

WHAT THE HAIR: EMPLOYMENT DISCRIMINATION AGAINST BLACK PEOPLE BASED ON HAIRSTYLES

Ra'Mon Jones

INTRODUCTION

When you see a person with an afro, braids, dreadlocks (locs), or any other popular natural hairstyle, do you think of them as unprofessional or unemployable? Apparently, many employers do. Black men and women who don their natural tresses, either wooly and full, in intricate twists or braids, or in velvet-ropy locs often receive bold and awkward questions and comments about their hair from employers. Some of these comments include demands that Black people change their hair to look professional.¹ Unfortunately, many Black people who embrace their natural hair textures and styles are faced with a dilemma: whether they should stifle their roots (hair and culture) for the sake of getting or keeping a job or risk losing a job opportunity for refusing to change their hair to appeal to employers.

A reasonable person would think that how people wear their hair, let alone how the hair naturally looks as it grows from the scalp, has nothing to do with whether they are qualified for a particular job; however, natural hair seems to scream *unprofessional* in corporate America.² For years, Black women have been pressured to straighten their hair or wear it *modestly*, while Black men have been pressured to cut their hair and shave their facial hair to appear less *menacing*, all for a more professional look.³ Wealthy white men, in power since the dawn of colonial America, de-

1. See Janice Gassam, *Can a Company Tell Employees How to Wear Their Hair?*, FORBES, Oct. 10, 2018, <https://www.forbes.com/sites/janicegassam/2018/10/24/can-a-company-tell-employees-how-to-wear-their-hair/#275e44725a0f>.

2. *Id.*

3. See generally Areva Martin, *The Hatred of Black Hair Goes Beyond Ignorance*, TIME, Aug. 23, 2017, available at <https://time.com/4909898/black-hair-discrimination-ignorance/> (discussing the hateful attitudes toward Black hair and how women and men are ridiculed about how they wear their hair. These attitudes vehemently insist that Black natural hair is “distracting,” and individuals are urged to cut or straighten it to look “presentable” in professional settings and even in schools. School policies have gone as far as to ban natural hairstyles because they are deemed “unkempt,” “extreme. . .faddish and out of control.” Such attitudes insinuate that natural hair is detestable and perpetuate nonsensical notions that Black people who wear their natural hair are disruptive, troublesome, inappropriate, and unfit for professional arenas).

fined the standards of professionalism. Anything that veers too far from a crisp crew cut or a preppy Anglo quiff is abhorrent in the office.

Since at least 1976, the judicial skirmish to protect Black hair in the workplace has been underway. The earliest cases were brought under the racial discrimination provisions of the Civil Rights Act of 1964 (Civil Rights Act). On several occasions, the Civil Rights Act has been a double-edged sword in the courts, regarding the issue of protecting Black hair in the workplace. On some occasions, the Civil Rights Act assured that Black people are protected from employment discrimination based on their hair, while, on other occasions, the Civil Rights Act upheld employers' discriminatory decisions to fire or not hire Black people who wear natural styles. Over forty years later, the skirmish continues, with the help of the Equal Employment Opportunity Commission (EEOC) and legislation in a number of states that challenge courts and corporations.

The fight for the right to be kinky has been a steep uphill battle that has often been categorized under the umbrella of racial discrimination or employment discrimination based on race. It should be clear that employment discrimination based on hairstyle is a distinct issue that disproportionately affects Black people specifically. Although racial discrimination is unlawful, employers still discriminate against Black people extensively.⁴ This discrimination forces Black people to compromise their cultural identity in order to be considered professional and employable. Some states, including New York and California, have taken strides to obliterate this type of employment discrimination by enacting laws that forbid such employer prejudice, but much of the country maintained a passive status quo.

Part I of this paper gives background on the natural hair movement and the ongoing employment challenges Black people face due to discrimination for wearing notably Black hairstyles. Part II analyzes both the discriminatory perceptions of Black people based on their hair and modern professionalism in order to scrutinize the relevancy of workplace restrictions on certain hairstyles, as dress code enforcement becomes less popular and notions about what is professional shift. Part III offers three remedies for eradicating employment discrimination against distinctly Black hairstyles: (1) implementing legislation like California's CROWN Act or New York's law to protect natural hairstyles; (2) conforming to new, socially conscious standards of professionalism by creating culturally mindful dress codes and grooming policies that respect the wearing of natural hairstyles in the workplace; and (3) increasing cultural diversity education for employers, in order to increase awareness of employment prejudice against Black people who wear their natural hair. The tension created by this issue has been extremely palpable in recent years. Nevertheless, the human rights violations implicated by such discrimination must be addressed and rectified.

4. See Lincoln Quillian et al., *Hiring Discrimination Against Black Americans Hasn't Declined in 25 Years*, HARV. BUS. REV., Oct. 11, 2017, available at <https://hbr.org/2017/10/hiring-discrimination-against-black-americans-hasnt-declined-in-25-years> (showing that Black people are still substantially disadvantaged in comparison to whites with regards to employment and hiring decisions).

I. BACKGROUND

A. *The Natural Hair Movement*

For the sake of this paper, natural hair is defined as hair that has not been altered by chemical straighteners, including relaxers and texturizers.⁵ Chemical straighteners like relaxers and texturizers change the structure or texture of one's hair from kinky or coily to straight, in order to make the hair more *manageable*, or satisfactory to Eurocentric beauty and professionalism standards.⁶ Black natural hair is more diverse than non-Black natural hair and comes in a wide variety of textures. For instance, the range of natural hair textures includes fine and straight, thick and wavy, curly, tightly coiled, coarse and kinky, or a mixture of any of these types. Black natural hair is a beautiful symbol of pride that should not have to be altered and damaged in any way to appease those who simply do not understand or appreciate its cultural significance.

