

主要工作項目 Key Initiatives



歧視條例檢討

為期三年的項目終告完成

平機會於2013年3月啟動大型的「歧視條例檢討」，目的是檢視香港現有的四條反歧視條例，有哪些地方需要更新理順，與時並進，以切合社會不斷提升的期望，並追上世界步伐，然後向政府建議條例需要作出改革之處。

平機會於2014年7月8日至10月31日期間進行了公眾諮詢，邀請社會人士就可作出的法例改革提出意見。平機會共收到超過125,000份回應（其中288份為機構意見，其餘124,753份為個人意見），是平機會進行任何單項諮詢活動以來，收到最大量公眾意見的一次。

經過多個月仔細分析意見後，平機會於2016年3月29日正式公布《歧視條例檢討一向政府提交的意見書》，詳細列出平機會向政府作出法例改革的建議，以期加強反歧視的保障。平機會也同時公布了《公眾意見報告》，該報告收錄及綜合了平機會在公眾諮詢期間收到的意見之摘要。

Discrimination Law Review

Completion of the three-year project

The EOC kicked off the large-scale Discrimination Law Review (DLR) in March 2013. The objective was to look into areas in the existing four anti-discrimination ordinances in Hong Kong that needed to be enhanced and modernised as a response to evolving social expectations and global trends, and then make recommendations to the Government on necessary reforms to the ordinances.

Between 8 July and 31 October 2014, the EOC conducted a public consultation exercise to invite views from the public on possible reforms to the laws. More than 125,000 responses (288 from organisations; 124,753 from individuals) were received, making it the largest number of public responses ever received by the EOC in any single consultation exercise.

After months of careful analysis of the responses, the EOC officially released the “Discrimination Law Review — Submissions to the Government” on 29 March 2016, detailing the Commission’s recommendations to the Government on possible law reforms in relation to strengthening the anti-discrimination protection. The Submissions were accompanied by the “Report on Responses”, which consolidated and summarised the responses collected in the public consultation.



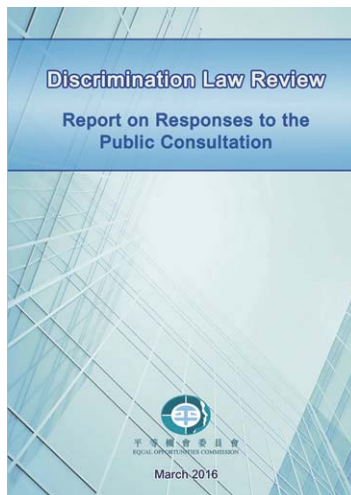
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73項建議和27項優先處理項目

平機會審視了受保障群體所面對的歧視、歧視類別、目前尚未受保障的範疇、平機會的權力和職責、以及法例的例外情況等，以判斷應如何改革四條條例。結果，平機會作出了73項建議。考慮到多項因素，包括：現時歧視的情況、香港在不同國際人權條例下的責任、海外類似司法管轄區的做法和社會意見等，平機會識別出27項需要優先作出行動的建議，目的旨在：

73 recommendations, 27 high priority areas

In judging how the four ordinances should be reformed, the EOC looked into discrimination faced by the protected groups, types of discrimination, domains that were not currently covered, powers and duties of the EOC, and exceptions to the laws. In the end, the Commission came up with 73 recommendations. After considering a number of factors, including current situations of discrimination, Hong Kong's obligations under various international human rights conventions, practices in comparable jurisdictions and social opinion, the EOC designated 27 recommendations as high priority areas that deserved urgent actions. These high priority areas mainly aim to:



- 使各個易受歧視的弱勢群體(包括殘疾人士、婦女和少數族裔)享有更佳保障

例子：

















- 明確規定要為殘疾人士提供合理遷就，適用於所有範疇，包括：僱傭；提供貨品、服務及設施；教育；和處所的處置或管理等
- 保障有輔助動物（如：導盲犬）陪同人士免受歧視
- 修訂《殘疾歧視條例》，加入禁止歧視殘疾人士投票和角逐選舉

