#### **Nov 2009 Issue No. 51**

Feature Story: Milestones on the Road to Equality – a special interview with EOC Chairperson Raymond Tang

### FEATURE STORY

# Milestones on the Road to Equality -

a special interview with EOC Chairperson

## **Raymond Tang**

Born in Shanghai, Mr. Raymond Tang moved from the Mainland to Hong Kong with his family in the 1940s. Those were turbulent times when poverty was commonplace and resources were scarce. Many families could only afford to send their sons to school and people with disabilities were left to fend for themselves. The notion of equal opportunities was non-existent then.

Later on in his youth, he went to London to start his legal training to become a solicitor. His experience as a young foreigner in a faraway place with a different culture gave him a better understanding of how a racial minority has to make extra efforts to achieve what they aspire in life. Mr. Tang feels times are changing and the society has become more enlightened but adds that much more need to be done.

We take this opportunity to have têteàtête with him about his experience with the EOC.













#### 1. You will be retiring next January. How was your experience with the EOC?

The past five years have been a fulfilling journey. I valued the opportunity of working with the Members and staff of the Commission in promoting equal opportunities. We put in our whole-hearted efforts in advocating for equality and championing for the rights of the disadvantaged. We also launched surveys and investigation in this regard. Looking back, I feel we managed to make some important progress in combating discrimination.

# 2. What were the important developments in achieving equality during your tenure?

The enactment of the Race Discrimination Ordinance (RDO) in July 2008, taking full effect on 10 July 2009 is a major milestone. People discriminated, harassed or vilified on the ground of race can now seek redress.

I also consider the application of the UN Convention on the Rights of Persons with Disabilities to Hong Kong SAR following the Convention coming into force in China on 31 August 2008 as a significant development. We had contributed to the Convention during the drafting stage and urged Member States for the early ratification of the Convention.

The enactment of anti-discrimination laws and implementation of equal opportunities policies and practices have a major impact on society. It also helps in changing mindset and people's attitude towards disadvantaged groups. For example, the Mass Transit Railway (MTR) Corporation's announcement of half fares for people with disabilities was a positive development towards achieving disability rights. We have been staunchly supporting the campaign for the provision of concessionary public transport fares for them and made repeated submissions to the Legislative Council in support. To bring the concessionary fares scheme into effect, certain law amendment is required and we are pleased to note that the amendment has been made, and the MTR scheme can now proceed.



# 3. What are the key social issues that the EOC addressed in the last five years? Some of the key issues that we addressed were related to gender and disability discrimination.

The Formal Investigation on Accessibility in Certain Publicly Accessible Premises, launched to check whether different organizations provide accessible facilities to people with disabilities in a non-discriminatory manner, is a big step towards breaking down barriers for those with disabilities. The findings and the recommendations of our investigation will contribute towards improving the situation of people with disabilities to enable their full integration into society.

The Survey on Public Perception of the Portrayal of Female Gender in the Hong Kong Media is another important effort to tackle gender stereotyping. In Hong Kong, the decision making process is generally dominated by the male gender and this male-dominance has been extended to other finer aspects of life, such as the consumer market, entertainment and mass media. We have been alarmed by the recent trend of media in Hong Kong to portray women as sexual objects. We launched the Survey to understand this trend. We plan to use the findings of the Survey to plan our future educational and outreach programs.

We have also put in significant efforts to prevent sexual harassment. The law initially did not prohibit sexually hostile environment in educational settings. This gap is now filled by amendment to the Sex Discrimination Ordinance. At the same time we worked with tertiary institutions to introduce Hong Kong's first online training module on preventing sexual harassment for students in August 2007.











# 4. Some people argue that the EOC is not doing enough on social justice and human rights issues. What is your say on this?

I realize that some people would prefer us to adopt a more "aggressive" stance in our work. Nowadays, confrontation seems to be the order of the day – a reflection of current sentiments in society in general. Personally, I am not sure that this is the best approach in the long term. I prefer persuasion followed by "carrot and stick" and in that order.

Human rights groups have high expectations of the EOC, and rightly so. They look up to the EOC as the advocate for their cause. Undeniably, the EOC has a very important role to play in advancing human rights, but I have to say that the EOC is, first and foremost, a statutory body with statutory limitations imposed upon us. Our credibility enjoins us to act within our remits in our efforts to combat discrimination. Our processes require us to act impartially when conducting investigation and conciliation. We cannot, and should not, side with one party to the detriment of the other. We have to be even-handed in our dealings. This is the foundation of our regulatory credibility.

