

*The Equal Opportunities Commission  
and the Women's Commission*

*Central Mechanisms for Advancing Women's Status*

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# **The Equal Opportunities Commission and the Women's Commission**

## **Central Mechanisms for Advancing Women's Status**

Despite the existence of laws and international conventions, experiences from the women's movement have affirmed the need to establish an institutional mechanism within the government for the advancement of women. The institutional machinery will ensure that the state will take up its responsibility to implement international obligations and its own commitment to protect the interests and promote the status of women. The call for a central mechanism was highlighted in the Beijing Platform for Action adopted at the Fourth World Conference on Women held in Beijing in 1995, and has been advocated for the implementation of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In this paper, we recount the history of the establishment of institutional mechanisms for the advancement of women in Hong Kong. We, the authors, have been participants in the process of establishing such mechanisms, and our account may be viewed as insiders' perspectives to a certain extent. We aim to recall the facts and discuss the challenges for gender mainstreaming through institutional mechanisms in Hong Kong.

### **Call for a Central Mechanism for Women**

Women's concerns in Hong Kong have traditionally been marginalized as belonging to the agenda of women's groups. While the state exerts influence on women's lives, women's voices have largely been left out

from government structures and policies (Cheung, Wan and Wan, 1994; Kwok et al., 1997). As early as the 1970s, the international women's community called for the establishment of national machineries for the advancement of women. The World Conference on Women held in Mexico City in 1975 adopted the recommendation, and in 1988 the United Nations Commission on the Status of Women highlighted the issue as a priority. In Hong Kong, the call for the establishment of such mechanisms came after the growth of local women's concern groups in the late 1980s (Lai, Au and Cheung, 1997).

The first local call was a modest request made in 1989 by several New Territories women's groups when they met with Office of Members of the Executive and Legislative Councils (OMELCO) to urge the government to set up a central committee to look after women's issues. At around the same time, coalitions of other women's concern groups sprouted to promote a collective voice for women. A joint committee of nine community women's groups was formed to work on a Women's Broadsheet to review the status of women. A coalition of 12 women's groups formed the Women's Joint Political Platform to advocate a comprehensive strategy to advance the status of women. The Platform included urging the government to extend the CEDAW to Hong Kong, as well as the creation of a government working group on women's policies, to conduct research and formulate policies on women, and to coordinate services for them (Women Voters Development Plan Association, 1991).

With the introduction of direct elections to the Legislative Council (LegCo), women's groups began to lobby for the support of elected legislative councillors to voice the concerns of women. As the guest of honour at the annual meeting of the Women's Centre in 1990, the Hon. Martin Lee agreed to bring the question on advancement of the status of women back to the LegCo. In 1991, he and another female legislator, the Hon. Leung Wai-tung, raised a LegCo question, to which the Secretary for Home Affairs responded that there was no discrimination against women in Hong Kong. Nevertheless, the LegCo set up an Ad Hoc group, chaired by the Hon. Emily Lau, to study the need for a women's commission. In 1992, the LegCo

also passed a motion raised by the Hon. Peggy Lam calling for the extension of CEDAW to Hong Kong.

In 1992, 14 women's and community groups campaigned for the establishment of a women's commission by the government and for the application of CEDAW, holding a rally on March 8 chaired by Dr Fanny Cheung, an academic who had been active in the women's movement. In the booklet published by the Campaign (Campaign for a Women's Commission and for CEDAW, 1993), it was envisioned that the proposed women's commission would act in an advisory role to the Hong Kong government, and conduct research with an emphasis on sex discrimination in the workplace, social services, the media's projection of images of women, sexual violence, and the enactment of legislation protecting women from discrimination. The Campaign suggested the setting up of a complaints unit in the women's commission to provide support and advice to women who were seeking help or advice. The recommendation was put forward that the Commission be an inter-departmental unit that would hold regular meetings with government departments concerning issues affecting the lives of women.

In response to this call from the community, in 1993 the government published a *Green Paper on Equal Opportunities for Women and Men* (Hong Kong Government, 1993, 1994). This was the first time that the Hong Kong government had compiled any data focusing on the status of women. In essence, the Green Paper denied that there were problems of sex discrimination in Hong Kong. However, in 1994, at the urging of the LegCo, the government commissioned the Gender Research Programme of The Chinese University of Hong Kong to conduct a community survey on equal opportunities for women and men. Using more sensitive survey approaches, the study recognized there were distinct areas of sex discrimination, especially in relation to employment, New Territories land inheritance, and educational opportunities.

It was around this time that the government had to respond to the Hon. Anna Wu's private member's bill in the LegCo on equal opportunities, which covered a broad range of issues including sex discrimination. The government reacted by introducing its own version

of the Sex Discrimination Bill. The Sex Discrimination Ordinance (SDO) was enacted in 1995. The Equal Opportunities Commission (EOC) was formed in May 1996 under the SDO. In October of the same year, CEDAW was extended to Hong Kong.

## **The Equal Opportunities Commission**

The EOC was established under Article 63 of the SDO. Its Chairperson and the 16 members of the Commission were appointed by the government. Initially, its principal responsibility was to administer the SDO and the Disability Discrimination Ordinance (DDO). The Family Status Discrimination Ordinance (FSDO) was passed in 1997 and its implementation was also allocated to the EOC. This paper focuses only on the roles and functions of the EOC in relation to sex discrimination and areas of concern that specifically affect the status of women.

The SDO renders as unlawful acts that treat a person less favourably on the grounds of the person's sex, marital status, and pregnancy. Sexual harassment was also made unlawful under the ordinance. The fields covered under the laws include employment; education; the provision of goods, services or facilities; disposal or management of premises; the eligibility to vote for and to be elected or appointed to advisory bodies; participation in clubs; and activities of government. With the enactment of the FSDO in 1997, discrimination on the ground of having responsibility for the care of a family member (women are traditionally the caregivers) was also made unlawful. The aggrieved person may lodge a complaint with the EOC, which will investigate the matter and try to work with the parties concerned through conciliation to find an acceptable solution. If this fails, then the aggrieved party may apply to the EOC for legal assistance to go to court.

In addition to investigating and conciliating complaints for aggrieved persons, the EOC may also apply to the court to enjoin the publication of unlawful discriminatory advertisements, including the use of sex-specific job descriptions in employment advertisements.

It also has the power to conduct a formal investigation on unlawful discriminatory acts that are grave or have widespread implications.

While Hong Kong people value the rule of law, they were not familiar with Western models of human rights and anti-discrimination legislation. So the concepts of equal opportunities and the role of the EOC were not widely understood by the general public. Many individual complainants, advocates, and women's groups confused the protection of rights under civil laws with notions of criminal justice whereby there would be a law enforcement agency to arraign the culprit on behalf of the victim. In the traditional notion of justice, "law was the instrument of the ruler and was therefore primarily public law consisting of penal rules. The ruler used law as commands (or orders) backed by sanction (or threat of sanctions) to control and regulate the behaviour of his subjects..." (Kuan, 1992:162). The understanding of rights protected under civil laws was new to the general public.

