HKSAR Government Report on CEDAW from Action for REACH OUT

I have been invited to share with you on Article 6 of the Government Report on CEDAW which states that "State parties shall take all appropriate measures, including legislation to suppress all forms of traffic in women and exploitation of prostitution of women". The bulk of the HKSAR Government’s report on this area concentrates on the Crimes Ordinance which, according to #40, "provides for several offences which are designed to prevent the exploitation of persons for sexual purposes". In reality, however, the Crimes Ordinance provides very little protection for local women who are exploited by pimps or forced into the sex industry because of their husband’s drug habits.

#41 then deals with the section of this Ordinance on Trafficking in persons into or out of Hong Kong for the purpose of prostitution shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment of 7 years". In Annex D we are then provided with a list of statistics which lists the number of convictions made and the maximum penalties imposed but, unfortunately, not the number of convictions made so the actual situation of trafficking in Hong Kong is not made clear. In actual fact, it is extremely difficult to secure basic information or even statistics on the situation of women trafficked into or out of Hong Kong.

In 1996, as a member of Action for REACH OUT, I was approached by the Global Alliance Against Trafficking in Women to assist them in collecting information to be included in a report on trafficking in women and forced prostitution to be presented to the United Nations Special Rapporteur on Violence against Women. Despite having a copy of a letter from the Special Rapporteur requesting cooperation in the compilation of this report, neither the Police nor the Immigration Department was willing to provide the necessary statistics. A request to the Correctional Services Department for two representatives from the Global Alliance Against Trafficking in Women to meet with some of the women being held in the detention centres for the offence, "Breach of Condition of Stay" was also met with refusal.

The Government in its report is also silent about the situation of hundreds of young women working in the night clubs of Wanchai. Most of these come from Thailand and the Philippines, recruited by agencies who produce a contract written in Chinese, the translation of which assures them that they are going to work as dancers. But on arrival here they soon realise that the work includes offering sexual services to clients. True, there is no coercion involved but family financial constraints and the added burden of having paid a lot of money to arrange this job and to leave their country usually means that they are not free to return home until the end of their contract.
Then there are the others who come to Hong Kong on a tourist visa and find themselves working on the streets or clubs. Action against this kind of trafficking tends to be limited to arresting the women who, on conviction of the offence, "Breach of Condition of Stay", are immediately sentenced to three months imprisonment, or fifteen months if they have entered Hong Kong illegally. If you attend court sessions in North Kowloon Magistracy you will hear of many cases of young women in such circumstances having worked in Hong Kong for a few days only being faced with this kind of custodial sentence. What happens to the families left behind, usually in China or Thailand while they serve their custodial sentences? Although the Police Department will insist that they are more concerned with the arrest of the syndicates and organisers of such trafficking, the arrest of the women themselves is obviously much easier and there never appears to be any evidence that there was ever an investigation into whether or not they were the victims of trafficking.

When asked about forced prostitution in Hong Kong, the Police Department will always say that 99.9% of women in the sex industry in Hong Kong are involved willingly. But what about the .1% (or more) who come here having signed a contract to work as a waitress or dancer then find themselves locked up and coerced into having sex with clients and receiving no payment until the debt incurred from their travel to Hong Kong and accommodation here is paid off? Obviously, women like this will have no access to health and social services. If they are able to escape, most are too traumatised by their experience and afraid of reprisals against their families to report to the police. Those who do are then dependent on the services of non governmental agencies as the Police Department neither offer a safe place in which they can stay nor any kind of financial assistance while they are waiting for the arrest and trial of the organisers of such trafficking. Less than three years ago, Action for REACH OUT had one such case where a 17 year old Filipina succeeded in escaping and told how she had been given drugs and often forced to serve more than twenty clients a night. She had no freedom of movement and was denied the right to refuse certain customers or to perform certain sexual acts.

