



Hong Kong G.P.O. Box 7450 香港郵政總局信箱7450號
Tel/電話: (852) 23327182 Fax/傳真: (852) 23904628
Email/電郵: ziteng@hkstar.com
Web-site/網址: www.ziteng.org.hk

立法會民政事務委員會:

要求香港政府遵守“消除對婦女一切形式歧視公約”
停止暴力對待性工作者

紫藤是一個關注性工作者團體，一直關注性工作者的權益。

聯合國消除對婦女歧視委員會將會於 8 月，就香港特別行政區政府根據“消除對婦女一切形式歧視公約”提交的第二次報告進行審議。而立會民政事務委員會將於 6 月 7 日討論有關事項。有見及此，我們提出以下意見，一方面反映目前香港性工作者所受的歧視及壓迫，另一方面亦期望她們的現況可得到改善。

聯合國消除對婦女歧視委員會將會於 8 月，就香港特別行政區政府根據“消除對婦女一切形式歧視公約”提交的第二次報告進行審議。但事實上，性工作者在社會上卻經常被歧視、壓迫及暴力對待，而始作俑者，就是作為執法者的香港警察。警方往往利用職權，在執行掃黃的臥底行動中，先接受性工作者的性服務，然後才進行拘捕，更甚是稍有不從時，即以武力毆打她們。

我們收集了超過 300 封信，當中包括性工作者、團體及社會人士，強烈要求香港政府遵守“消除對婦女一切形式歧視公約”，停止暴力對待性工作者。

本會希望立法會民政事務委員會、各立法會議員及香港政府正視及關注事件，以採取措施停止暴力對待性工作者。

現附上有關信件及資料，如有任何疑問或需要更多資料，請電 23327182 或 e-mail: ziteng@hkstar.com.hk 與本會職員林小姐聯絡。

附件:

1. 聯署聲明- 要求香港政府遵守“消除對婦女一切形式歧視公約”停止暴力對待性工作者
2. Statistic of the Complaints against the Police by sex workers in 2004 and 2005
3. 2006 年 3 月 24 日至立法會保安事務委員會之信件
4. 紫藤對警員放蛇行動指引之意見書
5. MEMORANDUM from Simon NM Young, Associate Professor and Acting Director of the Center for Comparative and Public Law, Faculty of Law University of HK

2006 年 6 月 2 日



Hong Kong G.P.O. Box 7450 香港郵政總局信箱7450號
Tel/電話: (852) 23327182 Fax/傳真: (852) 23904628
Email/電郵: ziteng@hkstar.com
Web-site/網址: www.ziteng.org.hk

立法會民政事務委員會:

聯署聲明

要求香港政府遵守“消除對婦女一切形式歧視公約” 停止暴力對待性工作者

紫藤是一個關注性工作者團體，一直關注性工作者的權益。

聯合國消除對婦女歧視委員會將會於 8 月，就香港特別行政區政府根據“消除對婦女一切形式歧視公約”提交的第二次報告進行審議。有見及此，我們提出以下意見，一方面反映目前香港性工作者所受的歧視及壓迫，另一方面亦期望她們的現況可得到改善。

在現行香港法例下，性工作在是一項合法工作。但事實上，性工作者在社會上卻經常被歧視、壓迫及暴力對待，而始作俑者，就是作為執法者的香港警察。警方往往利用職權，在執行掃黃的臥底行動中，先接受性工作者的性服務，然後才進行拘捕，遇有反抗時更經常以武力毆打她們。紫藤(關注性工作者團體)在 2004 至 2005 年，共接獲 324 宗性工作者對警方的投訴，反映警方不但沒有履行職責，儘力保障性工作者的人身安全，反而更憑藉權力侵害她們的權益、並以肢體暴力威迫她們就範。

近年來，已經有不少立法會議員、關注團體及社會輿論的壓力，要求警方修改指引，政府及警隊高層仍然包庇下屬，容許他們濫權，妄顧公眾利益和拒絕修改政策。此外，目前警務處投訴警察課集投訴、調查及處分於一身，多年來一直被社會質疑其缺乏公信力，及有警警相衛之嫌，我們要求政府取消警察投訴課，再設立一個獨立的警察投訴機制。