Black women and men have embraced and celebrated natural hairstyles throughout history, but the natural hair movement has varied in popularity and perspectives. The natural hair movement originated in the 1960s through the popularization of styles like the afro, and it ignited as part of the Black Power movement for Black civil rights.⁷ Post-slavery until that time, Black people had been using perms, wearing wigs, or cutting their hair to downplay their natural textures in an effort to appeal to white societal norms.⁸ Even some prominent civil rights leaders sported the *prim-and-proper* look set out by the white majority at the time. However, as the Civil Rights movement trudged through the 60s, Black civil rights activist groups like the Black Panther Party began to shift Black culture by boldly wearing afros, which inadvertently impacted professional culture as Black people began wearing afros to school⁹ and work.¹⁰

The act of wearing natural hair during the Civil Rights era was more than one of protest; it was a full embrace of cultural identity and Black consciousness.¹¹ In "Hair Story: Untangling the Roots of Black Hair in America," authors Ayana Byrd and Lori Tharps directly correlate the natural hair wave of the 60s with embracing Black identity and self-awareness that connected Black people to each other and to their shared African ancestry.¹² The afro became a symbol of Black power, beauty, and pride as prominent figures like Angela Davis, Huey Newton, and even celebrities started to don the big round crown.¹³ The movement permeated and

5. See generally Del Sandeen, *What is Natural Hair? A Definition and In-Depth Look*, BYRDIE, Apr. 22, 2019, available at <https://www.byrdie.com/what-is-natural-hair-definition-and-in-depth-look-400268>.

6. *Id.*

7. See generally Ayana Byrd & Lori Tharps, *Hair Story: Untangling the Roots of Black Hair in America*, (2002).

8. *Id.* at 20 & 26.

9. *Id.* at 55.

10. See *Jenkins v. Blue Cross Mutual Hospital Insurance, Inc.*, 538 F.2d 164 (7th Cir. 1976); *Rogers v. American Airlines, Inc.*, 527 F. Supp. 229 (S.D.N.Y. 1981).

11. Byrd & Tharps, *supra* note 7, at 55-58.

12. See *Id.* at 54.

13. *Id.* at 55.

spread beyond just Black activists and Black entertainers, becoming the new normal and preferred look for many Black people, especially young Black young adults.

During the 1970s, the natural hair movement was in full-swing, as afros and increasingly popular braided hairstyles like cornrows and individual braids became more prevalent among Black people.¹⁴ By the 1980s, the signs of the movement were becoming faint as Black men and women slowly traded in their afros and braids for Jheri curls and other texturized styles.¹⁵ Again, this is correlated with the Black Power movement, which also began to slow down in the early 80s. The 90s saw many Black women revert to processed hair, weaves, and wigs, but some Black women and men continued to wear natural hairstyles like braids and locs.¹⁶

Finally, the natural hair movement experienced a resurgence in the early 2000s and throughout the 2010s. This revival of the natural hair movement, however, was untethered to any political movement; instead, it was based on a social movement to redefine and embolden standards of beauty for Black people, specifically Black women who were tired of damaging their hair with relaxers or excessive heat from straightening.¹⁷ The booming Neo-Soul and Hip-Hop eras of the last twenty years reintroduced afros, braids, and other natural styles on a large scale; pop culture largely embraced the natural look, and many popular Black celebrities, including several musicians, actors, and athletes began sporting natural or Afrocentric hairstyles. Although the popularization of natural styles inspired many Black people to confidently go natural, the look was not without its obstacles; the main obstacle was the notion of an acceptable, professional appearance, as historically defined by the white elite.

B. *Employment Challenges with Natural Hair*

Black natural hair has long been subject to discrimination and irreverence in the United States. The Tignon Laws of 1786 in Louisiana forbade Black women from adorning their hair and mandated them to keep their hair wrapped in a headwrap while in public, because Black women's adorned hair was deemed offensive to white people.¹⁸ When slavery ruled the United States, white slave owners commonly shaved the heads of enslaved Africans as a subjugation tactic to erase their cultural identity, remove tribal affiliations, further humiliation, and as a form of punishment.¹⁹ Fast-forward a few hundred years and Black people's hair is still scrutinized by employers, as Black men are expected to keep their hair

14. *Id.* at 57, 63-64.

15. *Id.* at 109-112.

16. *Id.* at 121-22, & 128-131

17. See Alexis McGill Johnson et al., *The Good Hair Study: Explicit and Implicit Attitudes Towards Black Women's Hair*, Perception Institute, 3 (2017), available at <https://perception.org/wp-content/uploads/2017/01/TheGood-HairStudyFindingsReport.pdf>.

18. See Kaili Moss, *Black Hair(tage): Career Liability or Civil Rights Issue?*, 25 WM. & MARY J. WOMEN & L. 191 at 202 (2018), available at <https://scholarship.law.wm.edu/wmjowl/vol25/iss1/8>.

19. Byrd & Tharps, *supra* note 7, at 10-11.

cut short and neat, and Black women are expected to avoid *distracting* styles like braids, twists, or locs.

The scrutinization and stigmatization of Black natural hair has made it difficult for Black people to excel professionally. Some of the earliest known cases of discrimination against Black people based on hairstyle or texture can be traced back to the 1970s, with *Jenkins v. Blue Cross Mutual Hospital Insurance* a lawsuit over the wearing of afros at work, and the 1980s, with *Rogers v. American Airlines, Inc.*, a case about the wearing of cornrows at work.²⁰ These cases had different outcomes: Jenkins earned a victory for natural hair wearers in the workplace, while Rogers, on the other hand, took a big loss, with the court ruling in favor of the American Airlines employer who banned the wearing of cornrows or braids.²¹ Both cases were supported by the Civil Rights Act, which alludes to employment discrimination protection based on race generally, as broadly defined by its Title VII provisions; however, that protection is simultaneously limited by the categorization of immutable and mutable characteristics, a balancing test applied by the courts to determine whether the alleged form of discrimination is prohibited under Title VII.²² In this context, an immutable characteristic is a trait that cannot easily be changed while a mutable characteristic is a trait that can easily be changed.²³ This court-created loophole in the Civil Rights Act set a controversial precedent, allowing employers to legally discriminate by using dress code and grooming policies that ban certain *unacceptable* hairstyles, thus creating a major hurdle for Black people in the workforce. Consequently, many Black people have either been turned down for jobs although they were adequately qualified, terminated from jobs, or threatened with disciplinary action while on the job, all because of their hair.²⁴

II. PERCEPTIONS OF BLACK PEOPLE BASED ON HAIR & RESTRICTIVE MODERN PROFESSIONALISM

A. *Perceptions of Black People Based on Hair*

For a moment, imagine a Black man preparing for an interview at a well-paying, highly competitive corporate office in downtown Chicago. The man stands six feet tall, is of an average to athletic build, has a brown to dark-brown skin complexion, with a neatly trimmed goatee and a head of tapered locs. Aside from his looks, he is well-educated, has an impressive resume listing his years of corporate work experience, and meets all other standard applicant requirements. Additionally, he is charismatic and hardworking, which fares well during the interview, such that he gets a job offer. Upon receiving his employee handbook and human re-

20. See *Jenkins*, 538 F.2d at 165; *Rogers*, 527 F. Supp. at 229.

21. *Id.*

22. *Id.*

23. *Id.*

24. See Dawn D. Bennett-Alexander & Linda F. Harrison, *My Hair Is Not Like Yours: Workplace Hair Grooming Policies for African American Women as Racial Stereotyping in Violation of Title VII*, 22 *CARDOZO J.L. & GENDER* 437 at 438-39 (2016).

source training materials, he is told that he will have to cut his locs before he starts work because they violate the dress code policy. This sort of blatant discrimination occurs frequently.

