



公民黨  
Civic Party

# SUBMISSION ON DOMESTIC VIOLENCE IN HONG KONG

In response to the HKSAR's 2<sup>nd</sup> report to the UN on the  
implementation of CEDAW in Hong Kong

**THE CIVIC PARTY**

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[www.civicparty.hk](http://www.civicparty.hk)

Address: Room B, 18/F, Wing Hong Finance Centre, 181 Gloucester Road,  
Wanchai, Hong Kong  
Tel: (852) 2711 1776 Fax: (852) 2711 1777 Email: [enquiries@civicparty.hk](mailto:enquiries@civicparty.hk)

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Registered Office: 181 Gloucester Road, 18/F, Wing Hong Finance Centre,  
Wanchai, Hong Kong.

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<sup>1</sup> Only up to the 1<sup>st</sup> Season of 2006.

<sup>2</sup> Retrieved from Appendix 1, Chan, K. L.; Chiu, M.C. & Chiu, L.S.(2005). *Peace at home: Report on the Review of the Social and Legal Measures in the Prevention and Intervention of Domestic Violence in Hong Kong*. [A Consultancy Study Commissioned by the SWD of the HKSAR]. Hong Kong: Department of Social Work & Social Administration, the University of Hong Kong

<sup>3</sup> Hearing of the death inquest was held at the Coroners' Court on 5<sup>th</sup> September 2005 about a domestic violence case occurred in 2004 resulting the death of all four members of a family: the parent and two children. The appendix is the transcript of the summing-up and verdict of the said hearing.

<sup>4</sup> During the said meeting, the Hon. Margaret Ng moved a motion to urge the HK Government to expeditiously formulate effective measures to curb domestic violence.

<sup>5</sup> This paper was submitted by the HK Government to the Subcommittee on Strategy and Measures to Tackle Family Violence of the Panel on Welfare Services of the Legislative Council.

## EXECUTIVE SUMMARY

1. Although domestic violence is not a new issue or rare occurrence in Hong Kong ("HK"), its prevalence, its harm to the society and gender-based nature has yet to receive adequate and appropriate acknowledgement or proper handling by the HK Government.
  
2. According to the statistics provided by the Hong Kong Police Force ("HKPF")<sup>6</sup> in relation to domestic violence cases,

	2003	2004	2005
No. of <u>reported</u> domestic violence cases handled by the HKPF	2401	2289	2628
No. of people <u>arrested</u>	725	806	1159
No. of people <u>prosecuted</u>	135	189	234
(No. of cases involving murder, manslaughter, wounding or serious assault)	(643)	(691)	(979)
No. of people <u>convicted</u>	88	106	118
No. of people <u>sentenced</u> to an imprisonment term between 1 and 6 years <sup>7</sup>	8	6	1
(No. of cases involving murder and manslaughter)	(7)	(9)	(6)

3. A dramatic, real life illustration of domestic violence is a case widely discussed in the community as the "Tin Shui Wai Tragedy" which happened in 2004.<sup>8</sup> **The wife and her two daughters (aged six) were murdered by the husband who then committed suicide.** The case was a traumatic lesson which should have alerted the HK Government to its failure to prevent and combat domestic violence, yet the HK Government has not taken any effective step to implement its so-called 'zero tolerance' policy on domestic violence in a comprehensive way.

<sup>6</sup> For more details, see Appendix 1.

<sup>7</sup> 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.

<sup>8</sup> See relevant newspaper cuttings at Appendix 2.

4. In this report, we discussed a number of articles of the Convention on the Elimination of All Forms of Discrimination against Women ("the Convention") and observed that by failing to take positive measures to prevent and combat domestic violence against women in HK, the HK Government has failed in its duty to implement the Convention.
5. Chapters 1 – 7 examine the issue of domestic violence with reference to the different articles of the Convention:-
  - (a) Chapter 1 looks at the relation between gender mainstreaming and policy measures on domestic violence in HK (Article 2).
  - (b) Chapter 2 studies the influence of gender-stereotyping and prejudice in society upon domestic violence (Article 5).
  - (c) Chapter 3 examines the political and public participation of women in HK and to what extent the same has an influence on the law and policy of domestic violence (Article 7).
  - (d) Chapters 4 and 5, respectively, examine domestic violence from the education (Article 10) and health (Article 12) perspectives.
  - (e) Chapter 6 examines the numerous points of inadequacy of the existing legal measures in preventing and combating domestic violence and makes recommendations accordingly (Article 15).
  - (f) Chapter 7 studies and makes recommendations on domestic violence from the perspective of marriage and family-related measures (Article 16).
6. In the HKSAR's 2<sup>nd</sup> Report to the UN, the HK Government reported:-
  - (a) under para. 57 that the Law Reform Commission of Hong Kong ("LRC")'s Report on Stalking was under consideration. However, the said report which recommended to criminalize stalking was in fact first published in July 2000 and has up till now yet been implemented.
  - (b) under para. 58 that it was considering reviewing the Domestic Violence Ordinance, Cap.189 ("DVO"). However, we observe that merely reviewing the law is not enough. The existing practice to deal with domestic violence cases in two separate legal procedures, one in criminal and one in civil results in victims having to give evidence several times, the case being dragged out and, sometimes, even inconsistent judgments from different courts. We urge that a domestic violence court should be set up to handle all domestic

violence cases.<sup>9</sup>

- (c) under para. 61 that to prevent domestic violence, its Social Welfare Department ("SWD") specifically created **Integrated Family Service Centres** ("IFSCs"). However, these IFSCs are not specialized and one-stop service providers for domestic violence. Further, these centres have already been over-loaded in dealing with many other family-related issues.<sup>10</sup>
- (d) under para. 62 that SWD and NGOs established a total of 66 'family service units' throughout the territory to prevent domestic violence. However, these 'family service units', in fact, **no longer exist now** but have been restructured to become 61 IFSCs.
- (e) under para. 72 that its Family Help-line and After Office Hour Outreaching Team service provided immediate assistance to persons in need. In fact, however, these two services are not commonly known to NGOs and social workers specializing in domestic violence and thus inaccessible to most victims of domestic violence. Besides, the Family Crisis and Service Centre ("FCSC") mentioned therein is **not a domestic violence specialized centre**. Further, in 2005, more than 60% of the calls to the hotline of FCSC were redirected to an answering machine.<sup>11</sup>
- (f) under para. 73 that Central Information System was set up to collect data about domestic violence cases. However, there is **no procedure or system** to ensure that front-line social workers and policemen will properly classify and record domestic violence cases so that data of the said system accurately reflects the reality. Such failure has been noted in relevant academic research and reflected in real cases.
- (g) under para. 78 that four temporary shelters were set up for women victims of domestic violence. In fact, however, **three shelters are run by NGOs** and only subsidized partly by the government. The remaining one was once run by the HK Government and was just outsourced this year. Though services and shelter places were increased after outsourcing, resources input was reduced.
- (h) under para. 90 that it has issued guidelines to facilitate multi-disciplinary collaboration in handling domestic violence cases.

