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ON

EQUAL EMPLOYMENT OPPORTUNITY



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SELECTED PUBLICATIONS ON
EQUAL EMPLOYMENT OPPORTUNITY

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This annotated bibliography presents selected recent publications on equal employment opportunity. Compiled by Sallee Garner and Adrienne Chute, it updates bibliographies published by the GAO Office of Librarian in December 1975 and February 1977.

Topics covered include affirmative action; the use of statistics as evidence of discrimination; Federal, state, and local governments; the Supreme Court's decision in the Bakke case; and equal employment opportunity problems of particular groups. Under each topic, items are arranged alphabetically by author.

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I. AFFIRMATIVE ACTION

Anthony, William P., and Marshall Bowen.

"Affirmative action: problems and promises." Personnel Journal, 56:616-621, December 1977.

Discusses major problems of affirmative action. Suggests that both unions and management should accept affirmative action as a continuing management technique and should include it in long-range planning.

Balzer, Anthony J.

"Quotas and the San Francisco police: a sergeant's dilemma." Public Administration Review, 37:276-285, May-June 1977.

Examines the San Francisco Police Department's experience with court ordered minority hiring quotas. Raises several objections to the use of quotas, and presents an alternative plan which relies on detailed job analysis, empirical measurement, training, recruitment, and examination validation. Stresses the need to develop a hiring model of ideal police work.

Brookmire, David A., and Amy A. Burton.

"A format for packaging your affirmative action program." Personnel Journal, 57:294-304, June 1978.

Describes a large diversified corporation's successful attempt at developing a general affirmative action manual. The manual provides the company's diverse subsidiaries with a single set of uniform procedures for complying with various standards of different Federal agencies.

Clark, Kenneth B.

"Interview: the costs of discrimination." Challenge, 20:33-39, May-June 1977.

An interview with psychologist Kenneth B. Clark presents his views on the present state of affirmative action and his recommendations for change. Suggests that discrimination is contrary to the economic interests of business and industry.

Goldberg, Seth A.

"A proposal for reconciling affirmative action with nondiscrimination under the contractor antidiscrimination program." Stanford Law Review, 30:803-833, April 1978.

Discusses two problems of the Federal contractor anti-discrimination program in the context of the academic labor market. First, there is confusion concerning the proper point of termination of preferred status for groups already having equal employment opportunity. Second, it is difficult to engage in affirmative action without resorting to illegal reverse discrimination. The author recommends eliminating numerical goals for minority groups that occupy a superior position in a given labor market. Efforts should be directed towards labor markets that show evidence of discrimination. Legally permissible forms of preference in achieving affirmative action goals should be delineated.

Hall, Francine S., and Susan A. Meier.

"Developing managerial commitment to EEO." Personnel Administrator, 22:36-39, May 1977.

Enumerates techniques for motivating managers to achieve EEO goals.

Hubbartt, William S.

"The state employment service: an aid to affirmative action implementation." Personnel Journal, 56:289-291, June 1977.

Discusses services provided by state employment security agencies that can be used by companies implementing affirmative action. Some government contractors are required to list job openings with SESAs.

Novick, Melvin R., and Dorsey D. Ellis.

"Equal opportunity in educational and employment selection." American Psychologist, 32:306-320, May 1977.

Argues that compensation for inequality of educational and employment opportunity should be based on one's individual disadvantages and projected contributions to society. Opposes the tendency to seek fairness through group parity based on race or sex, etc. Society's goal should be equal opportunity for each individual, not racial or ethnic balance.

Pati, Gopal, and Charles W. Reilly.

"Reversing discrimination: a perspective." Human Resource Management, 16:25-35, Winter 1977. (also published in Labor Law Journal, 29:9-25, January 1978).

Argues that the phenomenon of reverse discrimination is a symptom of poor management. Improved management not only facilitates equal employment opportunity and affirmative action, but also increases organizational effectiveness. Defines reverse discrimination, summarizes relevant court cases, and criticizes the Equal Employment Opportunity Commission as discriminatory and poorly managed.

Sale, Barbara.

"Remedies for nonminority employees under Title VII." George Washington Law Review, 46:251-272, January 1978.

