

主席序言 — 推動平等機會在香港的發展



Chairperson's Foreword — Advancing the Case for Equal Opportunities in Hong Kong

自從1999年8月出任平等機會委員會主席以來，我目睹平等機會在生活的多個層面帶動了進步和變革。透過法律行動、投訴處理及提倡平等機會等工作，很多人獲得幫助，社會人士亦逐漸擺脫某些過時的價值觀，和消除一些根深蒂固的歧視觀念。

平等機會日益受到重視，實在是委員會內、外全人攜手努力的成果。締造公平而包容的社會環境，已成為社區的共同目標，也是委員會致力要達成的抱負。

促進公平的教育機會

委員會就中學學位分配制度提出的司法覆核，帶來了重要的教育改革。我們在1999年公布的研究顯示，當時的中學學位分配制度系統性地把成績最好的女生的分數向下調整，而把成績最好的男生的得分向上調整。又按性別分隊和分配學額，局限了女生進入最佳學校的機會；同時也為成績較差的70%男生，構成相對較輕微的負面影響。總括而言，這制度的設計只偏幫了成績較好的男生。

這制度在香港沿用了差不多四分之一世紀。在2000年我們向政府提出訴訟，繼而法庭在2001年6月宣佈分配制度違法。法庭裁決後，分配制度終於撇除性別因素，標誌着本港的教育制度走上新的里程，讓學生無分性別，均可受惠於公平的學校教育。



Since I took up the role of Chairperson of the EOC in August 1999, I have witnessed progress and change in many spheres of life as regards equal opportunities. As a result of our court actions, our complaints handling and our advocacy work, we have been able to help many individuals, remove some outdated values and reduce deep-seated discrimination.

What we have achieved places equal opportunities firmly on the agenda, and I recognize that efforts from both within and outside the Commission have made this possible. To create a fair and inclusive society has become a goal for our community, and the Commission is committed to achieving that goal.

Fostering Fairer Access to Education

One of the significant reforms occurred after we took the judicial review against government on the Secondary School Places Allocation (SSPA) System. An EOC study released in 1999 found that the SSPA system led to systematic scaling down of our best girls' scores and scaling up of our best boys' scores, and applied gender queuing and gender quotas which restricted girls' access to the best schools unfairly. The system also produced an adverse impact, though less significant, on the lower 70% of boys. In essence, the system was designed to favour male elites.

This system had been in use in Hong Kong for almost a quarter of a century before we took action against the government, and the court declared the system unlawful in June 2001. The gender-based features in the allocation system has since been dropped, and the court judgment marked the beginning of a process to make education beneficial and fair for both boys and girls.

教育範疇另一個正面轉變，是把殘疾學生融入正規教育之內。據《殘疾歧視條例》的規定，校方需為有殘疾的學生提供合理的學習調適安排，其中包括有「特殊學習障礙」的學生。為了讓每個人，不論殘疾，均獲得理想的教育，委員會在2001年發出《殘疾歧視條例教育實務守則》，就如何融入殘疾學生，提供實務指引。委員會亦與教育統籌局合作，為教師製作以平等機會為主題的網上學習資料套。

保障僱傭範疇的平等機會

2000年9月一個重要的法庭裁決，顯示政府有需要檢討其招聘政策，確保政策公平和沒有歧視。個案涉及三名原告人，均並無患上精神病，且有能力執行有關職務，但卻因家庭成員患有精神病而不獲聘用。法庭裁定被告（即消防處和海關）違法歧視該三名男子，並下令兩個部門支付可觀的賠償予各原告人。該裁決傳達的明確訊息，是沒有人需因為精神病，又或因與此病有關連，而遭受不公平的對待，或被加上負面標籤。

另一項意義重大的法庭裁決，涉及《性別歧視條例》。法庭於2001年2月裁定涉案僱主因其僱員（即原告人）懷孕，而加以歧視；並在原告人向委員會提出投訴後，向她作出「使人受害」的歧視，刻意針對。個案的裁決清楚顯示，僱員若因受壓而無奈辭職，可構成「法律構成解僱」，而僱主亦需為僱員的違法行為負上轉承責任。

2003年5月，區域法院再裁定一宗懷孕歧視個案的原告人獲得賠償，成為另一宗先例。法院於較早時已裁定涉案護老院拒絕聘用一名懷孕婦女為主管的行為，屬違法歧視。在評估護老院應給予原告人的賠償金額時，法院按三方面計算：(1)收入損失；(2)感情損害；以及(3)懲罰性損害。這判例將有助日後涉及歧視爭執的各方，可以較現實地評估法律訴訟下的賠償金額，令委員會能更有效進行調解工作。

Another area of education where positive change has occurred is the integration of students with disabilities. The Disability Discrimination Ordinance (DDO) requires reasonable accommodation to be provided for students with disabilities, including those with Specific Learning Disabilities (SLD). In an attempt to make education effective for all, including children with disabilities, the EOC issued the Code of Practice on Education under the DDO in 2001 to provide practical guidance for educators on making provisions for students with disabilities. The EOC has also been collaborating with the Education and Manpower Bureau to produce an e-learning programme on equal opportunities for teachers.