Finding the right equilibrium between protecting basic rights of minority groups and the interests of mainstream society is and remains a significant challenge for the EOC and policy makers. Meanwhile, the EOC fares better in delivering substantive results within the confines of our statutory remits.







#### 5. What was the most satisfying aspect of serving the EOC?

The most satisfying aspect of serving the EOC is being part of the effort to secure equal opportunities for the disadvantaged community. Achieving equality is not an easy task. It requires patience, perseverance and hard work since the process requires raising awareness and changing stereotypical mindset and attitudes. Successive Boards and Chairpersons have managed to bring about significant changes in social practices and beliefs. We have also succeeded in providing redress to the aggrieved parties.

The fact that we have managed over the years to secure monetary compensation of \$32 million through conciliation and an additional amount of \$25 million through legal assistance, including damages awarded by the court and out of court settlements for the victims of discrimination on the grounds of sex, disability and family status is self-evident. Of course, what is most important is not about money but rather changing people's attitude.

The fact that employers now recognize equal opportunities as an important component in their human resources policy is also significant. We have been working with the employers through the EO Club which we established in 2006.

These are just a few examples. I feel a sense of satisfaction every time somebody gets redress for the discrimination they face or on occasions when a policy or regulation is changed to accommodate the disadvantaged community.

# 6. How do you rate the EOC's performance and what are your suggestions for improvement?

I think the EOC is on the right track. The EO Awareness Survey we conducted in 2008 showed public's satisfaction with the EOC's performance. Eighty-nine percent of the respondents said that they were either very supportive or quite supportive of the work of the EOC.

However, this does not mean that we can afford to be complacent. We have to work harder in achieving our vision of a pluralistic and inclusive society free of discrimination where there is no barrier to equal opportunities. And for this we need to work more on raising awareness through public education. We need to constantly look for new ways to reach out to people just as we have done with the YouTube video channels and our various advertisement campaigns. The EOC also needs to maintain public support in whatever it does.



#### **Know More About Raymond Tang**

- Born in Shanghai and spent his childhood and adolescence in Hong Kong
- Started off as an articled clerk at a law firm in London in early 1960s and later practiced as a solicitor. Set up an office in London's West End to help the local Chinese Community
- Moved back to Hong Kong in 1973 and later headed his own law firm
- Joined the Securities and Futures Commission as Chief Counsel in 1996
- Became a Barrister in 2000
- Appointed the Privacy Commissioner for Personal Data in 2001
- Appointed as the Chairperson of the EOC in early 2005
- Retirement Plan: Doing things he did not have time to do before, such as studying Chinese literature and philosophy. He will continue to be concerned about developments in Hong Kong in the broader context of our national development
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# **EOC Webpage** "Reflections in Brief"

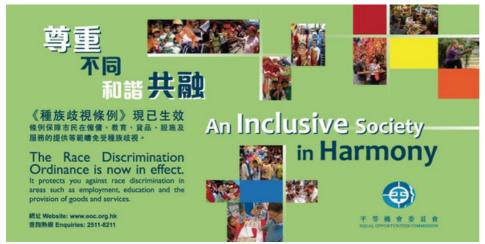
In our quest for an inclusive society we come across people and situations that cause us to reflect upon our work. By recounting our reflections in brief, we share our vision and experience with our community partners through this webpage, which contains articles on topics such as the mainstreaming of equal opportunities.

Our latest thought on current issues:

- Advancing Racial Equality Doing the Right Thing at the Right Time
- An Important Battle for Equa 1 Education Opportunities to Children with Intellectual Disabilities

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#### Frequently Asked Questions on the Race Discrimination Ordinance



An outdoor advertisement campaign has been launched by the EOC to promote the Race Discrimination Ordinance and the messages of racial harmony.

#### 1. What is Race Discrimination Ordinance (RDO)?

The RDO is an anti-discrimination law enacted in July 2008 to protect people against discrimination, harassment and vilification on the ground of their race. The RDO has come into operation since 10 July 2009.

#### 2. What is racial discrimination?

In general terms, racial discrimination is about treating people less favorably on the basis of their race. There are two forms of racial discrimination: direct and indirect.

