

**AMNESTY
INTERNATIONAL**
國際特赦組織



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COMMENTS ON THE OUTLINE OF THE TOPICS TO BE COVERED IN THE THIRD REPORT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION IN THE LIGHT OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

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THE RIGHTS OF MINORITY GROUPS

Amnesty International Hong Kong welcomes the promulgation of the *Race Discrimination Ordinance* (RDO) but is concerned that elements of the RDO are not in conformity with the ICCPR (Article 2(1) & Article 26), as the Ordinance does not extend key provisions to foreign domestic workers and new arrivals from the Chinese mainland. We are also concerned that the RDO does not apply to many government bodies, including the department of immigration and the police. There are concerns about police actions in regard to the shooting of an unarmed homeless Nepali man by a police officer in 2008 (Articles 2(1), 3 & 26). Amnesty International Hong Kong is also concerned that there is no legislation in place to protect the rights of sexual minorities.

- Amnesty International Hong Kong would welcome information from the HKSAR government on how the existing RDO ensures that protection against racial discrimination in Hong Kong conforms to Hong Kong's obligations under the ICCPR, specifically on the protection of foreign domestic workers and new arrivals from the Chinese mainland. We also request information on the police action on the shooting of the unarmed Nepali man and the effectiveness of the police complaints procedure in addressing the issue.
- Amnesty International Hong Kong also requests information about the HKSAR government's plans to introduce legislation to protect the rights of sexual minorities, in line with ICCPR (Article 2(1) & Article 26).
- Advocacy of racial hatred that constitutes incitement to violence is prohibited under Article 20 of the ICCPR and the *Race Discrimination Ordinance*. We would like to know what actions the government will take to ensure the safety of members of ethnic minority groups and those who defend their rights, in the event of incitement to violence against those groups by third parties.

REFUGEES

Amnesty International Hong Kong is concerned about the possible deportation of asylum seekers back to countries where they may face torture or threats to their right to life, breaching the Article 3 & Article 7 of the ICCPR. We are concerned that the HKSAR is not a party to the *1951 Convention relating to the Status of Refugees*, and does not have a refugee status determination procedure in place which conforms to international law.

- Amnesty International Hong Kong would like to know what actions the HKSAR government is taking to ensure the extension of the Refugee Convention to Hong Kong.
- We welcome information about how the HKSAR government is ensuring full protection for the rights of asylum seekers and refugees in accordance with the provisions of the ICCPR. Amnesty International Hong Kong requests information about the training provided to members of the disciplined forces and other relevant government officials on Hong Kong's obligations under the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT).

GENDER EQUITY

Under Article 2 of the ICCPR all women and men shall have an equal right to the enjoyment of civil and political rights. The Women's Commission has been set up as a mechanism to ensure that this right is implemented. However, there is insufficient authority vested in the Commission. Since its establishment in 2001, the Women's Commission's authority over other bureaux and departments has been handicapped by its position under the umbrella of the Labour and Welfare Bureau. The setting up of the high-level Family Council in 2007, which aims at better formulating policies and initiatives relating to family support and integrate the work of the Youth Commission and Women's Commission, is regarded as a setback because it dilutes the gender specific focus of the Women's Commission.

Women continue to be grossly under-represented in decision-making bodies: In June 2010, 4 principal officials out of the total of 20 were women (20%). There are only 7 female members of the Executive Council out of 30 members (23.3%). Only 11 of 60 legislators (18.3 %) are women; 97 women out of 462 (20.9%) are served as District Councillors; of the non-official members serving on public sector advisory and statutory bodies in 2008, 1,140 out of 4,608 were women (24.7%). (Women and Men in Hong Kong Key Statistics 2010 Edition)

- Amnesty International Hong Kong would like the HKSAR government to provide information on how it is working to address the gender imbalance in decision-making bodies, and how it is ensuring that the Women's Commission, as the implementing mechanism for ensuring the ICCPR Article 2 (as incorporated into the Hong Kong Bill of Rights Ordinance) is working effectively.

FREEDOM OF ASSEMBLY AND EXPRESSION

Amnesty International Hong Kong is concerned that provisions of the *Public Order Ordinance* (POO) in Hong Kong may pose restrictions on the exercise of the rights to freedom of expression and assembly as guaranteed by ICCPR (Article 19 & Article 21). On a practical level, Amnesty International Hong Kong considers that the procedure of approval for public demonstrations in the POO is so complicated that this may also compromise the exercise of the fundamental human rights to freedom of expression and assembly. We also have concerns about the recent use of the *Public Entertainment Ordinance* to confiscate artwork related to the annual June 4 commemoration of the Tiananmen crackdown.

- Amnesty International Hong Kong would like to know how the government can ensure that the *Public Order Ordinance* (POO) is in line with the HKSAR's obligations under the ICCPR, and that the use of this and other Ordinances may unduly restrict the exercise of the right to peaceful expression of opinion.
- We also welcome comments from the HKSAR government on the handling of public demonstrations and the safeguards that are in place to ensure that police handling of demonstrations is proportionate to public order concerns and does not undermine public confidence in guarantees of freedom of expression, association and assembly.

HUMAN RIGHTS COMMISSION

The Human Rights Committee in its previous comments recommended that an independent human rights institution be set up, in line with the Paris Principles. Amnesty International Hong Kong is also concerned that the present approach, in which human rights protection is divided amongst a number of uncoordinated agencies may deny individuals the right to an effective remedy (Article 2(3)a of the ICCPR).

- Amnesty International Hong Kong invites the HKSAR government to comment on how it is ensuring that human rights for all are adequately protected and what remedies are available for those suffering human rights violations, in the absence of a human rights commission with an overarching mandate.

