

Minutes of Second Meeting of the Advisory Group on Eliminating Discrimination against Sexual Minorities

Date : 11 September 2013
Time : 2:15 p.m.
Venue : Conference Room 7, G/F, Central Government Offices
2 Tim Mei Avenue, Tamar

Members Present

Professor Fanny CHEUNG, JP (Chairperson)
Hon CHAN Chi-chuen
Mr Tommy CHEN
Ms Shirley HA
Professor KUNG Lap-yan
Professor KWAN Kai-man
Ms Lavinia LAU
Ms Joanne LEUNG
Dr Hon Priscilla LEUNG, SBS, JP
Ms YEUNG Wai-wai

Members Absent

Dr Andy CHIU
Mr Joseph CHO
Mr Reggie HO
Hon James TO

In Attendance

Representatives from Constitutional and Mainland Affairs Bureau (CMAB)

Mr Gordon LEUNG, JP	Deputy Secretary for Constitutional and Mainland Affairs (DS(CMA))
Mrs Philomena LEUNG	Principal Assistant Secretary for Constitutional and Mainland Affairs (PAS(CMA))
Mr Ronald CHAN	Political Assistant to Secretary for Constitutional and Mainland Affairs
Mr Eric LEE	Assistant Secretary for Constitutional and Mainland Affairs
Ms Elaine IP	Assistant Secretary for Constitutional and Mainland Affairs (AS(CMA)) (Secretary to the Advisory Group)
Mr LAI Wing-yiu	Unit Manager, Gender Identity and Sexual Orientation Unit

By Invitation (for Agenda Item 3 Only)

Representatives from New Creation Association (NCA)

Rev CHAN Ka-leung

Ben

Mrs HO

Representatives from Post-Gay Alliance (PGA)

Dr HONG Kwai-wah

Betsy

Kim

Representatives from Diocesan Committee for the Pastoral Care of Persons with Same Sex Attraction (SSA)

Dr CHAN Pui-kai

Mr Kevin LAI

Mr Alfred WONG

Agenda Item 1: Confirmation of minutes of meeting held on 18 June 2013

The Chairperson informed the meeting that a member had proposed adding “the concept of ‘equal opportunities’ should be included in the messages for the TV API” as paragraph 9(d) to the minutes. Members had no objection to the proposed amendment. The minutes were confirmed subject to this amendment. In response to a member’s enquiry, AS(CMA) advised that the minutes would be translated into Chinese, and both English and Chinese versions would be uploaded onto the CMAB website.

2. The Chairperson said a member had conveyed to the secretariat the view that the minutes of the first meeting were too brief and had not fully reflected the discussion of the meeting. Since the Advisory Group decided at the last meeting that no verbatim record should be taken and the minutes should be in the form of a summary of discussion, she suggested that if members found any omission or inaccuracy, they could put forward proposed amendments.

3. A member also expressed concern about the practice that some parts of the minutes were attributed to certain individual members but not others. The Chairperson said it was agreed at the first meeting that members would not be named in the minutes unless upon individual members' request, and this principle was adopted in preparing the minutes of the first meeting. To facilitate free and frank exchange, she suggested that the meeting stick to the practice of not attributing the minutes to individual members.

Agenda Item 2: Matters arising

4. With reference to paragraph 11 of the minutes of the last meeting, PAS(CMA) and AS(CMA) informed the meeting that the contract for production of the Announcement of Public Interest (API) was expected to be awarded by end September and that the API was expected to be available by end 2013.

5. With reference to paragraph 17 of the minutes of the last meeting, the Chairperson suggested and the meeting agreed to invite the Equal Opportunities Commission to the next meeting to exchange views.

6. With reference to paragraph 4 of the minutes of the last meeting, a member reiterated concern of being misquoted outside the meeting and requested members not to quote other members' remarks outside the meeting. The Chairperson reminded members to respect each other's views and refrain from divulging individual member's remarks expressed at meetings.

