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Religious Discrimination in the Workplace: A Review and Examination of Current and Future Trends

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Abstract

Purpose Over the last decade, religious discrimination claims have risen more rapidly compared to most other protected categories under the Civil Rights Act (CRA). The goal of this review paper is to summarize the psychological and HR practitioner-focused research on religious discrimination as it relates to the CRA to understand these religious discrimination claims. In doing so, this review also highlights what future research is needed, and what the challenges and practical implications of religious discrimination are for managers.

Design/methodology/approach We conduct a systematic literature review of the psychology and business research on religious discrimination.

Findings Building from the literature review and case law, we highlight four trends that contribute to religious discrimination in the workplace: (1) legal ambiguities, (2) increased religious diversity in the American workforce, (3) increasing expression of religious beliefs, and (4) the unique nature of religion.

Implications The trends identified in our review paper highlight the need for employers to understand and address religious discrimination issues in the workplace and the lack of empirical research in this area points to a critical gap in our understanding of workplace religious discrimination that warrants future research.

Originality/value In addition to highlighting trends that contribute to religious discrimination in the workplace, this literature review addresses where there are gaps in the existing research that call for further research and offers practical implications for employers and organizations.

Keywords Religious discrimination · Civil rights act · Religious diversity · Religious harassment · Religious accommodations · Religious expression

According to the Title VII of the Civil Rights Act (CRA) of 1964, discrimination on the basis of religion is prohibited. Employers are required to reasonably accommodate an employee's sincerely held religious beliefs, observances, and practices when the provisions of such an accommodation would not impose any undue hardship on the employer. However, religion is a nuanced protected category that is susceptible to many complications. To highlight some of these intricacies, imagine the following scenarios:

Employees are required to indicate that they have been informed of and accept certain HR (Human Resources) policies. However, an employee refuses to sign an organization's diversity policy requiring employees to show tolerance and respect for the diversity of fellow employees because his religious beliefs preclude him from valuing homosexuality.

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Should the employer exempt him from the corporate diversity policy to accommodate his religious beliefs?

An employee refuses to hand out coupons for a restaurant that serves meat because he is a vegetarian. Does vegetarianism count as a religious belief?

A group of employees leave pictures of Jesus for another employee at work who happens to be an Atheist. Do the Christian employees have a right to express their religion at work? Does the Atheist employee have a right to work free of any religious harassment? How does an employer deal with the conflicting rights of these employees?

These examples reflect actual legal cases¹ and illustrate the complexities regarding religious discrimination in the workplace. Although religious discrimination claims are relatively low compared to other types of claims, recent statistics from the Equal Employment Opportunity Commission (EEOC 2011a) reveal that religious-based discrimination claims from the years 2000 and 2010 have risen sharply (96 % increase) over the past decade in comparison to most other protected categories under the CRA [i.e., race (24 % increase), sex (15 %), national origin (45 %)]. Given the socio-political climate surrounding religion, it is important to examine why religious-based discrimination is a growing problem in the workplace despite its legal prohibition. In addition, research is needed to understand why religious discrimination poses unique challenges compared to discrimination against other CRA-protected groups and on how to identify ways to alleviate it.

This review summarizes both the psychological and HR practitioner-focused literature on religious discrimination as it relates to the CRA in the hopes of highlighting what existing research suggests about religious discrimination and its increasing prevalence in the workplace, what future research is needed, and what the challenges and practical implications of religious discrimination are for managers. After describing the nature of our literature review, we discuss what constitutes religious discrimination under the law and illustrate this with relevant cases. We specifically note where there are gaps in the research based on legal claims and identify issues that warrant further research. Following this, using our literature review as a guide, we discuss trends that contribute to religious discrimination in the workplace. Finally, we conclude by discussing practical implications for employers and organizations.

¹ The cases represented in their respective order are *Buonanno v. AT&T Broadband LLC* (2004), *Anderson v. Orange County Transit Authority* (1996), and a religious discrimination lawsuit filed by Carletta Sims against CitiGroup as reported in the *Elizabethton Star* (2004).

Literature Review

Using the keywords “religious discrimination work” or “religious discrimination employment” in the Psycinfo and ABI database, we found 101 articles. As our focus was on religious discrimination in the context of the CRA, we discarded 77 articles because they either addressed religious discrimination only in passing, concerned legal context of other countries, or did not qualify as literature appropriate for this review (i.e., article published before the CRA). Of the remaining 24 articles, 17 articles (71 %) were focused on the legal context of religious discrimination such as providing guidelines for practitioners (i.e., Cromwell 1997) or dissecting particular cases (i.e., Wyld and Cappel 1992). Only seven articles were empirical in nature or discussed the application of psychological theories. These studies were primarily qualitative or survey based (i.e., Thyer and Myers 2009), while two were experimental (Jolson 1974; King and Ahmad 2010). Most focused on examining religious-based discrimination of specific religious groups: evangelical Christians (i.e., Hodge 2006), Jews (Jolson 1974), and Muslims (i.e., King and Ahmad 2010). Most studies were concerned with particular work sectors (i.e., social work programs, marketing, retail).

We examined this literature and created summary Tables 1, 2 and 3 with several goals in mind:

1. What constitutes religious discrimination? How does the literature relate to the types and nature of discrimination as evidenced in CRA case law on religious discrimination? What is covered in the literature, what is missing, and what are the suggestions for future research? (See Tables 1 and 2, left column).
2. What, if anything, does the literature point to as contributors to religious discrimination claims? (See Table 3). What future research is needed in regards to each of these contributors?
3. What are the challenges and practical implications for human resource management? (See Table 2, right column).

We address these questions and discuss the tables in the sections that follow.

What Constitutes Religious Discrimination?

The original intent of the CRA was to protect employee rights in the workplace by prohibiting hiring or firing decisions based on certain personal characteristics. However, unlike other protected groups under the CRA, religion involves observances and practices that may interfere with work, and thus the CRA was amended in 1972 to also address such accommodations (Civil Rights Act of 1964).

