

Employment Litigation And Assessment Centers: Non-Issues, Issues, and Potential Issues Around the World

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**Information from ACs has impact
on employment decisions =
“High Stakes”**

- **Promotion**
- **Assignments**
- **Training opportunities**
- **Pay/income**
- **Layoff**



Varieties of employment “law”

- **Federal statutes, city ordinances**
 - **Title VII, ADEA, ADA**
 - **“merit” “objective” “70 percent”**
- **Administrative regulations**
 - **EEOC, OFCCP**
- **Court decisions, “case law”**

- **Constitutional claims: 5th – due process; 13th – right to make contracts; 14th equal protection**



Types of Legal Cases

Adverse Impact = Discrimination

Race

Gender

Age

Disability

Adverse treatment = Failure to provide due process

Violation of privacy



Non-Issues

- **Well developed ACs have received favorable rulings in US**
 - **Substantive ruling; Summary judgment; Settlements; denial of request for injunction by plaintiff**
- **Extensive validation research on OAR**
- **Few legal challenges in many countries**
- **Diagnostic and developmental ACs not challenged**



Issues

- **Unfavorable rulings on ACs**
 - **Substantive ruling against AC**
 - **Mere mention of AC not enough**
- **Many unvalidated ACs**
- **Wide variation in AC practices**
- **Mixed evidence of validity**
- **“Politics” may trump sound AC practice**



Potential Issues

- **Increase in use of ACs in diverse countries**
- **Increase in employment laws around the world**



Topics in Myers et al

- **Sub-groups viewed as “disadvantaged”**
- **Research documenting mean differences in sub-groups**
- **Laws prohibiting discrimination; “protected classes”**
- **Evidence of discrimination?**
- **Selection methods limited or banned**
- **Legal status of preferential treatment**



Sample of Experiences Outside US

- **No reported law suits in Korea, Switzerland, Germany, Israel, Belgium, Singapore**
- **Germany: General Equal Treatment Act 2006 requires public job posting**
- **Israel: person hired had lower score; right to see fitness report**
- **Belgium: persons screened out due to ethnicity**
- **South Africa: 2 cases won by plaintiffs because panel of management assessors did not follow procedures; methods must be "validated"**
- **UK: emphasis on disabled**



Recommendations

- **Follow Taskforce Ethical Guidelines and Guidelines in other countries**
- **Adapt AC to fit with culture of organization and country**
- **Know bases for employment discrimination "law"**
- **Know country-specific laws**
- **Three basic rules: Document, Document, Document**



Questions?

Comments?

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