Ensuring Equal Opportunities in Employment

A landmark judgment in September 2000 underlined the need for the government to review its recruitment policies to ensure that they are fair and non-discriminatory. The case involved three plaintiffs who were denied employment because of the mental illnesses of their family members. The plaintiffs themselves never suffered from any mental illness, and were capable of performing the duties of the jobs. The court ruled that the defendants, the Fire Services Department and Customs and Excise Department had unlawfully discriminated against the three men and the departments were ordered to pay substantial damages to the plaintiffs. The judgment provided a strong message that no individual should be penalized or stigmatized for their mental illness or through association with it.

Another significant court case ruling in February 2001 involved the breach of the Sex Discrimination Ordinance (SDO). The court ruled that the employer discriminated against the plaintiff because of her pregnancy, and that she was victimized after she had lodged a complaint with the EOC. The case made it clear that a resignation under pressure would be treated as constructive dismissal, and that an employer would be held vicariously liable for the unlawful acts of its employees.



鼓勵公眾接納殘疾人士

除了為制度帶來改革外，我們的法律訴訟和倡議工作，亦改變了社會人士的態度，例子之一是委員會與麗晶花園案件的兩名被告人達成和解。個案源自1999年5月九龍灣健康中心的啟用，該中心內一所專為性病和愛滋病患/感染者提供的綜合治療中心。毗鄰的麗晶花園居民，小部分對此有強烈意見，在愛滋病的負面標籤影響下，對健康中心的病人和醫護人員加以滋擾和中傷。

委員會經多次調解仍未能解決事件，終於決定採取法律行動，最後代表5名健康中心的原告人，成功在2000年1月與兩名被告人達成庭外和解，並獲得明確的書面道歉。法律行動告一段落後，區內部分居民開始願意公開對診所表示支持。本個案帶出的明確訊息，是歧視愛滋病患/帶菌者，以及與他們有聯繫的人士，是不為社會接納的違法行為。

制定保險業指引及提倡「資訊科技 人人共享」

過去幾年，委員會收到多宗關於保險業常規的查詢和投訴，內容大多涉及保險業界基於性別或殘疾情況而拒絕提供保險保障，或因提高保費，及定出不承保項目。因此，委員會於2000年5月委託研究機構，評估本港僱主和保險公司在提供保險項目上，是否符合反歧視條例的規定。透過研究，委員會識別了一些可能引致違法歧視的問題和保險業常規，並於2002年12月發表討論文件，邀請公眾和保險業界提出意見。社會人士的回應將有助委員會制定《保險業指引》，供日後作進一步諮詢及推行。

過去十年，資訊科技迅速普及，成為日常生活中不可或缺的一環。然而，部份弱勢社群，例如殘疾人士和沒有機會接受高深教育的婦女，仍未能受惠於資訊科技帶來的好處。委員會的資訊科技專責小組，建議政府在發展資訊科技時，採取全面的方案，讓每個人均可以參與香港轉化為知識型社會的過程。我們於2000年12月發表了有關公營部門網頁易讀性的調查報告，促請政府把殘疾人士的需要納入主流，又於2002年3月推出委員會全新網頁。這是全球首個以平等機會為主的雙語（中、英文）網站，致力推廣平等機會及「資訊科技 人人共享」的觀念，備有六種網上版本，供各類殘疾人士按需要瀏覽。網站每月點擊率達130萬，並與多個海外機構作網上連結。此外，委員會最近在辦事處內設立的資源中心，亦能補足網上資料庫，讓所有人均可輕易獲取平等機會資訊。

In May 2003, the District Court set another precedent by awarding damages in a pregnancy discrimination case. Following an earlier ruling in which the court held that an elderly home unlawfully discriminated against a pregnant woman by refusing to employ her as a supervisor, the court assessed the damages the elderly home should pay to the plaintiff. The award comprised of three different components: (1) loss of income; (2) injury to feelings; and (3) punitive damages. This judgment will help parties in discrimination cases to assess realistically the remedies they can expect to obtain through legal proceedings, and in turn will help to make the process of conciliation administered by the EOC more effective.