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<sup>9</sup> For more details, see Ch. 6 below. See also Appendix 3.

<sup>10</sup> For more details, see para. 12 of Ch. 1 below.

<sup>11</sup> For more details, see para. 13 of Ch. 1 below.

However, new immigrant women facing domestic violence are **hard hit by a policy** introduced in 2004 which restricts the grant of Comprehensive Social Security Assistance ("CSSA") for persons over 18 to those who have resided in Hong Kong for not less than 7 years.<sup>12</sup> Also, in case of defaulted maintenance payment, battered women have to seek recovery on their own and there is no proper protection to them.<sup>13</sup>

- (i) under para. 91 that its Housing Department has introduced the Conditional Tenancy Scheme to assist domestic violence victims. However, each year there are more than 3000 domestic violence cases reported to SWD. But in 2004/2005, only 100 odd domestic violence victims applied for the Conditional Tenancy Scheme. The Scheme has **not made known to its potential users and thus significantly under-utilized.**<sup>14</sup>
- (j) under para. 92 that it all along has close collaboration with the NGOs like most members of the Working Group on Combating Violence ("WGCV") are from NGOs. However, WGCV is **only an advisory body** placed under the SWD. It does not have any function in policy making, co-ordination or supervising.<sup>15</sup>
- (k) under paras. 94 – 101 that it has provided trainings to various professionals involved in domestic violence cases. However, **incidence of domestic violence is still significantly under-reported.** Besides, existing arrest and prosecution policy and the attitude of front-line police officers, lawyers, prosecutors, judges, etc, still place a heavy burden on the victims to decide whether or not they should testify against the batterers. At the same time, the whole system still fails to give them assurance that they are fully supported and protected throughout the investigation and legal procedure. See also the figures provided by the HKPF in para. 2 above.

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<sup>12</sup> For more details, see para. 18 of Ch. 1 below.

<sup>13</sup> For more details, see para. 68 of Ch. 7 below.

<sup>14</sup> For more details, see para. 15 of Ch. 2 below. See also Appendix 4.

<sup>15</sup> For more details, see para. 9 of Ch. 1 below.

## RECOMMENDATIONS

1. Every policy proposed or implemented by the HK Government should be scrutinized from a gender perspective so that the gender impact of such policies can be identified and rectified as necessary. (Para.7 of Ch.1)
2. HK Government should establish a comprehensive policy to eliminate violence against women. (Para.10 of Ch.1)
3. The WGCV should be promoted under the responsibility of the Chief Secretary for Administration who should establish a coordinating mechanism to plan and implement policy concerned with curbing domestic violence, and to perform policy review from time to time. (Para.11 of Ch.2)
4. Specialized and one-stop services should be provided for domestic violence victims. (Para.12 of Ch.2)
5. A team operating 24 hours should be set up to provide support to victims of domestic violence including a round-the-clock hotline service. (See para.14 of Ch.2)
6. There should be more publicities and educations to abused women of all available support services like the Conditional Tenancy Scheme. (Para.15 of Ch.2)
7. A clear guideline and review/appeal procedure should be drawn up for the exercise of discretion given to the Director of SWD to grant CSSA to adult victims of domestic violence even though they have not resided in Hong Kong for 7 years or more. (Para.18 of Ch.2)
8. Definition of child abuse should be reviewed to include those children who witnessed or confronted by domestic violence. (Para.19 of Ch.2)
9. HK Government should allow domestic violence victims and related women's groups to participate in the decision making process of domestic violence related policies. (Para.21 of Ch.3)
10. Teachers should be specifically trained in handling students having encountered domestic violence. (Para.22 of Ch.4)
11. HK Government should have comprehensive policy and issue guidelines for frontline medical practitioners in dealing with domestic violence victims including compulsory referral to the police and social worker by the medical practitioners if they suspect their patients may be domestic violence victims. (Para.29 of Ch.5)
12. A domestic violence court should be established to handle all aspects, criminal and civil, of all domestic violence cases. (Para.34 of Ch.6)

13. **Mandatory reporting measures** should be adopted. Professionals like social workers, medical practitioners, teachers, etc should be given education and training to encourage appropriate and prompt referral and mandatory reporting. (Para.36 of Ch.6)
14. Clear policy and practice **guidelines and checklists on arresting and investigation of domestic violence cases** should be drawn up, any breach of which should be a matter for **disciplinary proceedings**. Prosecution policy should not solely rely upon the victim's consent to testify. Pro-arrest and no-drop prosecution policy should be adopted. (Paras.39 & 41 of Ch.6)
15. The existing DVO should be reviewed so that all relevant ordinances relating to domestic violence, civil or criminal, will be brought together under the new DVO. **Domestic violence should be criminalized** and redefined in the new DVO. (Paras.43 & 45 of Ch.6)
16. HK Government should accept the recommendations of LRC **to criminalize stalking**. (Para.49 of Ch.6)
17. **Court-mandated Batterers Intervention Programmes** ("BIP") should be introduced. (Para.51 of Ch.6)
18. There should be more support to the battered women in their **application for injunction order**. Existing procedures to grant legal aid to battered women in applying for injunction order should be reviewed. (Para.54 of Ch.6)
19. **A Domestic Violence Serious Injury or Fatality Review Committee** should be set up to conduct a thorough review on domestic violence serious injury and fatality cases. (Para.57 of Ch.6)
20. More empirical studies should be carried out on the implementation of domestic violence-related policies so that **effective, appropriate and long-term strategies** can be formulated. (Para. 58 of Ch.6)
21. **A long-term public education policy** should be formulated to reduce negative attitudes in the community such as the cultural acceptance of domestic violence, and to increase knowledge of relevant legal and social services, so as to motivate help-seeking behaviour. Specific trainings should be provided to social workers, medical practitioners, police, prosecutors, lawyers, judges, etc to increase their sensitiveness towards domestic violence cases. (Para.61 of Ch.6)
22. A **maintenance authority** should be set up for maintenance recovery to be taken up by a statutory body in needy cases. (Para.66 of Ch.7)
23. Victims of domestic violence should be **exempted from the proposed new 'joint parenting model'**. (Para.67 of Ch.7)

