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## Global Mobility for Lesbian and Gay Assignees

Until recently, the global mobility profession has been all but silent on an increasingly prevalent segment of the non-traditional assignee workforce, namely, lesbian and gay assignees. Given the increasingly high demand for global talent in a tight international labor market, lesbian and gay assignees represent a potentially important and perhaps not sufficiently tapped part of the global talent pool. Yet the international assignment experience of these assignees is not well known, and the challenges they face in being selected for an international assignment or while on assignment are not well understood. In this article, we look at the opportunities and challenges that lesbian and gay assignees face and suggest ways in which companies can support them.

*Note: The acronym LGBT (Lesbian, Gay, Bisexual and Transgender) is commonly used to indicate the lesbian and gay community, although the term has a wider application. This article, except for a few LGBT references, uses the term lesbian and gay employee which is the primary focus of this article.*

Consider the following:

- It was recently announced in the US that the State Department will give equal treatment to the applications of LGBT married couples who want to travel with their partner, processing requests from them in the same way it handles those from heterosexual couples<sup>1</sup>
- This is in line with other countries (e.g. New Zealand, Argentina, The Netherlands, UK, and Uruguay) that in the last decade have passed laws legalizing same-sex marriage
- The US-based 'corporate equality index' (or CEI, an annual analysis of company LGBT policies and practices for employees and customers) found that while in 2002 only 13 organizations received an index rating of 100 percent, this rose in 2009 to 259 organizations<sup>2</sup>
- 53% of Fortune 500 companies provided same-sex partner benefits by 2009, representing a 150% increase since 1990, with 98% of companies including sexual orientation in their non-discrimination policies by 2007<sup>3</sup>
- From an international assignment policy perspective, ORC Worldwide (now Mercer) reported that the most prevalent definition of 'expatriate spouse' used by companies to determine international assignment-related benefits includes a married, long-term or live-in partner of



the opposite or same-sex, noting that this was the first time the definition had included same-gender partners for 38%<sup>4</sup> of companies surveyed. (*Note: It is acknowledged that this reference is not recent but it is included here as an indicator from 2008 of an example of one of the first references to this subject in survey and other industry resource materials.*)

- Likewise, KMPG found that nearly half of participants in their survey of 600+ companies include same-sex married or unmarried partners for similar purposes<sup>5</sup>

All of the above suggests that there is increasing awareness, at least among US companies, of an important connection between productivity and inclusion at the policy level, where inclusion requires that lesbian and gay workers are not treated differently but as an equal to other employees with respect to social wholeness, entitlements and benefits (e.g. healthcare), and feel as supported in their family life as heterosexual employees.

What is clear is that lesbian and gay workers face challenges that are often different to, or have more serious potential consequences than, their heterosexual colleagues. Some refer to this as a 'lavender ceiling' or 'glass border' that does not allow homosexuals to advance and prosper either at home or abroad because doing so requires that they reveal to their employer the true nature of their sexuality, which they may not choose to do<sup>7</sup>.

Yet, while this might appear to be a positive step forward for the expatriation and mobility of lesbian and gay workers and their partners, the reality is that homosexuality is still punishable by death in seven countries and illegal in a further 85<sup>6</sup>. Understandably, this can create problems for companies when deploying lesbian and gay assignees abroad. Certain international destinations may not be a viable option, requiring that employers and their employees collaborate more closely to deter-



mine socially, politically, and legally safe and secure destinations for lesbian and gay mobile employees.

This then feeds into the idea that lesbian and gay employees inevitably pursue less rewarding careers because they are 'safer' and often 'more welcoming' and do not require that their homosexuality is known by an employer. This form of self-discrimination inevitably limits international career opportunities.

For those that do venture abroad, recent studies show that many face a lack of support in the host country necessitating them having to deal with prejudice and discrimination, concerns for security and safety, and reduced access to family benefits and entitlements automatically afforded to heterosexual peers<sup>8</sup>. While these concerns are not unlike those experienced by non-expatriating lesbian and gay employees, it may lead to broader ramifications when living abroad, e.g. lack of job security, limited career progression, fear of stereotyping, and the constant scanning for signs of acceptance.

### Company Support for Lesbian and Gay Assignees

Research on lesbian and gay assignees shows that some key areas of support can make a big difference to the success of these assignees abroad.

1. A problem common to lesbian and gay assignees is the lack of access to, and easy interaction with, other people like themselves. In much the same way as male trailing spouses often feel isolated and ostracized for their unusual status within the 'expatriate wife' community, lesbian and gay assignees similarly perceive that support mechanisms provided by employers and/or expatriate associations and clubs tend to focus predominantly on the needs of mainstream traditional (i.e. heterosexual) expatriates. This then exacerbates the discomfort they and their partners and/or children face. An important way many try to overcome this challenge is to structure their lives in such a way as to insulate themselves and other family members from external perceptions of 'being different'. This, of course, is dependent on the extent to which 'being different' is more or less tolerated in some cultures than in others. Thus, when deploying lesbian and gay assignees it is necessary to consider the home/host country combination as a key factor in pre-determining their overall comfort level in the host country.

