

*Employees Seek Justice as Religion and Work Intersect:
A Perspective from the United States*

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1. Introduction

The main goal of this conceptual paper is to showcase how religion impacts the workplace in the United States (US). The demographics in the US workplace today is a rich mosaic of employees from various religious backgrounds such as Christians, Jews, Muslims, Hindus, Buddhists, among others. One of the predominant factors for this diverse religious backdrop has been the consistent rise in immigration (Morgan, 2005; Cash & Gray, 2000). In 2014, 5.9% of the population was represented by faiths other than Christianity such as immigrant Muslim and Hindu faiths (Pew Research Center, 2015).

There are several areas of conflict when employees wear their faiths to work (Grossman, 2008; Trottman, 2013). The main areas of contention arise in work schedule, dress codes, job responsibilities, requests for prayer rooms, celebration of religious holidays, employment discrimination, among others. The question that becomes a concern for any HRM (human resource management) leader is how to make business environments inclusive to all faiths (Bauza, 2006; Ramsey, 2007).

Employees today assert that if they cannot freely express their religious practices at work their complete *personas* do not belong with them. They feel it is unfair to restrict religious expressions only to Sabbath days (Bauza, 2006; Morgan, 2005). The EEOC (equal employment opportunity) received more 3,000 charges for religious discrimination in 2014 as employees seek justice for harassment and discrimination. This research paper will identify different court cases on religion and its implications for organizations & HRM (human resource management) leaders (US Equal Employment Opportunity Commission, 2016).

2. Important court cases & its relevance to HRM

This section will discuss court cases as it relates specifically to HRM practices which includes an employee's interactions right from recruitment through exit of a firm. HRM practices include a gamut of activities such as recruitment & hiring, training & development, performance & promotion, and compensation & benefits (Grossman, 2008).

2a. Recruitment & Religion

In *Elauf v. Abercrombie*, the question of how recruitment and religion intersect is clearly demonstrated. In 2008, the young applicant, Elauf, applied for a job with the national clothing retail store, Abercrombie & Fitch in Tulsa, Oklahoma (USA). She wore her traditional head dress or *hijab* for her first interview. The assistant manager rated her as a qualified applicant, but was concerned that her *hijab* might hinder their company's dress code policy. She consulted with her superiors who informed her the store policy did not endorse any "caps" as it was against their standard "look" policy of for employees. The applicant, however, was not informed about the dress code policy during the interview. Elauf was not hired for the job which she perceived as prejudice against her religious

attire. She sued the retail store for disparate treatment or direct discrimination. The company argued that it that it was not aware of her accommodation and its “look” policy was standard for all its employees. The legal battle between the plaintiff and defendant lasted almost 7 years. Elauf received monetary damages worth approximately \$45,000. The Supreme Court ruled that the plaintiff, Elauf, needs to demonstrate *only* a motivating factor (hijab in this case) for biased employment decisions for any disparate treatment cases (Supreme Court of the United States, 2014, James, 2015).

2b. Promotion & Religion

In 2004, Elwazan sued ATA airlines as he perceived discrimination for promotion because of his religious background. The employee worked with the airlines for 20 years and applied for a promotion to become a co-pilot. For 15 months, the management sidetracked his request for promotion and promoted other employees who had less experience than Mr. Elwazan. The employee perceived his Muslim faith and the terrorist attacks of 9/11 had an unconscious bias against his professional development. After repeated requests, he was finally approved for training to become a co-pilot. The plaintiff felt that he was not given adequate time to prepare for this complex job. He completed all the formal requirements for this position, but was informed that the chief pilot felt his training was inadequate. The union also suggested that it was not the norm for a pilot to pursue litigation suggesting it did not endorse the plaintiff’s assertive stand for being denied promotion (Schaeffer, MacGillivray,, Beecher, & Golden, 2004; Hornaday, 2004).

2c. Benefits & Religion

Hobby Lobby, a family business, in arts and crafts, sued as its religious beliefs impeded the firm from providing its employees certain benefits. This retailer operates with approximately 500 stores and has about 13,000 employees. In, 2012, the firm sued the US health and human services as it perceived offering contraceptive benefits to their employees under the Affordable Care Act (ACA) is against its religious principles. The company was specifically against contraception methods that mirrored the process of abortion such as the morning pill and intra-uterine devices. The law requires employers to provide comprehensive contraception coverage so that women have freedom in making decisions regarding their reproduction and also for their own well-being. The main question that was being contended was should employees be denied their rightful benefits because of the religious beliefs of the owners of the firm. The Supreme Court ruled in favor of Hobby Lobby suggesting that for-profit organizations, such as Hobby Lobby, do not have to provide benefits that violate its religious values (Liptak, 2014; Burwell v. Hobby Lobby stores, 2014).

