

"Lookism": The Next Form of Illegal Discrimination

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A new book was released this summer authored by Stanford law professor Deborah Rhode. Its title: *The Beauty Bias* (New York: Oxford University Press, 2010). Professor Rhode's thesis is that a bias toward attractive employees (or against unattractive ones) should be illegal. Rhode likens a preference for good-looking employees to attempts to justify racism by arguing that customers would go elsewhere if served by a minority employee. Rhode points out that, with respect to race discrimination, "Congress and the courts recognized that the most effective way of combating prejudice was to deprive people of the option to indulge in it." She argues that the same should occur with respect to discrimination based on appearance.

Rhode is not alone in addressing this issue. Appearance discrimination has been a topic of debate lately in the popular media as well as in academia. *Newsweek* ran a special report in July entitled "The Beauty Advantage." It addressed the case of the employee who sued Citibank recently, claiming that she was fired for being too attractive. It also reported a survey of hiring managers, 57% of whom said qualified but unattractive candidates will have a harder time landing a job. The article fretted that "when it comes to the workplace, it's looks, not merit, that all too often rule."

All of this recent attention is causing some to believe that a bias in the workplace against the unattractive should be illegal if it's not already. But while it is easy to make the academic argument for a law against appearance discrimination, it's much more difficult to draft a law that in the real world could effectively address something so subjective as the perception of beauty. Perhaps this is why it has not been attempted yet – and why it's not likely to happen.

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Attachments

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