Table 1 Empirical and HR practitioner-based literature review summary by religious discrimination type

Types of religious discrimination	Articles
<i>Disparate treatment</i>	General (Henle and Hogler 2004; Malos 2010), reverse religious discrimination (Brody and Brito 2007), Muslims (Ball and Haque 2003; King and Ahmad 2010); Jews (Jolson 1974); admissions (Hodge 2006, 2007a, b; Thyer and Myers 2009)
Bona fide occupational qualification (BFOQ)	Cromwell 1997, Wyld and Cappel 1992
Religious organization exemption	Boulter 2011
Ministerial exception	Anonymous 2012, Coon 2001; Heller, 2007
<i>Religious Harassment</i>	Brecheen and Kleiner 2000, Malos 2010, Morgan 2004, Rudin and Harshman 2004
Quid pro quo	Ball and Haque 2003
Hostile work environment	General (Ball and Haque 2003; Hodge 2007a; Thyer and Myers 2009), proselytizing (Rudin and Harshman 2004)
<i>Accommodations</i>	Borstorff and Arlington 2010, Brecheen and Kleiner 2000, Cromwell 1997, Kelly 2008, Henle and Hogler 2004, Morgan 2004, Schulze and Kleiner 1999, Wyld and Cappel 1992
Grooming/dress accommodations	Ball and Haque 2003, Borstorff and Arlington 2010, Cromwell 1997; Kelly 2008
Observance/practice/work	Ball and Haque 2003, Borstorff and Arlington 2010, Cromwell 1997, Kelly 2008
Duties accommodations	Kelly 2008
<i>Retaliation</i>	Malos 2010
<i>Subtle, Implicit, Interpersonal Discrimination</i>	Carter 2010, Hodge 2007b, King and Ahmad 2010, Thyer and Myers 2009

Within the context of the CRA, employees usually claim religious discrimination on four grounds: (1) disparate treatment, (2) religious harassment, (3) failure to reasonably accommodate religious beliefs, and (4) retaliation against an applicant or employee who alleges religious discrimination (EEOC 2008a, 2011b).

As Table 1 illustrates, the scholarly literature covers all types of religious discrimination, although some receive more attention than others. Specifically, disparate treatment (16 articles) and accommodation (9 articles) were the most popular topics followed by religious harassment (7 articles). Retaliation was only briefly covered in Malos (2010). The difference in the coverage of these types of religious discrimination reflects the greater occurrence of certain types of religious discrimination as well as which religious discrimination issues tend to be the most complex to address in practice. Note that the empirical research literature also provides some examination of what is referred to as subtle, indirect, implicit or interpersonal religious discrimination (King and Ahmad 2010), or bias that is not necessarily illegal but which still would be considered treating individuals differentially on the basis of religion. In the sections that follow, we cover the case law and literature for the 4 types of discrimination addressed by the CRA, with a fifth section devoted to subtle discrimination as addressed in the empirical research literature. We conclude our discussion of what constitutes religious discrimination by offering suggestions for future research.

Disparate Treatment

Disparate treatment in employment refers to difference in treatment with respect to recruitment, hiring, promotion, discipline, discharge, compensation, and other terms, conditions, or privileges of employment due to an individual's religion. An employer may not make any negative employment decisions simply because the employee does not hold similar religious beliefs held by the employer or beliefs held by fellow employees, on the discriminatory preferences of others, or even on the basis that such an employee will require reasonable accommodations absent undue hardship causes. For example, in *Noyes v. Kelly Services, Inc.* (2007), the court ruled that an employer engaged in religious discrimination when a woman was not promoted because she did not share the same beliefs as her employers, while other employees who were members of the Fellowship of Friends religious group were promoted.

In addition, religious affiliation can be a Bona Fide Occupational Qualification (BFOQ) under limited circumstances if it is "reasonably necessary to the normal operation of that particular business or enterprise." In *Kern v. Dynallectron Corp.* (1983), conversion to Islam as a condition for employment was considered a BFOQ for a helicopter pilot working in Saudi Arabia because under Saudi Arabian law, any non-Muslims flying into Mecca would be beheaded.

Table 2 Religious discrimination workplace issues: future research and best practices for HRM

Employment issue	Future research	Best practices (suggestions developed from EEOC 2008b)
Disparate treatment	Document prevalence rates	Use of objective and consistent criteria in hiring
	Examine factors influencing perceptions of what constitutes a sincerely held belief	Training of those involved in hiring and evaluation of employees
	Conduct an archival study of organizational anti-discrimination policies to inform HRM practitioners on anti-discrimination/harassment policy development as well as to contribute to existing literature on organizational practices and discrimination	Ensure that performance management process contains objective job-related criteria as the basis for evaluation.
	Conduct experimental research on treatment discrimination to compare recognition of different forms of “invalid differential treatment” as well as their effects on individual and organizational outcomes	Process should have an explicit timeline and any disciplinary action should be communicated immediately to employees
	Investigate the relevance of contextual and individual factors that influence disparate treatment for other protected groups (e.g., workplace composition, occupational characteristics)	Hold decision makers accountable for personnel decisions.
	Investigate how visibility of one’s religious identity affects discrimination levels	
	Investigate specific beliefs and specific group stereotypes in terms of experienced discrimination	
	Explore the intersectionality of religion and other protected categories	
Religious harassment	Conduct research to explore the dynamics of microinequities and subtle discrimination vis-à-vis religion	
	Compare nature of religious harassment to other forms of harassment (ethnic, sexual) and whether models of antecedents and consequences of sexual and ethnic harassment apply to religious harassment	Develop clear anti-harassment policies that address any unique issues related to religious harassment
	Examine the prevalence of anti-religious harassment in management training programs	Policies must align with other anti-discrimination company policies (e.g., those to address gender, race or ethnicity) as appropriate but explicitly include religion as such.
	Examine the role of organizational culture as a moderator between anti-harassment/discrimination HR policies and employee acceptance of these policies, and in particular climate for religious diversity	Ensure that work environment does not create a culture that promotes employee(s) religious expression or proselytizing.
	Investigate perceptions of the appropriateness of religious expression and factors that influence those perceptions	Clarify for managers and employees the differences between religious expression and religious harassment of others
Reasonable accommodation of religious beliefs and practices	Assess how religious exceptions and exemptions are viewed	Ensure that policies are enforced consistently to the same standard.
	Assess factors influencing perceptions of accommodations as just or unjust	Train managers in appropriate procedures/standards to handle employee requests for religious accommodation (duty to inform)
	Examine managerial decision-making processes with respect to accommodation and how those differ in terms of grooming/dress, observances/practices and work duties accommodations	Inform employees regarding rights and processes related to accommodation
	Examine history and differences of organizational accommodation strategies and how those differ in terms of grooming/dress, observances/practices and work duties accommodations	Identify common religious accommodation needs (e.g., work scheduling issues, dress code conflicts and job duties that might conflict with religious beliefs or practices)
Retaliation	Include an examination of the role of perceptions of trait mutability in this research	Ensure that common screening procedures and job descriptions identify and communicate duties that are central to the job to avoid misinterpretation of reasonable accommodation or undue hardship
	Examine the role of organizational culture as a moderator between anti-harassment/discrimination HR policies and employee acceptance of these policies	Develop metrics to assess the costs of accommodation to address any claims of undue hardship
		Train managers and supervisors to be aware of their anti-retaliation obligations under Title VII

