

1. INTRODUCTION

1.1 Section 377A of the Penal Code of Singapore is the key legislation which criminalises consensual sexual behaviour between adult males:

“Any male person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years.”¹

1.2 Although Section 377A has not been enforced since the last Review of Singapore in 2016, its continued existence permits the institutionalisation of discriminatory policies against not just gay men, but the whole lesbian, gay, bisexual and transgender (LGBT+) community. The Singapore Government has also maintained its position in retaining but not enforcing Section 377A, with the Prime Minister most recently stating that the law “will be around for some time.”²

1.3 Within this context, this submission will cover how the human rights of LGBT+ Singaporeans continue to be restricted, and proposes recommendations that the Government can adopt.

Constitutional Challenges against Section 377A of the Penal Code

1.4 In 2014, the Singapore Court of Appeal (SGCA) dismissed two constitutional challenges against Section 377A on the basis that the law did not violate the Article 9 right to life and personal liberty nor the Article 12 right to equal protection.³

1.5 In 2019, the Singapore High Court again dismissed three suits again challenging the constitutionality of Section 377A,⁴ stating that it was bound by the 2014 SGCA decision. Further, it held that it was not within the Court’s ambit to decide whether a person’s sexual orientation is immutable, and even though Section 377A is not currently enforced, it serves to reflect public sentiment and safeguard public morality by enshrining societal disapproval of male homosexual conduct.⁵

1.6 At the time of submission, it is understood from the legal teams that all three cases will be heard together in the SGCA in early 2021. It remains to be seen whether the SGCA will overrule its earlier decision. It has been noted that the retention of provisions like Section 377A is a violation of international law.⁶

Maintenance of Religious Harmony (Amendment) Act 2019 (MRHAA)

1.7 The MRHAA⁷ was passed in October 2019⁸ to criminalise the incitement to violence on religious grounds against a group or individual distinguished by any characteristic. The Explanatory Note to the Bill explicitly referred to sexual orientation as a protected group.⁹ After the MRHAA was passed, the Minister of Law also affirmed in a Facebook post that “everyone should feel safe in Singapore... [n]o one should threaten someone because they were LGBTQ”.¹⁰

2. FREEDOM OF ASSOCIATION AND ASSEMBLY FOR LGBT+ COMMUNITY

Restrictions on Freedom of Association

2.1 In 2017, the Accounting and Corporate Regulatory Authority (“ACRA”) rejected an application by local transgender group The T Project to register as a company under the Companies Act¹¹. ACRA referred to section 20(2) of the Act which provides for rejection on the basis that the proposed company is likely to be used for an unlawful purpose or that the registration will be contrary to the national interest¹².

2.2 Generally, LGBT+ groups have faced difficulties in registering as societies or charities on similar grounds¹³. The group People Like Us was rejected repeatedly when it tried to register as a society in the 1990s and 2000s¹⁴. The challenges that LGBT+ groups face in acquiring legal personality - whether as a company, society or charity - seriously impede their ability to conduct fundraising and other activities. In the case of The T Project, corporate sponsors were unable to donate as the group was unable to register for a bank account to which these sponsors can transfer funds.

2.3 Despite these legal challenges, the legitimacy of LGBT+ groups was affirmed recently through formal engagements with the Minister for Law and Home Affairs, K Shanmugam. On different occasions, he has visited and engaged with various groups on issues affecting the LGBT+ community¹⁵¹⁶¹⁷. Registration of The T Project was eventually allowed after appeal in 2019.

Restrictions on Freedom of Assembly

2.4 At the last Review in 2016, the Government’s delegation cited the existence of Pink Dot rallies as an example of LGBT+ freedom.¹⁸ The annual event is more than a show of solidarity or an example of Singapore allowing demonstration and free speech; its purpose has always been to highlight that LGBT+ discrimination still exists, and forward the message that someday the country will embrace diversity and achieve equality for all Singaporeans¹⁹.