The tension was especially true of the SDO, where many sectors of the society in general did not believe that women were discriminated against and did not harbour a sense of urgency about issues of discrimination. The general public confused the notion of equal opportunities with absolute equality and argued that women and men could not inherently be the same. On the other hand, advocates for women's rights had expectations of the EOC that the Commission could not meet, as the EOC has no power to adjudicate and its powers are limited by what is prescribed in the SDO. Instead, aggrieved persons have to assert their rights by filing a complaint with the EOC or a lawsuit in the District Court. Under the belief that EOC served the function of the institutional mechanism that they had expected, women's groups, which had been advocating the formation of the Women's Commission, were initially critical. They found the SDO to be a double-edged sword, since it protects the rights of both women and men, and therefore did not always address the needs of women specifically. Their expectations were fueled by the government's claim that the establishment of the EOC had now fulfilled their demands for a central mechanism for women. Some of the more active women's groups formed a coalition to monitor and critique the EOC's work. In

time, the advocates began to gain a better understanding of the roles and limits of the EOC, lowered their expectations, and began to work constructively with the EOC.

Although the whole commission is a body corporate that is responsible for policy decisions, the leadership of the EOC's Chairperson has been influential in steering the direction of the Commission.

### ***Breaking New Ground: The First Three Years***

The first Chairperson was Dr Fanny Mui-ching Cheung, a professor of Psychology, who had been a leader in the women's movement in Hong Kong for two decades. In the 1980s, she had also been active in promoting community acceptance of persons with psychiatric disabilities. She got the Commission quickly off the ground and was able to establish the office, hire the staff, and commence the implementation of the non-employment-related provisions of the SDO and DDO within the first three months. The employment-related provisions were brought into effect three months later after two rounds of consultation on the Codes of Practice on Employment for the two ordinances. In addition, within three months, discriminatory advertisements, which in 1996 constituted one third of employment advertisements in newspapers, were largely eliminated through education, warnings, and legal action. The EOC received over 1,200 complaints during the first three years of its establishment, achieving a success rate of about 66 per cent with the cases that entered into conciliation. Legal assistance was granted for 16 cases. By the end of her term, two of these cases had been heard in court. In both, the EOC was able to win the case on behalf of the plaintiff.

To address the systemic discrimination that affects a large sector of the community, in 1998 the EOC made use of its other statutory powers to, for the first time, conduct a formal investigation. The EOC launched its first formal investigation into the Secondary School Places Allocation (SSPA) system used by the Education Department since 1978. The EOC recommended that the Education Department review the SSPA system to ensure compliance with the SDO and to remove its discriminatory elements so that boys and girls are not

discriminated on the basis of sex when they are placed in secondary schools. Another approach to addressing systemic discrimination was through research, such as the large-scale Feasibility Study on Equal Pay for Work of Equal Value that commenced in 1999.

The work of the EOC could be broadly defined within two general areas under the law: to work towards the elimination of discrimination, and to promote equal opportunities. The EOC decided that while discriminatory acts could be addressed by legislation, discriminatory attitudes have to be changed through education. From the start, under Cheung's leadership, the EOC launched the following four-pronged public education approach:

1. Raising awareness in the general public: The development of large-scale publicity campaigns to raise awareness among the public and inform them about the work of the EOC, including placing television and radio commercials, docu-drama series on prime-time television, and advertisements in the public transport system; writing newspaper columns; setting up an Internet website; issuing regular press releases and press conferences; and publishing quarterly newsletters, and booklets and pamphlets.
2. Educating specific target groups: In the first three years, over 700 talks were given to companies, educational institutions, labour unions, social service agencies, and concern groups. Special brochures and pamphlets were distributed to address issues and provide guidelines for compliance, and to promote understanding of equal opportunities. In addition to Codes of Practice, leaflets on specific topics such as good management practices and the provision of services were distributed to employers and employees. The EOC partnered with the Education Department to bring messages on equal opportunities to the schools, through the use of puppet shows and ETV programmes.
3. Encouraging community participation: A series of community road shows to bring messages about equal opportunities to all 18 districts in Hong Kong was launched in 1998. To encourage community participation, the EOC provided financial support to community organizations to organize activities to promote

equal opportunities in their own communities. The wide range of activities involved included drama performances, exhibitions, carnivals, debates, and publications.

4. Training the trainers: To equip frontline professionals with the relevant knowledge and skills, the EOC produced three training modules to train human resource practitioners, labour unionists, and advocates to deal with sexual harassment, sex discrimination, and disability discrimination at work. Another training module helped teachers integrate concepts about equal opportunities into the curriculum and activities of nursery schools and kindergartens.

These promotional activities increased public awareness of the EOC from 35 per cent in September 1996 to 87 per cent in March 1998. Over 70 per cent of the general public indicated that they would seek the EOC's help in conciliation if they encountered discrimination. The number of complaints received by the EOC multiplied steadily, with an increase of 195 per cent in the second year and another 109 per cent in the third year. Employers sought the EOC's assistance in setting up policies on equal opportunities and sexual harassment.

In addition to public education, the EOC also established a foundation for understanding discrimination through research and for promoting equal opportunities through advocacy.

To get to the roots of discrimination, the EOC built up its knowledge on equal opportunities issues through its research programmes. The studies provided important knowledge about various issues, monitored public perceptions and attitudes, as well as established benchmarks for future trends. The research findings helped to set out facts and dispel myths. Ten research projects were commissioned during the first three years of the establishment of the EOC, including studies on community and students' attitudes toward sex discrimination, disability discrimination, family status discrimination, what constitutes sex as a genuine occupational qualification, and stereotypes and biases in school textbooks.

The achievements of the first three years of the EOC laid a solid foundation for a cultural evolution. By 1999, discrimination was regarded as a legitimate concern. The mechanism for redressing

discrimination was in place and individuals were learning to assert their rights. The role of the EOC was acknowledged by the public (Cheung, 1999).

### ***Building on the Foundation: The Next Four Years***

The second Chairperson, Ms Anna Hung-yuk Wu, was an attorney who had been responsible for initiating the anti-discrimination legislation while serving in the Hong Kong legislature. Building on the solid foundation of the first three years, the EOC set out to mainstream equal opportunities and to create a fair and inclusive society.

It was during her term that several court cases, initiated during the first three years, came up for judgement. These court actions were able to foster fairer access to education and ensure equal opportunities in employment for both the disabled and for pregnant women. Practical experience was gained from these cases. In one unsuccessful sexual harassment case, the EOC recognized that it was emotionally difficult for the complainant to undergo cross-examination at court, and since there were often no witnesses, it would be difficult to prove that harassment had occurred. Subsequently, a procedure was developed whereby sexual harassment complainants may be recommended to seek counselling from relevant women's support groups while their case was being handled. If the case should go to court, the complainant would have a counsellor to help her through the emotional crisis.

During these four years, the EOC also successfully focused on several areas, including a study into insurance practices that affect the provision of coverage and premiums on the grounds of sex and disability, and advocating access to information technology for all, especially for persons with disabilities.

To strengthen training and research, the EOC established a new unit to focus on training employers and employees on anti-discrimination legislation, and a Policy Support and Research Unit to meet the increasing demand for policy analysis and research support. The EOC continued to foster understanding of equal opportunities principles and to help change preset perceptions and attitudes through research and public education projects.

The most prominent feature of this era was the bringing of high-

profile court cases against the government. These included the legal assistance given to the plaintiffs in a disability discrimination case related to the recruitment of disciplinary forces personnel on the ground of the mental disability of family members, and the judicial review case brought by the EOC against the Education Department on sex discrimination in the SSPA system, as the Education Department had refused to comply with the findings of the formal investigation completed in 1999. The High Court of Appeals ruled in 2001 that the SSPA unlawfully discriminated on the basis of sex.