Examines judicial approaches to conflicts between the interests of minority employment discrimination victims and the legitimate expectations of nonminority employees. Suggests that employers bear the full cost of removing effects of discriminatory practices. Nonminority employees whose employment opportunities are reduced by measures taken to end discrimination could receive compensatory payments.

Specter, Russell.

"Act III: some thoughts on the thrust of Title VII." Employee Relations Law Journal, 2:262-271, Winter 1977.

Outlines development of Title VII employment discrimination law. Identifies two critical problems: defining parity, and deciding who should bear the cost of change. Stresses the need to ensure that the financial burden of change is born by the discriminator alone.

Swanson, Stephen C.

"The affect [sic] of the Supreme Court's seniority decisions." Personnel Journal, 56:625-627, December 1977.

Discusses two recent Supreme Court cases, in which the Court decided that bona fide seniority systems do not violate Title VII of the Civil Rights Act, even if they perpetuate the effects of past discrimination.

Wasserstrom, Richard A.

"Racism, sexism and preferential treatment: an approach to the topics." UCLA Law Review, 24:581-622, Feb. 1977.

Considers racism and sexism from three points of view: social realities, concepts of the ideal society, and ways to achieve the ideal. Discusses similarities and differences between sexism and racism. Argues that affirmative action programs are a means of changing an unjust society; although they may appear to discriminate against nonminorities, the programs should be judged on their long-range effectiveness.

II. STATISTICAL PROOF OF DISCRIMINATION

Hay, Howard G.

"Making statistics work for the employer in employment discrimination cases." Employee Relations Law Journal, 3:374-381, Winter 1978.

Examines three types of statistical evidence applicable to employment discrimination cases: actual applicant flow data; potential applicant flow data; and general population statistics. Discusses ways employers can rebut prima facie evidence of discrimination.

Holley, William H., and Hubert S. Feild.

"Using statistics in employment discrimination cases." Employee Relations Law Journal, 4:43-58, Summer 1978.

Outlines statistical techniques applicable to employment discrimination cases, and analyzes differences in the types of evidence required under antidiscrimination statutes.

Shoben, Elaine W.

"Probing the discriminatory effects of employee selection procedures with disparate impact analysis under Title VII." Texas Law Review, 56:1-45, Dec. 1977.

Analyzes the legal complexities of using disparate impact analysis (statistical proof of the discriminatory effects of hiring practices). Proposes guidelines for selection of relevant statistical evidence.

III. FEDERAL, STATE, AND LOCAL GOVERNMENT

Grimm, Karen L.

"The coverage of Federal excepted service personnel under the Equal Employment Opportunity Act of 1972." Georgetown Law Journal, 65:837-856, Feb. 1977.

Analyzes the applicability of the EEO Act of 1972 to Federal excepted service employees. Concludes that all executive branch employees except Presidential appointees should be covered by the Act.

Howard, Lawrence C.

"Civil Service reform: a minority and woman's perspective." Public Administration Review, 38:305-309, July-August 1978.

Criticizes the then proposed Civil Service Reform Act of 1978 as not providing genuine reform where women and minorities are concerned, and failing to address the question of equal employment opportunity.

Isbell, Florence.

"Congress as ol' massa." The Civil Liberties Review, 4:46-49, Jan.-Feb. 1978.

Discusses Congress as a discriminatory employer. Notes that Congress has exempted itself from antidiscrimination legislation such as Title VII of the Civil Rights Act.

Kandel, William L.

"Current developments in EEO: EEO and other Federal regulations." Employee Relations Law Journal, 2:347-355, Winter 1977.

Examines the controversy concerning the extent to which regulatory agencies such as the Federal Power Commission should consider the EEO performance of regulated companies in issuing licenses, approving rates, etc.

Kilberg, William J.

"OFCCP--enforcement and back pay issues." Employee Relations Law Journal, 3:347-357, Winter 1978.

Federal efforts to end employment discrimination derive their authority from two sources. The Federal contractor compliance program was established by Executive Order. The Equal Employment Opportunity Commission, however, operates under legislative authority. The article discusses differences in scope between executive and legislative provisions, and the ways in which courts have interpreted these differences.

Kohansky, Donna L.

