

Hong Kong: Government must show progress on same-sex partnership legislation after landmark ruling

- *Government has one year left to deliver alternative legal framework for same-sex couples*
- *Same-sex couples in Hong Kong currently denied numerous rights enjoyed by heterosexual couples*

One year after a landmark ruling on LGBTI rights in Hong Kong, authorities should provide a progress update on their plans to recognize same-sex partnerships in the city, Amnesty International said today.

On 5 September 2023, Hong Kong's Court of Final Appeal [ruled that the government](#) had a constitutional duty to provide an alternative legal framework for same-sex partnerships to be recognized, setting a two-year deadline for its establishment.

While the decision fell short of requiring marriage equality, it did establish a new benchmark for improving rights and recognition irrespective of sexual orientation.

“One year since this memorable legal victory for LGBTI people in Hong Kong, we urge the government to provide an update on its plans to act on the Court's judgment. The government has one year left to comply with the decision, but in the meantime equality is being denied on a daily basis,” Amnesty International's China Director Sarah Brooks said.

“The government must heed their own courts' call to ensure same-sex relationships in Hong Kong are recognized equally – and on the same basis and with the same rights and protections – as those of opposite-sex couples.”

Hong Kong law does not currently recognize same-sex relationships, with same-sex couples not allowed to marry or enter into any form of registered civil partnership.

Same sex couples are therefore prevented from enjoying the rights held by opposite-sex couples (with some exceptions if they married overseas*). Examples can be found in almost every aspect of life.

Currently, individuals in same-sex relationships:

1. Cannot jointly adopt children
2. Cannot access assisted reproductive technologies
3. Cannot inherit their deceased partner's estate without a will*
4. Cannot apply for public housing as an “ordinary family”*
5. Cannot enjoy the potential benefits of filing income taxes jointly*
6. Cannot extend medical benefits to their same-sex partner if they are employed by the government*
7. Cannot object to the removal of their deceased partner's organs for medical research or education
8. Cannot receive immediate notification if their partner dies in prison
9. Are not protected against less favourable treatment by their employer as a result of caring for a terminally ill partner.

“The absence of a legal framework for same-sex partnerships in Hong Kong means couples face structural discrimination. It is time for the Hong Kong government to provide a transparent update on progress on this framework, including how much of it has been drafted, how they are consulting LGBTI people, and when it will be submitted to the city’s Legislative Council for discussion,” Sarah Brooks said.

“Time is ticking. This one-year anniversary should be the impetus for accelerating the government’s work to comply with the Court’s ruling; to review and overhaul laws, policies and practices that discriminate based on sexual orientation, gender identity and intersex status, and to uphold its rights obligations to all, however they identify and whomever they love.”

Background

On 5 September 2023, Hong Kong’s Court of Final Appeal handed a [partial victory](#) to Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) activist Jimmy Sham. The Court set a two-year timeline for the government to provide an alternative framework for same-sex partnerships, meaning the process must be complete by 5 September 2025.

Sham, who married his partner in the USA in 2013, began his campaign for Hong Kong to recognize same-sex marriages performed overseas in 2018, arguing that the current laws in place are unconstitutional.

Currently, Hong Kong only legally recognizes “marriage” as being between a man and a woman and does not recognize same-sex marriage or civil partnership or any other form of legal union.

The authorities have not taken sufficient steps to combat discrimination against LGBTI persons more broadly, despite a clear recommendation arising from the 2022 review of Hong Kong by the UN’s Human Rights Committee, tasked with monitoring the government’s implementation of obligations under the International Covenant on Civil and Political Rights.

However, in recent years, the Court of Final Appeal and lower courts in Hong Kong have held the blanket denial of partnership rights for same-sex couples to be discriminatory, opening the door to limited progress such as accepting the right of some same-sex couples to spousal dependant visas, employment benefits, joint tax assessment and public housing.

Amnesty International opposes discrimination in civil marriage laws on the basis of sexual orientation or gender identity and calls on states to recognise families of choice, across borders, where necessary.