

**A SUBMISSION TO THE SUB-COMMITTEE TO STUDY
DISCRIMINATION ON THE GROUND OF SEXUAL ORIENTATION OF
THE LEGISLATIVE COUNCIL HOME AFFAIRS PANEL
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Introduction

This paper serves to present the views, concerns and stance of the Movement against Discrimination related to sexual orientation in the context of Hong Kong SAR. The Movement against Discrimination advocates also the enactment of a separate bill prohibiting any form of discrimination on the ground of sexual orientation.

Concerns on Marital Status and the Application for Public Housing Services

The Movement against Discrimination acknowledges that members of a modern state are free to have their own choice of sexual orientation. Their choice should be respected by other members of the state and protected by the law. They are also, disregard the sexual orientation, entitled to all available social and public services, including public housing services, if individual members fit the basic criteria of a certain public or social service.

We understand that in the current context, it will be difficult for a homosexual couple in Hong Kong to get married formally in this stage. Thus, they may also face difficulties in applying for public housing services without a formal and recognized marriage certificate. However, in long run, the Hong Kong SAR should recognize the 'de facto spouse' relationship of a homosexual couple is, in fact, a marital status. That will resolve other related issues, for instance, giving medical consent on behalf of the de facto spouse at a critical time, adopting a child, other than eligibility for applying public housing services.

In Mainland China, 'de facto spouse' is not only a concept, but also a legal definition. We suggest that the SAR government should study the Chinese legal system in this aspect and make sensible changes.

Provision of Public Health Care Services

We understand quite well that there are clauses prohibiting prejudices or discriminatory behaviour in the Code of Medical Ethics and other similar documents governing the conduct and attitudes of helping professionals. Our concern is how to implement these clauses, or perhaps, whether some of patients with a unique sexual orientation will be actually treated unfairly but with a different reason or excuse. The use of ECT or other aversive therapy to 'cure' homosexuality should be prohibited formally and in written form for all medical professionals and helping professionals. Also, we cannot accept that a patient with a homosexual orientation does not have the access and entitlement to appropriate medical or other treatment that will be beneficial to his or her illness. We stress that it would be a kind of discrimination if a patient is declined of any useful means or treatment to their illness on the ground of their sexual orientation.

We reckon that concepts of equal opportunity and discrimination, in particular, those related to patients with a different sexual orientation, should be introduced more deliberately and sincerely in formal training programmes for helping professionals. There should also be formal channels and procedures of each registration board or professional organization for the handling of complaints in this specific respect.

We also suggest that de facto spouse of a patient could stay in the ward and accompany the patient as a relative or family member. The Government of the Hong Kong SAR should study the possibility of letting de facto spouse the right and responsibility to sign medical consent on behalf of the patient at a critical time, despite their sexual orientation.

Sections 118C and 118D of The Crime Ordinance

We acknowledge the apparent anomaly between the sections 118C and D of the Crime Ordinance, which related to the provisions on buggery. We also noted the justifications made by the Security Bureau but we do not agree. A review must be taken in this aspect so as to enhance equal opportunity. The Bureau could also have a review on criminal actions related to blackmailing so that loophole could be avoided.

Blood Donation Guidelines

We understand that there should be some kind of risk assessment measures while collecting blood from donors. However, in Hong Kong or elsewhere, risky groups, other than those have actively engaged in sexual activities with the same gender, include also those, who frequently purchase services from commercial sex workers or those with many sex partners but use no safety measures during the process of sexual activities. We advise that there should not be clear and strong hint in the blood donation guidelines that people with a homosexual orientation belong to the group with a higher risk of getting AIDs or HIV+ virus than those who are equally active in sexual activities but with the different kind of partner.

Problems in Employment and a Separate Bill of Discrimination on the ground of sexual orientation

We understand that the current Employment Ordinance may cover people with different sexual orientations. However, many problems may have been gone latent. The latent prejudice and discrimination also imply loss of jobs, differential treatment in fringe benefits, limitations in promotion and development, or even unnecessary harassment in work or social activities of workplace with a different reason or excuse. A separate bill prohibiting all forms of discrimination on the ground of sexual orientation is therefore fundamental to redress the grievances of people in Hong Kong SAR who happen to have a different sexual orientation than many others. This new bill is also a means to enhance equal opportunity and social justice in general and public education in this regard.