

Global HR Hot Topic

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Cross-Border Diversity Initiatives for Recruiting and Retention



Challenge:
Diversity initiatives that promote recruiting and retaining a diverse workforce are increasingly important outside the US. But transplanting a US diversity initiative for overseas workers risks confusion, hostility—or worse.

Equal employment opportunity and diversity play a huge role in domestic American human resources administration and in US employment law compliance—surely a bigger role than in any other country, particularly outside the common law world. So it might seem that, when it comes to propagating workplace diversity *globally*, American multinationals enjoy a clear head start. But very-different demographics abroad make this head start less advantageous than it may at first appear. Indeed, in some contexts overseas, too much experience with US diversity initiatives might even be a drawback.

How, specifically, does a multinational drive EEO compliance and foster workplace diversity across jurisdictions? US EEO and diversity tools were originally honed for the atypical, rarified environment of US discrimination, harassment and affirmative action law, and for the unique demographics of the United States. So they do not always work well abroad, at least not without significant retooling. This is particularly true as to those American diversity tools and programs engineered to increase demographic representation in the workplace through recruiting and retention (as opposed to softer diversity training programs meant to enhance respect and tolerance among co-workers already in a workforce).

Any diversity recruiting/retention initiative will fail if the employer cannot measure its success. And no employer can measure the success of a diversity program without consensus around the meaning of the core term “diversity.” Employers promoting diversity across borders must therefore begin by confronting a tough but central question: *What do we mean when we say we want “diversity”?* Very-different demographics and “core diversity dimensions” overseas mean that the answer will not be the same abroad, as compared to domestically within the US.

Best practices tip:
Re-engineer any US-created diversity initiative or policy for vastly-different workforce demographics and expectations abroad.

Each monthly issue of *Global HR Hot Topic* focuses on a specific challenge to globalizing HR and offers state-of-the-art ideas for ensuring best practices in international HR management and compliance. White & Case’s International Labor and Employment Law practice helps multinationals globalize business operations, monitor employment law compliance across borders and resolve international labor and employment issues.

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The US understanding of “diversity.” In addressing “diversity,” the US Supreme Court has adopted the increasingly-popular “big tent” view, saying that “[m]ajor American businesses have made clear that the skills needed in today’s increasingly *global* marketplace can only be developed through exposure to widely diverse *people, cultures, ideas and viewpoints*” (Grotter v. Bollinger, 539 US 306, 330 (2003)). This all-encompassing approach sees “diversity” as far more than the three narrow but well-defined “diversity dimensions” that US government statisticians track via America’s mandatory employer-diversity-reporting form, the EEO-1: gender, “Hispanic or Latino” ethnicity, and “race” defined as “White,” “Black or African American,” “Asian,” “American Indian or Alaskan Native” or “Native Hawaiian or Other Pacific Islander.”

US diversity experts these days expand their efforts well beyond these three EEO-1 categories of gender, Hispanic/Latino ethnicity and race. Modern diversity experts, along with the Supreme Court, speak broadly (if vaguely) of “diversity of backgrounds,” “diversity of opinions” and “diversity of experiences.” Diversity professionals also cultivate diversity among age groups, sexual orientations, the “differently abled,” and other groups, legally-protected and non-legally-protected alike. To a modern US diversity expert, confining a corporate diversity initiative just to the EEO-1 categories would be far too narrow.

That said, though, the fact remains that domestically within the US the *sine qua non* of a “diverse” workforce *actually is* rooted in our three “old school” US EEO-1 categories. To Americans, those three “diversity dimensions” stand alone in their own tier, with all other categories less important. After all, no American would consider a workplace of all white, non-Hispanic men as “diverse”—even if those Anglo white guys came from various cities, were alumni of various schools, voted for various political parties, cheered for various sports teams and were of various religions, ages, sexual orientations and physical abilities. On the other hand, we would all have to concede that a workforce is indeed “diverse” if made up of half men/half women and boasting big percentages of Hispanics, blacks, Pacific Islanders, Asians and Native Americans—even if it somehow turned out that this gender and race balanced workforce included only able-bodied, heterosexual, Ohio-born, Democrat Catholics over age 40.

