UNDERSTANDING LGBTI RIGHTS:
THE NEED FOR BUSINESS TO EMBRACE DIVERSITY

By Michael Vidler | 19 January 2018

VIDLER & CO.
Solicitors
韋智達律師行

Rundown of presentation

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LGBTI Terminology

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LGBTI Rights Protection in Hong Kong

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Need for Business to Embrace LGBTI Rights

1 TERMINOLOGY

TERMINOLOGY

Lesbian

Gay

Bisexual

Transgender

Intersex

TERMINOLOGY

SEXUAL ORIENTATION

Who you are sexually attracted to

Lesbian
Gay
Bisexual

GENDER IDENTITY

Which gender you perceive yourself to have

Transgender
Intersex

TERMINOLOGY

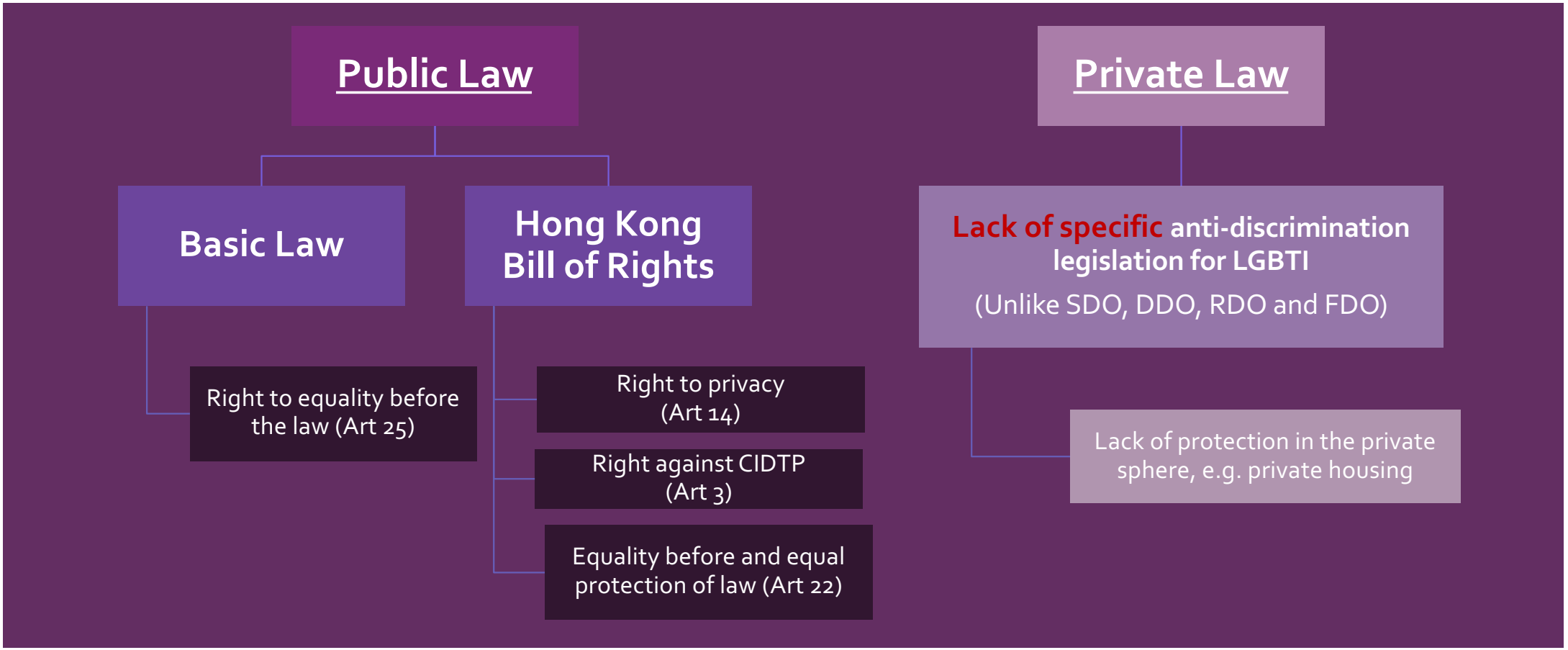
Transgender	General term used to describe persons who disagree with their assigned sex at birth
Gender Dysphoria	Medical condition in which a person who disagrees with their assigned sex at birth suffers from corresponding psychological disturbances
Transition of Gender	Process by which gender dysphoria is alleviated by one or more of the following: (1) No treatment at all; (2) Hormonal treatment; (3) Mastectomy or augmentation; and/or (4) Sex Reassignment Surgery

