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Editorial: Gender segregation

The "education" of women from an early age in Saudi Arabia to place themselves apart from men other than husbands and close family members is now having to confront the reality that almost 60% of University graduates are women, but women only make up 15.2% of the workforce (World Bank 2011-15).

In response to this imbalance, there is a current move by women themselves to press for women-only sections in government offices to "protect their modesty" and for the creation of women-only business parks where they can be free from any suspicions by family members associated with male contact on a day-to-day basis. The "unsuitability" of mixed workplaces to women, and unavailability of jobs in rural areas, has led to a government plan to create over 50,000 part-time outsourced jobs over the next two years so that women can work at home.

The perpetuation of gender inequality in Saudi Arabia is mainly due to there being no legal basis that gives women equal rights to men - and any rights they have are subject to Sharia law that places women as minors, or inferiors to men. The Saudi government ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in the year 2000, but with the general proviso that it is under no obligation to observe terms of the treaty that contradict Islamic law.

Gender segregation is by no means an exclusive feature of the Saudi Arabian economy, but exists (in different forms) across the majority of economies in the world. In their book "Separate but not equal"(Hegewisch et al) the authors found that in the USA there was "a move towards more integrated occupations in the 1970s and 1980s", but that since then "progress has completely stalled". In fact, 26% of workers in the USA are in occupations that are 90% single-sex, from truck drivers to registered nurses. Even in the legal profession the latest ABA figures (May 2016) reveal that in spite of virtually equal gender representation in US law schools, women only make up 24% of general counsel in Fortune 500 companies.

CANADA/USA: Falling labour productivity produces different outcomes

An increasing gap is opening up between the labour performance of Canada and the USA, but only thanks to a decline in the exchange rate between the Canadian and US dollars.

Labour productivity fell in Canada for the last three quarters of 2015 and only began to improve once more in Q1 2016. But two-thirds of the gain made in the latest quarter was due to output growth and one third to an increase in hours worked. Moreover Goods-producing businesses posted a 0.3% decrease in productivity in the first quarter, continuing the trend of earlier quarters. Fortunately for companies, labour costs per unit of output fell by 0.3% in Q1 2016 after a 0.8% gain in Q4 2015. But the biggest change was in Canadian labour costs expressed in $US. These have fallen each year since 2013 and continued to fall (by 3.2%) in Q1 2016.

Although labour productivity in the USA has been on a rising trend since 2011, in recent quarters it too has begun to falter. Unit labour costs in the nonfarm business sector increased 4.5% in the first quarter of 2016, reflecting a 3.9% increase in hourly pay and a 0.6% decline in productivity. In fact, unit labour costs have increased 3.0% over the last four quarters.

So far companies have absorbed this cost and not passed it across to consumers. The US Consumer price increase rose by just 1.1% over the year to April 2016. Recent increases have largely been due to rising fuel costs than labour costs. By contrast, price inflation in Canada hit 1.7% in April on a year-on-year basis as Canadian companies were forced to pass on past unit labour cost rises. What is not evident anywhere though is any sign that enterprises in Canada are capitalizing on the export opportunities created by falling US dollar equivalent unit labour costs.

HONG KONG: Current data freedoms under challenge

The introduction of the General Data Protection Regulation (GDPR) into EU law is prompting the Hong Kong government to revisit its own legislation.

Reforming the current law will not be easy. For instance, the international data transfer provisions in the Hong Kong law have never been enacted and if they were then transfers to the PR China may well become an issue of political contention. Likewise, individuals currently need to opt out from a particular use of their personal data to make it unlawful. If they do nothing then all uses are automatically lawful.

Another area of probable reform will be in the level of penalties for infringement of data protection rules. Cases are rare, but when companies have been found to be in breach the fines are fairly modest. This may change in the future – especially if the GDPR becomes the model. In such a case the fines will be linked to company turnover.

JAPAN: Investment abroad does not hit job market

The emergence of long-term negative interest rates and price deflation is driving many Japanese companies and individuals into a cash economy. Smaller companies are even paying employees in cash and individuals investing in home safes rather than depositing their cash in a bank. This trend is inevitably encouraging a grey economy that has long been absent from Japan. What is more, it is just a matter of time before individual and institutional investors can get so little back for their money invested in the home economy they hold onto funds and increasingly companies, already weakened by poor demand, begin to fold. One other problem for employers is that although real earnings are actually improving, employees continue to expect traditional pay increases. Thus, if pay demands persist the only way forwards is for companies is to downsize or go offshore.