### ***Beyond the Controversy***

In the summer of 2003, Judge Wong Kin-chow, a retired judge of the Court of Appeal, was appointed the third Chairperson of the EOC. Shortly after his appointment, a controversy arose from the termination of a new appointee to the position of Director of Operations, who was offered appointment right before the outgoing Chairperson left office. The events following the controversy resulted in the resignation of Judge Wong after serving for only three months. A magazine article on “six allegations” (against his predecessor) published shortly after his resignation triggered off more controversy regarding the operations of the EOC. After extensive discussions, the LegCo House Committee decided in February 2004 to support the appointment of an independent panel of inquiry by the Secretary for Home Affairs. The panel was to look into the appointment and termination of the Director of Operations as well as other issues affecting the credibility of the EOC and to make recommendations on measures for restoring its credibility. The panel submitted its report in February 2005 amid criticism of its independence. Such criticism arose from the fact that the panel was staffed by personnel seconded from the Home Affairs Bureau when the then Secretary for Home Affairs was involved in the controversy, as he was allegedly present when the resignation of Judge Wong and the “six allegations” were first discussed at a meeting.

Pending the report of the panel, an interim Chairperson — Mrs Patricia Pak-yu Chu Yeung — was appointed for one year. Mrs Chu was an experienced civil servant who had retired from the Social Welfare Department after 34 years of service; Mrs Chu reaffirmed her

commitment to neutrality in dealing with complaints and litigation against the government, promising to handle all matters in a fair and open manner and in accordance with the law. To restore the credibility of the EOC, she delineated what she termed a 3-C Strategy:

- **Consolidation:** To build on the foundation laid down in the past eight years, to review the roles and functions of the EOC and how it could best fulfil its mission and improve its work with a view to mapping out future directions and enhancing corporate governance.
- **Capacity Building:** To review human resource management policies, practices, and procedures with a view to building the capacity of EOC staff and developing an able, committed, and productive team to deliver services more effectively and efficiently.
- **Communication:** To enhance partnership with different stakeholder groups through open dialogue and effective communication; and to strengthen promotion and public education to spread the values of equal opportunities, with a view to changing attitudes and behaviour.

Continuing the process initiated by the previous chairperson, the EOC looked into the feasibility of establishing an equal opportunities tribunal to handle discrimination cases, offering a less time-consuming and less adversarial alternative to civil proceedings in the District Court. In 2004, the EOC completed an organizational review initiated by the previous chairperson in 2003 and a human resource management review on internal policies, procedures, and practices. The EOC also worked with the Home Affairs Bureau on the possible introduction of the Race Discrimination legislation, which, if enacted, will be implemented by the EOC.<sup>1</sup>

The fifth Chairperson, Mr Raymond Tang, was appointed in January 2005 for a five-year term. Formerly a lawyer, he had served as the Privacy Commissioner for Personal Data before assuming the present post. The longer term of the appointment would allow the Chairperson to make more long-ranging plans. However, these plans were not yet available at the time of writing.

### ***Powers of the EOC***

The powers of the EOC to eliminate discrimination lie in two major functions that serve people who are aggrieved: investigation and conciliation, and legal assistance. In this paper we provide an account of the operational statistics to illustrate the EOC's functions. In addition, we examine the approach adopted by the EOC to address systemic discrimination.

### ***Investigation and Conciliation***

Since the SDO and DDO were brought into effect in late 1996, the EOC received a steady increase in enquiries and complaints. In 2001, the number of enquiries received rose to over 12,470, and complaints for investigation and conciliation received reached a peak of 1,622 (Table 1). To ensure quality in the investigations of complaints, specialists from the Australian Human Rights and Equal Opportunity Commission (HREOC) were contracted to review the mechanisms and processes in the handling of complaints. The legal framework in the establishment of the EOC closely followed the Australian model. These consultants found the quality of the work to be equal to, and in some cases superior to, work performed in similar commissions in Australia. The consultants also identified some areas for improvement and a need for restructuring. To enhance efficiency and effectiveness in the handling of complaints, the office of the EOC was reorganized. Two previously separate complaint-handling divisions for sex and disability were combined into a single operations division in order to facilitate greater sharing of expertise and lead to the better use of resources.

### ***Legal Assistance***

According to the SDO, the EOC may give legal assistance to complainants in cases where questions of principle are raised or if it is unreasonable to expect the applicant to deal with the case unaided. Between 1997 and 2004, the EOC granted assistance to 120 of the 290 applications it received, a total of 41.4 per cent (Table 2). It should be noted that the figures are based on all cases, not only those related to

**Table 1** EOC Statistics on Complaints for Investigation and Conciliation, 1997-2003

Year	Ordinance	Complaints for investigation and conciliation			Conciliation rate
		Received	Handled*	Concluded	
1997	SDO	70	70	36	73.7%
	DDO	93	98	52	
	FSDO	0	0	0	
	Total	163	168	88	
1998	SDO	118	152	95	64.7%
	DDO	264	310	195	
	FSDO	11	11	4	
	Total	393	473	294	
1999	SDO	213	271	167	61.8%
	DDO	192	307	195	
	FSDO	28	35	22	
	Total	433	613	384	
2000	SDO	323	427	244	60.8%
	DDO	339	451	248	
	FSDO	24	37	17	
	Total	686	915	509	
2001	SDO	1165	1348	627	66.8%
	DDO	416	619	425	
	FSDO	41	61	23	
	Total	1622	2028	1075	
2002	SDO	390	1111	960	61.3%
	DDO	341	535	392	
	FSDO	26	64	56	
	Total	757	1710	1408	
2003	SDO	450	601	457	53.2%
	DDO	408	551	421	
	FSDO	57	65	45	
	Total	915	1217	923	

\* Handled cases include those received in the current year and those carried over from previous years.

Source: Equal Opportunities Commission.

**Table 2** EOC Statistics on Legal Assistance, 1997-2004

	1997	1998	1999	2000	2001	2002	2003	2004	Total
No. of applications received	5	19	21	41	33	60	71	40	290
No. of applications granted	3	9	10	26	15	12	23	22	120
Settled before instituting legal proceedings	0	1	1	3	4	6	6	9	30
Settled after instituting legal proceedings and before trial	0	0	1	0	1	7	5	6	20
Trial concluded	0	0	2	3	4	1	1	0	11
Writs issued in the year	1	1	6	4	6	6	3	3	30

Source: Equal Opportunities Commission, received 10 November 2004, correct up to 30 June 2004.

the SDO and FSDO. Of those granted assistance, 50 cases were settled out of court and 11 of those that went to trial have been concluded. Of these, nine were won, one was lost, and another was withdrawn — both of the latter two were sexual harassment cases. Since court cases may take more than a year from initiation to conclusion, the outcome of many cases is still not known.

### ***Fighting Systemic Discrimination***

The formal investigation and the subsequent judicial review of the SSPA system illustrate some of the powers that the EOC has adopted to address sex discrimination in education, which affects a cross-section of the school population. In the field of employment, the EOC embarked on a number of studies to address the systemic discrimination embedded in pay inequities such as in the implementation of the principle of “equal pay for work of equal value” (EPEV). EPEV means that men and women doing different jobs should receive the same pay if the work they do is of equal value, as the government of Hong Kong is bound by a number of international treaties to implement the principle of EPEV. However, without any explicit legislation to support this principle, the issue of equal value was left to the Code of Practice on Employment under the SDO.

