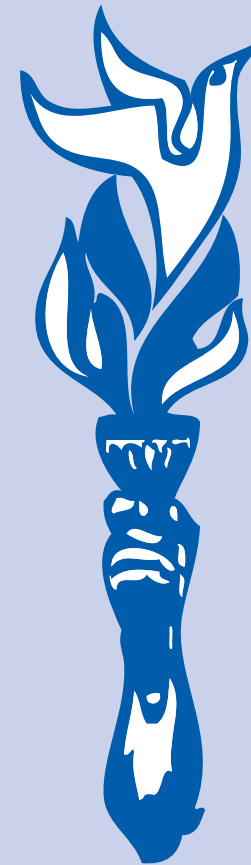




“In the United States, fair employment opportunity is now still the least reported, too-often-undervalued civil rights-human rights-economic justice issue. In the past 50 years, discrimination in hiring and promotion—with its income inequality effects—has taken a back seat to the drama of lunch-counter sit-ins, freedom marches with photos of snarling, biting dogs and non-violent protesters knocked down by powerful fire hoses, to school desegregation, and to continuing discrimination in education, housing, and voting rights.”



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FAIR EMPLOYMENT: Ending Discrimination in Hiring and Promotion

Markley Roberts

Jobs with decent pay and access to promotion in the workplace are key components of social and economic justice—key components of full entry into the mainstream of American life. We have made progress in the last 50 years but we still have a long way to go toward the goal of full and fair employment.

The Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, covers a wide range of labor issues, including many which support workers' rights and oppose discrimination in the workplace.

The International Labor Organization, a specialized agency of the United Nations, also opposes discrimination in the workplace. ILO “core worker rights” call for “elimination of discrimination in respect of employment and occupation”—in addition to freedom of association, the right to collective bargaining, elimination of forced labor, and abolition of child labor.

Fair Employment Practice Commission

In the 1930s, many labor unions in the Congress of Industrial Organizations fought, not always successfully, for full equality in their membership and in the workplace for black workers. In 1940, A. Philip Randolph, president of the Brotherhood of Sleeping Car Porters and unofficial spokesperson for black workers, called for a March on Washington as a demonstration against employment discrimination. To forestall the march, President Franklin D. Roosevelt issued an executive order prohibiting job discrimination by businesses with federal contracts.

To enforce this order, FDR set up a federal Fair Employment Practice Commission, which did not survive the end of World War II—but the “FEPC” label became the shorthand term for anti-job-bias efforts of unions, black workers, and their liberal civil rights allies in the post-war years prior to 1964.

In 1978, the Humphrey-Hawkins Full Employment Act set an interim national goal of cutting unemployment to four percent, a goal still not achieved. Unemployment has economic and social costs—lost

tax revenue, welfare and UC benefit costs, more crime, more drug and alcohol dependence, more spouse and child abuse, more family breakdown. Most vulnerable to unemployment—and to job discrimination in loose (high unemployment) labor markets—are black and Hispanic workers, women, and young people, especially teenagers.

In the United States, fair employment opportunity is now still the least reported, too-often-undervalued civil rights – human rights – economic justice issue. In the past 50 years, discrimination in hiring and promotion—with its income inequality effects—has taken a back seat to the drama of lunch-counter sit-ins, to freedom marches with photos of snarling, biting dogs and non-violent protesters knocked down by powerful fire hoses, to school desegregation, and to continuing discrimination in education, housing, and voting rights.

Title VII of the Civil Rights Act of 1964, Equal Employment Opportunity, made job-related discrimination because of race, color, religion, sex, or national origin “an unlawful employment practice.” Title VII gave to victims of employment discrimination a complaint forum in the new Equal Employment Opportunity Commission (EEOC) and a right to sue violating employers in court.

Coalition Politics

The civil rights awakening in the 1950s sparked the 1952 coalition of black and white civil rights groups, CIO unions, religious groups, and an assortment of liberal organizations, notably Americans for Democratic Action, and individuals in the Leadership Conference on Civil Rights. The coalition eventually included the AFL-CIO and many national unions, the NAACP, the Urban League, the Congress of Racial Equality, the National Organization for Women, the Women's Equity Action League, the American GI Forum, the League of United Latin American Citizens, and many others.