Curiously, Japan's unemployment rate has continued to drop in recent years and at just over 3% is now at an all time low. What has happened, however, in Japan is a huge collapse in inward investment. Japanese banks and companies have therefore had to dig deep and, consequently, investment abroad has risen from $US 56bn in 2010 to $US 126bn last year. Japan's conquest of the world economy will soon be joined by China where companies have reached saturation points in their home markets. Thus the hunt will quicken from both countries for the most talented staff they can steal from rivals in the west.

RUSSIA: Beyond big brother

A sinister App called FindFace is all the rage in Russia. It allows anyone to photograph another person and then the system makes a comparison with images in Vkontakte, a social network popular in Russia. It does this through a powerful algorithm that can search through over a billion faces per second. The inventors claim it is 70% reliable and are now busy selling the technology to law enforcement agencies and commercial users.

However, little consideration has so far been given to data protection or privacy rights when using the App. This is partly because in Russia no restrictions apply to the "processing of personal data by individuals solely for their personal and family needs". It is only when the App is used for other purposes that consent is required. But even here exceptions exist under the Data Protection Act, as it is lawful to process data without consent for "the protection of life, health or other vital interests of the data subject" and where data "has been made publicly available by the data subject at his request". In the latter case, users of FindFace - such as employers - may well be able to claim that submission to Vkontakte automatically makes the data public and indicates their consent to being identifiable.

Clearly this is a war that has not yet begun and it will take legislators across the world some time to catch up with a new generation of technologies that remove anonymity so cheaply and immediately. Surveillance cameras used by security services have long been used "anthropemetric 3D face recognition" to gain accurate results. It is only now that reasonably reliable 2D systems that generate data which can be rapidly processed are entering the consumer market and HR applications are numerous – including verification of identities for job interview purposes and real time performance monitoring. Watch this space.

SWITZERLAND: Private sector anti-bribery Act in force

Switzerland has had provisions against bribery in public office since 2000. This left the private sector only covered by a weaker law against unfair practices On July 1st 2016 a new article (322) of the Swiss Penal code comes into effect which makes it a criminal offence to offer or request a bribe in the private sector. This also combines with Article 102 (2) to make any offence potentially a corporate liability.

Although the law will cover bribery via third parties it has been phrased in order to exclude normal business hospitality. This is provided that it does not create an obligation to achieve a particular objective – which is more likely if an executive showers favours on a subordinate of a potential client in the expectation that they shall sway their superior to give a contract to the executive's company. No complaint is necessary (except in the case of minor offences) to activate an investigation. Moreover, where there is no public interest issue at stake the wronged company may resolve the matter through alternative means such as negotiation or the suspension of business relations.

The penalty for an act of bribery will be imprisonment for up to three years and a substantial financial penalty.

USA: New set of rights for Colorado employees

From August 10th 2016 employers in Colorado must notify all new employees of their right to be free from discriminatory or unfair acts. From December 8th 2016 this right extends to all existing employees. There is no specific guidance on how this must be done, but clearly written and visible notices posted throughout the workplace in both English and Spanish should be sufficient to achieve compliance. The new Colorado Anti-Discrimination Act also requires employers to make reasonable accommodation for women who are pregnant or recently given birth (upon request) provided it does not cause "undue hardship" for them to comply. Types of accommodation includes more and longer rest breaks, improved seating and even changed work schedules.

Private sector employers outside the finance sector that operate in Colorado should also take note of the Employee Inspection Right law - which comes into force on January 1st 2017. This gives current employees the right to inspect their personal files once a year and former employees once after they have departed. They will not, however, have the right to access medical reports, references given in confidence by another employer, records of investigations relating to them or whistleblower statements.

USA: No vacancy necessary for discrimination to be construed

It has long been a reasonable and virtually self-evident defence in many jurisdictions that an employee could not claim discrimination for denial of promotion if there were no suitable vacancies available.

However the DC Circuit Court in the USA has recently put this reasoning in doubt during an appeal from a District Court. Whilst denying the actual claim, the court expressed the view that if a vacancy was always required before an adverse employment action (under Title VII and the Rehabilitation Act.) could be claimed, then an important loophole would exist in the law.