Inducing Acceptance of Persons with Disabilities

In addition to bringing about systemic reforms, our litigation and advocacy work also led to attitudinal changes. One example is our settlement with two defendants in the Richland Gardens case. The case began as the Kowloon Bay Health Centre, which included an integrated treatment centre for sexually transmitted diseases and HIV/AIDS patients, opened in May 1999. Patients and Health Centre workers were harassed and vilified by a small but vocal group of Richland Gardens residents stemming from stigmatization of HIV/AIDS.

The EOC took legal action after many attempts at conciliation failed. On behalf of the five plaintiffs associated with the Centre, the EOC successfully negotiated an out of court settlement and obtained written and unequivocal apologies from the two defendants in January 2002. Upon settlement of the case, some residents in the neighbourhood were willing to speak out publicly in support of the clinic. The case sent out a clear message that discrimination against people with HIV/AIDS or people associated with them is unacceptable and unlawful.

調查及調解工作

委員會負責調查違反歧視條例的投訴個案。2002/03年間，我們共處理1,597宗投訴，其中涉及《性別歧視條例》的投訴最多，其次為《殘疾歧視條例》，按《家庭崗位歧視條例》提出的投訴最少。與往年一樣，懷孕歧視仍然是《性別歧視條例》個案中，最主要的投訴原因；其次為性騷擾。大部分按反歧視條例投訴的個案，均與僱傭有關。

關乎《殘疾歧視條例》的投訴中，很多涉及殘疾人士進出建築物、以及得享資訊及服務的權利。我們必須關注殘疾人士的需要，讓他們和其他人一樣得享無障礙的通道、資訊和服務。

有受害人曾向委員會提出，擔心因投訴而受到針對，表示飽受壓力及恐怕失去工作，故此，委員會特別於近年更改了處理程序。鑑於某些個案涉及敏感課題，如性騷擾和精神病等，委員會為了減輕投訴人的憂慮，遂建議進行「提早調解」，以縮短處理個案的時間。

為了進一步加強委員會的效率和效能，我們於2001年底開始檢討投訴處理程序和組織架構，並於2002年7月起，更改投訴處理程序，並把兩個行動科合併，由一位總監管理。此舉有利同事交流專業經驗，資源的運用亦更具效益。



Developing Insurance Guidelines and Advocating "IT for All"

Over the years, the EOC has received a number of inquiries and complaints on insurance practices, mainly on the refusal to provide insurance coverage, charging increased premiums on the ground of sex or disability and exclusion of coverage. As a result, the EOC commissioned a research study in May 2000, to assess whether the provision of insurance by employers and insurance companies in Hong Kong is in compliance with the anti-discrimination laws. The study has identified issues and insurance practices that may lead to unlawful discrimination. In December 2002, the EOC issued a Discussion Paper and invited the public and the insurance industry to provide views on insurance issues. The responses from the community will help the EOC formulate a set of Insurance Guidelines to be published for further consultation and implementation.

In the past decade, information technology (IT) has spread at an unprecedented rate to become an intrinsic part of our daily lives. However, there are disadvantaged groups such as persons with a disability and women with less access to education, who cannot enjoy the benefits brought by IT. Our Information Technology Task Force recommended that the government should adopt a comprehensive approach on IT development to include everyone, in Hong Kong's transformation into a knowledge-based society. We released a report on Web Accessibility of Public Service Homepages in Hong Kong in December 2000, to urge the government to mainstream the needs of persons with disabilities. We revamped our website, which is the world's first fully bilingual (Chinese/English) website on equal opportunities, in March 2002. The website promotes "IT for All" and is available in six modes, accommodating the needs of persons with a disability. Our website attracts 1.3 million hits per month and is linked to a substantial number of overseas bodies. The Commission recently opened its resource centre in its office, which complements the on-line facility.



