## Jan 2009 Issue No. 48

### Feature Story: The Bumpy Road to Education

#### FEATURE STORY



## **The Bumpy Road to Education**

#### Sango's Dream: to Break Free from a Predestined Path

I'm Sango, 20, an Indian born in Hong Kong. When I was small, my parents sent me to a mainstream kindergarten. Perhaps that's where I first learnt Cantonese. For primary education, South Asian children like me could normally only go to one of the two primary schools which catered for ethnic minorities. There's no chance of learning Chinese there, and there's certainly no Chinese curriculum designed specially for our kind of people. We didn't have the opportunity to play with Chinese children either. When we finished Primary 6, many of us, including me, were still 'illiterate' as far as Chinese was concerned.

"Do I have to be a security guard or a construction worker, just like my elder brother and so many of my countrymen in Hong Kong? Do I have a choice? Can I determine the course of my life?"



Despite that their roads to education have been fraught with obstacles, Sango and Susan would never give up.

According to the results of the Survey of the 2006 Population By-census, there are around 342,000 non-Chinese in Hong Kong including Filipinos, Indonesians, Caucasians, Indians, Nepalese, Japanese, Thais, Pakistanis, etc. They represent 5% of the population.



Sango is named as the "VTC Outstanding Student".

Until 1998, under the government's secondary school placement system, South Asian students only had the choice of two or three secondary schools. All my brothers and sisters started working after Form 5. According to them, they had no idea that all Hong Kong secondary school students should receive a guide book for higher education and careers. Anyway, the guidebook was in Chinese so they wouldn't have been able to read it. Young people of South Asian origin who are from low-income families have few options for work except as construction workers, security guards or tailor's apprentices. My school grades were actually not bad, and I liked studying. And I was lucky to be awarded the Hong Kong Unison - Yun Lin Hu Memorial Scholarship for Ethnic Minority Students. I am now studying at the Hong Kong Institute of Vocational Education for a Higher Diploma in Hotel, Service and Tourism Studies.

To support myself and also contribute to my family, I started working as a sales representative in a fashion chain store. Having to both work and study often meant sacrificing sleep time. Fortunately, my performance, both at work and in my studies, was recognized: in 2008, among over ten thousand co-workers, I was nominated for the Outstanding Service Award. In 2007, I was named by the Vocational Training Council as the 'VTC Outstanding Student', and received a scholarship. The scholarship means I can cut down on my work hours and devote more time to studying and taking part in extra-curricular activities.

he fact that it's so tough to get a decent education is something my elder brothers and sisters have suffered from, and they understand very well that your future is not bright if you don't have good education. So they place a lot of hope in me to graduate from university and break out of the predestined path of 'having only two to three options in life'. They hope I will be able to find a path that's different from theirs.



"Is it the only future I can look forward to, quitting school, going back to my homeland and getting married, like most of my female school friends? I don't want to get into an arranged marriage. I want to carry on with my studies. I want to be a..."

#### **Susan's Persistence**

I'm Pakinstani, born in Hong Kong. My road to education has been fraught with obstacles. I will never forget the time when I wanted to repeat Form 5 because my HKCEE results were not good enough. I was running from one school to another, knocking at doors, but because I was of ethnic minority and could not read or write Chinese, most of those doors were closed to me, even though I had 6 passes. Most heartbreaking of all, though, was when, after two full years of struggling between part-time work and studying, paying for my matriculation class in a private school, I found that the school didn't even enrol me and other students of ethnic minority in the Hong Kong Advanced Level Examination, the university entrance exam. My road to education had more than its share of tears and sweat. There were many times that I felt hopeless. Just when I was about to give up I received the Hong Kong Unison - The Zonta Club of the New Territories Scholarship for Ethnic Minority Students. I was over the moon, and I'm now studying in the second year of the LLB law degree in the School of Professional Education and Executive Development (SPEED) of the Hong Kong Polytechnic University.



