香港中文大學
The Chinese University of Hong Kong

Gender Studies Programme
性別研究課程

# The recognition and treatment of relationships under *Hong Kong law—2026*

EXECUTIVE SUMMARY

A REPORT COMMISSIONED BY
**THE GENDER STUDIES PROGRAMME OF THE CHINESE UNIVERSITY OF HONG KONG**
PRODUCED BY ALLEN OVERY SHEARMAN STERLING, HONG KONG

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A&O SHEARMAN

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# Introduction

In 2019, Allen & Overy (as Allen Overy Shearman Sterling (**A&O Shearman**) then was) was commissioned to conduct an analysis of Hong Kong legislation and certain Government policies in which a person's relationship status was a factor as at 31 December 2018 (the **2019 Report**). The 2019 Report identified widespread—yet inconsistently applied—instances of differential treatment based on relationship status across 21 separate areas of Hong Kong law and government policy. These disparities extended beyond individuals in alternative relationships, such as cohabiting couples, civil partnerships and same-sex marriages, impairing effective law enforcement and producing broader societal consequences. The findings were based on an unprecedented review of legislation in Hong Kong, covering 537 Ordinances.

In March 2025, A&O Shearman was commissioned by the Gender Studies Programme of the Chinese University of Hong Kong (**CUHK**) to undertake the same analysis as at 28 February 2025 (the **CUHK Report**).

As social views evolve in Hong Kong, public acceptance of relationships other than opposite-sex marriage has increased. This includes greater acceptance of couples who choose to live together without marrying and growing support for protecting the rights of sexual and gender minorities, including same-sex couples, compared to 2019. Yet opposite-sex marriage remains the only broadly legally recognised voluntary personal relationship in Hong Kong.

Couples in alternative relationships, such as civil partnerships or cohabitation relationships—whether opposite- or same-sex—as well as couples in same-sex marriages formed in other jurisdictions, do not enjoy many of the rights and benefits available to similarly situated people in opposite-sex marriages. Despite sharing comparable emotional, financial, and social bonds as opposite-sex spouses, they are not subject to the same set of obligations and protections.

The CUHK Report sets out the significant impacts that differential treatment based on relationship status has on individuals, the Government, and the public in Hong Kong. At the individual level, couples in alternative relationships cannot access reproductive technology. Following *Nick Infinger v The Hong Kong Housing Authority and Li Yik Ho (in substitution for Ng Hon Lam Edgar, deceased) v The Hong Kong Housing Authority*,[1] both opposite- and same-sex spouses may apply for public rental housing as an ordinary family, but civil partners and cohabitees cannot. If a person dies intestate, a cohabitee, unlike an opposite-sex spouse, has no automatic right to inherit the deceased's estate. In contrast, a same-sex spouse now enjoys the same automatic right to the deceased's estate and to seek maintenance and provision without having to provide he/she[2] is a dependant following the decision in *Li Yik Ho (in substitution for Ng Hon Lam Edgar, deceased) v Secretary for Justice*.[3]

Although progress has been made since 2019, remaining differential treatment continues to constrain the rights of individuals in alternative relationships, with wide-ranging consequences, including impediments to effective law enforcement.

1 [2024] HKCFA 29.
2 For ease of reference and drafting clarity, this report uses gendered pronouns, such as "he" and "she". These references are intended to be gender-neutral and inclusive of all persons, regardless of gender identity.
3 [2024] HKCFA 30.

For example, market misconduct laws criminalise the disclosure of certain prohibited information for the benefit of one's opposite-sex spouse. The same conduct—with the same consequences—may be harder to pursue where the beneficiary is one's same-sex spouse. The CUHK Report catalogues these and other ways in which differential treatment affects individuals, the Government, and the public.

The CUHK Report was produced on a pro bono basis by A&O Shearman, supported by Mr Will Yip, Mr Shing Him Mak, and Professor Yiu Tung Suen.

We hope the report will enable local stakeholders and institutions to engage in constructive discussions on whether particular areas of law may benefit from reform and, if so, how such reforms should be pursued.

Please visit the A&O Shearman Website for the full report.

# Background

## UPDATE

In March 2025, A&O Shearman was commissioned by the Gender Studies Programme of CUHK to identify and analyse Hong Kong legislation and certain Government policies in which a person's relationship status is a factor as an update to the 2019 Report.

The review identified additional areas of policy and law that treat people differently based on their relationship status. It concluded that a lack of legal recognition for alternative relationships enables such differential treatment to persist.

## CHANGING SOCIAL ATTITUDES

With some exceptions, Hong Kong law does not recognise opposite- or same-sex civil partnerships, cohabitation relationships, or same-sex marriages formed in overseas jurisdictions. Nevertheless, societal acceptance of alternative relationships has increased.