The principle and implementation of EPEV are complex matters. Since 1999, the EOC has conducted a number of studies to examine the issues. A Task Force was appointed in 2001 and an implementation plan, dividing the work into three phases, was developed: the first phase was to address the issue within the public sector; in the second phase, with large employers with more than 200 employees; and in the third phase, with small and medium-sized enterprises. Consultants were hired for the first phase. These consultants, working with the EOC staff and the Task Force, completed and submitted its study and recommendations in August 2004.

### ***Challenges of the EOC***

The EOC faces different kinds of challenges in its fight against discrimination. Some of these relate to the legal nature of its work,

and some to the way the EOC is structured and its relationship to the government.

To date, the majority of people in Hong Kong are aware of the existence of the EOC and of the fact that it could be used as a mechanism to redress grievances. Yet, under the existing legislation, the EOC is only able to fight unlawful discrimination defined within the law and through a process described in the law. Therefore, the EOC must, at times, wait until a complaint is filed. It also has to attempt conciliation before it can consider providing legal assistance to bring a case to court. The legal profession and business sector have been concerned about its dual role as an advocate for equal opportunities as well as an impartial conciliator of the complainant and respondent, which may give rise to potential conflict. Community groups have been critical of the EOC for sticking too closely to the letter of the law, waiting for complaints and not “pushing the envelope”, as is done in many of the countries where anti-discrimination practices are more established. The EOC has asked for a legislative review to give it the power to seek declaratory and/or injunctive relief in its own name, with respect to unlawful acts and unlawful conduct under the discrimination laws, as well as with respect to discriminatory policies and practices. Until the powers of the EOC are revised in legislation, such tensions will remain.

Despite these criticisms, the EOC has tried, in several instances, to make changes based on enquiries rather than complaints. Two examples are listed below:

- Design and Technology and Home Economics classes in schools: A survey in 1999 showed that 85 per cent of co-educational schools did not give their students the freedom to choose between Design and Technology (boys) and Home Economics (girls). Schools gradually changed their practices after the EOC organized a conference on best practices, with school principals speaking of the benefits of not restricting the study of the subject by sex, the Education Department promising resources, and the EOC reminding the schools that restricting study of subjects by sex would violate the SDO. By 2000, a study of the Education Department showed that 95 per cent of government schools no

longer restricted the study of these two subjects by sex and that every student was given an equal opportunity to participate in these subjects.

- Interpretation of pregnancy for seafarers: The EOC learned from a labour union that female seafarers dismissed upon becoming pregnant were afraid to lodge complaints, as their spouses often worked for the same company. The EOC met with the company concerned, which claimed that it was forced to do so as another statute, administered by the Marine Department, prohibited them from having pregnant workers aboard their vessels. The EOC then met with the Marine Department and shared with them a court ruling on the subject in the United Kingdom. All parties then agreed that the interpretation of “employment at sea shall not be permitted during the term of pregnancy” did not mean that the persons concerned should be dismissed. Instead, they could be transferred to other duties.

The EOC has also had problems with the way it is organized and with its relationship to the Home Affairs Bureau. The EOC in Hong Kong is not structured like its counterparts in other jurisdictions where the board members are persons nominated by the community or are appointed mostly for their commitment to fighting discrimination and who are therefore more willing to “push the envelope”. In Hong Kong, the EOC Commission members are appointed to represent the interests of different sectors of society, and not necessarily because of their commitment to fighting discrimination. Therefore, the EOC’s advocacy role can only move at a pace acceptable to these sectors. At times, a conflict may arise between the interests of the community represented by the members and the EOC’s mandate to fight discrimination.

The emphasis on the independence of the EOC from the government has been a double-edged sword. In its role as a watchdog of the government and as an arbitrator between private parties, the EOC must be seen to be independent of the government. As such, the EOC is not considered an agent of the government. However, this status has also created problems for the EOC in its attempts to join international equal opportunities organizations. Hong Kong is

not a sovereign state and may not be allowed the status of a member state in some of these organizations. Even in organizations to which the Hong Kong government sends a delegation, the EOC is not part of the official delegation. Although the EOC has tried to build international networks, it cannot attend, as a full member, conferences or meetings of institutions that are concerned with the elimination of discrimination. It attends as an observer only. The EOC also needs approval from the government to join international organizations that do not require sovereign status. Such approval is not easily obtained, although joining these international organizations would strengthen the institutional framework of the EOC, develop a proper international standing for it, as well as expose its Chairpersons and staff to the work of human rights organizations on a regular basis.

The controversy over personnel that took place in the fall of 2003 pointed to another problem in the relationship between the government and the EOC with grave effects on corporate governance — the appointment of the Chairperson. The government has never given adequate notice to the outgoing Chairperson of his/her status regarding appointment/reappointment. Because of this, the organization would be in a state of instability. Staff vacancies could either be held open — resulting in an excessive workload for the staff — or appointments could be made with which the incoming Chairperson might not agree. This occurred in the fall of 2003, leading to threats of lawsuits and the resignation of the then newly appointed Chairperson. If the government were to give adequate notice to the outgoing Chairperson, there could be better consultation on handover arrangements in matters regarding changes in management and personnel.

Furthermore, the government does not engage in consultation with the community with regard to the appointment of the Chairperson, and the community may not feel confident that the leadership of the EOC is committed to fighting discrimination. For its lack of consultation, the government again faced criticism in its appointment of the current Chairperson, Mr Raymond Tang, in 2005.

The Independent Panel of Inquiry (2005) has recognized these problems. In its report, formally titled *Report of the Independent*

*Panel of Enquiry on the Incidents Relating to the Equal Opportunities Commission*, the Panel made a series of recommendations to strengthen the institutional framework of the EOC. Among these recommendations, it emphasized the importance of enhancing transparency and accountability in the system for appointing members to the EOC, and of maintaining the independence and pluralism of the Commission. It also stressed that proper handover arrangements for outgoing and incoming Chairpersons should be formalized.

These important recommendations, if implemented, could solve many of the problems currently faced by the EOC. For example, the Panel recommended that, similar to the practice in overseas organizations of this nature, the government should invite nominations for appointment from organizations representing community groups, and that those appointed should be supportive of the principles of equal opportunities.

In the appointment of the Chairperson of the EOC, the Panel emphasized the qualities that such a person should have particularly a “strong commitment to promoting equal opportunities and building an inclusive, barrier-free and harmonious society”. To avoid problems in the transition from the outgoing Chairperson to the incoming one, the Panel recommended that the government should announce the appointment or cessation of appointment two months before the commencement of the new term.

The Panel also emphasized the importance of the EOC maintaining its independence from the government. For example, the Panel recommended that the government distance itself from the operations of the EOC. At the same time, the Panel suggested that the government give favourable consideration and assistance to the EOC in the latter's request to join international organizations concerned with the elimination of discrimination.

In a hearing at LegCo on 21 March 2005, the EOC stated that it accepted all of the recommendations on its operation, except for the one calling for the EOC to accept the rate of conciliation as a performance indicator, which the EOC felt required further consideration. The EOC informed LegCo that the success of conciliation depended on

the willingness of the parties concerned, and the EOC staff should not have a personal interest in the outcome of the process.<sup>2</sup>

At the same LegCo meeting, the Home Affairs Bureau said that 10 of the 70 recommendations made by the Panel needed further consideration or would require changing the law. Although several LegCo members were not satisfied with the Panel's findings on the personnel controversy, feeling that the process lacked fairness and transparency, LegCo decided to settle the matter and let the EOC move on.

