

主席序言 — 平等機會顯力量

Chairperson's Foreword — The Power of Equal Opportunities



平等機會是每個人的基本權利，也是現代社會成功的必備條件。平等機會促進社會多元化，讓每個人全面發揮其價值和潛能。

為確保香港能達到這些目標，實現「亞洲國際都會」的抱負，平等機會委員會（下稱“委員會”）一直致力推廣平等機會和消除歧視。自1996年成立以來，委員會已取得相當成績：透過調解或法律行動，我們協助不少個別人士成功爭取應有權益；大多數市民亦已了解平等機會的概念及對社會的價值。

影響深遠的法院裁決

去年發生的重要事件之一，是委員會就教育署拒絕取消「中學學位分配辦法」制度中含歧視的成分，而展開對教育署的法律行動。有關制度令男生與女生在不同情況下受到歧視，高等法院已於2001年6月22日裁定該制度違法和含有歧視。我們熱切期盼能與教育署合作，向該署推薦經驗豐富的本地及海外專家，協助署方制訂一套沒有歧視、讓所有學生不論性別都能獲得平等教育機會的新制度。

委員會亦就的士司機與馬碧容博士一案向終審法院提出上訴，要求駁回上訴法院認為「法院無權命令被告人在不願意的情況下向受害人作出道歉」的判決。委員會認為，上訴法院的判決會削弱以道歉作為和解方式的效果，逼使原告人提出訴訟，以追索金錢賠償。因此，有關判決不但與《殘疾歧視條例》的社會目的相違背，並會增加處理這類投訴的社會成本。最後，終審法院一致認為，在非常例外的情況下，即使被告人不願意，法院仍有權命令其向受害人作出道歉。終審法院並表示，假如被告人拒絕道歉，賠償金額須相應增加。終審法院的判決極之令人鼓舞，並在道歉與賠償之間取得適當平衡。

委員會亦歡迎法院於2001年2月就香港首宗懷孕歧視案件作出的判決。區域法院根據《性別歧視條例》裁定被告人（一間藥品公司）因其前產品經理鄭映群女士懷孕而歧視她，判定原告人得直。案件清楚闡





明，雖然僱主本身並無歧視懷孕的僱員，但仍須對其僱員（即原告人的上司）的歧視行為負上轉承責任。委員會促請所有僱主依循反歧視法例「僱傭實務守則」所列出的良好工作常規及程序。

把平等機會融入主流文化

去年，委員會的工作主要集中於我們的核心原則，即全港市民都應享有教育、就業、使用服務和設施的平等機會。只可惜，我們的社會仍存在著各種有形的、程序上及態度上的障礙，以致這與生俱來的權利受到削弱。因此，委員會的主要工作目標，是與政府及商界合作，協力根除這些障礙，以期締造一個人盡其才的社會。

社會人士很多時候會忽略殘疾人士的特殊需要，令殘疾人士未能充份享有他們的基本權利。鑑於發生庚文翰事件，過去一年委員會與入境事務處一直緊密合作，研究該處人員對殘疾人士的認識及敏感度。庚文翰是一名有自閉症的少年，事發時十五歲，由於身上沒有身份證明文件而被誤以為是內地人，被入境事務處送到深圳，自2000年8月之後便一直失蹤。委員會已完成有關研究，報告建議入境事務處應設立內部工作指引、程序及提供培訓，以便更妥善地對待出入境的殘疾人士。有關研究報告的目的是把平等機會原則融合於部門的運作程序，促使平等機會成為主流文化。

資訊科技的應用是另一個重要範疇。殘疾人士往往因產品的設計問題（如：無法使用自動櫃員機，或網頁設計時未顧及視障使用者的需要等），而無法受惠於新科技帶來的好處。同樣地，許多婦女由於得不到必

需的培訓及教育機會，因此無法受惠於資訊科技的發展。要克服這些障礙，我們必須發展新思維去尋求解決方案。過去一年，委員會積極與政府及非政府組織合作，以找出問題所在，並提倡「資訊科技，人人共享」。

在工作場所實踐平等機會原則

平等機會最重要的價值，是讓我們能有效地運用人力資源，讓每個人能盡展潛能。營商的成就，也視乎是否採納平等機會的概念。僱主如能集中考慮個人的才幹，而非其性別、婚姻狀況、殘疾或其他不相干的因素，自能擴大可用的人力資源，為機構廣納各方面的人才，營造更具競爭力的商業環境。而一家企業是否願意承擔社會責任，在今天已成為決定企業成敗愈來愈重要的因素。

全球日趨一體化，愈來愈多顧客要求所購買的貨品和服務的製造及供應過程必須合乎道德規範。他們要求社會問責，對企業起了相當大的影響。根據Covenant Investment Management於1996年對『標準普爾』最主要的500家企業所作的研究顯示，最忽視平等機會原則的100家公司，每年回報率平均為8%；而100家高度奉行平等機會原則的公司，則每年回報率平均達18%。當中邏輯顯而易見，社會若沒有進步，經濟亦不能全速發展。平等機會有利營商，有充分數據支持，無容置疑。

與商界共建夥伴關係

當我們把這訊息帶給香港商界時，商界領袖對平等機會的認同與支持，令我們深受鼓舞。社會問責不單有利營商，對香港未來的發展也十分重要。委員會正進行一項調查，評估商界對平等機會的認識，以及在工作場所實施反歧視政策的情況。委員會與商界攜手合作，將能在香港培植正面的平等機會文化。

前瞻未來

委員會成立五年以來，社會人士對我們的工作支持有加。愈來愈多人對我們打擊歧視、推行平等機會的工作表示認同，令我們深受鼓勵。得到市民的支持，決策者及商界的協助，加上委員會本身的努力不懈，我相信平等機會觀念必能在本地紮根，為香港創造一個更美好的環境。

平等機會委員會主席
胡紅玉

The right to equal opportunities is a universal and fundamental human right, crucial to the making of a modern and successful society, which enhances diversity and maximizes the full value and potential of its people.

