

Panel on Welfare Services

Subcommittee on Strategy and Measures to Tackle

Domestic Violence and Sexual Violence

6 October 2015

Submission from the Equal Opportunities Commission

Purpose

This paper aims to provide views of the Equal Opportunities Commission (“EOC”) on the support services provided to ethnic minorities (“EMs”) facing domestic violence and sexual violence.

Protection under the Sex Discrimination Ordinance

2. Two anti-discrimination ordinances are related to the issues of domestic violence and sexual violence against EMs, which are the Sex Discrimination Ordinance (“SDO”) and Race Discrimination Ordinance (“RDO”).

3. The SDO prohibits sexual harassment. Sexual harassment has a very wide definition ranging from a verbal sexual abuse to criminal acts such as indecent assault and rape. In other words, victims of sexual violence can not only report to the police, but also lodge civil proceedings under certain circumstances for compensation if the act also amounts to sexual harassment. Under the SDO, sexual harassment is unlawful in employment, provision of goods, services and facilities, as well as other specified fields including education, management and disposal of

premises, employment agencies' services, etc. EM employees, customers and providers of goods, services and facilities are entitled to the same protection as others in Hong Kong society. Beside the criminal behaviours that may be involved in sexual violence in employment, sexual harassment also includes creating a sexually hostile work environment, in which case a person, alone or together with other persons, engages in conduct of a sexual nature which creates a hostile or intimidating environment for another person(s).

3. About half of the EM population in Hong Kong is made up of foreign domestic workers ("FDWs"), and the law provides particular protection to them given their unique position as live-in employees. Under the SDO, it is unlawful for a person residing in any premises to sexually harass a person employed by another person carrying out in those premises his/her work in relation to his/her employment. In other words, the SDO protects FDWs from sexual harassment not only by their employers but also by others residing in the same premises, such as family members of the employers.

4. EOC is a statutory body with the functions and powers to conduct investigation into complaints lodged under the anti-discrimination legislation and encourage conciliation between the parties in dispute. If conciliation fails, the complainant has the option of taking the case to court and may apply to the EOC for legal assistance. There are cases of sexual harassment for which the EOC has provided legal assistance.

Protection under the Race Discrimination Ordinance

5. Under the RDO, it is unlawful for service providers (whether for payment or not) to discriminate against any person on the ground of his/her race by refusing to provide the services, or provide the services to

him/her in the like manner, terms and quality. In cases of domestic violence and sexual violence, the law covers the services provided by NGOs as well as public authorities and government departments.

6. Indirect race discrimination is also unlawful under the RDO. Given that language used by people is often associated with their race, unfair treatment based on language may constitute indirect discrimination against EMs. During the course of providing services such as investigation, counselling, medical treatment and shelter etc., in domestic violence and sexual violence cases, indirect race discrimination may take place if these services or information about these services are only provided in Chinese language to persons from EM communities who cannot understand Chinese, unless it can be shown that such an arrangement is justifiable under the circumstances.

EOC's Work on the Issue

7. EOC has formed a dedicated multi-ethnic unit to strengthen its work on EMs in 2014. To raise awareness of the protection under anti-discrimination legislation in EM communities and preventing sexual harassment to FDWs and EMs, the unit has organized 13 workshops and talks in the first 6 months of 2015. Another work focus of the unit is to promote cultural sensitivity among the providers of goods, services and facilities. Sharing with NGOs on public service accessibility has been conducted and training for social workers on cultural sensitivity towards EM service users is planned for November. Furthermore, the unit is actively encouraging and facilitating different sectors to formulate operation protocols to ensure equal opportunities for EMs. For example, the unit has provided materials on suggested good practice for the banking industry and is now developing guidelines for the education sector.

8. In 2014, the EOC conducted the “Sexual Harassment and Discrimination in Employment – Questionnaire Survey for Foreign Domestic Workers”. It found that 6.5% of the 918 Filipino and Indonesian domestic workers who responded encountered sexual harassment at work or at work-related events in the 12 months prior to the survey and 64% of the respondents had never received any information on sexual harassment.

9. Based on the findings, the EOC liaised with the Immigration Department that latter agreed to distribute the anti-sexual harassment leaflets of the EOC (in four EM languages) to FWDs when they apply for Hong Kong Identity Cards or visas in five of their offices. The leaflets have also been disseminated through Consulate offices, uploaded to the EOC website and distributed to new arrivals at the airport.