### ***Looking Ahead***

The EOC has been in existence for nine years, but a lot of work still needs to be done in the area of gender mainstreaming. This is not surprising, since organizations fighting discrimination in other countries have not yet succeeded in eliminating the gender gap in many domains in life. Gender disparity is rooted in much more fundamental structures that may not be fully addressed through a rights-based legal framework on anti-discrimination alone. The need for a central mechanism to address women's policies and concerns is clearly demonstrated.

## **The Women's Commission**

In the initial phase of the EOC, women's groups had expected the EOC to be the central mechanism for addressing all aspects of women's concerns, some of which were beyond the immediate terms of reference of the statutory body. As the first body set up to address gender equality, the first Chairperson extended the activities of the EOC to cover issues that may be broadly regarded as infringing the rights of women, such as raising awareness on violence against women through an educational forum. However, the actions of the EOC are limited by legislation. Thus, the EOC could not fulfil the expectations of women's groups that the EOC would address their wide-ranging concerns on policies and services related to education, employment, violence against women, health, welfare, housing, and security, as these matters do not fall within the confines of the SDO. While the

independence of the EOC as a statutory body is an important principle to ensure non-intervention from the government, this also means that the EOC is not considered part of the government. Thus, apart from the scope of its statutory functions, the EOC cannot serve the function of coordinating or reviewing government policies and services with respect to women.

The ambivalent relationship between the EOC and the government was clearly highlighted in the non-governmental organization (NGO) status of the EOC when the government submitted its initial report on the implementation of CEDAW to the United Nations in 1998. Although the work of the EOC was reported as part of the government's efforts to implement CEDAW, the EOC was not a party to the report nor were its representatives included in the government's delegation to the United Nations hearing. Instead, the EOC had to submit its own report on CEDAW to the United Nations as an NGO (Equal Opportunities Commission, 1998).

In 1998, as part of the preparations for its report on CEDAW, the EOC invited all of the NGOs in Hong Kong focusing on women's issues to a series of meetings to discuss what should be included in the EOC's report to the United Nations. All of those who participated in these meetings agreed that the need for a central mechanism was a priority, and that all NGOs on women should address the issue in their own reports to the United Nations. At a preparatory conference on CEDAW, the then EOC Chairperson clarified the distinction between the roles of the EOC and a women's commission (Cheung, 1998). She pointed out that in the absence of a focal point within government to address matters of concern to women, women's groups had tried to seek such a focus within the EOC even though the EOC could not meet the needs of a central mechanism, and that their call for a central mechanism for women had not yet been fulfilled. She also rejected the government's claim in their Initial Report on CEDAW that the policy groups chaired by the Chief Secretary for Administration already served that purpose (HKSAR Government, 1998:Part II, Section 19). She noted that, in jurisdictions where independent commissions on equal opportunities have been established, there were also separate government ministries on women's affairs. The EOC, as well as

many of the NGOs, then submitted reports to the United Nations reiterating their call for the establishment of a women's commission. In particular, during the 1999 United Nations hearing on Hong Kong's first CEDAW Report, the then EOC Chairperson actively lobbied the members of the CEDAW Committee and explained the distinctive but complementary roles of the EOC and a women's commission.

The United Nations CEDAW Expert Committee recognized the importance of the issue, and actively urged the Hong Kong government to set up a "national machinery" for women in their Concluding Report on Hong Kong's submission (Committee on the Elimination of Discrimination against Women, 1999). Initially, the government insisted that such a mechanism was unnecessary. At the LegCo panel hearing in 1999 on the United Nations Report, the Secretary for Home Affairs continued to refute the need to establish a women's commission, reiterating the existence of an inter-departmental policy mechanism under the Chief Secretary for Administration that could address all major issues spanning departments.

The call to establish a women's commission persisted. After her term as the first Chairperson of the EOC, Fanny Cheung returned to her academic position, and organized a forum on Beijing Plus Five in February 2000 through the Gender Research Centre at The Chinese University of Hong Kong. The underlying agenda was to coordinate the focus of NGOs and to remind the government of the need to establish a central mechanism as called for in the Beijing Platform for Action. The pressure on the government to address this issue was kept up. In May 2000, in her keynote address at a conference organized by the EOC on Beijing Plus Five, the then Chief Secretary for Administration, Mrs Anson Chan, announced the government's intention to set up a women's commission (Petersen, 2003). The plan was included in the Hong Kong report submitted to the United Nations Beijing Plus Five meeting in New York in July of that year. By October, the formation of the women's commission was listed as a policy objective of the Health and Welfare Bureau.<sup>3</sup> The Women's Commission (WoC) came into being in 2001. The aim of promoting the well-being and interests of women was highlighted for the first time in the government's 2001 policy address (HKSAR Government, 2001).

Despite the call to give the WoC high status as a central body advising the government on all policies relating to the development and advancement of women, preferably under the Chief Executive's office or the Chief Secretary for Administration, the WoC was set up under the Health and Welfare Bureau. The government believed that most women's issues would be related to policies under this Bureau, reflecting both an ideological gap between the government and women's groups. The Health and Welfare Bureau was also intended to be the liaison and coordinating unit within the government on all matters relating to women. However, the women's groups were concerned that placing the WoC under this Bureau would reflect a bias towards the traditional notion that women's services involve issues of health and welfare. They feared that the WoC would not have the necessary clout of a central mechanism to address the broader integration of women's issues in the mainstream of society.

The first Chairperson of the WoC was a legislator, Mrs Sophie Leung, while the Secretary for Health and Welfare was the Vice-Chairperson. The membership of the WoC consisted of three ex-officio members (the Director of Social Welfare, a representative of the Home Affairs Bureau, and a representative of the Education and Manpower Bureau) and 17 non-official members, including several men, who were appointed in their personal capacity. Although women's groups have criticized the WoC membership for being conservative or unfamiliar with women's issues, among its members are a few women who have been actively engaged in different aspects of the women's movement.

The stated mission of the WoC is "to enable women to fully realize their due status, rights, and opportunities in all aspects of life in Hong Kong". Its terms of reference include "advising the Government on the development of a long term vision and strategies related to the development and advancement of women; advising the Government on the integration of policies and initiatives which are of concern to women, which fall under the purview of different Policy Bureaux; keeping under review, in the light of women's needs, services delivered within and outside the Government and to identify priority areas for action, and monitor the development of new or

improved services; initiating and undertaking independent surveys and research studies on women's issues and organizing educational and promotional activities; and developing and maintaining contact with local and international women's groups and service agencies with a view to sharing experiences and improving communication and understanding".<sup>4</sup>

With this general framework and the diverse background of its members, the WoC set out to identify its strategic objectives and clarify the basic principles of gender equity. Through a series of brainstorming sessions, members identified the following three strategic objectives and areas of priority for the WoC to concentrate on during the first three years of its existence: gender mainstreaming, empowerment, and public education.