#### **Direct discrimination**

Direct discrimination occurs when a person is treated less favourably than another under comparable circumstances because of his/her or his/her near relative's race. It is also direct discrimination to segregate a person on the basis of his/her race. Example: A person of Pakistani origin who speaks fluent Cantonese and has adopted a Chinese name applies by telephone for the job of salesperson and is invited for an interview. But, because his appearance indicates that he is of Pakistani origin, when he turns up for the interview he is falsely told that someone else has already been hired and the interview is declined. This is less favourable treatment on the ground of race if another job seeker, not of Pakistani origin, was not declined. This is an unlawful act under the RDO.

#### **Indirect discrimination**

Indirect discrimination occurs when a same requirement (rule, policy, practice, criterion or procedure) or condition, which cannot be justified on non-racial grounds, is applied equally on people of different races but which has an unfair effect on a particular group because (i) only a small proportion of people from that racial group can meet that requirement compared to the proportion of people of other racial groups, and/or (ii) the condition is to the detriment of the persons of that particular group because they cannot meet it. Example: A blanket ban on beards for health and safety reasons in a food packaging factory is a requirement or condition that indirectly discriminates against ethnic groups such as Sikhs (who, by their custom, have to keep a beard), when compared to other racial groups, if information shows that the blanket ban is not justifiable, for example, because face masks could be used satisfactorily to meet health and safety standards.

#### Discrimination by way of victimization

Racial discrimination also occurs by way of victimization if a person treats another person less favourably than other people because that person or a third person has done an act protected under the RDO, such as making or planning to make a race discrimination complaint, taking legal action, acting as witness against race discrimination or helping somebody else to do so. Example: A manager of Nepalese origin is discriminated against by way of victimization if he complains that he was paid less annual bonus than another manager of Chinese origin on the ground of race, and the company decides to dismiss him by reason that he makes this complaint.

#### 3. What is racial harassment?

If a person engages in an unwelcome, abusive, insulting or offensive behavior because of another person's or his/ her near relative's race, which makes him feel threatened, humiliated or embarrassed then it is racial harassment. Example: Engaging in name calling, which people of certain racial groups may find offensive or impolite, or using a disparaging or offensive tone when communicating with people on the ground of their race could be racial harassment.

4. Can an employer refuse to offer me a job interview or position in his/her organisation because I am a Filipino and cannot read Chinese?

An employer cannot deny somebody a job interview or position just because of his/her race. The employer would have to prove that proficiency in reading Chinese language is a justifiable job requirement if he/she rejects a candidate on this ground. Otherwise, it could constitute discrimination.

# 5. Can a service provider or an educational establishment refuse to provide me with services or facilities because of my race?

It is unlawful for a service provider to refuse to provide goods, services or facilities on the ground of a person's race. It is also unlawful for an educational establishment to deny admission to, or expel a student, because of his/her race.

#### 6. Can I request service providers or my employer to provide information materials in my own language?

There is no requirement under the law to translate information materials into ethnic minority languages. However, in the interest of promoting racial harmony, service providers and employers should put in place an effective method of communication and apply equal treatment to all, if their clients/employees come from the non-Chinese speaking communities and may need to translate certain essential information (such as health and safety).

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#### **Understanding Cultures**



香港約有百分之五人口為少數族裔人士。雖然我們與他們的長相不同,但他們與大部份市民一樣,以香 港為家。現在,讓我們多認識這些可能彼此為鄰、共事或交往的朋友吧......



菲律賓共和國 Republic of the Philippines



菲律賓位於東南亞,由大約 7,107個島嶼組成,素有「千 島之國」之稱、國家總面積為 299, 764平方公里。

Located in South East Asia, the Philippines is composed of 7,107 islands, with a land area of 299, 764 sq. kilometres.