EEOC v. Catastrophe Management Solutions is a similar case to the hypothetical above.²⁵ Here, a Black woman interviewed for a customer service representative position in Alabama; she was dressed professionally and had her hair styled in locs for her interview. She was initially told that she had gotten the job, however, a manager said that she could not be hired with locs because “they get messy.”²⁶ The company had a grooming policy that banned “excessive hairstyles,” generally stating that employee hairstyles should reflect a professional image.²⁷ The woman was offered an unspoken ultimatum: either cut her hair or lose the job offer. Understandably, the woman refused to cut her hair and consequently did not get the position.²⁸ The EEOC brought a claim against Catastrophe Management Solutions arguing that the company violated Title VII of the Civil Rights Act by racially discriminating against the woman and denying her employment based on race.²⁹ To support their stance, the EEOC argued that race was a social construct that was not defined by or limited to immutable physical characteristics, but included cultural characteristics related to race and ethnicity, including the way people of certain cultures style their hair.³⁰ Unfortunately, the courts decided that hairstyles were mutable, or easily changeable, traits, and, therefore, that people could essentially choose to change their hair to be employable.³¹

As if Black people are not already plagued with innumerable, horribly offensive stereotypes and negative perceptions, *EEOC v. Catastrophe Management Solutions* is a prime example of negative perceptions regarding Black people who don natural hair. Moreover, even the judicial system has not been willing to oust these negative perceptions and protect Black people from this form of discrimination. The courts have commonly sided with employers in hair discrimination cases, citing “mutable characteristics” as justification for blatant, yet judicially acceptable, discrimination.³²

25. See *EEOC v. Catastrophe Management Solutions*, 852 F.3d 1018 (11th Cir. 2016). (A hiring manager told a black woman that the company does not hire people with locs because they get messy).

26. *Id.* at 1022

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.* (For Black people, changing one’s hair can be difficult and damaging because it usually means that natural hair will have to be cut, chemically straightened, or drastically altered in some way that is irrational, unfair, and unrequired of non-black individuals; so, the mutable characteristics test consistently and disparately impacts Black people in employment discrimination cases, just the same as the employer policies disparately impact Black people through dress code and grooming policies).

32. See Peter Brandon Bayer, *Mutable Characteristics and the Definition of Discrimination Under Title VII*, 20 U.C. DAVIS L. REV. 769, 771 (1987). (“Mutable characteristics” are characteristics that are easily altered and courts have traditionally held that Title VII does not protect against discrimination based on mutable characteristics, so hairstyles typically are fair game for an employer to fire, refuse to hire, or implement discriminatory policy against a person who wears natural hairstyles).

The mutable characteristics defense virtually grants employers a pass to be as discriminatory as they want against someone whose look does not appeal to the employer's liking;³³ it is a loophole for implicit and explicit bias to run rampant in employment practices. So, when it comes to securing a job, Black people are unfairly forced to either: (1) cut their hair or undergo a harmful chemical process to alter the texture; or (2) continue wearing natural styles and risk being subjected to ignorant critiques and prejudicial treatment with seemingly no recourse.³⁴ The audacity of employers and the courts to label this as anything but discrimination is despicable, but not surprising.

As previously mentioned, the mutable characteristics defense is a loophole for implicit and explicit bias against natural hairstyles. The Perception Institute conducted a study to determine whether people had implicit and explicit bias against Black natural hair, and whether natural hair was considered professional.³⁵ The Perception Institute wanted to discover whether Americans are biased against Black women who wear their natural hair and if Black women themselves perceive a level of social stigma opposing natural hair.³⁶ Over 4,000 men and women comprised of 20% Black men, 25% Black women, 25% white men, and 30% white women completed the explicit bias study by rating as least beautiful, attractive, or professional a series of photos of a Black woman wearing different hairstyles.³⁷ The same participants looked at images of people from different racial backgrounds and associated the images with an assortment of positive and negative words.³⁸ The results showed that on average, white women showed explicit bias against Black women with natural hair, viewing the hair as less beautiful and less professional than straight or smooth hair, and that white men and women generally showed implicit bias towards natural hair, preferring straightened or smooth-textured hair over more kinky, curly-textured hair.³⁹

The results of the Perception Institute study did not produce any new or alarming statistics, as many in the Black community are already privy to the existence of implicit and explicit bias against Black natural hair, especially when concerning employment; those who are outside of the Black community may not give the issue much thought in the first place. The big picture here is that people are judged by their appearance; sadly, the even bigger picture is that this judgment is overwhelmingly magnified for Black people. The appearance of Black people is analyzed and critiqued to the most meticulous detail and is terribly stereotyped. Black men and boys are viewed as *menacing* or *threatening* if they wear cornrows, braids, locs, or twists, and are instantly branded as *thugs* or *gangsters*, which puts them at a greater risk of being harassed by police for

33. *Id.* at 838.

34. Bennet-Alexander & Harrison, at 439.

35. *See generally* McGill Johnson et al.

36. *Id.* at 2-3.

37. *Id.* at 4.

38. *Id.* at 4-5.

39. *Id.* at 6-10.

unwarranted suspicion and mistrust.⁴⁰ Black women and girls are equally stereotyped and criticized for wearing natural hairstyles like braids, twists, or even afros, and labeled *ghetto* or *loud*, which puts them at a greater risk of being disrespected or mistreated.⁴¹ These derogatory labels that are slapped onto Black people simply because they choose to embrace their natural hair and wear styles that are culturally significant are both insulting to their cultural identity, and detrimental to how they are viewed in society, especially when seeking employment.