### ***Gender Mainstreaming***

The WoC considered gender mainstreaming to be a long-term and fundamental strategy to incorporate women's needs and gender perspectives in the design, implementation, monitoring, and review of legislation, policies, and services in government. Gender-sensitive decision-making processes ensure that women and men have equitable access to, and benefit from, society's resources and opportunities. Although the concept of gender mainstreaming has been introduced in many Western governments and United Nations organizations, it is an abstract and foreign notion in the local scene. The concept involves an approach that is based on gender awareness, which is often lacking in administrators and policy makers.

Making reference to international experiences, the WoC drafted an analytic tool in the form of a gender-mainstreaming checklist to facilitate the process (Appendix). In 2002, the checklist was tried out with three government bureaux in the following several policy areas before it was refined and revised: the District Council Review, Family Education Programme, Health Care Reform, Enhanced Home and Community Care Services for the Elderly, and SSPA system. By 2005, the checklist had been adopted for 13 policy areas or programmes. In conjunction with the analytic tool, gender sensitivity training was offered to civil servants, with an initial focus on bureaux and

departments that would have more direct impact on women's policies and services, including social workers, police, Information Officers, Administrative Officers, officers from the Education Department and from the Leisure and Cultural Services Department. Through the coordination of the Women's Division of the Health, Welfare and Food Bureau, which serves as the secretariat to the WoC, officials in 70 bureaux and departments were designated as gender focal points to help in the promotion and mainstreaming of gender perspectives in their respective units.

### ***Empowerment***

Adopting an empowerment approach to women's development, the WoC aims to engage women as agents of change and build up their capacity on the one hand, and to create enabling environments that facilitate the advancement of women and the elimination of barriers to the full participation of women on the other hand.

Again, the concept of women's empowerment is abstract, which poses a challenge to its dissemination among the public. The concept is ridden with misconceptions and rhetoric. To raise public awareness of the concept, the WoC involved the community in sharing their initiatives on the empowerment of women and published good practices selected from governmental, non-governmental, and business organizations.

One of the goals of women's empowerment is to enhance the role of women in making decisions that affects their livelihood. Recognizing the low level of participation by women in government-appointed statutory and advisory bodies, the WoC urged the government to take proactive measures to address the problem and to set as its initial target that a minimum of 25 per cent of those appointed to these bodies be women. Bureaux and departments were urged to reach out, identify, and cultivate women to contribute to the public decision-making process. The WoC also initiated an active exercise to increase the pool of women candidates in the central database within the government from which candidates for appointment are often drawn.

To empower women to face life's challenges and to deal with

adverse circumstances at the personal level, the WoC considered the needs of women and their desire for self-improvement. An essential aspect of capacity building among women is the provision of adequate and relevant training programmes. Existing programmes offering vocational-related training or retraining for women have been criticized for being insensitive to the needs or interests of women, in terms of their location, schedule, pre-requisite academic requirements, and choice of subjects. In this connection, the WoC initiated a new mode of learning for women in the form of a Capacity Building Mileage Programme (CBMP). The CBMP utilized flexible modules on relevant topics that could build up towards milestone goals, radio broadcasting as the forum of instruction, and a network of community-based centres for conducting face-to-face tutorials. Acting as a catalyst, a partnership was forged with the Open University of Hong Kong and Commercial Radio to launch this programme. In 2004, the year that it was launched, enrolment in the programme was close to 3,500, with many more listening to the radio programmes without enrolling.

### ***Public Education***

Advancing the status of women involves a fundamental shift in the cultural gender paradigm. Gender myths and stereotypes perpetuate prejudice and discrimination. To engage the community in a paradigm shift towards gender sensitivity, the WoC undertook an ongoing programme of public education to raise general awareness and understanding about issues relating to women, in the form of television drama series, radio programmes, essay competitions, and school activities. Recognizing the pervasive influence of the mass media, the WoC engaged media practitioners to discuss how the gender-sensitive portrayal of women could be balanced with freedom of the press.

### ***Focus on Priority Areas***

The strategic objectives established by the WoC in its first term are fundamental for the advancement of women. The efforts were intended to build up a sustainable foundation for long-term changes. However,

they may not appear to respond to the immediate and specific concerns that many women groups have been voicing. Activist groups also criticized the WoC for being unresponsive to women's urgent needs. In its second term, the WoC realigned its structure to address some of these pressing concerns while maintaining its original strategic objectives.

Violence against women has been one of the key concerns of women in the community. In particular, tragic cases of domestic violence have revealed inadequacies in the existing legislation and gaps in the coordination of policies and services. After Hong Kong's reunification with mainland China in 1997, the increase in cross-border marriages between Hong Kong men and mainland Chinese women has exaggerated the imbalance of power in the family system. Despite the existence of an inter-departmental working group within the government to combat domestic violence, the WoC took up its function as a central mechanism to mobilize the government and the community to work together to adopt a stance of zero tolerance. It successfully lobbied the Chief Executive to include zero tolerance on domestic violence in his 2005 policy address. It also set up a platform of consultation with stakeholders in the government and in NGOs to formulate a comprehensive strategy to take a coordinated approach to addressing domestic violence. Before finishing their second term, the Chairperson and the founding members issued their comprehensive policy paper outlining the framework for eliminating domestic violence in Hong Kong (Women's Commission, 2006)

While continuing with its efforts on the CBMP, a new programme on quality parenting education was launched in the second term in collaboration with a social service organization to promote the concept of a nurturing family. The role of parent is placing an increasing strain on women, and women have expressed a desire for self-development to enhance their competence in this area. The involvement of fathers in parenting and a harmonious family relationship were also promoted in the training programme.

The WoC's public education efforts during its second term focused on school-based education as a priority area. Here, the aim was to mainstream gender-sensitive perspectives in the school

curriculum and in teaching materials. Gender stereotypes abounded in textbooks and teaching materials used in primary and secondary schools (Equal Opportunities Commission, 2001). In this regard, the WoC and the EOC collaborated with the Education Department to take on the issue in the latter's curriculum plans and reforms.

### ***Catalyst and Collaboration***

The WoC quickly realized that practically as well as strategically, it could not achieve and sustain its mission on its own. Examining the various roles that could facilitate its function as the focal point for the advancement of women, the WoC identified the importance of being a champion for women's causes, an inspirer of change and initiatives, and a mobilizer of community resources. It also developed a framework for collaborating with community organizations to promote partnerships in activities and programmes aligned with its strategic objectives. These roles would help the WoC to mainstream gender perspectives across society in a more sustainable fashion.

Through the mobilization of the WoC, some major changes in the government have been seen. Since 2001, the Census and Statistics Department has published an annual report on *Women and Men in Hong Kong: Key Statistics* that provides sex-disaggregated data on key social indicators. To address the lack of funding for women's services and programmes, the WoC helped women's organizations gain access to the Community Investment and Inclusion Fund administered by the Health, Welfare and Food Bureau. This Fund provides financial support to projects that are consistent with the objectives of community participation and mutual assistance. The Home Affairs Bureau has also committed to setting a target of 25 per cent female representation in its appointments to advisory and statutory bodies, and is close to achieving this target in 2005.

### ***Challenges Faced by the Women's Commission***

With a broad vision and a pluralistic membership that rotates every few years, the WoC needs to establish a core set of principles for its operation. During its first term, its members spent a great deal of time formulating the WoC's strategic objectives. Such objectives

could be considered fundamental strategies, but the activists may not regard them as being responsive to the immediate needs of special target groups and to the pluralistic voices of the women's community. The lack of transparency in the system of appointing members has drawn similar criticisms as those that have been levelled at the EOC. The government places more emphasis on pluralism in appointing members from different sectors of society, paying less attention to their experience and familiarity with the substantive aspects of the work of the WoC. Given the complex and abstract concepts of gender analysis and mainstreaming, there is a constant need to align the practice of the members and staff to the organization's stated goals and values.

