

立法會
Legislative Council

LC Paper No. CB(3) 90/13-14

Ref : CB(3)/M/MM

Tel : 3919 3300

Date : 25 October 2013

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 30 October 2013

**Amendments to motion on
“Transgender marriage”**

Further to LC Paper No. CB(3) 62/13-14 issued on 17 October 2013, three Members (Hon Cyd HO, Dr Hon Helena WONG and Dr Hon Priscilla LEUNG) have respectively given notices of their intention to move separate amendments to Hon CHAN Chi-chuen’s motion on “Transgender marriage” scheduled for the Council meeting of 30 October 2013. As directed by the President, the respective amendments will be printed in the terms in which they were handed in on the Agenda of the Council.

2. The President will order a joint debate on the above motion and amendments. To assist Members in debating the motion and amendments, I set out below the procedure to be followed during the debate:

- (a) the President calls upon Hon CHAN Chi-chuen to speak and move his motion;
- (b) the President proposes the question on Hon CHAN Chi-chuen’s motion;
- (c) the President calls upon the three Members who wish to move amendments to speak in the following order, but no amendment is to be moved at this stage:
 - (i) Hon Cyd HO;
 - (ii) Dr Hon Helena WONG; and
 - (iii) Dr Hon Priscilla LEUNG;

- (d) the President calls upon the public officer(s) to speak;
- (e) the President invites other Members to speak;
- (f) the President gives leave to Hon CHAN Chi-chuen to speak for the second time on the amendments;
- (g) the President calls upon the public officer(s) to speak again;
- (h) in accordance with Rule 34(5) of the Rules of Procedure, the President has decided that he will call upon the three Members to move their respective amendments in the order set out in paragraph (c) above. The President invites Hon Cyd HO to move her amendment to the motion, and forthwith proposes and puts to vote the question on Hon Cyd HO's amendment;
- (i) after Hon Cyd HO's amendment has been voted upon, the President deals with the other two amendments; and
- (j) after all amendments have been dealt with, the President calls upon Hon CHAN Chi-chuen to reply. Thereafter, the President puts to vote the question on Hon CHAN Chi-chuen's motion, or his motion as amended, as the case may be.

3. For Members' reference, the terms of the original motion and of the motion, if amended, are set out in the **Appendix**.

(Odelia LEUNG)
for Clerk to the Legislative Council

Encl.

(Translation)

**Motion debate on
“Transgender marriage”
to be held at the Council meeting of 30 October 2013**

1. Hon CHAN Chi-chuen’s original motion

That the Court of Final Appeal (‘CFA’) earlier ruled that transsexual people are entitled to marriage right; the judgment stated that the relevant provisions in the Marriage Ordinance (‘MO’) and the Matrimonial Causes Ordinance (‘MCO’) restricting the criteria for ascertaining a person’s gender to merely biological factors are unconstitutional; CFA also held that all circumstances relevant to assessing a person’s sexual identity at the time of the proposed marriage, including biological, psychological and social elements and whether any sex reassignment surgery has occurred, need to be considered; in this connection, this Council urges the Government to expeditiously comply with CFA’s judgment and amend MO and MCO, so that transgender people can enjoy marriage right and related legal rights according to the sexual identity they adopt, and to expeditiously enact a gender recognition ordinance to address the various legal problems arising from sex reassignment.

2. Motion as amended by Hon Cyd HO

That the Court of Final Appeal (‘CFA’) earlier ruled *fundamental principle of Hong Kong’s family policy is to recognize and promulgate that family is the cornerstone of the society, with a view to achieving the objectives of family harmony, community harmony and alleviating social problems; yet, the legislation in Hong Kong does not recognize sex minorities’ right to register their partnership or their marriage to found families; and the Court of Final Appeal (‘CFA’) also ruled in May this year that transsexual people are entitled to marriage right; as pointed out in the judgment, reliance on the absence of a majority consensus as a reason for rejecting a minority’s claim is inimical in principle to fundamental rights, and one of the functions — perhaps by far the most important one — of constitutionally guaranteed human rights is to protect minorities, especially a misunderstood minority; regarding transsexual people’s marriage right*, the judgment stated that the relevant provisions in the Marriage Ordinance (‘MO’) and the Matrimonial Causes Ordinance (‘MCO’) restricting the criteria for ascertaining a person’s gender to merely biological factors are unconstitutional; CFA also held that all circumstances relevant to assessing a person’s sexual identity at the time of the proposed marriage,

including biological, psychological and social elements and whether any sex reassignment surgery has occurred, need to be considered; in this connection, this Council urges the Government to expeditiously comply with CFA's judgment and amend MO and MCO, so that ***all sex minorities including transsexual and*** transgender people can enjoy marriage right and related legal rights according to ***their sexual orientation and*** the sexual identity they adopt, and to expeditiously enact a gender recognition ordinance to address the various legal problems arising from sex reassignment, ***so as to ensure that families founded by sex minorities are entitled to equal rights.***

Note: Hon Cyd HO's amendment is marked in ***bold and italic type*** or with deletion line.

3. Motion as amended by Dr Hon Helena WONG

That, ~~as~~ the Court of Final Appeal ('CFA') earlier ruled that transsexual people are entitled to marriage right; ~~the judgment stated that the relevant provisions in the Marriage Ordinance ('MO') and the Matrimonial Causes Ordinance ('MCO') restricting the criteria for ascertaining a person's gender to merely biological factors are unconstitutional; CFA also held that all circumstances relevant to assessing a person's sexual identity at the time of the proposed marriage, including biological, psychological and social elements and whether any sex reassignment surgery has occurred, need to be considered; in this connection,~~ this Council urges the Government to expeditiously comply with CFA's judgment and amend MO and MCO, so that transgender people can enjoy marriage right and related legal rights according to the sexual identity they adopt, and to expeditiously enact a gender recognition ordinance to address the various legal problems arising from sex reassignment ***the Marriage Ordinance and the Matrimonial Causes Ordinance.***

Note: Dr Hon Helena WONG's amendment is marked in ***bold and italic type*** or with deletion line.

4. Motion as amended by Dr Hon Priscilla LEUNG

That, ***in the light of an earlier judgment of*** the Court of Final Appeal ('CFA') ~~earlier ruled that transsexual people are entitled to marriage right; the judgment stated that the relevant provisions in the Marriage Ordinance ('MO') and the Matrimonial Causes Ordinance ('MCO') restricting the criteria for ascertaining a person's gender to merely biological factors are unconstitutional; CFA also held that all circumstances relevant to assessing a person's sexual identity at the time of the proposed marriage, including biological, psychological and social elements and whether any sex reassignment surgery has occurred, need to be~~

~~considered; in this connection, this Council urges the Government to expeditiously comply with CFA's judgment and amend MO and MCO, so that transgender people can enjoy marriage right and~~ ***over transsexual people's entitlement to marriage right, this Council considers that the Government may, without changing Hong Kong's existing marriage institution of 'one man and one woman' and 'monogamy', consider studying whether there is a need to amend the Marriage Ordinance and the Matrimonial Causes Ordinance, so that people who have biologically completed sex reassignment surgeries can enjoy*** related legal rights according to the sexual identity they adopt, and to expeditiously enact a gender recognition ordinance to address the various legal problems arising from sex reassignment.

Note: Dr Hon Priscilla LEUNG's amendment is marked in ***bold and italic type*** or with deletion line.