



AIDS Concern position paper on legal rights for sexual minorities

This is a public position statement setting out AIDS Concern's views about what needs to change in Hong Kong on legal protection for sexual minorities. AIDS Concern will work with LGBT (lesbian, gay, bisexual and transgender) groups, community members and government to secure equal legal rights for sexual minorities to support work on HIV prevention and care.

Executive Summary

- AIDS Concern recognises the absence of legal protection for sexual minorities in Hong Kong as a serious barrier in the work to prevent HIV infections in Hong Kong.
- AIDS Concern calls on the Hong Kong government to take immediate action to protect LGBT persons from discrimination through legislation.
- Since 2005 reported infections for HIV among men who have sex with men (MSM) in Hong Kong have become the largest area of concern in relation to HIV infection.
- Both international and local authorities strongly confirm that a more supportive environment with laws to protect the rights of LGBT people should be a priority for action on HIV. This will help to eliminate discrimination and increase the impact of HIV prevention and care work.
- AIDS Concern will support equal opportunity campaigns, education for young LGBT people and comprehensive sexuality education for young people.

What are legal rights for sexual minorities?

Human dignity must be universally respected and protected. Discrimination of any kind has no place in any civilised society including Hong Kong. Therefore AIDS Concern advocates the following legal rights for sexual minorities:

- We advocate the equal treatment of every person irrespective of sexual orientation and gender identity.

- We call on Hong Kong government to take immediate action to protect LGBT persons from discrimination. This refers to the provision of goods, services, facilities and accommodation customarily available to the public, where the denial of such goods, services, facilities and accommodation is based on sexual orientation (homosexuality and bisexuality) or gender identity.
- We advocate that the Equal Opportunities Commission be given the jurisdiction to promote LGBT rights and to investigate complains, and the power to initiate proceedings in respect of breaches of the legislation.

Why legal rights are relevant and important to AIDS Concern

The 2009 UNAIDS Action Framework explicitly stated its objective as to ‘Improve the human rights situation for men who have sex with men and transgender people – the cornerstone to an effective response to HIV’. In 2011, the World Health Organization (WHO) released HIV prevention and treatment guidelines for MSM and transgender people that recommended ‘legislators and other government authorities should establish anti-discrimination and protective laws, derived from international human rights standards, in order to eliminate discrimination and violence faced by MSM and transgender people, and reduce their vulnerability to infection with HIV, and the impacts of HIV and AIDS’. These positions confirm that creating equal political, economic, social and cultural environments for LGBT people are important factors for HIV prevention and care.

In Hong Kong, since 2005 reported infections for HIV among men who have sex with men (MSM) in Hong Kong have become the largest area of concern in relation to HIV infection. In the quarter September to December 2013, for which there is data there were 72 new cases of HIV reported from homosexual and bisexual contact, compared with 28 cases reported from heterosexual contact in Hong Kong. The HIV/AIDS strategies for Hong Kong identify HIV prevention through education, testing and safer sex promotion among MSM as a major priority for action. In 2011, Hong Kong Advisory Council on AIDS (ACA) put ‘A more supportive environment with laws to protect the rights of MSM and the society is accepting MSM’ as their first item in their visions for five years, in which the two highest priority are ‘Anti-stigma and discrimination: law reform to protect the rights of MSM/Transgender’ and ‘Legislation of sexual orientation discrimination ordinance’ respectively.

From AIDS Concern’s frontline experience and research, we have found that over 40% of interviewed MSM said that “I don’t want the others know that I am gay” is their major factor for not having HIV test. Obviously stigma associated with LGBT people is a major contributory barrier to efforts to prevent HIV infection for the following reasons:

- Treatment for HIV in Hong Kong is good but the fear and stigmatization mean that some LGBT people do not seek health advice from doctors or others. They are fearful that they will not be treated sensitively or that their sexuality will be revealed and therefore cause them problems. The elimination of discrimination based on sexuality is a key priority in working to prevent HIV.
- There is limited education about sex and gender identity which means young people who are confused about their sexuality do not understand the issues and risks they may face and how to protect themselves.
- Many LGBT people experience higher levels of depression, mental health problems, drug and alcohol over-use. LGBT people have identified stigma and discrimination as important contributory factors leading to these issues which in turn increase the risk that people do not have safer sex.
- There are LGBT people in relationships where one of the people has HIV and there is domestic abuse. Research reveals the link of HIV and domestic violence among gay and bisexual men. People being abused say that they feel they have to stay with the abusive partner because their HIV status or their sexuality gives them limited choices.
- Heterosexual men report not being concerned enough to get HIV testing because they think it is a gay problem and they do not want to be associated with gay issues. Heterosexual men with HIV get diagnosed later than men who have sex with men. This is a problem because the earlier people get diagnosed with HIV, the better their health is going to be and the risk of infecting others is reduced.

Although improving the legal rights of sexual minorities will not sort out all of these issues in an overnight, legal rights are definitely an important part of making changes that can reduce stigma and make it easier for LGBT people to live healthier lives.

More detail on what AIDS Concern would like to see

AIDS Concern recognises the definition of sexual orientation by the American Psychological Association as, ‘the enduring pattern of emotional, romantic and/or sexual attractions to men, women or both sexes’.

Given the clear and damaging impact that stigma and discrimination has on HIV prevention and care, AIDS Concern condemns all discrimination against LGBT people. AIDS Concern strongly urges the development of a social environment built on principles of equality. Undoubtedly legal rights are a crucial first step in achieving this. AIDS Concern will take the following position when discussing the rights of sexual minorities in Hong Kong.

1. No stigma on sexuality and legal protection for sexual minorities

AIDS Concern wants to see all people in Hong Kong in a position to prevent HIV infection. Reducing the stigma associated with sexuality is a vitally important part of creating the conditions in which we can ensure effective prevention, treatment and care for HIV in Hong Kong. People should receive equal protection under the law against harassment or discrimination on the basis of sexuality.

2. Support equal opportunity campaigns

AIDS Concern will be involved in the campaign for equal rights legislation because we believe that improving the rights of LGBT people will be an important factor in reducing HIV infections in Hong Kong. We will alert our supporters to our public position in support of legal protection and encourage them to become involved in the campaigns.

3. Education for young MSM and Comprehensive Sexuality Education

AIDS Concern recognises the absence of good quality sexuality education as a serious barrier in the work to create an equal environment for people of different sexualities and prevention of HIV infections in Hong Kong. We strongly advocate for Comprehensive Sexuality Education for young people which includes education on understanding and respecting different sexual identities.

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