To ensure that Hong Kong meets these goals and fulfils its vision to be "Asia's world city", the Equal Opportunities Commission (EOC) has been striving to promote equal opportunities and to eliminate discrimination. Since our establishment in 1996, much has been accomplished — many individuals have realized their rights, either through conciliation or legal action. Today, the vast majority of the population is aware of and understands the concept and the value of equal opportunities in our society.

Significant Court Judgments

A significant event in the past year was the commencement of the court action against the Education Department following its refusal to remove the discriminatory aspects of the Secondary School Places Allocation (SSPA) System. This system discriminated against both boys and girls in different circumstances. The High Court on 22 June 2001 ruled that the system was unlawful and discriminatory. We therefore look forward to the introduction of a new system that is free from discrimination, and provides fair access to education to both boys and girls. We are keen to work with the Education Department in recommending local and international experts with experience in devising such a system.

During the year, we also appealed to the Court of Final Appeal in the case involving a taxi driver and Dr. Sophia Ma to reverse the judgment of the Court of Appeal that the court has no power to order an apology against an unwilling defendant. In our view, this judgment would undermine the use of an apology as a tool for conciliation and force the plaintiff to litigate and to seek monetary compensation. The judgment, therefore, would contradict the social purpose of the Disability Discrimination Ordinance and escalate the social cost involved in dealing with these complaints. The Court of Final Appeal unanimously concluded that the court has the power to order an apology, albeit in exceptional circumstances, against an unwilling defendant. It further went on to indicate that monetary damages should be increased when a defendant refused to apologize. The judgment was extremely encouraging and provides the necessary balance between an apology and damages.

We also welcomed the judgment on Hong Kong's first pregnancy discrimination case in February 2001. The District Court held that the defendant, a pharmaceutical company, had discriminated against its former product manager Ms Chang Ying Kwan because of her pregnancy under the Sex Discrimination Ordinance. The Court ruled in favour of the plaintiff. The case made it clear that although an employer did not discriminate against a pregnant employee, the employer would nevertheless be held vicariously liable for the unlawful acts of its employees i.e. the plaintiff's supervisors. We urge all employers to adopt good practices and procedures in accordance with our Code of Practice on Employment under the anti-discrimination legislation.

Mainstreaming Equal Opportunities

In 2000/2001, we have focused strongly on the core principle of our existence — that everyone in Hong Kong should have equal access to education, employment, services and facilities. Unfortunately in our society there are barriers — whether they be physical, procedural or attitudinal to this inherent human right. A major objective is therefore to work with the Government and the business community to remove these barriers and create sustainable change and an enabling environment for every individual in our community.





Very often people are unaware of the special needs of those with disabilities, and this can diminish their fundamental rights. In the past year, we have been working closely with the Immigration Department to assess the level of knowledge and sensitivity of immigration officers towards persons with a disability, in light of the Yu Man-hon case. Man-hon who was 15 years old and autistic carried no identity documents and was sent by the Hong Kong Immigration Department to Shenzhen under the mistaken belief that he was a mainlander. He has been missing since August 2000. The study has been finalized, and a report has been published with recommendations for guidelines, procedures and training to be established within the Department for the better handling of persons with a disability. The study was a forward looking exercise aiming at mainstreaming equal opportunities in the Department's operation.

Another important area is in the use of Information Technology — persons with a disability can miss out on the benefits of this new technology because of design problems, ranging from physically inaccessible ATM's, to web pages not constructed to accommodate the visually impaired. Similarly, many women cannot enjoy what IT is offering because of a lack of access to requisite training and education. To overcome these hurdles, it is imperative to foster a new approach for solutions. During the year, we worked actively with both the Government and the NGOs to identify problems and advocate universal accessibility.

Embracing Equal Opportunities at Work

The ultimate value of equal opportunity is the ability to use our human resources effectively and to their maximum potential. This concept is also crucial to a successful business. Focusing on ability rather than a person's gender, marital status, disability or other irrelevant criteria, expands the pool of talent available

to employers, provides richness and diversity in the workplace and creates a competitive business environment. An increasingly important factor in a successful business today is leveraging the social accountability of business.

With increasing globalization, more and more customers today are seeking to ensure that the goods and services they purchase are manufactured and provided under ethical conditions. This demand for social accountability has an immense influence over businesses. According to a study by Covenant Investment Management in 1996 on Standard and Poor's 500, annual returns for the 100 companies with the lowest equal employment opportunities averaged 8%, compared to 18% for the 100 companies that provided high equal employment opportunities. The logic is clear, economic development cannot move forward without similar progress on social issues. As the figures show — equal opportunities pay.

Our Closer Partnerships with Business

In taking this message to the business community, we are highly encouraged by the agreement and support of many of Hong Kong's business leaders. Social accountability is crucial to Hong Kong's future development apart from making good business sense. The EOC is conducting a survey to assess the business community's understanding of equal opportunities and the extent to which anti-discrimination policies have been implemented in the workplace. Working together, the business community and the EOC, will build a positive culture for equal opportunities.

Looking Ahead

In our five years of existence, we have seen growing support from the community for our work in addressing systemic discrimination and individual grievances. We are encouraged by the community's readiness to embrace our fight against discrimination and support. With this support, the assistance of decision-makers and the business community, and our own unremitting efforts in this direction, I believe that we will make significant inroads into creating a positive environment for equal opportunity in Hong Kong.

Anna Wu
Chairperson
Equal Opportunities Commission