

EXECUTIVE SUMMARY¹

1. Although domestic violence is never a new or rare issue to the society of Hong Kong, its prevalence, its harm to the society and gender-based nature has yet to receive a justified, reasonable and serious acknowledgement and handling by the Government.

2. According to the statistics provided by the Hong Kong Police Force (“HKPF”),

	2002	2003	2004	2005
No. of reported domestic violence cases handled by the HKPF	1665	2401	2289	2628
No. of people in domestic violence cases arrested by the HKPF	Not available	725	806	1159
No. of people in domestic violence cases prosecuted by the Department of Justice.	Not available	135	189	234
(No. of reported domestic violence cases involving murder, manslaughter, wounding or serious assault.)	(501)	(643)	(691)	(979)
No. of people in domestic violence cases convicted by the court	Not available	88	106	118
No. of people in domestic violence cases sentenced to an imprisonment term between 1 and 6 years. ²	Not available	8	6	1
(No. of reported domestic violence cases involving murder and manslaughter)	(13)	(7)	(9)	(6)

3. A vivid, real life example of the above data is a domestic violence case commonly known as the Tin Shui Wai Tragedy happened in 2004 in which the wife and her two six years old daughters were murdered by the husband who later committed

¹ This is an executive summary of the Submission of the Civic Party on Domestic Violence to be submitted to the UN in response to the 2nd Report of the HKSAR to be submitted in accordance with the CEDAW.

² Only 2 people were sentenced to 6-9 years’ imprisonment and 1 person was sentenced to 9-12 years’ imprisonment in 2003. No person in domestic violence cases has been sentenced to more than 12 years’ imprisonment. In 2004 and 2005, no person in domestic violence cases has been, respectively, sentenced to more than 6 years’ and 3 years’ imprisonment.

suicide as well. Although it was a painful and heartbreaking lesson and the alarm on the failure of the Government to prevent and combat domestic violence has been critically alerted, the Government has yet to take a comprehensive and effective step to implement its so-called ‘zero tolerance’ policy in domestic violence case.

4. In this report, a number of articles of the Convention on the Elimination of All Forms of Discrimination against Women (“the Convention”) are discussed and it is observed that by failing to take positive measures to prevent and combat domestic violence against women in Hong Kong, the Government fails in its duty to implement the Convention.
5. Chapters 1 – 7 examine the issue of domestic violence in accordance with the different articles of the Convention. Chapter 1 looks at the policy measures on domestic violence in Hong Kong (Article 2). Chapter 2 studies about the influence of gender-stereotyping and prejudice in the society upon domestic violence (Article 5). Chapter 3 examines the political and public participation of women in Hong Kong and to what extent the same has an influence on the law and policy of domestic violence (Article 7). Chapters 4 and 5, respectively examines domestic violence from the education (Article 10) and health (Article 12) perspectives. Chapter 6 examines quite in a length inadequacy of the existing legal measures in preventing and combating domestic violence and makes recommendations accordingly (Article 15). Finally, Chapter 7 studies and recommends on domestic violence from the perspective of marriage and family-related measures (Article 16).
6. In essence, we observes that:
 - (1) Gender stereotyping reinforces the myth that domestic violence is only a family dispute, a private matter as opposed to a public matter, a criminal case.
 - (2) The Working Group on Combating Violence (“WGCV”), headed by the Director of Social Welfare Department (“SWD”) and consisted of members of NGOs, is only an advisory body. It does not function in policy making, co-ordination and supervising.
 - (3) Current hotline services of SWD operates until 10pm, after that the line is redirected to Family Crisis and Service Centre (“FCSC”) which is not

specialized in handling domestic violence cases.

- (4) Newly migrated women facing domestic violence are hard hit by the policy introduced in 2004 refusing the grant of CSSA to persons aged over 18 and resided in Hong Kong for less than 7 years.
- (5) The two separate legal procedures, one in criminal and one in civil, in dealing with domestic violence cases results victims having to witness several times, the case being dragged out and, sometimes, even inconsistent judgments from different courts.
- (6) Incidence of domestic violence has been under-reporting.
- (7) The existing arrest and prosecution policy and the attitude of front-line police officers, lawyers, prosecutors, judges, etc, on one hand, place a heavy burden on the victims to decide if they will testify against the batterers whilst on the other hand, fail to give confidence to victims of domestic violence that they are fully supported and protected throughout the investigation and legal process.
- (8) The existing Domestic Violence Ordinance, Cap.189 (“DVO”) is basically a civil law. Incidents of ‘domestic violence’ are not, strictly speaking, classified as criminal offences.
- (9) In case of default maintenance payment, battered women have to seek recovery on their own and there is no proper protection to them.
- (10) If the new ‘joint parenting model’ is introduced as proposed by the Law Reform Commission in 2005, battered women are forced to maintain connections with batterers after their separation.

7. Thus, we, *inter alia*, recommends that:

- (1) Every policy proposed or implemented by the government shall be scrutinized from a gender perspective such that the gender impact of such policies can be identified and rectified.
- (2) The WGCV shall be promoted to be placed under the Chief Secretary and establish a coordinating mechanism to plan and implement policy concerning curbing domestic violence and perform policy review from time to time.
- (3) A team working round the clock to support victims of domestic violence shall be set up, including a round the clock hotline service.
- (4) There shall be a clear guideline and review/appeal procedure in the exercise of discretion now given to the Director of SWD to grant CSSA to victims of domestic violence despite the new policy.



- (5) There shall be a domestic violence court handling every aspect including the criminal and civil aspects of all domestic violence cases.
- (6) Mandatory reporting measures shall be adopted. There shall be education and training for professionals like social workers, medical practitioners, teachers, etc to encourage appropriate and prompt referral and mandatory reporting.
- (7) There shall be clear policy and practice guidelines and checklists on arresting and investigation of domestic violence cases and any breach of which shall result disciplinary proceedings. Prosecution policy shall not solely rely upon the victim's consent to testify. Pro-arrest and no-drop prosecution policy shall be adopted.
- (8) The existing DVO shall be reviewed such that all relevant ordinances relating to domestic violence, civil or criminal, shall be pulled together and put under the new DVO. Domestic violence shall be criminalized and redefined in the new DVO
- (9) Court-mandated Batterers Intervention Programmes ("BIP") shall be introduced.
- (10) A Domestic Violence Serious Injury or Fatality Review Committee shall be set up to conduct a thorough review on domestic violence serious injury and fatality cases.
- (11) There shall be more empirical studies on the implementation of domestic violence-related policies such that effective, appropriate and long-term strategies can be formulated.
- (12) A long-term public education policy shall be formulated to reduce negative attitudes of the general public like cultural acceptance of domestic violence, to increase knowledge of relevant legal and social services, and thus to motivate help-seeking behaviour.
- (13) Specific trainings shall be provided to social workers, medical practitioners, police, prosecutors, lawyers, judges, etc to increase their sensitiveness towards domestic violence cases.
- (14) A maintenance authority shall be set up so that maintenance recovery is carried out by a statutory body.
- (15) Victims of domestic violence shall be exempted from the proposed new 'joint parenting model'.

Civic Party
9 June 2006