- Offer better protection for the marginalised and protected groups, including people with disabilities, women and ethnic minorities

Examples:

- Introducing a distinct duty to make reasonable accommodation for people with disabilities in all relevant fields, including employment, provision of goods, services and facilities, education, and disposal or management of premises
- Providing protection for people accompanied by assistance animals, such as guide dogs
- Amending the Disability Discrimination Ordinance to prohibit discrimination against people with disabilities in voting and standing for elections

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-  加入條文，規定婦女有法定權利，可於放產假後返回之前任職的崗位
-  明文禁止對餵哺母乳的婦女作出直接或間接歧視
-  修訂《種族歧視條例》，訂明政府在執行職務和行使職權時作出歧視即屬違法
-  禁止種族歧視和種族騷擾有聯繫人士，不單包括近親，亦包括配偶、共同生活的伴侶、親屬、照顧者和在業務、運動及／或消閒娛樂上有關的人士
-  保障免因被假設或當為某特定種族群體的人而受到直接歧視和騷擾
- **令保障免受歧視和騷擾的範圍更為全面**
例子：
 -  保障共同工作間工作、但彼此沒有僱傭關係的人（如：寄售專櫃的員工和義工）免受性騷擾、種族騷擾和殘疾騷擾
 -  保障服務提供者免受服務使用者的種族騷擾和殘疾騷擾
 -  加入條文，訂明各反歧視條例適用於公共機構，在執行職務和行使職權時不得作出歧視
- **促進平等成為公共政策的主流價值**
例子：
 -  就規定公營機構要負起促進平等和消除歧視的責任進行公眾諮詢
-  Introducing a statutory right of women to return to their previous role at work after maternity leave
-  Introducing express provisions to prohibit direct and indirect discrimination on the ground of breastfeeding
-  Amending the Race Discrimination Ordinance to make it unlawful for the Government to discriminate against people on the ground of race in performing its functions or exercising its powers
-  Prohibiting racial discrimination and harassment by association, with not just near relatives, but also spouses, cohabitating partners, relatives, carers and persons in business, sporting and/or recreational relationship
-  Including protection from direct discrimination and harassment by perception or imputation that a person is of a particular racial group
- **Make the scope of protection from discrimination and harassment more comprehensive**
Examples:
 -  Providing protection from sexual, racial and disability harassment for people working in a common workplace but are not in an employment relationship with a company, such as consignment workers and volunteers
 -  Providing service providers with protection from racial and disability harassment by service users
 -  Including express provision in the anti-discrimination ordinances to prohibit public authorities from discriminating in the performance of their functions and powers
- **Promote and mainstream equality in public policies**
Example:
 -  Conducting public consultation on making it a duty for public bodies to promote equality and eliminate discrimination in their work

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平機會亦識別出一些政府宜優先作出法例改革或其他行動的項目：

- 就《種族歧視條例》加入條文保障國籍、公民身份和居民身份免受歧視進行公眾諮詢；及
- 就(i)根據《性別歧視條例》保障同居關係人士免受歧視；及(ii)擴大《家庭崗位歧視條例》的保障至照顧同居關係的直系家庭成員和前配偶或前同居伴侶的直系家庭成員進行全面研究和公眾諮詢。

The EOC also identified the following high priority areas for law reforms and other actions by the Government:

- Conducting public consultation with the aim of introducing protection from discrimination on the grounds of nationality, citizenship and residency status under the Race Discrimination Ordinance; and
- Conducting comprehensive research and public consultation on (i) providing protection from discrimination for cohabitating relationships under the Sex Discrimination Ordinance; and (ii) extending protection under the Family Status Discrimination Ordinance to those caring for immediate family members in cohabitating relationships and of former spouses or cohabitating partners.

