

Affirmative Action - 1995

In a well-known talmudic story about a dispute between brothers, the rules of evidence were changed to put an excessive burden on the rich and powerful brother when witnesses for the weaker brother were fearful of testifying. "Thus do we do for all who are powerful," says the text (B.Talmud, Baba Metzia 39b).

The promise of equality is not sufficient if there are obstacles that make the reality of equality impossible. (A. Vorspan and D. Saperstein, *Tough Choices*. New York: UAHC Press, 1992, pp. 11-12)

Issue

There is an intense debate on affirmative action programs in the United States and "equity" legislation in Canada. Affirmative action programs and equity legislation were established in the 1970's to provide women and long unrepresented members of minority groups with employment and educational opportunities. Such programs have been subject to fierce attacks despite a recent report of the United States Department of Labor's Glass Ceiling Commission that women and minorities continue to bear a disadvantage with white males in terms of compensation and senior management positions. The goal of a color-blind equal opportunity society still eludes us.

Background

The United States Commission on Civil Rights defines affirmative action as "any measure beyond simple termination of a discriminatory practice, adopted to correct or compensate for past or present discrimination or to prevent discrimination from recurring in the future." In Canada, affirmative action is now generally referred to as "equity" legislation whether it be pay equity or employment equity.

In the last year President Clinton ordered a review of federal affirmative action programs. "This review concluded that affirmative action remains a useful tool for widening economic and educational opportunity" (Clinton, *Affirmative Action Address*, 7/19/95). In June 1995 the United States Supreme Court ruled that federal affirmative action programs can only remedy instances where there is "pervasive and systematic and obstinate discriminatory conduct." The full implication of this decision is subject to a variety of interpretations.

In the United States Congress there are a number of proposals to eliminate entirely or reduce support for federal affirmative action programs. The current Governor of California has proposed that all affirmative action programs in that state be prohibited. Some education programs based on affirmative action have already been discontinued.

In Canada, Section 11 of the Human Rights Act (1981) requires employers to provide men and women equal pay for work of equal value and the federal Employment Equity Act (1986), currently under revision, sets as its goal fair representation of designated target groups in all government and government regulated agencies with more than 100 employees. Although passage of these bills has resulted in an increase in representation of persons from the designated target groups employed by the agencies governed by the act, there has been a widening of the wage gap between men and women over the same time. The current Premier of the Province of Ontario has said that his government will rescind the legislation on employment equity passed by the New Democratic Party government.

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In 1977 the National Federation of Temple Sisterhoods (now Women of Reform Judaism) passed a resolution in support of affirmative action programs which would “offset the tragic discriminations, oppressions and inequalities of the past.” The resolution opposes quotas. It was recognized, however, that past discrimination and oppression denied “not only individuals but also society the possible contributions of countless thousands.”

Resolution

Believing that there ought to be equal opportunity for all, and cognizant that discrimination against women and members of minority groups in regard to education and jobs continues, the Women of Reform Judaism:

- 1) Reaffirms its commitment to affirmative action or equity programs without quotas.
- 2) Urges Sisterhoods to provide educational events and resources about affirmative action or equity programs and their ongoing needs.
- 3) Opposes legislation and other initiatives and action at every governmental level that would prevent or eliminate necessary affirmative action or equity programs.