Some political scientists look on the work of the Leadership Conference as the true beginning of mod-

ern America's coalition politics. Reform activists of all kinds, now especially environmentalists, routinely reach out to potential coalition allies and partners.

The Leadership Conference with the organizing talents of Bayard Rustin produced the 1963 March on Washington for "Jobs and Freedom," and lobbied for the 1964 Civil Rights Act supported by President Lyndon Johnson. The Kennedy Administration, fearing Title VII would drag down the entire civil rights bill to defeat, did not include it in its proposal. But AFL-CIO President George Meany, supported by the Leadership Conference, insisted on including Title VII. Without the equal opportunity requirement in the law, the labor movement could not enforce EEO in its own house, Meany said.

In February 1964, the House of Representatives passed the bill with a Fair Employment Practices Commission (FEPC) by a vote of 290 to 130.

Title VII was indeed the most contentious section of the 1964 Act. Sex discrimination was included as prohibited action as an anti-civil rights tactic by reactionary House Rules Committee Chair Howard Smith of Virginia, who wanted to kill the entire civil rights bill. His tactic backfired and these words later furnished a legal foundation for women workers to challenge sex discrimination in the workplace.

President Johnson assigned Senate Democratic Assistant Leader Hubert Humphrey to convert Senate Republican Leader Everett Dirksen, who opposed the FEPC Title VII. Humphrey, with the very effective lobbying help of the Leadership Conference, particularly the religious groups lobbying Republican senators, was successful. In July 1964, with Dirksen and other Republicans supporting cloture and final passage, the Senate passed the omnibus civil rights bill 73-27 with a Title VII name change from FEPC to EEOC.

Just after passage, President Johnson remarked to an assistant: "I think we just delivered the South to the Republican Party for my lifetime and yours." For his role in civil rights, anti-poverty, and other Great Society human dignity – human welfare achievements, Johnson deserves a lot more credit and honor than he gets.

The Title VII and the EEOC gave fresh impetus to black Americans' freedom fight for jobs and justice on the job. But the fight for justice on the job later broadened to include more unions, white and black women, Hispanic Americans, and other Americans who look for fair treatment in the workplace.

Affirmative Action

Before 1964, there were 28 states with anti-employment-discrimination laws, but these state laws for the most part were not effective. Targeted compensatory action to open up more jobs to black workers and to help black workers enter mainstream jobs was often attacked as "reverse discrimination." This meant preferential hiring for black workers ahead of white candidates who considered themselves more qualified.

In a history-making speech at Howard University on June 4, 1965, in Washington, D.C., "To Fulfill these Rights," President Johnson outlined an extraordinary case for national compensatory "affirmative action" programs to help black workers qualify for entry into mainstream jobs:

"Freedom is not enough. You do not wipe away the scars of centuries by saying: Now you are free.

"You do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say 'you are free to compete with all the others,' and still believe that you have been justly fair. Thus it is not enough just to open the gates of opportunity. All our citizens

must have the ability to walk through those gates."

In 1971, the Supreme Court decision in *Griggs v. Duke Power* gave its blessing to affirmative action, numerical hiring and promotion goals and timetables. These were common features of settlements in employment discrimination settlements.

The negative term "quotas" was a red flag for opponents of affirmative action and therefore supporters of "affirmative action" used the term "goals." In 1972, the U.S. Commission on Civil Rights explained:

"The 'goal' that we refer to is nothing more than a description of what the labor force would look like absent the effects of illegal racial or sexual discrimination, and the 'timetable' is the informed estimate of time needed to achieve the discrimination-free labor force without disrupting the industry or denying anyone the opportunity for employment."

Conservative Challenge

The controversial issue of affirmative action through quotas, goals, and timetables was submerged later by a new employer emphasis on "diversity" in the workplace. To shape legal and public opinion and to fight civil rights achievements, reactionaries and conservatives, including the National Association of Manufacturers and the U.S. Chamber of Commerce, shifted their rhetoric in the 1970s from "massive resistance" to "color-blindness" and later to "diversity," less offensive terms that ignored the history of discrimination that produced demands for race-conscious solutions.

