

Implementing the CEDAW Convention in Hong Kong: Gender Policy Analysis

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SYNOPSIS

The Convention on the Elimination of All Forms of Discrimination Against Women, applicable to the Hong Kong Special Administrative Region (HKSAR) since October 1996, requires States parties to take steps to eliminate all forms of discrimination against women. In this paper the author argues that the establishment of a “national machinery” in Hong Kong and the adoption of gender policy analysis is critical to the effective implementation of the Hong Kong Government’s obligations under the Convention. Specifically, the paper describes gender policy analysis and the ways in which it could benefit women and government macro-economic policy as a whole, and sets out recommendations to the HKSAR Government of steps it could take to fully implement its international obligations under the CEDAW Convention

Gender policy analysis is a method for ensuring that governments are accountable to the communities they serve. It requires government departments and agencies to analyse both existing and proposed legislation and policies to ensure that they take into account their impact on both women and men. The goal for policy-makers is to pose gender-specific questions in order to identify inequalities in the impact of existing governmental policies, and to develop a process of accountability that addresses inequality in future governmental policies. In the long-term, gender policy analysis promotes efficiency because it foresees which, and to what extent, particular sectors of the population are affected by gender-neutral policies. This streamlines governmental policy by targeting budgets and resources allocation to produce desired results.

To initiate such policy changes in the allocation of resources, the systematic use of gender-specific indicators to appraise budgets, and the incorporation of various groups and organizations in the Hong Kong community in the process of such appraisals, is required.

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A. Introduction'

This paper argues that the establishment of a national machinery and the introduction of gender policy analysis are critical factors in the effective implementation of the Convention for the Elimination of All Forms of Discrimination Against Women (“the CEDAW Convention”)* in Hong Kong. The paper contains a description of gender policy analysis, the ways in which it could benefit women and government macro-economic policy as a whole, and recommendations to the Government of the Hong Kong Special Administrative Region (“the HKSAR”) of steps it could take to fully honour its internationally binding obligations under the CEDAW Convention, the International Covenant on Civil and Political Rights (“the ICCPR”), the International Covenant on Economic, Social and Cultural Rights (“the ICESCR”), and other instruments.

Obligation to establish an effective national machinery to carry out gender policy analysis

The HKSAR government is under an obligation to establish a central machinery within government (‘national machinery’).³ The sources of the international obligation to establish national machinery are found in the following international instruments:

Henry Luce Scholar (1998-99), Centre for Comparative and Public Law, Faculty of Law, The University of Hong Kong. The author would like to thank Andrew Bymes for his comments on a draft of this paper.

The Centre for Comparative and Public Law is grateful for the assistance and materials provided by Dr Diane Elson, Special Advisor to the Executive Director, United Nations Development Fund for Women (UNIFEM), New York.

Reproduced as Annex A in International Women’s Rights Action Watch and the Commonwealth Secretariat, *Assessing the Status of Women: A Guide to Reporting under the Convention on the Elimination of All Forms of Discrimination against Women* (2nd ed 1996) [Chinese edition 1997][hereinafter *Assessing the Status of Women*]; also available on-line at <http://www.un.org/womenwatch/daw/cedaw/frame.htm>.

“National machinery” refers to the machinery within a particular jurisdiction and is used here in relation to the HKSAR as a term of art.

on the Elimination against Women require States Parties to condemn discrimination against women in the political, social, economic and cultural fields. Most importantly, these provisions require States Parties to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs, and practices which constitute discrimination against women. Articles 2, 3, and 26 of the ICCPR and articles 2 and 3 of the ICESCR also require States parties to take measures to eliminate discriminatory legislation.

- | The Committee on the Elimination of Discrimination against Women (“the CEDAW Committee”) has in its *General Recommendation No 6*,⁴ exhorted States Parties to establish national machinery institutions to do the following:
 - Advise on the impact on women of all government policies
 - Monitor the situation of women comprehensively
 - 9 Help formulate new policies and effectively carry out strategies and measures to eliminate discrimination.