TERMINOLOGY

Sex Reassignment Surgery ("SRS")	Under existing HK policy, to change the sex entry on the HKID Card, the SRS required is: 1. Removal of original genital and reproductive organs 2. Construction of genital organs of the opposite sex
Transsexual	A person at one end of the spectrum of gender dysphoria that needs full SRS
Intersex	At birth, a person has the physical or genetic characteristics that are: neither wholly female or male, a combination of female and male; or neither female nor male
Transvestite	A sexual interest in cross-dressing which has nothing to do with sexual orientation and gender identity

2 LGBTI RIGHTS PROTECTION IN HONG KONG

FRAMEWORK OF LGBTI RIGHTS PROTECTION IN HONG KONG



Public Law

Accorded Constitutional Protection

- Discriminatory Laws
  - Crimes Ordinance
  - Marriage Ordinance
- Discriminatory Government's Policy and Decisions and Actions
  - Public Housing
  - Civil Servant's Employment and Benefits
  - Provision of Government's Services
  - Immigration Decisions

Private Law

Not Protected By Any LGBTI Discrimination Legislation

- Examples:
  - Private Housing
  - Employment and Benefits in Private Sector
  - Purchasing Goods and Services

HONG KONG'S LEGAL DEVELOPMENTS IN LGBTI RIGHTS

1991

Decriminalisation of Homosexuality

2006

Age of Consent

Leung TC William Roy v Secretary for Justice
Disparity of the age of consent ruled unconstitutional

2013

Gender Recognition

W v Registrar of Marriages
Recognised transgender right to marry in acquired gender

2017

Recognition of Same-sex Relationships

QT v Director of Immigration
Recognised foreign same-sex marriages for immigration purposes

Leung Chun Kwong v The Secretary for the Civil Service & Commissioner of Inland Revenue
Allowed civil service benefits to Applicant's same-sex partner

WHAT'S NEXT?

Q,R and TSE, Henry Edward v Commissioner of Registration

Challenging full SRS requirement for recognition of adopted gender on HKID card

Judgment to be handed down

2018

Yeung Chu Wing v Secretary for Justice

Challenge to discriminatory provisions in the Crimes Ordinance

Gender identity legislation

Challenge to discriminatory housing policy

Challenge to lack of same-sex union provisions

LGBTI anti-discrimination legislation

Same-sex marriage / civil union legislation

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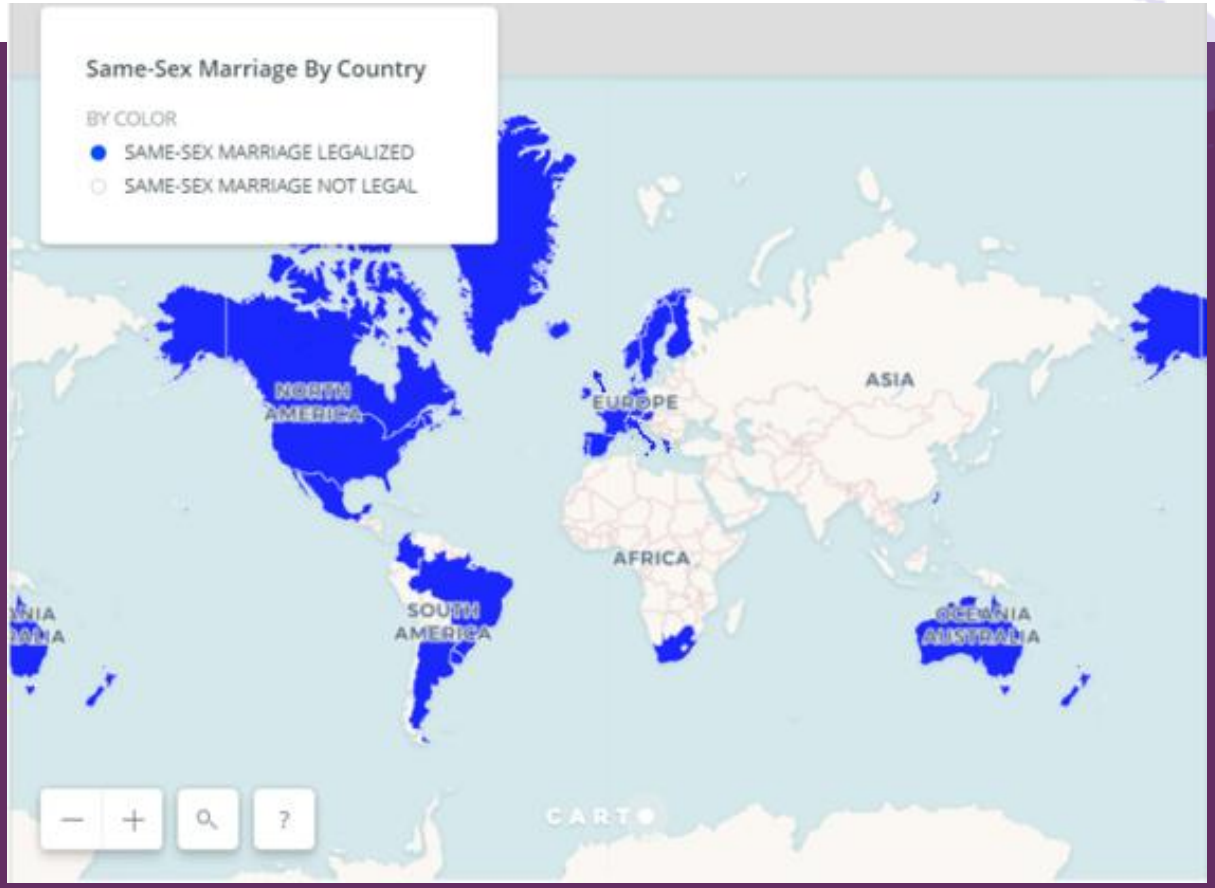
3 NEED FOR BUSINESS TO EMBRACE LGBTI RIGHTS