**B**oth my parents suffer from chronic illnesses. My life revolves around going to school, working parttime to earn my living expenses, and taking my parents to medical appointments. It seems to be a hard life, but compared to other Pakistani girls I'm rather lucky. Many of my female friends had to quit school during their primary or secondary school years, either because their families were too poor, or they had to go home to Pakistan to marry.

I chose to study law because I want to have a better understanding of Hong Kong's legal system, so that in future, armed with my professional knowledge, I can help ethnic minorities in Hong Kong fight for equality. Now, with the help of the scholarship, I can support my younger brother's schooling with my part-time salary. I hope that our efforts can demonstrate to Hong Kong people, and especially to those of ethnic minority background, that as long as we don't give up, we, too, can change our destiny!



Susan and her pupils – to support herself and also contribute to her family, Susan works as a private tutor and part-time worker.

Ethnic minorities make up 5% of HK's population. Of the 10,000 or so non-Chinese speaking students, many are unable to enjoy local education because they don't read or write Chinese. According to statistics, among people aged between 19 and 24, only about 3.7% of ethnic minorities are studying, compared to about 26.4% of students of Chinese origin. This shows that only a very small percentage of ethnic minority people are able to continue with further education after Form 5.



### Court Ruling on Disability Discrimination: The Real Reason for Dismissal

## **Court Ruling on Disability Discrimination** — **The Real Reason for Dismissal**



#### The judgment

The District Court recently ruled in favour of a family driver who was unlawfully discriminated against on the ground of his disability. The defendant was ordered to pay damages to the plaintiff at HK\$98,500 (plus interest) for injuries to feelings and loss of income.

#### The case

Mr. Kwok started to work for his employer as a driver in May 2005. He passed his 3-month probation period without any difficulty.

Mr. Kwok discovered his ventricular septal defect when he was a young boy and he also underwent a renal transplant in 2001, for which he needed to attend regular follow-up medical consultations. Medical certificates confirmed that his physical condition would not affect his performance as a professional driver. He did not disclose his illnesses to his employer until he applied for one-day sick leave in September 2005 to attend a medical consultation.

After knowing Mr. Kwok's health condition, the employer's attitude towards him changed. Finally, he was dismissed in January 2006.

#### **Balance of probabilities**

The major dispute between the parties was the reason for the termination of employment. Mr. Kwok said that his performance was satisfactory throughout and that he was dismissed because of his disability; the employer on the other hand alleged that the driver was terminated because of his poor performance and his disability had nothing to do with the dismissal.

There was no direct evidence of disability discrimination; it would be necessary to examine the circumstantial evidence of the case to determine whether an inference of disability discrimination could be drawn.

The employer explained that he had dismissed Mr. Kwok due to his poor performance, such as speeding, pressing horn unnecessarily, speaking foul languages and etc. The employer added that verbal warnings had been given to him several times, but the employer could neither provide specific details of incidents of poor performance nor any records of warnings. The employer did not witness these "unacceptable" behaviors and the court considered the hear-say evidence from his young sons and the domestic helper unreliable.

On the other hand, Mr. Kwok was a professional driver with over 20 years of experience, and he had never committed any serious traffic offence. He had worked for two companies each for more than nine years, and both employers commended his performance. He had to find new jobs as both companies had relocated their office to the mainland. Mr. Kwok also refuted having received any kind of warnings or complaints during his employment with the defendant.

In most cases, employers would not admit that they have discriminated against their employees, and in some cases, discrimination may not be ill-intentioned but merely based on an assumption that "persons with disability would not be fit for work". After balancing the evidence provided by both parties, the Court held that Mr. Kwok was dismissed by the defendant on the ground of his disability.

#### Conclusion

The ruling of the Court clearly shows that employers should not treat their employees with chronic illnesses in a discriminatory manner, and all employees are protected under the Disability Discrimination Ordinance.