Agenda Item 3: Exchange of views with Post-Gay Alliance (PGA), New Creation Association (NCA), and Diocesan Committee for the Pastoral Care of Persons with Same Sex Attraction

7. The Chairperson welcomed representatives from the three groups, and invited them to speak in turn.

8. A PGA representative remarked that PGA was established not only to represent the post-gays, but also to promote understanding and respect towards, non-discrimination against and equal opportunities for

homosexuals. The decisions of persons with same sex attraction not to lead a homosexual lifestyle should be respected. However, there was a lot of misunderstanding and negative labelling on them as well as on the support services provided to them. In view of this, they felt that it was important that PGA was represented on the Advisory Group so that their voices could be heard.

9. Another PGA representative said he was a post-gay. Speaking from his own personal experience, he said he had been troubled by his homosexual tendency which he had difficulty coming to terms with but had encountered much difficulty in seeking counselling service. Most of the services that were available adopted a gay-affirmative approach. He eventually managed to obtain counselling service, decided not to lead a homosexual lifestyle, got married, and was happy with his present state. He said that the support services for people with homosexual tendency in the community were not diversified enough, and there was a lack of post-gays' participation in policy formulation. .

10. Another PGA representative said she had had a homosexual relationship before but decided not to engage in homosexual relationship anymore. She attributed her homosexual tendency to witnessing the poor marital relationship of her parents and her parents' utter desire to have a son instead of a daughter. She was lucky to have received counselling from professionals and support from church. She was now happy with her current lifestyle and believed that there were also others in a similar situation as hers. In her view, homosexuality was not necessarily inborn. People with homosexual tendency but did not want to pursue a homosexual lifestyle should be given the necessary support to pursue the lifestyle they desired.

11. A NCA representative expressed that the Advisory Group had to listen to the views of different stakeholders, but some voices seemed missing in the current membership. He then introduced the other two representatives from NCA.

12. One NCA representative said her son was a homosexual and she had difficulty in accepting this. She had tried to seek counselling and subsequently found NCA through which she met other parents like

herself and they provided support to each other.

13. Another NCA representative said that he was once a gay and had led an unhappy homosexual lifestyle for almost two years. He had tried to obtain assistance from many organisations but did not find them helpful. He subsequently joined the support groups of NCA where he met people in a similar situation as his and they became friends. However, both he and his friends were afraid of letting others know their struggle with homosexuality for fear of being discriminated against. He felt that people like him should be respected and their voices taken into account in policy formulation.

14. A SSA representative said that a key objective of SSA was to provide pastoral care to Catholics with regard to the Catechism in particular paragraph 2357¹ which stated that “[u]nder no circumstances can they [i.e. homosexual acts] be approved” and paragraph 2358² which said that “[t]hey [i.e. men and women who have deep-seated homosexual tendencies] must be accepted with respect, compassion and sensitivity”. Although the Catholic Church did not support homosexuality per se, homosexuals needed to be taken care of and that was the reason for the establishment of SSA to provide support and pastoral care to this minority group.

15. The Chairperson asked if members had any questions they would like to raise with the representatives. A member enquired whether the representatives opposed to enacting legislation against discrimination on the ground of sexual orientation. Another member asked the representatives what protection they would look for if legislation against discrimination on the ground of sexual orientation was pursued. One

¹ Paragraph 2357 of the Catechism states that “[h]omosexuality refers to relations between men or between women who experience an exclusive or predominant sexual attraction toward persons of the same sex. It has taken a great variety of forms through the centuries and in different cultures. Its psychological genesis remains largely unexplained. Basing itself on Sacred Scripture, which presents homosexual acts as acts of grave depravity, tradition has always declared that ‘homosexual acts are intrinsically disordered.’ They are contrary to the natural law. They close the sexual act to the gift of life. They do not proceed from a genuine affective and sexual complementarity. Under no circumstances can they be approved.”

² Paragraph 2358 of the Catechism states that “[t]he number of men and women who have deep-seated homosexual tendencies is not negligible. This inclination, which is objectively disordered, constitutes for most of them a trial. They must be accepted with respect, compassion, and sensitivity. Every sign of unjust discrimination in their regard should be avoided. These persons are called to fulfill God's will in their lives and, if they are Christians, to unite to the sacrifice of the Lord's Cross the difficulties they may encounter from their condition.”

other member asked that given that their groups were not represented on the Advisory Group, whether there were any specific points they would like the Advisory Group to have regard to in the course of the Advisory Group's deliberations.