The Family Council's 2021 Family Survey found that 37.9% of respondents accepted "cohabitation without the intention of getting married", while 39.8% agreed "cohabitation before marriage" is a good idea. Younger age groups reported even higher acceptance, with those aged 25-34 and 15-24 showing the most positive attitudes towards cohabitation. The mean score for attitudes towards cohabitation rose from 3.03 in 2011 to 3.22 in 2021, indicating a clear upward trend in acceptance.

Societal views on same-sex relationships have evolved in a similar pattern. In a 2023 representative telephone survey conducted by CUHK, the University of Hong Kong, and the University of North Carolina at Chapel Hill with over 1,000 participants, 71% supported anti-discrimination laws protecting individuals based on sexual orientation (up from 69% in 2017 and 58% in 2013), while only 6% opposed such legislation. Support for same-sex marriage increased to 60% in 2023 (from 50.4% in 2017 and 38% in 2013), and opposition declined to 17% (down from 33% in 2017 and 43% in 2013).

## KEY DEVELOPMENTS SINCE 2019

Since 2019, individuals in alternative relationships have brought a series of legal challenges to various laws and policies. For example:

- In 2024, the Court of Final Appeal held that the Hong Kong Housing Authority acted unlawfully in excluding same-sex married couples from applying for public rental housing and subsidised home ownership flats as a family unit.[4] The Housing Authority has since replaced

[4] *Nick Infinger v The Hong Kong Housing Authority and Li Yik Ho (in substitution for Ng Hon Lam Edgar, deceased) v The Hong Kong Housing Authority* [2024] HKCFA 29.

"husband/wife" with "spouse" in the "relationship with applicant" section of the application forms to allow same-sex couples to apply for public housing.

- Also in 2024, the Court of Final Appeal held that excluding same-sex married couples from inheritance and estate provisions in the Intestates' Estates Ordinance and the Inheritance (Provision for Family and Dependants) Ordinance was unconstitutional.[5] The Court ordered remedial interpretations of the relevant provisions of those Ordinances.

Meanwhile, in September 2023, the Court of Final Appeal found that the absence of a framework recognising same-sex partnerships constituted a violation of the right to privacy and declared that the Government has a positive obligation to establish such a framework.[6] On 16 July 2025, the Government introduced the Registration of Same-sex Partnerships Bill into the Legislative Council. On 10 September 2025, the Legislative Council voted 71 to 14 (with one abstention) against the Bill at second reading. The Government has stated it will seek to discharge its obligation via administrative action.

## THE CUHK REPORT

Against this backdrop, CUHK's Gender Studies Programme commissioned A&O Shearman to produce an updated report on the recognition and treatment of relationships under Hong Kong law.

A&O Shearman conducted a review of legislation to identify changes to the provisions encapsulated in the 2019 Report between 1 January 2019 (the day following the cut-off date for the 2019 Report) and 28 February 2025 (the cut-off date for this report) (the **relevant period**).

The review was conducted using a two-stage approach. First, each legislative provision referenced in the 2019 Report, as in force on 28 February 2025, was compared with the version in force on 31 December 2018. Where provisions had been repealed or amended in a way that would affect the CUHK Report, those changes were analysed. Second, search terms were applied to the laws of Hong Kong on e-Legislation as at 28 February 2025. The search identified 1,900 provisions across 563 Ordinances and subsidiary legislation, of which 1,251 had been amended during the relevant period.

To refine the review population, the version dates of each initial result between 1 January 2019 and 28 February 2025 were checked against the Editorial Records available on e-Legislation. This resulted in an initial review population of 305 provisions across 139 Ordinances and subsidiary legislation. The term "next of kin" was also added as a search term in the CUHK Report.

A&O Shearman then analysed the review population, alongside certain relevant policies, to understand how individuals are treated according to whether they are in:

- an opposite-sex marriage
- an opposite- or same-sex civil partnership formed outside Hong Kong
- a same-sex marriage formed outside Hong Kong
- an opposite- or same-sex cohabitation relationship

5 *Li Yik Ho (in substitution for Ng Hon Lam Edgar, deceased) v Secretary for Justice* [2024] HKCFA 30.
6 *Sham Tsz Kit v Secretary for Justice* [2023] HKCFA 28 and [2023] HKCFA 31.

# Findings

Outside court intervention, limited progress has been made in reducing differential treatment across relationship status. The CUHK Report uncovers widespread—yet inconsistently applied—instances of differential treatment according to relationship status across Hong Kong legislation and government policy. In particular, the report identifies 21 areas in which a person may be treated differently based on his/her relationship status.

