

## FROM DISCRIMINATION TO INDIVIDUAL LITIGATION

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With a history of anti-discrimination that goes back to the civil rights movement of the 1960s and the equality enshrined in the constitution, the story of workplace diversity in the US is a very different one from that found in Europe.

However, one only has to look at statistics on shifts in the ethnic make-up of the US population to see one of the main drivers of workplace diversity there today. According to projections released last month by the US Census Bureau, the "non-Hispanic white" proportion of the population, which made up 70 per cent of the total in 2000, is expected to drop to 50 per cent by 2050. At the same time, the Hispanic population is predicted almost to double, from 12.6 per cent to 24.4 per cent. The Asian community's representation will grow from 3.8 per cent to 8 per cent.

"In the US you have a national structure with a national identity and within that a large diversity of people in terms of ethnicities and regional differences," says Michael Stuber, founder of mi · st | Consulting, the Cologne-based diversity consultancy. "In Europe the basic setting is totally different - you have 12 and soon 25 European Union countries." The US's history of affirmative action has left a culture of support - both at government and private levels - for minorities in the corporate world.

The National Minority Supplier Development Council (NMSDC), for example, has since 1972 facilitated increased procurement and business opportunities for minority businesses of all sizes. With 3,500 corporate members - including public, private and foreign-owned companies, as well as buying institutions such as universities and hospitals - the NMSDC's regional councils match more than 15,000 minority owned businesses (Asian, Black, Hispanic and Native American) with member corporations that want to purchase goods and services. The strength of minority business ownership reflects this. The results of the Inner City 100 - an initiative founded in the US in 1994 by Michael Porter, a Harvard business school professor, and replicated in the UK in 2001 - reflect this sort of institutional support. Minority representation of the UK organisations in the index was 13 per cent last year compared with 38 per cent in the US.

At the same time, the US judicial system and its defence of individual rights means employers flouting rules on equal rights risk facing damaging lawsuits. "Individual recourse is part of our culture," says Susan Meisinger, president and CEO of the Virginia-based Society for Human Resource Management. "But the whole aspect of civil rights liability is a diminishing focus. That is a consideration in how you manage your employment relations." However, Ms Meisinger believes the drive to expand business in an increasingly diverse market is another powerful force behind diversity in US corporations. "The focus on diversity in the broader sense is because of a combination of looking for skilled workers, wherever they may be, and understanding that the market you're trying to attract is getting more diverse." The growing spending power of minority groups certainly provides a powerful reason for US companies to hire more minorities in sales and marketing teams.

Hispanics alone wield more than \$650bn in spending power and by 2008 this figure is projected to exceed \$1,000bn. Employing Latino staff is a strategy likely to help tap into this spending. Even so, litigation looks likely to remain a big part of the diversity picture. While big US companies cite their diversity commitments as a key element in their success, many are still battling racial discrimination and other lawsuits. Wal-Mart, for example, is facing the US's largest ever civil rights class action. Filed by six women, the suit claims Wal-Mart systematically denies promotion and equal pay to women. If certified by the federal judge considering the case, it would cover almost 1.6m current and former female employees.

So it seems that, regardless of what US companies do to promote diverse workforces and equal opportunities, the litigious culture means fear of legislation is likely to remain among the factors driving diversity. "The US is a long way ahead on the legal framework. That's a huge issue for them," says Dianah Worman, diversity manager at the UK's Chartered Institute of Personnel and Development. Ms Worman points out, however, that much of this sort of legislation is now materialising in Europe. "The US has been ahead on age discrimination law. They also introduced law on disability long before we did. So in some respects, when they catch a cold in the US, we catch it the next day in Europe."