2. An important success factor for lesbian and gay assignees with accompanying partners is that the nature of their expatriation requires that most relocate financially and legally independent of each other. This provides both partners with more options to address legal and financial problems that might arise if a partnership or marriage becomes too dysfunctional or ends in separation or divorce. It may also mean that 'family issues' may not always have negative implications because legal and financial independence for all family members (excluding children) is frequently a necessary requirement in order to expatriate. Because lesbian and gay partners are required to expatriate and assume responsibility for financial and legal well-being in their own right, they may have more employment opportunities than heterosexual partners (who may not be granted a work visa), which suggests that companies might give greater consideration to an individual expatriate's family situation in tailoring employment or social support.

3. Whether a lesbian or gay employee is 'in' or 'out' to their employer can result in forms of self- and other types of discrimination. Being 'in' at all times can be very uncomfortable because it involves having to lie. Being 'outed' (i.e. having one's status revealed against an individual's wishes) can be equally distressing. Consider, for example, a situation in which a gay assignee was recently held and detained for three hours in custody in Panama on the grounds of not carrying correct identification after leaving a club with a group of homosexual men, who was subsequently outed when the police officers phoned the expatriate's employer to explain the situation.<sup>9</sup>

Should an employee reveal their lesbian or gay status to employers and come out of the 'global closet' during job interviews or performance reviews? That depends. There is some evidence from among studies of LGBT expatriates in general showing that coming out during an interview may result in an application not progressing, whereas others view coming out at interviews as an obligation. The idea that companies can also come out in support of lesbian and gay employees is a recent phenomenon, as noted by several managing directors at UBS recently attending and supporting the "Out in the Street" conference sponsored by some of Hong Kong's biggest banks. Other companies have also come out in favor of gay marriage, e.g. Starbucks, Goldman Sachs.

4. Company-sponsored Employee Resource Groups (ERGs) for lesbian and gay employees can be extremely helpful in providing assignees with additional support such as policy advice, connections to social activities and events, and a sense of belonging.

### Dangerous Locations for Lesbian and Gay Assignees

As with all assignees, whether straight or gay, companies are often challenged with sending their employees to live and work in dangerous locations. This includes locations where a number of hazards may exist: war; the presence of civil insurrection or terrorism which presents physical harm or imminent danger to the health or wellbeing of an employee; widespread uncontrolled violence or disease; a lack of infrastructure; lack of family support services; and extreme physical conditions. For lesbian and gay assignees there is an additional danger in the form of any event or circumstance that presents a threat, real or perceived, to their health, wellbeing, safety and security including a lack of social or legal protection on the grounds of sexual orientation<sup>10</sup>.

This means that while lesbian and gay assignees are likely to give due consideration to living and working in dangerous locations, they do so by pre-determining the extent to which they will be required to hold different forms of being 'in' and 'out' while on assignment. The importance of the 'comfort factor' cannot be overstated insofar as locals' social acceptance of being lesbian and gay in the host country is often far more important as a decision-making criterion than restrictions on sexual orientation within the national law. This is especially true when unplanned 'crises' arise such as one's sexual minority status becoming unexpectedly known in an unwelcoming host country.

Undoubtedly, companies have a specific duty of care to lesbian and gay assignees. Duty of care is broadly defined as an organisation's moral and legal responsibility to protect its employees' health, safety, and security, recognizing, of course, that more duty of care is required when the location is particularly dangerous. What constitutes danger is nonetheless subjective in the context of how danger is defined by lesbian and gay assignees themselves, whereby not all threats to an employee's

health and wellbeing are created equal. This means that many of the risks that lesbian and gay assignees face are moderated by a combination of factors including: (1) the individual's own propensity for engaging in risk-taking behavior; (2) the level of support provided by an organization prior to and during an assignment; and, (3) the degree of knowledge attained by a lesbian or gay assignee about the perceived and real threats they are likely to face in any particular host country.

Understandably, not all mobility departments are skilled in dealing with minority expatriates. Some organisations choose to outsource this responsibly to specialists who are knowledgeable in expatriation and have an up-to-date awareness of the laws, culture, infrastructure, and safety concerns of the host country. Duty of care also extends to other organisational stakeholders such as line managers in the home and host country, and the host country HR department, all of whom have immediate responsibility for the assignee's day-to-day wellbeing and overall safety.

At a minimum, companies need to consider the following when deploying lesbian and gay assignees to dangerous locations.

1. Ensure an integrated risk management strategy is in place. This could include a 'Plan-Do-Check' cycle that involves:

- (a) Assessing the risks within countries and their cities
- (b) Determining likelihood of an incident
- (c) Outlining and developing policies and procedures to mitigate risk; and,
- (d) Communicating, educating and training stakeholders involved in the relocation process (including the assignee).

2. Ongoing data collection relating to in-country risk is needed to allow for the analysis of current and future risks in the environment (both internal and external to the organisation) including the regular communication of these findings throughout the organisation.