Other than the substance of its work, the structure of the fledging commission also needs adjustment. The membership of the WoC, including the Chairperson, consists mainly of unofficial members who participate in their personal capacity and on a voluntary basis. Originally set up as the government's central mechanism on women's issues, the WoC should be focusing on its advisory and policy roles. Its executive functions are reliant on the Women's Division within the Health, Welfare and Food Bureau. In addition to serving as the secretariat of the WoC, the Women's Division also acts as the focal point for women's issues within government, oversees CEDAW, maintains links with international bodies like the United Nations and Asia-Pacific Economic Cooperation (APEC), and organizes promotional/educational activities. To the public, there is little to distinguish between the WoC and the Women's Division. However, with only a small professional staff structure, the driving force of the WoC's work has fallen on the shoulders of a few enthusiastic and dedicated members. With the continuous turnover and rotation of staff in the civil service, the sustainability of the WoC's energy and direction is a matter of concern.

### **Relationship between the Equal Opportunities Commission and the Women's Commission**

When the WoC was set up, the EOC Chairperson was originally

appointed as an ex-officio member. The then Chairperson, Ms Anna Wu, later resigned from the WoC, citing a potential conflict of interest between the work of the EOC and the WoC as the reason, thereby severing the structural link between the two organizations. However, a number of members overlap in their membership in the two bodies.

Notwithstanding the divergent functions of the EOC and the WoC, both are key institutional mechanisms that can have an impact on the rights and status of women in Hong Kong. Although the establishment of the WoC as a central mechanism for women's affairs has shifted the focal point on policy issues affecting women from the EOC to a clearly designated body, the two bodies can complement each other in addressing the needs and concerns of women.

As an independent statutory body, the EOC can take action on behalf of complainants on violations of women's rights, as listed under the anti-discrimination ordinances, against individuals, organizations, as well as the government. By implementing laws on discrimination, the EOC represents a legal framework that safeguards the rights of women.

The WoC, on the other hand, can directly address issues that are at the root of discrimination but that may not be defined as unlawful under the SDO, such as sexism, prejudice, and stereotypes. It can take a proactive approach to attend to the needs of women and enhance women's development. As a central mechanism, it works within the government system to advise, review, or coordinate services, policies, and legislation concerning the well-being of women. Without the need to be an impartial conciliator like the EOC, the WoC can speak from a woman's perspective to enlighten the gender blind spots in policy makers and service providers.

There are areas where the EOC and the WoC overlap in their activities. Both the EOC and the WoC conduct research related to women's status and concerns, promote public awareness on women's rights and barriers to gender equality, and provide gender-related training. Through the complaints it receives, the EOC can identify systemic discrimination that is rooted in policies that the WoC could facilitate in reviewing. Close collaboration between the two bodies

would strengthen the institutional mechanism on the advancement of the status of women.

In 2004, the EOC re-established a partnership with the WoC, which it regards as a strategic partner in the promotion of gender equality in Hong Kong.<sup>5</sup> The two bodies have collaborated on public education projects and in the development of training materials to raise gender sensitivity in schools and the civil service. With the merging of EOC's original Gender Division and Disability Division into an Operations Division to handle all complaints related to the discrimination ordinances, there is concern that the liaison with women's groups as one of its stakeholder constituencies may be weakened. Its partnership with the WoC will be particularly important for the EOC to maintain its function in promoting equal opportunities for women and men.

### **Central Mechanism and Mainstreaming Gender**

The establishment of the EOC in 1996 and the WoC in 2001 mark two major milestones in the advancement of the status of women in Hong Kong. Women's voices are no longer murmurs on the fringes of society by a handful of women's groups. Women's affairs have become a legitimate part of the political agenda and have been incorporated into the permanent state structure. Direct input from the WoC was included in the Chief Executive's annual policy address in 2004 and 2005. Women who suffer from discrimination have recourse for action through the EOC and the courts.

As institutional mechanisms, both the EOC and the WoC face tension from the resistance and inertia of the establishment at one end, and pressure and criticism from various advocates who have high expectations at the other end. There are continuous challenges on why there is a need for a women's commission, and not a men's commission. There is a constant need to explain the concepts of gender equality and gender sensitivity, which on the surface may appear to be contradictory. In the early stage in the development of the concepts of gender equality in Hong Kong, there is a tendency to mistake gender blindness as gender neutrality. Without gender

sensitivity, there is also the risk of losing the public's attention on the special needs of women in promoting gender mainstreaming.

The establishment of the EOC and the WoC in Hong Kong illustrate similar tensions encountered by other central mechanisms on women's issues in other parts of the world. Being a part of, as well as being outside of, the establishment requires a sensitive balance in approach and in choice of priorities. In the United Nations General Assembly's (2000) review of the implementation of the Beijing Platform for Action, the following were identified as major obstacles confronting national machineries: an insufficient understanding of gender equality and gender mainstreaming within government structures, prevailing gender stereotypes, discriminatory attitudes, and competing government priorities, in addition to inadequate financial and human resources. The pluralistic voices of women in the community highlight the need to stay tuned to a diverse spectrum of needs while heeding the calls of the advocates who make the headlines. The community participation strategy in the EOC's public education approach and the collaboration framework of the WoC reflect the recognition of the importance of involving the wider community in mainstreaming gender.

The history of the establishment of the EOC and the WoC highlights the influence of individuals as the driving force behind the movement. While the collective power of the grassroots has built up the context for change, the efforts of individuals in privileged elite positions have resulted in inroads being made into the system to bring forth changes. The passion and familiarity of these individuals with the system have enhanced the effectiveness of these two organizations. In the early phases of the formation of the EOC and the WoC, many of their members were dedicated to the cause and actively contributed to the direction and operations of these bodies to a degree beyond that usually found in government committees.

The long-term sustainability of the driving force is a concern that leads us back to the fundamental need to integrate gender perspectives into the system. Given the transitory membership of these commissions, the staff of the EOC and the WoC would be the pillars in these institutional mechanisms to push forward their

mission. Other than recruiting dedicated and experienced members, building up a staff committed to the cause and sensitive to gender perspectives would provide the foundation for gender mainstreaming across the system.

## Notes

1. See "Message from the Chairperson", *EOC Newsletter*, 28:2-3.
2. Legislative Council Paper No. CB(2)1083/04-05(08) (<http://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0321cb2-1083-8e.pdf>).
3. The Health and Welfare Bureau was restructured, and became the Health, Welfare and Food Bureau in 2003.
4. From the website of the Women's Commission (<http://www.women.gov.hk/eng/about/term.html>).
5. Information received from the EOC, 9 November 2004.

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## Appendix

### The Women's Commission's Gender Mainstreaming Checklist for Legislation, Public Policies and Programmes

Note: This Checklist is intended to be completed by officers responsible for this legislation/public policy/programme ("THIS"), preferably by the management level officers.<sup>1</sup> We would recommend that frontline staff be consulted when filling in the Checklist. Responsible officers need only to complete the relevant section in Section I to IV and Section V. For front-line officers, please refer to the "Notes to the Checklist" for guidelines on gender mainstreaming. Please kindly note that this Checklist is a simplified analytical tool and questions set herein are deliberately made simple and short. Should there be any constraints, restrictions, difficulties or considerations concerning THIS which you think cannot be fully reflected in this Checklist, please kindly list them out in a separate sheet.