#### SEX DISCRIMINATION CASE

## **Treatment or Harassment?**

#### The complaint

"My friend took me to a Chinese medicine practitioner for treatment after I told her that I had been suffering from back pain for almost a week. As there was a long queue, my friend left for work. After waiting for two hours, it was my turn and I told the doctor my problem. He suggested "fire cupping (note)". I had tried this therapy before and it worked well on me. Without hesitation, I agreed to his suggestion and followed him to another room."

"The doctor asked me to unbutton my shirt, then he urged me to undress totally, which I refused as I didn't think it is necessary. He suddenly kissed my face. Utterly humiliated and upset, I dressed up quickly and ran out of the office," Liza recounted her terrifying experience in the clinic.



Note: Fire cupping - a therapy that improves blood circulation by applying acupressure with the use of a vacuum cup on the patient's body to relieve pain.

#### What the EOC did

The EOC investigator looked into the complaint and sought information from both parties. The Chinese medicine practitioner was willing to resolve the matter by early conciliation. Early conciliation offers an alternative means to settle cases within a shorter time frame, and could be conducted at any stage before or during the process of investigation. The complainant, who did not want the case to drag on, also welcomed this approach. After some discussions, the doctor agreed to express his apology in writing and also pay Liza an amount of money as a kind of compensation for injury to her feeling. He also promised he would not act inappropriately when providing medical treatment to his patients in future.

#### What the law says

Inappropriate contact by a doctor is not only a violation of the personal trust placed on a medical care provider. It may be harassment, and it may be against the law. Under the Sex Discrimination Ordinance, it is unlawful for a person to sexually harass another person in the course of providing goods, facilities or services. The doctor should not have conducted any unwelcome sexual behaviour which makes his patients feel offended, humiliated or intimidated, as a reasonable person would anticipate that the victims would have such negative feelings.



### Sexual Harassment - Legal Update

The Equal Opportunities Commission (EOC) welcomes the recent amendment to the Sex Discrimination Ordinance (SDO) to prohibit a sexually hostile environment in different settings. Examples of a sexually hostile environment may include displaying pornographic materials, telling sexual jokes and making offensive remarks on body parts. Before the amendment to the SDO, the concept of a sexually hostile environment applied only to the work environment. After the amendment, the concept now applies to different settings, e.g. in educational establishments or in the course of providing goods, facilities or services, meaning that any conduct of a sexual nature which creates a hostile or intimidating environment is unlawful.

### EO CLUB CORN

## **Sharing Forum with Business Leaders –**

## **Achieving Work-life Balance**

Amidst the economic turmoil, what should an employer or a human resources practitioner do to enhance the productivity of their staff? A recent survey of employees found that 88% of the 1,000 respondents ranked family issues as their top concern despite the gloomy economic situation. Helping employees achieve work-life balance (WLB) and adoption of family-friendly employment policies therefore become an important staff motivation strategy in today's manpower management.

The EO Club invited prominent business leaders to share practical measures in achieving WLB on 20 October 2008 at a forum jointly organized by the EOC and Radio Television Hong Kong (RTHK) Radio 2. It is our privilege to have EOC Member Mr. Lee Luen Fai, a seasoned media strategist, to be the moderator to grace the event. The gist of discussions is summarized below.



Expert speakers and guest moderator of the forum – (from left) Mrs. Betty Yuen, Ms Virginia Choi, Ms Florence Chan and Mr. Lee Luen-fai

#### The Success Story – Presentation by Betty Yuen

Betty Yuen brought new philosophy when she became the CLP Power's first Chinese female managing director to this century-old company. She notices that the staff tend to work very long hours and she encouraged them to reengineer workflow in order to improve efficiency, as well as to work smarter by focusing on the output, not the input.

To bring about changes is not always easy and she grasps every opportunity to preach her belief to the staff – to balance personal and professional aspects of life is critical to one's success. Her logic is simple and clear – if an employee coming to work with family or personal problems, he/she cannot work at full speed.

The success of work-life balance hinges on the vision and leadership of directors and senior managers who do not only act as decision makers but also role models. Betty understands this well and she has practiced what she preaches. She had once set a performance objective for one of her senior managers to "leave office not later than 7pm". Implementing work-life balance policy is the key to building a healthy company that employs happy and highly motivated staff.