- anti-discrimination
- bankruptcy
- children
- companies
- compensation
- crime and domestic violence
- criminal matters and prisoners
- death
- employment
- housing
- immigration
- inheritance
- international affairs
- marriage
- medical
- other
- public health
- public service
- public welfare
- regulatory and public offers
- tax

The impact of differential treatment extends beyond individuals in alternative relationships. By constraining the reach of government policy and hampering effective law enforcement, it affects Hong Kong society more broadly.

## NEW LEGISLATION HAS RETAINED DIFFERENTIAL TREATMENT

New or amended legislation has created differential treatment in several domains, including:

- Doxxing protections, which do not extend where the doxxing is intended to harm a civil partner, cohabitee, or same-sex spouse.
- Subdivided housing protections, which do not pass to civil partners, cohabitees, or same-sex spouses upon a tenant's death.
- Complaints in relation to private healthcare facilities, where an opposite-sex spouse can complain but a civil partner, cohabitee, or same-sex spouse may not.
- Conflict-of-interest and disclosure regimes, which require declarations and capture spouses' interests but exclude civil partners, cohabitees, and same-sex spouses.

These developments underscore that legislative change since 2019 has not uniformly reduced disparities but has introduced new ones in certain instances.

## INCONSISTENCY WITHIN THE SAME LEGAL DOMAINS

Judicial remedies targeted at specific provisions have produced uneven outcomes within the same area of law. In inheritance, for example, a same-sex spouse now has first priority to inherit on intestacy and can seek reasonable financial provision but may have lower—or sometimes no—priority to administer the estate under existing grant rules.

Similar inconsistencies arise where some parts of a regime have been successfully challenged while others remain unchanged.

# Limited and differential recognition of relationships

With some exceptions, Hong Kong legislation and government policies exclude cohabitation relationships, civil partnerships, and same-sex marriages formed outside Hong Kong from the rights, benefits, and obligations available to opposite-sex spouses. This is notwithstanding that the emotional, financial, and social bonds between individuals in alternative relationships are often identical to those between opposite-sex spouses.

The research also identifies multiple inconsistencies in Hong Kong's legal recognition of alternative relationships. Some provisions acknowledge cohabitation relationships regardless of gender in contexts such as anti-domestic violence safeguards and company "fair dealing" rules. In other contexts where cohabitation is recognised, cohabitees must be of the opposite sex. For example, the Mandatory Provident Fund Schemes Authority may grant benefits to cohabitees only where they live as "man and wife".

Even within single domains, such as anti-discrimination, recognition of alternative relationships is uneven. Although anti-racial discrimination legislation extends protection to cohabitees, protection based on family status remains limited to opposite-sex marriage. A person is protected from discrimination and harassment arising from a cohabitee's disability, but he/she lacks legal recourse against discrimination related to caring for a terminally ill cohabitee.

Further complicating matters, Hong Kong legislation contains no standard definition of a cohabitation relationship. Even where these relationships are recognised, this is not done in a consistent manner. For instance, the eligibility of a deceased person's cohabitee for compensation under different schemes can differ depending on how long the couple lived together, the manner in which they lived together and their genders.

Adopting a universal definition of cohabitation would help eliminate such discrepancies.

# Impact

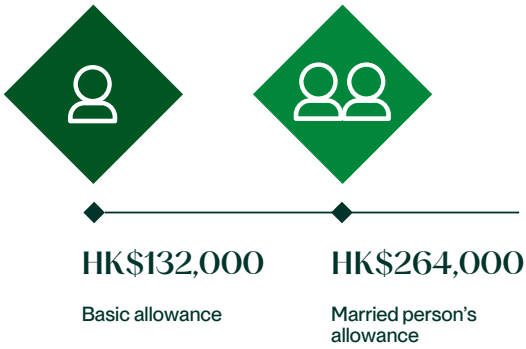
The CUHK Report outlines numerous instances where differential treatment by relationship status adversely affects individual lives and undermines policy outcomes and law enforcement.

## THE IMPACT ON INDIVIDUALS

In many cases, the law prevents civil partners and cohabitees—irrespective of gender—and, in some instances, same-sex spouses from accessing rights available to opposite-sex spouses. Despite their similarities to opposite-sex spouses, couples in alternative relationships are denied the right to:

- jointly adopt children
- access reproductive technology
- receive immediate notification if a partner dies in prison
- administer a partner's estate if the partner dies without an executor (subject to "no automatic right" or "low priority", depending on the applicable grant priority rules)
- object to the removal of a deceased partner's body parts for medical research or education
- claim certain allowances and deductions that lower a couple's tax burden.

The married person's allowance is available to opposite- and same-sex spouses; civil partners and cohabitees can only claim the basic allowance.




Employment rights and protections also differ. Unlike an employee in an opposite-sex marriage, an individual has no protection if treated less favourably by their employer due to caring for a terminally ill civil partner, cohabitee, or same-sex spouse.