B. Modern Professionalism

Historically, standards of professionalism have been dictated by the white-male elite.⁴² Every aspect of professional appearance from the color of a person's suit, shirt, tie, and shoes, to the way hair should be cut, combed, and styled has been determined by white men and etched into employee handbook dress code policies, snooty magazine articles, internet interview guides, and other job-related literature all over the country, for ages.⁴³ While everyone should strive to make a positive, lasting impression by looking polished and presentable for work, the current standards of professionalism do not provide much room for deviation. The uptight nature of professionalism is and has been a disincentive for

40. See Raz Robinson, *When Black Hair is Celebrated, Black Boys Face Danger*, FATHERLY, (May 1, 2018), <https://www.fatherly.com/love-money/black-boy-haircuts-natural-hair/>. (highlighting the stereotypes surrounding black men that black men are *dangerous* and *threatening*, stating that "black men are viewed as larger or more dangerous than white men of the same size and black boys are often treated as if they are older than white [boys] regardless of their haircuts." The article goes on to provide accounts of various black men who weigh in on the negative perceptions surrounding black men and natural hair with many of them acknowledging that while they understand and support young black men and boys embracing and wearing natural styles like locs or cornrows, these styles heighten white suspicion and enlarge the police target on black males. In an era where police violence against black males is increasingly alarming and unpunished, it is potentially unsafe for black men to be expressive or experimental with their hair due to the thug/gangster stereotypes perpetuated by white people and their cultural ignorance).

41. See generally Joseph Goldstein, *Suit Claims Racial Harassment at Security Firm With New York City Contracts*, THE NEW YORK TIMES, Nov. 26, 2013, <https://www.nytimes.com/2013/11/27/nyregion/suit-claims-racial-harassment-at-security-firm-with-new-york-city-contracts.html>. (detailing ongoing racial discrimination and harassment that occurred at a security company for over five years. A former federal prosecutor, Katherine Lemire filed a lawsuit against the firm after being fired for defending a black female coworker, Chanissa Green, who was being insulted about her braided hair and harassed by white male coworkers, including the company vice president. The vice president called the woman's hair *ghetto* and *unprofessional*. Green was harassed for years on the job as her white male coworkers consistently made horribly racist remarks to and about her. This is a prime example of the mistreatment that black women and men are subject to in the workplace).

42. See Kenji Yoshino, *The Pressure to Cover*, THE NEW YORK TIMES MAGAZINE, Jan. 15, 2006, available at <https://www.nytimes.com/2006/01/15/magazine/the-pressure-to-cover.html>. The writer acknowledged that Black people are forced to cover or assimilate and are encouraged not to wear natural hairstyles because (citing John T. Malloy) "the model of success. . . is white, Anglo-Saxon and Protestant."

43. *Id.* The image of professionalism reflects whiteness, or at least what does not stray too far from Eurocentric or Anglo-American perspectives of appropriate and normal.

many modern professionals, especially millennials and post-millennials (Generation Z) who are now bursting onto the corporate scene.⁴⁴ Heading into the 2020s, millennials are now challenging the status quo by looking into the faces of those who have upheld restrictive professionalism standards and saying to them “ok, boomer,” as they attempt to redefine professional culture to better reflect the new face of the workforce.⁴⁵ If any group of people sees the numerous employment discrimination issues, including discrimination based on hairstyle and texture, it is the millennials; and if any group of people is poised to do something about it, again, it is the millennials.

Taking a step back, it was during the years when Generation X broke into the job market (late 1980s to the early 2000s) that *Casual Friday* became a trend at work.⁴⁶ Generation X employees sought a more flexible work schedule and environment to suit their lifestyles and reflect the evolving and inclusive fashion styles of the era.⁴⁷ Generation X were believed to be loyal to their employers, however, they required freedom in job performance, as opposed to micromanagement, and they expected to be involved in the implementation of workplace strategies or policies.⁴⁸ Additionally, Generation X were the first working generation to highly emphasize work-life balance, refusing to be workhorses like the boomers

-
44. See Gina Weber, *Millennials Expect Less and More: Workplace Writing for Today's Workforce*, 2018, CORNERSTONE: A COLLECTION OF SCHOLARLY AND CREATIVE WORKS FOR MINNESOTA STATE UNIVERSITY, MANKATO, available at https://cornerstone.lib.mnsu.edu/cgi/viewcontent.cgi?article=1023&context=eng_tech_comm_capstone_course. The values of millennials are undoubtedly shaped by the era they live in; thus, millennials are the most receptive generation to diversity and advocating for the rights of others. Millennials are often able to integrate social or peer groups more comfortably than previous generations regardless of racial, cultural, gender or sexuality differences, making them the most tolerant or accepting generation. Ultimately, this is reflected in millennials' workplace expectations, as they want flexibility, freedom, creativity, and fulfillment on the job, or they will most certainly leave without hesitation to find something more enjoyable.
45. Ellevate, *In Defense of Millennials: Embracing Their Strengths for an Inclusive Work Culture*, FORBES, Apr. 12, 2018, available at <https://www.forbes.com/sites/ellevate/2018/04/12/in-defense-of-millennials-embracing-their-strengths-for-an-inclusive-work-culture/#5461c87713f3> (describing millennials as passionate, purposeful, and nontraditional. The differences in work ethic and work capabilities between millennials and older generations, as addressed in the article, reinforce the idea that millennials are disinterested in the practices set in place by Baby Boomers because they are out of touch or impractical for millennials).
46. Megan Garber, *Casual Friday and the 'End of the Office Dress Code,'* THE ATLANTIC, May 25, 2016, <https://www.theatlantic.com/entertainment/archive/2016/05/casual-friday-and-the-end-of-the-office-dress-code/484334/>. (In the 1990s, it became popular for companies to allow employees to dress more casually for work on Fridays).
47. *Id.* Workplace fashion becoming laxer as a result of the popularization of workplace implantation of Casual Friday and business casual or plain, casual office attire.
48. E. W. Mulvanity, *Generation X in the workplace: age diversity issues in project teams*, PROJECT MANAGEMENT INSTITUTE (2001), <https://www.pmi.org/learning/library/generation-x-workplace-age-diversity-style-7904>. (noting that Generation X emphasize individual skill-building, communication, and a high level of involvement in workplace decisions in order to feel appreciated and accomplished on the job).

before them, because they considered work to be just one component of their multifaceted lives.⁴⁹

Generation X also paved the way for unapologetically embracing diversity and inclusion in the workplace.⁵⁰ This is evidenced by the popular 90s television sitcom, *Living Single*, which aired during the peak of Generation X's entry into the workforce, and portrayed a group of Black New York professionals "in a 90s kind of world." One of the characters was a successful, dark-skinned, Black female attorney (Maxine Shaw) who wore locs that varied in length and style over the course of the show, and a successful dark-skinned Black male Wall Street executive (Kyle Barker) who also wore locs for the entire run of the show.⁵¹ Generation X knew what they brought to the employer's table and were not afraid to make demands or threaten to terminate their own employment for something more suitable; it was their moxie, assertiveness, independence, and embrace of societal transformation that began to ease work culture into a less conventional place, opening the door for the generations that followed to stand up for themselves against undesirable employment practices.

