



LGBTI

Rights and freedom of religion in Hong Kong and the European Union

女同性戀、男同性戀、雙性戀、跨性別和雙性人在香港與歐盟的人權及宗教自由

Monday, 28 November 2016

Speakers include German, Irish, Dutch, Taiwanese and Hong Kong religious and civil society figures

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講者包括來自德國、愛爾蘭、荷蘭、台灣與香港的宗教及社會人士。

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Gender Research Centre, CUHK



Gender Studies
Programme
性別研究課程



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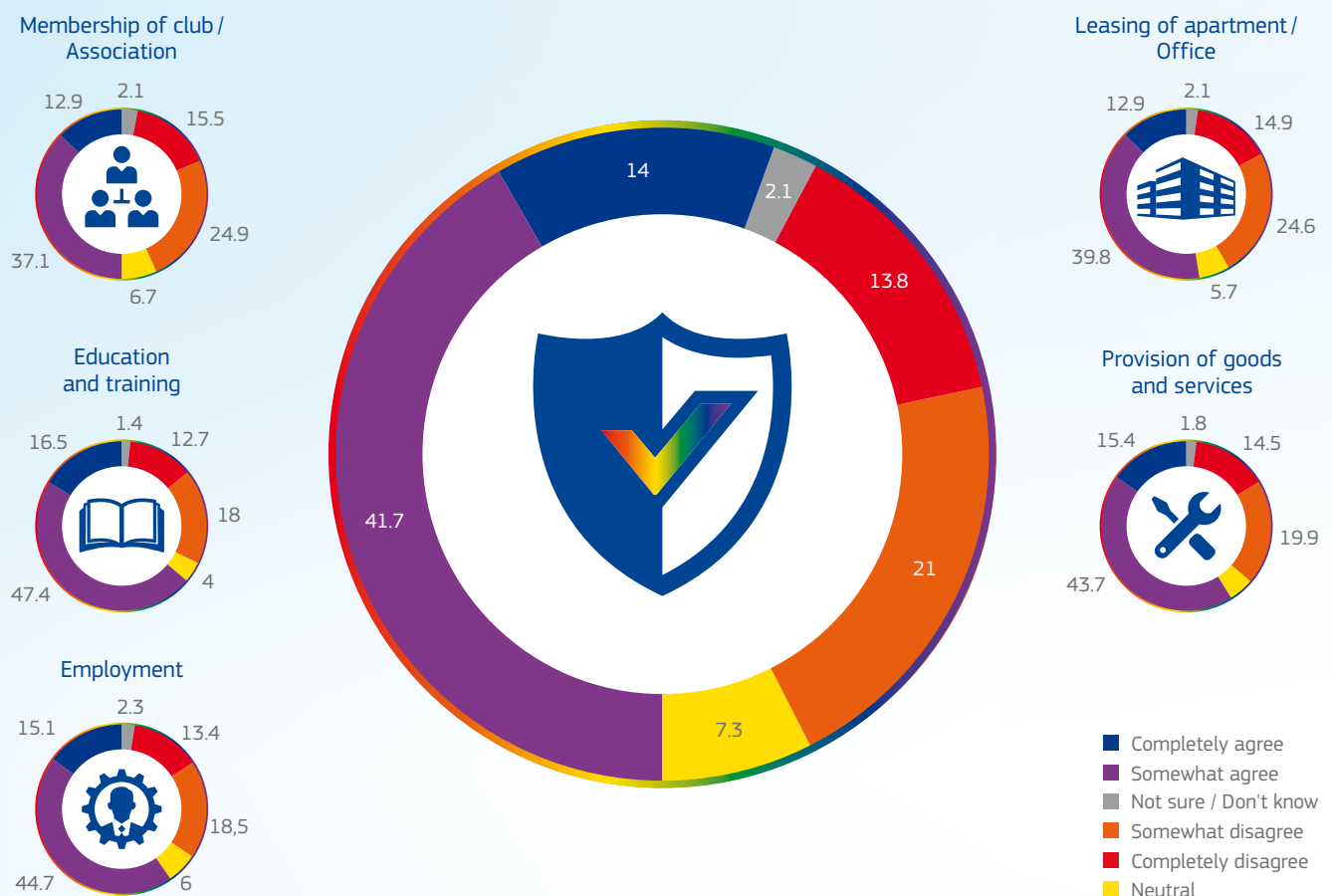
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EQUAL OPPORTUNITIES COMMISSION

Equal Rights for LGBTI People in Hong Kong

In Hong Kong (HK), the experiences of Lesbian, Gay, Bisexual, Transsexual and Intersex people (LGBTI) point to **extensive discrimination**. According to the first comprehensive Hong Kong study on the topic, all types of people discriminate against LGBTI people, who do **not have “safe spaces”** and are victims of discrimination **throughout their lives**. The 2016 study, which was commissioned by the Equal Opportunities Commission (EOC), and run by the Chinese University of Hong Kong's (CUHK) Gender Studies' Centre, showed that LGBTI people **do not have access to equal education and employment opportunities**, that they have **problems accessing social workers and healthcare personnel**, among many other experiences of discrimination.

