rights (ICESCR). The HKSAR's third report has been incorporated as part of the second periodic report of the People's Republic of China under the ICESCR.

Background

2. The HKSAR submitted to the United Nations Committee on Economic, Social and Cultural Rights (the Committee) its second report under the ICESCR in June 2003. The Committee held a hearing on that report in April 2005 and issued its Concluding Observations in May 2005. In line with established arrangements, the HKSAR submitted its third report to the Committee through the Central People's Government (CPG) in June 2010, addressing issues set out in the Committee's Concluding Observations on the second report.

3. Hard copies of the HKSAR's third report (copy at **Annex A**) were distributed to the public, stakeholders and the Legislative Council in October 2010. Soft copy of the report is also available on the website of the Constitutional and Mainland Affairs Bureau at http://www.cmab.gov.hk/en/press/reports_human.htm.

4. The Committee has issued a List of Issues to be taken up in connection with the consideration of China's second report (extract of the parts concerning the HKSAR is at **Annex B**). We will make our response to the Committee through the CPG and will publish it when the Committee has received our response.

The hearing

5. The Committee's hearing on China's second report (incorporating HKSAR's third report) is expected to be held some time between 28 April and 23 May 2014 at the United Nations in Geneva. A delegation from the HKSAR Government, to be led by the Constitutional and Mainland Affairs Bureau, will attend the hearing.

6. Members are invited to note the content of this paper.

Constitutional and Mainland Affairs Bureau
February 2014

List of issues in relation to the second periodic report of China
(extract of the parts on the HKSAR)
(Questions below provided by the Committee)

**IV. Issues relating to the general provisions of the Covenant
(arts. 1-5)**

Article 2 paragraph 2 - Non-discrimination

40. Please provide information on steps taken to review and repeal the “two-week rule” and to address discrimination and abuse against migrant domestic workers as a consequence of this rule.
41. Please clarify whether steps are foreseen to introduce legislation prohibiting discrimination on the grounds of sexual orientation and gender identity, and provide information on steps taken to prevent and combat discrimination based on such grounds.
42. Please inform the Committee whether measures, legislative or otherwise, have been envisaged to extend coverage of the Race Discrimination Ordinance to all public functions, including the immigration service, police force, foreign domestic workers, as well as to all grounds of discrimination, including nationality, citizenship and residence.

Article 3 - Equal rights of men and women

43. Please provide information on the impact of steps taken to ensure the principle of equal pay for work of equal value, and provide updated information on the current wage disparities between men and women.

**V. Issues relating to the specific provisions of the Covenant
(arts. 6-15)**

Article 6 - The right to work

44. Please clarify whether refugees have access to the labour market and to tertiary or vocational training.

Article 7 - The right to just and favourable conditions of work

45. Please provide information on legislation regulating standard working hours, statutory overtime pay and rest breaks, and protecting against unfair dismissal.
46. Please provide information on steps taken to ensure that migrant domestic workers do not receive a wage below the minimum allowable wage currently in place for this category of workers. Please clarify whether the Minimum Wage Ordinance will be amended to also cover live-in migrant domestic workers. Please also specify which steps are taken to ensure that migrant domestic workers are granted weekly rest days in accordance with section 17 of the Employment Ordinance.
47. Please provide information on steps taken to ensure that persons with disabilities do not receive a lower salary for equal work, compared to persons without disabilities.

Article 8 – The right to form and join trade unions and right to strike

48. Please provide updated information on the protection against dismissal for workers who engage in trade union activities.

Article 9 - The right to social security

49. Please provide information on the practical reasons for setting the residency rule at seven (7) years as one of the application criteria for the Comprehensive Social Security Assistance scheme, and explain whether this period may be reduced for particular groups at risk of living in poverty, rather than being based on an individual assessment of each particular case.
50. Please provide information on steps taken to ensure that persons with disabilities have access to their right to social security.

Article 10 - Protection of the family, mothers and children

51. Please provide information on measures taken to counter the adverse impact of right of abode policies and to ensure that families are not separated between mainland China and Hong Kong, China, as a result of such policies.

52. Please provide more detailed information on practical steps taken to prevent and combat trafficking in persons in Hong Kong, China, as a source, destination and transit point, and specify whether these efforts have also focused on abusive practices regarding foreign domestic workers.
53. Please inform the Committee whether legislative amendments will be introduced with a view to prohibiting corporal punishment in all settings. Please also provide information on steps taken, other than legislative, to prevent the use of corporal punishment in the home and alternative care settings.

Article 11 - The right to an adequate standard of living

54. Please clarify how the Hong Kong, China, authorities ensure that the level of the Comprehensive Social Security Assistance is an accurate measure of the minimum standard of living. Please also clarify whether a comprehensive policy and plan is in place to combat poverty, including an official poverty line, adjusted annually for inflation.
55. Please provide information on steps taken to introduce rental subsidies for those in need. Please provide information on how rent levels are protected against real estate speculation, in view of the lifting of rent control through the amendments to the Landlord and Tenant (Consolidation) Ordinance. Please also clarify the housing situation for asylum seekers and refugees.

Article 12 - The right to physical and mental health

56. Please clarify whether the Hong Kong, China, authorities will introduce the Mental Health Policy as recommended by the Equal Opportunities Commission and civil society.
57. Please provide information on the reportedly high number of rejections of persons with disabilities by health insurance companies.

Articles 13 and 14 - The right to education

58. Please provide information on steps taken to ensure that all school-age children of migrants without the legal right to remain in Hong Kong, China, and who are unlikely to be removed in the

short term, as well as children of ethnic minorities, have unconditional access to public school education.

59. Please provide information on steps taken to address the high dropout rate in secondary schools. Please also provide information on progress made in the implementation of the “Chinese as a Second Language” curriculum.