To demonstrate the company's commitment to the wellness of their staff, the CLP has introduced some "feel good measures" incorporating many suggestions raised by its employees. Other than offering a 5-day work week, flexible work hours, and special leave, the CLP has involved employees' families in their social and recreation events. Staff are also encouraged to take 10-15 minute breaks at work for stretching exercise. At first some were embarrassed in doing exercise

together with other colleagues, but gradually they appreciate the benefits. Muscles are less prone to sprains and pain, and their minds become clear after the break.

Betty concludes that running a business is like bringing up children – let them know the values and the boundaries, and nurture them with plenty of love.



The forum jointly organized by the EOC and RTHK Radio 2 attracts over 100 EO Club members who are mostly employers and human resources practitioners.

#### Facts on WLB – Presentation by Virginia Choi

EOC Member Ms Virginia Choi, CPD Alliance Chairperson and former President of the Hong Kong Institute of Human Resources Management, elaborated on the results of a recent survey on the wellness of Hong Kong's professionals and their opinions on effective employee wellness programmes.

The study reveals that "overtime work" is very common as reported by 93.3% of 430 respondents who often perform overtime work, while 85% of them receive no overtime allowance. 33.5% of the respondents have to work 2 extra hours per working day and 76.3% of them work overtime on 3 days or more per week.

Long working hours adversely affect the personal life and health of employees. Many have difficulties to sleep well, exercise regularly and pursue personal goals. 47% of them do not have enough time to spend with family and friends. Apart from feeling stressed (52.8%), the respondents believe that long work hours make them susceptible to flu easily, up to more than 4 times a year (25.8%).

The survey shows that some WLB practices are well received by employees. Wellness programmes rated as very important and important include family leave benefits (85.2%), flexible work arrangement (76.8%) and opportunities for interpersonal / personal development (76.4%).

Virginia Choi deduces from the findings that implementing work-life balance brings about an allwin scenario – employees having a balanced life work happily and productively while employers could recruit and retain the best employees. The benefits also include an enhanced company image in the community, leading to more business opportunities.

#### About the Family Status Discrimination Ordinance (FSDO) – Presentation by Florence Chan

EOC Senior Training Officer Ms Florence Chan explains the legal perspective behind the concept of WLB in relation to the FSDO. It is unlawful under the FSDO for an employer to discriminate against an employee on the ground of his/her family status. A person with a family status means that he/she has a responsibility for the care of an immediate family member, related to the person by blood, marriage, adoption and affinity.

Direct discrimination occurs if a person is treated less favorably than another person because of his/her family status. Indirect discrimination occurs when a condition or requirement, that is not justifiable, is applied to everyone but in practice adversely affects persons who have family status.

#### **Case Studies**

#### Case Study 1:

Ah Cheung was a driver of a coach company. He used to have his day off on Sundays. As the clients now required transport service on Sundays, all drivers were asked to work on Sundays, and had their day off on weekdays. Ah Cheung complained to the EOC that he was indirectly discriminated against by the company because of his family responsibilities. He alleged that he had to take care of his aged parents as he needed to help them with some domestic chores or take them to a Chinese restaurant every Sunday.



#### Analysis of the Case:

The new requirement i.e. asking drivers to work on Sundays is justifiable because of operational needs, but could be discriminatory in effect. For Ah Cheung's case, however, he could still look after his retired parents on weekdays, and not necessarily on Sundays. Ah Cheung himself agreed to this. The new requirement caused no detriment to him and therefore there was no unlawful discriminatory act.

#### **Case Study 2:**



Mr. Lee was employed as a warehouse assistant for more than 9 years. He worked from 8am - 5pm. His wife was a salesperson and worked from 2-10pm. Mr. Lee was responsible for preparing dinner for his 10-year old son, and he had been exempted from working overtime with the approval given by his former supervisor. However he would work overtime till 7pm during peak season. The company later insisted that all its employees must work overtime to 9pm or 10pm. Mr. Lee, who had the responsibility of caring for his young

son, could not comply with that requirement. The company then dismissed him.