以下是警方對性工作者的侵權行為:

1. 警員於執行臥底行動時享受免費性服務

按香港警察現時的指引，警員在執行有關職務時，不得接受性交及口交服務，但卻可作有限度身體接觸，這亦包括了手淫服務。由 2004 至 2005 年，便至少有超過 70 名警員在政策的「支持」下，於執行臥底職務時接受不同形式的性服務，包括手淫、口交，甚至是性交。

2. 警察濫權，不人道對待性工作者

由 2004 年至 2005 年，紫藤共接獲超過 330 個性工作者的投訴個案，指警方濫權，這包括：無理拘控、插賊架禍、脫光所有衣服搜身、被拘捕後禁止打電話、以威嚇手段強迫她們簽署口供紙、無理迫遷等等。於 2005 年，香港傳媒拍得照片，顯示警方將大約 80 名涉嫌賣淫的被捕人士，關押在警署一露天停車場的鐵籠中；同年 10 月，性工作者李婉儀更因被警察誣告而自殺抗議。

香港政府漠視性工作者的權益，嚴重侵害她們的人權，違反“消除對婦女一切形式歧視公約”。因此，我們要求：

1. 停止警察對性工作者的濫權及暴力；
2. 立即修改警察內部指引，清楚禁止警察享用任何性服務，包括：性交、口交及手淫等；
3. 徹查“李婉儀事件”，嚴懲違規警員；
4. 港府儘快成立獨立投訴機制，調查警察違規的投訴。

簽名: (個人或團體)

紫藤



4

Statistic of the Complaints against the police by sex workers in 2004 and 2005 Total: 324 cases with 397 complaints (Received by Zi Teng)

	04	05	Complaints		04	05	Complaints
Getting Free Sex Services	41	30	71	Violation of Legal Rights	69	142	211
Masturbations	27	23	50	Forbidden to Make Phone Calls	25	12	37
Sexual Intercourses (oral, vaginal, etc)	14	8	22	Strip Search	6	13	19
Abuse of Power During Inspection	79	36	115	Unfair Incarceration	3	3	6
Driving away customers	16	5	21	Forced to Sign Testimonies	8	32	40
Verbal Insults	10	3	13	Charged with Fraudulent Evidence	10	8	18
Forced to Relocate	14	9	23	Deterred from Seeing a Lawyer	1	4	5
Forced to Produce Leases	9	5	14	Forbidden to Change Clothes	1	4	5
Forced to Have Pictures Taken or sign documents	29	14	43	Forbidden to Eat or Drink	1	2	3
Theft	1	0	1	Arbitrary arrest /Beaten up	Not record 14	64	78

致立法會保安事務委員會委員:

紫藤是一個關注性工作者團體，一直關注警察對性工作者侵權之事件。過去兩年，本會收到 324 宗性工作者對警方的投訴。當中投訴警員在放蛇行動中接受手淫服務的投訴分別有 27 及 23 宗 (04 及 05 年)。(以上數目只包括直接向紫藤投訴的個案)

按警方給香港警察發出的指引(守則)指出，警員在執行有關職務時，不得接受性交及口交服務，但卻容許他們作有限度身體接觸，包括享用性工作者提供的手淫服務。從警員的口供紙及他們法庭上的證供亦顯示，當他們前往經營無牌按摩院或賣淫場所，為案件搜集證據時，他們亦有接受手淫服務。

過去 3 年，本會一直透過不同的行動要求修改有關指引(守則)，禁止警員在放蛇行動中接受手淫服務，可惜情況一直沒有改善。紫藤在今年曾向投訴警察課投訴(編號: CAPO HKI RN 069000164)，但投訴課卻拒絕接受本會的投訴，原因是我們對“守則的指控並不乎合投訴警察的條件”。

