

EO Files (February 2017)

“THINGS WE DO, PEOPLE WE MEET – Reflections in Brief”

Closed minds blocking people with disabilities

Alfred C. M. Chan says limited view of people with disabilities is ingrained in Hong Kong, especially in the job market, and the law must become more proactive to bring about change

Too often, society views disability as an individual deficit, and people with disabilities are often presumed to be less capable. Much like Wilbur the black cat in the 1980s children’s book series, *Winnie the Witch* – who was turned multicoloured for a while so his owner could spot him better in her black house – it is assumed that unless their impairments are “fixed”, people with disabilities would not be able to function “normally”.

This limited view of people with disabilities is deeply ingrained in Hong Kong, even though they make up 8.1% of the population. The UN Convention on the Rights of Persons with Disabilities came into force in 2008, but those with disabilities continue to face discrimination, in the labour market in particular. Between 2015 and 2016, we received 322 complaints related to the Disability Discrimination Ordinance, or 52% of the complaints handled during that period.

Official data shows the unemployment rate for this group is double the overall figure in Hong Kong. Of the disability-related complaints handled by the Equal Opportunities Commission (EOC), nearly 70% were related to jobs. In an EOC-backed survey in 2014, the Unleash Foundation found that firms were reluctant to hire those with disabilities and over 60% of employers interviewed had no plans to do so within the next five years. This must change.

In the 1970s, disability rights activists in the United Kingdom challenged the definition of disability in terms of individual deficit or impairments. As writer and disability rights activist Laura Hershey said: “Our disabilities may impose limitations, but physical, economic, and political barriers impede us far more.”

As in the story of Wilbur, it is the environment, whether physical or social, that disables people rather than individual characteristics. The onus lies on the wider

society to cultivate conditions in which people with disabilities can lead dignified and fulfilling lives.

It has been two decades since the ordinance came into effect in Hong Kong. Those with disabilities are currently protected from being dismissed or refused employment based on their impairments, unless the person is unable to meet the requirements of the job or providing reasonable accommodation would cause the employer unjustifiable hardship. But their employment rate or diversification of jobs has not significantly improved.

A more proactive approach is necessary. As one of the high priority areas in the Discrimination Law Review published last March, the EOC recommended that the ordinance be amended to make it a legal requirement for reasonable accommodation to be provided to people with disabilities – such as ramps in the workplace, documents in Braille or flexible working arrangements.

Some employers are concerned that this would put further pressure on resources. But this amendment only calls for providing “reasonable” accommodation; employers would not be bound to make any disproportionate changes.

Removing barriers for people with disabilities through reasonable accommodation is in line with international human rights obligations. Article 5(3) of the UN convention says: “In order to promote equality and eliminate discrimination, State Parties shall...ensure that reasonable accommodation is provided.” Advanced societies such as the European Union, UK and Australia have already included similar requirements in their anti-discrimination law. If Hong Kong is to live up to the mantle of “Asia’s World City”, it should act in accordance with international standards.

We also recommend amending the ordinance to define unequal treatment of users of guide dogs or assistance animals as discrimination, and a public consultation on making the public sector legally bound to promote equality for all protected characteristics.

But biased attitudes must also change, as that is one of the biggest barriers. People with disabilities often hold negative perceptions of themselves and so fall prey to a self-fulfilling prophecy. This must change as well. As a young woman told me, “Many [people with disabilities] just need a push-start. One of our ‘wings’ may not be working like others’, but if you give us a ‘new wing’, we can definitely fly.”

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