Whereas Hong Kong (HK) has **comprehensive anti-discrimination** legislation on the grounds of gender, race, and disability, it does not protect people from being mistreated for their gender **identity**, **sexual orientation** or **intersex status**. The Bill of Rights does however **protect** Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) people from discrimination in **government and public bodies**. Over half the HK population - 55.7% - supports legislation to protect LGBTI people in all sectors– up from 28.7% in 2005.

Overall speaking, should legal protection against discrimination be provided for people of different sexual orientation, gender identity and intersex status in Hong Kong? (%)



The legislation of Macao protects people on the grounds of sexual orientation – in employment. In Taiwan, discrimination on grounds of sexual orientation and gender identity is prohibited in both employment and education.

Equal Rights for LGBTI People in Hong Kong

Hong Kong does yet not legally recognise same sex relationships, including those legally concluded overseas. There are currently only **two** situations in which **same-sex cohabiting couples** have **limited recognition**: **1) protection from domestic violence** and **2) medical decisions** on behalf of their cohabiting partner, when he/she is unable to decide.

Transgender people must undergo genital sex reassignment surgery to legally change their gender in Hong Kong. Internationally this is considered to be a breach of their human rights, as a form of inhumane and degrading treatment. This year the United Nations recommended to change this policy. No consultations or legal changes have yet begun. Since 2013 however, transgender people do have a **right to marry, in their affirmed gender, a person of the opposite sex**. This Court of Final Appeals decision also recommended **comprehensive gender recognition legislation**.

While discrimination remains wide-spread and legislation has not progressed, Hong Kong society is becoming more supportive of equal rights for LGBTI people. 18–24 year olds are the most progressive: 91.8% agree with the need to legally protect LGBTI persons from discrimination. Some 48.9% of respondents, who consider themselves to have religious beliefs, also support such legislation, according to the same 2016 CUHK study. This year HK's Equal Opportunities Commission (EOC) recommended legislation to protect LGBTI people against discrimination, and is calling for a public consultation to determine its scope and content.

The CUHK-EOC Study: www.legco.gov.hk/yr15-16/english/panels/ca/papers/ca20160215-rpt201601-e.pdf



*No one will lose out if
LGBTI people
get the *rights* that *everyone*
else can *already* enjoy.*

- Věra Jourová
EU Commissioner for
Justice, Consumers
and Gender Equality



*The **EU** has a longstanding commitment to the
universal protection and promotion of **human rights**.
With the **#EU4HumanRights** initiative, we want to
raise the level of EU's **engagement** and to **encourage**
a broad-based public discussion on **human rights**
in the EU's foreign policy.*

- Federica Mogherini HRVP



The **#EU4HumanRights** initiative was launched in 2016 by the European Union (EU) High Representative/ Vice-President (HRVP) **Federica Mogherini**. Under its banner, the EU and its 28 Member States are calling for a year of human rights activism and global campaigning.