- | The Vienna Declaration and Programme of Action (1993),⁵ endorsed by the

VI. *Evaluating the impact of a policy*

- a. Have gender equality concerns been incorporated into the policy and evaluation criteria of the policy?
- b. What empirical indicators and other data will be used to measure the effects of the policy on women and men?
- c. Will information about the policy be publicly available and accessible to men and women from diverse communities?
- d. Does the policy incorporate a gender perspective in addressing the social, political and economic *implications* it will have on both women and men?

Identifying specific gender-policy analysis indicators and strategies”

The following indicators are useful in understanding how the HKSAR government might structure a gender-policy assessment for a particular public policy.

Needs assessments: Needs assessments attempt to establish what is needed and where it is needed. This strategy is executed by gathering quantitative data on demographic characteristics, income levels, and services available in localities throughout the country and combining these into poverty indicators.

Analysis of quality of service indicators: This is executed by constructing a series of quantitative indicators -- e.g. enrolment rates in schools, bed occupancy rates in hospitals, number of connections of households to water and sanitation systems – and disaggregating those indicators by gender.

Beneficiary assessments: A beneficiary assessment tries to ascertain the discrepancy between actual and potential beneficiaries, to determine how far service provisions meets beneficiaries’ own perceptions of what their needs are. Such assessments are most effectively conducted using qualitative interviewing or focus group methods, to determine whether certain government measures actually do improve the quality of services from beneficiaries’ perspectives.

Assessment of ‘invisible’ costs: From a gender perspective it is important to define costs in terms of time as well as money. Every proposal to improve the efficiency of a service should be scrutinized for the real extent of its “cost saving measures.” For example, when medical services are re-organized so as to save costs by discharging patients more rapidly from hospitals – does this merely transfer costs of care from paid hospital staff to unpaid women in families? Or is this merely the transfer of a “savings cost” to an “invisible cost”?

Assessment of benefits of equal opportunities in service delivery: Public sector employment policies can help to transform gender relations through family-friendly employment practices. A gender-sensitive, cost-benefit assessment would see that such policies set standards of equality and promote better practices throughout the economy. A

¹⁰ The following indicators and strategies are taken directly from Diane Elson, “Integrating Gender Issues into National Budgetary Policies and Procedures: Some Policy Options.” *Journal of International Development*, vol 10, November 1998.

gender-blind assessment may see family-friendly employment practices as “too expensive.”

Public sector employment with family-friendly employment practices could be a strong example of reducing gender discrimination in the labour market, and enhancing women’s ability to invest time in the development of their children, with long-term efficiency results for both the economy and society.

How might gender policy analysis be applied?

Gender policy analysis in health care

Mainstreaming gender perspectives includes consideration of basic health care as a human right. Applying a gender perspective in health care would require that all health statistics be disaggregated by sex and that a comprehensive women’s health profile be constructed. Such a health profile might include the following: eliminating negative cultural practices, reducing violence against women, promoting access to comprehensive health services and education (including that of girls and elderly women), meeting women’s non-reproductive health needs (e. g . protection against pesticides, solvents, occupational strain, chronic stress), and addressing the life-cycle choices that affect women involved in a career during peak child-bearing years,¹¹

Gender policy analysis applied in public administration

One example of how gender policy analysis (and in particular the CEDAW Convention) can be made part of public administration, is the Paulista Convention adopted in 1992 in the State of São Paulo, Brazil, following negotiations between women’s groups and local government authorities.¹² The Paulista Convention outlines detailed responsibilities for State and local Governments to execute a compact agreed to by local governments and women’s groups, to implement the CEDAW Convention. The State and cities undertook to develop programmes and services within their jurisdiction, fulfill quotas in multi-annual plans, use sex-disaggregated data for all statistical work, and establish a Woman’s Advisory Council composed and directed by women’s NGO representatives.¹³

¹¹ For an excellent and detailed analysis of exactly how gender-sensitive indicators can be introduced into the Health Sector, see Diane Elson, “Accounting for Gender in National Budgets”, UNIFEM SEMINAR, 4 November 1998, New York.