此外，我們亦曾於今年 3 月 1 日與警方會面。署理助理副警務處長馬維駿先生在會上表示，由於「一樓一」並非違法，因此認同警方在放蛇時並不應接受手淫服務。但馬先生認為在其他調查性服務的過程中，如果禁止警察接受手淫服務，會令警方執法上有困難。本會對此論調無法認同，因為在不少賣淫案件中(例如引誘他人作不道德行為及經營賣淫場所等..)，若警方有足夠證據，警方根本無需接受任何性服務，亦可作出檢控。(例如：在一些只提供性交服務的場所(如：馬檻、指壓場等)放蛇，警方在沒有接受服務的情況下，亦能有足夠證據提出檢控)

因此，本會要求警方修改內部指引(守則)，清楚禁止警員接受任何性服務，包括手淫服務，阻止警員以權謀私。根據過去的不少投訴顯示，由於指引(守則)內容存有不少灰色地帶，縱容警方透過檢控程序免費接受性服務，令性工作者付出勞力之餘，亦要面對檢控。我們相信，在法律之下，人人平等，然而在目前的情況下，性工作者的權益並沒有得到警方的尊重，和法律的保障。

立法會將於 2006 年 4 月 4 日下午 2:30 保安小組會議中討論有關事件，本會亦將派代表出席是次會議，本會希望能夠在會議上發言，表達我們的意見。

以下是我們的要求：

1. 修改警察內部指引，清楚禁止警察享用任何性服務，包括：性交、口交及手淫等。
2. 公開警察放蛇行動指引（守則），調查及嚴懲違規的警員。

此懇請 保安事務委員會能關注事件，要求警方檢討有關指引，特別是法例上對警方指引（守則）的修改建議，甚至是加強指引的透明度等。隨函附上警方的口供紙、控罪書供及意見書供閣下參考。

如需更多資料，請隨時電 23327182 或電郵 ziteng@hkstar.com 與本會職員林小姐聯絡。有勞之處，不勝銘感。

紫藤 謹啓

2006 年 3 月 24 日

紫藤對警員放蛇行動指引之意見書

1. 本會參與立法會保安事務委員會會議的目的，是要求警方修改警察放蛇行動期間接受性服務的內部指引。
2. 本會要求警察修改警察放蛇行動期間接受性服務的內部指引的大前提是，性工作者和其他人一樣，應享有人的基本權利和尊嚴，不應受到警察濫權侵害，特別是個別警察利用查案為由，在查案中的過程中對性工作者作出的侵權的行為。警方訂立含糊的警察放蛇行動指引，公然包庇警察放蛇濫權的行為，這是不應容許的。
3. 現時警方的指引列明禁止警員接受任何形式的性交及口交服務，禁止的原因只有警方至為清楚，本會推測是以下幾點：
 - (1) 有關的行為在搜集犯罪證據以做出相關的檢控的過程中，屬不必要的行為。
 - (2) 容許有關的行為即等同容許警察濫權，容許警察利用本身權力以免費獲得個人的快感。
 - (3) 避免有關的行為能保障服務提供者和警察雙方的利益：衛生和個人尊嚴。
4. 手淫服務與其他形式的性服務一樣，毫無疑問是一種性服務，當中牽涉到親密的身體接觸、體液的交換、可能出現的快感。在各種性服務中獨獨剔除手淫，將之視為不同範疇的行為，這是不合邏輯的。
5. 警方公佈的禁止警員接受性交及口交的理由，同樣適用於手淫服務。正如上文第 3 段所述，手淫和其他形式的性服務並無分別。
6. 警方以往曾聲明，禁止放蛇警員接受手淫服務或會妨礙警員進行調查工作，但警方從未為此聲明提供合理的解釋。如果調查行動是針對無牌按摩的，警員只要在放蛇期間半裸身體接受按摩服務，已有足夠證據作出檢控；如果調查行動是針對管理色情場所或倚靠妓女為生，只要裸身的警員與赤裸或半裸的妓女開始有身體接觸，配合環境證供如毛巾、協議好的交易錢，已有足夠證據作出檢控。
7. 總括來說，若警方能夠不經性交或口交，便能成功搜集足夠的證據，檢控無牌按摩、管理色情場所或倚靠妓女為生，那警方並無理由指接受手淫服務是搜證據的必需途徑、禁止手淫服務會妨礙警員進行調查工作。警方根本不能分辨出手淫和其他被禁止的性服務有何區別。
8. 在以上的前提下，本會有以下建議：
 1. 警方應訂立清晰的放蛇指引，禁止警察在進行調查期間接受任何性服務(包括性交、口交及手淫)。
 2. 公開有關警察放蛇行動的指引，調查及嚴懲違規警員。