- Among our three EEO-1 “diversity dimensions” (gender, Hispanic ethnicity, race), one category—race—stands above the others. According to the *Yale Journal of International Law* (vol. 35, p. 116 (2010)), “US judges, activists and academics have theorized extensively about how the struggle for African Americans’ civil rights shapes US law prohibiting discrimination against other groups.”

The international understanding of “diversity.” For years the importance of “diversity” has been growing outside the US. According to a report from the Conference Board (Executive Action Series #175), “demographic changes in Europe, combined with...regulations, are...pressur[ing European] companies to increase the diversity of their workforces.” A study by the Lee Hecht Harrison firm once found that two-thirds of employers *worldwide* see employer diversity programs as key retention tools. Some countries now actually mandate specific diversity initiatives: South Africa requires workplace diversity plans, for example, and Brazil and Germany require affirmative action for the disabled. European jurisdictions are requiring gender equity on corporate boards of directors. India now imposes some caste diversity rules in the public sector.

So in today’s diverse, multi-cultural world markets, all multinationals, regardless of where headquartered, should be thinking about how to foster inclusion and equality of employment opportunity within workforces worldwide, and how to recruit and retain diverse workforces.

But in propagating a diversity program abroad we come right back to our definitional question of metrics: *What do we mean by “diversity”?* Like plugs on our American electrical appliances, our US EEO-1 metrics of gender, Hispanic ethnicity and race just will not fit overseas. Indeed, our American understanding of race and ethnicity is so uniquely our own that even the US Census struggles—recent immigrants cannot interpret American census forms because peoples from other cultures do not “get” how Americans categorize ourselves. According to *The New York Times* (January 22, 2010):

The pattern of race reporting [to the US Census] for *foreign-born Americans* is *markedly different* than for native-born Americans.... For example...a majority born in the Dominican Republic and El Salvador, who are newer immigrants, described themselves as neither black nor white.... Among all who identified themselves as Asian-Americans, which is often understood to mean born [in the US], 67 percent were, in fact, foreign born.... [According to] Elizabeth M. Grieco, Chief of the Census Bureau’s immigration statistics staff,... “it’s a part of not knowing where they fit into *how we define race in the United States.*”

This disconnect between what Elizabeth Grieco calls “how we define race in the United States” and how other countries define race (and ethnicity) explains why workforce demographic diversity programs hatched from US EEO-1 metrics are bound to fail if transplanted overseas. Consider:

- The “Hispanic/Latino” EEO-1 ethnicity category is unique to the US, is misunderstood outside the US, and is meaningless where there are virtually no Hispanics/Latinos—countries from Albania

to Zimbabwe—as well as where there are virtually *nothing but* Hispanics/Latinos—Spanish-speaking Latin America, Spain, Equatorial Guinea.

- Concepts of race differ abroad. In England, “Asian” means Indian/Pakistani but rarely includes peoples of the Far East (who are called “Orientals”). South Africa’s diversity-promoting EEA-2 form distinguishes “Whites,” “Indians” and “Africans” from “Coloureds”—a mixed-blood category that looks offensive to Americans. At the same time, of course, the US category “African-American” looks offensive in the many countries of the world with big populations of “Africans” who are not “American.”
- Labor-pool demographics make racial diversity statistically impossible in much of the world. In 2013 the *CIA World Factbook* (www.cia.gov) reported that Japan is 98.5 percent Japanese and more than 99.4 percent Asian. Korea is 100 percent Korean (“except for about 20,000 Chinese”). Finland is 99 percent Finnish and Swedish. Paraguay is 95 percent “mestizo,” and Mali is more than 95 percent black. Even the increasingly-heterogeneous UK remains 92.1 percent white.
- Our three American EEO-1 categories are too coarse to account for the granular demographic distinctions necessary abroad. In India, caste status is legally-protected—but in EEO-1 terms, all Indians are “Asian.” In Africa, tribal ancestry is critical—but in EEO-1 terms, all tribal Africans are “black.” In Spain, Basques and Catalans speak their own languages and promote separatism—but in EEO-1 terms, all Spaniards, Basques and Catalans are “Hispanic/Latino whites.” In Canada, French Canadians are culturally distinct—but in EEO-1 terms, they are, like most Canadians, “non-Hispanic/Latino whites.”
- Even workplace *gender* diversity can be impossible abroad. In Saudi Arabia, just five percent of the workforce is female and local law requires segregating women workers from men.

