

The following is a summary translation of the written submission by the Parents for The Family Association dated 15th April, 2014 to Bills Committee on Marriage (Amendment) Bill 2014:

Summary of Submission

I. Preface

1. The motto of this association is “Love your family and contribute to the society.”
2. We regret deeply over the judgement of the Court of Final Appeals in FACV No. 4 of 2012 that W, a post-operative male-to-female transsexual person is granted the right to marry in Hong Kong as a woman. We fear that the inclusion of transsexuals as qualified persons to the one man to one woman marriage institution in Hong Kong would signal a green light to further civil lawsuits resulting in the further expansion of the existing marriage institution to include also gay partners in marriage. Should something like that happen, Hong Kong as a civil society will suffer greatly with phenomenal social costs in the long term.
3. As we honor the rule of law in Hong Kong and we are extremely helpless and aggrieved in our position of NOT to oppose the current government proposal to amend the Marriage Ordinance so that W would be granted her marriage right in due course. However, we do ask the government to conduct a thorough consultation and assessment before finalizing the concerned proposal to amend the existing marriage legislations.
4. We AGREED with Justice CHAN Shiu Oi, PJ in his dissenting judgement, namely, that recognition of transsexual marriages is a radical change of the traditional concept of marriage and marriage is an important social institution which has its basis in the social attitudes of the community. Changes in the laws of overseas jurisdictions to allow transsexuals to marry in their post-operative sex have been informed by social consultation which indicated changes in social attitudes towards marriage. There is no evidence whether social attitudes in Hong Kong have changed to the extent of abandoning or fundamentally altering the traditional concept of marriage. The Court should not invoke its power of constitutional interpretation to recognize transsexual marriages in the absence of such evidence.
5. We note that the marriage between a man and a woman has both historically

and traditionally been based on the concerned persons' inborn biological sexes. **The inclusion of transsexuals into the marriage institution effectively expands the scope and definition of one's sex to one's preferred sex or gender.**

6. We recognize that existing marital situations in Hong Kong are far from perfect. Indeed, the bonding and stability of local marriages have been on a downward trend hitherto owing to a number of factors including the quest for individual human rights and freedom disregarding one's obligation to the society. We also foresee the following problems to arise should local marriages be further weakened by unfit legislations:
 - a. Local marriages will become more chaotic and slack as divorces will increase and consequential problems will arise.
 - b. The anticipation towards marriage will suffer an appreciable decline among the public in general and our younger generations in particular.
 - c. Pansexual persons in the mainland will be attracted to Hong Kong resulting in further escalation of the conflicts between locals and mainland incomers.
 - d. Both the government and our society will have to pay a hefty price owing to the dilution and dissolution of the marriage bond.
 - e. Local Chinese people (esp. natives) will become frustrated and angry as a result of the traditional marriage being damaged.
 - f. There will be escalated social confrontation and grievances as indigenous inhabitants may be aggrieved and angered by the possible claims over Ding (i.e. male descendant) rights by transsexuals amongst their clans.

II. Our Suggestion

1. We opine that the government should allocate sufficient resources for the thorough investigations of local family and marriage situations especially on the contribution to the society by such existing norms and institutions. A good estimate should be made of the likely effects and burdens on our society due to the possible weakening of the marriage institution and bonding.
2. In the formulation of government policies and their implementation, the authorities should do so based on good scientific studies and data with a good foresight of the likely developments. We also suggest that the authorities should take a step by step strategy so that the simpler and easier issues can be resolved before jumping onto the more difficult ones.

III. Other Relevant Opinions

1. It is important to bear in mind that Hong Kong belongs to China and is only one city (though cosmopolitan) after all. We should take into account of the likely interactions and mutual influences among our neighbours when such legislations and policies are made.
2. We take note that Article 23 of the International Covenant on Civil and Political Rights states that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State. The right of men and women of marriageable age to marry and to found a family shall be recognized. Besides, Article 26(3) of the Universal Declaration of Human Rights states that parents have a prior right to choose the kind of education that shall be given to their children. The latter is reiterated in HONG KONG Bill of Rights (Cap. 383) article 15(4), namely, the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions shall be respected. The aforesaid rights might be infringed upon after the enactment of the current proposal to amend the Marriage Ordinance of Hong Kong as schools and educators are bounded by the local legal provisions in terms of their teaching materials and stance. For instance, it might be imprudent or unprofessional for teachers to continue telling, according to their own belief, their students that transsexual marriages are inappropriate and harmful to the traditional marriage institution then. Thus, the parents may then be stripped of the right to choose the kind of education in conformity with their own convictions.

IV. Our Appeal

1. We appeal to the authorities to maintain extensive and constructive communications with all sectors concerned in Hong Kong. The agenda of systemic risks and long term undertaking should be duly addressed. We also urge local residents to reflect your honest views to your elected representatives so that they could honestly speak and vote on your behalf when required.
2. For such important issues as the marriage institution, we appeal to the law courts (esp. the Court of Final Appeal) to introduce a pre-trial procedure in lawsuits such as FACV No. 4 of 2012 so that the court would be duly informed by social consultation concerning the public's views, preferences and limitations relevant to the well-being of our society.

3. This Association is distressed and helpless in giving up our objections to the government proposal to amend the concerned marriage legislations. However, we do ask the government to conduct a thorough consultation with the public before finalizing their amendment proposals. We also declare that we would reserve our constitutional rights to redress the concerned decisions or amendments should things turn out to be detrimental to our families as well as our society. More important, the Joint Declaration of 1984 guarantees that the capitalist system and the way of life in Hong Kong shall remain unchanged for 50 years. Obviously, the marriage institution then and now is an important aspect in the way of life of Hongkongians.

Note: The original submission is written in Chinese dated 15th April and is available at: <http://www.legco.gov.hk/yr13-14/chinese/bc/bc52/papers/bc520423cb2-1353-6-c.pdf>