"Comments: the coverage of appointees of state and local elected officials under the Equal Employment Opportunity Act of 1972 and Congressional power to enforce the Fourteenth Amendment." Georgetown Law Journal, 65:809-836, Feb. 1977.

Analyzes Congressional intent in exempting state and local appointees from coverage under the Equal Employment Opportunity Act. Concludes that the Act's exemptions should be narrowly construed to apply only to key policy making appointees.

Norton, Eleanor Holmes.

"Key points from Commissioner Norton's testimony." Employee Relations Law Journal, 3:327-335, Winter 1978.

Excerpts from Commissioner Norton's July 1977 testimony before the House Subcommittee on Employment Opportunities. Outlines plans for reforming the Equal Employment Opportunity Commission. Proposed changes include developing a rapid charge processing system, reducing case backlogs, and integrating litigation, investigation, and conciliation functions.

Schweitzer, Glenn E.

"The rights of Federal employees named as alleged discriminatory officials." Public Administration Review, 37:58-63, Jan.-Feb. 1977.

Discusses the unfairness of Civil Service regulations that severely limit the ability of alleged discriminatory officials (ADOs) to defend themselves in cases with which they are connected. Civil Service regulations assume that agencies, not the ADOs, are the objects of discrimination complaints. Because of this, ADOs do not have the right to examine investigatory files, or the right to present witnesses on their behalf. Even unsustained allegations of discrimination can have serious personal and career implications for ADOs. The author recommends regulatory changes to provide greater protection for ADOs.

Vaughn, Robert G.

"Preferences in public employment." American University Law Review, 25:659-715, Spring 1976.

Contrasts theories of competitive selection with theories of preferential selection of minorities in public employment, and discusses preferential selection as a remedy for past discrimination.

IV. THE BAKKE CASE

Greenhouse, Linda.

"High court backs some affirmative action by colleges but orders Bakke admitted: Bell hails decision." New York Times, June 29, 1978, p. A1, col. 3.

Reports reactions to the Bakke decision. Attorney General Griffin Bell and others believe the decision supports affirmative action programs.

Herbers, John.

"High court backs some affirmative action by colleges but orders Bakke admitted: a plateau for minorities." New York Times, June 19, 1978, p. A1, col. 4.

Analyzes the Supreme Court's decision in the Bakke case. Concludes that most affirmative action programs will continue. However, the differences of opinion among the justices reflect continuing national controversy over the question of preferential treatment for blacks as a remedy for past discrimination.

"Impact of Bakke decision." U.S. News & World Report, 85:14-18, July 10, 1978.

Discusses the probable effects of the Supreme Court's decision in the Bakke case on employment and college admission. Predicts that affirmative action programs will continue but numerical quotas will be avoided. Includes excerpts from Supreme Court opinions.

Powell, Lewis F., et. al.

"Excerpts from opinions by Supreme Court justices in the Allan P. Bakke case." New York Times. June 29, 1978, p. A20-A21.

Excerpts from the Bakke case opinions of Associate Justices Powell, Brennan, Stevens, Blackman, Marshall, and White.

Weaver, Warren.

"Affirmative action given new support by Supreme Court." New York Times, July 4, 1978, p. A1, col. 6.

Reports that the Supreme Court let stand a ruling requiring A.T.&T. to hire more women and blacks. The Court's rejecting educational admissions quotas in the Bakke case does not extend to employment quotas. Briefly notes action taken in other employment affirmative action cases.

Weaver, Warren.

"High court backs some affirmative action by colleges but orders Bakke admitted: guidance is provided." New York Times, June 20, 1978, p. A1, col. 6.

Summarizes the Supreme Court's decision in the Bakke case. Notes that it is not clear what effect this decision will have on future cases involving affirmative action in employment.

V. EQUAL EMPLOYMENT OPPORTUNITY: ALL MINORITIES

Haefner, James E.

"Sources of discrimination among employees: survey investigation." Journal of Applied Psychology, 62:265-270, 1977.

An Illinois statistical survey finds that employees prefer not to work with blacks, women, older individuals, or barely competent persons. Splitting the sample by sex, race, and age, however, reveals that women prefer to work with women, blacks prefer to work with blacks, but age make no difference to older employees in their preference for fellow employees.

