



Taxi driver Aadil Toppa stops to pray in the middle of his shift in New York City.

Balancing Work and Religion

By CHRISTOPHER CONNELL

The Civil Rights Act of 1964 is widely known for outlawing racial segregation in schools and public places in the United States. But it also protects workers from discrimination because of their religious beliefs.

At the Minneapolis-St. Paul International Airport, Muslim immigrant cab drivers from Somalia risk their jobs and the public's wrath by refusing to carry travelers heading home from vacations with duty-free liquor.

At a Starbucks coffee shop in Hillsboro, Oregon, a barista contends she was fired not because of tardiness but because of the Wiccan necklace she wore.

In New Jersey, the oil refiner ConocoPhillips is hauled into court by the U.S. Equal Employment Opportunity Commission for refusing to adjust a Christian pipe fitter's schedule so he did not have to miss church services on Sunday mornings.

And in Phoenix, Arizona, after a six-year legal battle, a federal jury returns a \$250,000 judgment against Alamo Rent A Car for firing a Muslim sales representative from Somalia for wearing a head scarf during Ramadan.

With the U.S. population rapidly growing more diverse, more workers are demanding the right to exercise their freedom of reli-

gion on the job. By law they have a right to reasonable accommodations to their schedules. They sometimes encounter resistance from coworkers or bosses. But in a growing number of court cases, employees have the law's enforcer, the Equal Employment Opportunity Commission, on their side.

And many companies find that it makes good business sense to make these accommodations.

A law based in equity and respect

Luke Visconti, partner and cofounder of the New Jersey-based *DiversityInc* magazine, believes that religious accommodation "is just a way of dealing with human beings with respect and treating them equitably so that you have a productive and harmonious workplace. You don't do this out of some sense of political correctness; you do this so that you can increase your productivity and profit margin."

An additional benefit for corporate America is that it is learning,

Below: Amric Singh Rathour (left) and his wife, Prabhjot Kaur Rathour, after filing a federal discrimination complaint against the New York Police Department in 2002. Rathour alleged he was fired during training as he did not shave his beard or remove his turban for religious reasons.

Bottom: Amardeep Singh (left), legal director of the New York-based Sikh Coalition, talks to reporters after five Sikh station agents filed discrimination charges against the city's Metropolitan Transportation Company in 2005. The company required Sikh employees to wear its logo on their turbans, as other employees wore it on their hats.



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at the same time, “how to get along with customers who are also Muslim or Jewish or Christian or whatever other religion they are accommodating” in the workforce, says Visconti.

Corporations such as Texas Instruments Inc. have created “serenity rooms” for workers at assembly plants to pray, and some have installed foot-washing stations where Muslim employees can perform the ablutions their faith requires before prayer. Ford Motor Co. and others have encouraged—or in some cases, tolerated—the creation of employee affinity groups with a religious orientation, whose members gather for prayer or conversation.

When IBM tightened security after the September 11, 2001, terrorist attacks, a newly hired Muslim woman feared she might lose her job because she was unwilling to have her photograph taken without a veil for an identification badge. But the computer services giant accommodated her by issuing two ID badges, one with only her eyes showing that she wore in public and a second, unveiled picture that only female guards were allowed to see.

Georgette F. Bennett, president and founder of the Tanenbaum Center for Interreligious Understanding in New York, says, “They got themselves an extremely loyal employee in the process. That’s not anybody who is going to disappear soon, because she was treated with respect and not made to feel like a second-class citizen.”

Title VII of the Civil Rights Act of 1964 bars employment discrimination based on race, color, religion, sex or national origin. Initially, the Equal Employment Opportunity Commission said employers must accommodate employees’ religious practices unless doing so created “serious inconvenience to the conduct of the business.” In 1972, the U.S. Congress sought to toughen the statute by requiring reasonable accommodations that did not impose an “undue hardship.” But the U.S. Supreme Court weakened the protections in 1977 when it ruled in *Trans World Airlines, Inc. versus Hardison* that anything more than a minimal cost to the employer was an undue hardship. Religious groups including Seventh Day Adventists and Orthodox Jews—both strict Sabbath observers—have lobbied for years to strengthen the law, but without success.

Still, increased numbers of business executives and human resource managers are adopting the principle that American workers have a right to live by their faith on the job as well as off. It’s a cutting-edge issue in the personnel business, according to Eric Peterson, manager of diversity and inclusion initiatives at the 225,000-member Society for Human Resource Management.

“People are not necessarily looking for the freedom to proselytize or the freedom to convert” coworkers, says Peterson, former diversity learning manager for the consulting firm Booz Allen Hamilton. “They just want to be able to live and work within the tenets of their religious faith.” That can be a challenge, especially for non-Christians whose religion “asks them to dress, appear, behave in certain ways that are not necessarily encouraged by the workplace,” he says. Oftentimes, “there’s not a whole lot of money you need to throw at this problem. It’s just a matter of opening your mind and saying, ‘OK, how else can we do this besides what we generally default to as [a] very Christian-oriented way of doing it?’ ”

The law against religious discrimination in the workplace applies to all U.S. businesses with 15 or more employees. The federal agency that enforces the law released in July 2008 a new, 94-page compliance manual with dozens of specific examples on what employers must do to accommodate workers’ religious needs and beliefs.

“It is an area that everybody has been afraid to touch because people are so uncomfortable with the subject of religion. Traditionally we like to think of religion as being left at the office door, but in actuality that can’t be done and isn’t done,” says the Tanenbaum Center’s Bennett.

