

EO Files (May 2018)

“THINGS WE DO, PEOPLE WE MEET – Reflections in Brief”

Hong Kong’s LGBTI community needs legal protection from discrimination, not just awareness campaigns

Alfred C. M. Chan says the government should introduce legislation banning discrimination against sexual minorities and make it clear that this does not infringe on freedom of speech

Most arguments against any advocacy for minority rights boil down to this: “You’re doing just fine the way things are. There’s no need for change.” One could facilely wield the same logic against LGBTI people in Hong Kong, who seem to be in no immediate danger, at least not when compared to those living through ridicule and life-threatening ordeal elsewhere – in Ecuador, for instance, where gay men have been [subject to “corrective rape”](#) at unlicensed rehab clinics, or in Indonesia where transwomen were reportedly [stripped and beaten](#) by the police and forced to cut their hair in public earlier this year.

But is Hong Kong really the safe haven it appears to be?

Let’s rewind to the year 1842, when Hong Kong came under British rule and the colonial government criminalised sex between consenting men, a flagrantly discriminatory move that went unchallenged until the 1980s and which was finally repealed in 1991.

We can all learn a thing from this quick history lesson – the status quo has never been sacred or immutable. And once we shake off our sense of complacency, we begin to discern the lingering presence of cruelty, prejudice and discrimination against our LGBTI community today: transgender people cannot change the [gender on their ID cards](#) without completing sex reassignment surgery, and proposals to replace this rigid rule with alternative, more humane requirements have been met with [searing opposition](#); a lesbian expat who won her case to obtain a dependent visa from the Immigration Department for her partner is now [facing an appeal](#) from the government; and intersex people continue to struggle in their fight against [intrusive and irreversible treatments](#) on unknowing children. The list goes on.

Just as violence can disguise itself as kindness, injustice can be committed in the name of administrative convenience. Lifting that mask to hit out at what's underneath – intolerance against the unfamiliar and fear of the unprecedented – is precisely the spirit of the International Day Against Homophobia, Transphobia and Biphobia.

Created in 2004 and falling on the 17th of May every year, IDAHOT marks the day when the World Health Organisation removed homosexuality from its list of mental disorders in 1990, and encourages us to call out and root out persecution of LGBTI people in all forms.

Hong Kong marked its first IDAHOT in 2005, when a local newspaper ran a four-page ad containing a statement signed by 9,800 individuals and over 370 organisations who staunchly opposed to the government's proposal to legislate against discrimination based on sexual orientation, adding that homosexuality poses a threat to family values. LGBTI groups took to the streets and urged the public to “turn fear into love”, the theme of their march in Causeway Bay that year. Still, the government shelved its legislative plan in 2006 citing divergent views in society.

Twelve years on, there is still no legislation dedicated specifically to addressing discrimination on the grounds of sexual orientation, gender identity and intersex status in Asia's world city. While the Constitutional and Mainland Affairs Bureau has rolled out an [annual funding scheme](#) for projects promoting equal opportunity for LGBTI people, a [code of practice](#) for employers, and a [TV series](#) to spread the message of anti-discrimination, the government's one-sided reliance on education and self-regulation ultimately belies a lack of commitment to initiating concrete legislative change.

Naturally enough, in legitimising such inertia, the “line-to-take” has always invoked the image of a divided public. The timing, it seems, is never right, despite empirical evidence of LGBTI discrimination documented by NGOs and a [study](#) released by the Equal Opportunities Commission in 2016, repeated calls from monitoring bodies of the United Nations, as well as [landmark court rulings](#) that could have been capitalised on to effect meaningful and wholesale change.

As thorny as the issue may be, the Equal Opportunities Commission has been advocating to the government to accelerate the legislative process and take the lead in dispelling widespread myths, including concerns about “reverse discrimination” and infringement upon the freedom of speech and religion – rights that are already enshrined under current laws such as the Bill of Rights Ordinance and can be further protected through exemptions in the new law.

The government should also communicate clearly to the public that such a law does not grant any privileges to the LGBTI community since it would extend equal protection to straight and cisgender people (that is, people whose gender identity matches the sex they were assigned at birth), the way the Sex Discrimination Ordinance protects both women and men.

If Weibo’s [recent U-turn](#) on its gay content ban has taught us anything, it is that LGBTI people will never relent in their fight for respect and justice. And as John F. Kennedy once said, “If we cannot now end our differences, at least we can make the world safe for diversity.” The government can of course continue to play the controversy card and defer the challenge to future administrations, or it can rise above the ruckus and do the right thing.

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