

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

Date : 18 November 2014
Time : 5 p.m.
Venue : Conference Room, 13/F, Central Government Offices,
East Wing , 2 Tim Mei Avenue, Tamar

Members Present

Professor Fanny CHEUNG, JP (Chairperson)
Hon CHAN Chi-chuen
Mr Tommy CHEN
Dr Joseph CHO
Ms Shirley HA
Mr Reggie HO
Professor KUNG Lap-yan
Ms Lavinia LAU
Ms Joanne LEUNG
Hon James TO
Ms YEUNG Wai-wai

Members Absent

Dr Andy CHIU
Professor KWAN Kai-man
Dr Hon Priscilla LEUNG, SBS, JP

In Attendance

Representatives from Constitutional and Mainland Affairs Bureau (“CMAB”)
Mr Gordon Leung, JP Deputy Secretary for Constitutional and
Mainland Affairs (“DS(CMA)”)
Miss Phidias TAM 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 (“AS(CMA)4B”)
Ms Elaine IP Assistant Secretary for Constitutional and
Mainland Affairs (“AS(CMA)4A”)
(Secretary)
Mr LAI Wing-yiu Unit Manager, Gender Identity and Sexual
Orientation Unit

Representatives from Policy 21 Limited (for Agenda Item 3 Only)

Mr YIP Hak-kwong	Director
Ms Ruby LO	Deputy Director
Mr Ben WONG	Research Assistant

Opening remarks

The Chairperson welcomed Miss Phidias Tam who was attending the meeting for the first time as successor of Mrs Philomena Leung in the capacity of PAS(CMA), and thanked Mrs Leung for her past contributions to the work of the Advisory Group.

Agenda Item 1: Confirmation of minutes of meeting held on 20 August 2014

2. The Chairperson informed the meeting that a member had proposed amendments to paragraphs 16 and 18 of the minutes of the last meeting and, after liaison with the Secretariat, had agreed to revise the proposed amendments to the version as circulated to members on 12 November 2014. She asked if members agreed to the proposed amendments¹.

3. Members had no objection to the proposed amendments. The minutes of meeting held on 20 August 2014 were confirmed subject to these amendments.

Agenda Item 2: Matters arising

4. With reference to paragraph 4 of the minutes of the last meeting, AS(CMA)4A reported that CMAB had enquired about the concerns of organisations that had reservation about adopting the Code of Practice against Discrimination in Employment on the Ground of Sexual

¹ The proposed amendments circulated were:

(a) to add “more details could be found in paragraph 41 of the document¹,” in paragraph 16 after “A member noted that the Concluding Observations had stated that “[t]he Committee recommends that Hong Kong, China take steps to adopt comprehensive anti-discrimination legislation in compliance with article 2, paragraph 2 of the Covenant and”;

¹http://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/ICESCR_Concluding_Observation.pdf (as footnote)

(b) to add “, and another member proposed that such information should be published, say, at the CMAB website.” in paragraph 18 after “A member asked if the Advisory Group should take stock of the work done thus far”.

Orientation (“the Code”) and/or including their names in the published list of organisations having pledged to adopt the Code. She said that the concerns expressed by some of the organisations included the following: i) it took time to review their internal policy; ii) possibility of increasing staff requests for extending spousal benefits to same-sex partners although it was outside the scope of the Code; and iii) preference to keep a low-profile on this issue.

5. In response to members’ enquiries, AS(CMA)4A said that another batch of appeal letters had been issued to the top management of organisations with 1,000 - 3,000 local employees to urge them to adopt the Code. In the meantime, CMAB also appealed to smaller organisations through various means, such as promotion to chambers of commerce, briefings and seminars. Having regard to a member’s suggestion raised after the previous meeting, the dedicated webpage for the Code within the CMAB website had been modified to facilitate the enrolment of those organisations that took the initiative to pledge to adopt the Code and wished to have their names included in the published list. AS(CMA)4A updated Members that 117 organisations had already pledged to adopt the Code and had their names listed on the webpage which would continue to be updated as and when more organisations pledged to adopt the Code. A member said that Community Business had recently announced that a “Hong Kong LGBT Workplace Inclusion Index” would be launched to promote the adoption of best practices with regard to workplace inclusion of LGBT people in Hong Kong, and CMAB might wish to know more about it to help in the promotion of the Code.