加強培訓及研究

於本人任內，委員會新增了兩項服務。其一是培訓服務，工作是協助公眾了解平等機會及遵行有關法例。培訓組提供免費的公眾服務，以及按個別需要訂定的收費服務。同時，新增的政策支援及研究組，則應付政策分析及研究支援方面日益繁重的工作。

我們在2002年6月發表了以商界僱主和僱員為對象的大規模調查報告。結果顯示，僱主和僱員均對平等機會委員會甚有認識；而大多數受訪者相信委員會秉持公正的態度處理投訴。絕大部分受訪者認為委員會在改變社會人士態度、處理投訴和鼓勵工商界在工作間推行平等機會常規方面，發揮一個重要機制的角色。

調查結果發表後，委員會推出了培訓工作坊及「中小型企業平等機會資料套」，為商界提供有關平等機會的資料，有助他們推行良好管理常規。

開展公眾教育計劃

委員會於2002/03年度繼續推出各項宣傳活動，藉以加深市民對平等機會原則的了解，並致力改變既定的歧視看法和態度。2002年夏天，委員會推出了該年度最受歡迎男歌手兼平等機會大使許志安的「放下歧視」宣傳項目。

委員會於2002年4月公佈的兩項研究結果顯示，學生仍深受殘疾和性別定型觀念的影響。因此，委員會於2002年5月，與社區機構合辦「男女價值觀」辯論比賽，有43間中學報名參加，其中16間獲甄選參與比賽，各校代表就性別定型問題進行了精彩的辯論。為了進一步打破定型觀念造成的障礙，委員會於2002年9月推出「無定型新人類」計劃，從500名申請者中挑出90名學生，他們得以從嘉賓導師身上，學習如何打破障礙，達成成功。

Investigating and Conciliating Complaints

The EOC is responsible for investigating complaints on breaches of anti-discrimination legislation. During 2002/03, we handled 1,597 complaint cases. The largest number came under the SDO, followed by the DDO. Cases under the Family Status Discrimination Ordinance represented the lowest number. Similar to previous years, pregnancy discrimination continued to be the major cause for complaint under the SDO, followed by sexual harassment. The bulk of the complaints under the three laws were related to employment.

Under the DDO, another major area of complaint was related to access issues, including access to buildings, access to information and the availability of services. We must be sensitive to the needs of persons with disabilities and build for barrier free access.

In recent years, the EOC has adopted procedural changes to facilitate complaints handling after receiving feedback from victims who fear pressure, stress and job loss as a consequence of complaining about discrimination. In some cases, sensitive issues such as sexual harassment or mental illnesses were involved. To alleviate these difficulties, the Commission has commenced the offer of early conciliation with a shorter handling process for victims.

To enhance the efficiency and effectiveness of the Commission, we commissioned a review of our complaints handling procedure and the organization structure at the end of 2001. From July 2002, our complaints handling procedures have been modified and the two operational divisions were merged under the responsibility of one director. This has facilitated greater sharing of expertise and better use of resources.

委員會並於2003年3月，推出全新的電視實況劇「非常平等任務」。這套劇集由香港電台製作，以歧視個案為主題，目的是增進市民對歧視條例的瞭解。

為了加強委員會的公眾教育資源，我們特別於網上資源中心增置「和解個案記錄冊」，讓市民更了解委員會的投訴處理程序，並可查閱個案結果。

對抗非典型肺炎

非典型肺炎在2003年春天爆發，我們即時面對許多新的問題。隨着與疫情有關的查詢和投訴越來越多，委員會遂成立一支「快速應變」小組，處理有關的歧視問題。我們向政府部門和僱主發出資料及指引，協助他們作出適當決定。這場疫症令每個人都上了一課，當中，我們明白到，歧視的最終代價除了對個人造成困難外，亦帶來經濟損失。

我們的訊息

這幾年來，我們希望傳達三個重要的社會訊息：
對個人而言——每個人都有發展自我潛能的權利。
對商界而言——奉行社會問責可擴闊市場空間。
對社會而言——增強人力資本可確保社會持續發展及減少對公帑的依賴。



Strengthening Training and Research

During my term of office, two new services were established. Our Training Unit delivers both free public and tailor-made fee-charging services. The training service is essential in raising awareness and compliance with equal opportunities laws in the community. Our Policy Support and Research Unit was established to meet the increasing demand for policy analysis and research support.

We released the findings of a major survey on employers and employees in the business sector in June 2002. Key findings in the survey revealed that employers and employees had a high awareness of the EOC, and most respondents believed the EOC to be impartial in handling complaints. The majority of respondents valued the EOC as an important mechanism in changing people's attitudes, handling complaints, and encouraging good workplace practices.

Following the findings of the survey, the EOC has introduced training workshops and a SME Kit to provide information that businesses need to promote good management practices.

Launching Public Education Campaigns

Our promotional campaigns in 2002/03 continued to foster understanding of equal opportunities principles and to help change preset perceptions and attitudes. In summer 2002, the EOC launched the "Put Prejudice Away" campaign, featuring the year's most popular male singer and Equal Opportunities Ambassador HUI Chi-on.