The University of Hong Kong

Faculty of Law

4/f KK Leung Building, Pokfulam Road, Hong Kong

8

MEMORANDUM

PREPARED FOR: Elaine Lam, Zi Teng

PREPARED BY: Simon NM Young, Associate Professor and Acting Director of the Centre for Comparative and Public Law, Faculty of Law, University of Hong Kong

DATE: Monday, 3 April 2006

Following on our meeting on 24 March 2006, this memo was prepared to contribute to Zi Teng's submissions to the Legislative Council's Security Panel. The Panel is scheduled to meet on 4 April 2006 to consider the topic of "Police undercover operations for vice activities".

You have informed us that Zi Teng has recorded numerous complaints by sex workers against undercover police officers, who receive sexual services in the course of investigating prostitution-related offences. These services range from masturbation and oral sex to full sexual intercourse.

This memo contains our preliminary views on the legal implications of this police conduct and focuses specifically on the following issues:

1. Is it necessary for undercover agents to receive sexual services in order to gather sufficient evidence for the prostitution-related offences they are investigating?
2. Is the receipt of sexual services by undercover agents illegal?
3. Can the practice of receiving sexual services ultimately jeopardize the criminal investigation?
4. By receiving sexual services, has the undercover agent breached any ethical standards (either according to those of the Hong Kong Police or other international standards)?

Brief Summary

We believe the practice of undercover agents receiving sexual services is generally unnecessary (or can otherwise be avoided) for proving prostitution-related offences in Hong Kong. The practice carries with it the risk that the agent may commit various criminal offences. Aggressive police tactics, which induce the commission of an offence, may potentially halt a prosecution. Even where the practice is passive and not illegal, it is probably considered unethical police conduct by international standards, particularly when it is unnecessary or done repeatedly before an arrest is made. To safeguard its reputation, it is highly recommended that the Hong Kong Police Force adopt a clear policy against this practice by its undercover agents.

9

Analysis

1. Is it necessary for undercover agents to receive sexual services in order to gather sufficient evidence for the prostitution-related offences they are investigating?

We believe it is unnecessary for undercover agents to receive sexual services in order to gather sufficient evidence for the purposes of prosecuting any of the following prostitution-related offences:

Massage Establishments Ordinance (Cap 266)

- 4(1) Operating or assisting in the operation of a massage establishment without a licence
- 13(1) Operating or assisting in the operation of a massage establishment not in accordance with the conditions of the licence

Crimes Ordinance (Cap 200)

- 137(1) Living on the earnings of prostitution
- 139(1) Keeping or assisting in the management of a vice establishment
- 143(1) Letting premises for use as a vice establishment
- 144(1) Permitting premises to be kept as a vice establishment
- 145(1) Permitting premises to be used for purposes of habitual prostitution
- 147(1) Soliciting in a public place for any immoral purpose

None of the above offences includes as an essential element the commission of a sexual act. Indeed, the provision of paid sexual services between adults in and of itself is not a criminal offence in Hong Kong. Proof of the above offences can be achieved by using circumstantial evidence (eg statements from females inside the premises offering paid sexual services¹), confession evidence, and evidence of steps taken short of sexual contact to effect the agreement for paid sexual services.

A “massage establishment” is defined as “any place used or intended to be used or represented as being used for the reception or treatment of persons requiring massage or other similar service or treatment”.² It is clear that no sexual contact is needed to prove whether a certain place is a massage establishment.