Equal Rights for LGBTI People in the European Union

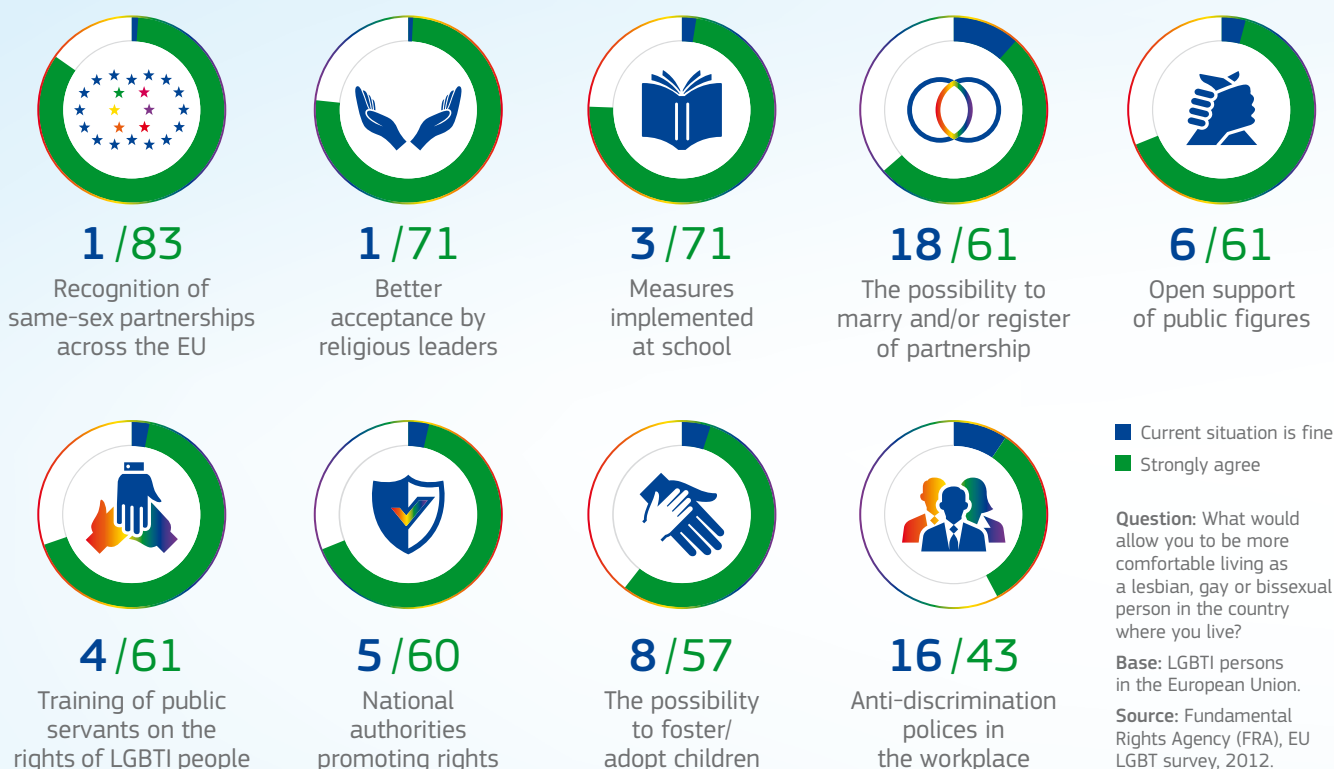
The rights of LGBTI persons are protected under existing international human rights law. For lesbian, gay, bisexual, transgender and intersex (LGBTI) persons to fully enjoy these rights, specific action is however often required. The EU is committed to the universality of human rights and reaffirms that **cultural, traditional or religious values cannot be invoked to justify any form of discrimination**, including discrimination against LGBTI persons. Based on these principles, LGBTI persons have the same rights as all other individuals.

The prohibition of discrimination is a fundamental principle of the European Union. EU-wide legislation ensures protection against discrimination on the basis of **religion or belief, disability, age, sexual orientation** in the following employment areas – covered by the EU Employment Equality Directive:

- Access to employment (recruitment) and vocational training
- Occupational pensions
- Working conditions and access to self-employment/other forms of occupation
- Equal access of partners to employment benefits.

EU Member States are obliged to apply these EU laws that prohibit discrimination based on sexual orientation. **13** of 28 EU Member States go beyond this and have **extended** protection to education and other **social spheres** such as **health care, social security, public housing** and other public goods and services. **Seven** EU countries however still **limit** protection to the area of **employment**. At the EU level, efforts to increase all levels of protection throughout the EU continue.

Measures that would allow respondents to be more comfortable living as a lesbian, gay or bisexual person, opinions by measure (%)





Equal Rights for LGBTI People in the European Union

Framing **discrimination** on the ground of **gender reassignment** as a form of sex discrimination is confirmed by the Court of Justice of the European Union (CJEU). It means that the instruments implementing the principle of equal treatment between men and women should be interpreted broadly to cover discrimination on grounds of intended or actual reassignment of gender.

