Submission of Women Coalition of HKSAR (WCHK)

To the United Nations Human Rights Committee

List of Issues

With Regard to the examination of the Third Report of the Hong Kong Special Administrative Region of the People’s Republic of China in the light of the International Covenant on Civil and Political Rights

7 August, 2012
Background Information and Contact Details for the Organization

Women Coalition of HKSAR (WCHK) - a Provocative organization, which dedicates to broaden the frontier for sexual movements and defend the human rights of sexual minorities. WCHK was established on 1st July 2003 and is a registered organization in the HKSAR. We do our work using a wide range of social movement tactics, depends on the issue or message we want to deliver. We do researches, press conferences and feature stories, direct actions, publications, public education talk.

WCHK aims to contribute our parts in the local female sexuality minorities including people of different sexual orientation and gender identities (SOGI), i.e. Lesbian, Bisexual, Queer and transgender community. We defend the human rights of sexual minorities facing discrimination in civil, political, economical, social and cultural rights due to their sexual orientation and/or gender identity. We are a member of International Lesbian and Gay Association - ILGA (International), Civil Human Rights Front (Hong Kong), and the Chinese Lala Alliance Advisory Board (Greater China).

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Introduction

This list of issues has been prepared by our organization to highlight the discriminatory laws and practices of the HKSAR government that against individuals based on their sexual orientation and gender identity. We complied the submission after conducted various consultations with stakeholders, including individuals and representations from relevant associations. A comprehensive shadow report is being finalized and will follow in due course.

The Concluding Observations of the UN Human Rights Committee in 2006 appreciate "the initiatives undertaken to promote non-discrimination on the grounds of sexual orientation". However, the discriminatory situation against peoples based on their sexual orientation and gender identity (SOGI) do not have much improvement or even worsen since the last examination by the Committee.

The list of issues raised in this submission reflected the discriminatory situation faced by people of different SOGI in the HKSAR today.
Article 2, 26

1. Failure of the HKSAR government to promote non-discrimination on the grounds of sexual orientation (Article 2, paragraph 2; Article 26)

HKSAR government reported in ICESCR third report that they promote equal opportunities on ground of sexual orientation through public education and publicity measures, and by setting up Sexual Minorities Forum and Gender Identity and Sexual Orientation Unit. However, the Forum and the Unit is merely functioning. The Forum even did not hold meeting since December 2010. The Unit setup a system for receiving discrimination complaints on the basis of sexual orientation, but refusal to acknowledge any discrimination cases.

Self-regulation and education fail to address discrimination on the basis of sexual orientation and gender identity. Based on a research by our organization, the results showed that the over 50% of participants faced discrimination, compare with the research we did 5 year ago the percentage is on 39%.

We urge the government to place the bill for an Anti-Discrimination Ordinance on Sexual Orientation before the Legislation Council.

We therefore ask the Committee to pay particular attention to this issue in preparation of HKSAR’s examination under the ICCPR. We would encourage the Committee to question the government if they plan to introduce legislation against sexual orientation.
Article 10

2. Transgender prisoners are treated disrespectfully in detention (Article 10, paragraph 1)

We received several cases that transgender prisoners in detention institutions are being treated disrespectfully by the government. Male-to-female transgender prisoners are forced to cut hair as short as male prisoners and detain in Psychiatric Centres.

We encourage the Committee to ask the government to account for its failure to set up regulations for treating transgender prisoners with humanity and respect.

Article 17, 24

3. HKSAR government refuses to reform legislation of age of consent (Article 17, paragraph 1; Article 24, paragraph 1)

Through a Judicial Review in July 2007, the Court of Final Appeal in Hong Kong ruled Crimes Ordinance Section 118, which sets the age of consent between consenting male adults at 21, is unconstitutionally discriminatory against gay men. Consequently, the HKSAR government is obliged to reform the ordinance, but the government refuses to do so.

We urge the government to reform the legislation of age of consent, to equalize the age of consent for all sexual orientations. We encourage the Committee to ask the government to account for its failure to set up regulations for treating transgender prisoners with humanity and respect. And when will the HKSAR Government reform the legislation.
Article 19
4. Obscene and Indecent Articles Ordinance limiting the freedom of expression of sexual minority issues

The government has recently conducted the second round of public consultations for the review of the Obscene and Indecent Articles Ordinance. In the document, the government is recommending a significant rise in penalties while refusing to provide any definition of obscene and indecent. We are concerned the probable further limitations on the freedom of expression especially regarding information on sexual minority issues.

*We would encourage the Committee to question the government if they plan to introduce any measures to ensure the materials of different sexual orientation issues enjoy the same freedom.*

Article 23
5. Implementation of the newly reformed domestic violence legislation

We welcome the government to reform the domestic violence legislation to extend the protection to cohabitating same sex partner. However, the government did not provide adequate and appropriate training to police officers and frontline social workers. The government organized a workshop for social workers about curing homosexuality in their young clients. There is only one shelter house for gay men or transgender persons and its always full. And the government refuses to consult with the LGBT community about the training program and refuses to grantee not to hold program about conversion therapy of changing sexual orientation form homosexuality to heterosexuality in the future.

Also, the government did not granted any extra funds targeting same sex cohabitation partners to raise the awareness and combat domestic violence.

*We urge the government to improve the implementation of the newly amended domestic violence legislation.*

*We would encourage the Committee to question the government if they plan to improve the implementation of domestic violence legislation to suit the needs of LGBT community.*