Haefner, James E.

"Race, age, sex, and competence as factors in employer selection of the disadvantaged." Journal of Applied Psychology, 62:199-202, 1977.

Interviews of 286 Illinois employers indicated that age, sex, and competence were major factors in hiring semiskilled workers, but race was not.

Schneider, Stephen A.

The availability of minorities and women for professional and managerial positions, 1970-1985. Philadelphia, University of Pennsylvania, 1977. HD8038.U5S36.

Assesses the availability of women and minorities for professional and managerial occupations. Increased participation in these fields will be slow, limited not only by white male dominance but also by minorities' and women's limited preparation for such positions.

VI. EQUAL EMPLOYMENT OPPORTUNITY: INDIVIDUAL MINORITIES

A. AGE DISCRIMINATION

Bompey, Stuart H.

"Cases and issues in age discrimination." Employee Relations Law Journal, 3:382-397, Winter 1978.

Discusses the Age Discrimination in Employment Act of 1967. Reviews court interpretations of the Act's major provisions.

Donnelly, Harrison H.

"Final action: Congress bans mandatory retirement before age 70 for most U.S. workers." Congressional Quarterly, 36:807-808, April 1, 1978.

Summarizes 1978 amendments to the 1967 Age Discrimination in Employment Act. The amendments raise permissible mandatory retirement provisions from age 65 to age 70.

Drucker, Peter F.

"Flexible-age retirement: social issue of the decade." Industry Week, 197:66-71, May 15, 1978.

Characterizes the shift to flexible-age retirement policies as an inevitable and desirable adjustment to extended life spans. Adds that employers are not prepared to implement flexible-age retirement policies. Points to the need to establish competence criteria for workers of all ages; the need to introduce more opportunities for part-time work; and the need to devise more flexible benefit programs.

Louviere, Vernon.

"How old is old?" Nation's Business, 66:49-50, 52-54, March 1978.

Summarizes current arguments for and against mandatory retirement, and indicates some of the problems which might result from raising the retirement age.

Rhine, Shirley H.

Older workers and retirement. New York, The Conference Board, 1978, 55p. HD6280.R5

Discusses mandatory retirement and other problems older workers encounter in the labor market. Presents statistics on workers over 45 years old.

Surett, Corey.

"Fair labor standards, age discrimination, and equal pay." Compensation Review, 9:55-61, Fourth Quarter 1977.

A U.S. Department of Labor area director outlines the Department's procedures in enforcing the Fair Labor Standards Act, the Equal Pay Act, and the Age Discrimination and Employment Act. He enumerates the information that should be provided by employees charging violations of these Acts, and by employers seeking to demonstrate compliance.

Welch, Finis, and James Cunningham.

"Effects of minimum wages on the level and age composition of youth employment." The Review of Economics and Statistics, 60:140-145, Feb. 1978.

Analyzes the effects of the uniform minimum wage on teenage employment. Finds that minimum wage laws have reduced teenage employment, particularly for those aged 14-15. Concludes that a lower minimum wage would increase youth employment.

Williams, Stuart A.

"Age discrimination: involuntary retirement under the Age Discrimination in Employment Act." Chemical and Engineering News, 29:391-408, July 1971.

Reviews the 1967 Age Discrimination in Employment Act and its 1978 amendments. Analyzes amendment ambiguities, such as a provision that permits compulsory retirement of employees in "a bona fide executive or high policy-making" position after age 65.

B. APPEARANCE

"Fat people's fight against job bias." U.S. News and World Report, 82:78-80, December 5, 1977.

Discusses hiring, promotion, and other employment problems of the obese. Most job discrimination against the obese appears to be based on appearance; health risks appear to be a secondary factor. One American in five is too fat, and Americans as a group have gotten heavier since the early 1960's.

"Short people - are they being discriminated against?" U.S. News and World Report, 82:68-69, March 28, 1977.

Cites evidence of employment discrimination against people of less than average height.

C. EX-OFFENDERS

McNett, Ian.

"Toppling job barriers for offenders." Worklife, 3:24-27, May 1978.