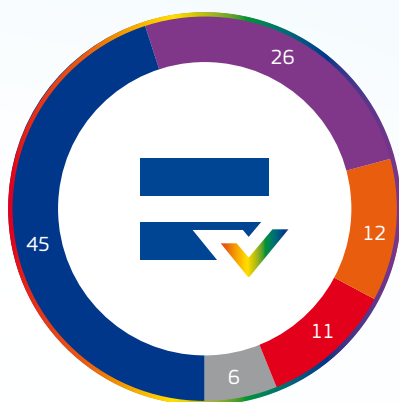
The EU Commission has commented that “So far the CJEU has only ruled on gender reassignment. There is no case law concerning gender identity more generally speaking as covered by the protection against sex discrimination but the **Commission considers that the approach should be materially similar.**” This means that trans people who do not intend to undergo any kind of medical gender reassignment should still be covered under the ground of sex. The term “gender expression” may still be interpreted as somewhat broader in its coverage.

Hate speech on the ground of sexual orientation is a **criminal offence** in 20 EU Member States since 2015. However, underreporting and a lack of statistics on hate speech and crimes on the grounds of sexual orientation and gender identity remain problems across the EU.

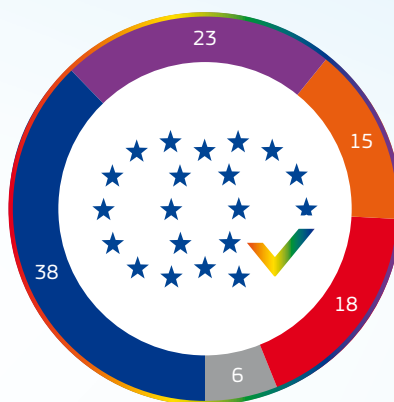
Eleven EU countries allow same/sex marriage: Belgium, Denmark, Finland, France, Ireland, Luxembourg, the Netherlands, Portugal, Spain, Sweden and United Kingdom (excluding Northern Ireland). A form of **civil union** other than marriage exists in **22 EU member states**. The exceptions are: Bulgaria, Latvia, Lithuania, Poland, Romania, Slovakia. 19 EU Member States grant **entry and residence rights** to same-sex registered partners.

In EU countries, the social acceptance of LGBTI persons at work ranges from 21% in Slovakia to 94% in Sweden. 60% of EU citizens generally see discrimination based on sexual orientation and gender identity as widespread. At the same time, **71%** of Europeans **support** gay, lesbian and bisexual people to have the **same rights** as heterosexual people. 61% think that same sex marriages should be allowed throughout Europe.

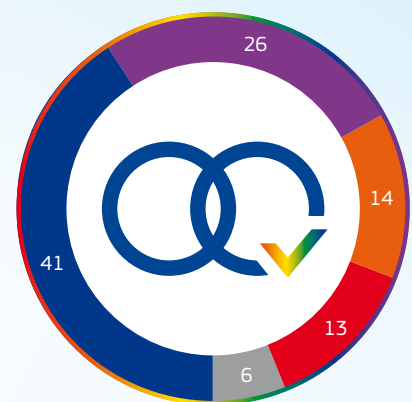
To what extent do you agree or disagree with each of the following statements? (%)



Gay, lesbian and bisexual people should have the same rights as heterosexual people



Same sex marriages should be allowed throughout Europe



There is nothing wrong in a sexual relationship between two person of the same sex

■ Totally agree

■ Tend to agree

■ Tend to disagree

■ Totally disagree

■ Don't know

Source: Eurobarometer on Discrimination 2015

Conference speakers:



Michael Barron (Ireland)

is the **director of EQUATE**, an advocacy organisation for greater equality and religious freedom in Irish schools. He developed and directed the BeLonGToYes campaign in favour of Ireland's referendum on same-sex marriage in 2015. In addition to other successful advocacy for the inclusion of LGBT people, he developed with the Irish government a comprehensive national Anti-Bullying Action Plan. Author of numerous publications on LGBTI youth, Barron was an active board member of the International Journal of LGBT Youth from 2004 to 2011.

Hong-Cheng Chang (Taiwan)

Adjunct Lecturer on Gender and Law at the National Taiwan University of Science & Technology (NTUST) - is the author of *On Equal Protection for Lesbians and Gay Men* (in Chinese, 2002), the first comprehensive book discussing LGBT issues and constitutional law in Taiwan, and *No Secrets Anymore: Identities, Strategies and the Making of the Gay Rights Movement in the Basque Country* (2010). He is currently serving as a Law Clerk for Justices of the Constitutional Court in Taiwan, as well as Ph.D. Candidate at the NTU Law School. Since September 2016, Chang is a member of the Research Committee for Legislation on Same-sex Partnership under the Ministry of Justice in Taiwan.