Millennials are early in their careers, with Generation Z soon entering right behind them. The newest batch of working Americans is a chip off the old Generation X, free-thinking block, and they are a far cry from the stiff-necked baby boomers. Millennials vary in the way they express themselves, from the way they dress to the way they style their hair; but generally, they demand respect and will challenge all norms and standards threatening that respect and their freedom of self-expression. Millennials are not fond of archaic structures and standards and will quickly and unashamedly advise their predecessors to get with the times or get left behind.⁵² They are necessary in the workplace because they were born and raised in the digital age, so they have the freshest knowledge and skillsets when dealing with technology and getting much more work done, faster and more efficiently. This makes millennials extremely valuable to employers, but it comes at a price to the employers. Millennials are becoming increasingly aware of their value; they are either only taking interest in jobs that allow them to negotiate their demands and condi-

49. *Id.* The author addressed that Generation X denounced the work ethic of the baby boomers in favor of more balanced, multifaceted lifestyles that allow them to distribute their time however they want.

50. *See Id.* The author discussed the differences between the generations in the workplace, stating that Generation X considers themselves autonomous, yet very reliant on their peer groups (as opposed to their families), and are generally unfazed by prejudice. Additionally, the author (citing Susan Mitchell, *How to Talk to Young Adults*, (American Demographics pointed out that Generation X, those born between 1965-1981, were raised in multicultural communities that placed more reliance on peer groups than familial structure, so the generation was more accepting with regard to race, gender, national origin, etc.).

51. Queen Latifah, *We Are Living Single* Theme Song (Warner Bros. 1993); *Living Single* (Warner Bros. 1993).

52. *See* Rieva Lesonski, *Millennials Are Rewriting the Rules of Work and Entrepreneurship*, SMALLBIZTRENDS.COM, Feb. 12, 2019, available at <https://smallbiztrends.com/2013/05/millennials-work-and-entrepreneurship.html>. Millennials want freedom and flexibility in their jobs.

tions, including flexibility and freedom,⁵³ or going into business for themselves as their completely authentic selves. In doing so, millennials are competing against stuffy, boomer-led businesses.⁵⁴ The diversity of the millennial job candidate pool, the values that these candidates have, and their pride in their identity force longstanding businesses to either adjust their practices or risk losing employable candidates, which could mean losing business and revenue.

In relation to the issue at hand, the problem with many dress codes and grooming policies, aside from the fact that they are extremely Eurocentric and outdated, is that they are too restrictive for the current, diverse job candidate pool. The ideal face of professionalism is no longer just a clean-cut white man in a suit or a slender blonde woman in a pencil skirt; instead, it is a mixture of unconventional looks, including fashion-trendy threads, comfy shoes, and yes, even natural hair.⁵⁵ The hipster is proving that he is just as efficient as the guy in the Brooks Brothers suit, just as the naturalista is showing that she is as capable of raking in the cash and snagging a well-deserved promotion as is the lady with the tightly wound hair bun.⁵⁶ Research shows that a person's appearance plays a significant role in their effectiveness in the workplace, which makes sense because people perform based on how they feel; if employees feel miserable because of certain restrictions on their appearance, then employers should not expect their employees to perform their best work.⁵⁷ Furthermore, a person's appearance is usually an extension of their personality, and people who are able to be themselves at work are

53. *Id.*

54. See Larry Alton, *Are Millennials More or Less Likely to Start Their Own Businesses*, FORBES, Feb. 15, 2017, <https://www.forbes.com/sites/larryalton/2017/02/15/are-millennials-more-or-less-likely-to-start-their-own-businesses/#3fd0bfaa1301>. (stating that more than 62% of millennials have considered starting their own business, and that 72% of them believe that entrepreneurship is necessary to create jobs, spark innovation, and stimulate the economy. Millennials are also starting more businesses much younger than earlier generations, although many millennials are faced with the modern economic challenges that make entrepreneurship less feasible for now).

55. Joanna Shevelenko, *Building The New Age Of Professionalism In 2020 And Beyond*, FORBES, Feb. 13, 2020, <https://www.forbes.com/sites/forbesbusinesscouncil/2020/02/13/building-the-new-age-of-professionalism-in-2020-and-beyond/#2f78accd57f5>. (The idea of professionalism has changed over the last decade and no longer has a single, definitive look. The idea of professionalism has expanded to include more diverse and individualized characteristics among employees).

56. *Id.* The author discusses the influence of Silicon Valley on the idea of professionalism to illustrate that traditional professional appearance does not define professionalism and is not necessary to thrive as a professional. The innovation and success of Silicon Valley was not because of how the employees dressed, but because of the knowledge and skills the employees possessed.

57. See generally Rebecca Wilson, *61% of employees more productive when dressed relaxed, study finds*, RECRUITMENT-INTERNATIONAL.CO.UK, Jan. 11, 2017, available at <https://www.recruitment-international.co.uk/blog/2017/01/61-percent-of-employees-more-productive-when-dress-code-is-relaxed-study-finds>. (showing that employees generally are opposed to strict dress codes as over 75% of women and men consider them unnecessary. Additionally, over 50% of women and men find themselves more productive at work when dressed casually or comfortably, and over 60% of women and men find dress code policies at their jobs to be discriminatory).

much more likely to be productive and maybe even more personable, which benefits the workplace. The moral of the story is that employers' resistance to allowing more commonly accepted and popularized twenty-first century looks, including natural hair, is counterproductive and regressive.

III. ENDING EMPLOYMENT DISCRIMINATION AGAINST NATURAL HAIR

A. *Legislative Strides*

Ideally, one of the first ways that employment discrimination against natural hairstyles and texture can be eradicated at-large is by implementing new laws to amplify the dated Title VII protections of the Civil Rights Act that will specifically protect against the discrimination of natural hair. Laws that make it illegal and punishable to deny a person employment, career advancement, or other professional opportunities, and also illegal and punishable to mistreat or retaliate against a person for wearing natural hairstyles would significantly change the current employment discrimination landscape. Implementing this type of legislation would provide better support for natural hair-wearers seeking recourse after being denied opportunities because of their hair. Legislation is a compelling mechanism for this issue because it mandates employer compliance and accountability. Legislation also obligates the courts to make more reasonable decisions in cases like *Rogers v. American Airlines, Inc.* and *EEOC v. Catastrophe Management Solutions*. Moreover, legislation provides assurance to those affected by natural hair discrimination that their human right to simply be natural is legally protected.