We are aware of the case of *HKSAR v Fok Wai Man* in which ICAC used covertly recorded communications to try to prove that the licensee was in breach of her massage establishment license which imposed a condition that ‘no vice or immoral activities shall take place in the premises’.³ The recordings were of female staff members outlining possible sexual services available to the undercover agents. Only massage services had been provided before the ICAC raided the premises. In allowing the appeal from conviction, Mr Justice Jackson expressed in *obiter* his doubt whether there was sufficient evidence that vice or immoral activities had in fact taken place in the premises.⁴ The conversation was not in itself a vice or immoral activity. However, he allowed the appeal on a different basis, i.e. the magistrate’s erroneous approach to defence evidence.

¹ Statements offering prostitution services can be used to prove the character of the place in which they are made without infringing the hearsay rule, see *Woodhouse v Hall* (1981) 72 Cr App R 39 (CA).

² *Massage Establishments Ordinance* (Cap 266), s 2.

³ *HKSAR v Fok Wai Man* [2003] HKEC 639 (CFI).

⁴ *Ibid.*, paras 14 & 21.

10

It is possible to read *Fok Wai Man* as legitimizing the practice of receiving sexual services in order to prove that the licensed premises was being used for a vice or immoral activity. However, this state of affairs is created not by the law but by the wording of the condition imposed on the license. The Commission of Police has an absolute discretion as to whether and what conditions are to be imposed on a massage establishment licensee.⁵ Thus, a more carefully drafted condition could avoid effectively requiring undercover agents to engage in sexual conduct before there can be sufficient evidence of a breach in the license condition. For the legal and ethical reasons given below, it would be highly advisable from hereon if the imposed condition was broadened to ensure that "no vice or immoral activities shall be conducted or attempted in the premises". With such a condition, there would be sufficient evidence of a breach where the undercover agent received an unsolicited offer of sexual services and steps short of sexual contact were taken to further the provision of such services (eg removal of clothing).

To prove that a place is a "vice establishment", it is necessary to prove either the place was "used wholly or mainly by 2 or more persons for the purpose of prostitution", or was "used wholly or mainly for or in connection with the organizing or arranging of prostitution".⁶ Caselaw has defined this further in the context of the offence of managing a vice establishment:

the forbidden conduct is the offering for lewdness for gain whether the offering is done indiscriminately by common, selectively by discreet or by both common and discreet prostitutes. If there is any use of the premises by women offering themselves for lewdness for gain there is a use for the purpose of prostitution within the meaning of section 139 [of the Crimes Ordinance (Cap 200)].⁷

From this interpretation, one sees that the presence of women offering sex for gain is the *sine qua non* to determining whether a certain place is a vice establishment. Undercover agents can provide direct evidence of such offering without engaging in any sexual contact.⁸

Obtaining evidence of actual prostitution taking place within the targeted premises can of course bolster the prosecution's case. However, as discussed below, there are risks to the integrity of the investigation and to the reputation of the Hong Kong Police if agents are allowed to receive sexual services gratuitously and when the exigencies of the investigation do not warrant such conduct.

2. Is the receipt of sexual services by undercover agents illegal?

The receipt of consensual sexual services by undercover agents is not illegal per se. However, if it turns out that the female person providing the sexual service is under the age of 16, the officer will have committed one or more of the following offences (as any consent given by the female person would be invalid):

⁵ Massage Establishment Ordinance (Cap 266), s 6(2) & Schedule.

⁶ Crimes Ordinance (Cap 200), s 117(3).

⁷ *The Queen v Ho Chi Fai & Others* [1985] HKCFI 31, HCMA000825/1984 (HC).

⁸ Caselaw from the United Kingdom and Canada on similar offences states the same proposition, see generally *Winter v Woolfe* [1931] 1 KB 549; *Kelly v Purvis* 76 Cr App R 165; *R v Sorko* [1969] 4 CCC 241 (BCCA); *R v Tremblay* (1991) 68 CCC (3d) 439 (Que CA).