跟進行動

歧視條例檢討的主要目的是向政府提供有關歧視的證據基礎，以供政府參考，從而啟動法例改革和採取其他行動，更全面地保障社會上每個人的權利。平機會已把《向政府提交的意見書》和《公眾意見報告》呈交政府考慮；同時亦已為不同持份者團體（包括非政府組織和關注團體）舉行了一連串講解會，向他們解釋建議的詳情。平機會將繼續與政府聯繫，促請政府作出適切且有需要的法例改革及其他跟進行動。

Follow-up actions

The main purpose of the DLR is to provide an evidence base and reference for the Government to initiate legislative reforms and undertake other actions to better safeguard the rights of everyone in society. The EOC already sent the Submissions and the Report on Responses to the Government for consideration. A series of briefings were also held for different stakeholder groups, including NGOs and concern groups, to explain the details of the legislative proposals. The EOC will continue to liaise with the Government and urge for relevant reforms and other follow-up actions as appropriate and needed.

A17 | 新報 | 3月30日

觀點

歧視條例檢討：改革之路 任重道遠

周景

引言
政府有句說話：「人定勝天」。這話聽起來似乎很有道理，但平機會在過去幾年的工作中，卻發現了許多不為人知的真相。平機會在過去幾年的工作中，發現了許多不為人知的真相。平機會在過去幾年的工作中，發現了許多不為人知的真相。

20年前，香港實施了一項反歧視法例——《性別歧視條例》。這項法例的實施，標誌著香港在平等權利方面邁出了重要的一步。然而，平機會在過去幾年的工作中，發現了許多不為人知的真相。平機會在過去幾年的工作中，發現了許多不為人知的真相。平機會在過去幾年的工作中，發現了許多不為人知的真相。

社會及平權團體呼籲
過去20年，香港社會在平等權利方面取得了長足的進步。然而，平機會在過去幾年的工作中，發現了許多不為人知的真相。平機會在過去幾年的工作中，發現了許多不為人知的真相。平機會在過去幾年的工作中，發現了許多不為人知的真相。

周景

周景是平機會的資深成員，負責處理有關性別歧視的個案。他認為，平機會在過去幾年的工作中，發現了許多不為人知的真相。平機會在過去幾年的工作中，發現了許多不為人知的真相。平機會在過去幾年的工作中，發現了許多不為人知的真相。

South China Morning Post

Wednesday, March 30, 2016 4:31

INSIGHT

Ready for change

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During the consultation public...

The goal of the recommendations is to strengthen the anti-discrimination protection for all...

Commissioner's own experience in implementing the law has demonstrated gaps in protection...

主要工作項目 Key Initiatives

立法禁止性傾向、性別認同及雙性人身份歧視的研究

Study on Legislation against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status



平機會於2016年1月26日公布「立法禁止性傾向、性別認同及雙性人身份歧視的研究」結果。這項研究由平機會委託香港中文大學香港亞太研究所性別研究中心進行。

本研究同時採用了定量的研究方式(電話調查)，以及定質的研究方式，例如公眾論壇、焦點小組討論會和與法律專家面談，從而有系統地探究個別性小眾人士遭遇歧視的經驗，以及市民大眾對處理這類歧視的措施(特別是關於立法)之意見。

On 26 January 2016, the EOC released the findings of the Study on Legislation against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status (the Study), which was commissioned to the Gender Research Centre of the Hong Kong Institute of Asia-Pacific Studies at The Chinese University of Hong Kong.

Employing mixed methodologies, including both quantitative telephone survey and qualitative methods, such as public forums, focus group meetings and interviews with legal experts, the Study aimed to examine systematically the discrimination experiences of LGBTI (lesbian, gay, bisexual, transgender and intersex) individuals, and solicit public views on the remedies, specifically legislation, for addressing such discrimination.

