

## **EO Files (October 2014)**

### **"THINGS WE DO, PEOPLE WE MEET - Reflections in Brief"**

#### **Greater discrimination protection will benefit all in Hong Kong**

*York Chow says too many misconceptions remain about aspects of ongoing Hong Kong law review*

In July, the Equal Opportunities Commission launched a public consultation on the review of the discrimination law to consider how the existing anti-discrimination ordinances can be improved to better promote equality for everyone in Hong Kong. Since then, we have met numerous stakeholder organisations and received tens of thousands of submissions. In light of the enthusiastic response, the deadline for submissions has been extended to October 31.

Thus far, two issues have been in the public debate: the proposal to cover nationality, citizenship and residency status under the Race Discrimination Ordinance, and the question on expanding the protection against marital status discrimination to couples in de facto relationships. What has emerged is that there remains much misunderstanding about the proposals. They are worth clarifying.

Some fear that if nationality, citizenship and residency status become protected, one would no longer be able to express views about people from the mainland, or use terms such as "locusts", publicly and freely. But this misses the point. The review is not aimed at banning particular words, but ensuring that all people enjoy equal protection under the law. This means Hong Kong people would enjoy protection if they are discriminated against due to their residency status as well.

Crucially, the review concerning this status also aims to ensure that other groups who face discrimination may have equal protection. There have been a number of instances where ethnic minorities have been denied jobs or services, such as a bank account, due to their nationality. Closing this gap would help foster an inclusive culture in this city.

Another major concern voiced relates to the proposed inclusion of de facto relationships under marital status. Some worry it might mean employers would need to provide benefits to partners from casual

relationships, leading to a massive cost burden. In fact, the proposal would be intended to cover only couples in truly committed relationships similar to a marriage, but who do not wish to get married. The review is seeking more views on this.

The commission believes there is a need to protect people in de facto relationships from discrimination as there are many situations where they do not have the same entitlements as married couples. In addition to spousal benefits such as medical insurance coverage, for example, many have care responsibilities, such as in cases where the partner falls ill, but these responsibilities may not be recognised in cases where compassionate leave is required.

Others fear extending protection would lead to the legalisation of same-sex marriages. This is a mischaracterisation, as it has no relevance to the legal definition of marriage. Even if protection for same-sex de facto relationships is introduced, it does not mean same-sex marriage is legalised, as discrimination legislation does not cover the right to marry in Hong Kong.

It is worth bearing in mind that the review is much bigger and more far-reaching than these two issues. We have come a long way in developing our safeguards against discrimination, but systemic inequality remains widespread.

Our own experience over the past 18 years has indicated problems and loopholes in the current law, which show the need for modernisation. For instance, there are still far too few women in top leadership positions, despite advances in female educational attainment. Pregnancy discrimination and sexual harassment remain rife. Ethnic minorities and people with disabilities continue to struggle for equal education and employment. Large parts of the city are inaccessible to many, whether an elderly wheelchair user or a parent with a pram, due to the shortage of barrier-free facilities.

To create real changes, we must look beyond providing redress for individual complaints to mainstreaming equal opportunity values into everyday policies and practices. That is why we are looking at a number of other issues as part of the review, many of which aim to address

current structural inequalities and provide a more proactive approach to combating injustice.

Many of our proposals are in line with recommendations made to Hong Kong over the years by various UN bodies. A number have already been enacted in other jurisdictions such as Britain and Australia, which were models for Hong Kong's anti-discrimination law. They include measures such as instituting a duty to provide reasonable accommodation to people with disability.

For wider human rights abuses, we are also considering whether a human rights commission should be set up.

The review is an opportunity to make substantive changes which would have reverberations for generations to come. We are open to different views, in recognition that there will be diverse standpoints in a multicultural society. We must find common ground through rational dialogue and remember that we all want the same thing: equal opportunities to pursue our dreams.

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