## PREFACE

**This is a real incident of domestic violence: tragic but typical and insightful.**

1. On 11 April, 2004, a multiple murders occurred in Tin Shu Wai that resulted in the death of the whole family. Jin Shu-ying ("Jin") and her two six years old daughters were killed by her husband, before he committed suicide. This is a tragedy, but it is hardly an accident. Jin who has migrated to and lived in Hong Kong since January 2004, kept on asking for help because of domestic violence to various government departments and NGOs including SWD, social workers from the Family and Child Protective Services Units ("FCPSUs"), social workers from IFSCs, the police, refuge centers, etc.
2. Jin has been psychologically and sexually abused by her husband for a long time. Once she called on a social worker from SWD because her husband sexually abused her two young daughters. The social worker then arranged them to go to a refuge center and reported the case to the police. The police then undertook a video recorded interview with the two young girls. Before the joint professionals' meeting was held, the social worker already arranged the girls to go back home.
3. In less than a month after they returned home, Jin's husband bought a knife and threatened to kill Jin and their two daughters. As a result, Jin again sought to stay at a refuge centre. But the social worker who came to visit Jin did not believe in her story because the social worker could not find the said knife. The social worker then transferred the case from the FCPSUs to the IFSCs, and reduced the case's classification from "domestic violence case" to "general family dispute case". The social worker even arranged Jin and her husband to receive family dispute counseling. In March 2004, Jin's husband was so furious that he told the social worker that he wanted a divorce and termination of the counseling service. However, the social worker failed to alert that the case had come to a boiling point already. After the tragedy, neighbour of Jin handed out two knives that Jin had given to her for safe-keeping. This proved that Jin's story was true.
4. On 9 April 2004, Jin called the police's emergency hotlines and reported that her husband injured her with a piece of glass. Originally the police dispatched four policemen to investigate at the scene. However, two uniformed policemen arrived at the scene earlier than the said dispatch, and took statement from Jin

along side with her husband. As a result, Jin was too scared to tell the truth but changed her statement that she was cut herself. The uniformed policemen then called off the dispatch and re-classified the case from "domestic violence" to "family dispute". The uniformed policemen merely sent Jin's daughters off to be taken care of by Jin's neighbors, without taking further statements from the girls. Jin and her husband were then brought to the hospital. In the medical report, it clearly stated the background of Jin's abuse, but the police denied that they had any knowledge of the same. The policemen also said that they had tried to mediate but not investigate the matter. However, the policemen finally arranged Jin to live in a refuge center, which showed that the police's handling of this case was contradictory. On one hand, they did not treat this case as a domestic violence case. At the same, however, they considered that Jin would be in danger if she returned home. In the end, the police left without even having arranged the two daughters to stay with Jin at the refuge center.

5. This was not the first time Jin stayed at the refuge center. Before, she would bring along her two daughters whenever she stayed at the refuge center. This time, Jin stayed there alone and the staff of the refuge center simply did not pay much attention to such difference. During her stay there, Jin told other roommates at the center that she was in great fear, because her husband always bought knives and used them to threaten her at home. Her husband also told the case social worker that she was a prostitute so that the social worker did not trust her. Also, she decided to apply for divorce after Easter's holiday, but she really worried about her livelihood afterwards, as then she could no longer apply for CSSA.
6. On 11 April 2004, Jin originally planned to go out for a walk with her roommates, when she received a call from her husband, threatening that if she did not come home immediately, she would never see her daughters again. After having informed the staff of the center of what had happened, Jin went home immediately. Failing to discuss with or offer protective arrangement for Jin, the staff merely remind Jin to take care which indicated that at that time, the staff was aware of the potential danger that Jin might have encountered. The staff was obviously negligent in handling the case this way. As Jin got to her home, she found that the door was locked. She then went to Tin Shui Wai police station for help. The police there, however, failed to look at Jin's previous records and was not aware of Jin's background as a victim of domestic violence. The police

told Jin that as her children were only lost for a few hours, the police could not help her at that point. Besides, since the telephone number of the refuge center is confidential and unlisted, she could not contact the social worker there to verify her case to the police. Further, it was a public holiday, she could not even contact her case social worker. As a result, she went home again and this time, she failed to survive from the violence: she and her daughters were killed at home by her husband.

**This heartbreaking story ends here, but the tragedy seems never-end ...**

7. On 7<sup>th</sup> June 2006, a 48 years old woman was killed at home by her 70 years old ex-husband shortly after they had formally divorced.<sup>16</sup>
8. On 9<sup>th</sup> June 2006, an old lady aged 73 was killed at home by her 76 years old husband. The old lady had a long history of being abused by her husband.<sup>17</sup>
9. In fact, the Tin Shui Wai Tragedy overwhelmed the society with shocks and angers.<sup>18</sup> The general public was not only grieved over the incident but felt extremely angry towards the various departments in handling the case in such a way. The incident reflects how 'unprofessional' the 'professionals' were. It also uncovers the professionals' lack of sensitiveness to the risk of domestic violence, the lack of supports for battered women, the lack of coordination among various government departments, and the inadequacy of existing legal protection, social policy and risk management mechanism to meet such social need. Most importantly, it reveals that the HK Government failed its duty to formulate effective policies, legislations and all other measures to protect women from discrimination and harm in accordance with CEDAW. The HK Government also failed to treat and handle domestic violence as a kind of social problem but merely as a form of family or personal dispute. It ignored the fact that each year there were more than three thousands reported domestic violence cases and the number was still on the rise.
10. Three years after the HKSAR's 2<sup>nd</sup> Report and two years after the Tin Shui Wai Tragedy, the HK Government, after all, still **paid lip-service to domestic violence** in HK.

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<sup>16</sup> See relevant newspaper cuttings at Appendix 2.

<sup>17</sup> See relevant newspaper cuttings at Appendix 2.

<sup>18</sup> See Coroners' Court's findings and suggestions in this case at Appendix 5.

## Chapter 1

### **Article 2: Policy Measures and Gender Mainstreaming**

1. The HK Government lacks a comprehensive policy in implementing gender mainstreaming. The responsibility of implementing gender mainstreaming is given to the Women Commission, currently under the Health, Food and Welfare Bureau. The Women Commission lacks the authority to reinforce gender mainstreaming, and lack of understanding to priorities the evaluation of government polices that most affect women lives.
2. In 2003, the Women Commission has come up with a watered-down gender mainstreaming checklist with "Yes" or "No" type of self-evaluation as a way to implement gender mainstreaming in government policies. A total of 19 policies were being evaluated. The Women Commission has made no recommendation or follow-up actions after they received the results of the checklists, which make just an exercise without much affects on government policies. None of the Bureau or department participated in filling the gender mainstreaming checklists in the last 3 years were directly involve in services provide for domestic violence victims, even after heightened public concerns in the ways various government departments have deal with domestic violence incidents.
3. The Women Commission has not publicized its selection process by what criteria they have selected the departments to participate in the mainstreaming checklists. Also, the few policies the Commission has selected seem to lack "importance". For example, one of the achievements that the Women Commission stated as part of the gender mainstreaming impact is the installation facilities as racks, hangers, baby-changing counters" in female toilets. By publicizing this as achievement, the Commission has also reinforced the traditional gender perspective that "diaper changing" is a women job exclusively.
4. The Commission also ignored internal gender audit in this "gender mainstreaming" exercise, and it doesn't reflect on the situation of the employment situation within Government department.