Reverend Grace Bok (Hong Kong)

is the **convener of the "Rainbow of Covenant - Building a Gay Friendly Church"**. She holds Master degree of Divinity at Lutheran Theological Seminary. In 2005 she worked as a pastor at the Evangelical Lutheran Church of Hong Kong. In 2010 Rev. Bok came out as a lesbian and afterwards served in a fellowship at the Blessed Ministry Community Church. Since 2012 she has been serving as a pastor at the One Body in Christ.

Boris Dittrich (Netherlands)

Advocacy Director of **Human Rights Watch's LGBT Rights Program** since 2007 - works for non-discrimination and equal rights for LGBT people around the world. As a member of the Netherlands' parliament, proposed same-sex marriage in 1994; seven years later it was the first country in the world with marriage equality. He co-organized UN Human Rights Day in 2010 and 2012, and was granted Knighthood for his political work and received the National Jos Brink Award from the Dutch government.



Conference speakers:



Rev. Wielie Elhorst (Netherlands)

is the co-initiator of the **declaration of Dutch churches against physical/verbal violence** against the LGBTI community. Not allowed to join the Salvation Army as an officer because of his sexual orientation, Elhorst became a professional youth worker in the Protestant Church. He is now a minister for the LGBT community on behalf of the Protestant Church of Amsterdam. He also leads projects on the social acceptance of Christian LGBTs in their (church) communities. He is an active advocate of empowerment of LGBT persons and capacity building of Christian LGBT organizations, and co-author of the book “Coming out Churches”. He is the Co-President of the European Forum of LGBT Christian Groups.

Cyd Ho (Hong Kong)

is a **former member of the Legislative Council of Hong Kong**, and founding member of the Labour Party. She has gained a reputation for promoting universal suffrage, rule of law, human rights, and equal opportunity, as well as advancement in the interests of women, homosexuals and other minority groups. In 2012, soon after Ho was re-elected as member of the Hong Kong Legislative council, she put forward a bill calling for a public consultation on legislation to outlaw discrimination based on sexual orientation.



Prof. Isolde Karle (Germany)

is the Head of the Institute for Religion and Society at the Ruhr University of Bochum, Germany. She is also a member of the presiding committee of the German Protestant Church Congress. As professor, her research interests include religion and society, gender studies, sexual ethics, studies of partnership/marriage and family life-styles.

Dr. Jolita Pons

Counsellor, Head of Political, Press and Information affairs at the EU office to Hong Kong and Macao - graduated from Cambridge University, Trinity College and was a philosophy researcher before joining the EU institutions in 2005. She also holds a master's degree in EU Community Law. Dr. Pons has been working on Asian affairs since 2007. Before taking up her post in Hong Kong, Dr. Pons was the China/Hong Kong/Macao desk officer in the China, Hong Kong, Macao, Taiwan and Mongolia Division of the External Action Service of the EU in Brussels. Previously she was political and security situation analyst in the Council of the European Union with focus on China, Korean peninsula, and India.



Conference speakers:



Peter Reading (UK-Hong Kong)

HK Equal Opportunities Commission, Legal Counsel - headed a number of legal policy projects in the UK, including at Amnesty International, the Commission for Racial Equality, the Equality & Human Rights Commission and at the Commonwealth Secretariat. He led legal reports on equality issues by the Equinet Network of Equality Bodies in Europe. Since 2009, he has been a regular speaker on EU anti-discrimination and human rights law at the European Academy of Law in Germany. Reading is co-author of several anti-discrimination law publications. Since 2015, Reading is on Amnesty International HK's Executive Committee.

Prof. Suen Yiu Tung (Hong Kong)

is the **founding Director of the Sexualities Research Programme at the CUHK**, the first research programme in Hong Kong dedicated to independent research on gender and sexual orientation. His research, which focuses on the legal and social policy developments of LGBTI rights in Hong Kong and China, has been funded by the UK Economic and Social Research Council, the HK Constitutional and Mainland Affairs Bureau, Equal Opportunities Commission and the CUHK.



Ryan, Lee Chun Yin (Hong Kong)

Co-President of Queer Straight Alliance and a second year Juris Doctor student at The Chinese University of Hong Kong. He began volunteering for QSA during his undergraduate years at Hong Kong Polytechnic University where he studied applied English and linguistics. He has helped QSA with their major annual social and career events such as Inclusion Recruitment Conference and QSA/FinS Mentorship Programme. His interest in advocacy for LGBT equality channels into his individual research papers, where he studied media portrayal of LGBT issues. He is currently working on his dissertation, which focuses on LGBT+ rights in relation to Hong Kong's constitutional framework and juridical attitude.