The Civil Rights Act was passed more than fifty years ago, but new legislation is taking strides to blot out hair-based – or covertly race-based – employment discrimination and offer additional protection to disadvantaged minority groups. The latest trend of protections comes in the form of state laws or municipal ordinances that more specifically protect individuals who wear natural hair, or broadly outlaw discrimination based on appearance generally. For example, Washington, D.C. prohibits employers from discriminating against potential or current employees based on personal appearance generally, including hairstyle.⁵⁸ Likewise, the Department of Civil Rights in Madison, WI enacted the Equal Opportunities Ordinance which prohibits various types of discrimination, including employment discrimination based on physical appearance.⁵⁹ Urbana, IL, home of the University of Illinois, also has a city ordinance that provides protection from employment discrimination based on personal appearance under its Human Rights Ordinance.⁶⁰ The State of New Jersey has pending legislation to modify its race discrimination provisions

58. See D.C. Code § 2-1402.11. (“Personal appearance” is defined in § 2-1401.02(22) as “. . . outward bodily condition or characteristics. . .” Personal appearance also includes “. . . manner of style or personal grooming, including, but not limited to, hairstyle. . .” which implies that natural hair would be protected under this definition).

59. See Madison, Wisconsin Code of Ordinances §39.03. (Definition of physical appearance also includes hairstyles).

60. See Urbana, Illinois Ord. No. 7879-92, § 1(2), 4-24-79.

under the Law Against Discrimination (LAD) that would prohibit discrimination on the basis of hairstyle.⁶¹ These are just a few examples of the efforts that state and local jurisdictions are making to acknowledge and eradicate the issue of employment discrimination based on hairstyle and texture.

State laws passed in California and New York that totally ban discrimination against natural hair are probably the most groundbreaking legislative strides to date. The crowning achievement, known as the Creating a Respectful and Open Workplace for Natural hair (CROWN) Act, was introduced in California by Senator Holly Mitchell in January 2019 and signed into law in July 2019 by California Governor Gavin Newsom.⁶² Not long after, New York signed the CROWN Act into law, also in July 2019.⁶³ The purpose of the CROWN Act, put simply, is to create a respectful and open workplace for natural hair, hence the acronym “CROWN.”⁶⁴ Since the passing of the CROWN Act last summer, protection of natural hair has been a hot topic in political and employment news, and the Act’s momentum shows no sign of slowing down. The cities of Cincinnati, OH and Montgomery County, MD have both passed the CROWN Act in their respective jurisdictions.⁶⁵ Additionally, states including New Jersey, Tennessee, Wisconsin, Florida, Maryland, and South Carolina seek to pass the CROWN Act soon, while states including Kentucky, Pennsylvania, and Georgia are considering similar legislation.⁶⁶ Illinois,⁶⁷ Massachusetts,⁶⁸ Michigan,⁶⁹ and Virginia⁷⁰ all have introduced new legislation prohibiting

61. See Clifford D. Dawkins, Jr. & Grace A. Byrd, *Hair Today, Gone Tomorrow: New Jersey Proposes Legislation Proscribing Hairstyle Discrimination Similar to Current New York and California Laws*, THE NATIONAL LAW REVIEW, Oct. 31, 2019, available at <https://www.natlawreview.com/article/hair-today-gone-tomorrow-new-jersey-proposes-legislation-proscribing-hairstyle>.

62. See generally THE CROWN ACT, <https://www.thecrownact.com/>

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. See HB3884, 101st General Assembly (2019), available at <http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=108&GA=101&DocTypeId=HB&DocNum=3884&GAID=15&LegID=&SpecSess=&Session=> (the bill seeks to amend the Illinois Human Rights Act to modify the definition of race as to include characteristics historically associated with races, including hairstyles and hair textures, for matters concerning employment and education).

68. See HD4497, 191st General Court (2019), available at <https://malegislature.gov/Bills/191/HD4497.html> (the bill seeks to create an Act that prohibits discrimination against natural hairstyles in matters of employment and education by acknowledging and protecting natural hairstyles as physical traits associated with race).

69. See HB4811, 100th Legislature (2019), <http://www.legislature.mi.gov/documents/2019-2020/billintroduced/House/htm/2019-HIB-4811.htm> available at (the bill seeks to amend the Elliott-Larsen Civil Rights Act to modify the definition of race as to include traits “historically associated” with race).

70. See SB50, 2020 Session (2019), available at <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+SB50> (the bill seeks to amend the Virginia Human Rights Act to reenact the Unlawful Discriminatory Practice section and modify the definition of race to include “traits historically associated with race”).

discrimination against natural hairstyles and textures to be included in their respective state human rights laws.⁷¹

To take things a step further, former presidential hopeful, Senator Cory Booker, introduced a bill in Congress on December 5, 2019, to make the CROWN Act federal law.⁷² Regarding the issue, Senator Booker said:

Implicit and explicit biases against natural hair are deeply ingrained in workplace norms and society at large. This is a violation of our civil rights, and it happens every day for black people across the country. You need to look no further than Gabrielle Union, who was reportedly fired because her hair was “too black” — a toxic dog-whistle African Americans have had to endure for far too long. No one should be harassed, punished, or fired for the beautiful hairstyles that are true to themselves and their cultural heritage. . . .⁷³

Senator Booker has several congressional supporters behind him and the bill, including US Representative Cedric Richmond, who said that “. . . it is long overdue for Congress to act,” based on the overwhelming response of state action passing or considering passing the CROWN Act after its positive reception over the summer.⁷⁴ Representative Ayanna Pressley advocated for a federal CROWN Act, claiming that she wears twists to “intentionally create space for all of us to show up in the world as our authentic selves.”⁷⁵ Additional support came from Representative Marcia Fudge who said that “hair discrimination creates additional barriers for people of color in education and places of employment. . . [t]raditional hairstyles worn by African Americans are often necessary. . . and a representation of our culture and ethnicity.”⁷⁶ One last supporter of note is Representative Barbara Lee, who was a force in lifting the natural hair ban in the US military, and whose words also perfectly reiterate the overall point of this paper:

Every day, Black women and men are forced to consider if their natural hair is ‘appropriate’ or ‘professional’ by Eurocentric standards. . . we are making it clear that discrimination against Black women and men who wear their natural hairstyles is wrong and must be prohibited. . . [w]ith the CROWN Act, we can turn the page on forcing cultural norms that penalize Black people and other people of color from wearing their natural hair.⁷⁷

71. See THE CROWN ACT, <https://www.thecrownact.com/>.

72. See Press Release, Cory Booker, United States Senator for New Jersey, Booker, Richmond Unveil CROWN Act Banning Hair Discrimination: Legislation follows spate of recent instances of hair discrimination, sparking national outcry, Dec. 5, 2019, available at https://www.booker.senate.gov/?p=press_release&id=1028,

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.*

77. *Id.*

The popularization of and receptiveness to the CROWN Act offer a much-needed, steady glimpse of hope into rectifying this prolonged injustice, which has disparately impacted an entire group of people; it is crucial that this law continues to permeate jurisdictions nationwide.