5. Policies that greatly affect women lives in Hong Kong, that Women Commission has not take any notice or issue any comment or recommendation include:
- (a) The change in the residence requirement eligible for applying for Comprehensive Social Security Assistance has changed from 1 year to 7 years, effective on 1 January 2004, as recommended by the Task Force on Population Policy<sup>19</sup>, has great impact on new immigrant women, especially those who suffered domestic violence. There is no recommendation or objection or suggestion from the Women Commission on this policy change.
  - (b) Another issue is the lack of Age Discrimination legislation that affected women over 45. The HK Government lack of will in even discuss the Age Discrimination Ordinance that may assist many women who are considered "unemployable" once they reached the age of 45, when compare to men who do not usually suffered the same type of age discrimination. This "culture" of hiring only young women is not challenged by the government and has been ignored by the Women Commission. In the recent case of Cathay Pacific of involuntary retirement for women flight attendants at age 45 while their male counterparts would retire at 55<sup>20</sup>, the Women Commission has yet failed to notice of the issue.
6. On the whole, mainstreaming is a goal that hasn't been taken seriously by the government policy makers or the Women Commission. Gender mainstreaming is to put the gender issues into consideration into every policy proposed or implemented by the government and focus on the gender impact of such policies.
7. We therefore **URGE THAT** in order to implement gender mainstreaming, Hong Kong Government has to have identify issues and problems across all areas so that all differences and disparities can be diagnosed. Schedules and implement plans to serious implement that make all government departments to be accountable in implementing gender mainstreaming and policy set by government should not be enforceable instead of just being a suggestion, as we seen in the Women Commission report on Gender Mainstreaming.

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<sup>19</sup> Task Force on Population Policy. Hong Kong Special Administrative Region Government. 2003. Report of the Task Force on Population Policy. Hong Kong: Hong Kong SAR Government. p.65 – 67. <http://www.info.gov.hk/gia/general/200306/03/0603160.htm> (accessed May 5, 2006)

<sup>20</sup> Hong Kong Standard 3 April 2006. [http://www.thestandard.com.hk/news\\_detail.asp?we\\_cat=4&art\\_id=15678&sid=7342474&con\\_type=1&d\\_str=20060403](http://www.thestandard.com.hk/news_detail.asp?we_cat=4&art_id=15678&sid=7342474&con_type=1&d_str=20060403)

## Chapter 2

### **Article 5: Sex Role Stereotyping and Prejudice**

#### **Sex Role Stereotyping**

8. Stereotyped by traditional cultural values, women have a subordinate status in the family and they take the caring role. The status/role creates gender inequality in the family, women are forced to keep their grievances to themselves in cases of domestic violence. These cultural values reproduced themselves in families for generations, and now they are reinforced by government policies. When atypical pneumonia hits Hong Kong, the government made a TV announcement about hygienic home, in which a grandmother and her daughter-in-law were the ones who keep the house cleaned, the announcement reinforce women's role in domestic work. Domestic work in Hong Kong was never recognized by the government as unpaid labour. The population policy of 2004 stated that any person who reside in Hong Kong for less than seven years are no longer eligible for Comprehensive Social Security Assistance, for these people have made no contribution to Hong Kong. Those excluded by this policy come mostly from mainland China, they come to Hong Kong to take care of the elderly and the young in their family. The new policy strikes a blow at the abused women's will to seek help and support. Thus in the saying 'the majority acknowledged the existence of gender stereotyping in Hong Kong, though the extent of gender stereotyping was not very serious', (paragraph 42, Second Report on HKSAR under CEDAW) the majority was simply not aware of the seriousness of gender stereotyping.

#### **Co-ordination in curbing domestic violence**

9. Hong Kong government claimed that they work with non-government organizations through the Working Group on Combating Violence (WGCV) (paragraph 92, Second Report of HKSAR under CEDAW) and that the WGCV is the main body for handling domestic violence. The WGCV is merely a co-opting mechanism at the operational level, it is at most an advisory body. The WGCV does not function in policy making, co-ordination, and supervising. The WGCV is headed by the Director of Social Welfare Department ("SWD"), the SWD is the executive body of the government, what it has been doing in combating

domestic violence is to work at the operational level, it did not make plans and suggestions in changing the policy; the Director of SWD have their terms of reference, which makes it difficult to bring about co-operation among different sectors of the government, the SWD can only brought limited change in the area where their authority is at work. Hong Kong government assigned SWD to address the domestic violence problem, suggesting that they believe domestic violence is only part of the social welfare problem instead of a social issue at the public level.

10. To eliminate violence against women requires us to take measures in remediation, prevention and education. We therefore **URGE THAT** Hong Kong government should establish a comprehensive policy to eliminate violence against women. The safety of the victim should be placed at the top priority; the judicial and law enforcement bodies should take a more active role in fighting against violence; there should be enough support to tender the physical and psychological need of the abused women; the batterer should receive compulsory counseling and education, education at community level and at school should be enhanced, to promote the equality of and mutual respect between the two sexes.

11. Traditional culture takes root in our everyday life, welfare service alone cannot reverse the influence it exerted. Different sectors of the government working on their own means a fragmentary policy. We therefore **URGE THAT** Hong Kong government should input resources and establish a coordinating mechanism to plan and implement policy concerning curbing domestic violence and perform policy review from time to time. It should consider the suggestion of NGOs, to promote the WGCV under the Chief Secretary for Administration and it can operate like the Fight Crime Committee.

#### **Support services for the abused victim:-**

##### **I. Division of labour between Family and Child Protective Services Units (FCPSUs) and Integrated Family Service Centres (IFSCs)**

12. The function of IFSCs is to prevent family problem from worsening to the level of domestic violence. When assessment shows that the case concern may involve abusive behaviour, IFSCs would refer the case to FCPSUs. Reality is that most of

the abusive cases are followed up by IFSCs which are not specialized in handling domestic violence cases. Further, according to the newsletter of The Hong Kong Council of Social Service newsletter in July 2003, IFSCs have been shorthanded for a long time, each social worker has to handle more than a hundred cases of different natures. On average they can only allow one hour for each case per month. We therefore **URGE THAT** specialized and one-stop services should be provided for domestic violence.

## **II. Round-the-clock support for domestic violence cases**

13. Current hotline services of SWD opens until 10 p.m., after 10 p.m. the line is redirected to Family Crisis and Service Centre ("FCSC"), which is not specialized in handling domestic violence cases. Besides, it is not possible for FCSC to cover all the cases. According to SWD's written reply to a Legco member's inquiry in 22 March 2006, the hotline received more than 30,000 calls in 2005 but 60% of which were redirected to the answering machine. Most of the victims in spouse battering cases seek help in urgent state and if they do not get immediate help, it may pose a life threat to the caller. There was a case about an abused woman escaped from home and made a call to FCSC. The call was redirected to the mailbox. The woman did not have her mobile phone with her and thus the message she left could not be replied at once. This tells us how crucial an immediate support service is.