Permanent residents' dependants accompanying them to work outside Hong Kong are entitled to certain benefits, but where opposite-sex spouses qualify as dependants, civil partners, cohabitees and same-sex spouses may not.

The Employment Ordinance requires employers to make long service payments to the opposite-sex spouses of deceased employees with at least five years' continuous service prior to death; those in alternative relationships have no such entitlement.

Other anomalies persist: a person employed by their opposite-sex spouse's business cannot seek payment from the Protection of Wages on Insolvency Fund if the business becomes insolvent and cannot pay the wages it owes, yet this exclusion does not apply to a business owner's civil partner, cohabitee or same-sex spouse.

Similarly, where an employer may lawfully deduct rent for accommodation provided to an employee in an opposite-sex marriage, no equivalent right exists when accommodation is occupied solely by the employee's civil partner, cohabitee or same-sex spouse.

## THE IMPACT ON THE GOVERNMENT AND THE PUBLIC

Differential treatment affects the administration of public policy and the effectiveness of law enforcement. Because legislation frequently overlooks relationships other than opposite-sex marriage, the Government cannot deliver certain policies to their fullest extent, and law enforcers may face greater difficulty prosecuting crimes.

For example, it is rape where a man induces a married woman to have sexual intercourse by impersonating her husband. As the law does not recognise alternative relationships, this offence does not apply where a man induces a woman to have sexual intercourse by impersonating her cohabitee.

Bigamy is prosecutable where a person in an opposite-sex marriage enters into another opposite-sex marriage; prosecution is impossible where either the original or subsequent relationship is not an opposite-sex marriage.

The creditors of a bankrupt enjoy less protection against unfair preferences when the debtor is in an alternative relationship. Statutory presumptions that apply to gifts to an opposite-sex spouse, and extensions to the relevant period ending in bankruptcy, do not apply to gifts made to those in alternative relationships.

Market misconduct laws criminalise disclosures of certain prohibited information for the benefit of close associates, but definitions that capture opposite-sex spouses and cohabitees do not clearly extend to same-sex spouses, complicating enforcement. Individuals with interests in 5% of the voting shares of a listed corporation in Hong Kong need not publicly disclose the interests and short positions of their civil partners, cohabitees, or same-sex spouses, nor must directors and chief executives disclose those persons' interests and short positions in shares and debentures. Given the presumption of shared finances—often equally present in alternative relationships—this risks leaving the public less informed.

# Recognition snapshot

Opposite-sex marriage remains broadly recognised across legislation and policy. Recognition of same-sex marriage has expanded in discrete areas—death, housing, immigration, inheritance, public service, and tax-largely as a result of changes arising from litigation pursued by individuals. Cohabitation relationships are recognised in selected contexts (e.g., domestic violence protections, race and disability discrimination, directors' "fair dealing" rules), but definitions vary and often exclude same-sex cohabitation. Civil partnerships are largely unrecognised, with limited visa-related exceptions. A universal statutory definition of cohabitation and comprehensive recognition of same-sex spouses would reduce inconsistent outcomes and improve policy coherence.

Please visit the A&O Shearman website for the full report.

# Acknowledgements

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**Will Yip**

William "Will" Yip acted as principal editor of the CUHK Report in his personal capacity. Will is a 10+ PQE Hong Kong-qualified solicitor and alumnus of A&O Shearman. He is an Associate General Counsel and the Head of Wealth Legal for the Wealth and Personal Banking business of HSBC in Hong Kong.

**Shing Him Mak**

Shing Him Mak acted as deputy principal editor of the CUHK Report. He is a banking and finance lawyer at A&O Shearman. He worked alongside Will to lead a team of trainee solicitors, legal professionals, and business teams to undertake legal analysis and produce the CUHK Report.

**Yiu Tung Suen**

Yiu Tung Suen acted as contributing editor of the CUHK Report. He is Associate Professor of the Gender Studies Programme, and Associate Professor (by courtesy) of the Jockey Club School of Public Health and Primary Care, at the Chinese University of Hong Kong.

**Other contributors to the CUHK Report**

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# Contacts

For further information on the CUHK report, please contact:

**Yiu Tung Suen**
*Associate Professor*
*Gender Studies Programme*
*CUHK*

Tel +852 3943 6624
suenyiutung@cuhk.edu.hk

For further information on A&O Shearman's approach to responsible business, inclusion, and social impact matters, please contact:

**Hong Kong**

**Catherine Husted**
*Head of Social Impact*
*A&O Shearman Hong Kong*

Tel +852 2974 7327
catherine.husted@aoshearman.com

# For more information, please contact:


**Hong Kong**

Allen Overy Shearman Sterling
9th Floor
Three Exchange Square
Central
Hong Kong SAR
China

Tel +852 2974 7000
Fax +852 2974 6999


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