

Amnesty International Hong Kong
Submission to Legislative Council Panel on Home Affairs
February 9, 2007

Amnesty International Hong Kong (AIHK) urges the government of the Hong Kong Special Administrative Region (HKSAR) to take prompt actions for the full implementation of the recommendations by the United Nations Committee on the Elimination of Discrimination against Women.

AIHK echoes the Committee's concerns, particularly its call for a strengthened effort to combat domestic violence by the HKSAR government and to extend the 1951 Convention Relating to the Status of Refugees to Hong Kong (Refugee Convention).

Review of Domestic Violence Ordinance

AIHK welcomes the initiatives by the HKSAR government to amend the Domestic Violence Ordinance (DVO), as presented to the Committee by government representatives during the hearing last August and the recent proposal to the Legislative Council Panel on Welfare Services on January 8, 2007.

AIHK, however, is still deeply concerned that the proposed amendments of the DVO are not sufficient to protect victims of gender-based violence in the family. AIHK reminds the HKSAR government its obligations under CEDAW to exercise **due diligence** to respect, protect, promote and fulfill the rights of women. The obligation to **respect** requires the government to refrain from interfering with the rights of women. The obligation to **protect** requires the government to take measures that prevent violence against women by non-state actors. The obligation to **fulfill** requires the government to adopt appropriate legislative, administrative, budgetary, judicial and other measures towards the full realization of women's rights. In particular, AIHK urges the HKSAR government to:

- Broaden the coverage of the DVO to same-sex partners to fulfill the principle of non-discrimination.
- Ensure timely and adequate reparation for victims of gender-based violence to restore the situation as far as possible which would have existed if the violence had not happened. Reparation could include fair compensation, medical care and comprehensive recovery practices.

- Simplify the application procedure for injunction orders to make them accessible for victims and broaden the scope to prohibit the perpetrators from causing damages to the applicants' property and from hiring third parties to harass the applicants and their children.

Protection to Women Asylum-seekers and Refugees

AIHK is disappointed with the government's repetitive refusal to request China to extend the Refugee Convention to Hong Kong and echoes the recommendation by the Committee to extend it to Hong Kong in order to ensure that women asylum-seekers and refugees can fully benefit from its protection.

By neglecting the legal protection for asylum seekers and refugees, the HKSAR government fails to fulfill its obligations under CEDAW Committee's General Recommendation 19, Article 15 on equal protection before the law and Article 12 on equal access to health care services and facilities.

Asylum seekers, refugees and applicants under the Convention Against Torture face denial of some of their most basic rights including: to food, shelter, financial assistance, and work. Although the Refugee Convention does not currently apply to the SAR, Hong Kong still has obligations based on international human rights treaties and customary international law to guarantee the rights of asylum seekers and refugees.

Female refugees and asylum seekers are not only denied of some of the aforementioned basic rights. They are also subjected to sexual and gender-based violence. For fear of repercussions due to the lack of immigration status, they fear reporting such crimes to the authorities. They are effectively denied access to legal protection, adequate medical and psycho-social care and family planning information, which may be further hampered by the lack of interpreters.

We urge the government to comply with the standards outlined in CEDAW, in particular to adopt a comprehensive policy toward asylum seekers and refugees. We also urge the People's Republic of China to extend the Refugee Convention to the HKSAR.