Agenda Item 3: Draft final report of the study on discrimination experienced by sexual minorities
[Paper No. 13/2014]

6. The Chairperson welcomed the representatives from Policy 21 Limited (“the consultant”). AS(CMA)4B introduced the paper and invited the consultant to present the draft final report of the study.

7. Ms Ruby LO said that during the data collection period between March and September 2014, 214 out of 231 persons who enrolled to participate in the study had been interviewed, 76 through 29 focus group discussions and 138 through one-to-one in-depth interviews. She also briefed the meeting the mix of these participants in terms of means of recruitment, subgroups of sexual minorities (namely, lesbians, gays, bisexuals, transgenders and those with other sexual orientation/gender identity) and socioeconomic status, and explained the limitations of the

study. She then presented the findings in respect of the following:

- (a) participants' general understanding of discrimination;
- (b) participants' experience of discrimination in daily life and the domains of employment; education; provision of goods, facilities and services; and disposal and management of premises;
- (c) seeking of assistance when they experienced discrimination; and
- (d) supportive measures suggested by the participants.

8. In response to members' questions, Ms LO advised the following:

- (a) the participants had described their experience of discrimination in varying levels of detail. Some illustrative cases were highlighted in the form of excerpts in the report;
- (b) terms including "the great majority", "the majority", "about half", "some" and "few" were used instead of actual percentages in the report to describe the proportion of participants expressing a specific point of view. Since the study did not have a scientific sampling design to gather views from a representative sample of the target population, the consultant was wary of the risks of misrepresentation by the media and the public if actual percentages were used;
- (c) the experience of being discriminated against reported by people with "other sexual orientation/gender identity" as mentioned in the report included that of the post-gay and intersex participants. The numbers of these participants were eight and one respectively;
- (d) the cases of being denied use of medical services occurred in both public and private hospitals. Examples of such services included HPV vaccination and medical check-ups for a specific sex;
- (e) some participants had also mentioned experiences of differential treatment in relation to participation in religious activities, but such cases were currently not included in the report because

religious activities were not one of the specified domains for the study;

- (f) some participants did say that they had never encountered discrimination in any domain; and
- (g) most of the participants who had experienced discrimination said that they did not seek assistance from any party. For those who said that they did, none of them mentioned lodging a complaint to the Gender Identity and Sexual Orientation Unit under CMAB.

9. A member expressed concern as to whether the reports of post-gay and intersex participants in respect of discrimination experienced should be grouped together in the presentation of findings, as they were in the draft report. He suggested that the consultant consider segregating the experiences of these two types of participants if they were not so similar.

10. Some members said that the consultant should include more examples of discrimination reported by the participants and elaborate the experience of the post-gay participants in the report. A new domain might also be added to cover the experiences of being discriminated against in relation to participation in religious activities. The Chairperson requested the consultant to provide a list of the discrimination cases reported by the participants in an appendix to the report.

11. Another member noted the findings revealed that participants in the higher income group (monthly total personal income \$30,000 or above) experienced less discrimination in the workplace. She requested the consultant to look into the profile of these participants to find out if they were actually the employers who might therefore be less likely to face discrimination.

12. The meeting discussed how the incidents of discrimination reported by participants should be counted. Mr YIP Hak-kwong said that according to the discussion guide, the moderators only asked the participants what forms of discrimination they had experienced and how they were discriminated against, but not how many times they had experienced a specific form of discrimination. Therefore, they could only provide the counts of participants who had experienced the respective forms of discrimination. The meeting also discussed whether and how the

proportions of participants reporting discrimination in each domain should be presented in the report. The Chairperson said that the consultant's hesitation about using actual percentages in the report was understood, but there should be no problem for them to provide the Advisory Group with counts of participants who had reported experiencing various forms of discrimination in each domain for reference. She said that this might help reveal the extent of discrimination faced by different sexual minority groups in various domains. A member asked for counts of participants who had never encountered discrimination in any domain as well.

