

Discrimination at Work in the Americas

The diversity of cultures, communities and countries in the Americas as well as the shifting demographics, increased migration for work and rapidly changing business environments have all contributed to bringing the issue of discrimination into focus for society at large.

Many traditional forms of discrimination such as gender, race, religion, linguistic and social origin have seen some important improvements over the past decade. However progress has been uneven throughout the region.

The emergence of new forms of discrimination based on genetics, lifestyle, sexual orientation, age, HIV/AIDS and disabilities are increasingly becoming a workplace concern. These forms of discrimination raise important questions about where to draw the line between employers' control over what employees do outside the workplace and people's freedom to lead the life they choose.

Discrimination, and its various manifestations in the workplace, is challenging policymakers and businesses to develop strategies that are more responsive to current trends and complexities of the modern work and life balance.

DISCRIMINATION ON THE BASIS OF GENDER

Overall, women's employment rates have increased in most regions. North America displays the highest women's employment rates at 68.8%. In Latin America and the Caribbean rates are 49.2%.

However, a key measure of women's improvement is the availability of good-quality jobs for women in legislative, senior official or managerial (LSOM) positions. Women still represent a distinct minority in such positions throughout the world, holding only 28% of these senior jobs. Progress in the Americas has resulted the region holding the highest share of women in high-status positions with North America at 41.2% and Latin America and the Caribbean at 35%.

Discrimination also affects skilled female migrants, especially when they belong to a racial, ethnic or religious minority. In Canada, for instance, a number of studies show that female migrants with university degrees belonging to visible minorities are offered jobs and pay inferior to those given to their male peers or non-minority women with an equivalent educational background. This is the result of both institutional obstacles to the recognition of foreign diplomas and university degrees, and biased recruitment practices at the workplace.

OTHER TRADITIONAL FORMS OF DISCRIMINATION

Racial discrimination remains an obstinate problem. Where there have been declines in some countries such as Brazil that have started addressing the issue, in others there is denial or even resistance to change. Racial stereotyping does not seem to fade away: many employers contin-

ue to perceive black workers, especially young black men as lazy, dishonest or violent. Rising incarceration rates among young black males, together with their minimal work experience, make them especially vulnerable to stereotyping.

Although black women generally have higher educational levels than black men, and a higher likelihood of holding managerial and professional positions, black men earn more than comparable black women, pointing to sex discrimination in remuneration. As a result, a lower proportion of black men are in poverty than black women (22.8 compared to 26.7 per cent).

Equally serious and pervasive is discrimination confronting indigenous peoples in the region. Indigenous peoples account for over 15% of the world's poor, although they make up 5% of the world's population. In Latin America, indigenous people are more likely than non-indigenous people to hold both informal and unpaid jobs, and work in agriculture. In Peru, abuse and deprivation of freedom are particularly severe in the most remote and semi-isolated indigenous communities, such as those of the Murunahuas, the Mashco-Piros and the Cashibo-Cacataibos, placed in "protected" natural areas.

Discrimination based on religion has been on the increase in the past few years. Several factors have contributed to this: the deepening of economic inequalities along religious and racial or ethnic lines; the intensification of migration, and the cultural challenges it brings; and terrorist acts and the adoption of security policies in response to such acts. Complaints of religious discrimination lodged before the Equal Employment Opportunity Commission (EEOC) in the United States rose by more than 20 per cent in 2002, most of the increase coming from Muslim employees, and stayed at the same level in 2003. In 2005 the Council on American-Islamic Relations (CAIR) reported a 30 per cent increase over 2004 in complaints of anti-Muslim harassment, violence and discriminatory treatment.

NEW FORMS OF DISCRIMINATION

Discrimination has many forms: some obvious and others more subtle. There is increasing awareness of unfair treatment of both young and older persons, people with disabilities and those with HIV/AIDS. Additional challenges raised by discrimination are the emergence of practices that penalize those with a genetic predisposition to developing certain diseases or who have lifestyles that are considered unhealthy.