2.5 In 2019, the Government asserted it has “not stopped Pink Dot from having a gathering every year.”²⁰ While technically true, amendments to the Public Order Act in 2017 impose onerous conditions on the organising of public assemblies at Hong Lim Park, the only location in the country where Singaporeans can exercise their right to freedom of assembly.²¹ This has made the organising of Pink Dot – Singapore’s only LGBT+ public rally,²² ²³ increasingly challenging.

2.6 In 2014, the police refused to grant a permit for the Pink Run, an event held as part of IndigNation, an annual LGBT+ pride festival. The reason given by the police was in the interest of public order as the purpose of the event is “related to LGBT advocacy, which remains a socially divisive issue.”²⁴

Recommendations

2.7 We recommend the Government to adopt the following:

- a) Remove all existing obstacles for the registration of LGBT+ organisations, including rejecting applications on the basis that they are contrary to the national interest or public order.
- b) Revise the Government’s policy to refuse granting of permits to LGBT+ assemblies and events on the basis that it is contrary to the national interest or public order.

3. RECOGNISING GENDER IDENTITY

3.1 Singapore adopts a binary definition of female and male for assignment of sex at birth, which is recorded on the Birth Certificate, and subsequently on national registration documents including the National Registration Identity Card (NRIC) and passport.

3.2 Existing legislation allows for details on the NRIC, including “Name” and “Sex”, to be changed.²⁵ Based on reported experiences, the current policy requires the NRIC-holder who applies to change their “Sex” to produce a doctor’s letter indicating that the NRIC-holder has completed reassignment surgery from one gender to another.

3.3 Since 2017, there are new requirements in place that presumably supplement the non-definition of surgery in the above policy.²⁶ Through a form known as the “Medical Examination Report”, the NRIC-holder now has to show proof of “sex reassignment surgery with the result that the patient’s genitalia has *completely* changed from male/female to female/male genitalia” (emphasis in form). The medical examination must be carried out by a Singapore-registered specialist in plastic surgery, gynaecology or urology, and the medical specialist may be liable to prosecution or disciplinary action for providing false information.

3.4 Based on reports from senior medical specialists, this requirement appeared to have been implemented without consultation with the Singapore Medical Council, resulting in post-surgery transgender persons being turned away from specialists who claim they were unable or unwilling to carry out the medical examination for this purpose.

Recommendations

3.5 We recommend the Government to adopt the following:

- a) Eliminate the additional requirement for a specialist to examine the transgender NRIC-holder post-surgery, and retain the policy of requiring a physician’s letter to confirm that gender reassignment surgery has been completed.
- b) Additionally, to introduce a non-surgical route for gender recognition, which requires psychiatric diagnosis of gender dysphoria, coupled with a minimum period of time on hormone replacement therapy and evidence of social transition in alignment with their gender identity.

4. LGBT+ MEDIA GUIDELINES AND CENSORSHIP

4.1 In Singapore, television programs, films, radio and advertising are regulated by the Infocommunications Media Development Authority (IMDA) through its Codes of Practice. Additionally, the advertising industry is self-regulated by the Advertising Standards Authority of Singapore (ASAS), which administers the Singapore Code of Advertising Practice (SCAP).

Content Codes for Television and Radio

4.2 Information about and positive portrayal of LGBT+ persons and issues in mainstream media continue to be restricted through IMDA guidelines, which state that any material which “promot[es] homosexuality” would be refused classification.²⁷ Under the Films Act, it is an offence to exhibit unclassified material.²⁸ This prohibition also applies to free-to-air and subscription television.

4.3 Since the last Review, the IMDA Content Codes for television²⁹ and radio³⁰ have been updated. The Content Code for radio services continues to group “homosexuality, lesbianism, bisexuality, transsexualism, transvestism” alongside “paedophilia and incest” as content to be “treated with utmost caution”, so as not to “promote, justify or glamorise such lifestyles.”³¹ However, the Content Code for television no longer contains this clause.

4.4 Nevertheless both Content Codes, under the heading “General Principles”, stipulate compliance with “prevailing laws of Singapore” and “not undermine national interest”, which effectively disqualifies positive depictions of LGBT+ persons and issues. It is notable that whilst discrimination on the basis of race, religion, gender, age, occupational status and disability are prohibited in programme content, one’s sexual orientation and gender identity are not included.

