

BARBADOS TODAY

COLUMN: IN YOUR INTEREST

ARTICLE: Gays and Lesbians : Discrimination in Employment

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The recent endorsement by President Obama of the United States of America of same sex marriages, has triggered a spontaneous debate across the globe. From a global labour perspective, this debate should not be entirely relevant, since the issue of marriage ought not be one that concerns the workplace. It would seem more realistic if workplace discrimination was the more fundamental issue that would engage the attention of the labour movement. This would at least place the issue of discrimination based on sexual orientation, directly under the microscope.

The International Labour Organization (ILO) in setting the global standard, denounces discrimination in the workplace in any form. This body has maintained its vigilance over the workplace discrimination. Nozipho Dlamini in the article headlined, 'Workplace Discrimination still Rampant- ILO Report, May 2007,' observed the ILO's concern over rampant discriminatory practices within the workplace. The writer in quoting from a recent ILO study on 'Equality at Work,' cited that:

"Although progress had been made at combating discrimination in the workplace, rising gender disparities in income and other forms of discrimination including age, sexual orientation and HIV and AIDS status were a cause for growing concern."

"People are not only being discriminated against based on their sex, race or religion, but also on newer criteria such as age, sexual orientation, HIV and AIDS status and disability."

It would not appear that the issue of discrimination in employment based on sexual orientation, is an existing problem in Barbados. There is no anti employment legislation which applies to homosexuals or lesbians. To the contrary, the law does offers a measure of protection. According to Section 23 of the Barbados Constitution, "no law shall make any provision that is discriminatory either of itself or in its effect" and that "no person shall be treated in a discriminatory manner by any person by virtue of any written law or in performance of the functions of any public office or any public authority."

Interesting enough, the homosexuality under law is illegal. Section 9 of the Sexual Offences Act (1992), states that, "Any person who commits buggery is guilty of an offence, and is liable on conviction on indictment to imprisonment for life."

In Barbados there seems to be a more liberal approach taken to the employment of members of the gay and lesbian community. It would seem that employment discrimination is still evident in the USA. The 1964 Civil Rights Act in the USA, makes discrimination in employment illegal. It prohibits employment discrimination based on race, colour, sex, religion or national origin. The problem is that some states have passed the Anti Discrimination Laws, which prohibit job discrimination based on sexual orientation. These include New York, Massachusetts, Washington and Maryland. The fact that in thirty four states it remains legal for an employer to fire an employee based on the employer's discovery and disapproval of the individual's sexual orientation; highlights that practice of employment discrimination is alive.

Notwithstanding the Civil Rights Act, there is no Federal Legislation in the USA, which denounces employment discrimination. The struggle remains one of getting the Employment Non Discrimination Act (ENDA) brought into law. Since 1996, under the Republican Party, several attempts to get the Act passed have failed. Should the ENDA be brought into law, it would benefit some 16 million workers. It is no wonder that gays and lesbians in the USA are seeking the passage of Federal

Civil Rights Legislation, which would give them the same protection that racial and ethnic/ minorities enjoy.

It is note worthy that over 100,000 workers have already signed a petition to get President Obama to sign an Executive Order to end workplace discrimination. May be his endorsement is a first step of his Democratic Government in bringing about the required change.

The issue of homosexuality is an obvious sensitive one. The issue of morality is usually a major discussion point. This however remains a separate matter. In this instance, labour ought to concern itself with the principles with the principles which it identifies, namely; non – discrimination, fairness, equality and justice. The people of the Caribbean are left to look on, as the mighty USA plays catch up in addressing the issue of discrimination in employment in the workplace.

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