

HRIC CEDAW
Oral Intervention

Sharon Hom
Executive Director
Human Rights in China
As submitted

Human Rights in China
Oral Intervention for the 36th Session of the Committee on the Elimination of
Discrimination Against Women

Consideration of the People's Republic of China's
Combined fifth and sixth Periodic Report

Monday, August 7, 2006

Madame Chairperson,
Distinguished Experts Members of the Committee,
Distinguished Delegates,
Colleagues and Friends,
Ladies and Gentlemen:

Thank you for this opportunity to address the 36th Session of the CEDAW Committee in advance of your consideration of country reports. My name is Sharon Hom, Executive Director of Human Rights in China (“HRIC”). HRIC works to promote universally recognized human rights and to advance the institutional protection of these rights in China.

I am here today to make a brief statement on HRIC’s written parallel report on China’s Combined Fifth and Sixth Periodic Report to the CEDAW Committee. In the brief time allowed, I am highlighting the two overarching themes addressed in our report that affect and exacerbate gender inequality and marginalization in

China: the lack of information transparency and gaps between Chinese domestic implementation and its international obligations.

As a sign of China's increasing experience as an active and important member in the international community, this latest China Report provides more detailed statistical information than previous reports to the Committee. We welcome this improvement. As one of the original 64 signatories to the Convention, China's increasing reporting efforts are promising.

However, China's Report also illustrates several serious challenges that remain for domestic implementation of the Convention. Whereas China has made great macroeconomic strides over the past few decades, Chinese women have not made economic or social gains on the same level as men. Further, these economic gains have not trickled down equally to everyone in China. The effects of cut-backs in state-provided services in education and health and the increasing urban-rural gap are disproportionately felt by women. This is particularly the case for many rural, migrant, and ethnic minority women and girls.

In addition, our Tibetan and Uyghur colleagues have documented the persecution of Tibetan nuns and adverse effects of China's family planning policies on Tibetan and Uyghur women. The China Report, however, does not examine the situation of minority women except in very general terms, and collapses "minority areas" alongside poor and rural areas.

Lack of transparency and access to information

The first overarching theme addressed in our report is the lack of transparency and access to information in China. This has negatively affected the domestic implementation of CEDAW. Much of the data provided in the China Report are treated as state secrets by the Government, which undermines a comprehensive and accurate review by this Committee of China's implementation of the Convention. Some of these examples include statistics on kidnapping and trafficking of women and girls, induced abortions and infanticides.

Fundamentally, the lack of access to transparent information undermines government accountability and prevents domestic civil society actors, ordinary citizens and the media from effectively contributing to the promoting of women's rights in China. Without grassroots ownership of the important issue of gender empowerment, the Chinese Government cannot build meaningful partnership with both local and international actors to form useful solutions for the advancement of women.

Gaps between Chinese domestic and international law

The second overarching issue we address in our report is the significant gaps that exist between Chinese domestic and international law. While the China Report lists numerous laws promulgated to implement articles under the Convention, there remains the issue of effective implementation. As already noted by the Committee in 1998, there is no definition of discrimination in Chinese law. Yet China does not provide an adequate explanation or analysis of this omission on the domestic implementation of the Convention. Further, China has yet to act on CERD

Committee's recommendation in 2001 for the Chinese Government to "review its legislation to ensure the adoption of a definition of discrimination in accordance with the Convention."

Where there are definitions in Chinese law, they are often inconsistent with China's international obligations. For example, China's definition on trafficking is weaker than international standards by only explicitly referring to the practice of prostitution. It does not include other possible forms of labor exploitation, such as forced labor or services, slavery and servitude.

China's definition of domestic violence under its Marriage Law is also very limited in scope. It excludes threats of physical violence and marital rape, as called for in the 1995 Beijing Platform for Action and also previously recognized by this Committee.

These gaps are exacerbated by inadequate implementing mechanisms built into the legal system. For example, cases of domestic violence in China require a direct victim complaint, which leads to the gross under-reporting of these cases in China. This negatively affects the protection of women throughout China and exacerbate remaining social prejudices based on gender.

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These two overarching issues of information transparency and gaps between Chinese and international law both have a serious impact on the implementation of CEDAW.

In this parallel report submitted by HRIC to facilitate the Committee consideration of China's combined fifth and sixth report, we focus specifically on: discrimination; trafficking and prostitution; education; health; and domestic violence. Particular emphasis is placed on the situation of rural, ethnic minority and migrant women, who face additional challenges in securing their rights under CEDAW.

The implementation of international treaty obligations—particularly human rights treaties—is a complex and challenging process. It requires reforms of formal law, the creation of implementation and monitoring mechanisms, training authorities, and human rights education for the public.

To this effect, HRIC offers in our parallel report a set of categorized and concise recommendations aimed at improving both the reporting process and the implementation of the Convention. Our recommendations range from legislative reforms to fiscal policies and to the implementation of capacity building programs.

These recommendations are examples of our commitment by HRIC to continue to build a constructive and long-term relation with the Chinese Government and the United Nations with the aim to promote the effective implementation of China's international human rights obligations.

Thank you.