Examples of LGBT+ Media Censorship, Self-Censorship and Negative Portrayal

4.5 In 2015, Taiwanese performer Jolin Tsai’s song and music video “We’re All Different, Yet The Same”, featuring same-sex relationships, was banned from broadcast on local television and radio.³² A 15-second advertisement by Pink Dot to promote its annual LGBT+ rally was also refused classification.³³

4.6 In 2017, in response to public complaints about the annual LGBT+ event, ASAS pressured a shopping mall operator to remove the tagline “Supporting the freedom to love” from banners displayed at the mall, on the basis that it “may affect public sensitivities.”³⁴

4.7 In 2019, a radio station removed the words “less gay” from the Taylor Swift’s song, *You Need to Calm Down*.³⁵ IMDA later issued a clarification to radio broadcasters that the song was not in breach of the Free-To-Air Radio Programme Code.³⁶

4.8 In 2019, a non-sexual kiss between two women in a Star Wars film³⁷ was censored by IMDA, and security officers stopped audience members from waving the LGBT+ rainbow pride flag at the concert of Australian singer-songwriter and LGBT+ activist, Troye Sivan.³⁸

4.9 In 2020, state broadcaster Mediacorp aired a television series in which a gay man was stereotypically depicted as sexually assaulting boys, and having a sexually transmitted infection.³⁹ This created backlash from the LGBT+ community, and resulted in an apology from the broadcaster. It has to be noted that the character portrayal was in line with the existing Content Code.

4.10 Overall, these regulations, guidelines and actions serve to prevent public discussion and constructive dialogue on LGBT+ issues, reinforce negative LGBT+ stereotypes, restrict LGBT+ persons from receiving important public health information relevant to their needs, limit LGBT+ community service-providers from publicising their services, and impose institutional discrimination on the LGBT+ community.

Reports of the Censorship Review Committee (CRC)

4.11 The Government-appointed CRC in 2003 reported that half of survey respondents did not object to allowing access to non-exploitative content dealing with homosexuality, and recommended taking “a more flexible and contextual approach when dealing with homosexual themes and scenes in content”, while allowing “greater leeway for adults, so long as they are not exploitative.” The report suggested that consumers of media content “should exercise their judgement and take responsibility for their choice”, and “a need for public education on this matter.”⁴⁰

4.12 The CRC in its 2010 report reiterated the above stand, and recommended that, while considering minority interests, to “adopt a flexible and contextual approach for homosexual content.”⁴¹

Recommendations

4.13 We recommend the Government to adopt the following:

- a) Remove all discriminatory guidelines in Content Codes, e.g. by deleting references to “homosexuality, lesbianism, bisexuality, transsexualism, transvestism” where it appears alongside “incest, paedophilia, bestiality or necrophilia”.
- b) Include sexual orientation and gender identity as community characteristics that are prohibited from being discriminated against in programme content, alongside existing characteristics.
- c) Publish IMDA’s decisions on censorship to promote transparency in the regulator’s decision-making process and minimize unnecessary self-censorship by media platforms.
- d) Allow public advertisements which promote the health and well-being of the LGBT+ community
- e) Implement the 2003 CRC recommendations to allow greater leeway for adults to access content which depicts homosexuality, by allowing balanced and factual discussions of LGBT+ issues, and non-sexually explicit and non-exploitative depictions of LGBT+ persons.

5. EDUCATION & WELL-BEING OF LGBT+ YOUTH

5.1 The Ministry of Education (MOE) is committed to providing “our children with a balanced and well-rounded education, develop them to their full potential, and nurture them into good citizens.”⁴² Yet evidence and experience show that this is clearly not the case for LGBT+ youth.

Institution-based Bullying and Discrimination

5.2 Even though teachers and counsellors are said to be given “very extensive training”⁴³ to handle bullying related to gender identity or sexual orientation, and adopt “an objective approach to ensure the overall best interest of the students”, there are no publicly available details from the MOE about how this is done. Based on reports from LGBT+ current and former students, the problem of LGBT+ bullying remains prevalent in schools.