8:45 – 9:15 am	Registration
9:15 – 9:30 am	Opening remarks by partners • Director of Hong Kong Institute of Asia-Pacific Studies, The Chinese University of Hong Kong, Prof. Fanny Cheung • German General Consulate to Hong Kong, Deputy Consul General Karsten Tietz • Chairperson of the Hong Kong Equal Opportunities Commission, Prof. Alfred Chan • Head of the European Union Office to Hong Kong and Macao, Carmen Cano
9:30 – 9:45 am	Keynote speech: “Homosexuality and the Church: No discrimination required!” Prof. Isolde Karle, Head of the Institute for Religion and Society at the Ruhr University of Bochum, Germany
9:45 – 11:00 am	Panel 1: Legal and Social framework • Jolita Pons, Head of the EU Office to Hong Kong’s Political, Press&Information Section • Peter Reading, Legal Counsel, Hong Kong Equal Opportunities Commission • Prof. Suen Yiu Tung, Associate Director of the Gender Research Centre at the Chinese University of Hong Kong Moderator: Rev. Wielie Elhorst Open discussion and questions
11:00 – 11:15 am	Coffee and networking
11:15 – 12:45 pm	Panel 2: Moving forward, the role of legislators • Cyd Ho, former Hong Kong Legislative Council member • Boris Dittrich, Advocacy Director for Human Rights Watch’s LGBT Rights Programme Moderator: Peter Reading Open discussion and questions
12:45 – 2:00 pm	Lunch
2:00 – 3:30 pm	Panel 3: Education and LGBTI – creating space for discussion • Michael Barron, campaigner for the legalisation of same-sex marriage in Ireland, director of EQUATE – advocacy for greater equality in schools • Chang Hong Cheng, Adjunct Lecturer in Law, National Taiwan University of Science and Technology, Taipei • Ryan Lee Chun Yin, Queer Straight Alliance, Hong Kong LGBTI student organisation Moderator: Prof. Suen Yiu Tung Open discussion and questions
3:30 – 3:45 pm	Coffee and networking
3:45 – 5:15 pm	Panel 4: Religious perspective, embracing diversity • Reverend Wielie Elhorst, co-initiator of the declaration of Dutch churches against physical/verbal violence against LGBTI community, author of the book “Coming out Churches” • Prof. Isolde Karle, Head of the Institute for Religion and Society at the Ruhr University of Bochum, Germany • Reverend Grace Bok, the convener of the Hong Kong “Covenant of the Rainbow” Moderator: Boris Dittrich Open discussion and questions
5:15 – 5:30 pm	Panel 5: Closing remarks and lessons to be learned • Equal Opportunities Commission • EU Office to Hong Kong and Macao • Gender Research Centre, Hong Kong Institute of Asia-Pacific Studies, The Chinese University of Hong Kong



More on LGBTI rights in the European Union

[Eurobarometer 2015 Factsheet on Discrimination: Social acceptance and perceptions on discrimination on the grounds of sexual orientation and gender identity](#)

[Full 2015 Eurobarometer on Discrimination Report](#)

[European Union lesbian, gay, bisexual and transgender survey, Main results, Fundamental Rights Agency 2014](#)

[Protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the EU, Comparative legal analysis, Fundamental Rights Agency 2015](#)

[Trans and intersex people - Discrimination on the grounds of sex, gender identity and gender expression, European Network of Legal Experts in the non-discrimination field, 2013](#)



More on LGBTI rights in Hong Kong

[Legislation against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status \(2015\)](#), - a study commissioned by the Equal Opportunities Commission and Conducted by Gender Research Centre of the Hong Kong Institute of Asia-Pacific Studies of the Chinese University of Hong Kong

The Sexualities Research Programme, established under the Gender Research Centre at the Chinese University of Hong Kong, is the first research programme in Hong Kong dedicated to conducting rigorous, independent research on sexuality issues, with a particular focus on sexual orientation, gender identity, law and social policy. Recent researches that inform policy and practice include:

- Study on Hong Kong Public and LGB People's Attitudes towards LGB-friendly Business Organizations, 2016
- Sexual Orientation, Right to Inquire Partner's Medical Information and Right to Claim Partner's Ashes in Hong Kong, 2016
- Sexual Orientation and Politics in Hong Kong, 2016
- Mental Health of Transgender People in Hong Kong, 2016.



More on LGBTI Rights and Religion

Destination>>EQUALITY, ILGA-Europe magazine, [Religion Edition Winter 2015-2016](#)