

CASE #2: RELIGIOUS ETHICAL ISSUES IN THE WORKPLACE AND SOCIETY

God at Work

The average worker spends one-half of his or her waking hours in the workplace. Is this work a job, an occupation, career, or vocation? Does one work for money or meaning or both? What makes the workplace a desirable place to be? Can it allow for the expression of different faiths and nurture employees' spiritual growth? The United States enjoys a diversity of religion that is unparalleled in any other developed country. While the U.S. workplace is the most religiously diverse, it is one of the most religiously devout.

Ethical Issues and Concerns

Employers are generally required by law to make "reasonable accommodations" to employees with religious needs, just as they are required to do for the disabled. Title VII of the Civil Rights Act of 1964 offers broad protections to the religious. However, the courts have been equally strict about not allowing an employer or employee to create a hostile environment for others by harassing them about what they do or don't believe (*Business Week*, 1999). Actual work-related incidents are described below to raise different issues about what is ethically or legally acceptable in the workplace. *Remember, you are being asked to judge these cases on the basis of the ethical issues, not the legal issues.*

Of major concern for almost every institution and group in contemporary society is the conflict of religious belief and freedom and individual rights. Chief among the "cultural wars" dividing us are the issues of abortion and human sexuality. In many cases the positions of participants appear to be driven by whether one's faith is in conflict with abortion and/or the sexual practices involved. Too often participants in these debates fail to hear or acknowledge the convictions of the opposing party. As we approach these issues we need to understand "where the other" is coming from and how deeply and sincerely they hold on to these religious convictions.

Scenario 1: Same Sex Weddings and Transgender Bathrooms

Perhaps the most prominent areas of conflict between faith and LGBTQ rights have been clashes over gay marriage as well as conflict over the acceptance of transgender access to the bathroom of their declared gender identity. The first issue has been debated and decided at many levels in the courts. The recent ruling of the U.S. Supreme Court (in a case of a Christian baker who refused to make a custom cake for a same-sex wedding reception and was fined by an administrative body for discrimination), while seen as rejecting the targeting by administrative authorities of a person based on his or her faith convictions, is not viewed as the definitive legal word on the subject.

At least twelve states have introduced laws allowing persons of faith to refuse certain services to LGBTQ persons or to require transgender persons to use the restroom of their birth gender. These legislators say their traditional beliefs about marriage and sexuality are under attack. They express the belief that they need laws to protect them from having to perform services on behalf of or accept the behavior of gay and transgender people. Opponents of such laws argue that refusal to provide services to all persons is simply discrimination under the guise of religion. They point to the long history of discrimination against the LGBTQ community in the work place, in religious communities, and in the denial of services afforded "straight" couples and individuals. Others argue that these laws favor one particular expression of faith and the state is exercising a religious bias against those of faith who hold different views of human sexuality. Opponents of the new laws say that all this legislation is a solution in search of a problem. It is the transgender person, especially of school age, who needs protection from harassment and violence.

Questions: (focus on the ethical issues involved)

1. Opponents of the above legislation see 2 major human rights issues: the withholding of services to LGBTQ persons and restroom accommodations for transgender persons; both of which are deemed discriminatory. To proponents of the legislation the issue is one of religious liberty and their individual rights to be protected by the state. What are the ethical or moral issues involved here? How do these

positions impact the individual's economic, basic human rights, and the freedom to exercise one's religious beliefs?

2. When perceived individual rights are in conflict is there a middle ground that can respect the rights of both sides? Or, if not, is there one right that takes precedence over the others?
3. What role does the state play in such conflicts? Using your ethical stance regarding these issues, how might you vote as a legislator and how would you justify those votes?

Scenario 2: Religion in the Work Space and Lunchroom

Like many high tech firms, the marketing reps are located in square cubicles (about 8 X 8 or 64 square ft. of enclosed space). It is their private space, as they like to say. The cubicles are open on one side and are 4.5 feet high. Wanting to give each employee the feeling of having their own personal space, they have the freedom to put on their cubical walls personal items that interest them, i.e. pictures, toys, motivational writings, and yes, even religious verses, pictures and items of importance to them. The items are there for anyone to view so company policy does not permit offensive pictures, comments, or jokes.