5.3 To date, there is no official or clear MOE policy against discrimination and censorship of LGBT+ content in the educational context. MOE has defended the decision of several tertiary institutions to rescind their invitation to LGBT+ speakers or censor their content on the basis that these schools need to “be respectful” of Singapore's social norms and laws.⁴⁴ This followed revelations by

several LGBT+ artists and activists, who were asked to self-censor in order to participate in school activities.⁴⁵

Sexuality Education (SE) in Schools

5.4 The current SE curriculum is inadequate in empowering young LGBT+ persons to make appropriate and healthy choices. It does not include LGBT+ issues from an evidence-based perspective, other than “what homosexuality is, the importance of respect and empathy, and the law concerning homosexual acts in Singapore.”⁴⁶ One of its six guiding principles is to “encourag[e] heterosexual married couples to have healthy relationships with each other”, which is inapplicable and alienating for LGBT+ youth.⁴⁷

5.5 Despite the strict requirements imposed by MOE’s Selection Criteria for engaging external service-providers,⁴⁸ young people have repeatedly called into question the efficacy and objectivity of such programmes after attending them.⁴⁹ In 2019, MOE clarified that it has not engaged external vendors to deliver SE in its schools since 2017.⁵⁰ This is an encouraging development given that some previous external vendors allegedly adopted anti-LGBT positions.

5.6 LGBT+ youth need to access accurate and relevant sexuality education to maintain positive sexual and psychosocial health, and have the right to receive professional support that is sensitive and relevant to their needs. Based on available information from the national teaching diploma curriculum, educators do not seem to be equipped to provide LGBT-affirming SE and counselling,⁵¹ and hence are unable to support the psychological health and well-being of LGBT+ youth.

Consent Education and Reporting Policies

5.7 In 2019, the National University of Singapore implemented consent education,⁵² which included references to LGBT+ identities.

5.8 While most universities have adopted policies that prohibit LGBT+ harassment or discrimination, there is often no consistent or specific mechanism for victims to report such conduct or seek support.⁵³

Supporting Transgender and Non-Binary Students

5.9 In 2015, Yale-NUS College became the first campus to introduce gender-neutral housing, which creates a more inclusive environment for transgender and gender non-binary students⁵⁴. Though some universities have indicated that transgender and gender non-binary students can request special arrangements, the policies and practices remain inconsistent.

Transgender and Non-Binary Persons in National Service (NS)

5.10 All citizens and Permanent Residents who are legally male are required to serve 2 years of compulsory NS upon reaching the age of 18, and such persons are liable for subsequent service obligations until the age of 45 or 50.⁵⁵ These requirements include transgender or gender non-binary individuals who are legally male.

5.11 According to the Ministry of Defence (MINDEF), an individual may be exempted from serving NS if they are either legally female or medically unfit.⁵⁶ In 2016, a transgender woman was granted asylum in the United Kingdom after the court held that repatriating her to Singapore to serve NS would amount to serious harm and a fundamental breach of her right to a private life and expression of her

gender identity.⁵⁷

5.12 Because of the restrictive requirements for a person to legally change their gender by undergoing all relevant gender assignment procedures, transgender women often are unable to change their legal gender in time to avoid NS obligations. The current MINDEF policy on the NS obligations of gay, bisexual and transgender (GBT+) individuals remains unclear, though anecdotal accounts suggest that a policy exists based on the since-removed Category 302 of the obsolete International Classification of Diseases-9.⁵⁸

Recommendations

5.13 We recommend the Government to adopt the following:

- a) Develop a National Action Plan to specifically address LGBT+ bullying and mental health in schools, in collaboration with LGBT+ community and healthcare organisations, to include clear reporting processes for victims.
- b) Adopt a clear and explicit policy that prohibits LGBT+ discrimination in schools, and provide LGBT+ sensitivity training for staff to provide support for LGBT+ students who report discrimination.
- c) Implement an evidence-based sexuality education curriculum that is inclusive of LGBT+ diversity, while ensuring consistency and secularity of content.
- d) Introduce a gender-neutral option for all campus accommodation in tertiary institutions; review and implement policies to allow transgender and non-binary students to change their name and gender in school records.
- e) Clarify existing policies towards GBT+ persons liable for NS obligations; consider expanding current practice of exempting transgender women who are legally female, to include legally males diagnosed with gender dysphoria.