14. We therefore **URGE THAT** in the mean time, as IFSCs have to follow up cases of domestic violence, there should be round-the-clock hotline service provided in the centres so that victims can get immediate help and contact the relevant social worker. The operation pattern can simulate the mechanism now FCPSUs have.

## **III. Enhance the victim's knowledge of available support services**

15. To change the male superior sex role stereotyping, it is important that women be educated and informed about their rights. For example, under the existing housing policy, there is the Conditional Tenancy Scheme to suit the need of abused women. Its service pledge is to coordinate the tenancy with the shelter accommodation period so that the applicant can found new accommodation

within 3 months.<sup>21</sup> In Hong Kong, there are over 3,000 cases of domestic violence every year and yet only about a hundred cases can successfully apply the Scheme. It means that many abused women are uninformed about the Scheme concerned. We therefore **URGE THAT** there should be more publicities and educations to abused women of available support services like the Scheme concerned.

#### **IV. Shelter**

16. Women who left their violent home need a safe place for a short-term stay. Right now there are 4 shelters in Hong Kong. One of them was originally run by the government and was the one where Jin stayed. After the Tin Shui Wai Tragedy, the government did not review the operation of the shelter concerned but simply sub-contracted it to a non-government agency.

17. Abused women can move into a shelter for a period of three months, which allow time for the victim to get divorce and apply for conditional tenancy. At present, abused women are often told that they can only stay at the shelter for one to two weeks. In the pamphlet published by Wai On Home for Women (the shelter sub-contracted to non-government agency), it stated that applicant can only stay for two weeks except under special circumstances. This simply deters victims from seeking help and leaving their abusive partners. We therefore **URGE THAT** more shelter places with longer staying period should be provided.

#### **V. Financial assistance**

18. With the latest population policy, starting from 1<sup>st</sup> January 2004, any person aged over 18 and reside in Hong Kong for less than seven years would not be eligible for CSSA. New immigrant women facing domestic violence are hard hit by the policy. They cannot support themselves, nor can they get a job and take care of their children at the same time. This silenced these victims of violence and the experience would be damaging not only to the victims but also their children. It might turn into life threat in some cases. The Director of SWD do have discretion over granting CSSA to victims of domestic violence but the ambiguity as to how to exercise such discretion leads both the applicants and the processing officers into nowhere. Front-line social workers' experience shows

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<sup>21</sup> See Appendix 4.

that it is not uncommon for the Social Security Field Units to refuse an application on the ground that the applicant does not have a residence of seven years without considering if the applicant is a victim of domestic violence. We therefore **URGE THAT** a clear guideline as to the exercise of the said discretion should be issued and more publicities of such policy is needed.

## **VI. Support for child witnesses of domestic violence**

19. According to the statistics of SWD, there are over 3,000 cases of domestic violence and 300-400 cases of child abuse every year in Hong Kong. The statistics ignore the fact that domestic violence will also cause damage on those children who witness or experience domestic violence. Children witnessing domestic violence may develop psychological stress and mental illness. The child has to adapt to a single parent family, a new accommodation and new school. All these will affect the child's emotion and may cause deviant behaviour or the child may not be attentive on his/her study and thus affects his/her performance at school. We therefore **URGE THAT** the definition of child abuse should be reviewed and there should be a psychological profiling for children who witnessed or experienced domestic violence. Support services should also be assigned for these children to ensure their physical and psychological health.

## Chapter 3

### Article 7: Political and Public Life

#### Women's participation in advisory and statutory organizations

20. *"The Women's Commission believes it is necessary to provide room for women to take part in decision making for public affairs in a holistic manner"* (Para 122 of Government No. 2 Report). In reality, when the government formulates policies and services in relation to domestic violence, it does not solicit involvement of victims or battered women support organizations.

21. Victims of domestic violence have diversified needs. Inter-disciplinary collaboration is required for case follow-ups. According to SWD's guidelines, inter-disciplinary case conferences can be convened if necessary so as to facilitate exchanges of information and discussion on welfare matters. Regrettably, the government does not attach importance to the voices of victims and women groups. In April 2006, after following-up with a case of a battered woman for about 6 months, a support organization learned about an inter-disciplinary case conference to be convened shortly. The organization's request to participate in the conference was rejected and was only allowed to attend as an observer at the end. SWD explained that the said organization was a non-professional group. This example shows how the government neglects the voices of victims and women's groups. We therefore **URGE THAT** Hong Kong Government should allow domestic violence victims and related women's groups to participate in the decision making process of domestic violence related policies.

## **Chapter 4**

### **Article 10: Education**

#### **Education for children impacted by domestic violence**

22. The Education and Man Power Bureau have conducted some workshops in districts mostly affected by domestic violence. It is an indication that even Hong Kong government recognized the impact of domestic violence on children. The few workshops conducted in the few districts maybe helpful to the participants. The government, however, has yet to make serious commitment in helping children to deal with domestic violence at home. Many children are being negatively affected by domestic violence, with 160,000 living with spousal abuses at home<sup>22</sup>. We therefore **URGE THAT** more education and assistance is needed to help these children. And teachers should be specifically trained in handling students encountering domestic violence.

23. Domestic violence related issues are not part of the education curriculum in Hong Kong. Gender stereotyping in textbooks exists without being challenged by the government though constantly attracts criticisms from women's groups.

#### **Girls have higher share of housework and less time for study**

24. According to the Women Commission Gender Mainstreaming Report, the Census and Statistics Department's publication, "Women and Men in Hong Kong Statistics", stated that 38.3% of girls over 15 indicated that they shared most of the housework in their households, while only 8.8% of boys over 15 shared the same amount of housework. Such uneven share of housework indicates a gender bias within the household. While the education opportunities for boys and girls are equal, girls have much less time for study and other self-development. We therefore **URGE THAT** there should be more public education to parents so that the housework could be shared more equally instead of based on gender that disadvantaged girls.

#### **Over emphasis on families' harmony harm women**

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<sup>22</sup> LC Paper No. CB(2)209/05-06(05), *Hong Kong College of Paediatricians Response to recommendations by the Jury on Death Inquest of the Coroner's Court of the Tin Shui Wai Incident*

25. The public education program by the Women Commission on domestic violence<sup>23</sup>, "Together we build a Harmonious Community" over-stressed "harmony" over the individual rights of abused women who tried to break free from abusive "family members". SWD, while being the frontline service provider for domestic violence victims, has planned a large scale publicity campaign called "Strengthening Families and Combating Violence" which is contradicting in terms: The over-emphasis of the stronghold of family has significantly kept women in abusive family relationships. This kind of insensitivity has highlighted the intrinsic problem of the Women Commission who is supposed to work on eliminating violence against women.

26. We therefore **URGE THAT** education on domestic violence should concentrate on the serious harms of domestic violence upon women. It should also encourage responsible neighborhood like making reports of domestic violence cases to the police so that victims of domestic violence could get immediate assistance before violence escalated.

