

Reflections Of An African American Female Employment Attorney On Issues of Race and Gender Within the Animal Protection Movement

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In parallel with my 25+ year career as management side labor and employment and education law attorney, I have focused on issues of diversity, inclusion and retention in the workplace. I've represented employers across many industries, and I've been employed in many industries. The issues and concerns that exist in the employment context within the animal protection movement is similar to what I've seen in the broader community in every industry and profession: including professional level women experiencing sexual harassment in the workplace and hitting a glass ceiling; people of color being marginalized and subjected to either overt racist behavior or microaggressions and microinequities that leads to death by a thousand cuts.

I read a recent article by a woman of color (not African American) who was approached by while male at an animal rights conference last year with the question of why there weren't more African Americans at the conference. She also described a similar incident experienced by a Latina woman during the same conference -- both situations involved these women being expected to speak for entire groups of other racial minorities, and of course being singled out for their color while attending an animal rights conference. The apparent confusion and frustration both of these women experienced is a typical response to the many types of macroaggressions experienced by people of color on a far too frequent basis. While I can't speak for all people of color any more than either of those women could, I do have some thoughts on this issue. One of my thoughts is that people of color may understandably feel less inclined to focus on (non-human) animal rights and issues of speciesism when they are not recognized as being fully human by many in society. This dehumanization is reflected in the ability of sexists, racists and white supremacists to feel justified in depicting Michelle Obama as an ape and accepting of Omarosa Manigault Newman being referred to as a dog.

While standing up for animals and engaging in anti-speciesism is not necessarily mutually exclusive with people of color in this country demanding to be treated as fully human, there is an inherent struggle/conflict for some people of color when the sentiment exists that blacklivesmatter /ess and the killing of unarmed black men and women by police generates less outrage in some circles than violence and cruelty to non-human animals. And despite how one feels about Omarosa Manigault Newman, the president of the United States' unapologetic reference to her as a dog was indefensible. The president has also referred to undocumented immigrants with the statement, "These are not people, these are animals." Regardless of whether one believes in and supports animal rights and rails against speciesism, it is clear that statements and depictions like these -- comparing or relegating people to non-human animals - are intended to demean and degrade.

A History of Government Sanctioned Racism Is One Root of the Problem

People of color in this country have been degraded not just by racist individuals, but have been harassed and discriminated by government sanctioned laws and policies for centuries, continuing to this day. Let's start with the *Dred Scott v. Sandford* (1856) U.S. Supreme Court decision holding that the Bill of Rights did not apply to African Americans. Then there was the 1944 case of *Korematsu v. U.S.*, in which the Supreme Court upheld President Roosevelt's executive order relocating Japanese Americans to internment camps and determined that individual rights are not absolute and could be suppressed during war situations. More recently, on June 26 of this year, the Supreme Court in *Trump v. Hawaii* upheld President Trump's travel ban restricting the entry of nationals from majority Muslim countries (which are predominately peopled by persons of color).

Laws Exist to Prevent Discrimination and Harassment in Employment

Despite the policies and legal interpretations that have supported racist outcomes, there are laws that exist to prevent harassment and discrimination, and my focus will be on how the law applies in the employment context. To simplify the issues for purposes of this discussion, discrimination and harassment law centers around the theories of disparate treatment, disparate impact and retaliation.

Disparate treatment primarily addresses intentional acts with discriminatory animus – e.g., this is the category into which sexual harassment would fall, as well as not giving a person of color the same opportunities for advancement given to a white person. Disparate impact prohibits actions that may lack discriminatory animus but have a discriminatory impact on a protected group without a countervailing business justification. For example, if in your workplace, you require that everyone have a bachelor's degree with some focus on animal studies, and you apply that across the board from your CEO or ED to your receptionist, you're going to exclude a large number of individuals from certain jobs, particularly people of color, when the degree is really not necessary for the receptionist to do a good job. With respect to retaliation, employees who complain about perceived bias often feel they are treated worse for complaining and allege they are being retaliated against. Often the likelihood of success on a retaliation claim is better than the underlying harassment or discrimination claim.

In the employment context, almost every employment action matters in terms of considering issues of race and gender equity -- these included decisions on recruiting, hiring, promotion, discipline and discharge.

Consequences of Illegal Harassment and Discrimination

When companies, organizations, or individuals, engage in behavior towards employees that are found by a judge or jury to be discriminatory or harassing, there are of course potential consequences from a legal perspective, including requiring that the employee be given reinstatement, back pay, front pay, emotional distress damages and/or punitive damages.

These are the legal consequences, and while the effects of illegal racism and sexism in an employment context can be terribly expensive in terms of economic consequences, the consequences go beyond that. There's also the cost of a damaged business/organizational reputation, loss of credibility, and the loss of ability to recruit others.

The employee who has suffered the discrimination/harassment, has a loss of productivity, feels demoralized, and unmotivated to further participate in a movement that frankly needs all of the support it can get.