Table 3 Empirical and HR practitioner based literature review themes

Themes	Articles
<i>Legal ambiguity</i>	Brecheen and Kleiner 2000, Cromwell 1997, Morgan 2004, Wyld and Cappel 1992
Definitions	“Religion/religious beliefs” (Ball and Haque 2003; Cromwell 1997; Henle and Hogler 2004; Kelly 2008; Morgan 2004; Wyld and Cappel 1992), “reasonable accommodations” (Brecheen and Kleiner 2000; Cromwell 1997; Morgan 2004; Wyld and Cappel 1992), “undue hardship” (Brecheen and Kleiner 2000)
Trait mutability	Ball and Haque 2003, Morgan 2004, Wyld and Cappel 1992
Exemptions and exceptions	Religious organization exemption and the first amendment’s establishment and free exercise causes leading to religious-based discrimination (Boulter 2011; Coon 2001; Heller 2007), ministerial exception (Anonymous 2012; Coon 2001; Heller 2007)
<i>Increased religious diversity</i>	Ball and Haque 2003, Borstorff and Arlington 2010, Henle and Hogler 2004, Hodge 2006, 2007b, Kelly 2008, Morgan 2004
Religious pluralism	Minority religious beliefs, sects and unconventional groups (Brecheen and Kleiner 2000; Cromwell 1997; Hodge 2006), non-Judeo/Christian religions (Henle and Hogler 2004; Kelly 2008; Morgan 2004), spirituality (Morgan 2004)
Muslims/September 11 incidents	Ball and Haque 2003, Carter 2010, Henle and Hogler 2004, Kelly 2008, King and Ahmad 2010, Malos 2010, Morgan 2004
Christian conservatives	Christian minorities (Brecheen and Kleiner 2000), secretarians (Cromwell 1997), Evangelical Christians (Hodge 2006, 2007a, b)
<i>Increased religious expression</i>	Ball and Haque 2003, Borstorff and Arlington 2010, Henle and Hogler 2004, Hodge 2006, Kelly 2008, Morgan 2004
Increased religiosity/religious conviction	Ball and Haque 2003, Henle and Hogler 2004, Morgan 2004
Desire for the integration of religion and work	Ball and Haque 2003, Borstorff and Arlington 2010, Brecheen and Kleiner 2000, Henle and Hogler 2004, Hodge 2006, Kelly 2008, Morgan 2004
Challenges integrating religious expression with work environment	General (Morgan 2004), accommodations (Ball and Haque 2003; Borstorff and Arlington 2010), secular workplace/environment (Cromwell 1997; Hodge 2006, 2007a, b; Kelly 2008; Morgan 2004; Thyer and Myers 2009), work culture based on mainstream Christian culture (Borstorff and Arlington 2010; Cromwell 1997)
Proselytizing	Proselytizing versus religious harassment (Ball and Haque 2003; Morgan 2004; Rudin and Harshman 2004), proselytizing versus sexual orientation harassment (Henle and Hogler 2004; Morgan 2004; Schulze and Kleiner 1999)
<i>Unique nature of religion</i>	Cromwell 1997, Morgan 2004
Attributes of religion	Controllability (Cromwell 1997); visibility/concealability (Carter 2010; Hodge 2006; King and Ahmad 2010); stereotypes/misunderstandings of religion (Carter 2010; Cromwell 1997; King and Ahmad 2010; Morgan 2004; Hodge 2007a; Thyer and Myers 2009)
Confounding identities	Muslim victimization of race, gender, and national origin discrimination (Ball and Haque 2003; Carter 2010; King and Ahmad 2010; Kelly 2008; Malos 2010), confusing sikhs as Muslims (Ball and Haque 2003)
Non-religious beliefs	Atheism/Agnosticism (Henle and Hogler 2004; Morgan 2004; Wyld and Cappel 1992), spirituality (Morgan 2004), conscience (Von Bergen and Bressler 2011), creationism (Wyld and Cappel 1992)

It is important to note that even outside of the BFOQ defense there are legal exceptions which allow for employers to discriminate on the basis of religion. First, religious organizations whose “purpose and character are primarily religious” may hire employees who share similar beliefs (Townley Eng. and Mfg. Co., 1988). As such, a church or religious school may ask its employees to sign a statement of faith. Second, a ministerial exception is also given to religious organizations, who may appoint clergy members or employees who perform religious functions based on criteria deemed appropriate by that organization (e.g., *McLure v. Salvation Army*, 1972).

Some empirical research has examined disparate treatment (Table 1), although there is not as much attention given to prevalence rates as there is in the literature for race or sex differential treatment. For example, King and Ahmad (2010) conducted an experimental field study involving confederates dressed in Muslim-identified attire or in non-religious attire. After observing interactions, the authors found that confederates dressed in religious attire received as many interview offers as the control group, but had shorter interactions with the potential employer. Thus, the authors did not find evidence of disparate treatment as defined under the law.

In terms of research needs on disparate treatment based on religion (see Table 2), there is little work to document prevalence rates of disparate treatment in employment contexts (with EEOC claim rates serving as the primary source of data on the extent to which discrimination is occurring), and little research as to the contextual and individual factors that influence disparate treatment (e.g., religious affiliation, industry, selection method, decision maker characteristics) that have received substantial attention in other areas of discrimination research (Landy 2005). Thus, it would be interesting to examine if there are hiring differences among various religious groups, as a function of job type (e.g., public contact, job status, job complexity), individual factors (e.g., religious identification, gender, race) or even employer characteristics (e.g., religion, level of prejudice).

Religious Harassment

Religious harassment occurs when employees are coerced, or required, to participate (or not participate) in religious practices as a condition of employment. Harassment occurs when the employer pressures the employee to conform to another's beliefs or to give up his/her religious belief or practice. Religious harassment can also occur when employees are subjected to a hostile or offensive work environment as a result of their religion. Under Title VII, employers are legally obligated to provide a work environment that is free of discriminatory intimidation, ridicule, and insult. To make a hostile work environment claim, an employee must show that he/she was subjected to the harassment because of religion, that the harassment was unwelcomed and sufficiently severe or pervasive in that it altered the conditions of the employee's employment and work performance by creating an intimidating, hostile, or offensive work environment.

Religious harassment suits are increasing (Deschenaux 2011). These suits include supervisors urging employees to join the supervisor's church as well as those who feel harassed because of non-traditional belief systems. Some of the most publicized cases of religious harassment have to do with the workplace harassment of Muslims (Malos 2010). In *Zayed v. Apple Computers* (Zayed 2006), an employee found other employees staring at her and asking her questions about suicide bombings. Apple placed red, white, and blue ribbons on many employees' doors, but not hers. The Plaintiff felt marginalized. Her performance ratings declined and she was first demoted, and subsequently terminated. The Plaintiff's lawsuit was allowed to go forward on several forms of discrimination as well as failure to prevent harassment (Malos 2010).