A company could, for example "limit formal promotional opportunities while allowing supervisors to promote subordinates by requesting the creation of vacancies tailored to their particular qualifications. In such a system, a supervisor could request vacancies only for white subordinates because of his animus toward African-Americans, and thereby prevent African-American employees from receiving promotions because of their race. Allowing employers to escape liability for this kind of unlawful workplace conduct would exalt form over substance by ignoring the reality that employers promote employees in a variety of ways—both formal and informal. Courts have long avoided such anomalous results in the employment discrimination context by tailoring the evidence needed to survive summary judgment to the particular circumstances of the plaintiff's claim". (*Chambers v. Burwell,* No. 14-5047. *May 31, 2016)*

Pay, Tax and Benefit Trends

ALGERIA: Although the normal retirement age in Algeria is 60 for men and 55 for women, individuals may currently retire at age 50 if they have worked for 20 years - or at an even earlier age if they have worked for 32 years. The problem is that this practice has led to a huge strain on the National Retirement Fund. As a consequence, 'ordinance 97-13 on retirement without age condition' is going to be repealed and replaced with a general national retirement age at 60.

COSTA RICA: The National Wages Council has agreed to raise minimum national wage rates by 0.5% on July 1st 2016. The last increase of 0.67% came into effect this January. Employers on the Council had argued for a rate freeze as consumer prices had fallen over the last year by 0.43%, but unions had argued that changes in average prices were misleading and did not reflect the experience of many poorly paid workers. Minimum wage rates vary considerably by occupation and seniority across the country.

FRANCE/GERMANY: The European Commission is set to challenge requirements for foreign truck drivers to be paid the national minimum wage in France and Germany before they are permitted to make deliveries there. France introduces a new law on July 1st 2016 not only requiring drivers to be paid a minimum of 9.67 euros an hour, but also for foreign truck companies to appoint a representative in France. The principal problem for the mainly eastern European transport companies that will be hit by the new law is that many also rely on cabotage (making subsequent deliveries in France and securing a delivery for the home run) to make their business pay. The French and German governments are clearly seeking to protect their domestic transport operators by such restrictions, but in doing so will also raise the costs of imports and damage manufacturers in many poorer EU economies that will find it far more difficult to compete with rival firms in Western Europe.

IRELAND: The Irish Labour court has made its first recommendation on pay, terms and conditions in a non-unionised company since new legislation came in last year (SIPTU vs Freshways Foods Company). In 2015 the Court was given powers to issue potentially binding recommendations to the parties in pay-related disputes where the employer concerned does not recognize trade unions or any other representative body for negotiation purposes. It remains possible for non-union bodies to be "excepted bodies", but a close reading of the 2015 Act needs to be made.

LUXEMBOURG: The Grand Duchy's statistical agency STATEC has issued its price inflation forecasts for the coming year. This is in the form of three scenarios depending on movements of the crude oil price. The impact on the annual rate of consumer prices next year would range from +0.9% to +1.8%. In each case, however, the change would trigger wage indexation. This could happen as early as in Q4 2016, but is most likely to happen in the first or second quarter of 2017. The last indexation-linked wage and pension increase in Luxembourg took place in October 2013.

POLAND: The Polish Cabinet has agreed to more than double its previously proposed increase in the minimum wage next year. This is because falling unemployment provides an opportunity to move closer to its policy goal of the minimum equalling half the average wage. Prime Minister Beata Szydlo has also stated a desire to stop competing with other EU countries through offering lower wages. Therefore next year the minimum monthly wage rate is now set to rise by 8.1% from PLN 1850 ($US 469) to PLN2,000 ($US 507).

UAE: According to a survey report just published by Willis Towers Watson, wages and salaries are expected to grow in the United Arab Emirates by 4.7% next year. This is close to FedEE's own projection for 2016 based on a real GDP growth rate of 2%. However, the Chairman of Abu Dhabi's Department of Economic Development Ali Majed al-Mansoori has just forecast that GDP will rise to 5% next year. This further underlines the possibility that average pay increases will be in excess of 6.5% in 2017. According to the World Bank's latest economic outlook the rate of average annual price inflation is expected to rise in the UAE from 3.1% this year to 3.4% in 2017.

Other Global HR News in Brief

ALGERIA: The Algerian immigration and labour authorities are outlawing the practice of deploying foreign workers in the country using short-term business visas. In future, employers will need to obtain 15-day non-renewable work authorizations before they leave their home country and will have to provide a medical certificate and employment contract to the Algerian Consulate. If business visas are found to be misused then the workers concerned will be deported and may have to pay a fine, whilst their employer in Algeria could face imprisonment for repeated offences.