6. EMPLOYMENT DISCRIMINATION TOWARDS LGBT+ PERSONS

Lack of Legislation Protecting LGBT+ Employees Against Discrimination

6.1 In September 2018, then Education Minister Ong Ye Kung claimed that there is no discrimination against LGBT+ persons “at work, housing (and) education” because it is in Singapore’s DNA to be inclusive.⁵⁹ Yet this is far from the truth for the many LGBT+ Singaporeans who continue facing discrimination, harassment and bullying at work because of their sexual orientation or gender identity.

6.2 In 2018, a transgender writer revealed that she was dismissed from her workplace after her supervisors discovered that she had been on hormone replacement therapy.⁶⁰ Former LGBT+ teachers have also revealed the discrimination they faced after disclosing their LGBT+ identity, and most educators continue to hide their sexuality out of fear they may be penalised.⁶¹

6.3 Common to these experiences is the lack of clear or comprehensive protections against workplace discrimination and strong statutory penalties to deter discriminatory employment practices or conduct. The lack of such legislative measures has resulted in Singapore’s ranking as the second

least-inclusive country in Kantar's 2019 Inclusion Index.⁶²

6.4 In April 2019, the Employment Act was amended to protect all employees from wrongful dismissal, including on the basis of discrimination.⁶³ The Tripartite Guidelines on Wrongful Dismissal states that “dismissing an employee because of discrimination e.g. against the employee’s race, gender or disability is wrongful” but does not make reference to employees’ sexual orientation, gender identity or expression (SOGIE).⁶⁴

6.5 Under the Fair Consideration Framework, the Ministry of Manpower may impose administrative penalties on errant employers who engage in discriminatory practices, specifically the curtailment of work pass privileges.⁶⁵ However, these penalties have largely been imposed on employers who discriminate on the basis of nationality or age,⁶⁶ and may not be relevant or effective to address discrimination against LGBT+ persons.

6.6 The Employment Act currently lacks provisions to prohibit discrimination at all levels of employment, including hiring, remuneration and promotion. This is particularly relevant for transgender and gender non-binary employees, many of whom struggle to secure employment due to their visible identities.⁶⁷ An empirical study by UNDP found that transgender people are significantly less likely than cisgender people to receive a positive response to a job application, despite equal experiences and qualifications.⁶⁸ The absence of a clear prohibition against discrimination also forces many LGBT+ people to hide their identities out of fear that disclosing their LGBT+ identity may lead their employers or colleagues to discriminate against them.

Lack of LGBT+ Inclusion in Workplaces

6.7 There exist government guidelines that discourage employers, especially multi-national corporations, from publicly supporting LGBT+ causes.⁶⁹ Additionally, a 2018 study found 50% of about 500 human resource professionals and corporate leaders reported that their companies did not have equal opportunity policies.⁷⁰

LGBT+ Employees in the Civil Service

6.8 In 2003, former Prime Minister Goh Chok Tong announced that the Government was willing to hire LGBT+ civil servants.⁷¹ To date, there is no known policy in the civil service that addresses discrimination and harassment on the basis of SOGIE.

6.9 Following the 2003 announcement, a 2009 empirical study found that discrimination against LGBT+ civil servants did not improve in the absence of any clear legal protection.⁷² LGBT+ community groups have counselled and supported LGBT+ civil servants who have faced discrimination and harassment but are fearful of reporting such behaviour to their supervisors.

Recommendations

6.10 We recommend the Government to adopt the following:

- a) Explicitly include SOGIE as protected characteristics under the Tripartite Guidelines for Fair Employment Practices.