11

Crimes Ordinance (Cap 200)

- 146(1) Indecent conduct towards a child under 16
- 122 Indecent assault
- 124 Intercourse with a girl under 16
- 120 Procurement to do an unlawful sexual act by false pretenses

It is not a defence for the agent to claim that he believed (whether honestly or on reasonable grounds) that the female person was 16 years or older for the purposes of the offence under section 124.⁹

If the undercover agent sets out to obtain a sexual service without intending to pay for such service, this could constitute the offence of obtaining services by deception.¹⁰ The ultimate issue will be whether the agent has acted dishonestly. However if the agent carries through with the operation by intending and providing payment for the services, he would not likely be found to be acting dishonestly.

3. Can the practice of receiving sexual services ultimately jeopardize the criminal investigation?

If the undercover agent goes beyond providing a mere opportunity to commit the offence and has in fact induced the accused to commit the offence, the agent may be found to have entrapped the accused and the prosecution is liable to be stayed.¹¹ In practical terms, this would mean that if the undercover agent initiates sexual contact, requests sexual services, or repeatedly inquires about the availability of sexual services, the accused may raise the defence of entrapment at trial and there is a risk that the prosecution will fail on grounds of abuse of process.

4. By receiving sexual services, has the undercover agent breached any ethical standards (either according to those of the Hong Kong Police or other international standards)?

Nine police Codes of Conduct were surveyed from jurisdictions around the world.¹² Although the prohibition of sexual activities while on duty explicitly appears only rarely,¹³

⁹ *HKSAR v So Wai Lun* [2005] 1 HKLRD 443 (CA).

¹⁰ Theft Ordinance (Cap 210), s 18A.

¹¹ See *R v Looseley* [2001] 1 WLR 2060 (HL).

¹² New South Wales Police Service Code of Conduct and Ethics, <http://www.gaiaguys.net/Police-Code-of-Ethics.htm>; Hong Kong Police Force Common Purpose and Values, <http://www.info.gov.hk/police/hkp-home/english/misc/vision.htm>; Western Australia Police Code of Conduct, http://www.police.wa.gov.au/AboutUs/SupportServices/pdf/WA_Police_Service_Code_of_Conduct.pdf; British Columbia (Canada) Police Act, Code of Professional Conduct Regulation, http://www.qp.gov.bc.ca/police/r205_98.htm; The United Nations Code of Conduct for Law Enforcement Officials, G.A. res. 34/169, annex, 34 U.N., <http://www.freedomtocare.org/page125.htm>; Code of Conduct of the University of Texas System Police, http://www.utsystem.edu/pol/code_of_conduct.html; The Police Authorities (Model Code of Conduct) Order 2001 (UK), <http://www.opsi.gov.uk/si/si2001/20013578.htm>; Code of Conduct for Police Officers (UK), <http://www.police999.com/careers/conduct.html>; Schererville, IN (USA) Police Department Code of Conduct, <http://www.ci.schererville.in.us/police/codeofconduct.html>.

¹³ The Code of Conduct of the University of Texas System Police, *Ibid*, prohibits officers from engaging in any sexual conduct while on duty, at 5.16.6.

the police activity at issue appears to fall afoul of various broader principles which repeatedly emerge from these Codes. These include the duty of officers to observe principles of:

- Integrity and honour
- Honesty
- Efficient and economical use of public resources
- Responsible exercise of authority
- Professionalism
- Fairness and impartiality
- Private interests not conflicting with public duty
- Behaviour not undermining public confidence in the police.

While the Hong Kong Police Force has not published a detailed Code of Conduct, its published statement of "Common Purpose and Values" recites many of the above mentioned principles.¹⁴

In addition to the questionable use of public funds for police officers' sexual gratification, the practice of undercover police receiving sexual services in the course of their investigation of vice activities is arguably an abuse of authority.¹⁵ This practice could also be viewed as a conflict of interest – that is, leading to private gain at public expense. At worse, it could be viewed as corruption where there has been no superior authorisation.¹⁶ Generally, the unrestrained employment of such practices would tend to damage the reputation of the Hong Kong Police Force.

Police are held to a higher standard of conduct than the general public because of the public trust they are granted to enforce the law. Police services are self-regulating professions, which makes it important that police conduct remains above moral reproach. The International Association of Chiefs of Police states, in its Law Enforcement Code of Conduct,

All law enforcement officers must be fully aware of the ethical responsibilities of their position and must strive constantly to live up to the highest possible standards of professional policing.

