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Work is often a significant part of one's life. Decisions by employers — including hiring decisions and choices on how to treat employees at work — can have life-changing effects on lives and livelihoods.

Therefore, if there were reason to suspect that some employers make such decisions on the grounds of applicants' or employees' race, sex, or other personal characteristics without a valid reason, then we should be worried.

If that were to become widespread, our society would suffer. Some people would face greater challenges than others at work, and therefore in life, merely because of who they are.

They might be treated without the equal dignity that they deserve and, in the extreme case, be denied access to resources they need to live a fulfilling life.

It is therefore heartening that Prime Minister Lee Hsien Loong in his National Day Rally speech not only highlighted the problem of employment discrimination, but also answered calls for laws to deal with it.

SEVERAL MYTHS

There are several myths about anti-discrimination laws. The first is that they are not necessary as we already have laws forbidding harassment and hate speech.

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In truth, anti-discrimination laws serve an entirely different function.

Discrimination is a relative concept. If A treats B worse than others because of B's race, A discriminates on the ground of race, even if his treatment of B does not sink to the level of harassment or hate speech.

Second, some might think that an anti-discrimination law would entail affirmative action, which the nation's founders steadfastly rejected.

Indeed, several countries' governments take the view that affirmative action is the best way to combat discrimination. But it is entirely possible to have anti-discrimination law without affirmative action.

Finally, some think that anti-discrimination laws require everybody to be treated in precisely the same way.

In truth, anti-discrimination laws do permit treating people differently, even on the ground of personal characteristics like sex or religion.

What an anti-discrimination law would do is to ensure that differential treatment takes place only with a valid justification.

HOW ANTI-DISCRIMINATION LAWS WORK

Anti-discrimination laws typically identify various grounds — sometimes called "protected grounds" – on which differential treatment is viewed with suspicion.

We can debate over what the protected grounds should be in Singapore.

PM Lee mentioned sex, age, race, religion and disability.

Other countries' laws sometimes cover other characteristics such as marital status, sexual orientation, and pregnancy. Some have called for yet others, such as social class.

Next, anti-discrimination laws typically define two types of discrimination: Direct and indirect.

Direct discrimination means treating someone less favourably than one would treat others because of a protected ground. For example, an employer who is willing to hire only those of a particular race is directly discriminating against those of other races.

We can illustrate indirect discrimination using Mr Lee's example: If an employer is willing to hire only those who can speak Mandarin, that can amount to indirect discrimination on the ground of race.

This is because those who can speak Mandarin are, much more often than not, of the Chinese race. The point is that the impact of the employer's policy differs depending on one's race.

The concept of indirect discrimination is important.

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It can unmask hidden discrimination, such as racial prejudice cloaked as a neutral language requirement. It can also reveal unintentional discriminatory effects.

For example, a well-meaning employer might require employees to have specific educational qualifications which were introduced only in recent years, hence inadvertently discriminating against older workers who have different qualifications.

JUSTIFYING DISCRIMINATION

Most anti-discrimination laws do not absolutely prohibit discrimination. Discrimination on a protected ground is often permitted if it is a reasonable means of pursuing a legitimate aim.

Consider the cases of Nadia Eweida and Shirley Chaplin, two Christian employees in the United Kingdom who were forbidden from wearing a necklace with a cross while working. They claimed that this was unlawful discrimination as their religion required them to wear the cross.

In 2013, the European Court of Human Rights ruled in favour of Eweida, an airline check-in staff member. However, the same court ruled against Chaplin, a nurse at a hospital.

The difference was this: There was no valid reason for the airline to prohibit employees from wearing a discreet piece of religious jewellery, especially since it allowed other religious symbols such as Muslim headscarves and Sikh turbans.

By contrast, the hospital — which allowed headscarves — was entitled to prohibit the necklace as it posed a safety hazard.

For example, it might swing into an open wound or a patient might grab it and cause injury – risks not present with close-fitting headscarves.

The hospital had also offered to let the nurse wear a brooch (instead of a necklace) with a cross, or tuck the necklace under her clothing. She was therefore not totally denied the right to wear religious symbols.

As we can see, the religious discrimination was unlawful in the case of the airline, but justified in that of the hospital.

These examples show that an anti-discrimination law need not impose unreasonable burdens on businesses and employers by demanding strict equality.

On the contrary, it would focus our attention on the particular reasons for the unequal treatment, and allow employers to explain and justify it while taking into account their legitimate interests.

HOW THE LAW COULD OPERATE

Some argue that an anti-discrimination law could "entail lengthy dispute resolution processes".

But the same could be said of any law. That said, Singapore already has simplified and expedited procedures for claims in the Employment Claims Tribunals (for wrongful dismissal or unpaid wages), Small Claims Tribunals and Protection from Harassment Court.

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All of these exist precisely to process cases faster and more smoothly. A similar arrangement can be put in place for discrimination claims.

Moreover, as Mr Lee pointed out, courts and tribunals are not the only means of dispute resolution.

Currently, an employee must first attempt mediation through the Tripartite Alliance for Dispute Management (TADM) before he or she is allowed to file a claim with the Employment Claims Tribunals.

This allows disputes to be resolved "informally and amicably, if at all possible", noted Mr Lee. Other countries, such as the UK and Australia, have a similar system for discrimination claims. Singapore can have one too.

Finally, some might raise fears of frivolous or vexatious complaints of discrimination. Again, the same could be said of any law, such as consumer protection law or anti-harassment law.

In other areas of law, there are mechanisms to identify and weed out such claims swiftly. These can readily be adapted to the discrimination context.

Laws on employment discrimination would be of great benefit to Singapore. If anything, we should ask: Why stop at employment?

What about, say, discrimination by landlords or service providers? While it might be better for the law to develop in an incremental fashion, we should eventually consider the possibilities for anti-discrimination law in other areas too.

It is certainly not wrong to consider the costs of having anti-discrimination laws. But the costs to society of having rampant unchecked discrimination can be much greater.

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