

Since March 1995, Equality Now has provided the Human Rights Committee with country-specific information regarding human rights violations against women. Most recently, in July 1995, we highlighted concerns about the situation of women in Russia, the United Kingdom, and Sri Lanka.

In preparation for your current meeting we have worked with individuals and non-governmental organizations to collect information about the implementation of the International Covenant on Civil and Political Rights (the Covenant) in Hong Kong and Afghanistan. The following is a summary of information we have received and concerns we have regarding the human rights of women in Hong Kong and Afghanistan.

### **HONG KONG**

In paragraph 31 of its report to the Committee, Hong Kong notes that it "is committed to fostering sex equality in Hong Kong." Furthermore, in paragraph 341, the government acknowledges its obligation under Article 26 of the Covenant to enact laws and policies that prohibit discrimination. Equality Now is concerned that the Government of Hong Kong has not lived up to these commitments and wishes to draw your attention to a number of concerns which have been raised in two reports submitted to you by the Hong Kong Council of Women (the Council).

Although the Hong Kong Government states in paragraph 310 of its report to the Committee that its Sex Discrimination Ordinance "became law in June 1995," the Council notes that this new law has not yet entered into force. In the legislative process, the Government opposed an amendment that would have required the law to enter into force no later than January 1, 1996, and the Secretary for Home Affairs has not announced a firm date for its entry into force, despite repeated requests to do so.

In paragraph 42 of its report to the Committee, The Hong Kong Government notes that the new Sex Discrimination Ordinance "provides that the Government shall not recognize village representatives who have not been elected or otherwise chosen on a 'one-person-one-vote' basis." However, the Council notes in its report that the Secretary for Home Affairs "flatly rejected" a suggestion that this provision of the Ordinance could be implemented immediately. Although the Secretary for Home Affairs is specifically charged under the Ordinance with enforcement of this provision, he reportedly told women's groups that the provision is too unclear for him to enforce and that the Government "does not run" the village elections, implying he would not enforce this provision of the law, which was opposed by the Government in the legislative process.

A further concern regarding the Sex Discrimination Ordinance is the extent to which its limitations and exemptions undermine the principle of gender equality. The Ordinance does not provide authorization for reinstatement in the event that a woman is found to have lost her job as

a result of sex discrimination. Moreover, it limits damages that can be awarded to a victim of sex discrimination to HK \$150,000 (less than US \$20,000), without regard to the actual damages suffered. These limitations contrast sharply with the recently enacted Disability Discrimination Ordinance, which provides that a victim of disability discrimination can obtain an order of reinstatement and has no limit on compensation for damages. With regard to exemptions, Equality Now notes that the New Territories Small House Policy is exempted from the Sex Discrimination Ordinance. This government policy provides that only indigenous male villagers with certain heredity are eligible for valuable land grants and building rights.

Equality Now considers the failure of the Hong Kong Government to introduce the Sex Discrimination Ordinance into force, despite its representation to the Committee, and the limitations which have been included in the Ordinance, which result in the law providing significantly lesser protection to victims of sex discrimination as opposed to other forms of discrimination, constitute a failure to comply fully with Article 26 of the Covenant. Moreover, the special exemption for the New Territories Small House Policy makes the Ordinance itself an agent of sex discrimination by the Government in providing economic advantages to men that are not available to women. Equality Now hopes the Committee will raise these concerns with regard to the Hong Kong Government's implementation of Articles 3 and 26 of the Covenant.

Equality Now is also concerned that the Government of Hong Kong does not effectively provide equal protection the law with regard to violence against women. The Council has highlighted in its report the requirement that a judge instruct the jury in rape cases as follows:

"[I]n dealing with sexual offences such as rape, you have to be extremely cautious before returning a verdict of guilty. Human experience has shown that people who allege that a sexual offence has been committed against them do sometimes tell an entirely false story which is very easy to fabricate but extremely difficult to refute. They sometimes tell lies for a variety of reasons such as indulging in a fantasy to exercising spite or malice, or for some neurosis or some psychological disorder, or for no reason at all. Therefore, I must warn you that . . . it is dangerous to convict on the offense of rape on the evidence of the victim alone in the absence of corroboration."

Equality Now has been notified by the Council that the Hong Kong Government announced recently its intention to introduce legislation to abolish this corroboration requirement. Although Equality Now welcomes this announcement it wishes to convey the Council's concern that such legislation, which has not yet been introduced, is only one of many steps that must be taken by the government in order to provide equal protection of the laws to the women of Hong Kong. As Ann Jordan, an Executive Committee member of the Council wrote to Equality Now:

"The corroboration requirement was only the most blatant example of a legal system riddled with bias and mythologies surrounding sexual offenses. There are many other problems with sexual offense cases that need to be raised."