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研究結果

研究綜合了性小眾受訪者的經驗，發現他們在僱傭、教育、服務提供、處所處置及管理以至政府職能等範疇經常遭到歧視。當受到歧視時，他們感到難以或無法討回公道。不少性小眾人士認為，單靠公眾教育並不足以消除社會對性傾向、性別認同及雙性人身份的歧視。他們認為，立法禁止歧視才是保障他們基本人權的必要第一步。

就市民態度方面來說，研究發現民意明顯轉變，趨向贊成立法禁止性傾向、性別認同及雙性人身份歧視，概述如下：

- 55.7% 電話調查的受訪者贊同立法（2005年調查結果為28.7%）；
- 91.8% 年齡介乎18至24歲的年輕受訪者認為有需要立法；及
- 48.9% 有宗教信仰的受訪者贊成立法。

Findings of the Study

The Study found that the experiences of discrimination, as reported by the LGBTI people, were extensive and prevalent in the areas of employment, education, provision of services, disposal and management of premises and the performance of Government functions. The means of redress were reported to be minimal or non-existent. Many LGBTI people viewed that using public education alone as a strategy for eliminating discrimination on the grounds of sexual orientation and gender identity is inadequate and ineffective, and they considered legislation to be an important and necessary first step to protect their basic human rights.

In terms of public attitude, the Study showed that public opinion has visibly shifted in favour of legislation against discrimination on the grounds of sexual orientation, gender identity and intersex status, as summarised below:

- 55.7% of the telephone survey respondents agreed with legislation, compared to 28.7% in a 2005 survey;
- 91.8% of youth respondents (aged between 18 and 24) considered anti-discrimination legislation necessary; and
- 48.9% of those with religious beliefs agreed that there should be legal protection.

公眾對立法禁止性傾向、性別認同及雙性人身份歧視的意見

Public views on legislation against discrimination on the grounds of sexual orientation, gender identity and intersex status



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建議

研究小組根據結果提出了多項建議，其中包括：

- 政府應考慮就立法禁止有關歧視進行公眾諮詢。諮詢重點應是法例的範圍和內容，而非應否立法。諮詢的題目應包括受保障的特徵和相關定義、法例的形式、違法行為的類別、保障範疇和可能獲豁免的情況等。
- 由於一些宗教團體憂慮訂立新法例可能引起歧視，政府應考慮進一步探討宗教或信仰歧視的問題。
- 政府及相關公營機構應制訂全面的指引，並為前線員工提供培訓，以免他們在提供公共服務時作出歧視行為。
- 透過舉辦各種公開論壇、工作坊和培訓班，有關方面應鼓勵不同團體就性小眾受歧視的問題進行對話，以增進瞭解。此外，透過加強公眾教育和認知活動，以消除公眾對性小眾的誤解和成見；增加支援性小眾的措施，確保他們在社會上享有平等參與的機會。

未來路向

平機會已向政府提交研究報告。除了促請政府盡快作廣泛研究和諮詢，以展開立法程序外，平機會將繼續倡議性小眾應享有平等機會和免受歧視，並擔當「促進者」的角色，鼓勵不同團體就性小眾受歧視的問題進行對話和討論。

Recommendations

Based on the Study findings, the research team put forward a number of recommendations, including:

- The Government should consider conducting public consultation on the introduction of anti-discrimination legislation. The consultation should focus on the scope and possible content of legislation, including the protected characteristics to be covered and their definitions, the format of legislation, the prohibited conduct, the domains of protection and possible exemptions, rather than on whether there should be legislation.
- The Government should give further consideration to exploring claims about possible discrimination on the grounds of religion or belief, given that a number of religious groups expressed concerns about possible discrimination in the context of introducing legislation.
- The Government and relevant public organisations should establish comprehensive guidelines and provide training for their frontline staff members with a view to preventing discriminatory acts in the provision of public services.
- Forums, workshops and training sessions should be developed so as to increase dialogue and enhance understanding among different groups on the issue of discrimination against LGBTI people. In addition, there should be further public education and awareness programmes for the general public to dispel myths and misconceptions about LGBTI people, and enhanced support measures for LGBTI communities to ensure their equal participation in society.

Way Forward

The EOC already presented the report on the Study to the Government. Apart from urging the Government to make extensive studies and consultation to kick-start the legislative process as soon as possible, the EOC will continue its advocacy on advancing equality for and preventing discrimination against the LGBTI communities, and play the role of a “facilitator” to encourage dialogue and discussion on the subject among different parties.