Susan, a marketing rep, is a devout Catholic and on her walls are religious "things." She goes to church on the way to work daily. She knows the owner is a Presbyterian and on occasion they mention to one another certain outreach work that each is involved with in their respective churches. These moments are not held around Susan's work area but in other locations in the office facility. However, because she is always ready to speak with other employees about her church activities or talk about the religious items on her cubical wall, management has made it a point to tell her that such discussions and/or religious commentary are not permitted in her office area or during working hours. During break time or on her own time she was free to discuss what she wanted to. During Holy Week Susan was having lunch in the break room and innocently asked another employee, Tom, also a Catholic, if he was going to church on Good Friday. Tom, replied, "no," saying he was going fishing with some friends. Susan, remarked to Tom that it was his Christian duty to go to Mass to honor the Crucifixion and death of Jesus Christ on this special day of Good Friday and to go fishing instead would result in committing a sin. There were other

light hearted religious comments made between Susan and Tom and he soon left the break room.

Sitting in the break room also eating lunch and hearing all this talk about Easter, Good Friday and Jesus Christ was a Jewish employee, Joe. Joe did not appreciate all this open talk about church and Easter. When Tom left, Joe told Susan, in no uncertain terms, that he did not want to hear any conversation involving the Christian religion because he was a Jew and he had not talked about or pushed the Jewish Passover holiday on her or others. He finished by saying that her talk upset him and he now had an upset stomach and could not finish his lunch. Susan retorted that the conversation was not directed at him and if he was upset by it he should go elsewhere or not listen to their conversation. This heated dialogue took place in the presence of several other employees lunching in the same break room. Susan left in a huff while mumbling several offensive words towards Joe. Joe commented to the other employees that if she didn't stop doing that he would report her to management.

Later in the afternoon, Susan called Joe on the interoffice phone line and gave him a piece of her mind concerning his behavior in the lunch room, especially because he had berated her in front of her peers. Joe was furious with Susan's actions and phone call. He went to management and demanded that action be taken against her harassment of him being a Jew.

Susan was brought into the manager's office and told to stop discussing religious issues in the work place and drop the matter between her and Joe.

Susan returned to her cubical and called Joe to sarcastically "thank" him for getting her in trouble with management. Joe got up from his desk and announced to all those present that he was being harassed and was quitting at this moment. The colorful language he used to make this announcement shocked the group. At this point the company's work production was virtually at a standstill for the rest of the day.

One month later the company was informed by the State Labor Board that Joe was bringing a harassment law suit against the company.

Questions for Discussion:

1. Is there an ethical issue in this case? If so, what is the main issue? Secondary issues? What is the rationale for your answer? Cite an ethical principle.
2. Has one an ethical duty to object to comments that are offensive to a marginalized group; whether or not you are a member of said group? If so, what should you do? Or does one have an ethical duty to bear some degree of discomfort, even if the discussion/conversation offends you? If so, how much offense should one bear?
3. Should businesses and other non-religious organizations allow the overt practice of faith in the workplace?
4. Does it make any difference ethically or legally whether the business is publicly or privately owned?
5. What would you have done if you were the manager of these employees?
6. If you were the owner or head of an organization, what would be your policy for the expression of religious beliefs or practices in the workplace.

Scenario 3: Clothing, Personal Grooming, and the Right to Practice Religious Beliefs

A Muslim woman working as a hostess at a restaurant in Disneyland filed a discrimination complaint against the world-renowned California theme park, saying officials at the park violated the law when they told her she could not appear in front of customers while wearing a religious head scarf. She claimed they ordered her to either remove her hijab or agree to work where customers couldn't see her at Storyteller's Café at the resort's Grand Californian Hotel & Spa. A Disney official stated that the theme parks and resorts are the stage and the costumed cast members are part of the show (Fox News, 8/20/10).