Alternatively, or supplementary to a federal CROWN Act, legislators could revamp Title VII of the Civil Rights Act by: (1) providing a detailed definition of race since neither the Civil Rights Act nor Title VII offers a legal definition; and (2) qualifying cultural and ethnic identity for protection, either under the definition of race or as its own classification. Cultural and ethnic identity would encompass ethnically and culturally significant attributes such as natural hairstyles and texture, as these things are directly reflective of racial identity and ethnic heritage; both of which are often subject to discrimination. One reason why the courts have been unprogressive and unreliable in their approach to anti-natural hair employment cases is that the discrimination components of Title VII have not been amended since the Civil Rights Act of 1991; that thirty year gap has rendered the relevant legislation especially archaic.⁷⁸ As discussed in Part I, the Civil Rights Act of 1964 has been a double-edged sword regarding natural hair and employment discrimination, so revisiting the Act and amending it to better reflect modern social consciousness would better address common issues in this new era of discrimination.⁷⁹

While few state and local governments have implemented legislative protections, many states have yet to act to protect Black people from hair discrimination. Even protection from racial discrimination is limited under Title VII, in part because the actual statute lacks definition, which provides a gateway to the Civil Rights Act discrimination loophole. The vagueness of Title VII allowed the courts to create the loophole; consequently, the loophole invites courts to disregard the broad, all-encompassing intent of the statute, biasedly interpret the statute much too narrowly in favor of employers, and criticize reasonable allegations by employees as being too broad to fit the plain meaning of the provisions.⁸⁰ In *EEOC v. Catastrophe Management Solutions*, the EEOC argued that race was a social construct that encapsulated cultural characteristics and not merely physical traits, so the law should equally protect those characteristics from racial discrimination.⁸¹ Professor Peter Brandon Bayer of the William S. Boyd School of Law at the University of Nevada, Las Vegas wrote that Title VII was written to terminate specific forms of employ-

78. See generally CIVIL RIGHTS ACT OF 1991, 1991 Enacted S. 1745, 102 Enacted S. 1745, 105 Stat. 1071, 102 P.L. 166, 1991 Enacted S. 1745, 102 Enacted S. 1745

79. Recall from Part I how the court decided in *Jenkins* that an employer could not legally prohibit Black people from wearing afros to work because the afro hairstyle was hair in its natural state as it grows out of a person's head, which was deemed an immutable trait; however, in *Rogers*, the court held that an employer could legally ban African American employees from wearing braids to work because the braided hair did not constitute a natural state or immutable characteristic since they could be changed without presenting undue burden on employees. The courts are inconsistent regarding discrimination when applying and upholding the law on this issue.

80. See generally Peter Brandon Bayer.

81. See *EEOC*, 852 F.3d.

ment discrimination through its unambiguous language, and that the courts have generally held that the statute is to be interpreted broadly “to give full effect of its remedial purposes,” but have in fact ruled that certain employment practices were out of the scope of the statute.⁸² However, it seems as if Title VII’s plain language, which states that employment discrimination is prohibited on the basis of race, is too broad, too ambiguous, and freely open to any interpretation of the courts. This interpretive flexibility could counteract the entire point of the statute, which is designed to protect people from employment discrimination on a large scale. There are implications that Congress intentionally defined Title VII discrimination broadly to expand its applicability in employment discrimination cases,⁸³ as they can arise in a vast number of ways; however, perhaps providing a more explicit description of what is protected and what is prohibited as discrimination under Title VII will better guide courts that seemingly almost always rule in favor of employers who already have rights and exemptions to be discriminatory.

One final legislative solution could be passing a Federal Disparate Impact Act, which would be a federal law based on Title VII provisions, which is separate and distinct in emphasizing the complete prohibition of employment practices and policies that are neutral on their face but adversely affect a particular group of people, or require them to undergo unfair changes to either comply or qualify.⁸⁴ A new federal law, separately recognizable and enforceable from Title VII and the Civil Rights Act, which explicitly addresses unfair employment practices, policies, and preferences that have disparate impact and deems them to be discriminatory, could provide greater judicial accountability in employment discrimination cases. This is because the law would require narrower judicial interpretation and a more careful examination of the facts of these cases. The law would position courts to consider public policy regarding unemployment of disadvantaged groups due to employment discrimination and disparate impact with more urgency, and they would possibly render fairer employment discrimination rulings. Additionally, the new law would act as an equalizer in courts for individuals bringing employment discrimination suits against an employer because the burden of proof would shift with regard to disparate impact issues,⁸⁵ thus minimizing the continuation of one-sided employment discrimination verdicts.

82. See Bayer, *supra* note 32, at 769-771 (discussing how Title VII was designed by Congress to be broad and omnipotent enough to eradicate discrimination based on race, color, religion, sex, or national origin, and that the courts held that the statute should be interpreted broadly, but then contradictorily deny the discriminatory nature of certain practices by classifying discrimination and its permissibility based on immutable and mutable traits).

83. *Id.* at 774-76 (Bayer explains that courts consistently deny that Title VII encompasses all forms of discrimination because Supreme Court decisions suggest that discrimination has not been defined under Title VII by Congress; therefore, several forms of employment discrimination practices do not constitute as discrimination, contrary to the clear language and plain meaning of the statute).

84. See U.S. Department of Justice, Title VII Legal Manual, Section VII – Proving Discrimination – Disparate Impact, Jan. 25, 2016, *available at* <https://www.justice.gov/crt/fcs/T6Manual7#D> (Last accessed on Dec. 7, 2019).