Two research projects released by the EOC in April 2002 found that disability and gender stereotyping were still prevalent among students. The EOC co-organized the Gender Values Debate Competition in May 2002, out of 43 schools, 16 were selected to debate assumptions related to gender. To further breakdown barriers formed by stereotyping, the EOC launched the Career Challenge programme in September 2002. Ninety students were selected from five hundred applicants to learn from their mentors about breaking barriers and achieving their aspirations.



在各種形式的人權當中，最基本的莫過於生命和生存權。這些權利的延伸，就是個人的發展權。為個人提供平等的教育、就業、服務、設施及參與社會的機會，有助個人發展，盡展所長，達到更大程度的自給自足，減少對社會保障的依賴。因此，反貧窮措施直接與個人的發展能力掛鉤。

對商界來說，我們知道社會對企業的期望已有所改變，人們現在越來越重視他們所進食的食物、穿著的衣服和使用的產品，是否在合乎道德標準的工作環境下製造的。市場佔有率及品牌價值，現在均視乎消費者是否接受該公司的營商作風。

社會現時要求企業以公平、具透明度及負責任的方式來經營。不少公營及私營機構已對此現象作出反應，就企業管治的重要事項制定標準和常規。

作為一個獨立的法定機構，委員會獲賦予職權，保障個別人士在平等機會法例之下的權利。自成立以來，我們的抱負一直是，聯同社會各界的支持，致力締造一個機會平等及沒有歧視的社會。

The EOC also launched "A Mission for Equal Opportunities," a new TV docu-drama series on discriminatory cases, in March 2003. The series produced by Radio Television Hong Kong aimed at enhancing public understanding of the anti-discrimination legislation.

To further strengthen our educational and resource tools, the EOC established a Settlement Register in our on-line resource centre this year, so that members of the public could gain a better understanding of the handling processes and learn about the outcomes.

Battling SARS

In the spring of 2003, SARS brought up new problems. As enquiries and complaints mounted, we formed a quick response team to deal with the situation to prevent attitudes from hardening. We issued advisories and information to government departments and employers to help them make decisions. The outbreak became a learning curve for everyone. We realized the full cost of discrimination which results in hardship to individuals and economic loss to the community.

Our Messages

Over the years, we have developed three important social messages on equal opportunities. These are:

- For the individual – Everyone has the right to self development.
- For business – Social accountability means marketability.
- For the community – Enhancement of human capital sustains development and reduces reliance on the public purse.

Of all forms of human rights, nothing can be more basic than the rights to life and to survival. An extension of these rights is the right to development. By providing individuals with equal access to education, employment, services, facilities and participation in community life, we are providing a platform for individual development. This enables an individual to maximize his/her own abilities and thus achieve greater self

作為一個國際都會，香港需要顯示決心，保障每個人免受歧視和騷擾。我們歡迎行政會議在2003年6月決定為反種族歧視立法。平等對待每一個人不但對個人帶來好處，對社會和經濟而言亦深具價值，最終整個社會都能獲益。

平等機會委員會主席

胡紅玉

(胡紅玉女士於1999年8月至2003年7月期間出任平等機會委員會主席)

sufficiency. In turn this leads to reduced dependency on social security. Anti-poverty measures world-wide are directly pegged to the capacity of the individual to develop.

For the business world, we know that social expectations have changed. Increasingly consumers are demanding the foods they eat, the clothes they wear and the products they use daily are manufactured under ethical working conditions. Market share and brand name value now depend on consumer acceptance of the way a company does business.

Corporations are now expected to operate in a fair, transparent and accountable manner. Numerous public and private bodies have responded by establishing standards and norms related to important aspects of corporate governance.

As an independent statutory body, the EOC is given the remit to assist individuals in asserting their rights under the equal opportunities laws. Our vision since our establishment is to create, with the support of the community, an environment where there is no barrier to equal opportunities and no discrimination.

As an international city, Hong Kong needs to demonstrate its commitment to protect everyone from discrimination and harassment. We welcome the Executive Council's decision in June 2003 to introduce anti-racism legislation in Hong Kong. Equitable treatment for everyone will reap not only individual benefits, but both social and economic gains as well. Ultimately, our entire society stands to benefit.

Anna Wu
Chairperson, Equal Opportunities Commission
(Ms. Anna Wu served as Chairperson of the Equal Opportunities Commission from August 1999 to July 2003)