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<sup>23</sup> Women's Commission Report (2006), *Women's Safety in Hong Kong: Eliminating Domestic Violence*, page 38, <http://www.women.gov.hk/download/report-full-version-10-jan-06.pdf>

## **Chapter 5**

### **Article 12: Health**

27. Hong Kong government claimed that it has provided medical professionals with continuous training on dealing with domestic violence. However, most of the frontline medical practitioners still failed to receive any of the said training.

28. Besides, the Hospital Authority has yet to formulate any comprehensive policy or guideline for medical practitioners, hospitals, clinics, etc in dealing with domestic violence victims. While some frontline medical practitioners may have experience and training in handling domestic violence victims, many of them do not. According to the Medical Coordinator of Child Abuse, domestic violence is a serious problem and children are the silence victims<sup>24</sup>. None of the hospitals in Hong Kong have domestic violence coordinators specialized in dealing with adults victims of domestic violence. In fact, when the frontline medical practitioners come into contact with victims of domestic violence that require medical attention before the matter is reported to the police, it is not uncommon that some of them fail to refer the case to the police or for social service.

29. We therefore **URGE THAT** the Hospital Authority should have comprehensive policy and issue guidelines for frontline medical practitioners in dealing with domestic violence victims. There should be compulsory referral to the police and social worker by medical practitioners when they suspect their patients may be victims of domestic violence. Clear medical records should be kept accordingly.

30. Continuous training for medical professionals is still required so that they are better equipped in assessing the risk of domestic violence.

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<sup>24</sup> LegCo Paper No. CB(2)209/05-06(02), *Responses and Recommendations by the Medical Coordinators on Child Abuse I to the Subcommittee on Strategy and Measures to Tackle Family Violence, Panel on Welfare Services, the Legislative Council, 1 November 2005*

## **Chapter 6**

### **Article 15: Law**

**In Hong Kong, laws and polices against domestic violence fail to give adequate protection to all women**

31. Specific recommendation point 24(t) of the General recommendation No. 19 <sup>25</sup> sets out that member states should “*take all legal and other measures that are necessary to provide effective protection of women against gender-based violence*” <sup>26</sup> including effective legal measures <sup>27</sup>, preventive measures <sup>28</sup>, and protective measures <sup>29</sup>, etc.

#### **Domestic Violence Court**

32. In Hong Kong, there are two major but separate procedures in dealing with domestic violence cases. For the criminal aspects of the case, they will be dealt with in criminal courts like magistracies <sup>30</sup> whilst the civil aspects of the case will be dealt with in the District Court <sup>31</sup>. As to other family related matters like application for divorce, child custody, maintenance, etc, they will be separately dealt with in the Family Court <sup>32</sup>.

33. Such system is unsatisfactory. The victims have to witness several times and the holding of responsibility for batterers is diffused due to inconsistent judgments made by different judges based on different ordinances. <sup>33</sup> It fails to provide ‘appropriate protective and support services’ to the victims of domestic violence

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<sup>25</sup> General recommendation No. 19, approved by the Committee for the Elimination of Discrimination against Women, eleventh session, 1992 violence against women (“General recommendation 19”).

<sup>26</sup> Point 24(t) of the General recommendation 19

<sup>27</sup> Point 24(t)(i) of the General recommendation 19

<sup>28</sup> Point 24(t)(ii) of the General recommendation 19

<sup>29</sup> Point 24(t)(iii) of the General recommendation 19

<sup>30</sup> Perpetrators of domestic violence in HK are mainly punished under two statutes: Crimes Ordinance, Cap. 200 and Offences Against the Person Ordinance, Cap. 212.

<sup>31</sup> The only civil aspect of domestic violence cases provided for by the laws of Hong Kong is the application of an Injunction Order under the Domestic Violence Ordinance, Cap. 189 (“DVO”).

<sup>32</sup> The relevant statutes are Matrimonial Causes Ordinance, Cap. 179; Matrimonial Proceedings and Property Ordinance, Cap. 192 and Separation and Maintenance Orders Ordinance, Cap. 16

<sup>33</sup> See also Chan, K. L.; Chiu, M.C. & Chiu, L.S.(2005). *Peace at home: Report on the Review of the Social and Legal Measures in the Prevention and Intervention of Domestic Violence in Hong Kong*. [A Consultancy Study Commissioned by the SWD of the HKSAR]. Hong Kong: Department of Social Work & Social Administration, the University of Hong Kong, paras.7.41-7.54

cases as required under the Specific recommendation point 24(b) <sup>34</sup>.

34. We therefore **URGE THAT** a domestic violence court should be established in Hong Kong to handle all criminal and civil cases involving allegations of domestic violence or a violation of an injunction order. It should be an integrated criminal and civil court by restructuring and strengthening the existing Family Court <sup>35</sup>.

#### Reporting domestic violence cases

35. Reporting domestic violence cases to police is a very important step to help early identification of potential risk cases, without waiting for the happening of a traumatic event. However, the incidence of domestic violence has all along been under-reporting. According to the Central Information System on Battered Spouse Cases captured by the Social Welfare Department ("SWD") of the Government of HKSAR, in 2003, there were 3,298 reported cases of spouse battering in which about 88% of the victims were women. However, according to a household survey conducted in 2003, 7% of the adult respondents reported to have been battered by their partners in the past 12 months. Thus, reported cases may have only counted for 2% of the total number of domestic violence cases projected from the said household survey.<sup>36</sup> Even according to the statistics provided by the Hong Kong Police Force ("HKPF"), there was only 2401 domestic violence cases reported to and were so classified by the police in 2003 <sup>37</sup>.

36. We therefore **URGE THAT** there should be more education for professionals like medical practitioners, lawyers, teachers, social workers, etc on the risk assessment of suspected cases to encourage appropriate and prompt referral. More empirical studies on the reporting practice are needed. Mandatory reporting measures shall be adopted.

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<sup>34</sup> Specific recommendation point 24(b) of the General recommendation 19 provides that "*States parties should ensure that laws against family violence and abuse ... give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. ...*".

<sup>35</sup> See *supra*. note 33, paras. 7.52 - 7.54

<sup>36</sup> See *supra*. note 33, para. 4.77. On projection, 7% represented about 160,000 odd pairs of couples in HK in 2003.

<sup>37</sup> See Appendix 1.

## Arrest

37. Out of the 2,401 reports of domestic violence received in 2003, 1602 were miscellaneous reports of which majority concerned disputes and noise complaints etc. that did not amount to any criminal offences<sup>38</sup>. In 2005, only 1159 persons were arrested by the police in 2628 reported domestic violence cases<sup>39</sup>. Due to various reasons like fear of revenge, lack of knowledge, support and confidence, children factor, pressure from other family members, etc, many of the victims of domestic violence do not call police after being battered<sup>40</sup>. In particular, most of the women victims were not sure if the police regarded violent acts as criminal offences and some were even told by some police officers that these were only spousal conflicts, and not necessarily a crime<sup>41</sup>.

