

Diversity in Practice *covering*

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I have a friend who is a practicing lawyer, a single mother, and a lesbian. Although she is completely open about her sexuality with family and friends, she has come out to only a few people in her workplace. My friend serves on the diversity committee in her office, and she has developed a reputation as a passionate and consistent advocate for diversity.

When it comes to diversity issues in her workplace, she has always spoken up. When the diversity committee met this past May to discuss the addition of sexual orientation as a diversity priority, my friend remained silent. Her colleagues on the diversity committee cited everything from “we don’t have a gay problem here” and “sexual orientation is a private issue, not a workplace issue” to “we already offer domestic partner benefits” as reasons for excluding the category from their diversity efforts. The diversity committee has not yet made a decision, and my friend has not yet broken her silence.

An associate in a large Midwestern law firm traveled to California in late June to marry his partner of seven years. He told his law firm he was going on vacation with a friend, and he knew before he left that pictures of his wedding would never be displayed in his office. His firm includes sexual orientation in its definition of diversity, but he has heard several comments from the partners for whom he works that suggest to him that it may not be fully safe for him to come out in the workplace.

A female in-house lawyer and her partner of 10 years adopted a baby from another country. When she went to her supervisor to request adoption leave, a progressive benefits program that was available to all employees, her supervisor asked her if she had been driven to international adoption because she couldn’t find anyone “at home” who would “allow” a lesbian couple to adopt a child.

She politely told her supervisor that they adopted a child from the country in which her partner had been born because that cultural connection was important to them.

Three different workplaces. Three different situations. Three different human beings. Yet, the common thread of gay and lesbian lawyers being marginalized in the workplace is illustrative of an all-too-common phenomenon.

That said, the pain of being marginalized for one's sexual orientation does not stop at the feeling of being defined as separate from the mainstream; the pain is compounded by the pressure that many gay and lesbian lawyers feel the need to "cover" their real selves so that the mainstream can be more comfortable around them.

In his book, "Covering: The Hidden Assault on Our Civil Rights," Kenji Yoshino defines covering as "ton[ing] down a disfavored identity to fit into the mainstream." He argues that "with varying degrees of conviction, Americans have come to a consensus that people should not be penalized for being different ... that consensus, however, does not protect individuals against demands that they mute those differences."

Even in organizations that promote a solid commitment to diversity, there are subtle messages constantly communicated to people who are different from the norm that their differences will be accepted only as long as they are not "too different."

Sexual orientation is integrated into diversity efforts, but it is treated as a lifestyle choice instead of a personal identity. Inclusion of gay and lesbian attorneys is addressed in theory, but the tough conversations on heterosexual privilege and subtle homophobia are carefully avoided.

I continue to be surprised by the ongoing debate in workplaces about whether or not to integrate sexual orientation as a key diversity priority.

We seem to have accepted the mandate to work on racial, ethnic and gender diversity, but we still see the issue of sexual orientation as an option that we can choose to engage when it is comfortable and convenient for us to do so.

And, while we ponder our options, we expect gay and lesbian lawyers to “cover” so that we can ponder in peace. My friend continues to serve on her diversity committee and continues to advocate for the valuing of differences even as she struggles with her painful decision to cover her own difference.

Covering is more about self-defense in an uncertain context than it is a personal choice to limit self-disclosure. Many gay and lesbian lawyers would cover less if they could trust their workplaces more. Covering exists when inclusion does not.

John F. Kennedy once said, “If we cannot now end our differences, at least we can help make the world safe for diversity.”

As we engage in the intellectual exercise of exploring the different definitions of diversity, we have to be mindful that this debate on inclusion may be inherently exclusive. We may not resolve the differences on this issue in the immediate future, but we can pledge to make our workplaces safer for people to differ without having to cover while the debate on differences continues.