CHINA: A number of companies in the Jiangxi and Shanxi provinces of China have been considering the introduction of a 2.5-day weekend, with a half-day on Fridays. Their lead has come from the General Office of the

State Council that published a policy document last year containing the extended weekend proposal. This has been taken up by several cities, including Ji'an and Jinzhong, for their own council employees. Private sector employers are not obliged to follow suit, but if they do so they may adjust working time elsewhere in their employees' work schedules.

EU: In 2015 the activity rate of non-EU citizens aged 20-64 was, on average, 7.5% lower across the EU than for EU citizens. The only exceptions to this were Greece, Slovenia, Slovakia, Italy, Spain, Cyprus, Portugal, the Czech republic and Hungary, where non-EU citizens were more active than EU citizens. The share of employees with a temporary contract was also higher for non-EU citizens (21.4%) than for nationals (12.9%). Unemployment was also twice as high for non-EU national than nationals – although very similar for long-term unemployment. (Source: Eurostat)

PORTUGAL: A government Bill to return the weekly working hours of Portugal's civil servants back to 35 hours has been approved by the parliamentary employment and social security committee. The weekly hours of government employees were increased to 40 as part of general austerity measures in 2013. Now it is proposed to phase-in the changes during the second half of 2016, with priority given to services where it is necessary to hire new staff. Negotiations will take place with trade unions over a number of exceptions where a 40-hour week would have to be retained for operational reasons.

SINGAPORE: Companies that employ workers under the Employment of Foreign Manpower (Work Passes) Regulations are required to provide accommodation for them. However, many companies do this by contracting with dormitory operators that house workers in overcrowded hostels well above the permitted occupancy limits. In a recent case an operator KT Mesdorm Pte Ltd was fined $300,000 ($US 221,000) for 30 counts of non-compliance with accommodation standards. The companies which had tenancy agreements with KT Mesdorm were found by the court not to have been aware that the dormitory complex had exceeded its approved occupancy limit. If they had, they too could have been heavily fined.

SINGAPORE: Although the normal retirement age in Singapore is 62, the government introduced a right last year for employees, who are citizens and have at least three years' service, to be considered for re-employment extending for a further 3 years. Now the government has decided to further extend the reemployment period until the employee is aged 67, with effect from July 1st 2017. There is no strict obligation to find ongoing work, but if an employer fails to do so they must pay compensation under the Employment Assistance Payment (EAP) scheme. This could amount to $13,000 ($US 9,585), although the amount will decline as the employee reaches the age of 67. The Committee on the Employability of Older Workers (TRICOM) is also amending its guidelines relating to increased medicare contributions for later retiring employees.

VIETNAM: From July 1st 2016 all "legal representatives" of companies operating in Vietnam – such as Managing Directors or HR Directors - could face substantial fines, "non-custodial reform" (forced re-education) for up to one year and up to three years imprisonment for wrongfully dismissing one or more employees. The new Penal Code (100/2015/QH13) is a complex instrument, but is more tightly worded than its predecessor. Employers will now have to ensure that dismissal follows strict procedures, is entirely lawful and does not arise from - any undue pressure placed on employees or threats of force; or involve a woman who is pregnant or has a child aged under one year; or result in the employee committing suicide or cause hardship for any employee or his/her family; or give rise to a strike. For this reason companies will undoubtedly involve legal counsel at every stage of the dismissal process.

UNITED KINGDOM: The origin of the term "lies, damn lies and statistics" is lost in the mists of time, but if written today it would be best end "and recruiter's statistics". The existence of a UK absenteeism crisis has been widely reported recently, based on a news release from a UK recruitment company. The facts are actually otherwise. According to the Labour Force Surveys released by the Office For National Statistics the level of short-term male absence has been actually falling slightly. The latest data for February 2016 shows it to affect 2.7% of the UK male working population, compared to a high of 2.9% in September 2015. Over the longer term it has fallen by over 1% since the early 1990s. Female short-term absence was also down to 1.8% in February compared to a high of 2.1% last July. Over the longer term, temporary female absence has remained virtually unchanged.

USA: It has been unclear for some time whether obesity is to be considered a disability under the Americans with Disabilities Act ("ADA"). In Morris v BNSF Railway Company the Eighth Circuit Appeals Court has ruled that obesity, in itself, is not a disability - unless it arises from some underlying physiological disorder.

