

EOC has dropped the baton on race issues

The Equal Opportunities Commission's job, according to the Hong Kong government, is to work towards the elimination of discrimination on the grounds of sex, marital status, pregnancy, disability and family status. And, with the passage of the Race Discrimination Ordinance last summer, it must also fight racial discrimination.

However, the public does not seem to either understand the EOC's role or have much confidence that it can properly discharge such a function. Recently, it was reported that certain residents of Pakistani descent had difficulty opening bank accounts, reportedly on the grounds that they came from a terrorist country.

On the face of it, these were blatant cases of racial discrimination. The natural thing to do, it seemed, would be to go to the EOC for help.

Earlier this month, lawmaker Emily Lau Wai-hing raised the question of whether any relevant complaints had been made in the past five years to the EOC, the Race Relations Unit under the Constitutional and Mainland Affairs Bureau, or the Monetary Authority. The government's answer was revealing. In the past five years, it said, the Race Relations Unit had received four such complaints and the HKMA three. The EOC received not a single complaint.

The public, it seems, does not see the EOC as an organisation that fights discrimination, despite its mandate. Why? Could it be because its chairman, Raymond Tang Yee-bong, does not see himself as a champion of the afflicted but rather as a regulator who defines the rules of the game?

Mr Tang made it clear in 2005, when he became chairman, that while the EOC had a broad mandate to advise on discrimination issues, it was above all a statutory regulator that could not act beyond its limits.

This is similar to how Mr Tang saw his role when he was the privacy commissioner.

Now, at the EOC, he has drawn up a code of practice that, some people claim, tells employers what they can get away with in dealing with employees.

Mr Tang is having a difficult time. When legislators discussed the draft code in November, they said the EOC was discriminating against minorities who are unable to read Chinese or English because the code was available only in those two languages.

The EOC protested that it was difficult to find translators. However, after a tongue-lashing by legislators, it had the code translated into six minority languages.

As for the substance of the code, four non-governmental bodies - Hong Kong Human Rights Monitor, the Hong Kong Christian Institute, the Asian Human Rights

Commission and Hong Kong Unison - claimed that the document helped employers avoid liability.

The Hong Kong Christian Institute said the code actually used examples to teach people to discriminate legally, while Hong Kong Unison said it has left out some functions of the EOC, such as providing assistance in legal proceedings. Instead of emphasising the EOC's role in helping victims of discrimination, the code says that a victim can pursue the claim directly through legal proceedings in court without lodging a complaint with the EOC or applying for EOC's legal assistance. What's the point of saying this? Is the EOC trying to get out of doing its job?

To be fair, the government does not seem to conceive of the EOC's role in this fashion. Last month, after the US annual report on human rights, a spokesman declared that the government is committed to combating racial discrimination and promoting equal opportunities for ethnic minorities and that the EOC will be responsible for implementing the ordinance when it comes into full operation.

The EOC should do what it's supposed to do. At present, it isn't.

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