Question:

Explain how certain forms of dress and personal grooming based upon religious beliefs might raise ethical questions. For example, the wearing of a cross or crucifix, a yarmulke, a Sikh turban (or more difficult still the Sikh dagger required to be worn by all males). Your resolution?

Scenario 4: Corporations' Religious Beliefs Versus Access to Medication The Law

The Affordable Care Act (ACA) mandates that health policies written under the act include full coverage for all methods of birth control (20 have been approved by the Food and Drug Administration). Two large businesses object to four methods—two types of IUDs and two types of emergency contraception, Plan B and Ella. These four methods block a fertilized egg from implanting in the uterus.

The Parties Involved

The first is a privately held Arts and Crafts supply company with 13,000 employees in its more than 600 arts and crafts stores. It's owned by a trust managed by the *Brown* family, devout Christians who run the company based on Biblical principles. They close their stores on Sundays, start staff meetings with Bible readings, pay above minimum wage, and use a Christian based mediation practice to resolve employee disputes. The *Browns* contend that the ACA's requirement that health insurance plans cover contraception will force them to choose between violating their religious beliefs or suffer huge financial penalties for violating the law. They don't object to covering of contraception, only the emergency contraceptive pills Plan B and Ella and intrauterine devices (IUDs) which they believe are abortifacients. Penalties would total \$475 million a year. The company is asking the court to find that it has the same religious freedom rights as a church or an individual.

The second is a privately held kitchen cabinetry manufacturer employing approximately 2,100 workers in seven locations. It is owned by a family of five Mennonites who object as a matter of conscience to facilitating

contraception that may prevent the implantation of a human embryo in the womb. Penalties would be \$35 million a year.

The Case

These two cases concern The Affordable Care Act's "contraceptive mandate" - the requirement that businesses offering their employees health insurance must provide plans that cover all federally-approved contraception methods at no extra cost to their employees.

The two companies are owned by Christians who believe that some of these contraceptive methods are tantamount to abortion because they prevent a fertilized egg from implanting in the uterus. The owners seek an exemption to the contraceptive mandate under the Religious Freedom Restoration Act (RFRA), a statute that Congress passed almost unanimously in 1993. This statute, which is at the center of the case, says that the federal government cannot substantially burden someone's exercise of religion without a compelling interest for doing so. (Many states have similar rules). These companies claim that RFRA shields them from the birth control mandate, because providing contraceptives to employees at no cost is not important enough to justify the violation of the owners' religious rights.

The administration had already exempted "religious employers" such as churches from the contraceptive mandate, and provided religiously-affiliated nonprofit corporations with an "accommodation" that directs payments for objectionable procedures through their insurance issuer or administrator. The government argues that the religious beliefs of a for-profit corporation's owners do not justify an exemption.

The Issue

- Corporations act on ethical and philosophical and moral views every day. They have free speech rights but can they practice an owner's religion beliefs?

- Does religion trump the law? One may argue that the law does not trump religion in this case since there really is no “contraception mandate,” as companies can decline to offer insurance. Even if the contraception rule burdens companies or owners, this must be balanced against burdens placed on women who would have to pay for morning-after pills or IUDs. Critics of religious exemptions warn that challenges to other forms of health care could follow, from vaccines to do-not-resuscitate orders.

Questions

1. What is your ethical position on this case? Discuss the **ethical issues** NOT the legal ones.
2. Are we headed down a slippery slope or a minefield with the possibility of an array of exemptions from the law on the basis of religious freedom trumping individual rights?
3. Given that a large percentage of the products sold by the Arts and Crafts company are made in China where abortion has been legal for many decades, is the company guilty of applying a double standard
4. When does religious doctrine or belief supersede established science?

Closing Reflections

The “faith” part of the Faith at Work movement is highly diverse, comprising nearly all of the major religions, including Judaism, Christianity, Islam, Hinduism, Buddhism, and non-institutional forms of spirituality. - David W. Miller

7-7-14 Mel Witmer; revised David Quast and Jeff Myers 8/12/19