- b) Impose statutory penalties on employers for workplace discrimination on the basis of SOGIE.
- c) Amend the Employment Act to prohibit SOGIE discrimination at all levels of employment, including hiring, remuneration and promotion.
- d) Adopt a clear and explicit policy in the civil service that prohibits discrimination and harassment on the basis of SOGIE.
- e) Collaborate with companies and organisations in corporate and community initiatives aimed at promoting LGBT+ sensitivity and equal opportunity policies in employment.

7. HOUSING FOR LGBT+ PERSONS

7.1 Singapore's public housing authority, the Housing and Development Board (HDB), claims to have "housed an entire nation."⁷³ However, based on current policies, the balance of priorities and competition for space in land-scarce Singapore,⁷⁴ housing for LGBT+ couples and families is low on the agenda compared to their heteronormative counterparts.

Existing Public Housing Policies Centred on Heteronormative Marriage

7.2 LGBT+ Singaporeans who are single or in same-sex relationships are disadvantaged, especially if they only have the means to afford public housing, which is more affordable than private housing. Singles and non-heterosexual couples are currently only eligible to purchase public flats only upon reaching 35 years of age, and only as an individual under the Single Singapore Citizen Scheme or the Joint Singles Scheme,⁷⁵ since same-sex marriages are not legal, nor are same-sex marriages from other jurisdictions recognised.

7.3 LGBT+ couples and families are also financially penalised as they are either ineligible for government housing subsidies, or only eligible for smaller subsidies, compared to heterosexual-married couples and heteronormative families.⁷⁶

7.4 Even when a couple has entered into heterosexual marriage and applied to purchase public housing by meeting all eligible criteria, it is no guarantee that they are entitled to it, when one of the spouses discloses their gender identity or sexual orientation. In 2017, a case surfaced whereby one spouse disclosed her transgender identity, and transitioned legally into female. As a result, not only did the Registry of Marriages void their marriage, their eligibility to purchase a public flat as a married couple was revoked.⁷⁷

7.5 According to Singapore's intestacy rules, a share of the estate of a married individual who dies intestate will be distributed to their spouse and children, if any.⁷⁸ Since same-sex marriages are not legally recognised, a same-sex spouse or long-term partner will not be considered the legal beneficiary of the deceased who dies intestate.

Lack of Housing Security in Private Rental Housing

7.6 The absence of anti-discrimination legislation protecting tenants from discrimination on the basis of SOGIE puts LGBT+ persons at further risk when it comes to rental accommodation.

7.7 Many standard tenancy agreements, including the government-recommended template for renting of public and private residential properties includes a clause that prohibits tenants for using the property for “any illegal purpose or activities of an improper nature.”⁷⁹ With consensual same-sex intimacy still criminalised, landlords can therefore exclude LGBT+ tenants under such agreements.

7.8 Evidence from the local community showed that this is a common occurrence, that upon the landlord’s discovery that tenants are from the LGBT+ community, there is either immediate eviction, or the threat of eviction coupled with the option of paying increased rent. Gay male couples and transgender persons are particularly impacted, and this is one of the premises on which The T Project – a community shelter for homeless transgender persons – was founded in 2014.⁸⁰

Recommendations

7.9 We recommend the Government to adopt the following:

- a) For the purpose of eligibility for public housing, ownership and inheritance, recognise same-sex long-term partnerships and marriages conducted in other jurisdictions.
- b) Impose statutory penalties on landlords for rental discrimination on the basis of SOGIE.

8. HEALTHCARE & SOCIAL SERVICES FOR LGBT+ PERSONS

8.1 There is no concerted effort by the Government to understand the overall psychosocial, mental, sexual and physical health needs of LGBT+ Singaporeans, and limited LGBT-affirming services are available to meet the community’s needs.

8.2 A community study found that 44% of respondents reported poor mental health and are at risk of depression, as compared to the national rate of 11.2%.⁸¹ In a study about men who have sex with men (MSM) and HIV, community stakeholders reported that low self-esteem as well as feelings of shame and guilt related to their sexual orientation contributed to risky sexual behaviour.⁸² These data underscore the importance of LGBT-specific support services.