13. Other suggestions on the draft final report raised by members were as follows:

- (a) a member said that the categorisation of some cases as different forms of workplace discrimination should be reviewed with refinement of the description / characterisation of each category;
- (b) another member requested the consultant to provide explanation on the remarks that i) bisexual participants were less likely to be verbally insulted or mocked in the workplace; and ii) more gay and lesbian participants recruited from the sexual minority communities had encountered various forms of discrimination as compared with those recruited through other channels;
- (c) two members said that the term "coming out of the closet" should be used to describe disclosing one's sexual orientation or gender identity openly rather than disclosure only to one's parents or some friends; the consultant should compare the reports by participants who had and had not "come out of the closet" in the public domain. They suggested the consultant to also provide an analysis on the age of "coming out" in public domain. One of them also said that there was currently no temporary shelter for sexual minorities in Hong Kong; the consultant should amend the relevant paragraph to reflect the actual situation. He also suggested revising the translation of some derogatory nicknames mentioned in the report;
- (d) one other member said that additional information on the participants' experience in seeking assistance should be provided,

such as the details of the cases discussed and the counts of how many had sought assistance and from which party; and

- (e) the Chairperson requested the consultant to include an analysis on the experience of participants aged over 60 if their response differed significantly from those of the younger age groups.

14. After deliberation, the Chairperson requested the consultant to revise the report having regard to members' comments and submit the revised report, with the Executive Summary incorporated, to the Advisory Group before the next meeting.

Agenda Item 4: Stock-take summary of the work of the Advisory Group
[Paper No. 14/2014]

15. AS(CMA)4A introduced the paper. She said that the summary of the work of the Advisory Group had covered the work done since its establishment in June 2013 up to October 2014, including rendering advice on conducting the study on discrimination experienced by sexual minorities; looking into the experience of some overseas jurisdictions in tackling discrimination on grounds of sexual orientation and gender identity; advising on a number of public education and publicity measures to promote non-discrimination; and exchanging views with some stakeholder groups.

16. A member suggested adding in the summary the purpose of looking into the experience in overseas jurisdictions which, in his opinion, was to identify the guiding principles for legislating against discrimination on the grounds of sexual orientation and gender identity, if legislation was to be pursued. He also asked if the summary should mention under the section "Looking Ahead" that the Advisory Group would submit recommendations to the Secretary for Constitutional and Mainland Affairs by the end of its tenure. The Chairperson commented that the purpose of the research on overseas experience was to provide the Advisory Group with reference information on measures adopted elsewhere and lessons that could be learnt from their experience, and the Advisory Group had yet to discuss what recommendations to make to the Administration. Members agreed.

17. The meeting agreed that the purpose of the research on overseas experience be included in the summary and that the summary in both

English and Chinese be posted on the webpage for the Advisory Group in the CMAB website.

Agenda Item 5: Any other business

18. The Chairperson introduced to the meeting the following:
- (a) the Equal Opportunities Commission (“EOC”) had recently published a report on “Study on Discrimination in the Hong Kong Workplace” touching on sexual orientation discrimination. The executive summary of the study report was tabled for members’ reference, and the full report could be found in EOC’s website; and
 - (b) three groups, namely the Family-School Sexual Orientation Discrimination Ordinance Concern Group, Kowloon Union Church and Queer Theology Academy, had requested to meet the Advisory Group to express their views. She suggested inviting them to the next meeting as the Advisory Group had done in the past with other stakeholders. Members agreed.
19. A member raised that it was not easy to find the webpage for the Advisory Group on the CMAB website and suggested CMAB provide a shortcut for accessing the webpage. The meeting agreed.
20. In response to a member’s concern on whether there would be sufficient time for the Advisory Group to look into the experience in tackling discrimination on grounds of sexual orientation and gender identity in Taiwan and the United States, as well as to discuss other relevant issues before the end of its tenure in June 2015, DS(CMA) said that the Government would keep in view the progress of the work of the Advisory Group and, if needed, consider whether the term of the Advisory Group should be extended to facilitate the Advisory Group completing its deliberations. For the next meeting, PAS(CMA) said that other than meeting the three stakeholder groups and discussing the final report of the study, the next meeting could also feature the research findings on both Taiwan and the United States. Members agreed to this. Having regard to the anticipated longer time needed for more agenda items, it was agreed that the next meeting should start one hour earlier.

21. The discussion ended at 7:10 p.m. The next meeting will be held at 4 p.m. on 2 February 2015.

**Constitutional and Mainland Affairs Bureau
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