Empirical research on religious harassment in the workplace is surprisingly sparse (Table 1). Often

harassment is lumped in with general measures of discrimination (Hodge 2006, 2007a, b), making it more difficult to sort out the antecedents and consequences of harassment from differential treatment in personnel actions. Given the substantial body of research on sexual harassment (e.g., Fitzgerald et al. 1997; Stockdale et al. 2004) and racial/ethnic harassment (Schneider et al. 2000), more effort could be made to examine how religious harassment is similar to or different from other forms of harassment in dimensionality, antecedents, and consequences. For example, studies of sexual and racial/ethnic harassment have typically measured harassment in terms of hostility toward one's identity group, exclusionary behaviors, verbal taunting, and threatening or coercive behaviors (e.g., Schneider et al. 2000; Fitzgerald et al. 1997): to what extent do these same types of harassment behaviors occur for religious harassment? Perpetrator and victim characteristics and climate for tolerating harassment have all been well-investigated with regard to sexual harassment (See O'Leary-Kelly et al. 2009 for review): to what extent do these findings generalize to religious harassment? Psychological, physical, and workplace consequences of harassment such as effects on self-esteem (Bowling and Beehr 2006), job satisfaction, commitment, and turnover (Gutek and Koss 1993; Willness et al. 2007), and stress symptoms and post-traumatic stress disorder (O'Leary et al. 2009; Willness et al. 2007) have all been well-documented for sexual harassment: are similar consequences observed for religious harassment? (See Table 2 for additional suggested directions for harassment research).

Accommodation

Failure to reasonably accommodate religious beliefs refers to any adjustment to the work environment (e.g., work schedule, dress and grooming, religious expression or practice at work) that an employer refuses to make that will allow the employee to comply with his or her religious beliefs. Because employees may experience conflicts between their employment obligations and their religious observations, employers are legally required to reasonably accommodate these religious obligations, unless the accommodation would cause undue hardship for the employer. "Undue hardship" is defined as an accommodation which creates a "more than *de minimis* cost" or burden to the employer (42 U.S.C 2000e(j), 1994; *TWA v. Hardison* 1977). Several factors can be taken into account when determining undue hardship, such as the cost in relation to the size and operating costs of the employer, the number of persons who need a particular accommodation, the impact on workplace safety, or infringement on the job rights and benefits of other employees. Employers may not

simply refuse an accommodation, but have to demonstrate that they have made a good faith effort to reasonably accommodate the employee but the accommodation produces undue hardship on the employer. Moreover, employers are not mandated to provide the employee's preferred accommodation and "reasonable" accommodation may include alternate accommodations, as long as the accommodations are effective in eliminating the conflict between religion and work.

In many cases, the issue of undue hardship has been at the heart of disputes and courts have ruled and interpreted the law in a variety of ways (Brecheen and Kleiner 2000), creating challenges for employers trying to understand legal limits. For example, although there have been many cases in which employers were required to reasonably accommodate Muslim women who wish to wear the headscarf at work (EEOC v. White Lodging Services, Corp. 2010), head covering can be considered an undue hardship if the employer can show that it violates workplace safety standards or negatively influences public image and perceptions of its customer base and fellow employees (Curtis 2004; Webb v. City of Philadelphia 2009). Thus, employers, despite being aware of the employee's religious rights under the CRA, may face challenges in interpreting "reasonable accommodation" correctly (Inman and Inman 2003).

In terms of case law, there are three major areas of accommodations that have been the subject of considerable focus and deserve further review: (1) grooming and dress accommodation (2) observance and practice accommodation, and (3) work duties accommodation. While each of these had some mention in the HR practice literature (see Table 1), no empirical study in our literature review focused on accommodation issues, although there are two empirical studies addressing discrimination and dress (Carter 2010; King and Ahmad 2010).

Grooming/Dress Code Accommodations

Literature on grooming/dress code accommodations (Ball and Haque 2003) centers on the treatment of Muslim applicants and employees wearing head scarves. This has been an area of considerable legal activity. Recently, the EEOC sued Abercrombie and Fitch (EEOC 2011c) in a case where a Muslim employee who primarily worked in the stockroom was first told that she could wear a headscarf if it was in Hollister (a subsidiary of Abercrombie and Fitch) colors. However, several months later, a manager told her that she had to remove the scarf while at work. The company fired her for violating the "Look Policy" in favor of her religious beliefs. This case has not yet been resolved. In July 2011 (EEOC 2011d), a federal court agreed with the EEOC on another case involving Abercrombie and Fitch

(Abercrombie Kids) where the organization failed to hire a Muslim because she was wearing a headscarf. The U.S. District Court granted a summary judgment noting that the organization applied the "Look Policy" inconsistently.

The EEOC (2011e) recently filed charges against a Taco Bell Owner involving a case centered on an employee's hairstyle as an expression of religious faith. The 6-year employee was a member of the Nazirite religion who had not cut his hair in 10 years and who was now told that he had to cut his hair or lose his job. In a related case in August, 2011, Lawrence Transportation settled with the EEOC when the company refused to hire an applicant who wore dreadlocks as part of his Rastafarian faith. After a mistrial, the parties reached a settlement.

Observance/Practice Accommodations

Another area of contention in religious accommodation is observance or practice accommodation. In these cases, religious practice conflicts with work schedules. In *Creusere v. James Hunt Construction* (2003), a carpenter refused to work Saturdays because of his religious beliefs. He proposed working Sundays as an accommodation; however, he was fired for not working on Saturdays. The organization operated under a union contract that required higher pay for Sunday work. Because of this, the employer claimed more than *de minimus* costs.

Risley v. Secretary of Health and Human Services (1991) is interesting because of its tie-ins to HR policy and healthcare. Risley was a practicing Christian Scientist. Christian Scientists seek the help of Christian Scientist Practitioners when ill rather than visit medical doctors. Through prayer and study, they attempt to resolve the illness. While the courts found for the employer, HR policies that require employees to bring in a doctor's note might be construed as incompatible with certain religious tenets. The employer in this case did modify their process as to not require a medical certificate to explain the absences.

Work Duties Accommodations

Kelly (2008) describes one of the more contentious accommodation issues as cases where employees object to performing work duties that conflict with religious beliefs. One example summarized by Kelly (2008) is *Rodriguez v. City of Chicago* (Rodriguez 1998). Rodriguez was a police officer and a practicing Roman Catholic and objected to duties that involved guarding abortion clinics. His supervisor managed to avoid such scheduling without granting a formal exception. After 10 months, Rodriguez was assigned clinic duty that he served under protest and he filed a religious discrimination claim. In its defense, the

Police Department presented evidence that they had suggested transfers to districts without clinics (allowable under a collective bargaining agreement), but Rodriguez refused. The court found for the department.