WHY EMBRACE LGBTI RIGHTS?

1. Increased acceptance of LGBTI issues in respect of same-sex marriage and transgender rights
2. Attraction and retention of talent
3. Improving productivity
4. The "Pink" Dollar
5. Avoiding adverse reputational damage

1. INCREASING INTERNATIONAL RECOGNITION AND LEGALISATION OF SAME-SEX MARRIAGE



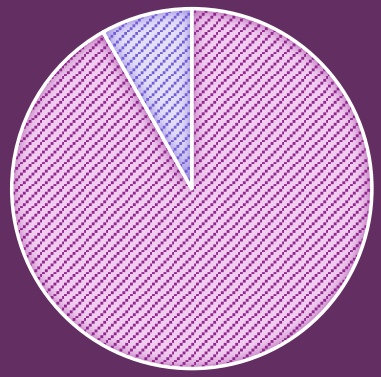
1. INCREASING INTERNATIONAL ACCEPTANCE OF GENDER RECOGNITION WITHOUT FULL SRS

59 jurisdictions do not require full SRS for gender recognition

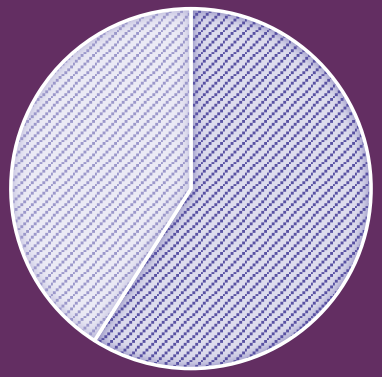
Asia Pacific: 6
Europe: 23
North America: 25
South America: 4
Others: 1

1. INCREASING SOCIETAL ACCEPTANCE OF LGBTI ANTI-DISCRIMINATION LEGISLATION IN HONG KONG

EOC/CUHK's Report on Study on Legislation against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status (2016)

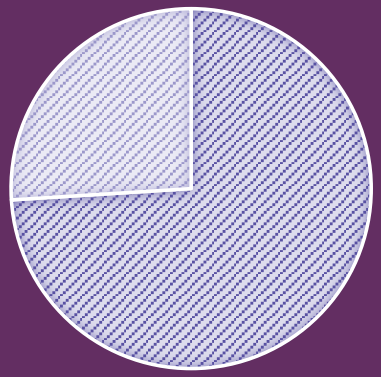


91.8% of respondents aged 18-24 are supportive of introduction of LGBTI anti-discrimination legislation