In a 1979 Supreme Court decision, *Kaiser Aluminum and Steelworkers AFL-CIO v. Brian Weber*, labor unions, civil rights groups, and feminists joined to defend a union-supported training program to advance unskilled black and white production workers, with initial preference for black workers. The Weber decision upheld the Kaiser-Steelworkers race-conscious affirmative action training program. This was a partial reversal of the 1977 Supreme Court decision, *University of California v. Bakke*, which discouraged racial and ethnic distinctions but found "diversity" by race or ethnic background acceptable as a means of enhancing the quality of higher education.

By shifting the discussion from affirmative action as compensation for previous discrimination to diversity as a benefit to the affected institution, university or employer, the Supreme Court tranquillized dissension as blacks, women, and other minorities increasingly entered America's employment mainstream. Diversity in an employer's workforce has now become a current desirable business sought-for goal, often given public display in photo advertisements of a firm's integrated work force with white, black, Hispanic, Asian, male, and female workers.

Women

The success of programs aimed at helping black workers sparked concern and action against gender-based barriers to women's access to higher paying jobs. Feminist organizations, black and white working-class women, and white elite and middle-class women have often successfully challenged "the soft bigotry of low expectations," a phrase from a speech by President George W. Bush.

Barriers did not disappear without continuing discrimination and harassment. There were, and still are, too many sad and painful stories of women workers trying to survive on-the-job discrimination, insults, harassing, and even physical violence. The situation is better now, with more women workers mentored and encouraged by men who want them to succeed. But in the early years of affirmative action, many harassed female pioneers in the workplace gave up their struggle to enter

higher-skill, higher-paying jobs previously held almost exclusively by white, male workers.

Too many working-class women, many of them from Hispanic immigrant families, still end up in low-pay service, health, and retail jobs, often working part-time or even full-time to earn less than a poverty income. Immigrants' workplace rights have become a new organizing challenge for America's labor unions.

Business Buys In

In 1985, the Reagan Administration planned to reverse the 1965 executive order by President Johnson which required affirmative action by all federal contractors, about 15,000 businesses employing 23 million workers. But affirmative action had already become a normal, accepted practice in much of the "big" business world. To the surprise of the Reagan Administration, the Business Roundtable and the National Association of Manufacturers (but not the smaller-business-oriented U.S. Chamber of Commerce) supported the executive order for helping them achieve "diversity" in their workforce. They opposed the Reagan Justice Department proposal to kill the executive order—and they were joined by the entire array of civil rights groups, as well as the National Black Republican Council. Also joining this civil rights chorus was the American Jewish Committee, which had first opposed affirmative action in higher education but saw the light after a revolt by its female members.

It was not simply social conscience which galvanized business opposition to killing the federal contractors' affirmative action. Many businesses feared that ending the federal program would open the door for 50 different and often conflicting state laws relating to job discrimination and feared a rash of individual lawsuits charging discrimination. They wanted to be able to point to their efforts to carry out the federal mandate. But their enlightened self-interest in diversity also improved their customer relations with women and minorities.

Labor unions also took up the campaign for diversity. "Despite decades of progress, the union movement acknowledges we have not met our goals," the AFL-CIO declared in 1995. "Unions must reflect the diversity of our communities and union movement leadership must reflect the diversity of our members.

"America's union movement must stand as a model of full inclusion. We cannot ask more of a broader society than we are willing and able to do ourselves. We cannot build a better future for working families without the full strength brought by brothers and sisters of every description. In our hiring, organizing, representation, outreach, and leadership, the union must embody our goal of equal welcome and equal opportunity for all." This outreach helps "women, people of color, gay or lesbian workers, or brothers and sisters with disabilities."

In November 2007, the House of Representatives by a vote of 235-184 passed a bill to prohibit employment discrimination because of sexual orientation.

The Future of EEOC

The Millennium Year 2000 came and departed without America arriving at the promised land of total fairness and non-discrimination. Courts have whittled away some of the EEO gains (for example, *Wards Cove*, Supreme Court. 1989). Also a variety of problems, including Bush Administration budget and enforcement cuts, have weakened the effectiveness of the U.S. Civil Rights Commission and Equal Employment Opportunity Commission.

So the promised land is always receding—but the achievements of the past in civil rights and fair employment remind Americans that we can do more, we can do better in matching our deeds with our principles.

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