Across all three areas of accommodation, there is a need for further research. The decision-making processes of managers regarding accommodations could be explored, as has been done in the literature on predictors of accommodation for workers with disabilities (e.g., Balsler 2007; Mitchell and Kovera 2006). For example, in the case of employees who wear religious attire, research can examine if employers may regard other factors other than the religion of the employee as the basis of their decisions to accommodate (i.e., safety regulation regarding dress, organizational dress code). Climate for religious accommodation might also be addressed. For example, the Society of Human Resource Management (SHRM 2008) report found that 60 % of the respondents said that corporate leadership pursued a secular culture. What constitutes a positive climate for religious diversity? Are there differences in the experiences of employees seeking accommodation in secular versus faith friendly organizations? Future research should examine how organizations balance accommodation requests in an increasingly diverse religious environment. For example, Dobson (2010) reports on several different ways an employer tried to accommodate employees who wished to pray while at work until finally a reflection room was established as an effective accommodation that was inclusive of all employees. Research on disabilities accommodations has noted the effect of coworker justice perceptions on accommodation success (Nichols 2008); one might expect those perceptions to operate as well in the effective implementation of religious accommodations. Table 2 highlights some of these future research needs.

Retaliation

Retaliation occurs when an employer takes negative action (e.g., firing, discriminating) against an employee for requesting religious accommodation, filing or threatening to file a charge, complaining of or alleging discrimination, assisting someone else in opposing discrimination, and testifying in Title VII proceedings or investigation. Recently, Supercuts settled with the EEOC (2011f) in a case involving accommodation and retaliation. In this case, the employer accommodated the plaintiff by allowing her Sundays off. In 2008, a new manager arrived and scheduled her for Sundays. After several requests by the plaintiff for continued accommodation, she was fired after missing two Sunday shifts. While retaliatory actions have not been a focus of any empirical research on religious

discrimination (Table 1), they have not been much of a focus in the broader employee discrimination literature either, perhaps because such claims are not as common.

Subtle or Covert Discrimination

Outside of disparate treatment, the empirical research we reviewed in Table 1 typically approaches the issue of discrimination outside of the legal definition framework. Indeed, one area of particular focus has been “covert” or indirect forms of discrimination (Carter 2010; King and Ahmad 2010; Thyer and Myers 2009). These studies address actions that would not rise to a legal discrimination definition in that they are not tied to personnel actions, but nonetheless indicate subtle differences in treatment of individuals on the basis of religion. For example, King and Ahmad (2010) noted that applicants who wore Muslim attire had shorter and more interpersonally negative interactions compared to applicants who did not wear Muslim attire. As another example, employers may not recognize that major Christian holidays are already celebrated indirectly by the structure of the workweek (many employees do not work on Sunday; the organization may be closed on Christmas). An employee who is not Christian would have to ask for accommodations to celebrate religious holidays each year. As another example, microinequities include “subtle putdowns, snubs, dismissive gestures, and sarcastic tones (Lubin 2004, p. B1).” Rawtuszko (2009) suggests that each individual microinequity by itself is not detrimental, but a person who is subjected to repeated microinequities feels disrespected and excluded. That is, over time, the effect is additive, and can potentially rise to the level of a harassment claim.

Research on other stigmatized groups (e.g., pregnant women, obese applicants) has indicated potentially differential predictors and outcomes for subtle discrimination versus legally protected differential treatment (Barron et al. 2011; Hebl et al. 2007; King et al. 2006). Investigation of the generalizability of this research to religious discrimination contexts seems warranted. For example, although King and Ahmad (2010) examined subtle discrimination against Muslim applicants, this line of study can be expanded to other religious groups (i.e., Jewish, Christian, Hindu) as well to see if they experience similar or different levels of subtle discrimination. In addition, Ghumman and Jackson (2010) found that visibly identified Muslim women have low expectations for receiving job offers. Similarly, religious discrimination research can examine the effects of subtle discrimination and microinequities on not only just employees’ expectations for employment but also for their psychological and physical well-being (e.g., self-esteem).

Summary and Suggestions for Future Research

Case law and the HR practice literature note four types of discrimination claims. However, with the exception of disparate treatment, the empirical research literature from the psychology and management disciplines provides little attention to these, but does acknowledge perceptions of bias that may fall outside of legally actionable behaviors. While this empirical research literature does provide some connection to broader models of stigmatization and discrimination by discussing stigma characteristics (e.g., visibility of religion) that affect levels of discrimination (Jones et al. 1984) and some researchers use methodologies similar to those used for examining other forms of discriminatory behavior (e.g., King and Ahmad 2010), there is actually little empirical investigation of the antecedents and consequences of religious discrimination in the workplace. Thus, there is a need for a model of religious discrimination that integrates and evaluates research from the general stigmatization literature.

Specifically, very few of these empirical studies delve into the underlying mechanisms and root causes for religious discrimination in the workplace. However, there are a number of theoretical frameworks that could be brought to bear on the study of religious discrimination at work: social identity theory (Tajfel and Turner 1979), system justification theory (Jost et al. 2004), realistic group conflict theory (Levine and Campbell 1972), and relational demographic theory (O'Reilly et al. 1989) have all been considered in research on other forms of discrimination and might be applied here. The extensive research on antecedents and consequences of discrimination (e.g., Crocker and Major 1994; Major and Kaiser 2005; Major et al. 2003) would also inform the investigation of religious discrimination.

Outside of focusing on antecedent and consequences, future models of religious discrimination should also address moderators that may serve to reduce religious discrimination. For example, Jolson (1974) and King and Ahmad (2010) recommended that future research examine job context factors that may influence religious discrimination. Ghumman and Jackson (2010) suggested that the amount of public contact or job status associated with a job may influence expectation of religious discrimination of some religious minorities (Muslim women who wear the headscarf). Existing research on other forms of discrimination would suggest individual differences such as stigma consciousness, system justification beliefs, and religiosity might influence whether actions are perceived as discriminatory and also how discrimination is responded to (Eliezer et al. 2011; Mallett and Swim 2009). For example, Ghaffari and Çiftçi (2010) showed a positive relationship between religiosity and perceived discrimination among Muslim immigrants to the U.S.

Table 2 provides an outline of the many research suggestions in this paper. It is useful to note that while research aids our understanding of religious discrimination, it may also help in applying and even shaping the law. That is, Gutek and Stockdale (2005) discuss how research on the ubiquitous nature of gender stereotyping has led to case law development around when such common stereotyping actually reaches the level that would constitute illegal behavior. In a similar way, research on religious stereotypes and subtle differential treatment based on religion may help inform when a specific type of behavior in organizations should be considered illegal.

To summarize, as evidenced by the paucity of empirical research articles, there is room for greater focus on religious discrimination by researchers. The literature does shed some light on the question of what may be contributing to the increase in religious discrimination claims; in the next section we describe potential contributors to discrimination (summarized in Table 3), and offer directions for future research in regard to each of these contributors.