How To Shift The Paradigm

Here are my thoughts on how to bring the animal protection movement to a more inclusive and equitable place.

First, if you are privileged and empowered – which most people who are part of this movement enjoy by virtue of either their race, gender, gender identity, or physical ability, etc., -- then seek to *understand*. “Only if we understand, will we care. Only if we care, will we help. Only if we help, shall all be saved.” That’s a quote from Jane Goodall, and it can be applied in the context of human rights, animal rights, environmental concerns, you name it.

If you have experienced behavior that marginalizes you because of your race or your gender, or if you have witnessed others who experience it, then seek to educate and speak out. Individuals, and organizations within the movement must challenge their assumptions and get uncomfortable. Otherwise, you are guaranteed not to have change. Below are some specific areas in which small changes can bring significant results.

- In *recruitment*, where are you looking for your employees. Are you going out to HBCUs, are you advertising in the local papers geared towards people of color, like the Scanner or the Asian Reporter? Are you seeking to speak with student groups whose demographic is not adequately represented in jobs within the movement, like the Black of Hispanic Student Unions, or Asian student associations on college campuses?
- Watch your assumptions – I’m going to give you a personal example of how I as an African American woman am routinely ignored by animal rights activists. When walking in downtown Portland, there are often activists that are out trying to get people to sign petitions or talk about animal rights. I see them stopping Caucasian people (both male and female), but they will glance my way, and not stop me because (I assume) they assume, I’m not interested. Environmentalists do it, too. You know who stops me? Religious evangelists and people registering people to vote.
- In *hiring*, if you always choose experience over talent and potential and dedication and enthusiasm, your organization is guaranteed to stay white and those at the top to stay male. Why? Because there’s a good possibility that people of color coming into the movement may not have experience because they are not necessarily given the same opportunities or exposure as their white counterparts. But they might have deeper connections to a group or community that your organization is trying to reach. Having said that, be careful and consult with legal counsel to make sure you don’t inadvertently

set yourself up for a claim of discrimination by the white person with more “experience” in the field that did not get selected for the job. Remember that all groups are protected by the discrimination laws in this country, and everyone falls into one or more of those groups.

- Challenge your assumptions about who will make a good employee – someone who “fits” better with the current team may be “fitting” better because he or she looks like others on the team, has attended the same types of schools and has the same point of view – continue to choose only those individuals and you’re guaranteed to stay white.
- In *retention*, watch your behavior that results from implicit biases and avoid microaggressions. If you don’t know how or don’t fully understand, push your organization to get some real training on these issues and issues of cultural competency. If your organization won’t do it or can’t afford it, get online and go to your library and educate yourselves – this is all part of seeking understanding.
- In *promotions*, are you considering and giving greater credence to individuals (read “males”) whom you *perceive* are most confident and assertive over competence and effectiveness in a leadership position? Challenge your assumptions about all of these things – ask yourself what makes a good employee, what makes a good leader.
- What else can you do?
 - Form support groups (for women and people of color) at work and across the industry – there is strength and power in numbers – to help make sure your message and concerns are heard.
 - If your organization or firm has a strategic plan, makes sure that the goals of diversity/retention/inclusion are included not just as a separate goal, but that the goals are part of the overarching strategy and included in every aspect of how you do business. View all of your decisions through an equity lens. What do I mean by that? Intentionally engage in the practice of stepping back and reflecting on inclusive decision-making in your employment actions that will ultimately lead to more equitable outcomes. Look at existing disparities among different groups and formulate your plans and decisions in a way that will not perpetuate these disparities.
- Also, watch your words and your messaging. There are offensive and inappropriate analogies within the animal rights movement comparing:
 - Rodeo to rape of women
 - Treatment of animals to black slavery in this country
 - Treatment of animals to the slaughter of Jews

I put it to you that these types of arguments are not effective on those whose minds you'd seek to change -- it is likely that if a person does not understand why mistreatment of non-human animals is a problem, they're not going to be sensitive to the treatment of the people you've used for the analogy. Further, it alienates the marginalized group to hear that the suffering of their ancestors, sisters, mothers, other family members is being compared in ANY way to non-human animals or even the suffering of another oppressed group of human beings.

I'd like to end my reflections with this quote from the Rev. Dr. Martin Luther King, Jr. from his April 16, 1963 Letter from a Birmingham Jail, "Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly." My point in quoting it here is that racism and sexism is not the problem of women and people of color – all of humanity is inextricably tied together in the struggle to ensure equity for everyone.

So I encourage people -- whether the "victim," the unintentional "perpetrator" or the "bystander" -- to take action and speak out. I do not say this lightly or without recognizing the potential consequences and risks faced by a person who is brave enough to stand up. But for those willing to take the risk, I believe it is worth it to reflect on these issues, ask yourself (and others) the tough questions, and take affirmative steps to ensure the future looks different than the past for women and people of color in employment within the animal rights movement.