

Chapter 2: Diversity Legislation in a Global Perspective

Equality and Fairness in Employment

Discussion Question

1. The International Bill of Human Rights consists of the Universal Declaration of Human Rights; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; and the two optional protocols.

The different articles under the declaration were designed to fit harmoniously together, although there is potential tension between the articles that assure freedom of cultural and religious expression and those that assure equality, particularly as they apply to the workplace.

What is an example of possible tension between freedom of cultural and religious expression and those that assure equality?

2. In Turkey, hijabs, burkas, and other religious attire are prohibited. Similar bans are found in countries such as Belgium, Italy, Tunisia, and in Germany. Although opponents of these laws criticize them as limiting freedom of religion and religious expression, proponents claim that they promote a secular society and assure freedom from religion in schools and in the workplace and therefore guarantee equality in the public arena.

From an inclusive workplace perspective, what is your opinion concerning banning religious attire?

3. In the United States, civil rights legislation from the 1960s and later outlawed job discrimination on the basis of sex, race, color, religion, pregnancy, national origin, age, and disability. The United States and Canada provide similar antidiscrimination protections, although differences do exist. The United States does not provide these protections for its employees except for membership in a union.

How does this affect employees in the workplace? In an inclusive workplace, what could organizations do to improve employee protections?

4. In order to assure adherence to employment laws and regulations, to avoid penalties, and to reap rewards of compliance with local rules in these different national and cultural contexts, managers must understand the legislative and business-related social policy practices of countries in which they are doing business.

Why is understanding the legislative and business-related social policy practices of countries in which they are doing business important? Provide an example.

5. The scope of protections against sexual harassment varies greatly among countries. Noncompliance with antidiscrimination laws can have severe consequences, but employee discrimination still happens today. What are the limitations of antidiscrimination diversity legislation and do you believe that it can deter and prevent discriminatory employment practices?

PART I:

THE GLOBAL CONTEXT FOR DIVERSITY MANAGEMENT

CHAPTER 2: DIVERSITY LEGISLATION IN A GLOBAL PERSPECTIVE: EQUALITY AND FAIRNESS IN EMPLOYMENT

Chapter Overview

This chapter examines global legislation related to equity and fairness in employment. In democratic countries, the laws represent a value system shared by the people. To identify such a shared value system globally, one has to search for a global representative body that can specify a similarly shared value system for all human beings. The United Nations, with all its faults, is the closest to such a representative body. In 1948, the United Nations identified a set of unalienable human rights in the Universal Declaration of Human Rights that was intended to serve as the moral basis for equal rights and anti-discrimination legislation around the world.

The Universal Declaration of Human Rights

The Universal Declaration of Human Rights was adopted by the United Nations' General Assembly in its resolution 217A (III) of December 10, 1948. The Declaration is particularly relevant to the global study of employment rights because no one country can serve as a model for all other countries. It is truly universal because it applies to every member of the human family, regardless of whether or not his or her government has formally endorsed it. It stands on two philosophical principles: (a) the right to liberty and equality is the birthright of every human being and cannot be alienated; and (b) human beings, as distinguished from other creatures, are rational and moral and therefore entitled to certain rights and freedoms.

The International Bill of Human Rights and Employment Rights

The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and two optional protocols. Even though the Bill is not a law in a conventional sense, it has been recognized as "customary law", a term that indicates that it is legally binding, including in those countries that did not sign their acceptance. What is primarily relevant in the International Bill of Human Rights is that it provides the universal moral basis for non-discrimination in employment because it forbids "distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

Diversity related Employment Legislation

Some countries, such as the United States, Canada, and many members of the European Union have broad based anti-discrimination legislation that outlaws discrimination based on a wide array of characteristics such as gender, race, ethnicity or country of origin, religious beliefs, physical disability and sexual orientation. South Africa's relatively new legislation (the

Apartheid regime was abolished in 1994) provides a very broad protection from discrimination, listing a wide array of characteristics, including "...race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth."