According to *HR Magazine* (Nov. 2003), US “HR directors are finding that one-size-fits-all [diversity] programs” launched overseas “will not work and might not even be understood.” Andrés Tapia, serving as Chief Diversity Officer at Hewitt Associates (now AON Hewitt), has said “we’re beginning to see an increasingly resentful backlash against the American version of diversity abroad.” Outside the US, the complaint Tapia heard most often was that “this diversity thing is an American thing.” This tension with cross-border diversity initiatives forces US multinationals to confront what “diversity” means in the cross-border context.

Three viable cross-border diversity initiatives. Because US diversity metrics and the American understanding of “diversity” do not travel well, any US-headquartered multinational intending to launch, across regional or worldwide workforces, a diversity initiative focused on recruiting and retention should resist the

urge to transplant its US approach. Retool an American diversity initiative by using internationally-appropriate metrics and a global understanding of “diversity.” There are at least three alternate designs a multinational might use in transforming a made-in-the-USA diversity initiative into a viable international one: (1) cross-cultural understanding (2) gender inclusion and (3) local racial/ethnic diversity.

- *Cross-cultural understanding.* International project teams with members from different countries can run into misunderstandings because of deep-rooted cultural differences. Even within a region as well-integrated as Western Europe, work styles differ and underlying assumptions and attitudes diverge across a team of, say, Britons, French, Germans and Italians. Cross-cultural understanding sessions can address these problems with training focused on attitudes. But these soft training programs are so distinct from hard demographic “diversity” initiatives focused on recruiting and retention metrics that using the “diversity” label here is perhaps disingenuous. One human resources manager, Suzanne Bell of Toyota Financial Services, has suggested keeping the distinction clear by labeling this training “Global Cultural Competence” or “Global Cultural Awareness” programs—eschew the word “diversity” entirely.
- *Gender inclusion.* Homogeneous racial demographics in many overseas markets may block efforts at racial diversity, but *gender equity* is good everywhere (except in Saudi Arabia, where in many respects it remains illegal). Women are underrepresented, especially in leadership roles, in so many overseas workforces. Gender inclusion is becoming a hot issue in many jurisdictions such as in Europe, which is requiring gender balance on corporate boards of directors. Some American multinationals therefore focus their outside-US diversity efforts on promoting gender inclusion, reserving race and ethnicity for their domestic US diversity programs. According to *HR Magazine* (Nov. 2003), as far back as the early 2000s Chubb, DuPont, Eastman Kodak, Ford and J.P. Morgan were all testing gender diversity programs in Latin America.
- *Local racial/ethnic diversity.* Bold multinationals that take international workplace diversity seriously enough to confront the irrelevance of our three US EEO-1 categories abroad might promote racial/ethnic inclusion by tailoring overseas diversity metrics to the different “core diversity dimensions” of their overseas workforces. It makes absolutely no sense to track the “Hispanics” and “African-Americans” within a workplace in, say, Russia, India, Chile or South Africa. Ask instead: *Which “diversity dimensions” and demographic categorizations are locally appropriate in each of our overseas locations?* Then implement meaningful demographic benchmarking metrics on a localized basis. Does your Mexico City executive suite reflect Mexico’s Indian/Mestizo majority? Is your Brussels facility equally inclusive of both Flemish and Walloons? Does your Zurich branch welcome Switzerland’s French and Italian-speaking minorities? Do your Tokyo office policies fight Japan’s entrenched discrimination against ethnic Koreans, Ainu and Ryukyuan?

Do local taboos—and data privacy laws—prevent you from learning the status quo, taking action and measuring success? Going beyond racial/ethnic categories, how can a global diversity program cultivate diversity among age groups, sexual orientations and disabilities? Bold cross-border diversity initiatives of this sort that actually focus on locally-relevant racial and ethnic distinctions remain rare. But they may be the next frontier.

“Core diversity dimensions” and the very definition of what it means to be “diverse” differ widely from one country to the next across our increasingly homogeneous “global workforce.” Any multinational launching cross-jurisdictional work rules, international HR policies, global code of conduct provisions or other border-crossing initiatives that champion diversity in overseas recruiting and retention should modify existing US domestic diversity policies and offerings—or even completely start over abroad.