

## **A Study on Controversies over Sexual Orientation Discrimination in Employment in the United States**

*Cing-Kae Chiao*

Institute of European and American Studies, Academia Sinica  
No. 128, Sec. 2, Academia Rd., Taipei 11529, Taiwan  
E-mail: chiao@sinica.edu.tw

### **Abstract**

The purpose of this paper is to offer an overall assessment and discussion on the merits, shortcomings and controversies of the law and practice of prohibiting sexual orientation discrimination in employment in the United States. The main contents of the paper are divided into four sections. Section One describes the general background of various hardships faced by sexual minorities in the job markets in the States. Section Two analyzes the reasons why federal fair employment statutes and the Equal Employment Opportunity Commission cannot provide them with adequate protections. It also discusses several related decisions rendered by the federal courts and reform measures offered by Congress in recent years. Section Three details other legal remedies provided by the Federal Constitution, local statutes and regulations and common law. Section Four discusses the controversial issues arising from the treatment of gay and lesbian members of the U.S. armed forces. It also offers a comparative study of the same legal regime adopted by the European Union and evaluates whether the American experience in this field can provide any lessons for Taiwan given its recent endeavors to reform anti-discrimination measures in the legal system dealing with employment.

**Key Words:** sexual orientation discrimination in employment, Title VII of the Civil Rights Act of 1964, Federal Constitution, common law, gays and lesbians in the military