

Speech by the Hon Attorney General,  
Mr J F Mathews, CMG, JP  
at the Opening Ceremony of the Judicial Colloquium  
for Senior Judges in the Asia-South Pacific Region

Chief Justice, Ms Stamiris, Ms Chin, Professor Wesley-Smith,  
Distinguished Judges, Ladies and Gentlemen,

I am honoured to be invited to this opening ceremony of the Judicial Colloquium for Senior Judges in the Asia-South Pacific Region organised by the Commonwealth Secretariat. This is the third of a series of judicial colloquia for senior judges on the domestic application of international legal instruments which promote women's human rights in the Commonwealth. The first was held in 1994 in Zimbabwe,<sup>1</sup> the second was held last year at the Non-governmental Organisations Forum at the United Nations Fourth World Conference on Women in Beijing. We are delighted that Hong Kong should have been chosen as the venue for this meeting and on behalf of the people and Government of Hong Kong, I would like to offer you a warm welcome.

### **The Commonwealth's values**

Respect for and the protection of human rights lie at the heart of the fundamental values of the Commonwealth. This is reflected, for example, in the 1991 Harare Conference which emphasises the protection and promotion of:

- Fundamental human rights, including equal rights and opportunities for all citizens regardless of race, colour, creed or political belief;
- Equality for women, so that they may exercise their full and equal rights.<sup>2</sup>

The 1995 Beijing Declaration and Platform for Action establish a set of actions that are intended to lead to fundamental change in the protection and respect of women's rights. The Declaration confirms women's rights as human rights,<sup>3</sup> while the Platform of Action sets out concrete reassurances required at the national and international levels to protect and promote the human rights of women.

<sup>1</sup> See Commonwealth Secretariat, *Report of the Commonwealth Judicial Colloquium on Promoting the Human Rights of Women*, Victoria Falls, Zimbabwe, August 1994.

<sup>2</sup> The overall theme of the Conference was "To Define, Promote and Improve the Human Rights Culture in the Commonwealth in the 1990s", see 18 *Commonwealth Law Bulletin* 771 for details.

<sup>3</sup> 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), at 4-8, para 14.

At the Commonwealth Law Ministers Meeting, which I had the pleasure of attending last month in Kuala Lumpur, special attention was given in the context of the discussion of Commonwealth fundamental values to the human rights of women. Ministers considered various measures, strategies and activities that could be introduced in the field of crime prevention and criminal justice to achieve the elimination of violence against women.

### **Hong Kong Bill of Rights Ordinance**

Let me say something of the regime of Hong Kong in this vital area. Hong Kong is fully committed to the protection of human rights in general and women's rights in particular. The Hong Kong Bill of Rights Ordinance,<sup>4</sup> enacted in June 1991, gives effect in local law to the provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong.<sup>5</sup> Among other things, it prohibits discrimination on the grounds of sex by the Government and public authorities. In interpreting the provisions of the Bill of Rights Ordinance, Hong Kong courts in developing their jurisprudence have referred to and drawn upon international human rights jurisprudence.

### **Sex Discrimination Ordinance 1995**

As a further step towards the protection of women's rights in domestic law in Hong Kong, the Sex Discrimination Ordinance was enacted in July 1995.<sup>6</sup> It outlaws discrimination on the grounds of sex, marital status and pregnancy in specified areas of activity. These include employment, education, provision of goods and services, and the disposal or management of premises. The Ordinance also outlaws sexual harassment.<sup>7</sup>

The Ordinance confers jurisdiction on the District Court to hear claims of unlawful sex discrimination and sexual harassment in the same way as other claims in tort. Persons may be permitted to address the court in the proceedings even though they are neither legally qualified nor parties to the proceedings, and the Chinese language may be used.<sup>8</sup>

In addition, the Sex Discrimination Ordinance provides for the establishment of an independent statutory body, the Equal Opportunities Commission, whose functions include the following:<sup>9</sup>

<sup>4</sup> Hong Kong Bill of Rights Ordinance (Cap 383), reprinted in 1 HKPLR liv–lxviii.

<sup>5</sup> 999 UNTS 171, adopted on 16 December 1966, entered into force 23 March 1976. The United Kingdom signed on 16 September 1968 and ratified it on 20 May 1976, with territorial application including Hong Kong.

<sup>6</sup> Sex Discrimination Ordinance (Cap 480).

<sup>7</sup> For details, see Parts II, III and IV of the Ordinance.

<sup>8</sup> Part VIII, *supra* note 6.

<sup>9</sup> Part VII, section 64, *supra* note 6.

- working towards the elimination of sex discrimination and sexual harassment;
- promoting equality of opportunity between men and women;
- investigating, upon complaint, any act alleged to be unlawful by virtue of the Ordinance and endeavouring, by conciliation, to effect a settlement of the matter in dispute; and
- keeping under review the working of the Sex Discrimination Ordinance and, when it is so required by the Governor or otherwise thinks it necessary, submitting to the Governor proposals for amending the Ordinance.

The Commission will also develop codes of practice in the areas of activity regulated under the Ordinance. These codes will provide practical guidance for compliance with the Ordinance. The setting up of the Equal Opportunities Commission reflects Hong Kong's firm commitment to the enforcement of protected rights of citizens. I am pleased to tell you that today is the day the Commission comes into being. This is the day the newly appointed Chairperson of the Commission starts work.

We are also currently carrying out detailed studies in human rights in other area, including an assessment of the community's views on for example, family status sexuality and age discrimination. We would expect to reach decisions on the way forward on these issues later this year.

### **Convention on the Elimination of All Forms of Discrimination against Women**

On a separate but related and highly relevant point, the Hong Kong Government has announced its intention to invite the British Government to extend the Convention on the Elimination of All Forms of Discrimination against Women<sup>10</sup> to Hong Kong. As it is intended to remain in force after the transfer of sovereignty in 1997, the issue is being discussed with China, which as many of you know, is also a party to the Convention. I look forward to an early agreement with the Chinese Government to allow this important convention to be extended to Hong Kong.

<sup>10</sup> 1249 UNTS 13. The United Kingdom signed the Convention on 22 July 1981 and ratified it on 7 April 1986, but it did not extend the Convention 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.

## **Independence of the judiciary**

The existence of a comprehensive system of laws is not sufficient without a strong and independent judiciary of which we in Hong Kong are most proud. The Sino-British Joint Declaration of 1984<sup>11</sup> and the Basic Law<sup>12</sup> — the mini-constitution of the future Hong Kong Special Administrative Region — which will come into effect upon the transfer of sovereignty on 1 July 1997 contain specific guarantees over the independence of the judiciary and the continuation of the judicial system practised in Hong Kong.

## **Guidance from international norms**

With a comprehensive system of laws on the protection of human rights and women's rights administered by an independent and impartial judiciary, I am confident that Hong Kong has the necessary foundation for effective protection of women's rights. However, we are not complacent. The development and protection of rights rests, ultimately not on laws, declarations or treaties, important though they are, but on the unremitting efforts by us all to put these laws, declarations and treaties into practice. And in this rapidly expanding area of the law which touches us all, you, the judges, play a vital, indeed, fundamental part.

I wish you all a very successful colloquium.

<sup>11</sup> *China and United Kingdom of Great Britain and Northern Ireland: Joint Declaration on the Question of Hong Kong (with annexes)*, 1399 UNTS 36, reprinted in (1984) 23 ILM 1366.

<sup>12</sup> Basic Law of Hong Kong Special Administrative Region of the People's Republic of China, reprinted in (1990) 29 ILM 1511.