16. NCA and PGA representatives said that they had no preconceived views as to whether or not legislation should be pursued but were concerned about the impact of legislation on the right to speak against pursuance of homosexual conduct and the freedom to provide different forms of counselling services to sexual minorities. A NCA representative supplemented that NCA was often labelled as an organisation practising conversion therapy, together with all the associated connotations this brought. Some people who did not wish to pursue a homosexual lifestyle were unwilling to share their feelings with friends and families for fear of being discriminated against, and had difficulty in securing the necessary support services that suited their needs. A PGA representative added that he, as a professional who wanted to help the post-gays, was also being targetted against by the homosexual community. He reiterated that those who helped the post-gays should not be discriminated against, and that the post-gays represented a unique voice in the sexual minority community and it was regrettable that they were not represented on the Advisory Group.

17. A member pointed out that any legislating against sexual orientation discrimination could protect the post-gays as well. Another member said that the impact of such legislation on the freedom of speech was a matter of concern which should be addressed.

18. The Chairperson thanked the three groups for sharing their views and concerns. Before the representatives of the three groups left the meeting, they submitted the following items for members' reference:

- (a) a letter and three books from NCA;
- (b) the speeches of the representatives from PGA; and
- (c) some documents concerning homosexuality and the Catholic Church as well as a book and a DVD from SSA.

(The representatives of the three groups left the meeting at this juncture.)

19. Having heard the strong request of the post-gay groups for joining the Advisory Group, a member urged CMAB to reconsider the membership of the Group. While one other member indicated support, another member disagreed pointing out that some other sexual minority groups were also not represented on the Advisory Group.

20. The Chairperson said that, as discussed at the last meeting, it was not possible to include all sexual minority groups and stakeholders in the Advisory Group and the Advisory Group would be open to interacting with interested groups. Instead of dwelling on the membership issue, she suggested that the Advisory Group should focus on dealing with the problems faced by sexual minorities, and in the process continue to listen to the views of different stakeholders in the community.

Agenda Item 4: The scope of sexual minorities for the purpose of the Advisory Group
[Paper No. 4/2013]

21. The Chairperson said that the term “sexual minorities” was commonly understood to refer to LGBT (i.e., lesbians, gays, bisexuals and transgenders), and questioned whether there was a need to provide a definition of sexual minorities for the purpose of the Advisory Group and invited members’ views on this.

22. A member suggested the Advisory Group to refer to the definition of LGBT adopted by the United Nations. Another member opined that it was acceptable to use LGBT as a working definition at the initial stage, but should allow the flexibility to extend it to a wider context. A member said that, rather than using the term “LGBT”, the United Nations’ discussion in this regard in fact referred to discrimination based on sexual orientation and gender identity.

23. Two members did not agree with an open definition of sexual minorities as this would render the Advisory Group’s scope of work unclear. A member said that post-gays were looked down upon by the mainstream sexual minority community and many of them dared not seek

support services. This was also a form of discrimination and therefore their situation should also be looked into by the Advisory Group. Ms Leung³ expressed the view that the Advisory Group should not continue to be entangled in discussing the definition of sexual minorities. She was disappointed that this issue had already been discussed at two meetings and was worried that the Advisory Group would waste precious time debating over this.

24. The Chairperson summarised members' views and said that the scope of sexual minorities for the purpose of the Advisory Group should not be confined to LGBT; the Advisory Group would focus on discrimination on the basis of sexual orientation and gender identity. Speaking from her professional background, she recognized that positions on homosexuality held by international professional associations had changed over time with advances in scientific knowledge. She referred to current research findings that concluded there was no scientific evidence to support the effectiveness of conversion therapy in changing the sexual orientation of a person, and some professional associations had recommended against its use due to potential harmful effects. However, there were many other factors in the therapeutic relationship that may contribute to effectiveness, and there were other forms of therapies that were recommended by professional associations in helping homosexuals.