38. The existing prosecution and arrest policy in Hong Kong is to see if there is strong evidence or if the battered woman is willing to testify when there is no independent witness in the incidence. However, witnessing against their partner would create great pressure on them.

39. We therefore **URGE THAT**, there should be clear policy and practice guidelines and checklists on arresting and investigation of domestic violence cases (in particular, the collection of evidence like taking photos or video of the circumstances of the crime scene to ease the victims' burden to testify against the batterer) for the police and any police who breaches of the said policy or guideline shall be subject to disciplinary proceedings.<sup>42</sup> Besides, a mandatory or pro-arrest policy shall be implemented together with court-mandated treatment programmes for batterers and victim support services, in particular there shall be risk assessments of the case and careful identifications of the mixed role of victims and batterers.

## Prosecution policy and practice

40. In 2005, there were 2628 reported domestic violence cases. However, only 234

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<sup>38</sup> See *supra*. note 33, para. 4.78 and note 37.

<sup>39</sup> See Appendix 1.

<sup>40</sup> See *supra*. note 33, para. 4.44. About 2/3 of the women victims interviewed did not call police after being battered.

<sup>41</sup> See *supra*. note 33, para. 4.44(a).

<sup>42</sup> See also *supra*. note 33, para. 7.33.

persons were formally charged whilst 506 persons were bound over.<sup>43</sup> As said in paragraph 38 hereinabove, the initiation of criminal proceedings against batterers in cases where there are no independent witness/evidence would very much depend on victims' willingness to testify against the batterers and the quality of evidence to be given by the victims. Thus, all the responsibility is shifted to the victims who are already stressful and fearful enough to insist on pressing charges. It also created an impression that the legal system would not take action unless the victims insist.

41. We therefore **URGE THAT** the existing prosecution policy should be improved by adopting an independent and proactive investigation. It should be independent of the victim's consent. Whether the victim is willing to testify, the investigation and the decision to charge or not will be taken and made independently. Further, to alleviate the burden upon victims to testify against the batterers, improved method of collecting evidence like photo taking, video recording, etc of the crime scene shall be used to collect more and better evidence for the case. In the long run, there shall be domestic violence working teams consisting of such relevant personnel like prosecutor, social worker, police video recording officer, female police officer, etc to react to all domestic violence cases reported to the police and a no-drop prosecution policy shall be adopted.

#### **Reform of the Domestic Violence Ordinance, Cap.189 ("DVO")**

42. In recent years, there have been voices from various organizations in Hong Kong advocating the amendment of the DVO.<sup>44</sup> The existing DVO was created in 1986 and can no longer meet the challenges of the many faces of domestic violence. It is basically a civil law and only deals with the civil aspect of domestic violence, namely provides for the application of an injunction order and leaves the criminal aspect to be dealt with in accordance with the general criminal law. However, the existing criminal law including the two relevant legislations does not have any provisions specifically dealing with domestic violence.<sup>45</sup> There are no procedures under which the criminal courts can provide protection for victims of crime who might reasonably expect that the convicted criminal may harm them in the future. Thus, incidents of "domestic violence" are not, strictly

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<sup>43</sup> See Appendix 1.

<sup>44</sup> Like the Against Child Abuse and Harmony House, the Association Concerning Family Violence, the Hong Kong Law Commission, etc. See *supra*. note 33, para.8.1

<sup>45</sup> See Appendix 3.

speaking, classified as criminal offences in Hong Kong<sup>46</sup> and the public still holds a myth that domestic violence could be excused. For example, TV advertisements broadcasted by the Government in relation to domestic violence also fail to give out a clear message that domestic violence is a crime.

43. We therefore **URGE THAT** Hong Kong should take reference of the law reforms in the UK, US and Taiwan to criminalize domestic violence by reviewing the existing DVO. All relevant ordinances, civil or criminal, relating to domestic violence e.g. the DVO, Crimes Ordinance, Cap. 200, Offence Against Persons Ordinance, Cap. 212 including rape, marital rape, assault, harassment, stalking, injunction, etc shall be brought together under the new DVO.
44. There is no definition of domestic violence in the DVO and the only reference to "violence" is in section 3 of the DVO which provides for the power to grant injunction in case of molestation. Besides, under the present law, only married couples or cohabitating heterosexual couples, and their children are under the protection of the DVO, as the law only covers relationships within a "matrimonial home". The class of persons who can make an application is extremely limited compared to other jurisdictions.
45. We therefore **URGE THAT** the DVO should be reviewed to redefine what is 'domestic' and what is 'violence'. We consider that 'violence' shall include physical assault, sexual violence, psychological abuse, neglect, stalking and exposing a child to domestic violence<sup>47</sup> while 'domestic' shall include current and former partners and extended family members.<sup>48</sup>
46. Under the existing DVO, breach of an injunction order is not a criminal offence and the respondent will not be arrested by police unless the power of arrest under section 5(2) of the DVO is attached to the injunction ordered.<sup>49</sup> We

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<sup>46</sup> See Report on Domestic Violence Ordinance, Dec 2005, The Law Society of Hong Kong, page 4

<sup>47</sup> See *supra*. note 33, para. 8.35

<sup>48</sup> See *supra*. note 33, Recommendation 16 at page 158, and Report on Domestic Violence Ordinance, Dec 2005, The Law Society of Hong Kong, Chapter 3 at pages 12-27

<sup>49</sup> Section 5(1) of the DVO provides that if it is satisfied that the other party **has caused** actual bodily harm to the applicant or, as the case may be, to the child concerned, a power of arrest may be attached to the injunction ordered. The Court cannot attach a power of arrest if the other party **has merely threatened** to cause bodily harm to the applicant or child. It does not require the Court to believe that the respondent is likely to inflict actual bodily harm again in the future. It does not consider non-physical psychological damage, or non-violent molestation which could create great fear on the victims. See *supra*. note 33, para. 8.51. See also Report on Domestic Violence Ordinance, Dec 2005,

consider that no actual protection for the victims can be promised unless the respondents see the consequence of arrest if they are in breach of the order. Besides, the longest period of effectiveness of ouster and entry orders under section 3(1)(c)(d) of the DVO is 6 months.<sup>50</sup>

47. We therefore **URGE THAT** breach of non-molestation order and exclusion order should be made a criminal offence and is punishable by imprisonment. Alternatively, the test under section 5 of the DVO shall be amended to enable the court to consider “whether the perpetrator is likely to cause actual bodily harm, molestation, non-physical psychological damage or whether the respondent persistently disobeys injunction and makes nuisances to the applicant and to others concerned”. Besides, the judge shall have the discretion to grant restraining orders for a specified period or until further order. We also consider that the Court can make mandatory counseling order for the batterers to attend a BIP, Batterers’ Intervention Programmes as a condition attached to the non-molestation order under the DVO.