The treatment of workers who have HIV/AIDS is rapidly becoming an important workplace issue. There are approximately 36 million people worldwide living with HIV/AIDS who are engaged in some sort of economic activity and most of them are in the 15-49 age group - the most productive segment of the labour force.

Discrimination in employment remains prevalent worldwide, even in countries where AIDS policies and programmes have been in place for a long time. Cases of discrimination in the hiring process are common, especially in the military and the health sector. Discrimination in the latter, however, goes far beyond the issue of testing. It can be practised by health-care workers towards other health-care workers, towards patients, or by employers towards health-care workers and takes various forms. In Mexico in 2005, nine out of ten complaints received by the National Human Rights Commission from people living with HIV/AIDS involved the health sector.

Another recent development is the emergence of practices that penalize persons with "a genetic predisposition to developing certain diseases or those who have lifestyles considered unhealthy." The rapid developments in genetics and related new technologies have made it easier to obtain information on genetic status. Genetic screening has important implications for the workplace, where, for example, employers might have an interest in excluding employees whose genetic status shows a predisposition to developing a certain disease in the future. Genetic discrimination at the workplace has been proven and successfully contested in several courts around the world

Unfavourable employment practices against smokers are relatively easier to quantify because some companies have made it an official corporate policy to prohibit smoking. In the United States, for example, a number of enterprises do not recruit smokers or penalize former smokers by requiring them to pay more for health insurance. Companies' interest in employees' lifestyle is partly linked to their wish to avoid additional health insurance costs associated with unhealthy habits, especially in countries where employers are fully or partly responsible for their employees' health insurance.

Furthermore, company policies in the United States do not generally include provisions that expressly penalize people who are overweight or have high cholesterol, but the evidence suggests that adverse treatment against them is not infrequent.

POLICIES AND ACTION TO COMBAT DISCRIMINATION

A number of initiatives in the region are targeting the various forms of discrimination. Experience is demonstrating that a mix of legislative frameworks combined with adequately funded institutions, capacity building and awareness campaigns are critical to the elimination of discrimination at work.

Brazil over the past decade has made some important strides in eliminating discrimination. In March 2003, for the first time in their history, the Government created the Special Secretariat for Policies to Promote Racial Equality (SEPPIR) with ministerial rank.

The Government of Canada in 2000 implemented the Embracing Change Initiative (ECI) and Action Plan to address the under-representation of visible minorities in the public service. In 2005, the Government further committed itself towards the elimination of racism in the workplaces under federal jurisdiction through "A Canada for all" - Canada's action plan against racism.

Since the mid-1960s all US government contractors and subcontractors with federal contracts totalling \$10,000 or more are required to analyse their workforce, ascertain the impact of their personnel practices on their performance from an equal employment opportunity (EEO) perspective, identify related barriers, and take corrective action. The Office of Federal Contract Compliance Programs (OFCCP) is responsible for both developing and enforcing the rules and regulations implementing Executive Order 11246 (Equal Employment Opportunity), the cornerstone of US efforts to link federal contracting and EEO.

In Peru, a community-based programme, "A Trabajar Urbano", generates temporary employ-

ment through the construction of social and economic infrastructure. This programme targets heads of households - whether males or females - with at least one child under the age of 18 years and living in selected urban areas. While women represent the majority of the beneficiaries overall, their participation varies over time and by region.

In North America, the North American Agreement on Labor Cooperation (NAALC), the Canada-Chile Agreement on Labour Cooperation (CCALC) and the Canada-Costa Rica Agreement on Labour Cooperation (CCRALC) explicitly cite non-discrimination and equal pay as principles and rights which the parties undertake to promote.

In Brazil, Chile and Paraguay, collective agreements provide for paternity leave beyond legal requirements. As noted earlier, fathers have not made as much use of such provisions as mothers because the gender pay gap often compels the latter to take the leave as a more economically viable choice for the family. ■