Recommendations

10. There is a lack of statistics on domestic violence and sexual violence against EMs. While the Social Welfare Department (“SWD”) only started documenting data in relation to domestic violence cases as of 2013, a 34% growth in EM victim number of spouse/cohabitant battering was recorded in 2014 (from 180 victims in 2013 to 242 victims in 2014).¹ 93% of the victims were women. These figures are only the tip of the iceberg. A mixture of factors as cultural and religious background, language barrier, financial dependency of many EM women, lack of awareness about legal rights and community support etc., may lead to a gross underreporting of these cases.

11. The principal concerns of the EOC are whether EMs, in particular EM women, gain equal access to information regarding legal protection

¹ Ethnicities of the victims include Indonesians, Filipinos, Indian, Pakistani, Nepali and Thai.

and support services for victims of domestic violence and sexual violence, and whether the services are delivered in a fair manner. Language support and cultural sensitivity of service providers and government officials handling these cases are crucial factors for delivering fair and appropriate treatment to the victims.

Providing more information in EM languages

12. Although the SWD provides basic information on services for victims of domestic violence in Chinese, English and 6 EM languages, the information is usually only a general service description and EMs are likely to encounter considerable difficulties in searching for further details. For example, service information about most refuge centres is available in Chinese and/or English only. Also, when EMs who can speak neither Chinese nor English try to seek help through the SWD hotline after office hours, there is no option for instructions in EM languages or a transfer to a telephone interpretation service. EMs' access to this information is either largely incomplete or simply blocked. With this observation, the EOC urges the Government to ensure that promotional materials on reporting sexual violence and domestic violence and information of services from the Hong Kong Police Force, Hospital Authority, SWD, NGOs, etc., be made available to EM communities in their accessible languages and media.

Providing interpretation service throughout the intervention process

13. Domestic violence and sexual violence are traumatic experiences for most people. During the process of investigation, counselling and medical treatment, the victims are usually required to share personal feelings and disclose sensitive information about people they share an intimate relationship with. This process would be particularly

intimidating and humiliating to EM victims who come from a cultural and religious background that does not encourage outside intervention in family affairs or marital conflict. EOC therefore advises government officials and service providers not to simply rely on using English as the communication medium or inviting the victims' friends or family members for interpretation when the victims are not native speakers of Chinese and English. Since EM victims are most likely not aware of the availability of interpretation services and their right to ask for it, it is also recommended that government departments, medical institutions and operators of support services put in place a protocol requiring interpretation service at every intervention point as standard procedure without the need for victims to initiate the request.

Raising cultural sensitivity of government officials, medical professionals and service providers

14. There are concerns expressed by NGOs that the ethnic, cultural and religious backgrounds of EM victims are overlooked in the intervention process for domestic violence and sexual violence. NGOs have given examples such as unavailability of female staff to interview female victims, lack of prayer facilities and (culturally and religiously) inappropriate dietary arrangements in refuge centres. It has also been brought to our attention that sometimes frontline workers give advice which is in conflict with the EM victims' cultural values or they misjudge the victims' knowledge, skills and confidence to navigate the public service system. Such insensitivity would gravely weaken the victims' trust of the service and of service providers and also their confidence to ask for help and intervention.

15. EOC recommends that intensive, regular and systematic cultural sensitivity training be provided for police officers, healthcare

professionals and social workers so as to promote their understanding of cultural barriers that could prevent EM victims from seeking help or getting effective support once they approach for help. For service units with higher usage rate by EMs or located in districts with higher EM population, recruitment of EM staff is also suggested so that victims could communicate and build trust with the service operators more easily.

Promoting protection against domestic violence and sexual violence to the EM communities

16. Due to language, cultural and social barriers, some EM groups tend to confine their interaction to their own communities and maintain limited communication with the Chinese society. This is particularly common among EM women who cannot speak Chinese or English. They are basically unaware of their rights under the law and ways to seek help when they face violence.

17. EOC recommends that family life education and promotion of protection against domestic violence and sexual violence be extended to the EM communities in a systematic way. Outreach should be conducted to these communities on a regular basis and it would be more effective for workers of EM origin to reach out to them and promote their understanding of the legal protection and local public service system.

Formulating protocols on handling cases of domestic violence and sexual violence among EMs

18. Under the Administrative Guidelines on Promotion of Racial Equality issued by the Constitutional and Mainland Affairs Bureau, the Hong Kong Police Force and SWD has implemented a list of measures to comply with the legal requirements of the RDO and enable EMs to have equal access to public services. EOC recommends that concerned

government bureaux and departments, public authorities and NGOs put in place operational protocols on interviewing and providing services to EM victims of domestic violence and sexual violence such that interpretation services and other culturally sensitive arrangements could be introduced in a consistent way throughout the intervention process.

Equal Opportunities Commission

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