



Fighting Subtle Forms of Employment Discrimination against Muslim Refugees

Yvette M. Young, University of Utah

Despite long-standing laws prohibiting employment discrimination based on race, color, religion, sex, national origin, disability, or genetic information – discrimination against legal immigrants persists. New research I conducted in Utah on the employment history of people from refugee backgrounds finds that discrimination continues because employers and managers have found creative ways to skirt laws that prohibit discrimination. Employers in Utah have been particularly creative in finding methods to exclude Muslim refugees.

Since Donald Trump declared his candidacy for President in 2015, his public speeches and tweets have asserted that refugees and Muslim immigrants are terrorist threats. The President's openly anti-Muslim rhetoric and policies have, according to some authorities, made hate, prejudice, and discrimination more acceptable. In a 2017 interview with ABC News, Ibrahim Hooper of the Council on American-Islamic Relations argued that: "What we are seeing in America right now is the mainstreaming of hate. Extremists feel empowered now because they think that they have the president on their side." Although business owners and managers may not display the overtly hostile behavior seen at rallies and perpetrated by hate groups, their discriminatory acts can have major impacts on the social and financial wellbeing of refugees. In my research interviews with refugees in the state of Utah – which is a generally welcoming state for refugees – I find that discriminatory hiring, job retention, and wages are especially prevalent for those who are conspicuously foreign and Muslim.

Dress Codes and Possibilities for "Creative Discrimination"

In research interviews with Somali Muslim women who resettled in Salt Lake City, I find that workplace policies, such as dress codes and health and safety regulations, are used to discriminate against Muslim women wearing religious attire because they are conspicuously foreign and Muslim. This can also make it hard for such women to attain and retain jobs.

- Naima, a Somali woman I interviewed, told me that her employer told a coworker to: "take off the hijab if you wanna work here" and later asked why the two of them didn't study Mormonism instead of Islam. Although her co-worker had no option but to comply and take off the hijab, Naima was more familiar with her rights and her good English abilities allowed her to address them with her manager and human resources. Such experiences and varied outcomes are common for Somali Muslim women.
- Other women I interviewed described how employers selectively apply occupational safety, health, and food handling regulations to discriminate against women who wear a hijab. Although some occupations, such as those in manufacturing, can reasonably restrict employees from wearing this type of religious garb, many employers simply invoke rules needlessly. For example, one hotel manager suggested that long dresses might get caught in the cleaning carts and required the women to wear pants. The women who told me about the interaction offered to wear shorter, calf-length dresses and to tuck their headscarves into their shirts so they were not free-flowing – a proposal that met legal safety requirements and the "reasonable accommodations" required of employers by the Equal Employment Opportunity Commission. Notwithstanding, the employer refused to allow modifications to the official hotel uniform.
- In another instance, a Somali woman of refugee background began working for a company that makes cakes. Her employer told her that she had to remove her scarf and wear a hair net instead. However, food handler statutes simply require that hair be effectively "restrained" to prevent stray hairs from falling into food, and this woman's headscarf covered all of her hair and kept it both restrained and out of view. Clearly, her head scarf met the Food Handlers' requirements, but when she refused to remove

her headscarf, she was sent home and eventually lost her job.

These examples are all direct violations of the Equal Employment Opportunity Commission requirement that employers must make reasonable accommodations to allow Muslim women to wear religious attire. However, by inappropriately invoking workplace safety and health regulations, employers circumvent equal employment laws in practice. Because of this type of discrimination, many of the Somali refugees I interviewed have a hard time finding jobs that allow them to wear their religiously-required hijabs and long dresses. And when many find it hard to get or hold jobs, the community's economic fortunes suffer.

Hidden Prejudices and Refugee Integration

Some employers may simply be unaware of simple modifications within the Muslim dress code that could meet safety requirements. But many rigidly require that all employees wear specific, unmodified uniforms for reasons that have more to do with corporate image than safety. The Equal Employment Opportunity Commission does not find image to be a compelling justification for violating employee civil rights to free religious expression.

Ultimately, my evidence about employer tactics highlights the presence of subtle but pervasive anti-Muslim sentiment in Utah. This state provides many forms of support to refugees and has a strong service infrastructure and robust ethnic organizations. Nevertheless, many Utah residents have not fully accepted the presence of conspicuously foreign community members, allowing employers to use subtle discriminatory tactics. Given the climate of fear and animosity toward Muslims, the conspicuous nature of the Somali women's religious attire can reduce their desirability as employees, even in low-status jobs. Although employers may be reticent to openly violate equal employment laws, some are willing to use creative interpretations of occupational safety regulations to discriminate against conspicuously Muslim job applicants.

To mitigate this problem, I recommend that case workers who are developing new relationships with potential employers of refugees should observe job training to understand all work requirements and potential safety restrictions. In addition, employment assistance agencies should develop a training program for employers of refugees, to explain culturally sensitive management practices and legal rules about reasonable accommodations for religious minorities.

Read more in Yvette Young, “‘Making Do’ in the Land of Opportunity: A Quantitative Analysis of the Economic Integration of Refugees in Utah” (Under review, 2018).