

Submission from Amnesty International

May 6th, 1995

LegCo Panels on Constitutional Affairs and Home Affairs Joint Meeting.

I would firstly like to thank the Panels on Constitutional and Home Affairs for giving Amnesty International the opportunity to give some preliminary views on the implementation of the International Covenant on Civil and Political Rights (ICCPR) in Hong Kong. I must apologise that due to time constraints we have not been able to prepare a written submission. As a point of clarification I will not be covering, due to the working rules of Amnesty International, issues relating to complaints against police, the Correctional Services Officers and other allegations of human violations in Hong Kong falling within AI's mandate here today. These issues will be carefully looked at by the Researcher on Hong Kong based in London and submitted to the UN Committee.

Amnesty International just over a year ago called on the Hong Kong Government to undertake Institutional Reform to Protect human rights both now and in the future. Our calls focused on reforms that were needed to ensure that the rights embodied in the ICCPR were implemented in practice. We made several recommendations and although some initiatives have been undertaken by the government we feel that these initiatives are far from adequate.

The ICCPR requires that in practice there be an effective remedy for all victims of the rights set forth in the Covenant. (Article 2) We supported the recommendation made previously by this Council for a Human Rights Commission. Regretably, the Hong Kong Government rejected that call, and it is Amnesty International's opinion that there is still not an sufficiently accessible, affordable and effective complaints system. Consequently, some victims of human rights violations are left without an effective remedy, which is in contravention of the ICCPR. Whilst the courts have played a vital role in the implementation of human rights, Amnesty feels that judicial system should be complemented by a less expensive, less formal, simpler and faster complaints system. It is Amnesty International's opinion that the initiatives of the Hong Kong Government with regard to making legal aid more accessible and the review of the COMAC ordinance do not go

far enough.

Human Rights Implementation - The ICCPR requires governments "to adopt such legislative or other measure as may be necessary to give effect to the rights recognised in the present Covenant" (Article 2) Moreover, the United Nations Human Rights Committee, has emphasised that to implement human rights meaningfully, all branches and all levels of government must adopt a proactive approach. It is Amnesty International's considered opinion, that whilst the Governor states he is committed to human rights in practice not enough is being done by the Government to develop a "human rights culture". The Government has repeatedly resisted calls by this council, the legal community and many others to develop an independent legal aid agency, a call that Amnesty International strongly supports. If the ICCPR is to be effectively implemented in Hong Kong, the public must have full confidence in the impartiality of the agency determining which cases qualify for legal aid. The reality is, that a government dept, makes the legal aid decisions.

Article 3 of the ICCPR deals with the equal rights of men and women, and under this article Amnesty International urges that the UK Government extends the Convention on the Elimination of All Forms of Discrimination Against Women to Hong Kong as soon as possible. Whilst we recognise this is supposed to be occurring, we urge that pressure be brought to ensure that the Convention is extended without further delay.

Amnesty International has long considered that the detention of Vietnamese asylum-seekers in Hong Kong violates Article 9 of the ICCPR and to this end has made repeated representations to the both the UK and HK governments. For further details please refer to *Hong Kong: Arbitrary detention of Vietnamese asylum seekers*.

Article 14 of the ICCPR requires that all States maintain an independent judiciary. Amnesty International calls on the Hong Kong Government to identify any measures which maybe to needed to guarantee the future independence of the judiciary and implement them.

Article 24, whilst Amnesty International welcomes the extension of the the UN Convention on the Rights of the Child to Hong Kong, it is concerned about how it will be fully implemented, the implementation monitored and

the seemingly lack of promotion by the government of the Convention.

Article 40 of the ICCPR requires all States Parties to the Covenant "to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights". These reports to the UN Human Rights Committee are an absolute and integral requirement of the ICCPR. The International Covenant on Economic, Social and Cultural Rights also has the reporting requirement as we all know.

As the Joint Declaration and Basic Law guarantee that the International Covenants shall remain in force in Hong Kong after July 1997, the international reporting obligations also remain in force. Agreement must be reached as to how the reporting obligations for Hong Kong can be carried out effectively, given that China has not yet ratified the Covenants.

The UK Government should therefore take the initiative in seeking agreement with the governments of Hong Kong and China, and with the two UN committees, on an effective method for reporting about Hong Kong after July 1997. As this will be the last time that Hong Kong will report under the UK government on the ICCPR it is imperative that this issue is highlighted and an agreement found.

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Chairperson AIHK.