#### GENERAL INFORMATION

Title of the legislation/public policy/programme\* ("THIS"):

\_\_\_\_\_

Policy area: \_\_\_\_\_

Outline description of THIS: \_\_\_\_\_

\_\_\_\_\_

Groups/Persons likely to be affected by THIS:

\_\_\_\_\_

Brief Description of the Current Stage of THIS:

Design/Implementation/Monitoring/Evaluation and Review\*

\_\_\_\_\_

Officer-in-charge: \_\_\_\_\_ (Name)

\_\_\_\_\_ (Post Title)

\_\_\_\_\_ (Bureau/Dept)

\_\_\_\_\_ (Tel No) \_\_\_\_\_ (Fax No)

<sup>1</sup> Management level officers refer to those officers who bear overseeing and supervision responsibilities over THIS.

\* Please delete as appropriate.

**I. DESIGN**

Y/N/NA

***Compilation and analysis of gender information***

1. Prior to designing THIS, have sex-disaggregated data been collected and considered regarding those likely to be affected?
  
2. Do the data show gender differences or gender interactions with the following socio-economic variables:
  - age
  - education
  - ethnic origin
  - family status
  - income group
  - others (please specify: \_\_\_\_\_ )
  
3. Please provide a summary of such data on the above.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***Women's participation***

4. Have any of the following been consulted about the gender impact of THIS:
  - (a) Gender specialists (e.g. Women's Commission, gender research centres, individual gender experts, and Women's Division of HWFB)
  - (b) Relevant statutory bodies
  - (c) Non-governmental organisations
  - (d) Women's associations
  - (e) Women<sup>2</sup> likely to be affected positively/negatively\* by THIS

<sup>2</sup> Unless stated otherwise, "women" used throughout the Checklist refers to both women and girls.

\* Please delete as appropriate.

5. Please provide names of those consulted and a summary of their views.

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***Considering women's specific needs***

6. Have specific needs of women and gender issues been identified, considered and integrated in designing THIS?
7. Does THIS require any specific reference to women?

***Considering impact on women***

8. Will women or any sub-groups of women be affected differently from men by THIS? In a positive or negative way?  P/N\*
9. Will THIS, in any way (directly and indirectly, in the short, medium and long-term), promote and ensure the elimination of discrimination of women by:
- (a) improving upon any previous legislation/public policy/ programme that was discriminatory or disadvantageous to women;
  - (b) establishing legal and other protection of the rights of women;
  - (c) strengthening women's decision-making role;
  - (d) increasing women's access to and control of resources;
  - or
  - (e) contributing towards empowerment of women?
  - (f) any other way, e.g. \_\_\_\_\_
10. Will there be any restrictions or limitations, even of a temporary nature, imposed on women (or sub-groups of women) by THIS?

## **II. IMPLEMENTATION**

### ***Public education and promotion***

11. Has the promotional content of THIS been presented in a gender-sensitive manner?
12. Has the medium of promotion (e.g. venues, channels or time slots) effectively reached women?

### ***Impact on women***

13. Have women or any sub-groups of women been affected differently from men during the implementation process of THIS, e.g. eligibility, level of benefits, accessibility, or availability of support facilities? In a positive or negative way?  P/N\*
14. Have there been any special measures to address women's needs during the implementation of THIS?

## **III. MONITORING**

### ***Compilation and analysis of gender information***

15. Have sex-disaggregated data and indicators (qualitative or quantitative) been compiled to monitor the process and outcome of THIS?

### ***Inclusion of gender issues***

16. Have gender perspectives and women concerns been included in the monitoring mechanism?

#### IV. EVALUATION AND REVIEW

##### *Gender analysis of the impact on women*

17. Has gender analysis been conducted to evaluate and review the design, implementation, and outcome of THIS?
18. Have the evaluation systematically identified and addressed gender issues?
19. Have any of the following been consulted during external evaluation (if applicable) of THIS:
- (a) Gender specialists (e.g. Women's Commission, gender research centres, individual gender experts and Women's Division of HWFB)
  - (b) Relevant statutory bodies
  - (c) Non-governmental organisations
  - (d) Women's associations
  - (e) Women being positively/negatively\* affected by THIS
20. Has THIS, in any way (directly and indirectly, in the short, medium or long-term), resulted in:
- (a) improving upon any previous legislation/public policy/programme that was discriminatory or disadvantageous to women;
  - (b) establishing legal and other protection of the rights of women;
  - (c) strengthening women's decision-making role;
  - (d) increasing women's access to and control of resources; or
  - (e) contributing towards empowerment of women?
  - (f) any other way, e.g. \_\_\_\_\_
21. Have there been any restrictions or limitations imposed on women or sub-groups of women?
22. Have staff who are responsible for reviewing the evaluation reports ensured gender-related omissions and successes in THIS are reflected?

***Future planning***

23. Have the evaluation findings been used to enhance gender-sensitivity in future planning, implementation and monitoring processes of THIS and related legislation/public policy/programme?

**V. GENERAL**

***Staff sensitivity and capacity building***

24. Is there a gender focal point (a designated person or team) for THIS?
25. Have relevant staff responsible for the following been briefed or given training on gender issues? If so, please specify or give details.

Design \_\_\_\_\_

Implementation \_\_\_\_\_

Monitoring \_\_\_\_\_

Evaluation \_\_\_\_\_

26. Will there be monitoring mechanism to appraise staff's gender sensitivity, e.g. self and other's evaluation or customer feedback?

***Gender-sensitive language***

27. Is gender neutral/sensitive language used throughout the legislation/public policy/programme/press releases or any other related official document?

\*\*\*\*\*

Extracted from Women's Commission (January 2006).  
*Gender Mainstreaming: Hong Kong Experience* (pp. 54-60).  
Hong Kong: Women's Commission Secretariat,  
Health, Welfare and Food Bureau.

## **The Equal Opportunities Commission and the Women's Commission**

### **Central Mechanisms for Advancing Women's Status**

#### **Abstract**

The establishment of the Equal Opportunities Commission in 1996 and the Women's Commission in 2001 marked two major milestones in the advancement of women's status in Hong Kong. Women's affairs became a legitimate political agenda and were incorporated into the permanent state structure. This paper recounts the history of their establishment, and examines the roles and functions of these institutional mechanisms in addressing women's issues in Hong Kong. The paper also discusses the challenges for mainstreaming gender in public policies, legislation and services by reviewing the achievements and constraints of the two commissions.

## 平等機會委員會及婦女事務委員會 提升女性地位的中央機制

張妙清

秦家德

(中文摘要)

平等機會委員會及婦女事務委員會分別於1996年及2001年成立，標誌著提升香港女性地位的兩大里程碑。婦女事務已發展為一個登上政治舞臺的議題，並已進入政府的建制之內。本文敘述兩委員會成立的歷史，探討它們在處理婦女事務上所擔當的角色和作用，以及透過回顧兩委員會的建樹及所受的限制，討論將性別觀點納入公共政策、立法及服務的主流時所面對的挑戰。

## **HONG KONG INSTITUTE OF ASIA-PACIFIC STUDIES**

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