Limited Access to LGBT-affirming Services

8.3 Singapore has over 450 non-profit social service agencies (SSAs) providing services to meet the psychosocial, mental health and community health needs of the population.⁸³

8.4 Other non-governmental organisations (NGOs) that openly provide services for the LGBT+ community - Oogachaga, The T Project, Brave Spaces, The Greenhouse, and Project X – are not formally recognised by the Government as SSAs. They also have limited access to public funding, and unlike SSAs, are usually ineligible for government grants.

8.5 During the COVID-19 pandemic, these NGOs were unable to tap on emergency government funding for the social service sector,⁸⁴ even as they faced reduced public and corporate donations, and the increased need for services from the LGBT+ community. Instead, funding had to be sought from other sources, such as individual and international donors, and local non-governmental grants with more lenient eligibility criteria.⁸⁵

8.6 As most of these LGBT+ NGOs are not registered as charities, or are unable to do so due to existing legislation,⁸⁶ they are also disadvantaged in being less attractive to individual and corporate donors. Charity registration is the first step to having the Institution of Public Character status, which allows the issuance of tax-deductible receipts to donors.⁸⁷

8.7 Additionally, mainstream SSAs either do not provide LGBT-affirming services, or do not openly publicise their provision, to avoid potential funding issues or public controversy. Only two – Action For AIDS, Singapore (AFA⁸⁸) and Association for Women’s Action and Research (AWARE⁸⁹) – are known to acknowledge some service provision for the LGBT+ community. Professional competency in understanding and working with LGBT+ service-users is low.⁹⁰

8.8 For transgender Singaporeans, accessing primary healthcare services comes with multiple challenges. A 2016 community survey of transgender women found that 94.9% of respondents had not sought professional help despite reporting suicidal ideation, attempts or depressive symptoms in the past year. While 29.4% reported not knowing where to seek professional help, 17.6% were concerned about being stigmatised due to their transgender identity. Significantly, 68.3% and 61% of participants identified the availability of transgender-specific healthcare services and transgender-affirming staff respectively as key reasons for choosing a healthcare provider.⁹¹

8.9 In 2018, a transgender person was rejected service by a primary healthcare provider on the basis of the physician’s “religious belief.”⁹² Oogachaga lodged an official complaint on their behalf to the Singapore Medical Council, and was informed that according to their 2016 Edition of the Ethical Code and Ethical Guidelines, the doctor “was within his rights to decline.”⁹³

Sexual Healthcare Needs

8.10 One area that is critically affected is the sexual health of LGBT+ people. MSM and transgender persons continue to be key populations affected by HIV. In 2019, 57% of newly-diagnosed infections were through same-sex and bisexual transmission⁹⁴. This has been a consistent trend for several years; in 2013 this figure was 54%.⁹⁵

8.11 The Infectious Diseases Act criminalises HIV non-disclosure by persons living with HIV and imposes a statutory duty on MSM to inform their sexual partners of the risk of contracting HIV.⁹⁶ A gay man living with HIV was jailed for 24 months in 2019 for failing to communicate the risk of contracting HIV to his sexual partners.⁹⁷

8.12 While it is known that some government funds for HIV prevention have been earmarked for the MSM and transgender communities, there is no publicly available information on the specific amount disbursed by the lead public health agency to community-based SSAs and NGOs for this purpose in recent years.⁹⁸

Mental Healthcare Needs

8.13 International evidence acknowledges the impact of minority stress on the mental health of LGBT+ persons.⁹⁹ Yet in the Government’s 2017 Community Mental Health Masterplan,¹⁰⁰ there was no mention of the LGBT+ community’s specific needs.

