

THE UNIVERSITY OF HONG KONG

香 港 大 學



Miss Flora TAI,
Clerk to Subcommittee on Race Discrimination,
Legislative Council,
8 Jackson Road,
Central.

10 June 2009

Dear Miss TAI,

Submission on the Race Discrimination Ordinance's (RDO) Code of Practice (COP)
on Employment

1. We, the Working Group on the Promotion of Equal Opportunity and Diversity under the University's Equal Opportunity Committee, would like to submit our views on the captioned COP.
2. We are sorry that we are not aware that the COP has been revised until yesterday. We have read the revised version. While the Equal Opportunities Commission (EOC) has incorporated our views in paragraphs 8 and 9 of our submission to it as attached into the revised version, we think that our other views in our submission are still worthy of the Subcommittee's consideration.
3. Please feel free to contact me at 22415115 should you have any questions.

Yours sincerely,

(Kenneth KWOK)
Secretary, Working Group on the
Promotion of Equal Opportunity and
Diversity,
The University of Hong Kong

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Mr. Raymond Tang,
Chairperson,
Equal Opportunities Commission,
19/F., City Plaza Three,
14 Taikoo Wan Road,
Taikoo Shing,
Hong Kong.

By Fax & Post

19 January 2009

Dear Mr. Tang,

Submission on The Race Discrimination Ordinance's (RDO) Code of Practice (COP) on Employment

1. We, the Working Group on the Promotion of Equal Opportunity and Diversity under the University's Equal Opportunity Committee, would like to submit our views on the captioned COP. Our membership is at Annex I. We have six suggestions for improvements to the COP.
2. As a Working Group under the University which has been an equal opportunity employer, we are supportive of issuing the COP and we appreciated the Commission's efforts in drafting the COP that would help the public better understand the RDO.

I. Suggestion to adopt a two-prong approach

3. We understand that the COP was drafted according to the RDO and it is generally aimed at explaining what would contravene the RDO. The perception and tone of the code tends to emphasise how employers may avoid being in breach and how to avoid committing race discrimination instead of thinking of the benefits of having racial equality in the workplace.
4. As the ultimate aim of the RDO is to achieve racial equality in Hong Kong, we are of the view that the CPO could be improved if the COP adopted a

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two-prong approach i.e. to explain the benefits of promoting racial equality and diversity in the workplace on one hand and to explain what would contravene the RDO on the other. This would help to change the employers' perspective in viewing the issue.

5. We would therefore propose adopting the following sequence in writing the COP:
 - a. explain the good practice and the rationale behind (this may include a few successful examples in promoting racial equality in the workplace. For example, the UBS has a diversity policy to recruit different staff including people of different races. This helps to improve their quality of service to customers of different races.
 - b. explain what would contravene the RDO.

II. S. 2.2: Exemptions

6. A positive feature of the COP is that it points out to employers that they should carefully consider whether it is necessary to impose certain criteria that would be listed as exemptions under the RDO as described in illustrations 5-8. This can be further improved if it can be prefaced with an explanation on good employment practices i.e. add at the beginning of the section an explanation that the purpose of recruitment is to hire a person most suitable to the post irrespective of his/her race. Hence, employers are strongly advised to consider the relevance of certain selection criteria for a post before imposing them.

III. S.3.2 Small employers

7. Again, it would be better to explain the benefits of having racial equality before explaining how and when small employers would be exempted, etc.

IV. S. 4.1.1. Direct discrimination

8. It states that "Direct discrimination happens when person A treats person B less favourably ... than other people because of person B's race". We suggest it would be more accurate to replace "because of" with "on the ground of" as using "because of" might imply that it would require the harasser to have specific intent to commit the unlawful act which is not required under the RDO.



V. Use of terms

9. It would be better to use “South Asians” instead of “South Eastern Asians” to describe e.g. Pakistani or Indian people as in e.g. illustration 31.

VI. Proper terms

10. It would be useful if the COP would include a list of suggested terms to replace commonly used terms that might be derogatory to certain races e.g. “Ah Cha”, “Gwailo” “Pun Mui”.

Language issues

11. Finally I wish to raise a matter which is not directly related to employment issues but is a matter of concern to the University. The University is concerned that its admission requirement on English language and the use of English as its medium of instruction may be subject to challenges under the RDO as acts of indirect discrimination. We note that a defence of justifiability is available, we are concerned that such challenges may have a serious impact on the administration of the University.

Please feel free to contact me on my mobile phone 9374 1056 should you have any questions.

Yours sincerely,

Vandana Rajwani

Ms. Vandana Rajwani
Convenor, Working Group on the Promotion of
Equal Opportunity and Diversity,
The University of Hong Kong

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**Membership of the Working Group on the Promotion of
Equal Opportunity and Diversity**

1. Miss Vandana Rajwani, (Convenor), Senior Teaching Consultant,
Department of Professional Legal Studies.
2. Dr. James Keezhangatte, Honorary Lecturer, Department of Social
Work and Social Administration
3. Miss Kelley Loper, Research Assistant Professor, Faculty of Law
4. Miss Raees Begum, PhD. Candidate, Department of Social Work and
Social Administration.
5. Mr. Kenneth Kwok, Equal Opportunity Officer