#### Analysis of the case:

It is a balancing exercise to consider the justifiability of a requirement imposed by the employer and the effect on an individual employee. Economic reasons and administrative efficiency are valid factors to be taken into account, as is the effect of the discriminatory treatment on the complainant. To determine where the balance lies, both parties must explore if there are any feasible alternatives or adjustments to the requirement. In this case, the company is unable to justify why "each and every" employee must meet that condition i.e. to work overtime until "9 or 10pm". The fact that the employer has exempted Mr. Lee from working overtime in the past indicates that the requirement may not be a justifiable one. Also, the company has exempted another employee to work overtime as that employee has taken up another part time evening job. The EOC recommended the two parties to settle the matter by conciliation but the company refused to do so. Later, the EOC granted legal assistance to the complainant and the matter was subsequently settled out of court.

A radio segment of the Q&A session of the forum is now available at: http://www.eoc.org.hk/eoc/OtherProject/chi/color/youthcorner/programmes/diversity07/ index.htm#cclass

## **Understanding Cultures**

## **Understanding Cultures**

About 5% of people in Hong Kong are ethnic minorities. While our looks may be quite different from theirs, they see Hong Kong as their home just like everybody else. Let's learn more about them who could be our neighbours, colleagues or friends.....



	Country name	Islamic Republic of Pakistan
$\mathbf{P}$	Meaning of the country name	The name Pakistan means Land of the Pure in Urdu and Persian
	Location	Southern Asia, bordering the Arabian Sea, between India on the east, Iran and Afghanistan on the west, and China on the north
	Climate	Mostly hot, dry desert, temperate in northwest, arctic in north
6	Capital	Islamabad
	Language	Urdu (National Language), English (Official)
	Population	165 million
Ĩ	Literacy rate	53%
Î	Government	Parliamentary form consists of two Houses i.e. the Senate (Upper House) and the National Assembly (Lower House)
	National Flag	The flag symbolizes Pakistan's commitment to Islam and the world
*	National Flower	Jasmine
â	Popular Sport Games	Cricket, hockey, football, squash
lue	Religions	Mainly Muslim (95%), others include Christian and Hindu



- Most of the Pakistanis don't eat pork or drink wine because of their religious belief, and they eat halal food. In Hong Kong many restaurants serve halal food.
- You should generally seek consent from Pakistani women before shaking hands with them.

Information source:

Radio Television Hong Kong (EO Diversity Project), Race Relations Unit of the Constitutional & Mainland Affairs Bureau, Consulate General of Pakistan

## New Guide to Prevent Sex Discrimination in Pay — Understanding "Equal Pay for Work of Equal Value"

To promote good management practices in implementing equal opportunities in employment, the EOC has developed a set of guidebooks to strengthen public understanding on the concepts of Equal Pay for Equal Work (EPEW) and Equal Pay for Work of Equal Value (EPEV), for the purpose of eliminating pay discrimination on the ground of gender.

The guidebooks consist of a main guide (Guide to Employers on Equal Pay between Men & Women Under the Sex Discrimination Ordinance) and three supplementary books entitled "An Illustration on Developing an Analytical Job Evaluation System Free of Sex Bias", "A Systematic Approach to Pay Determination Free of Sex Bias", and "Equal Pay Self-audit Kit - A Proactive Approach for Employers to Achieve Equal Pay". While the guidebooks provide detailed explanation on the concepts, principles and practical tools for implementation, the Easy Read Guide presents the key concepts and principles facilitating understanding of all users including employers of small business and employees in general.



