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The Gradual But Decided Shift To A Much More Complex World Of Employment Law

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On Oct. 4, my colleagues (and fellow Currents bloggers) Jeanine Gozdecki and Doug Oldham will be presenting a program focused on increasing complexity in the employment law arena. Employment law accelerated in the 1960s when Title VII of the Civil Rights Act was passed, as well as many similar state discrimination laws. At that time, things seemed pretty cut and dried – treat people equally to avoid liability. Many factors have made the world of employment law far more complicated since then:

- The number of protected classes has gradually but inexorably increased. From the federal age discrimination law in 1974 to the Americans With Disabilities Act (ADA) in 1990 to many state and local laws protecting off duty conduct and sexual orientation, far more people are covered by *some* discrimination law.
- States and municipalities more often make their own rules, presenting particular challenges to multi-state employers
- The endless complexity and challenge of intermittent leaves under the ADA, FMLA, and other legal requirements
- More legally required individualized inquiries, including reasonable accommodations under the ADA and accommodation laws, religious discrimination laws, and background checking
- Determining whether a worker is an employee or an independent contractor as the workplace changes

This is not employers whining about government regulation; indeed, we do not necessarily see this change as positive or negative on either side of the employer/employee equation. But it seems hard to dispute that the world of employment law has become more complex.

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