Contributors to Religious Discrimination

Between the years 2000 and 2010, the number of charges alleging religious-based discrimination almost doubled showing an increase of 96 % (EEOC 2011a), compared to a 24 % increase for race, 45 % for national origin, and a 15 % for sex-based charges during that same time frame. Although these religious-based claims represent fewer than 5 % of all the workplace discrimination claims reported to the EEOC, these data reveal that religious-based discrimination has increased more rapidly than most other protected categories under the CRA; four times more rapidly than race-based charges. A detailed examination of our literature review revealed several recurring themes (see Table 3) related to why religious discrimination claims occur. Based on themes uncovered in our review, we identify several factors likely contributing to religious discrimination claims: (1) legal ambiguities, (2) increased religious diversity in the American workforce, (3) increasing expression of religious beliefs, and (4) the unique nature of religion compared to other protected categories.

Legal Ambiguities

What is religion and what religious beliefs are protected under the CRA have been questions of concern for many employers (Ball and Haque 2003; Cromwell 1997; Henle and Hogler 2004; Kelly 2008; Morgan 2004). Beliefs are

only considered religious if they concern “ultimate ideas about life, purpose, and death” and pertain to “moral or ethical beliefs as to what is right and wrong and are sincerely held with the strength of traditional religious views” (EEOC 2008a). Those beliefs that are not considered “religious” are those which reflect social, political, or personal preferences. Determining whether a belief or practice is “religious” or “secular” can represent a challenge. For example, if a person is a vegetarian and refuses to handle meat products at work, is it because of a religious belief (i.e., Hinduism) or because of personal preference? Important to this discussion is the concept of trait mutability (Wyld and Cappel 1992), or whether an individual characteristic is a matter of preference or inherent characteristic or belief. Unlike race and gender cases, religious beliefs could be framed as a preference. This is particularly of concern with regard to non-mainstream religious beliefs and in cases where the plaintiff does not adhere to all aspects of a particular religion (EEOC 2011g).

Furthermore, the law only requires employers to accommodate religious beliefs if those beliefs are “sincerely held,” but determining the sincerity of one’s religious beliefs might be difficult (Inman and Inman 2003). Specifically, the employer must consider whether the employee has always behaved consistently with the professed belief, the timing of the employee’s requests, and whether this request is based on religious grounds or personal/secular reasons (EEOC 2011b). This is especially problematic as individuals’ religious observances may change over time (i.e., a Seventh-day Adventist woman asks to not work on Sabbath despite regularly working on the Sabbath for the past 10 months).

Legal ambiguities continue to be as issue as religious diversity and religious expression in America increases (Brecheen and Kleiner 2000; Henle and Hogler 2004), in which the rise of non-traditional beliefs may challenge traditional notions of “religion” and “sincerely held beliefs.” For example, some beliefs may neither constitute personal/secular beliefs nor religious beliefs but fall under a gray area: spirituality (Morgan 2004), conscience (Von Bergen and Bressler 2011), creationism (Wyld and Cappel 1992). In the case of Forrest Mims III and *Scientific American*, Mims was not hired for a regular contributor position at *Scientific American* because of his belief in creationism; however, he self-identified his belief in the theory of creationism as being scientifically-based rather than religious-based. Although this case was settled out of court, it highlights how certain beliefs do not fall under religious beliefs but may still require the protection offered under the religious-based employment discrimination law.

Another type of legal ambiguity arises from laws that seem to counter one another. For example, although Title VII protects individuals from religious discrimination,

the first amendment religion clause and the statutory exemptions of “religious organization exemption” and “ministerial exception” offers religious institutions special protection, allowing religious organizations to choose individuals from preferred faiths (Coon 2001; Heller 2007). Similarly, Coon (2001) and Heller (2007) note that the “religious organization” and “ministerial exception” may also lead to non-religious discrimination. In *McClure v. Salvation Army* (1972), the U.S. Court of Appeals for the Fifth Circuit rejected claims from a woman that her church, the Salvation Army, engaged in sexual discrimination in firing her as a Salvation Army officer, which was the functional equivalent of an ordained minister. The court ruled that “ministerial exception” to Title VII give religious organizations the right to choose ministers free from any government regulation, thus giving the Salvation Army the right to fire her.

Much as researchers shed light on the “reasonable woman” standard in sexual harassment law (Blumenthal 1998; Gutek and O’Connor 1995), research could inform discussion of these legal ambiguities (see Table 2). For example, what affects perceptions of whether something is considered a religious belief or practice? Or perceptions of whether a belief is sincerely held? What exemptions and exceptions are considered acceptable or permissible and which are viewed by managers and employees as problematic?

Increased Religious Diversity

Another major factor contributing to religious discrimination is the increasing religious diversity in the U.S. workforce, which has been widely noted in both the HR practice and empirical research literatures (Brecheen and Kleiner 2000; Henle and Hogler 2004). Although Christianity remains the majority religion in the U.S., the non-Christian population is growing rapidly. The American Religious Identification Survey (2009) reveals that the total American population belonging to non-Christian religions has increased from 3.3 % in 1990 to 3.9 % in 2008. In addition, there has been a significant rise in those who claim to be unaffiliated with any religion (e.g., Atheist, Agnostics), increasing from representing 8.2 % of the American population in 1990 to representing 15 % of the American population in 2008. Similar to the rise in individuals who identify themselves as unaffiliated with any religion, the percentage of individuals who either don’t know or refuse to classify their religious identification also has gone up from 2.3 % in 1990 to 5.2 % in 2008. In a 2008 survey conducted by SHRM (2008), 64 % of HR professionals who responded reported there was some degree of religious/spiritual diversity among employees in their organization. With this

increased diversity, workplace misunderstandings on religious grounds have increased, resulting in intolerance and conflict between employees (Kelly 2008).

Furthermore, recent events may make certain religious groups even more susceptible to workplace discrimination. After 9/11, Islamophobia in the United States (Allen and Nielsen 2002) led to increased discriminatory behavior against Muslims (Ball and Haque 2003; Carter 2010; EEOC 2003; Malos 2010). Discrimination claims by Muslims filed with EEOC are higher compared to any other religious group (EEOC 2011a), accounting for nearly a quarter of recent religious-based claims. Because of the many religious restrictions that Muslims have on their daily lives, integrating Muslim observances and practices into the workplace can be difficult (Ball and Haque 2003; Estreicher and Gray 2006). Muslims have dietary restrictions, dress and grooming requirements, and daily prayers that might directly come in conflict with existing work practices. For example, in *Elkhatib v. Dunkin' Donuts, Inc.* (2004), Elkhatib refused to sell pork products at his three Dunkin Donuts restaurants because Islam forbids him from handling pork.