Discusses ways in which programs under the Comprehensive Employment and Training Act can help overcome ex-offender employment barriers.

Mitchell, Brad.

"Some place to turn, someone to talk to." Worklife, 3:28-31. March 1978.

Describes activities of Community Correctional Services, an Illinois program offering vocational services to ex-offenders. Since the program began in September 1975, about 360 of the 513 participants have been placed in unsubsidized jobs, and the recidivism rate of participants is only about 8 percent.

Zatzkis, Ralph J.

"The legality of the arrest-conviction record inquiry under Title VII." Labor Law Journal, 28: 572-582, September 1977.

Discusses court decisions and Equal Employment Opportunity Commission policies concerning use of arrest and conviction records to determine employment suitability. Because minorities tend to be arrested and convicted more frequently, the use of such records in hiring can result in racial discrimination, and violates Title VII of the Civil Rights Act unless business necessity can be shown.

D. HANDICAPPED WORKERS

Benson, Harold A.

"Epilepsy and employment: placement problems and techniques." American Rehabilitation, 3:3-6,8,32, March-April 1978.

Discusses two major factors in the low employment rate of epileptics: employers' attitudes and epileptics' poor self-image. Recommends actions counselors of epileptics can take to combat these problems, and suggests arguments that rebut employers' objections to epileptic employees.

Brosman, Ted.

"There's more to affirmative action than just 'hiring the handicapped'." Personnel Administrator, 23:18-21, January 1978.

Describes the C&P Telephone Company's successful affirmative action program for hiring, placing, and promoting disabled individuals. Outlines action taken to achieve "reasonable accommodation" of the disabled workers' needs.

Custy, Arthur B.

"The second injury fund: encouraging employment of the handicapped workers in South Carolina." South Carolina Law Review, 27:661-683, February 1976.

An injury which would be only partially disabling to most workers might totally disable one who is already handicapped. Some employers have been reluctant to hire handicapped workers for fear of their becoming a financial burden if subsequently injured on the job. South Carolina's Second Injury Fund alleviates employers' fears by compensating handicapped workers fully for second injuries. The South Carolina program is compared to other States' programs.

Guy, Jana H.

"The Rehabilitation Act of 1973: its impact on employee selection practices." Employee Relations Law Journal, 4:2-23, Summer 1978.

Examines changes in hiring procedures required by the 1973 Rehabilitation Act, which protects employment rights of qualified handicapped persons. Suggests methods of complying with Federal "reasonable accommodation" regulations, including removing architectural barriers, restructuring jobs, and providing readers or interpreters.

Jackson, Diane P.

"Affirmative action for the handicapped and veterans: interpretative and operational guidelines." Labor Law Journal, 29:107-117, Feb. 1978.

Examines provisions of the Rehabilitation Act of 1973 and the Vietnam Era Veterans Readjustment Assistance Act of 1974. Defines the Acts' coverage, provides guidelines for employers, and lists affirmative action requirements for Federal contractors.

Kovarsky, Irving, and Vern Hauck.

"Arbitration and the epileptic." Labor Law Journal, 28:597-607, Sept. 1977.

Finds that many arbitrators in employment disputes involving epileptics are unfamiliar with the disease. Relevant evidence, such as degree of seizure control by drugs, is often not introduced during arbitration. Suggests that arbitrators should take a more active role in protecting the fair employment rights of epileptics by ensuring that medical evidence in support of the epileptic employee is introduced.

Levitan, Sar A. and Robert Taggart.

"Employment problems of disabled persons." Monthly Labor Review, 100: 3-13, March 1977.

Disabled persons suffer disproportionately in a slack labor market because of their limited education and work experience. The authors advocate an increased emphasis on finding or creating jobs for the disabled in order to help them become self-supporting.

E. HOMOSEXUALS

Mills, Doria.

"Washington is called the gay capital." Washington Star. October 30,31; November 1,2, 1977.

A four part series of articles discusses Washington's gay community. Part 3 examines gays' employment situation. Although Federal employment policies have gradually eased, and the District of Columbia's 1973 Human Rights Act includes protections for homosexuals, employment discrimination is still feared.

Thompson, Jennifer.