¹²

Gender-aware budget statement

A budget analysis which assesses the gender impact of overall public spending and expenditure in particular areas can be a powerful tool in informing policy formulation. Specific gender-sensitive indicators for a gender-aware budget statement might include:¹⁴

- i. **Gender equality targeted expenditure:** The share of expenditure targeted explicitly to women, to help to redress past inequality and neglect.
- ii. **Women's priority public services:** The share of expenditure devoted to public services which have been identified of highest priority in reducing the burdens on women, especially poor women, and reducing gender gaps in health, education, income, and leisure.
- iii. **Gender equality advocacy expenditure:** The share of expenditure devoted to the Women's Ministry or Bureau, Gender Equality Commission, Gender Focal Points in Ministries etc.
- iv. **Women's priority income transfers:** The share of expenditure devoted to income transfers which have been identified to be an important priority in reducing women's income inequality and dependence, for example, child, women's pensions.
- v. **Gender balance in public sector employment:** For each Government Ministry and/or Bureau, the projected shares of men and women in employment at each grade or level, the average earnings of women as percentage of the average male earnings in each grade.
- vi. **Gender balance in business support:** The projected shares of men and women in expenditure directed to business support in agriculture, manufacturing and services.
- vii. **Gender balance in public sector contracts:** Shares (by value) of contracts going to male-headed firms and female-headed firms.
- viii. **Integration of gender into the appraisal of the composition of public expenditure and taxation:** Different patterns of expenditure have different implications for women and men, affecting overall contributions to market dynamics, tax revenue and, in the long-term, the care of families and communities.

E. Significance of gender-policy analysis

The integration of gender-based analysis into macroeconomic government policies produces both equality and efficiency results; by measuring resource allocations and outcomes, long-term economic decisions are more effective. Understanding the causal chain from expenditure to results is important to national macro-economic policy. By analysing inputs (i.e. public expenditure or inputs to specific services) and outputs (i.e. specific services provided in terms of units of service supplied to men and women, boys and girls), results

¹⁴ This list is drawn largely from Diane Elson, "Integrating Gender Issues into National Budgetary Policies and Procedures: Some Policy Options", University of Manchester, Graduate School of Social Sciences, Genecon Unit, April 1997.

and expected outcomes are more accurately targeted. This kind of focus is useful in determining projections for economic performance as a whole.¹⁵

Gender-policy analysis encourages greater transparency in national budgets, because it assesses what the 'effect of a proposed legislation or policy might have on a particular group, such as women or ethnic minorities. Greater transparency, in turn, alerts decision-makers to policy problems of inequality, and areas of potential social, political, and economic unrest. In short, the outcomes of gender policy analysis would be useful for the Hong Kong SAR Government as it monitors its mandate to lead in particular policy areas.

Gender-policy analysis is useful because it prevents the waste of public resources and in the end, unnecessary government output. In many countries, not taking account of gender in planning education expenditure means that more of the expenditure goes to the schooling of boys rather than girls. This expenditure imbalance disadvantages girls, and eventually dampens national economic growth.

The most important contribution which sex-disaggregated budgets make to national macroeconomic policy is a clear depiction of the causal chain between a policy's expenditure and activities, to the intermediate effects of its outputs, and to the final economic consequences which that policy is seeking to achieve. In short, gender policy analysis demands accountability in budget statements, because it requires transparency in the causal links between intended and actual results. For example, the target of income transfers is typically "head of the household" or the "main earner", regardless of whether the mother or father plays this role. This has a detrimental effect on children, because research has shown that there is a strong tendency for extra income going to the mother to have a more positive impact on the development of children, than extra income going to fathers.¹⁶

Gender-neutral approaches to national budgets distort macroeconomic policies by ignoring women's economic contribution to the economy in the form of unpaid work in the household, voluntary community work, and subsistence and informal sector employment. Effective budgets use gender-policy analysis as a more comprehensive framework which incorporates gender into the total flow of national income and output, and thereby validates interactions between paid and unpaid activities essential to macro-economic policies. For example, understanding the internal dynamics of the household produces gendered responses to taxes, savings, employment and unemployment," which in the long-term can lead to better gender-sensitive macro-economic policy options.