Agenda Item 5: Promotion of the Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation
[Paper No. 5/2013]

25. AS(CMA) introduced the paper.

26. A member said that an employee's sexual orientation was rarely, if ever, the concern of employers in the private sector. Another member said that the company she worked for had clearly stated policy against discrimination on the ground of sexual orientation, and that there was also a formal mechanism through which employees could make a complaint of being discriminated or harassed based on sexual orientation.

³ Ms Joanne Leung is named in this sentence in accordance with her request.

27. One other member said that in employment settings, sexual minorities appeared to be concerned about the ways they were addressed (“Mr” or “Miss”) and employment benefits for homosexual couples.

28. In response to members’ queries, PAS(CMA) said that all Government bureaux and departments had been following the practices set out in the Code. The plan now was to encourage wider adoption of the Code and as part of this exercise, CMAB would write to public and private sector organisations. CMAB currently did not have statistics on the number of organisations outside the government that had pledged to adopt the Code but would start to work on collecting such information.

29. The meeting noted the Government’s work on the promotion of the Code.

Agenda Item 6: Study on discrimination experienced by sexual minorities

[Paper No. 6/2013]

30. AS(CMA) introduced the paper. The Chairperson declared that she was Director of the Hong Kong Institute of Asia-Pacific Studies of the Chinese University of Hong Kong which was one of the research institutes mentioned in Annex B to the paper.

31. Members discussed how the respondents could be recruited. Two members proposed that all government employees be invited to express interest in participating in the study. DS(CMA) commented that this might invite criticisms as government employees only represented one particular segment in the society. One member expressed concern that if the respondents were to be recruited openly, the discrimination problem might be exaggerated as only people with strong views would likely volunteer. After some discussions, the meeting decided that it would be better to defer to the research institutes to propose an unbiased method of selection of respondents.

32. Some members considered that one-on-one interviews instead of focus group discussion should be used in order to protect the respondents’ identity and to facilitate candid exchange. The Chairperson said that there

were merits in conducting in-depth interviews but the costs could be higher. Moreover, there would be interaction in focus group discussions, which would be conducive in bringing out the problems experienced by respondents. Both methods could be adopted.

33. Members also raised the following suggestions:

- (a) more turnaround time should be allowed for the research institute to submit deliverables;
- (b) more non-academic research firms should be invited to bid for the study;
- (c) the research institute/firm for the study should not have preconceived views as to whether or not legislation should be pursued;
- (d) the respondents should not be recruited exclusively from members of sexual minorities groups; and
- (e) the scope of target respondents should include people of different sexual orientation/gender identity.

34. The Chairperson requested CMAB to revise the study brief in the light of members' views and suggestions and circulate a revised version for members' consideration.

[Post-meeting note: the revised study brief was circulated to members by email on 18 September 2013.]

Agenda Item 7: Consideration of discussion items proposed by members

35. The Chairperson said that two members had both proposed to discuss the following items:

- (a) how to ensure that sexual orientation discrimination legislation protects freedom of expression;
- (b) the timing that the Government will provide a draft sexual orientation discrimination bill to the Advisory Group for discussion; and
- (c) discussion about the exceptions to sexual orientation

discrimination legislation.

36. One of the two members stressed that it was important to discuss freedom of expression at an early opportunity as this was a major concern of those who were against the legislative approach. As the items proposed were related to legislating against sexual orientation discrimination, the Chairperson proposed that they be discussed at a later stage after the study findings were available. In the meantime, she suggested that CMAB could look into how other overseas jurisdictions dealt with concerns over freedom of expression. She also suggested that the secretariat draw up a list of items for discussion at coming meetings. A member suggested that the Advisory Group could also thrash out proposals in respect of the Chief Executive's 2014 Policy Address.

Agenda Item 8: Any other business

37. The discussion ended at 5:20 p.m. The next meeting will be held at 9:30 a.m. on 5 December 2013.

**Constitutional and Mainland Affairs Bureau
September 2013**