8.14 Recent local research¹⁰¹ documenting the range of psychological and physical violence experienced by LGBT+ persons at home, in school, at the workplace and in public, and the impact on their emotional well-being, all clearly establish the need for local LGBT-specific mental healthcare

services. To-date, such support is still lacking.¹⁰²

Continued Existence of Harmful Conversion Practices

8.15 UN Independent Expert on Sexual Orientation and Gender Identity defines “conversion therapy” as “an umbrella term to describe interventions... which are premised on the belief that a person’s sexual orientation and gender identity... can and should be changed or suppressed... in particular when the person is lesbian, gay, bisexual, trans or gender diverse.”¹⁰³ Such practices are thus known to “inflict severe pain and suffering on LGBT persons, often resulting in long-lasting psychological and physical damage” and are “consistently debunked by the scientific community and have been repeatedly linked to long-term harm to the physical and mental health of LGBT persons.”¹⁰⁴ Globally, such practices have been documented to take various forms, with a range of proponents including healthcare professionals, faith-based practitioners and state-sanctioned service providers.¹⁰⁵

8.16 In Singapore, some service providers continue to offer such practices. Over the years, many LGBT+ youth and adult clients seen by Oogachaga in the confidential counselling setting consistently report being subjected to these practices after being referred by religious leaders, social service, healthcare or educational professionals¹⁰⁶.

8.17 The Government’s stand is that professionals are expected to “practice according to evidence-based best practice and clinical ethics, and to consider and respect patients’ preferences and circumstances (including sexual orientation) when providing care.”¹⁰⁷ The official statement goes on to add that, for those “who seek care with a desire to change one’s sexual orientation through clinical means, healthcare professionals should care for and support these individuals with empathy and sensitivity¹⁰⁸.”

8.18 Even as this stand is welcomed, it does not go far enough in preventing the continuation of such harmful practices.

Recommendations

8.19 We recommend the Government to adopt the following:

- a) Allocate resources and develop comprehensive LGBT-specific programmes in social service, healthcare and mental health sectors.
- b) Implement and fund LGBT-specific training for professionals in medicine, nursing, social work, counselling and psychology. The curricula should be aligned with latest scientific evidence.
- c) Require all professional associations to implement guidelines that explicitly prohibit all clinical practices that seek to change one’s sexual orientation and/ or gender identity, and any practices that are discriminatory towards LGBT+ persons.
- d) Implement legislation to protect LGBT+ minors and vulnerable adults from psychological violence, including conversion practices by professionals and non-professionals.
- e) Implement anti-discriminatory guidelines in all healthcare and social service institutions, to protect the rights of LGBT service-users, as well as adopt international guidelines on providing sexual and mental health information, prevention and treatment for LGBT+ persons across all life stages.

9. CONCLUSION

9.1 While the Government reiterates that Section 377A will not be proactively enforced,¹⁰⁹ it must be emphasised that such statements are not legally binding, and creates a situation with a law whose original purpose no longer exists, as noted by a former Chief Justice.¹¹⁰

9.2 Instead, the law's existence has unambiguously impacted legislation and public policies in Singapore. This submission has highlighted how these policies have violated the basic human rights of LGBT Singaporeans in these areas, with accompanying recommendations.

- a) Freedom of association and assembly
- b) Recognising gender identity
- c) Media guidelines and censorship
- d) Education and well-being
- e) Employment discrimination
- f) Housing
- g) Healthcare and social services

9.3 We urge the Singapore Government to align existing policies with our recommendations and proactively engage Oogachaga, Pink Dot and other LGBT+ community stakeholders in their plans to build a society that is just and equal for all Singaporeans, including LGBT+ citizens.

Total wordcount: 5,447

Endnotes:

¹ Penal Code (Cap. 224, Rev Ed 2007) of the Republic of Singapore.

² <https://www.todayonline.com/singapore/377a-will-be-around-some-time-will-not-inhibit-how-spore-attracts-tech-talent-pm-lee> accessed 11 October 2020.

³ *Lim Meng Suang and another v Attorney-General and another appeal and another matter* [2015] 1 SLR 26; [2014] SGCA 53

⁴ *Ong Ming Johnson v Attorney-General and other matters* [2020] SGHC 63.

⁵ *ibid.*

⁶ UN General Assembly, Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, A/72/172 (19 July 2017), para. 32.

⁷ Maintenance of Religious Harmony (Amendment) Act (No. 31 of 2019 of the Republic of Singapore)

⁸ Assented to by the President of Singapore on 29 October 2019

⁹ See the new Section 17E(1)/(2) as set out in Section 14 of the MRHAA.

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