2d. Dress code & Religion

Rangel, a waiter, employed at Red Robin Gourmet, Inc. sued the firm for violation of his religious beliefs to comply with its dress code policy. After having worked for the company for 6 months, he was asked to cover his tattoos on his wrists as it went against its dress code policy. Rangel’s Kemetic faith requires him to wear tattoos which depict

his loyalty to his religion. It is also considered a sin in his faith to purposefully cover the tattoos. The firm had a dress code that did not allow employees to wear any kind of tattoos. Rangel had several conversations with his managers explaining his beliefs which was not given due consideration. He was ultimately fired from his job which he alleged as blatant discrimination. He sued the firm as he perceived he was not provided any religious accommodations for his displaying his religious tatoos. Title VII suggests that firms have a legal obligation to provide religious accommodations if it does not cause any undue business hardships to them. Red Robin settled and paid the waiter \$150,000 and also agreed to make changes to its dress code policy (EEOC, 2005, September ; Reilly, 2009).

In another case of dress code in 2013, Ms. Silver sued Kentucky Fried Chicken (KFC) as she perceived a violation against her religious beliefs as she was made to comply with its dress code policy. Her Pentacostal faith permits women to wear only skirts. The company's policy required employees to wear pants. She had been working for various KFC outlets of the firm since 1992 and had converted to this faith in 2010. She was fired from her job which she perceived as deliberate religious discrimination. She sued the firm and was paid \$40,000 for not accommodating to her religious beliefs (EEOC, 2013; Lawson, 2013).

2e. Job responsibilities & Religion

In, 2014, Hall, a pharmacist, sued Walgreens, the drugstore retailer, as his job responsibilities went against his religious beliefs. Hall had been working for the company for six years and had arranged with his superiors that he will refer any requests on filling contraceptives (specifically Plan B) for abortion to other pharmacists. This arrangement worked well till the contraceptive became approved to be sold as an over-the-counter drug. He still maintained his earlier request of not selling or billing this product as it was against his moral principles. Hall, was a practicing Baptist, whose faith does not endorse its members supporting or promoting abortion practices. The management maintained that all pharmacists were required to comply with their job responsibilities which include selling any products that customers may want. In a final encounter before he was fired, his department received six boxes of Plan B which was mislabeled as behind the counter drugs. Hall bought the six boxes and threw them away. Hall was fired for not complying his role as mandated by the company of selling Plan-B. The plaintiff perceived that if the company had accommodated his religious requests for six years, it could have easily maintained the accommodation without undue hardships to its business (Smietena, 2014; Zaimov, 2014).

In 2009, Kelsey Novach sued Woodland Villange nursing home when she perceived her job responsibilities went against her religious faith. She had worked for the nursing home for 13 months and had received four negative performance-evaluations (such as tardiness, etc). Her responsibilities included keeping patients engaged such as reading books and playing board games, etc. In 2009, she was asked to use a rosary and pray with a Catholic resident. She told the colleague who asked to perform this duty that this religious practice was against her fundamental beliefs. Ms Kovach asked her to complete that task for the

patient. She was a Jehovah witness member when she was young and still adhered to its values and norms which does not endorse rosary recitation. She got a formal termination notice within five days of this incident for not specifically reciting the rosary with the patient. The jury supported the plaintiff but the firm appealed as it felt that the plaintiff had not provided adequate reasons for accommodations. The firm also perceivd her monetary punitive damages of \$55, 200 was not really justified (Grisham, & Hutton, 2014; Michigan employment law advisor, 2015).

3. Conclusion

Organizations should adopt distinct policies for religious accommodations that are separate from other kinds of accommodations or diversity issues. HR professionals should identify policies on categories that have definite religious implications. These should include dress & grooming code, time-off during work, days-off for special holidays, work scheduling, job reassignments, displaying symbols at work, among others (Tanenbaum, 2013).

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