#### 菲律賓屬熱帶氣 候,全年高溫多雨

Tropical climate with relatively abundant rainfall and gentle winds



馬尼拉



菲律賓有兩種官方語言一英語與菲律賓 語。菲律賓語源自塔加洛語(Tagalog), 是菲律賓的國語;英語也是廣為人用, 亦為高等教育的教學語言。

Two official languages — Filipino and English. Filipino, which is based on Tagalog, is the national language. English is also widely used and is the medium of instruction in higher education



八千八百五十七萬 88.57 million





白色的三角形代表平等與友愛;藍色代 表和平、真理與正義; 紅色代表愛國與

勇氣。三顆星代表菲律賓的三大群島-

呂宋島、維薩雅斯群島和棉蘭佬島。

民主共和國 Democratic Republic



超過百分之九十

The white triangle stands for equality and fraternity; the blue field for peace, truth and justice; and red field for patriotism and valor. The three stars symbolize the three chief islands of the Philippines, Luzon, Visayas and Mindanao.



菲律賓的經濟支柱主要為農業及工業。 工業方面以食品加工、紡織、電子及汽 車組件等為主。

Mainly agriculture and industry. Industrial production focuses on food processing, textile, electronics, and automobile parts

# 定数N

天主教佔82.9%,基 督教為5.4%,伊斯蘭

教為4.6%。 Catholic - 82.9%, Protestant - 5.4%, Muslim - 4.6%

# 本港的菲律賓人口

截至2009年初為止,香港約有 147,000名菲律賓人。

As at early 2009, there were approximately 147,000 Filipinos in Hong Kong.

資料來源: 香港電台(平等機會多元共融行動)、香港入境事務處數據資料、菲律賓共和國政府網站(http://www.gov.ph/)
Sources: Radio Television Hong Kong (EO Diversity Project), Facts and Statistics of Immigration Department, The Official Website
of the Government of the Philippines (http://www.gov.ph/)

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#### SEX DISCRIMINATION CASE



**Being Pregnant** 

is not a Crime

#### The complaint

Ms. Chan worked as a Manager at a manufacturing company for more than 12 years. She enjoyed a good working relationship with everyone at office and never faced any problem with the management during her service. However, she was dismissed from her job when she returned from maternity leave.

When she confronted her boss about the dismissal, he told her that it was only because of the economic downturn and it had nothing to do with her pregnancy. Ms. Chan was indignant and felt the dismissal was due to her pregnancy. She also recalled that her boss had commented that she looked like a pig when she was pregnant.

Even though she was upset, she offered to work for lower salary if the dismissal was because of economic reasons. But her boss refused to accept it. Another colleague of Ms. Chan offered to swap with Ms. Chan and tender resignation but the boss refused the proposal. When both the offers were declined, another colleague of Ms. Chan suggested to her boss that the company could consider reducing the salary of all staff. However, the boss refused this suggestion too.

Ms. Chan later lodged a complaint of pregnancy discrimination against the company with the Equal Opportunities Commission (EOC).

#### What the EOC did

Upon receiving the complaint, the EOC case officer contacted the company and informed them about the complaint and explained the provisions of discrimination against pregnant women in employment field under the Sex Discrimination Ordinance (SDO). Both parties agreed for early conciliation and the case was settled after the company agreed to pay one year's salary to Ms. Chan.

#### What the law says



The SDO makes it unlawful for an employer to subject a woman to a disadvantage or dismiss her on the ground of her pregnancy (SDO section 8). While the dismissal of employees during their pregnancy may be an obvious form of discrimination, the dismissal of women upon their return from maternity leave is less obvious. However, if it is clear that the employee would not have been dismissed had she not been pregnant and gone on maternity leave, then the dismissal may be unlawful and a complaint may be lodged.

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## Career Challenge 2009/10



想與來自不同界別的嘉賓導師分享他們跨越定型 界限、邁向成功的寶貴經驗?想參觀一些平時少 有機會到訪的機構?

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**Enquiry 2511 8211** 

歡迎網上報名 Online application is available www.eoc.org.hk

#### 嘉賓導師 MENTORS



**陳智思先生 Mr. Bernard CHAN** 香港社會服務聯會主席 Charperson of The Hong Kong Council of Social Service



譚志強博士 Dr. Camoes TAM Chi-keung 香港記者協會前主席及時事經論員 Former Charperson of Hong Kong Journalists Association and Commentator



**夏仕雄先生 Mr. Bennet HA** 「晨光」雙語電腦讀屏軟件創作人 Developer of Windows Light Screen Reading Software



鄧爾邦先生 Mr. Raymond TANG 平等機會委員會主席 Chairperson of the Equal Opportunities Commission



