

From Russia without love: Discrimination based on a person's origin

ON APRIL 26, the All England Tennis Club, the organiser of Wimbledon, announced that it will ban players from Russia and Belarus from participating in the 2022 tournament, which is due to start on June 27, as a response to Russia's invasion of Ukraine, and to Belarus's support of same.

The Russian and Belarus teams have been banned from participating in the Davis Cup, which is a tennis tournament where national teams compete. However, at Wimbledon, and all other Open tennis events (eg, US Open, French Open) players compete as individuals, and not as country representatives. Wimbledon's decision effectively penalises private individuals, for no reason other than the land where they were born. Without commenting on the merits of this decision or the geopolitical factors behind it, it provides a useful opportunity to discuss discrimination based on origin.

The Equal Opportunity Act (EOA) Chap 22:03 prohibits discrimination in four broad categories – employment, education, the provision of goods and services and the provision of accommodation – where that discrimination is tied to certain personal and inherent characteristics known as status grounds. Currently the EOA protects seven status grounds: race, ethnicity, religion, sex, marital status, disability and origin.

What does origin mean? The act says that origin includes geographical origin. Therefore, treating with someone adversely because of the geographical area where they come from would be discrimination based on origin.



Firstly, geographical origin encompasses more than national origin. The United States Civil Rights Act of 1964, Title VII section 703, prohibits discrimination on a number of grounds, one of which is "national origin." The US courts have interpreted this to mean discrimination based on the nation-state or part of the world from where a person or their family originates. For example, this would encompass discrimination against people who are of Mexican origin (origin from a country) or are of Middle Eastern descent (origin from a part of the world).

In this American view, there is some overlap between national origin and race and ethnicity: national origin discrimination is often shown through bias against people because they or their family are from another country, they have a name, accent or manner of speech associated with a group that originates in another country, or because they follow customs and cultural practices associated with a group from another country.

The commission has taken the position that whereas national origin invites one to look at national, subnational or supranational entities, geographical origin simply requires one to look at any geographical area, whether it is a national area, a munic-

ipal area, or any area within a nation-state.

Put simply, if someone is being discriminated against because they are from a borough, a town, a district or for that matter any area, then they are being discriminated against because of their geographical origin. This would include, for example, where someone is not hired for a job because they are from a certain village, town or any geographical part of Trinidad and Tobago, or where an employer says that they prefer to promote or offer benefits to people from this area over that area.

Secondly, the EOA provides that origin includes geographical origin; therefore, origin is wider than geography, there must be other aspects to it. The online Cambridge dictionary defines origin as "the beginning or cause of something; the thing from which something comes or the place where it began." People do not originate only from geographical locations, they also originate from ancestry, parentage, or social class. For example, it would be discrimination based on origin to refuse to hire someone or to terminate them because of who their parents or grandparents were.

Whereas one cannot change their ancestry and parentage, social scientists will argue that social class in post-colonial TT is not as rigid and there is great room for mobility. The extent to which it can ground a claim of origin discrimination is perhaps something that will have to be decided by the courts, but it is possible that it could be done.

In the forthcoming weeks we will continue our discussion of sexual harassment as a form of sex-based discrimination.