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Your Ref: CB2/BC/2/13

Marriage Ordinance (Chapter 181)

To: Bills Committee on Marriage (Amendment) Bill 2014, Legislative Council

Dear Sir/Madam,

**Re: OPPOSITION TO THE PROPOSED MARRIAGE (AMENDMENT) BILL 2014**

As a home-grown citizen, I am personally very sympathetic to W ( *W v Registrar of Marriage*) who has to undergo the pain of the sex reassignment surgery (SRS) and the tremendous social pressure that have come with her struggle to get married.

I however also see that the proposed amendment of the Marriage Bill intended to address the W case cannot be considered merely in the light of the W case alone as the long-held stability and prosperity that we are all enjoying today is founded in a marriage system within one-man and one-woman which has survived years of tests. The issue therefore needs to be considered from a broader perspective and social context.

Without being disrespectful or discriminatory to any individuals living in city, I am taking the liberty to write to **OPPOSE** the proposed amendment of the marriage bill that is currently under review by the Legislative Council for the reasons as below:

1. **This amendment bill, when get passed, does not merely give legal recognition to the marriage right of W, it has in fact a broader implication in our social attitudes towards gender definition and family values. The passing of the bill is in essence implying that the government is *endorsing* transsexual behaviour/marriage in the society. And should we?**
  - a) Many medical evidence have pointed out the risk of the SRS and the associated psychological pain that individuals would have to go through, not to mention the possible surgery failure in the process, rendering the gender identity unclear as a result. Also, the prolonged health risk posed to individual as a result of the pre/post-surgery medication and long-term hormone injection required is working to jeopardize one's health. Hence SRS is traumatic to individuals both physically and psychologically.
  - b) The possible confusion in the gender role that comes with the passing of the bill constitutes another source of major worry. How should we and our next generation define 'man' and 'woman' and understand each of our unique role and feature in the family warrants serious contemplation. And should an individual who has not successfully completed the SRS be treated as a male or female? The government has to be prepared to answer all these complex questions that comes with the passing of the amendment bill, bearing in mind also its obligation to provide the best environment for our next generation to grow.

c) Whether to give recognition to the marriage rights of the transsexuals should not be considered merely from a narrow perspective in “human rights”. Each of us has the freedom to do a lot of different things in the society. However, it’s only those behaviours carrying certain important values would the society endorse, encourage and even promote in our social system. So does our society really want to *encourage* more sex reassignment surgery be done for people to get married in their new sex? And does the value we are endorsing with the recognition of the marriage right of the transsexuals go in line with the majority’s cultural and social values in Hong Kong? And are we doing any good for the society at large?

**2. The recognition of the reassigned gender after a full Sex Reassignment Surgery (SRS) as incorporated in the proposed amendment bill would lead to a de facto recognition of same sex marriage.**

We have to realize that individual who has undergone a full SRS is still carrying the same DNA in his/her body and this cannot be changed by the SRS or any medication. In this sense, despite the full SRS, there is no change in one’s gender as born and therefore the conferment of the marriage right to transsexuals with the reassigned gender would just amount to a de facto recognition of the same sex marriage in HK.

The issue is complicated by the fact that when both men, who are both transsexuals, have undergone the SRS at a different time. In giving recognition to one of the parties who has completed the SRS the reassigned sex thereby enabling her to marry her loved one, if the husband later chooses to go through the same SRS to change his gender, the transsexual marriage will then turn into a de facto same sex marriage as both parties have acquired female gender after the SRS.

As evidenced in many western countries including Canada, the U.S. and U.K, the legalization of same sex marriage has radically changed the society in many ways. Children are given books normalizing homosexual marriage, and parents have lost their parental rights to opt their child out in related education. What is more, those who are just acting on their conscience to disagree with homosexual marriage are marginalized, if not prosecuted. This is definitely not a future that we want to move in to.

**3. It is imperative that the public be well informed of the consequences of the passing of this amendment bill, and the far-reaching ramifications that it would bring before we pass the bill.** As Mr Justice Chan PJ has aptly pointed out in his dissenting judgement in W case, “There is no sufficient evidence to support that our social values and concepts have changed to the extent of abandoning or fundamentally altered the traditional concept of marriage.” The redefinition of sex and marriage system is such an important social issue that it should not be treated lightly and passed hastily without a full public consultation. The full vetting of the bill and participation by all sectors in the society is essential, without which it would just lead to social split up, thus risking the stability and harmony of the society which we long cherish.

To conclude, the proposed amendment in marriage bill should not receive approval from the Legislative Council. This is not to discriminate the transsexuals. Every one of us, including the transsexuals, also need care from the society to address the problem we are facing. But in light of the above, to recognize their reassigned sex after full SRS and therefore marriage right through current amendment bill is something that we need to think through with extreme care. And I would strongly urge the Government to take reference on many other countries which have gone through similar development so that we can humbly learn from their experience and not to repeat the same mistakes again. Indeed, we have to thoroughly examine the social implications that it would bring before initiating any enactment or amendment on our marriage law in Hong Kong.

Thank you for your kind attention.

Yours faithfully,  
Cheung Wai Ping