

and quality of life of the victim and his family. We, therefore, propose to pursue legislation against stalking. As a number of the LRC recommendations are controversial, we have issued a consultation paper setting out the considerations relevant to the LRC recommendations. The major issues on which comments are invited are highlighted below.

Issues on which Comments are Invited

Need for Legislation

- Should we legislate against stalking? *YES ONLY ON SPECIFIC CASES*

Offence

- Should stalking be made a criminal offence? *NO ONLY IN CIVIL CASES*
- If so, should the offence be based on the LRC's recommendation that a person who pursues a course of conduct, which he knows or ought to know amounts to harassment serious enough to cause a person alarm or distress, be guilty of a criminal offence? *NO*
- Should collective harassment and harassment to deter lawful activities be made offences? *NO, THE LAW IS AGAINST*

Penalty *BASIC LAW + CIVIL RIGHT*

- Should a single maximum penalty of a fine of \$100,000 and imprisonment for two years be set for the stalking offence? *NO*

SEE EXAMPLES, ATTACHED 1, 2

Defences

- Should the following defences recommended by the LRC be provided?
 - (a) the conduct was pursued for the purpose of preventing or detecting crime; *YES*
 - (b) the conduct was pursued under lawful authority; and *YES*
 - (c) the pursuit of the course of conduct was reasonable in the particular circumstances. *YES*

- Should a defence for news-gathering activities be subsumed under the "reasonable pursuit" defence in (c) above as recommended by the LRC, or a separate, specific defence for news-gathering activities be provided? If the latter, how should the defence be framed? *TO BE DISCUSSED LATER*

Restraining Orders in Criminal Proceedings

- Should the court be empowered to make a restraining order to prohibit a person convicted of stalking from doing anything which causes alarm or distress to the victim or any other person and if so, should a breach constitute a criminal offence?

Civil Remedies for Victims

- Should a person who pursues a course of conduct which amounts to harassment serious enough to cause alarm or distress of another be made liable in tort to the object of the pursuit? *YES*

- Should the victim be able to claim damages for any distress, anxiety and financial loss resulting from the pursuit and apply for an injunction to prohibit the stalker from doing anything which causes him alarm or distress? *YES*

Your Views

You can obtain the consultation paper from the Public Enquiry Service Centres of District Offices or download it from our website (www.cmab.gov.hk). Please send us your views by mail, facsimile or email on or before 31 March 2012.

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