

Bills Committee on Evidence (Amendment) Bill 1999

Submissions from the Equal Opportunities Commission

The Equal Opportunities Commission (“EOC”) has been asked for its views on the Evidence (Amendment) Bill 1999, and is happy to submit as follows:

- (i) the existing corroboration rules are sex based, in that there is an assumption that the evidence of victims in sexual offence cases is inherently unreliable and, since the majority of victims of sexual offences is women, this translates to a stereotypical assumption that the evidence of women is inherently unreliable;
- (ii) the effect of this is to deter women from reporting sexual offences perpetrated against them, particularly rape, and/or from testifying against their aggressors in court, and thus the existing corroboration rules leave women doubly vulnerable;
- (iii) international conventions addressing the needs and vulnerabilities of women, such as the Convention on the Elimination of all Forms of Discrimination Against Women (“CEDAW”), seek to eliminate any form of distinction, exclusion or restriction made on the basis of sex, which has the effect of impairing or nullifying the recognition, enjoyment or exercise by women of their human rights and fundamental freedoms in the social, cultural, civil or other fields. Article 15 of CEDAW also provides that “State parties shall accord to women equality with men before the law”;
- (iv) it is arguable that the existing corroboration rules are indirectly discriminatory against women, in that the corroboration rules for sexual offences operate in law as a requirement or condition on the victims or complainants to adduce corroboration evidence, and this may have a disproportionate adverse impact on women (who

appear in the main to be victims of sexual offences);

- (v) such discrimination is not necessarily unlawful under the Sex Discrimination Ordinance, Cap. 480 (“SDO”) as the existing corroboration rules are established in common law or by statute and, as such, do not fall within one of the prescribed fields of the SDO; and
- (vi) the proposed changes will eliminate any form of distinction between the way the evidence of women is assessed in comparison to the evidence of men, as well as eliminate any restriction faced by women in the enjoyment of their human rights and in their equality before the law. This is in keeping with the spirit of CEDAW. The proposed changes will also help to alleviate any reluctance faced by women in reporting, and/or testifying in, sexual offence cases.

The EOC welcomes the introduction of the Evidence (Amendment) Bill 1999 as a positive step towards the equal treatment of men and women in Hong Kong.

Equal Opportunities Commission
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