

Panel on Welfare Services
Subcommittee on Strategy and Measures to Tackle
Domestic Violence and Sexual Violence
20 July 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 foreign domestic helpers (FDWs) who are prone to sexual harassment and sexual violence in domestic setting.

Protection Against Sexual Harassment Under Sex Discrimination Ordinance

2. Under the Sex Discrimination Ordinance (SDO), sexual harassment of an employee by an employer is unlawful. It is also unlawful for a person residing in any premises to sexually harass a woman employed by another person at an establishment carrying out in those premises her work in relation to 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. Furthermore, sexual harassment 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). Employers should take reasonable steps to ensure that a sexually hostile environment is not created in their household which is also the working

and living place of their FDWs. The SDO covers a wide range of sexual harassment, including criminal offences such as indecent assault and rape. In other words, victims of sexual violence not only can report to the police, but also lodge civil proceeding for compensation.

Services provided by the EOC

3. The EOC adopts a multi-pronged approach to provide services and assistance to FDWs who are prone to sexual harassment in domestic setting. Apart from complaint handling and provision of legal assistance, the EOC also tackle the issue of sexual harassment by research, education and publicity. FDWs may file a complaint if they suffered from sexual harassment or other forms of discrimination under current anti-discrimination ordinances in Hong Kong. Once a complaint is lodged, the EOC may investigate into the complaint and endeavour, by conciliation, to effect a settlement of the matter. If settlement cannot be reached, the FDW concerned may apply for legal assistance of the EOC. From January 2012 to May 2015, the EOC received 22 enquiries and 12 complaints on sexual harassment from FDWs. A survey conducted by the EOC suggested that the prevalence of sexual harassment among FDWs is higher than what the complaint figures showed.

Questionnaire Survey for Foreign Domestic Workers

4. The EOC engages in research and policy advocacy to identify discriminatory issues in society and to raise public awareness on these issues. The EOC carried out a series of survey among workers of the service industries who are prone to sexual harassment in 2013 and 2014, including a survey entitled “Sexual Harassment and Discrimination in Employment - Questionnaire Survey for Foreign Domestic Workers (FDWs)” from 30 March to 13 April 2014. The survey targeted on Filipino and Indonesian domestic workers who make up 98% of the FDWs serving families in Hong Kong. A total of 1,200 self-administered questionnaires in English/Indonesian were distributed to FDWs.

5. The Survey found that 6.5% (60 persons) of the 918 respondents encountered sexual harassment at work or at a work-related event in the 12 months prior to the survey. The most common alleged harassers were male employers (33%), followed by female employers (29%) and “persons living in the same household” (20%). The Survey also showed that 64% of the respondents had never received any information on anti-sexual harassment.

6. The most common incidents of sexual harassment encountered by FDWs in descending order were “Inappropriate staring or leering in a sexual manner” (n=16, 14%), “Sexually suggestive comments/jokes/name-calling” (n=15, 13%) and “Intrusive questions about your sex life/physical appearance that offended you” (n=14, 12%). The findings also documented four cases of “Actual or attempted rape or sexual assault”.

7. If the forms of sexual harassment are grouped according to their nature, the most common type encountered was oral/textual/electronic messages (44%), followed by non-verbal sex cues (17%), and hostile environment (17%). Some respondents illustrated their experiences of sexual harassment as follows:

- “My (male) employer watched porn when I was around. And he did it on purpose.”;
- “My (male) employer scratched his private part in front of me while he was talking (to me).”;
- “My employer asked me to put medicine on his anus.”;
- “He asked me to buy some movies/CDs containing sexual or pornographic content”.

Promotion, education and publicity

8. FDWs are not educated in Hong Kong. The concept of sexual harassment may be foreign to them. Hence, education and promotion are essential to get the anti-sexual harassment message through to the FDWs. The

EOC's anti-sexual harassment leaflets have been translated into six ethnic minority languages. These leaflets have been sent to the Consulates General of the Philippines and the Republic of Indonesia for distribution. The leaflets have been uploaded onto the EOC website and distributed to the public via different channels, such as to newcomers to Hong Kong at the airport through the International Social Service – Hong Kong Airport Ambassador Scheme.

9. The EOC held a number of workshops and talks each year for ethnic minorities on preventing sexual harassment. From January to December 2014, the EOC conducted four of these workshops for ethnic minorities, three of which were aimed for the Indonesian community and one for the Sikh (Indian) community, and also six talks on equal opportunities covering sexual harassment for over 300 members of the ethnic minority communities. This year, talks in collaboration with the Thai Consulate General for the Thai community and with RainLily for the Indonesian community were held on 22 and 29 March 2015 respectively. Workshops on prevention of sexual harassment were organized for the Nepalese community and for the Thai and Indonesian communities in March 2015 as well.

10. Apart from educating FDWs about their rights under the SDO, the EOC also provides training to equip community workers serving ethnic minority communities with knowledge of handling sexual harassment complaints. A half-day workshop was organized for the community workers in collaboration with RainLily in November 2013.

11. In addition, the EOC continues to reach FDWs through its outreach activities across different parts of Hong Kong, such as in North Point, Sham Shui Po and Quarry Bay during the first quarter of 2015.

12. The EOC also engages trade union of FDWs and Non-Government Organisations to promote the message of zero-tolerance to sexual harassment among FDWs. From 2012 to 2014, the EOC's Community Participation Funding Programme (CPFP) provides funding to 11 projects which either

focused on anti-sexual harassment issues or involved an element of anti-sexual harassment while promoting the rights of FDWs under various anti-discrimination ordinances.

13. Mass media is another channel through which the EOC raises the awareness of anti-sexual harassment among ethnic minorities. The EOC published articles on sexual harassment in newspapers and magazine targeting the ethnic minority in Hong Kong. The EOC also collaborated with Lok Sin Tong on a RTHK radio programme for the Thai community, and two episodes on preventing sexual harassment were broadcast in 2014. Representatives of the EOC attended other radio programmes targeting various ethnic minorities to discuss the issue of sexual harassment.

Role of the Government and employment agencies

14. The responsibility for providing a sexual harassment free workplace for the FDWs lies mainly on the employers. Having said that, the Hong Kong Government and the employment agencies should take a more proactive role to protect the FDWs from sexual harassment.

15. In the survey, 64% of the respondents indicated that they had not received any information on anti-sexual harassment. Allegations had been made by trade unions and human rights advocates that the some employment agencies tend to control access to information upon FDWs' first arrival. In this connection, the Immigration Department may have to be more proactive in providing anti-sexual harassment information directly to the FDWs.

16. If a FDW files a sexual harassment complaint or lodges related legal proceedings after resignation or being dismissed, the Government should provide her/him with the necessary and sufficient assistance either to stay in Hong Kong whilst awaiting or going through the proceeding, or to return to Hong Kong to attend the hearing.

17. Given that the alleged harassers of FDWs were mostly employers, it is vital to raise the awareness of both female and male employers on the importance of preventing sexual harassment. While TV Announcements in the Public Interests (APIs) can promote anti-sexual harassment messages, emphasis should be put on giving respect and being culturally sensitive to FDWs. The message should also focus on informing prospective and current employers about their liability regarding sexual harassment.

18. It is equally essential to enhance the role and responsibility of the employment agencies on preventing sexual harassment. Employment agencies are suggested to assist in distributing anti-sexual harassment leaflets/brochures to all FDWs and their employers. Creating a culture of respect will not only provide a safe and favourable work environment to the FDWs, but also help maintaining a harmonious employee-employer relationship which is essential for good and loyal service.

Equal Opportunities Commission

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