

Letterhead of DEPARTMENT OF JUSTICE

Secretary for Justice's Office

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Our Ref. LP 3/00/7C

27 April, 1999

Dr. the Hon. C. H. Leong, JP,
Chairman, House Committee,
Legislative Council,
Room 1101, Central Building,
1-3 Pedder Street,
Central, Hong Kong.

Urgent By Fax

Dear C.H.

Proposed Abolition of the Corroboration Rules for Sexual Offences

You will recall that a motion was moved by the Hon Emily Lau in the Legislative Council on 21 April 1999 to urge the Administration to make every effort to implement expeditiously the recommendations of the United Nations Committee on the Elimination of Discrimination Against Women.

In this response, the Secretary for Home Affairs indicated that the Administration intends to propose amendments to the Evidence Ordinance to abolish the corroboration rules for sexual offences, as a positive step in the right direction. This was an issue which I addressed in my 20 March 1999 speech at the Workshop on "A World Free of Violence Against Women" organized by the Equal Opportunities Commission.

The existing law requires mandatory corroboration for evidence given in relation to specific sexual offences and a warning about the danger of convicting without corroborative evidence in other sexual offences.

The corroboration rules are anomalous because they are an exception to the general principle that it is the quality, rather than the quantity, of evidence which should count in a criminal trial. They are also an exception to the general rule that a defendant can be convicted on the uncorroborated evidence of a single credible witness, provided that the judge or jury is satisfied beyond reasonable doubt of the defendant's guilt. This also amounts to indirect discrimination against victims of sexual offences.

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The Department of Justice has prepared an Information Paper on the subject and the proposed amendments, the Chinese and English texts of which are enclosed. It is proposed that the requirement for corroborative evidence be abolished and the lack of a warning no longer be treated as a ground for appeal. I am sure that you would agree that it is important to ensure that unfair discrimination in any form be eliminated from our society over time.

The proposed amendment Bill has been assigned a legislative slot for introduction into the Legislative Council on 30 June 1999. A draft bill is being prepared and will be submitted to the Panel on Administration of Justice and Legal Services towards the end of May to seek endorsement.

I would appreciate any comments or thoughts which you may have on the proposed amendments so that these can be considered and reflected appropriately in the Bill. I, as well as colleagues from my Department, will be more than happy to meet and discuss with you any issues in relation to the proposed amendments. The subject counsel, Mr. Stephen Wong, Deputy Solicitor General (Tel: 2867 4752) and Mr. Michael Scott, Senior Assistant Solicitor General (Tel: 2867 4954), would be happy to answer any queries that you may have.

Thank you very much for your attention and support.

Yours sincerely,

(Ms Elsie Leung)
Secretary for Justice

c.c. Members of the Legislative Council

(Chinese translation to follow)