### **Stalking**

48. Although the Law Reform Commission of Hong Kong (“LRC”) have finished the study of criminalizing stalking years ago and was in support of the same, the government has been stalling on the issue with the excuse that they need to study more on the suggestion. The Legislative Council also expressed their support for the suggestion.

49. We therefore **URGE THAT** it is time for the government to carry out LRC’s recommendation to criminalize stalking.

### **Court-mandated BIP**

50. There is existing a number of voluntary BIPs in Hong Kong ran by different NGOs. According to different evaluations, these programmes were effective in bringing down physical and sexual abuse among its participants.<sup>51</sup> However, the

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The Law Society of Hong Kong, Chapter 5 at pages 41-55

<sup>50</sup> Although on 23<sup>rd</sup> June 2006 the Government proposed to extend the relevant period to 24 months, we consider that a full discretion shall be given to the court to decide in each particular case how long should the injunction order last without setting the maximum limit.

<sup>51</sup> See *supra*. note 33, para. 4.33

'practical significance' for victims shall be considered i.e. ending rather than merely decreasing violent behaviour. Besides, the existing programmes have not yet reached the 'real hard core' batterers and it is commonly agreed by social workers and clinical psychologists working with batterers that they cannot rely solely on the voluntary participation of batterers.

51. We therefore **URGE THAT** compulsory participation like court-mandated BIP shall be introduced in Hong Kong.<sup>52</sup>

### **Legal Assistance for Victims in Applying for Injunction**

52. In the period of 2002 to 2004, there were 187 applications for injunction order because of domestic violence<sup>53</sup>. Out of these 187 applications, only 62 in 2002, 44 in 2003, and 81 in 2004 were successful in their applications. The low application and successful rates indicated that the existing civil remedies are not sufficient to assist battered women.

53. In the period of 2002- 2004, there were 96 applications for legal aid because of domestic violence. Only 11 cases were applications for injunction order, the rest were all for matters of divorce or other related matters.

54. We therefore **URGE THAT** there should be more support to the applicants in applying for injunction order, in particular a simplified procedure and approving test shall be introduced in processing application for injunction so that domestic violence victims can make urgent applications themselves (even without the help of legal aid or private lawyers) for ex parte interim injunction order in case of emergency. Existing procedures to grant legal aid to battered women in applying for injunction order shall be reviewed and reformed so that they are more accessible to victims of domestic violence.

### **Research and Data Collection**

55. Specific recommendation point 24(c) sets out that "*state parties should encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal*

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<sup>52</sup> See further *supra*. note 33, Chapter 6 at pages 100-113

<sup>53</sup> Hong Kong Government Legislative Council document CB(2)1725/05-06(01)

*with violence"*

56. With increased sensitivity to domestic violence amongst the public, policymakers and the agencies, there is a recognized need to explore ways to work together as a team to share resources, information and professional views. In Hong Kong, the physical autopsy and the circumstances about a death is the main function of the Coroner's Court but it does not include the review of services provision, practice and procedures and psycho-social risk factors.
57. We therefore **URGE THAT** a Domestic Violence Serious Injury or Fatality Review Committee should be set up to conduct a thorough review on domestic violence serious injury and fatality cases. We believe that consistent reviews on all deaths related to domestic violence will help develop a profound understanding of the causes of death and suggest measures to the prevention of similar deaths in the future.
58. We also **URGE THAT** more empirical studies on the reporting practice, the existing practice of arrest and prosecute are needed. With the empirical support, strategies in improving reporting from professionals, including mandatory measures shall be examined. Besides, consultations on mandatory arrest and no-drop polices shall also be carried out.

#### **Preventive Measures**

59. Specific recommendation point 24(t)(ii) sets that "*state parties should take all legal and other measures that are necessary to provide effective protection to women against gender-based violence, including, inter alia: ... (ii) Preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women"*
60. Prevention is an important strategy of the Public Health perspective. It could be achieved through education and training, change of knowledge, attitude and practice. The strategies adopted should be "universal, selective and indicated".
61. We therefore **URGE THAT** there should be public education to reduce the negative attitudes as public risks factors like cultural acceptance of domestic violence and to increase knowledge of legal and social services, and thus to

motivate help-seeking behaviour. Further, legal actors like lawyers, police, prosecutors and judges shall be provided with special trainings to increase their sensitive towards domestic violence.

### Protective Measures

62. Specific recommendation point 24(t)(iii) sets that "*state parties should take all legal and other measures that are necessary to provide effective protection to women against gender-based violence, including, inter alia: ... (iii) Protective measures, including refuges, counseling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence*"

63. Commonly, victims of domestic violence hesitate to report violence to the police. They are unwilling to press charges against the perpetrator. They need legal knowledge and emotional support.

64. We therefore **URGE THAT** effectiveness of existing services should be evaluated and identify the room for improvement. Existing support services for victims and witnesses should be well coordinated with and supported by the legal system. Use of video-link by victims of domestic violence cases to testify at court shall be considered.

## **Chapter 7**

### **Article 16: Marriage and Family Life**

#### **Recovery of maintenance**

65. While the court may issue a maintenance order in cases of divorce, separation or abandonment, no income can be impounded if the payer has no stable income or is self-employed. Even in cases when income is successfully impounded, battered women do not receive necessary security in life because maintenance is not legally binding on employers. In cases of default maintenance payment, no government department is responsible for recovery assistance under the current mechanism. Battered women have to seek recovery on their own and there is no proper protection for them. Women are often forced to deal with the batterer in the course of recovering maintenance and may become vulnerable to being stalked and having their residence exposed.

66. We therefore **URGE THAT** a maintenance authority should be set up as soon as possible so that maintenance recovery is carried out by a statutory organization. It will help to reduce the government's expenses in CSSA payments and ensure proper protection for battered women and their children. The authority should request the payer to fill in a consent form when a maintenance order is issued. Maintenance assessment can then be carried out according to the information furnished to the Inland Revenue Department so as to reduce administrative costs in investigating the payer's income. For those who do not need to pay taxes, an oath should be submitted on a regular basis to prove the payers' lack of financial means.

#### **Joint custody**

67. The Law Reform Commission (LRC) has issued the Report on Child Custody and Access on 7 March 2005. Recommendation 27 proposes the introduction of a new "joint parenting model" into the family laws of Hong Kong. If joint custody is imposed, battered women are forced to maintain connections with the batterers after their separation. The batterer may take advantage of the situation to harass or abuse his ex-spouse and their children. Children who are

victims of domestic violence may have witnessed abusive acts and become reluctant to contact the batterer. The compulsory implementation of joint custody may cause serious psychological harm to the children and violate the principle of "upholding the best interest of children". We therefore **URGE THAT** victims of domestic violence can be exempted from joint custody.