Religious practices of other religious groups may also be perceived as being difficult to accommodate in the American workplace (Cromwell 1997), especially if strict observance of practices is emphasized. For example, Seventh-day Adventists and Orthodox Jews cannot work during the Sabbath. In the case of *Minkus v. Metro. Sanitary Dist.* (1979), the Metropolitan Sanitary District of Chicago failed to reasonably accommodate an Orthodox Jew by refusing to give their regularly scheduled civil service examinations on days other than Saturday, the Jewish Sabbath.

While the sparse empirical research on religious workplace discrimination reviewed in Table 1 does seem to focus on specific religious groups as particularly likely targets of discrimination, much more can be done to understand who may be targeted and why (see Table 2). That is, workplace religious composition might be considered as an influence on discrimination against certain groups much as relational demography research has focused on sex and race composition. For example, how does the religious composition of a workgroup influence levels of harassment and levels of accommodation? Stereotypes of different religious groups such as Muslims (Asani 2003) Jews (Cohen et al. 2009) and Christians (Lips-Wiersma and Mills 2002) differ in content that might be work-related (i.e., competence and warmth dimensions; Fiske et al. 2002), suggesting that some may be more likely to experience discrimination at work than others or that certain job or occupational characteristics (e.g., customer contact) might influence levels of discrimination experienced.

Increased Religious Expression

As American organizations increasingly promote diverse workplaces in the belief that diversity adds value for their organizations (Grossman 2008), the number of organizations allowing workplace religious expression has expanded. As such, the number of employees who wish to express their religion at work has increased (Ball and Haque 2003; Borstorff and Arlington 2010; Brecheen and Kleiner 2000; Henle and Hogler 2004; Kelly 2008). A Gallup poll (2006) reveals that 80 % of Americans say that religion is an important part of their lives and a survey conducted by VNU Business Media (2004) found that 61 % of American workers believe increased religious awareness would benefit the workplace. However, because of the general secular nature of the American workforce, religion in the workplace can create tensions (Ettorre 1996). Also, employees who are recent immigrants may not view work as secular (Morgan 2004) and both expect and demand to be religiously observant in the work arena.

Moreover, although most American workplaces may be secular in nature (Cromwell 1997; Kelly 2008; Morgan 2004), the majority of work policies and procedures favor Christian practices and observances (i.e., no work on Sundays, Christmas is considered a federal holiday) as Christianity is reflective of the faith of 76 % of Americans (American Religious Identification Survey 2009). As religious diversity increases, some of the religions gaining increasing representation in America (i.e., Muslims, Sikhs) may have certain religious-based obligations requiring expression and requests for religious accommodations such as religious holidays during regular workdays, time off for prayer/rituals, religious attire, and grooming practices will also inevitably increase (Dobson 2010). How secularism can lead to discrimination of religious individuals (Hodge 2006, 2007a, b) has been the target of some of the empirical research we reviewed.

Religious accommodation and expression in the workplace can also be connected to the mistreatment of certain other protected groups (Henle and Hogler 2004; Morgan 2004; Schulze and Kleiner 1999) as well as lead to religious discrimination of employees of other faiths (Ball and Haque 2003; Morgan 2004; Rudin and Harshman 2004). For example, some religions might find practices of certain minority groups (i.e., homosexuals; single women, unwed mothers; other religious minorities) and their lifestyles offensive (Anti-Defamation League 2011). However, such employees might find that their organizations have diversity policies in place that ask employees to respect and value such differences among co-workers, although this might be in conflict with their sincerely held religious beliefs.

The issue of proselytizing deserves special attention here, as some employees wish to openly discuss their

religious beliefs, distribute religious literature to fellow coworkers, and greet others using religious phrases as a tenet of their religion (EEOC 2011b). However, such religious expression may be unwelcomed by other employees and interfere with their work, thereby constituting unlawful harassment. Proselytizing as well as other forms of religious expression (displaying religious pictures, posters, or messages within a workstation) becomes a challenge for many employers because they must balance religious accommodation obligations with disparate treatment and harassment issues. Specifically, an employer's request for an employee to stop proselytizing may be seen as a failure to reasonably accommodate an employee's religious belief, but failure to respond to another employee's complaint about the first employee's proselytizing could be considered religious harassment (ADL 2011). Although the law is still developing in this area and remains unclear (Morgan 2004), an employer may restrict proselytizing if it poses undue hardship, disrupts or is expected to interfere with the operations of other employees and customers, and creates a hostile work environment for others.

Research can increase our understanding of how religious expression in the workplace is perceived and treated (see Table 2). For example, studies might investigate what forms of religious expression are deemed appropriate (e.g., wearing religious symbols, taking break time for prayer) and which are not (e.g., promotion of beliefs and practices) and what factors influence appropriateness perceptions (e.g., industry, job, status, religious affiliation). It would also be especially interesting to examine if discrimination is primarily religiously motivated or simply due to the expression (visibility) of one's religion. For example, Ghumman and Jackson (2008) examined how visually-identified Christian, Jewish, and Muslim job applicants via religious identifiers influenced rater perceptions of employability. Although the results from this study were mixed, King and Ahmad (2010) did find support for visibly identified Muslim applicants experiencing more subtle discrimination.

Unique Nature of Religion

Religious identity may be like other social identities in many ways, but it also differs from the more common foci of discrimination research (i.e., race and gender) in ways that may affect the applicability of that research. First, religion can be concealable and not necessarily known to the observer (King and Williamson 2005) and concealable stigmas are known to experience less discrimination (Jones et al. 1984). This provides some explanation as to why the increases in religious expression in the workplace are

associated with increases in discrimination claims; that is, many may feel religion should "stay concealed." Second, religion is typically viewed as a controllable aspect of identity (Cromwell 1997; Moran 2007) and controllability is associated with greater stigmatization (Crandall 1994; Weiner et al. 1988). This relates to why there may be concern and confusion among employers regarding the difference between preference and religion, and also underlies the courts' focus on trait mutability. Third, unlike social categories such as race and gender, religion is based in belief systems and observers can have misperceptions of the beliefs associated with various religious categories (e.g., belief in polygamy, beliefs regarding evolution, practices, and rituals; Shaheen 1997; Lips-Wiersma and Mills 2002), and such inaccurate stereotypes may drive religious discrimination.

