

Submission to the Bill Committee on the Domestic Violence (Amendment) Bill 2007

Amnesty International Hong Kong Section recommendations to the Sub-Committee includes:

1. Simplified the process for victims of domestic violence in applying for temporary injunction order, and arrange both parties to be heard in court in the earliest time possible. The temporary injunction order would help in reducing the risk of life for the victims who are in dangerous situation, while allowing the other party to be heard in court
2. Attached a reparation order with the injunction order in some circumstances. Review the implementation of the Compensation scheme for victims of violence that allow compensation for victims of domestic violence.
3. The scope of protection should include same sex couples who are living together.
4. The definition of domestic violence should include not only physical abuse, but also psychological abuse, intimidation and threat.
5. Establish Domestic Violence Court that could centralize all the related legal matters concerning the family with domestic violence.
6. Extension of the Injunction order could be up to two years, and there should not be an upper limit on the numbers of injunction order.

In this submission, AIHK LGBT Group would like to concentrate on the inclusive of same sex couples in the DVO Amendment Bill.

We welcomed the Bill Committee question to the government on the 20 July 2007 meeting, you have asked the "reason(s) why same sex relationship was not covered by the Bill". This is the query that we shared with the Committee.

As ICCPR is written into our domestic law, the Bill of Rights Ordinance, I turned to ICCPR regarding government protection for people against domestic violence and the discrimination against person based on sexual orientation.

According to Articles 3, 7, 9, 10, and 26 of ICCPR, the Human Rights Committee had asked "What measures has the HKSAR Government taken to combat violence against women, including domestic and sexual violence?"

In the Government Response to the List of issues presented by the Human Rights Committee on 7 November 2005 (CCPR/C/HKG/Q/2), the government has listed group of services and support for domestic violence victims.

We would like to remind the government that violence against women including same sex domestic violence. As the government is not limiting the services to married heterosexual couples only, the exclusive of same sex couples who are cohabiting is form of discrimination against homosexuals by the government. And while this is more than justifiable to extend the coverage to lesbian couples, it would be discrimination based on gender if it is not extended to gay couples.

We would like to remind that in Article 2 of the ICCPR, the government could not discrimination based on their sexual orientation. While the HKSAR government has submitted to the Human Rights Committee that it had taken initiatives to promote non-discrimination on the ground of sexual orientation, it had yet promoted discrimination by its explicit exclusive of same sex couples in the Domestic Violence (Amendment) Bill.

The inclusion of former spouses or former cohabitants of opposite sex be covered under the amendment bill only magnified the discriminatory attitude of the government based on sexual orientation, when it explicitly excluded the same sex couples who are cohabitants or former cohabitants in the Amended Bill.

In conclusion, we would like to stress the importance of inclusive of same sex couples in the bill, so that they could be handled in similar manner by the police, social services and when seeking protection from abuse. The explicit discrimination based on sexual orientation on the part of the government would not be overlooked by the UN Human Rights Committee or the human rights activists in Hong Kong.