¹⁴ The Hong Kong Police Force website states that its values include:

- Integrity and Honesty
- Respect for the rights of members of the public and of the Force
- Fairness, impartiality and compassion in all our dealings
- Acceptance of responsibility and accountability
- Professionalism
- Dedication to quality service and continuous improvement
- Responsiveness to change
- Effective communication both within and outwith the Force.

¹⁵ See *R v Waterfield* [1963] 3 All ER 659 (CCA) for a statement of a police officer's duties at common law. See also Police Force Ordinance (Cap 232), s 10.

¹⁶ The United Nations Code of Conduct for Law Enforcement Officials, *Ibid.*, states the following regarding police corruption: "[I]t should be understood to encompass the commission or omission of an act in the performance of or in connection with one's duties, in response to gifts, promises or incentives demanded or accepted, or the wrongful receipt of these once the act has been committed or omitted." (Article 7, Commentary). See also the implications of s. 3 of the Prevention of Bribery Ordinance (Cap 201).

To: Panel on Home Affairs

Joint statement

Appeal to the Hong Kong Government to comply with the Convention on the
Elimination of All Forms of Discrimination Against Women
Stop all violence against sex workers

In August, UN's Committee on the Elimination of Discrimination against Women will product the second report on the adopt of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) by the Hong Kong Government for deliberation. Based on the above situation, with the intention to: (1) reflect the discrimination and suppression and (2) expect to improve sex workers' situation, we suggested the followings:

Sex work is allowed under the law of Hong Kong but in fact, sex workers were facing discrimination, suppression and violence with the law enforcers, the Hong Kong Police, as the leading party for these vices. During the operations, the under-cover officers always make use of their power to enjoy sex service before they arrest, and also use violence when they meet any resistance. From 2004 to 2005, Ziteng (Sex worker concern group) has received 324 complaints from sex workers against the police, reflecting that the police not only fail to carry out their duty to protect the safety of sex workers but even exploit their power to offend sex workers' rights, use body strength to force sex workers to comply.

These few years, there has been pressure from members in the Legislative Council, concern groups and public opinion, urging the Police to revise the guidance. However, senior officials keep protecting their junior officers, allowing them to overstep their rights, disregarding public concern and refusing to revise their policy.

Moreover, as the Complaints and Internal Investigations Branch of the Hong Kong Police Force handles complain, investigation and disciplinary action at the same time, their trustworthiness is being doubted for years as there is chance of police protecting police. We strongly recommend the setup of an independent police complaint system and dismiss the present complaint branch.

The followings are the assaults done to sex workers by the Police:

1. Free sex service in the operation of under-cover police

According to the present guidance, officer in the operation cannot accept sex intercourse or oral sex service, but limited body contact is allowed including hand job. From 2004 to 2005, there were at least 70 officers, being "supported" by the guidance, accepted various kind of sex services including hand job, blow job and even sex intercourse.

2. Police abusing their power, inhumane treatment to sex workers:

From 2004 to 2005, Ziteng has received more than 330 complains from sex workers, reporting the Police abuse their power such as: arrest without reason, set them up for charges, conduct strip search, do not allow them to make phone call after arrest, intimidate and threaten them to sign statement, force them to remove, etc. In 2005, media in Hong Kong has taken a photo, showing the Police locked 80 suspects of prostitution in a cage exposed in an open car park; in October same year, sex worker Li Yuen Yee committed suicide because the Police falsely accused her.

The Hong Kong Government has disregarded the rights of the sex workers, seriously jeopardized their human rights, violated against the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Here, we demand to:

1. Stop all the right abuse and violence towards the sex workers
2. Revise immediately the internal guidance, clearly state the prohibition of sex service of any form including sex intercourse, oral sex or hand job, etc;
3. Investigate Li Yuen Yee's case and punish the officer who has offended the regulation
4. Establish an independent complaint system to investigate the complaint of possible overstepping their authority

Sign:



Petra Timmermans

Coordinator

ICRSE