

O'Neill Institute Spring Conversation Series
with
Professor Ifeoma Ajunwa, University of the District of Columbia School of Law

Genetic Data and Civil Rights

Thursday, February 26, 2015
1:30 – 2:30 p.m.

Georgetown University Law Center
Hotung Room 5020
550 First Street, NW
Washington, DC 20001

Abstract

Well-settled legal doctrines prohibit employers from discriminating against job applicants on the basis of physical characteristics such as race, sex, age or disability. However, the full implications of genetic testing were inconceivable during the promulgation of those doctrines. Technological advancements and social trends in the interpretation of genetic testing create the need to further delineate the legal boundaries of the employer's power to make hiring decisions on the basis of genetic information. Although the Genetic Information Nondiscrimination Act (GINA) took effect in 2009, there is still a steady increase in the reported instances of genetic discrimination. This Article argues that GINA should be strengthened with the addition of a disparate impact cause of action. Currently, Section 208 of GINA explicitly prohibits disparate impact as a cause of action but that same section mandates the establishment of the Genetic Non-Discrimination Study Commission which is charged to start examining the developing science of genetics in 2014 and which will recommend to Congress whether to provide a disparate impact cause of action for GINA. This Article finds support for the addition of a disparate impact clause to GINA for the following reasons: 1) Ease of access to genetic testing and the insecurity of genetic information has increased the likelihood of genetic discrimination in employment; 2) The addition of a disparate impact clause is in line with the precedent set by prior employment discrimination laws; 3) The EEOC has declared that proof of deliberate acquisition of genetic discrimination is not necessary to establish a violation of GINA, likewise, proof of intent to discriminate should not be required to demonstrate that there has been genetic discrimination; 4) And finally, real world instances of genetic testing have shown that facially neutral testing may result in racial disparities.

Biography

Professor Ajunwa is an Assistant Professor of Law, hired to teach Contracts, Intellectual Property Law and Health Law. Prior to joining the UDC faculty in Fall 2014, Professor Ajunwa was a Fellow at Columbia Law School's Center for Intersectionality and Social Policy Studies and she was a Visiting Teaching Fellow at Case Western Reserve University School of Law where she designed and taught a seminar on legal issues arising from mass incarceration. She completed her undergraduate education at UC Davis, where she was a McNair Scholar, and earned her law degree from the University of San Francisco, where she received the AAUW Selected Professions Fellowship and served as an editor with the Intellectual Property Law Bulletin and the Journal of Law and Social Challenges. She is a Ph.D. Candidate at Columbia University in the Sociology Department (concentration in Organizational Studies and Law and Society).

This event is open to all students, faculty, staff, and interested members of the public.

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