

Labour & Employment

Work that works: Equality, diversity and inclusion | Charlene Theodore

By **Charlene Theodore**

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(January 25, 2021, 1:39 PM EST) -- We have seen in the last decades a number of legal proceedings raising claims of inequality in the workplace. Those that have been decided or resolved so far sometimes revealed shocking stories of inequality — behaviour so blatant and unabashed that “inequality,” for all the shamefulness it connotes, still seems too gentle a word. Some involved more subtle or insidious behaviour, but the end result — a fundamental erosion of workplace culture and relationships — was the same.

As lawyers, we are thankful and proud that our justice system remains a place to which people turn to right fundamental wrongs, remedy injustice and help restore dignity. I will leave the work of conclusions on cases to those trusted courts. What I do know for sure is that when communication between workplace parties is in the form of pleadings, and colleagues find themselves on opposite sides of a courtroom, from the perspective of workplaces that work, the failure is complete. We should ask how workplaces can proactively identify and remedy issues before the justice system is engaged.

The recent class action by Black federal government workers raises fundamental equality issues in the public service of Canada in the context of anti-Black racism. The nature of class action litigation means that we will have to wait for some time to discuss any lessons learned from this case. However, there are some simple truths, one of which can be told before the first submission is uttered — it would have been better had it not come to this.

I have spent my career focused on workplaces. In my current role, I have the rare opportunity to work as a union side labour lawyer and a management side labour and employment lawyer. Rather than accepting that there is a natural competition in philosophy inherent in these two roles and undertaking the intellectual gymnastics of compartmentalizing two different perspectives, I have come to see a unifying perspective and am dedicated to a shared goal — building workplaces that work for everyone so that everyone can thrive. Here are some of the ways to achieve that goal:

- If employees are willing to put their equity and diversity issues in the pleadings, they would have been willing to tell you about them if you had offered the appropriate avenues. Put in place the culturally appropriate fora and structures to allow you to receive continual, honest feedback — the foundation of real solutions.
- Don't take your own perceptions and call that reality. The real success of your inclusion initiatives is measured from the perspective of the equality-seekers. Make sure you are talking *to* those employees about the experience *of* those employees. True inclusion is in the eye of the beholder. No matter what boxes you have checked, if you haven't checked that one, you aren't finished.
- As a workplace leader, it is critical that you are engaged in your equity and diversity initiatives. If you yourself had to defend your diversity and inclusion plan, could you do it knowledgeably, honestly and proudly? If not, it is time for you to lead the work on developing a truly meaningful equality, diversity and inclusion plan.
- Thriving workplaces are an “all-hands-on-deck” enterprise. In delivering workplace protections and guarding human rights standards, unions, joint committees and other employee bodies

should ensure that everyone's lived experience is factored into the necessary protections and that everyone has, and knows they have, a comfortable seat at your table. Diversity matters in this kind of leadership as much as it does in management.

- When I started my term as OBA president, issues of racism in the justice sector had been brought home in painful ways. It was another situation where the particulars of every case would be determined by other decision makers]; but the point I wanted to make sure was not lost is that once Black, Indigenous people and other people of colour lost faith in the justice system, we knew there was much more work to be done. The same holds true here. It is critical that workplace leaders are trusted to deliver equality and inclusion by those who seek equality and inclusion. Building that trust is as important as building a system. This is especially true as you work your way through what some have called the "messy middle" of the equality journey — when the truths are hard to hear and the solutions are hard to reach and the momentum is hard to sustain.

If you have the power to hire, fire or in any way affect the lived experience of people in the workplace, you should view getting equality, diversity and inclusion right as a core part of your job.

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