Mr. Vivek Ashok Mahbubani (阿V) 棟篤笑主持人/網頁設計師 Stand-up Comedian/Web Designer



**丁錫全醫生 Dr. TING Sik Chuen** 香港轨業精神科醫生協會主席 Chairman of the Hong Kong Society of Psychiatrists



<mark>麥瑞琼女士 Ms Caroline MAK</mark> 香港零售管理協會主席 Chairperson of Hong Kong Retail Management



胡麗芳女士 Ms Anna WU 消防處高級消防隊長 Senior Station Officer, Fire Services Department

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#### **DISABILIY DISCRIMINATION CASE**

## **Dispute on**

## **Light Duty**



#### The Complaint

Mr. Lau had been an assembly-line worker at a food packaging company for almost 10 years. He took sick leave for several weeks when he developed severe back pain. Upon resuming work, he submitted a medical certificate to his supervisor that advised he should only perform "light duty" or take up work that was physically not demanding. However, the supervisor took no heed of the advice and made him continue with his work. This made Mr. Lau fall sick again for a few days. About a month later, he was assigned to perform similar tasks but for a different production line. However, he found working in the new line physically more demanding because the packaging materials were heavier.

One day Mr. Lau had a dispute with his supervisor over some work procedures. Later the company issued a warning letter to Mr. Lau for his poor attitude towards senior staff. He disagreed with the content and refused to sign the letter. A few days later, he was transferred to work on the night shift without reasons or prior notice.

He was upset and believed that he was discriminated against because the company (a) ignored his request for light duty despite providing a medical certificate, (b) issued him a warning letter citing bad attitude towards supervisor, and (c) deployed him to work on the night shift. Mr. Lau found the overall work environment beyond his tolerance and resigned.

Later Mr. Lau lodged a complaint of disability discrimination against the company with the Equal Opportunities Commission (EOC).

#### What the EOC did

Upon receiving the complaint the EOC case officer investigated into the matter. The company explained that it could not immediately accommodate Mr. Lau's request for light duty because they needed time to find a suitable position for him. They explained that he was later transferred to work on the night shift because he was a very experienced worker and could coach the newcomers.

While the complainant and the company disagreed on some issues, both parties made good use of conciliation to resolve the matter. The case was settled after the company agreed to pay Mr. Lau a monetary compensation worth more than his yearly wages.

#### What the law says



Under the Disability Discrimination Ordinance (DDO), it is unlawful for an employer to discriminate against the employees with disability or sickness by subjecting them to detriment [DDO, section 6 (a)]. In this case, the fact that the employer failed to provide accommodation could be detrimental to the employee, unless the employer could prove that the provision of accommodation would cause the company unjustifiable hardship. Accommodation refers to any modification or adjustment to a job or the work environment that makes it possible for an individual with a disability to enjoy equal employment opportunities. As a good management practice, it is advisable to communicate clearly with the staff the reasons for transfer (either to a new post or to a new shift) to avoid misunderstanding.

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#### **Community Resources / Events**

# 社區資源及活動 COMMUNITY RESOURCES/EVENTS



10/2009-3/2010 2009 精神健康月 Mental Health Month 2009 勞工及編利局 Labour and Welfare Bureau 2810 2300 # 2810 2300 http://www.lwb.gov.hk/chi/advisory/rac/2009MTM.htm



#### 全年計劃 Year-round Programme

「友情閣」- 內地新來港婦女聚會 Mainland Newcomer Women Gathering 社會福利署油麻地綜合家庭服務中心 Yau Ma Tei Integrated Family Service Centre 2782 0271 / 2388 5965 http://www.swd.gov.hk/to/index/site\_district/page\_ kcytm/sub\_528/



香港愛滋病基金會 Hong Kong AIDS Foundation 2513 0513 http://www.aids.org.hk/big5/02/2\_1\_1.html



# 全年計劃

Year-round Programme 「小白兔心聲」兒童熱線服務 Free Counseling Hotline Service for 和腊之家 http://www.harmonyhousehk.org/harmonyexpress/



全年計劃 Year-round Programme 活力自強男士互助小組 Mutual Help Group for Men 社會編刊署北馬鞍山綜合家庭服務中心 Ma On Shan (North) Integrated Family Service Centre, Social Welfare Department 2691 6499 http://www.swd.gov.hk/tc/index/site\_district/page\_ shatin/sub\_528/