Religion can also be linked with other identities and thus, discrimination on the basis of one's religion may also overlap with discrimination based on national origin, race or color (Ball and Haque 2003; Malos 2010), especially when members of certain national origins and racial groups are also affiliated with or perceived to be affiliated with a certain religion (EEOC 2011b). For example, 73 % of immigrants in America from the Middle East are Muslim (Center for Immigration Studies 2002). As such, employees may claim discrimination on the basis of their religion, national origin, and race and given the increasing diversity in America, this intersectionality of multiple identities has become more pronounced. In *Tolani v. Upper Southampton Township* (2001), an Asian employee from India alleged discrimination based on race, religion, and national origin when an employer mocked the worship practices of Indian people. Complicating this issue even further is that certain nationalities are mistakenly associated with certain ethnic/national groups (South Asians and Arabs as Muslims) or even different religious groups altogether (Sikhs and Christian Arabs as Muslims), and thus become targets of discrimination (Ball and Haque 2003; Malos 2010). After 9/11, there were many instances of Sikhs and non-Muslim Arabs being confused for Muslims and consequently harassed (Lee 2003).

Although belonging to certain religious groups and affiliated ethnic groups may be subjected to discrimination, non-believers (e.g., Atheism, Agnosticism) are also susceptible to religious discrimination and are legally protected. For example, a female employee was discharged for creating a disturbance from Associates Commerce Solutions (ASC) after complaining of finding a picture of Jesus on her computer, which had been left by two Baptist coworkers who also requested to have workspaces far away from her, because the employee was an Atheist (Elizabethon Star 2004).

Research can greatly enhance our understanding of how religion is and is not like other foci of workplace

discrimination (see Table 2). Thus, there is a need for religious discrimination studies which considers unique issues associated with religious discrimination we highlight (e.g., concealability, controllability, and limits on religious expression). For example, studies varying the visibility of one's religion and the specific nature of religious beliefs may all be meaningful contributions to the literature. Exploring the intersectionality of religion and other characteristics would be another interesting field of research to pursue. Given the overlap between Muslim and Arab identities (Ball and Haque 2003; Malos 2010), it would be interesting to see if having an Arab-sounding name alone but no Muslim affiliation and vice versa may influence discriminatory responses. For example, Derous et al. (2009) conducted a study on the job suitability of resumes with applicants with Arab names and affiliations, and found that having greater Arab identification led to lower job suitability ratings when job cognitive demands were high and client contact was low. The intersection between gender and religion may also be interesting, as Ghumman and Jackson (2008) found that Muslim women who wore religious identifiers were rated more employable than Muslim men who wore religious identifiers. Atheists as targets of discrimination could also be a specific focus, given evidence of strong prejudice against Atheists among Americans (Gervais et al. 2011).

Having reviewed the literature and case law on what constitutes religious discrimination and what contributes to it and having discussed suggestions for future research throughout, we now turn to brief summaries of implications for human resource management (HRM).

Challenges and Practical Implications for Human Resource Management

Although organizations try to balance religious freedom rights of employees with the needs of businesses and the rights of fellow employees (Zaheer 2007), the rise of religious discrimination claims is a challenge for HRM. While many organizations have employee training related to gender and race discrimination, as religious-based discrimination claims increase, organizations that assumed a secular approach to work now have to address religion in the workplace. Accommodation and harassment issues that were not salient in the 1960s when the CRA was enacted, are now of concern. In fact, the EEOC (2008b) recently published a best practices document specifically to aid employers with these challenges. Table 2 (right column) outlines the EEOC recommended employer best practices as well as our own suggestions for practices in relation to the employment issues and research needs we have discussed to this point.

One issue of concern to organizations is the discrepancy between HR professionals' actions and employees' beliefs regarding accommodations on the basis of religion. A SHRM (2008) study indicated that only 56 % of employers offered time off for religious holiday observances, while a Tanenbaum Center for Interreligious Understanding survey (1999) reveals that 89 % of employees felt that their employers should accommodate religious holiday observances. This discrepancy might be due to employers not being aware of religious rights that are protected under the CRA, as well as to the debate about what constitutes religious discrimination in a diverse workplace (Huang and Kleiner 2001). While practitioner articles increasingly discuss religious accommodation (as noted by our literature review), organizations may not have discussed religious accommodation on a policy level.

The cases reported in this paper indicate some of the challenges facing HR professionals. For example, it is apparent that HR departments should review current policies concerning religious accommodation and harassment. The cases reveal that some organizations involved in litigation inconsistently apply policies across organizational units (e.g., dress/grooming). This presents several HRM challenges. First, are existing anti-discriminatory policies responsive to the current employment environment? Second, if the policy is sufficient, why is there an implementation problem? With regard to the first issue, organizations need to examine the extent to which religion is explicitly mentioned in existing policies. Some organizations believe generic policies covering all aspects of protected class discrimination are sufficient, but case law suggests this is not true. With regard to the second issue, organizations should consider adding a religion component to anti-discrimination training currently being offered. Even though, the EEOC (2008b) suggests that policies be well-publicized, it is possible that managers are not aware of certain aspects of religious accommodation. Survey research may reveal why this occurs.

In addition to the above, organizations also need to communicate with employees regarding their duty to inform (EEOC 2008b) as it would be difficult if not impossible for employers to know all aspects of all employee religions (Smith 2004). By putting employees on notice concerning their obligations with regard to accommodations, the organization protects itself. This communication can also build a more inclusive culture by inviting employees to seek accommodation.

If increasing numbers of employees do seek accommodation, the HR function within organizations needs to be able to document the cost and impact of accommodation (Harrison and Sin 2006). Organizational documentation supports the employer's claim of hardship in denials of accommodation as it demonstrates that the organization listened to the

claimant, considered costs associated with accommodation or alternative accommodations, computed said costs, and linked the organization's decision with an existing policy.

SHRM's survey report, *Religion and Corporate Culture* (2008), identifies a gap between the accommodation practices of small and medium size organizations versus larger organizations, where HR managers in larger organizations may have more resources (e.g., legal, training) available to understand religious discrimination. Differences in accommodations may be not only due to the lack of legal understanding of religious discrimination but also due to legally justified "undue hardships" encountered by smaller organizations.

SHRM (2008) also identified another gap, between accommodations that were most meaningful to employees and those actually offered by the organization. Organizations must make employees aware that flexibility for particular accommodations may sometimes be necessary; that is, a requested accommodation may not work for the organization and the employee may be presented with another option. Table 3 (right column) summarizes some key tasks for HR managers to insure compliance.

Conclusion

Despite the enactment of CRA and later amendments to address religious observances and practices, religious discrimination continues to be a problem in the American workplace, as evidenced by the rise in religious discrimination claims over the past decades. Based on our literature review, we contend that the legal ambiguities as they relate to the CRA, the increasing religious diversity and religious expression in the workforce, and the unique characteristics of religion all contribute to its rise. Furthermore, these trends highlight the need for employers to understand and address religious discrimination issues in the workplace and the lack of empirical research in this area points to a critical gap in our understanding of workplace religious discrimination. As HR managers are often charged with making sure employment policies and practices are free from discrimination to protect employers from legal action from their current or perspective employees, a better understanding of religious discrimination is an important goal for researchers and practitioners.

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