**Easy Read Guide** 

## **EOC's You Tube Gains Popularity**





In order to enhance public awareness about equal opportunities and social inclusion, the Equal Opportunities Commission has recently created an EOC YouTube channel on the internet and produced a video on hearing impairment, entitled "Between Hearing & Not Hearing". Its sequel "Between Hearing & Not Hearing 2: Who will understand" has been uploaded in October 2008. In the video, Mr. Wang Kai-fung, Chairman of the Hong Kong Sign Language Association recounts the joys and sorrows of being a person with hearing impairment. The video has attracted over 6,000 viewers and with much positive feedback since its launch.



Another video on mood disorders and mental health, entitled "Coping with Depression" has also been uploaded. In the video, Dr. Lee Wing-king, Specialist in Psychiatry analyses why people with mood disorders are unwilling to face up to their illness. Dr.Lee also introduces some basic counselling techniques.

Our previous TV advertisements on equal opportunities are also in store. Visit now!

www.youtube.com/user/HKEOC

### EOC Webpage "Reflections in Brief"

## **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. Log on now for our latest thoughts on current issues!

### www.eoc.org.hk



# **EO Diversity Project – A Resounding Success**



The finale of the EO Diversity Project 2008 attracts over a thousand participants. The star-studded concert features singing performances, talk shows, sharing sessions and cultural dance, during which the messages of racial harmony, inclusion of persons with a disability, gender equality and respect for persons with different family status are put across to the audience. Winners of the slogan competition together with their friends and family members celebrate the joyful moment at the award presentation ceremony.



Left: Sharing by EOC Member Mr. Saeed UDDIN and Co-opted Member Mr. Amirali B. NASIR -- let's appreciate the diversity of human society, and enjoy interacting with people of different backgrounds, thoughts and cultures.

Right: EOC Co-opted Member Ms. Garling Wong highlights the importance and benefits of building a society that is accessible for all.



The winning entries of the "Equal Opportunities Slogan Competition":

Open Division:				
Champion	Lam Wing Chun	尊重不同 和諧共融		
1st Runner-up	Chor Pui Shan	跳出框框與傳統 締造平等與尊重		
2nd Runner- up	Tsang Fung Mei	種族和諧傷健共融。兩性平等包容尊重		

Youth Division:				
Champion	Christopher Yuk	種族無隔膜 傷健樂共融		
		齊建平等路 社會享大同		
1st Runner-up	Leung Ho Yin	關懷愛心做橋樑 傷健共融無路障		
2nd Runner- up	Wong Chun Hei	多溝通多諒解互相尊重		
		少偏見少歧視共建大同		

Note: The winning entries of the slogan competition (all in Chinese) express the winners' wishes for an inclusive society where there are no barriers to equal participation.

### Around the World

## Around the World

### USA



#### **Television Viewing Enhanced for the Visually-impaired**

Scientists at Schepens Eye Research Institute of the Harvard Medical School have found that people with low vision can improve their ability to see and enjoy television with a new technique that allows them to enhance the contrast of images of people and objects on their digital televisions. A new study demonstrates that patients with macular degeneration prefer watching TV with this contrast enhancement and that the level of enhancement they choose depends on how much vision they have lost with their disease.

The new method is the latest of several image-enhancing innovations created to improve TV watching for the visually impaired.

#### Information source: http://www.wlfi.com/Global/story.asp?S=8584071

#### Canada

#### **Fight Against Racism**



In Canada, an Indian-born research scientist with the National Research Council (NRC) experienced discrimination at work because of his race. Dr. Chander Grover, a leading scientist in the field of optics, at first received excellent recommendations and regular promotions at the NRC. After a new director moved into his division, he began to experience a number of setbacks. His research funds and participation in conferences were denied. His research group was disbanded, and he was eventually fired.

According to the Canadian Human Rights Tribunal hearing the case, the new director systematically thwarted Dr. Grover's career and discriminated against him because of his race. The tribunal ordered the NRC to apologize to Dr. Grover, appoint him to a management position, and pay him \$5,000 for humiliation (the highest amount possible when the order was made under the Canadian Human Rights Act).

### Stop Discrimination Now-Starting with You and Me: Short Video Competition

