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Hon Ip Kwok-him
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Submission to Home Affairs Panel, LegCo, for its meeting on June 11

a) On the second report of HKSAR of the People's Republic of China in light of the International Covenant on Economic, Social and Cultural Rights submitted to the UN as part of China's initial report in June 2003.

Two of the points I am about to raise in the following paragraphs are nothing new. I have presented them in a similar meeting before. But since the government has taken no notice, I am compelled to voice them out again.

Article 6 of the International Covenant on Economic, Social and Cultural Rights states that "The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right."

But many minorities include people of different sexual orientations are often stripped of the right to choose their work because of discrimination. Sexual minorities who are sacked for their sexual identities have no legal recourse due to the lack of an equal opportunities ordinance that protects that.

Article 10 of the Covenant states that "the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and

education of dependant children. Marriage must be entered into with the free consent of the intending spouses.”

But the Hong Kong SAR Government has refused to recognise same-sex marriages, even in light of The Netherlands, Belgium, Canadian provinces of Ontario and British Columbia and the US State of Massachusetts having done so. That means that same-sex couples in Hong Kong continue to be denied the rights to consent to marrying their loved ones.

Lastly, I would like to urge the government to consider allowing people who have sex-reassignment surgeries to change their information on their birth certificates. Earlier this year, Sichuan native Chen Lili who had had her sex reassigned was granted permission from the government to change the gender information on her birth certificate.

Chen’s counterparts in Hong Kong are not given this option, causing them all kinds of problems in the new chapter of their lives. With their gender information on their birth certificates remain unchanged, they are not able to move on to their new phase of life fully and the social and economic rights that come with it.

b) On the first report of HKSAR under the Convention on the Rights of the Child

Divorced sexual minority parents

The oppressive social attitude towards sexual minorities has resulted in many sexual minorities entering into conventional heterosexual marriages for various reasons. Some of them have succumbed to pressure from their families or parents who long for grandchildren, while others, fearful that their sexual identities may one day be exposed and invite discrimination, enter into a marriage solely for the reason to create a heterosexual appearance.

These “sham marriages” are believed to have been the most rampant before the decriminalisation of homosexual sex between two men in 1991. It is expected that many of these marriages will result in a flood of broken families today when, after years of living emotionally deprived lives, the sexual minorities involved can no longer bear the lie they are living with. Their inability to reciprocate emotionally in the marriages may also cause estrangements between them and their spouses.

Yet, the divorced sexual minority spouses are likely to continue facing discrimination or living under fear of being exposed. When children are involved, the sexual minority spouses are terrified that should their sexual identities be known, social biases may prompt the court or social service agents to take their custody away.

The wrongfulness of this situation lies in the fact that the custody of a child is decided by arbitrary moral dogmas instead of the child's wishes.

Irrational fear of sexual minorities

The matter is not helped by certain religious groups who make unsubstantiated claims that sexual minority parents have adverse effects on children. Many reports in the US have already cited that children growing up with same-sex parents, who took advantages of the artificial insemination technology some two decades ago, have not turned out any differently from their peers who grew up with heterosexually married parents.

In fact, American TV news program, 20/20, has interviewed a group of teenagers growing up with same-sex parents who have shared their stories. They do not feel that having same-sex parents is a disadvantage, except the discrimination from those who disapprove of their families. The one thing that helped them get through others' hostility was the support and care from their family members who also face the same problem themselves.

Protecting sexual minority children

Although there are no conclusive scientific findings to determine whether sexual orientation is inborn or acquired, the testimonies from sexual minorities themselves would reveal that many have been aware of their sexual orientations since young, sometimes as early as age 12.

HORIZONS has received calls that reveal another unsettling picture. It is normal for teenagers in puberty to be curious about sexual issues. But sexual minority teenagers who talk to their teachers and parents about their thoughts on their own sexual identities are often faced with scorns and punishments. This traumatising consequence hurts these teenagers self-esteem and makes them feel inferior to their peers.

Many sexual minority teenagers who have contacted us tell of lonely and helpless lives at school. They are afraid of losing friends if they were to tell of truth of their sexual feelings, and they feel that teachers and principals will not be able to protect

them from bullying and mockery.

Teenagers all have to go through growing pain, but when you are a sexual minority teen, the pressure is beyond word.

c) On the outline of topics for the second report to be prepared for HKSAR under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Certain laws in Hong Kong are opening the door for maltreatments of sexual minorities. According to the law of Hong Kong, two men who wish to consent to any sexual behaviours need to be of the age of 21 or above, in stark contrast to sexual behaviours between a man and a woman, which, except anal intercourse, only require the woman to be of age 16 or above.

And since the current laws do not view sex between two women as a possibility, the female spouse of a woman is not afforded protection of the law should any domestic problems arise.

The unfairness and irrationality of the law cannot be more obvious. Men who are over 18 but under 21 are legally adult and many of them are taxpayers and eligible voters. Yet, they do not have the choice to enter a relationship if they are homosexual and would risk arrests and prosecutions if they were caught with a partner.

And while a man and a woman who show affection in public are without fear of any legal threats, two men who are even just holding hands in public, regardless of age, could be arrested and prosecuted citing the gross indecency law.

What these draconian laws can only do is to create a society in which sexual minorities are looked down on. It raises a disturbing fear that such attitude may also exist in the law enforcement authorities. Sexual minorities are one of the most vulnerable groups in the society since they are often rejected even by their own families. The consequences that may arise from exposure of their sexual identities make them reluctant to seek redress even when maltreated.

The government has the obligation to ensure that law enforcements are trained to handle case involving sexual minorities sensitively. Many groups serving sexual minorities have the expertise and willingness to assist in this task if the government

needs such assistance.

Such training on the ground of sexual orientation is recommended by international bodies such as the European Union, whose General Affairs Council adopted guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment in Luxembourg in 2001.

I urge that the government gives sexual minorities a chance and revises laws that are preventing from enjoying full social and economic rights.

ENDS