USA: When Lexis Nexis took over the US legal publishers 'Law 360' in 2012, they claimed that it will bring the "highly regarded fast turnaround delivery of trusted legal news and analysis". But now the New York Attorney-General Eric Schneiderman has warned the publishers about "unscrupulous non-compete agreements" that acted as a "veiled threat" because they forbade anyone on their editorial staff from accepting a job from even a partial competitor for a period of one year anywhere the company operated. According to Schneiderman "unless an individual has highly unique skills or access to trade secrets, non-compete clauses have no place in a worker's employment contract". The US Treasury and White House have also both come out this year with reports decrying such agreements and US employers will now need to ensure that post-compete clauses are used very sparingly.

Dates for your diary:

July 1st 2016: Increase in levies on construction sector and service sector work permits and S-Pass permits in **Singapore**.

July 1st 2016: Effective date for **EU** Directive on the protection of workers from risks associated with magnetic fields

July 1st 2016: Minimum wage hikes in Australia, Malaysia, Peru and probably Chile

July 1st 2016: Article 7 of Chapter XVIII of the **Los Angeles** Municipal Code introduced giving paid sick leave up to 48 hours a year

September 29th 2016: **Canada** to introduce mandatory Electronic Travel Authorization (eTA) for all visa-free eligible nationals (excluding US citizens) arriving by air.

April 6th 2017 Introduction of apprenticeship levy for large **UK** employers

May 25th 2018: Final effective date for **EU** General Data Protection regulation

FedEE Events:

DATA MANAGEMENT FORUM: Learn all about the latest developments in data protection and workplace privacy around the world and how they impact upon HR. The new EU's General Data Protection Regulations and transatlantic "Privacy Shield" (replacing "Safe Harbor" procedures) are just two of the many issues that will be covered in our round table forum in London on Wednesday, July 13th.To join us contact Karen Wallace on (UK) (0) 117 975 8611 or email her on admin@fedee.com.

NEXT FELLOWSHIP MEETING: The next Fellowship Meeting will take place on Tuesday, July 12th 2016. Fellowship meetings are a great opportunity to share insights and experiences 'off the record', with no notes taken. This allows participants to see what is really taking place outside their organization - in contrast to conferences where they are given a certain amount of 'window dressing'. If you are not currently a Fellow but are interested in becoming one please contact us on +44 (0)117 975 8611.

Travel Warnings:

BAHAMAS: There is a high level of crime, especially in Nassau, that is expected to continue through the Summer months and be directed at foreign nationals.

BALI: The Zika virus has now spread to Bali and now affects 49 countries around the globe. Pregnant women should not travel to this destination without taking extreme caution.

CHINA: The Centre for Disease Control (CDC) has issued a warning about the Chinese coastal city of Tianjin, China, where there is an enhanced danger of contracting H7N9 influenza, or avian flu.

FRANCE: Pilots working for Air France have cancelled their planned strike from 25-27 June, although a national strike by air traffic controllers could affect travel in the next 24 hours.

ICELAND: Travel should be avoided to the southern half of Iceland because of the likelihood of an eruption by the Hekla volcano. Hekla has erupted violently every decade and readings suggest a major eruption will take place in coming weeks. This will also disrupt flights across the NE Atlantic.

SOUTH AFRICA: Protests are flaring up throughout the country and these are sometimes violent. The latest incidents were in Tshwane where vehicles have been burnt and foreign shops looted. There is also a high level of criminal activity in major cities.

TAIWAN: Unionised flight attendants working for China Airlines (CAL) have voted for strike action throughout Taiwan, particularly at Taoyuan and Songshan Airports. This could affect flight schedules throughout the Summer months.

TURKEY: Following the fatal bomb attack in Beyazit earlier this month travel warnings now apply concerning Sirnak, Mardin, Sanliurfa, Gaziantep, Diyarbakir, Kilis and Hatay, Siirt, Tunceli and Hakkari.

UNITED KINGDOM: Large delays can be expected when travelling to the west of England due to the Glastonbury pop festival. This will mainly affect the A303 and M4/5 motorways in Somerset. There is also a danger of flooding in several areas, especially West Sussex. Rail disruptions in Scotland and the south of England can also be expected due to 24 hour strikes by the RMT rail union.

FedEE News

CYPRUS OFFICE: We are currently establishing a new finance office and research centre in Nicosia, Cyprus. It will begin to operate in late June and be fully operational from August 1st 2016. This will help us to improve our support services to members in Eastern Europe and the Middle East.

PUBLIC HOLIDAYS 2017: We have now posted public holidays for next year into the individual country sections of the knowledgebase and into the separate public holiday section.

NETWORK WITH OTHER FEDEE PROFESSIONALS: Don't forget to sign up to FedEE's face-to-face networking community, butN. Join for free today at http://www.but-n.com.

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