Practical Implications

The chapter concludes by highlighting the implications of non-compliance with these laws. The moral principles of treatment of members of diverse groups have practical implications for individual workers, groups of workers, work organization and society. Employees who are treated unfairly are more likely to be less productive, less satisfied and less loyal to their organizations. Lawsuits resulting from non-compliance with these laws can be lengthy and costly. Therefore, managers today need to understand the legislative and business-related social policies of the countries in which they are doing business in order to avoid penalties and lawsuits and to reap the rewards of compliance.

Chapter Outline

- I. Introduction
 - A. A growing number of countries around the world have instituted legislation providing their citizens with wider protections against discrimination and workplace harassment.
 - B. Managers today need to understand the legislative- and business-related social policies of the countries in which they are doing business in order to avoid penalties and lawsuits and to reap the rewards of compliance.
 - C. To practice in today's global economy, managers need a framework for understanding human rights that transcend individual national contexts.
- II. The International Bill of Human Rights and Employment Rights
 - A. In search of a value system for diversity that is common to the majority of people in the world
 1. The United Nations is closest to representing all people around the world.
 2. In an ideal world, the U.N. would be composed of representatives from democratically elected governments; in reality, most governments represented in the U.N.'s general assembly are not democratically elected.
 3. Nevertheless, the U.N.'s International Bill of Human Rights, which has been signed and endorsed by most nations around the world, is the closest reflection of a global value system.
 - B. The Universal Declaration of Human Rights

1. Adopted by the United Nation's General Assembly in its resolution 217 A (III) of December 10, 1948.
2. Describes the human rights and fundamental freedoms to which all men and women, everywhere in the world, are entitled.
3. Fundamental philosophical principles: (a) the right to liberty and equality is the birthright of every human being and cannot be alienated; (b) human beings, as distinguished from other creatures, are rational and moral and therefore entitled to certain rights and freedoms.
4. The declaration forbids "distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" – setting forth the moral basis for diversity legislation.

C. The International Bill of Human Rights

1. Consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and two optional protocols.
2. Although an impressive number of countries have signed the Declaration and the Bill, not all have implemented laws that reflect these principles and even when the laws exist they are not always enforced.

III. Diversity-Related Employment Legislation

- A. Most democratic and many non-democratic countries ban job discrimination that is related to gender, race, and ethnicity.
- B. About ninety percent of the countries included in the International Labour Organization's (ILO) data base provide at least one of the following protections against discrimination: gender, race, ethnicity or country of origin, religious beliefs, physical disability and sexual orientation (only in some states in the U.S.).

IV. Broad-Based and Issue-Specific Legislation

A. Examples of Broad-Based Anti-Discrimination Legislation

1. The U.S. and Canada outlaw job discrimination on the basis of sex, race, color, religion, pregnancy, national origin, age, and disability. Canadian laws extend to protect employees based on political beliefs and membership in organizations. The U.S. does not provide such protections for its employees except for membership in a union.
2. Most European Union (EU) member states have broad-based anti-discrimination legislation.
3. South Africa's anti-discrimination legislation is relatively new, broad and bans discrimination on the basis of "...race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, cultural, language, and birth."

Managing Diversity: Toward a Globally Inclusive Workplace, 3e

Michalle E. Mor Barak

Instructor Resource

B. Issue-Specific Examples

1. Protection against sexual orientation discrimination in the workplace is less common than other forms of protection.
2. Sexual harassment is a relatively new area in job discrimination legislation. Though the number of countries providing protection against this form of discrimination is increasing, their definitions vary greatly.

C. Implications of non-compliance

1. Non-compliance with human rights laws can have severe consequences.
2. Employees who are treated unfairly are less productive and less loyal.
3. Costly law suits.
4. Managers today need to understand the legislative and business-related social policies of the countries in which they are doing business in order to avoid penalties and lawsuits and to reap the rewards of compliance.