#### 08/2009-02/2010

「傷健齊家凝動力」傷健共融 社區教育計劃2009 /10

Community Education Projects 2009/10 大埔及北區康復服務協調委員會 Tai Po & North District Co-ordinating Committee on Rehabilitation Services

3183 9384

http://www.swd.gov.hk/doc/district/tpn/Community%20 Education%20Projects%202009.doc

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#### **Equal Opportunities Diversity Project**



## **Equal Opportunities Diversity Project**

Since the Equal Opportunities Diversity Project was first broadcast on radio in May 2006, programme host Alex Lee has interviewed almost two hundred guests from different communities and ethnic backgrounds. He has been promoting the concept of equal opportunities for three years through his programmes. It turns out that this radio host has also been accorded different treatment simply because he looks like a foreigner!

#### **Unusual Anecdotes**

Alex Lee's mother is an Eurasian (British-Chinese). With 1/4 British blood in him, Alex Lee looked like a westerner and, thus, was given many nicknames when he was a child. "When I was a teenager, my hair was lighter in colour and people always thought I was a foreigner," he said. "All the friends that I hung out with have been subjected to random police ID checks. But I was spared every time."

Smiling, he said he did not know whether this was a good thing. But added that our society has changed a lot and he now finds many people respectful towards people with disabilities and from different ethnic backgrounds.

#### Listening to Voices of Ethnic Minorities

"Ethnic minorities in Hong Kong do not have many chances to express their views in public. Our programme gives them a voice, which helps to eliminate some of the misunderstandings about them," said Alex Lee. "I once interviewed a Pakistani boy, who has now not only become a PhD candidate in the University of Hong Kong but also established a students' association to help other Pakistani students."

He was also very glad to have met an owner of a beauty parlour who was willing to hire persons with visual impairment. "Hosting this EO session gives me a pleasant surprise every week because I get to meet people from different backgrounds." Many people he interviewed have become friends with him, such as a parent of a child with autism who still keeps in touch with him. A group comprising people with visual impairment has also invited him as an adjudicator for a singing contest.

The Rainbow in Alex's eyes



What Alex Lee wants most is to generate more public support for people with disabilities and ethnic minorities. He feels a diverse and inclusive society encompassing people of different races and identities is like a rainbow displaying richness of colours and resplendence.

#### Website:

 $\underline{http://www.eoc.org.hk/eoc/otherproject/chi/color/youthcorner/programmes}/\underline{index.html}$ 



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#### **Around the World**

#### **Around the World**

#### **USA**

#### **Texting for Help**

A 911 emergency call centre at a county in lowa now accepts text messages since it would assist people with hearing and speech impairment, and victims of kidnapping send their call for help easily to the call centre. This service is also expected to help the crime victims in getting assistance faster.



#### Information source:

http://www.npr.org/templates/story/story.php?storyld=111748618

#### **Japan**

#### **Robotic Suit for Mobility**

A Japanese robotic company has developed a rehabilitation suit for people with mobility difficulties. The Hybrid Assistive Limb (HAL) comprises robotic "limbs" and backpack containing a battery and a computer system. HAL relays brain signals to mechanical leg braces strapped to the thighs and knees, which then provide robotic assistance to people with weak limbs, including in standing up from a chair, walking, and climbing the stairs.



#### Information source:

http://www.cyberdyne.jp/English/robotsuithal/index.html

#### **South Korea**

#### **Facilitating Female Participation in the Labour Market**

The Ministry of Labour in South Korea has been implementing an affirmative action system to facilitate female participation in the labour market. This system provides subsidies to employers for rehiring women who left their previous job due to pregnancy, childbirth and childcare and also to those who hire a female household head registered as a job seeker with the public employment service under the Ministry.



#### Information source:

http://www.molab.go.kr/english/Employment/Equal\_Expansion.jsp

#### Canada

#### **Prohibiting Racial Discrimination**

A Federal Court in Canada ordered the Department of State to furnish a letter of apology and financial compensation for hurt feelings to their staff, an Ojibway woman, who was dismissed after years of racial harassment. The Court took note of the fact that the Department initiated no action even after receiving complaints of racial harassment, which included racial slurs, jokes, and stereotyping in the workplace.



#### Information source:

http://www.chrc-ccdp.ca/publications/anti\_discrimination\_case-en.asp

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## **Radio Drama Promotes Equal Opportunities**



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