Keeping in mind that in Hong Kong it is not illegal to be a prostitute, or to provide sexual services to another for money, or to use the services of a prostitute, there is another offence covered by the Crimes Ordinance which is not mentioned in the Government’s report - that of "Soliciting for an Immoral Purpose" and yet this is the offence for which most prostitutes working from the streets of Hong Kong are arrested. The Government reports that the offences covered by the Crimes Ordinance are not gender specific. Is it not strange then that it is mainly women who are arrested for this offence and are constantly found guilty then sentenced to heavy fines and custodial sentences? I agree that noone wants to be walking along the street and be solicited for an immoral purpose but what is the situation actually like? In Action for REACH OUT we conduct an outreach programme at least five times a week on the streets of Yau Ma Tei, Sham Shui Po and Tsuen Wan. Take Sham Shui Po for an example - the women’s working area is a dark, dimly lit street which is the location for a market during the day but after 9 PM the stalls are all closed and no business is conducted in the area. Most people in the area at night are just passing through. Here, the women wait for the clients and offer sexual services in nearby villas where they rent a room upstairs. If a policeman witnesses a woman approaching a client and hears her say, "$300 includes everything.", she will be arrested and charged with soliciting. However, if the Police are on exercise of entrapment, they can ask a woman how much money she wants and if she answers him, she will again be arrested for soliciting. When the Vice Squad
was challenged that the policeman was actually the one who solicited her, we were told that that is not how the law is interpreted. Once again, this is an easy arrest and is a clear example of exploitation.

In August of this year, it was highlighted in the Oriental Daily newspaper that the Police are now employing a new tactic (this situation has actually existed for several years) - that of placing pressure on male clients of prostitutes to act as witness and state that the woman solicited him. If the client refuses or shows reluctance, the Police merely threaten to inform his family what he has been doing. This may sound bad enough but what actually happens is that the Police go upstairs in the villa on a routine check of the landlord’s licence and just happen to find the woman and her client in the middle of a sexual transaction. On the strength of the client’s version of what happened, an account which is often prompted by the Police, the woman is then arrested for soliciting - not for receiving money for having sex - even though the act of soliciting has not been witnessed by the Police.

Once arrested, she is taken to the Police Station and charged with the offence but if her version of the sequence of events and that of the Police differs, pressure is still placed on her to sign the statement prepared by the Police. Until Action for REACH OUT intervened and clarified that the women have the right not to sign such a statement, any woman who refused to sign had "uncooperative" written on the statement, an action which was sure to influence the magistrate before whom she stood for trial. Even now, we still have occasions of being notified of cases where women have been refused to be released on bail solely because they were unwilling to sign a statement with which they disagreed.

In the report the Government states that assistance is available to prostitutes but the phraseology used gives the impression of dealing with a deviant group. Are the services of the Family Service Centres only available to those "willing to receive help" or will the Government be proactive in promoting and offering these services and consider that a sex worker in need, like every other woman in Hong Kong, has the right to this assistance? In Hong Kong, as in many other countries, sex workers belong to a marginalised group in our society. Which marginalised group in society will take the initiative to seek services, especially from Government? Our experience has been that sex workers are generally not aware of the services available to them and require accompanying of Action for REACH OUT staff because even when they know of the services, they are afraid to apply themselves because of the fear of discriminatory treatment because of the work in which they are involved. Careful reading of the Government’s report will allow us to see that these services, however, are available to them "when giving up prostitution". What if they wish to continue to be involved in the sex industry but require assistance?

The final section of the Government’s report on Trafficking and Exploitation of Prostitution insists that the fact that a woman is a prostitute is immaterial to the enforcement of laws relating to violence against women, an example of which is rape. And yet when Action for REACH OUT was being set up we went to the Police Stations in Tsim Sha Tsui, Yau Ma Tei, Mong Kok and Wan Chai to ask some questions, one of which was how many cases of prostitutes reporting having been raped did they receive. In each Police Station, the reaction was laughter accompanied by the question - How can they be raped when they are working as prostitutes? And only last week the South China Morning Post printed an article entitled, "Witness enraged
by prostitute tag". " An alleged rape victim became enraged when a barrister branded her a prostitute. She became furious and tearful when the defence barrister claimed she provided her massage clients with sexual services. " Even supposing she did, what connection does this have with her accusation of rape?

It would appear that the Government in Hong Kong sees prostitution as a social problem to be solved but constant arrest and harassment such as that just outlined merely serves to push sex workers underground where they will have no or very little access to the services which they require. Instead of ensuring that sex workers work in a safe environment free from harassment and health hazards, allowing women to choose the occupation option of participating in the commercial sex industry as in other types of legitimate employment the Government treats sex workers as social misfits to be reformed and is exposing them to the possibility of various forms of exploitation. With such misconceived attitudes, the Government is unlikely to be taking the lead to chart a plan of action to progressively tackle this age old social issue with passion and foresight.