Furthermore, introducing gender analysis into the design of policy is useful because it ensures efficiency in the use of resources. Typically, governments' define efficiency only with respect to the use of paid labour in the private and public sectors of the economy.

¹⁵ Diane Elson, "Integrating Gender Issues into Public Expenditure: Six Tools", University of Manchester. Graduate School of Social Sciences, Genecon Unit, April 1997.

¹⁶ For more information on this subject, see D Dwyer and J Bruce, *A Home Divided* (Stanford University Press, 1988).

¹⁷ Conventional macroeconomic models ignore the unpaid reproductive and care work of households primarily done by women, which assumes that women's labour supply is infinite.

Unpaid labour in families and communities does not have a market price. The consequence of failing to take account of unpaid labour is a deterioration of the social framework. Women's unpaid work in the "care economy" raises productivity in the private commodity economy and the public service economy, sustaining the social framework. Addressing the issue of unpaid labour can have many outcomes. For example, one such outcome might be tax restructuring, because the impact of different taxes affects men and women differently: income tax will have a greater impact on men; VAT a greater impact on basic household consumer goods -- thus a greater impact on women.

The root causes of discrimination often lie in childhood, in the form of a lack of access to opportunities. While equal opportunity does not necessarily translate into equal results, the objective of an institutionalized national machinery would be to ensure that *access to opportunities*, i.e. healthcare, education, legal aid, decision-making positions in government etc., is equal for all. Seeking to create fair and equal access to opportunities will not diminish the high standards typically associated with government or corporate positions. Most importantly, ensuring fair access to educational and health opportunities will produce dividends which far exceed the initial costs of institutionalizing a national machinery, and employing staff who could generate accurate statistical information about both the challenges and successes of existing opportunities for Hong Kong citizens.

The effectiveness of expenditure is conventionally judged in terms of intended results at the lowest possible cost. Gender-policy analysis asks the questions: "Results for whom?" "Costs for whom?" Do the intended results meet the needs of women as well as men? Are the costs equal? Will both women and men be impacted by this policy and if so, would each be equally satisfied? For example, in many countries a lack of gender analysis in planning education expenditure means that more of the expenditure goes to the education of boys rather than girls. Not only does this imbalance suppress the potential of girls, it also hampers national economic growth. Research has proven, that all else being equal, countries in which the ratio of female-to-male enrolment in primary or secondary education is less than 0.75 can expect levels of GNP that are approximately 25 % lower than countries in which there is less gender disparity in education.*

Finally, a significant, negative consequence of failing to provide adequate health and educational opportunities to women, is a reduction in tax revenue. With government cuts in health and education services, an additional burden is put on women to queue in health clinics, and spend extra time pursuing educational goals at night or on weekends, always under the pressing need to find substitute child-care. All of this results in a reduction in time available for paid work, leading to a reduction in output, and a reduction in tax revenue. Most importantly, is the reduction in time available for family life and community activities. Time spent away from family and community life, in the long-term, results in a loss of social cohesion and an increase in public expenditure on police officers, social workers and public officials.

¹⁸ A Hill and E King, 'Women's Education and Economic Well Being', *Feminist Economics*, vol 1, no 2, 1995.

G. **Recommendations to the HKSAR Government**

1. **The HKSAR Government should establish national machinery in the form of a Women's Bureau' for implementation of the Convention with the function of ensuring that the gender impact of policies is identified, evaluated, and incorporated into the formulation of policies.**

In particular, in order to fulfill its international obligations under the CEDAW Convention and other treaties, and to give effect to the guarantees of equality contained in the Basic Law, we urge the HKSAR government to:

- 1. Establish national machinery for the advancement of women in a central policy-coordinating unit inside government, for example, a Women's Bureau.
- 1. Establish as the objective of that national machinery the review of all legislation and policies using various methodologies of gender policy analysis.
- 1. Establish a new precedent that all **existing and proposed policies** presented to the Legislative Council which entail requests for funding be accompanied by **an analysis of the gender impact** of such expenditure.