85. See *Id.* at Establishing an Adverse Disparate Impact.

B. *Adopting New-Age Standards of Professionalism*

While legislation may suffice to secure adequate protection against natural hair-based employment discrimination, there are a few other ways that the stigmatization of and discrimination against natural hair can be eliminated in the workplace. Heading into the third decade of the twenty-first century, new standards of professionalism that reflect the current culture of our society are absolutely necessary. The outdated Eurocentric standards perpetuate discrimination, disparate impact, and many other negative notions. Holding on to antiquated professional norms that seem to ostracize, rather than embrace, sociocultural evolution is limiting and unproductive. To move the needle forward regarding progressive professionalism, employers must begin (or continue) embracing standards of professionalism that advocate for inclusivity and diversity.

First, replacing supposedly *race-neutral* dress codes and grooming policies with more inclusive and culturally mindful substitutes is not asking for too much. The structural problems with many *race-neutral* grooming policies lie in their language and interpretation. Many of these policies require that hairstyles be *professional* and *appropriate for business*, and they explicitly ban *excessive hairstyles*. Such requirements and prohibitions are implicitly discriminatory against people who wear natural hairstyles, and more specifically against Black people who are often disparately impacted by these types of policies.⁸⁶ Even if discrimination is unintentional, many grooming policies and dress codes that are labeled *race-neutral* are clearly problematic and discriminatory because they “are made by groups of individuals to whom ‘racial identity is not a central life experience’.”⁸⁷ More culturally mindful policies would still be essentially *race-neutral* since not only Black people wear natural styles or have textured hair, but the improvements would potentially alleviate the threat of discrimination litigation against employers while also alleviating the frustration and anxiety of Black employees or potential employees who sport natural hair looks. Employers could avoid ambiguity with regard to employment discrimination based on hairstyle and texture through company policies by implementing culturally mindful dress codes and grooming policies that specifically address, accept, and respect the wearing of natural hairstyles as professional and appropriate in the workplace.

Another step that employers could take in eradicating employment discrimination based on hairstyle is to promote a greater embrace of cultural diversity in their businesses. The goal is to change the attitude about natural hair and ultimately racial and cultural diversity in the workplace. Developing a more appropriate perception of natural hair in the work-

86. See Bennett-Alexander & Harrison, *supra* note 24, at 438. (Employers draft grooming policies using terms like “unconventional” and “excessive” to subtly delineate that appropriate and professional hairstyles are usually subjective to the employer’s discretion; therefore, the policies can and often do disparately impact Black people who may wear natural hairstyles).

87. See Note: Title VII and African American Hair: A Clash of Cultures, 54 WASH. U. J.L. & POL’Y 329 (quoting Barbara Flagg, Fashioning a Title VII Remedy for Transparently White Subjective Decisionmaking, 104 Yale L.J. 2009, 2025 (1995) *supra* note 53 at 2035).

place is crucial for equality purposes. Efforts toward ending the stigma against natural hair in the workplace can be advanced by simply getting employers to understand that a person's hair, regardless of its texture or how it is styled has: (1) no effect on a person's job adeptness or performance; and (2) no bearing on a person's level of professionalism.

Providing employers, including hiring managers, CEOs, administrators, or other executives, with cultural diversity education would be helpful in relieving the angst associated with natural hair-related employment issues. Diversity education programming could focus on correcting employers' negative perceptions of natural hair and other incorrect cultural perceptions. Perhaps having team meetings to discuss the existence of hair-related racism in the workplace, like the harassment of Chanissa Green in New York,⁸⁸ may cause a necessary stir that leads to more meaningful conversations between employers and employees about Black natural hair discrimination. Hosting programs led by Black diversity consultants that frankly address the insidious implicit bias toward Black natural hair in the workplace, the unfair challenges faced by Black people who wear natural hair, and applicable legal implications could be useful for admonishing employers to reassess their level of social awareness as well as their efforts to minimize this kind of employment discrimination. Furthermore, employers should also see beyond the compliance value of diversity trainings: organizations that are truly supportive of diverse employees are more likely to be seen favorably by the public, attract and retain top-level talent, and cultivate a broader client base. Interestingly, the effectiveness of this idea is evidenced by the Dove corporation's corporate social responsibility initiative, the CROWN Coalition, which was the catalyst for the CROWN Act.⁸⁹ Again, these remedies are intended to educate employers about Black hair, make them responsible for helping eliminate employment discrimination based on hairstyle and texture, and hold them accountable for discriminatory practices that impact Black people who wear natural hair, regardless of the stage of employment.

CONCLUSION

Although racial employment discrimination is illegal, such discrimination based on the wearing of natural hairstyles and textures still has a large impact on Black people. Despite the enactment of Title VII of the Civil Rights Act to protect Black people from employment-related discrimination, employers have found ways to circumvent the law, and courts have overwhelmingly favored employers, denoting the wearing of natural hairstyles like braids and locs as trendy,⁹⁰ or mutable and easily

88. Recall from footnote 39 that Chanissa Green was harassed at work about her hair by white male coworkers, including her company's vice president. Many of the comments were derogatory and racist.

89. See generally *The Crown Coalition, Ending Discrimination Against Black Hair with The CROWN Act*, available at <https://www.dove.com/us/en/stories/campaigns/the-crown-act.html#>.

90. See *Rogers*, 527 F. Supp. at 232 (Defendant argued that braids were not a hairstyle exclusive to black people, and were in fact popularized by white actress, Bo Derek, after the release of the movie "10").

changeable.⁹¹ The wearing of natural hair began as a political civil rights movement, so to diminish it to merely a trend or fad and dictate that it is mutable or changeable is grossly offensive and detestable. Black natural hairstyles and texture are tethered to African ethnic and cultural identity as well as to revolutionary American sociopolitical history and should be regarded as such.

Even with the shift in modern American society toward more cultural diversity and overall customary flexibility in the workplace, stereotypes coupled with ignorant perceptions of natural hair still present obstacles for Black people seeking employment or already in the workforce. These stereotypes and perceptions create a disparate impact and give way for employers with preconceived notions to unfairly deny employment. Thankfully, some lawmakers at every level of government are aware of this injustice and are working tirelessly to enact laws, like the CROWN Act, that will legally ban discrimination against traditionally Black (natural) hairstyles. The continued enactment of legislation as well as the implementation of employment practices (e.g. grooming policies, diversity training, etc.), which both protect Black hairstyles and texture and ban discrimination against these natural looks, are major strides toward eliminating this egregious form of employment discrimination.

91. *Id.* (Judge Abraham David Sofaer holds that braids are easily changeable and even if they were exclusive and culturally significant to Black people, an employer could still rightfully ban the wearing of braids).

