

Speech by The Hon Sir T L Yang,
the Chief Justice of Hong Kong
at the Opening of the Judicial Colloquium on the
Domestic Application of International Human Rights
Norms Relevant to Women's Human Rights

Distinguished delegates, ladies and gentlemen:

It was in January that I first heard that the Commonwealth Secretariat wished to hold this judicial colloquium in Hong Kong. The choice of Hong Kong is an inspired and excellent one. We have always been conscious of our common law heritage. For that reason, Hong Kong has sent delegates regularly to the Commonwealth Law Conferences, and occasionally to judicial colloquia of this kind.

But we are now less than 14 months away from the historic change in Hong Kong's status — the change which will see sovereignty over Hong Kong pass from the United Kingdom to the People's Republic of China. This will therefore probably be the last judicial colloquium to be held under the auspices of the Commonwealth Secretariat in which Hong Kong has a formal part to play. The formal links between Hong Kong and members of the Commonwealth will naturally be severed in the future. But given our common law heritage and long-standing friendship, I very much hope that our ties with other Commonwealth jurisdictions will continue to flourish after the change of sovereignty. The Basic Law encourages the retention of these links.

The fundamental principles of human rights already form an integral part of the laws of jurisdictions from which the delegates to this colloquium come. They do so as a result of international conventions to which we are subject, and because such rights are provided for in our domestic legislation. It is the responsibility of the courts to apply those principles whenever they are said to have been infringed. But determining the precise scope of those principles can sometimes be a difficult exercise. So the courts may, where appropriate, have regard to internationally recognised human rights norms as aids to judicial interpretation. Not only does this process help with the case in hand, but it also helps to build up a body of domestic jurisprudence. Over the years, a repository of international, regional and national jurisprudence on human rights has been developed, and it is important that judges and lawyers are provided with up-to-date information about their jurisprudence. Judicial colloquia of the kind we are having today provide an excellent venue for the exchange of such information.

This year's colloquium will examine the ways in which internationally recognised standards of rights for women are reflected in domestic law.

The holding of this colloquium in Hong Kong, with its emphasis on women's rights, is most seasonable. Last year, we saw the enactment of the Sex Discrimination Ordinance¹ and Hong Kong's participation in the United Nations Fourth World Conference on Women.² 1996 is a year of action: the main provisions in the Sex Discrimination Ordinance will come into operation. The traditional role of women in Chinese society does not lie easily with modern ideas about feminism. It is therefore not without significance that this particular colloquium should be held in a territory in the very year in which the protection of women from discrimination will receive, for the first time in its history, statutory underpinning of a very major kind.

The enactment of the Sex Discrimination Ordinance,³ which is modelled on the United Kingdom Sex Discrimination Act, is an important step in the promotion of women's rights. The Attorney General has already described the scope of the Ordinance and I do not propose to cover the same ground. I however wish to point out that the judiciary has an important role to play in the enforcement of the Ordinance. Proceedings under the Ordinance have to be brought in the District Court. To ensure that such proceedings are heard within a reasonable time, we will be setting up a special list in the District Court to hear such cases. Since sex discrimination legislation is a new area of law in Hong Kong, we intend to cultivate judicial expertise in this field. Towards this end, cases in this special list will be tried by designated judges. This special list will be in place upon the commencement of the Ordinance.

Only time will tell how relevant the provisions of the Ordinance will be to contemporary life in Hong Kong. Nonetheless, this colloquium is most timely as it provides an excellent opportunity for delegates to share their views as to whether their attempts to make our domestic laws reflect internationally recognised standards of rights for women have been successful. It is particularly relevant to our participating judges on the advent of the commencement of the Sex Discrimination Ordinance.

The Convention on the Elimination of All Forms of Discrimination against Women identifies internationally recognised standards of rights for women. I am conscious that the Convention is yet to be extended to Hong Kong and the matter is now being considered by the British and Chinese sides of the Sino-British Joint Liaison Group. My understanding is that it is not as if the Governments of the United Kingdom and the People's Republic of China have any doctrinal objection to the Conven-

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² Beijing Declaration and Platform for Action, *Report of the Fourth World Conference on Women, Beijing, September 1995*, UN Doc A/CONF.177/20 (17 October 1995).

³ Sex Discrimination Act 1975, see 6 *Halsbury's Statutes* (4th edn) (1992 reissue) 756.

tion. Otherwise, they would not have become States parties to it, as both of them have.⁴

Finally, it is extraordinarily apposite that this colloquium begins today — 20 May 1996. The Equal Opportunities Commission, the principal body established by the Sex Discrimination Ordinance for monitoring and enforcing the provisions of the Ordinance, will formally come into being today. The omens play a significant role in traditional Chinese culture. I hope that today proves to be an auspicious one for the Commission and for the success of this important colloquium, which I am extremely honoured to open.

⁴ 1249 UNTS 13. The United Kingdom signed the Convention on 22 July 1981 and ratified it on 7 April 1986 but did not extend to Hong Kong at that time. The People's Republic of China signed the Convention on 17 July 1980 and ratified it on 4 November 1980. [Eds] The Convention was subsequently extended to Hong Kong with effect from 14 October 1996.