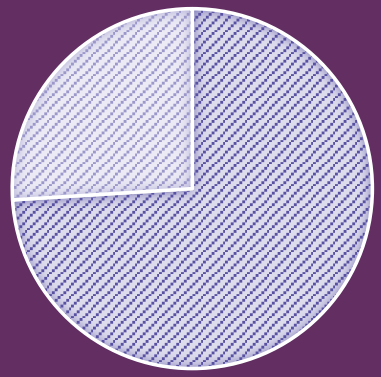


59% of respondents very and moderately accepting transgender people

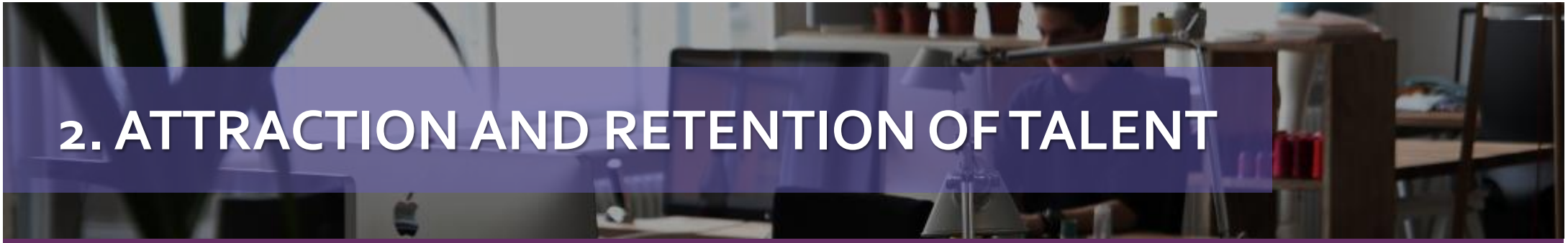
Public Attitudes Towards Transgender People and Anti-discrimination Legislation By The Centre for Comparative Public Law (HKU CCPL) (Dec 2017)



74% of respondents completely and somewhat agree that people should be free to express their gender identity

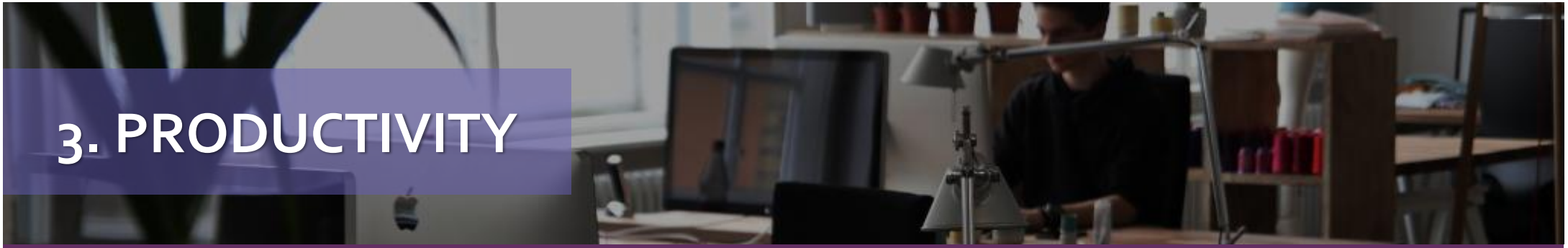


70% of respondents completely and somewhat agree that they would accept an openly transgender work colleague



2. ATTRACTION AND RETENTION OF TALENT

- Improved recruitment and retention of talented employees
- Avoidance of loss of know-how and recruitment costs



3. PRODUCTIVITY

Workplace Climate + Productivity & Performance = $

- **The Stonewall Survey (2012)**, a study of LGBT employees in the UK noted
  - An inclusive work environment resulted in LGBT respondents being more **motivated, effective, and having better working relationships** with colleagues
  - A work environment where LGBT respondents had to conceal their sexual orientation led to **reduction of productivity by up to 30%**

4. "THE PINK DOLLAR"

- Hong Kong has been chosen to host the **Gay Games** in 2022
- HK-based consultancy LGBT Capital
  - Estimates that the Gay Games will bring HK$1 billion in revenue to HK
  - Estimates that the Global Spending Power of the pink consumer segment is US3.7 trillion per annum, with a rapid increase in Asia
  - Noted that the total value of HK's LGBT tourism market was estimated to be US$4.3 billion in 2015 (1.45% of HK's GDP)

5. AVOIDING ADVERSE REPUTATIONAL DAMAGE

Nike's support for Gay Games

Deutschebank's amicus brief in Obergefell

WHAT CAN YOU DO?

Company leaders to **support the introduction of comprehensive diversity of policies** within your Company

Senior management to **be involved in** company LGBTI group or network

Company leaders to **take proactive role in setting standards** for industry

THANK YOU!