Challenging instances of discrimination

Since the early 1990s when immigration worked to expand cultural and religious diversity in the United States, complaints to the government commission about religious discrimination have doubled to 2,880 in 2007. Race and sex discrimination cases remain far more common (they account for two-thirds of the case load), but they held steady over the past decade while complaints about religious bias rose from 2.1 percent to 3.5 percent of all charges. After the September 11 attacks, the commission placed special emphasis on safeguarding Muslims, Arabs, South Asians and Sikhs against

backlash in the workplace.

In the Alamo Rent A Car case, Bilan Nur, a 22-year-old immigrant from Somalia, was fired in December 2001 for refusing to remove the head scarf she wore during Ramadan. The commission sued Alamo on her behalf, and nearly six years later, a jury awarded the Phoenix woman \$21,640 in back pay, \$16,000 in compensatory damages and \$250,000 in punitive damages. “The jury just didn’t believe some of the testimony of the Alamo people” about why Nur was fired, says Sally Shanley, the commission’s supervising trial attorney. Alamo paid \$250,000 to settle the case without appealing. Its current owners declined comment.

The dispute over the veteran pipe fitter, Clarence Thomas, who was ordered to work on Sunday mornings at a ConocoPhillips refinery in Linden, New Jersey, has not yet gone to trial. Thomas said initially he was told he could use vacation time to get those hours off, but then that accommodation also was denied. Bill Graham, a spokesman for the oil company at its headquarters in Houston, says, “We do consider diversity of employees a tremendous asset, and the company prohibits discrimination or harassment of any kind.” He noted that unionized workers such as Thomas have a right to file grievances with their local “and they can also call the ConocoPhillips ethics hotline.”

A dispute between the operators of the Minneapolis-St. Paul International Airport and Muslim cab drivers from Somalia remains unsettled. More than 4,800 travelers were refused service between 2002 and 2007 by drivers who saw or suspected passengers were toting alcohol with their luggage. Initially cabbies who refused to take the passengers based on their religious beliefs were sent to the back of the line, but since May 2007 they have faced a 30-day license suspension for the first offense and a two-year revocation the second time they refuse service.

Muslim cab drivers work at many other U.S. airports, but so far this has emerged as an issue only in the Twin Cities. “Why it hasn’t happened in other airports, I don’t know,” says Patrick Hogan, public affairs director for the Metropolitan Airport Commission. “I think it’s more a matter of the way a portion of the community here interprets the Koran.” The Muslim American Society of Minnesota did not return calls for comments.

Does the federal commission’s increased caseload mean the problem is getting worse?

“It’s hard to answer that,” says Dianna Johnston, assistant legal counsel at the commission. “There’s been a significant increase in religious diversity in U.S. workplaces over two or three decades. That’s part of it. Also, people are more open about their religion in

the workplace and in society in general. That can give rise to some misunderstandings.”

The law does not protect only the world’s major religions. “It encompasses any moral or ethical belief about right or wrong that’s sincerely held,” says Johnston. It also protects those who have no religious beliefs.

Workers invoke Title VII of the Civil Rights Act in numerous disputes over their hours or whether they can wear a yarmulke or *kufi* prayer cap. In Detroit, Michigan, for example, the commission is suing HCR ManorCare, a large nursing home chain, for sacking a nurse who wore a *kirpan* under her clothing. The *kirpan*, a sheathed, three-inch knife with a dulled blade, is one of the sacred symbols of the Sikh religion.

Many religions encourage believers to proselytize, and some groups say that Title VII gives their followers the right to talk about religion around the office water cooler and to inquire about a coworker’s beliefs. But if that coworker wants them to stop, they must, according to the commission’s Jeanne Goldberg, a senior attorney advisor. “The employer has two obligations: to accommodate religious expression to the extent that can be done...and not to allow religious harassment of employees.”

It’s a balancing act, both for employers and the courts.

In Peterson versus Hewlett-Packard Co., the 9th Circuit Court of Appeals in 2004 upheld the firing of Richard Peterson, who objected to posters promoting acceptance of sexual diversity that

the company put up in its Boise, Idaho, office. Peterson, a devout Christian, began displaying around his cubicle Bible verses condemning homosexuality; he acknowledged his messages were hurtful. The appeals court said that HP had a “right to promote diversity and encourage tolerance and goodwill among its workforce.”

But that same year a federal judge in Denver, Colorado, awarded \$146,000 to a former AT&T Broadband worker fired for refusing to sign a company diversity policy that recognized the need to “respect and value the differences among all of us.” The judge said the company should have found a way to accommodate Albert A. Buonanno, who had said that as a Christian he loved all people but did not “value” homosexuality.

Eric Peterson, the diversity manager for the Society for Human Resource Management, said the challenge for personnel managers is figuring out how to maintain comity in workplaces where workers may hold starkly contrasting views about religion and lifestyles.

“What organizations need to hear is that it is possible to respect people regardless of their religion or their sexual orientation and to let both groups coexist,” says Peterson. “They don’t have to be best friends. You don’t have to invite your colleague and his partner over to your barbeque on Sunday afternoon after church. But you do need to be able to work with them in a respectful and inclusive manner and that goes both ways.”



Cab drivers at a Metropolitan Airport Commission hearing in Minnesota. The Minneapolis-St. Paul International Airport introduced stiffer penalties for cab drivers who refuse service on religious grounds to passengers with service dogs or alcohol.

For more information:

The U.S. Equal Employment Opportunity Commission

http://www.eeoc.gov/policy/docs/best_practices_religion.html



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