"Gay rights law: gay lawyers in and out of the closet." Juris Doctor, 8:33-35, June-July, 1978.

Results of interviews with gay lawyers show that few have revealed their sexual preferences to their employers. The article mentions a Florida Supreme Court ruling that occupational licenses cannot be refused solely because of "homosexual preferences".

F. RACIAL AND ETHNIC MINORITIES

Hoffheimer, Daniel J.

"Wandering between two worlds: employment discrimination against aliens." Virginia Journal of International Law, 16:355-402, Winter 1976.

Analyzes the constitutional limits on employment discrimination against aliens admitted for permanent residence in the U.S. Criticizes the Supreme Court's failure to address basic constitutional issues raised by attempts to define the extent of aliens' protection.

Long, James E.

"Productivity, employment discrimination, and the relative economic status of Spanish origin males. Social Science Quarterly, 58:357-373, December 1977.

Evaluates effects of employment discrimination on Spanish males. Finds that the impact of discrimination varies among occupations, and is greatest in managerial or white-collar occupations. Suggests that efforts to improve the status of Spanish males should concentrate not only on equalizing employment opportunities but also on improving their educational levels.

Rodriguez, Santiago.

"Affirmative action and the Hispanic community." Civil Service Journal, 18:18-22, Oct.-Dec. 1977.

Discusses the Spanish Speaking Program, a new Federal equal employment opportunity effort to recruit Hispanic Americans. Includes a summary of Hispanic socioeconomic problems.

Rose, Winfield H., and Tiang Ping Chia.

"The impact of the Equal Employment Opportunity Act of 1972 on black employment in the Federal service: a preliminary analysis." Public Administration Review, 38:245-251, May-June 1978.

Examines black employment in the Federal service. Analyzes changes from the time the Equal Employment Opportunity Act was passed to 1974. Concludes that while there has been some progress, the Act has had little impact. Blacks continue to be underrepresented at upper levels. However, anticipated upper level retirement rates in the late 1970's will provide an opportunity to correct the situation.

United States. Commission on Civil Rights. Minnesota Advisory Committee.

Bridging the gap: a reassessment. Washington, Civil Rights Commission, 1978.

Examines American Indian education and employment in the Minneapolis-St. Paul area. Reassesses issues raised in a 1975 report and finds limited improvement. Suggests actions which can be taken to achieve further progress, including establishing alternative Indian education programs, and increasing public sector Indian recruitment.

G. RELIGIOUS DISCRIMINATION

Boothby, Lee.

"Religious freedom and the law." Church & State, 30:11,14-18, July-August 1977.

Discusses conflicts between employment conditions and religious beliefs. Highlights employment cases involving employees who have religious objections to working on the Sabbath or to joining unions. Urges accommodation on the part of employers and unions to preserve religious freedom.

Fasman, Zachary D.

"Cases and issues in religious discrimination." Employee Relations Law Journal, 3:358-373, Winter 1978.

Examines the prohibition of religious discrimination under Title VII of the Civil Rights Act of 1964. Analyzes the meaning of "religion" and the scope of the law's requirement for "reasonable accommodation" of an employee's religious beliefs in the light of recent court cases.

H. WOMEN

Elisburg, Daniel.

"Equal pay in the United States: the development and implementation of the Equal Pay Act of 1963." Labor Law Journal, 29:195-208, April 1978.

Summarizes the provisions and historical background of the Equal Pay Act of 1963. Discusses legal principles established in court cases. Points to the need for equal opportunity and equal pay if women are to achieve economic equity.

Ferber, Marianne A., and Betty Kerdick.

"Sex differentials in the earnings of Ph.Ds." Industrial and Labor Relations Review, 31:227-238, Jan. 1978.

A longitudinal study of male and female Ph.Ds finds that highly educated women are rewarded less than men with equal qualifications. The authors conclude that lower earnings of highly educated women are not the result of voluntary decisions to interrupt their careers. Salary differentials are the result of accumulated discrimination against women.

Tesar, Jenny.

"Finding promotable women." Banking, 69:41-42,44, Dec. 1977.

Outlines a Virginia National Backshares program designed to help women compete for senior management positions. The program includes allocating training funds to women and using job rotation to expand work experience.