The Council has informed Equality Now that rape convictions in cases involving acquaintances (referred to as "simple rape") are more difficult to obtain than convictions involving a strangers (referred to as "real rape"). Moreover, Equality Now notes that marital rape is not a crime in Hong Kong.

There appears to be a similar lack of attention in Hong Kong to the prosecution of domestic violence cases. Equality Now urges you to raise the 1994 case cited by the Council in which the Attorney General dropped charges against a man accused of unlawfully wounding his wife, Ann Wilkinson, with a knife. The charges were based on Ann Wilkinson's testimony and a medical report, evidence that would normally be sufficient to justify a trial. The Attorney General failed to provide any explanation for his conduct other than to say that the legal department had taken "into account the interests of the victim, those of the accused and the wider public interest." The Attorney General did not even discuss the possibility of dropping charges with Ann Wilkinson, who wished to press charges against her husband.

Failure to prosecute rape and domestic violence with the same vigor that other crimes of violence are prosecuted violates Article 26 of the Covenant, which guarantees equal protection of the law to women.

We hope that you will raise these concerns with the Government of Hong Kong. For your convenience, attached as Annexes 1 and 2 are copies of the reports of the Hong Kong Council of Women (as transmitted to Equality Now through electronic mail) which provide more detail on the issues outlined above.

### AFGHANISTAN

The Islamic government that took power in Afghanistan in 1992 issued religious "fatwas" making Islam the state religion and banning Afghan women from governmental and non-governmental posts.<sup>1</sup> There are also recent reports that Islamic Taleban forces, after capturing the city of Herat in Western Afghanistan, banned women from working in public services and banned girls from attending school.<sup>2</sup>

Prohibiting Afghan women from pursuing careers outside the home, and Afghan girls from pursuing education, contravenes Articles 3 and 26 of the Covenant, which forbid state parties from discriminating on the basis of sex. Instead of prohibiting discrimination based on sex, Afghanistan has actively discriminated against women and girls. According to a UN Development Programme report, Afghanistan ranks lowest of 54 countries surveyed in terms of income equality between men and women.<sup>3</sup>

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<sup>1</sup>*Faith & Freedom: Women's Human Rights in the Muslim World* 178 (Mahnaz Afkhami ed. 1995)

<sup>2</sup>*Islamic Fighters Ban Women From Work, Girls From School*, **Agence France Press**, Sept. 12, 1995 (Annex 3); *Taliban Pledge Education for Afghan Women Within Islamic Context*, **Agence France Press**, Oct. 8, 1995 (Annex 4).

<sup>3</sup>Jane Moir, *Women Fare Poorly in Pay League Table*, **S. China Morning Post**, Aug. 17, 1995, at 2 (Annex 5).

Equality Now is also concerned by Afghanistan's failure to allow a delegation to attend the United Nations Fourth World Conference on Women last month. Afghanistan reportedly stated that it would not allow its delegation to attend the conference because some of the items on the agenda were contrary to Islamic principles. Among these items the Deputy Foreign Minister, Abdur Rahim Ghafourzai, included "the right of the husband to control the women of the family."<sup>4</sup> Refusing to send a delegation to the United Nations conference sends a message to the international community that Afghanistan is not seriously dedicated to improving the rights of women in its territory, and the Deputy Foreign Minister's statement of explanation is contrary to the letter and spirit of the gender equality provisions of the Covenant.

Equality Now would also like to draw your attention to Amnesty International's recent report on the human rights situation of Afghan women.<sup>5</sup> We hope that Committee members will question the Afghanistan delegate about the deplorable treatment of women, including rape, torture, detainment and assassinations, reported by Amnesty International, in addition to the concerns highlighted above.

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<sup>4</sup>*Afghanistan pulls out of U.N. Women's Conference*, **Reuters World Service**, Aug. 31, 1995 (Annex 6).

<sup>5</sup>Amnesty International, *Women In Afghanistan: A Human Rights Catastrophe* (May 1995).

## INDEX OF ANNEXES

### HONG KONG

1. Report by the Hong Kong Council of Women titled *Hong Kong and the Implementations of the International Covenant on Civil and Political Rights* (for information on the Sex Discrimination Ordinance).

2. Report by the Hong Kong Council of Women (for information on Violence Against Women)

### AFGHANISTAN

3. *Islamic Fighters Ban Women From Work, Girls From School*, **Agence France Press**, Sept. 12, 1995)

4. *Taliban Pledge Education for Afghan Women Within Islamic Context*, **Agence France Press**, Oct. 8, 1995.

5. Jane Moir, *Women Fare Poorly in Pay League Table*, **S. China Morning Post**, Aug. 17, 1995, at 2.

6. *Afghanistan pulls out of U.N. Women's Conference*, **Reuters World Service**, Aug. 31, 1995.