3. A three-level crisis management framework is helpful, including:

- (a) *Pre-crisis* planning, screening, training, and housing
- (b) *During crisis* decision-making, process and logistics management associated with the crisis, formation of a crisis management team, and inter-agency coordination; and,
- (c) *Post-crisis* support for the individual as well as organisational learning that feeds back into crisis preparedness.

4. Further care is required when families accompany lesbian and gay assignees abroad. Intercultural training is necessary for all family members, particularly for those deployed to especially risky locations where families may need to be housed in safer separate locations within the host or another country. Other factors that require forward planning, particularly for lesbian and gay assignees self-initiating or engaging in permanent transfers, include financial matters such as the legality of obtaining family bank accounts, insurance policies and joint mortgages which may prove difficult if not impossible in some countries. When children are involved, there may also be issues regarding parentage where both partners may not be considered the legal parents of the child.

A further consideration is that the success of an assignment also rests with the lesbian and gay assignee. This can require that the candidate: (1) is open-minded, creative, and adaptable; (2) is aware of their surroundings, culture and local customs in relation to their status and



how that may be perceived by others; (3) is self-aware and at ease with the discomfort of lying about one's sexuality and/or the degree of duplicity required to mitigate threats and risks to one's life; (4) maintains a network of trusted and supportive friends among the local lesbian and gay community in the host location; (5) actively seeks out allies; and, (6) remains connected to a range of lesbian and gay safe and friendly spaces in the world even when not inside them.

A further success factor can be coming out to at least one 'safe boss' in each location and to do it early in the working relationship.

### Policy Guidelines

Not all lesbian and gay assignees are treated equally from a policy perspective in comparison to their heterosexual counterparts, with variations ranging from having the same policy for all partnered employees regardless of sexual orientation, to 'equivalent' policies being in place, and there being substantially less or no policy in place to cater for lesbian and gay assignees. In the latter case, where no support is provided in terms of health care, allowances, relocation assistance, or help with the visa application process for partners, there can be serious implications, including decreased engagement and commitment to the role.

A common issue regarding the recognition of partners enabling them to receive benefits and support is related to the laws of the lesbian and gay assignee's country of birth (COB). In most instances, if, in the COB, a legal same-sex marriage has taken place and the marriage is legally recognized in that country, then companies typically offer full benefits and support to the expatriate's partner as any other heterosexual married couple might expect. Conversely, no benefits are typically afforded to those whose marriages are not legally recognized. Further difficulties arise, of course, for bi-national couples in which one COB recognizes same-sex marriage but the other COB does not.



Companies can adopt a range of programs in an attempt to address policy discrimination problems for lesbian and gay assignees. This includes:

- (a) Implementing a 'personal status policy' stating that any legal, legally performed, or civil union or marriage, no matter where it was performed, and no matter what the employee's nationality, will be recognized for assignment benefit purposes. This means providing full assistance to domestic partners regardless of their gender or the couple's marital status with, for example, the provision of housing allowances for two people, medical insurance for two people, and so on.
- (b) Employing senior international HR personnel with experience developing lesbian and gay policies, where part of their responsibilities includes implementing explicit policies against discrimination of gays and lesbians. This supports companies' awareness of the necessity to cultivate an inclusive and anti-discriminatory culture



in terms of providing the support necessary for lesbian and gay employees to be fully productive, and protected, at work. This often has nothing to do with the law but with making the company a place where people want to work and to build a career. These are not necessarily legal issues either because not offering benefits to same-sex partners is not actually in contravention to the law.

- (c) In-house equity and diversity training for staff, and utilizing professional networks as information channels about lesbian and gay workplace reforms. An example is a recent American Chamber of Commerce meeting in Shanghai (with 35 companies attending) relating to lesbian and gay issues in the workplace in China, given that there is no protection for lesbian and gay employees in this country.

Prior research shows that lesbian and gay assignees view their deployment abroad as a shared responsibility between themselves and HR. While many believe that they have an individual onus to understand laws and barriers within the local context and to seek out networks (either existing or to develop new contacts) and other support mechanisms, they believe that they also benefit from visiting the location prior to relocation, learning the local language, and establishing local allies. Also important is undertaking planning and brainstorming with their partner to prepare for expected and unexpected events, having an exit strategy if things should go wrong, and keeping good records and documentation as proof of the relationship.

This article highlights that organizations have a duty of care to lesbian and gay assignees with an onus on understanding the laws and barriers of the local context of the host country to which they will be sent, and to help them seek out networks (either existing or to develop new contacts) and other support mechanisms. Visiting the host location prior to relocation, learning the local language and establishing local allies are all important considerations, as is careful planning and brainstorming to prepare for expected and unexpected events (such as being sexually 'outed') and having an exit strategy if things should go wrong.



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<sup>2</sup> Human Rights Campaign Foundation (HRCF). 2009. Corporate equality index: A report card on lesbian, gay, bisexual and transgender equality in corporate America. Washington DC. Retrieved from <http://www.hrc.org/11147.htm> 10 January 2014.

<sup>3</sup> Brooks, A.K., & Edwards, K. 2009. Allies in the workplace: Including LGBT in HRD. *Advances in Developing Human Resources*, 11(1): 136-149.

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## Further Reading

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