2. **The Government should monitor closely the number of women and men who serve on the various statutory and other advisory boards and undertake an analysis of the procedures for appointing persons to these bodies, in order to assess how a greater number of women could serve on these bodies.**

3. **The Government should prepare, annually, a Women's Budget Statement to bring together information on the consequences of government expenditures for women.** A Women's Budget Statement is not a separate budget for women. Rather, it attempts to disaggregate expenditure according to its direct impact on women. The trail-blazing example in Australia required participating government departments to identify the impact of their proposed expenditure on women. A Women's Budget Statement was then synthesized by the Federal Office of the Status of Women. Producing a Women's Budget Statement thus requires a high degree of co-operation throughout government.

A Women's Budget Statement would be a significant enhancement in honouring the HKSAR's obligations under CEDAW. Its strengths include sensitizing departments to the long-term implications of their policies on women; acting as a lever for the synthesis of gender-specific data; creating a window for dialogue and debate with respect to specific budgetary policies; and identifying specific quantifiable measures for improvement overtime.

H. **Conclusion**

Gender policy analysis is not an easy or simple process. It requires Government officials to take responsibility for the way in which their Bureau budgets are organized, and an honest recognition of how and why resources are allocated as they are.

Gender inequalities channel the ability of national budgets to achieve national economic

goals because men and women assume such different economic roles and responsibilities. Thus, from both an equity and efficiency perspective, gender-analysis methods can improve budget priorities. To initiate such changes, the systematic use of gender-specific indicators to appraise budgets, and the incorporation of various groups and organizations in the Hong Kong community in the process of such appraisals, is required.

While in the short-term view lends itself to persuasive reasons not to provide the additional time and resources that a systematic evaluation of government budgets would require, a longer-term view provides several reasons for undertaking the challenge. In a dynamic and international city such as Hong Kong, the education, incorporation, and well-being of its female citizenry is critical to the HKSAR's continued leadership in East and Southeast Asia.

SOURCES

Isabella Bakker and Diane Elson, "Towards Engendering Budgets," *Alternative Federal Budget Papers 1998*, Canadian Centre for Policy Alternatives/Choices: A Coalition for Social Justice. 1998.

Debbie Budlender (ed), *The Third Women 's Budget* (Capetown: Idasa, 1998)

Diane Elson, "Integrating Gender Issues into Public Expenditure: Six Tools," University of Manchester, Graduate School of Social Sciences, Genecon Unit, April 1997.

Diane Elson, "Integrating Gender Issues into National Budgetary Policies and Procedures: Some Policy Options," *Journal of International Development*, vol 10, November 1998.

Diane Elson. "Accounting for Gender in National Budgets," UNIFEM Seminar, November 1998, New York.

Ilana Landsberg-Lewis (ed), *Bringing Equality Home: Implementing the Convention on the Elimination of All Forms of Discrimination Against Women* (New York: United Nations Development Fund for Women [UNIFEM], 1999), available on-line <http://www.unifem.undp.org/cedaw/indexen.htm>

Christopher McCrudden, "Mainstreaming Fairness?" A discussion paper on "Policy Appraisal and Fair Treatment", Lincoln College, Oxford, November 1996.

Christopher McCrudden, "Benchmarks for Change: Mainstreaming Fairness in the Governance of Northern Ireland", Lincoln College, Oxford, February 1998.

Rhonda Sharp and Ray Broomhill, "International Policy Developments in Engendering Government Budgets" *Canberra Bulletin of Public Administration*, August 1998.

United Nations, "Women and Health: Mainstreaming the Gender Perspective into the Health Sector," Expert Group Meeting, Tunis, Tunisia. 28 September-2 October 1998, United Nations Division for the Advancement of Women, Department of Economic and Social Affairs, United Nations, report of the meeting available on line <http://www.un.org/womenwatch/daw/csw/healthr.htm>.