

AFFIRMATIVE
ACTION

10
MYTHS

INTRODUCTION

Affirmative action is a comprehensive strategy aimed at eliminating systemic discrimination from the workplace, and correcting the status of minority workers and women who, as groups, have suffered the effects of this form of discrimination.

It was assumed in the past that we could deal with inequality simply by negotiating anti-discrimination clauses in our collective agreements, or by taking complaints to human rights commissions. These measures have helped, but they don't address systemic discrimination. Systemic discrimination refers to the more subtle kinds of discrimination that are built into hiring policies and employment practices. Systemic discrimination includes, artificial height, weight and strength requirements, as well as stereotyping and segregation that deny women and minority workers equal access to jobs, training, pay equity, promotion, and other aspects of employment.

Work force statistics speak for themselves. Despite the undeniable progress made in recent years, women are still concentrated mainly in the clerical, sales and service jobs; still earn less than two-thirds as much as men, on average; and still are under-represented in high-level positions. Native people and other people of colour, as well as disabled people, are similarly affected. According to statistics gathered under the Federal Employment Equity Act, 63% of visible minority workers earn less than \$30,000 annually compared to 52% of the general population. Female members of visible minorities face double jeopardy because 82% of them earn less than \$30,000 annually compared to 39% of men.

For these groups to achieve their fair share of jobs and job opportunities, it is necessary to intervene directly in the hiring, training and promotion policies of employers.

The goal of affirmative action is to establish the same percentage of minority group members and women at all levels of the workplace as there are in the general population. That goal can be accomplished through affirmative action measures that not only stop further discrimination, but also overcome the effects of past discrimination. Temporary preferential treatment may be necessary to bring disadvantaged groups up to a level of parity with their co-workers. Once equality is achieved, such interim measures would be removed.

Affirmative action has encountered strong resistance from employers and other conservative forces who want to maintain the present unfair system. As part of their opposition, they have spread a number of false claims, or myths, about affirmative action that have deluded many people, including some union members.

To set the record straight, *Ten Affirmative Action Myths*, shows how these myths about affirmative action distort the truth, and how they can be refuted.

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"AFFIRMATIVE ACTION IS A FORM OF REVERSE DISCRIMINATION AGAINST MEN"

The goal of affirmative action is to correct the social and economic status of any recognizable group of workers who suffer as a result of systemic discrimination. Affirmative action is not designed to discriminate against one group for the benefit of another. Instead, affirmative action is designed to ensure that the workplace is representative of all groups of society, at all levels.

Discrimination is the result of policies and practices which, intentionally or not, have restricted access and denied opportunities to certain groups. Affirmative action is about opening up opportunities to those who have experienced discrimination.

Affirmative action programs are not reverse discrimination. The truth is that some groups, have enjoyed advantages at the expense of others in the past. Affirmative action programs would remove the bias in their favour but, the opportunities for equal treatment with the rest of the work force would *not* be removed.

Special remedial measures may be necessary to enable those who experienced discrimination in the past to have the same access to

opportunities. For example, some minority workers may require language training to enable them to compete for job opportunities. That's not reverse discrimination, that's equalizing opportunities.

"SETTING QUOTAS MEANS HIRING UNQUALIFIED PEOPLE"

Quotas were used largely in the United States 20 years ago as a measure to ensure employers fulfilled their responsibilities in affirmative action programs. However, when employers were faced with penalties, they sometimes hired unqualified people just to meet the quota.

The Canadian labour movement prefers the use of targets, numerical goals and timetables. Quotas tend to be too rigid and can be set arbitrarily, without regard for reality or common sense. For example, it would be unrealistic, to insist that, because half of all workers are women, that half of the employees of an engineering firm should be women. There simply wouldn't be enough qualified female engineers to fill that many jobs, at least until more women decide to enter the engineering profession.

What would be reasonable in this case would be a numerical goal based on the number of women who actually choose to become engineers. Right now women make up about 6% of the engineering work force, so a 6% goal for an engineering firm would be appropriate, and would

be achievable without running the risk of hiring unqualified people.

Sometimes it is necessary to give people who have been disadvantaged in the past, the chance to become qualified for new opportunities. For example, if native people can't qualify for certain jobs because they haven't been given access to appropriate educational opportunities, then an effective affirmative action program would have to address that obstacle with training programs. Otherwise, giving them the chance to apply for higher level jobs would be ineffective.

Hiring unqualified people just to meet targets is not in anyone's interest. For employers, it means the person won't be able to do the job. It puts the person hired, under tremendous pressure and can set them up for failure. For the union, it may lead to the failure of an affirmative action program or at least will justify some critics' claims that affirmative action doesn't work!

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"AFFIRMATIVE ACTION MEANS SOME PEOPLE WILL GET BETTER JOBS, PROMOTIONS AND TOKEN MANAGEMENT POSITIONS WITHOUT HAVING TO WORK FOR THEM"

Some employers, when pressed to do something about their discriminatory practices resort to tokenism. They promote a few members of disadvantaged groups into management simply to be able to point to them as evidence that they're not against putting them in high-paid executive posts. In such cases, employers are less concerned with the employees who do the job than they are with creating the appearance of progress. Actions like this give affirmative action a bad name.

But they are not examples of *real* affirmative action.

True affirmative action programs are aimed at tearing down barriers at *all* levels of the organization, as well as eliminating inequities in pay, and equalizing opportunities for advancement.

That doesn't mean that women and other disadvantaged groups can get jobs simply because they are women, or people of colour, or disabled people. It doesn't mean they don't have to acquire the skills, experience and other qualifications that each job legitimately demands.

What affirmative action will do is to make sure that individuals from

disadvantaged groups are not denied better jobs or promotions simply because they *are* from these groups.

Affirmative action is not a substitute for hard work and ability. It is a means of giving people the opportunity to compete on an equal basis in the workplace.

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"AFFIRMATIVE ACTION TAKES TOO MUCH OF A UNION'S TIME AND RESOURCES THAT SHOULD BE DEVOTED TO MORE IMPORTANT WORKPLACE PROBLEMS"

It's true that an affirmative action program can be time-consuming and tax a union's resources.

However, many unions have assigned a high priority to affirmative action. Why? First, it often affects a large proportion of their membership. Second, unions are dedicated to the principle of social and economic equality. As long as discriminatory structures and practices remain, some workers will continue to be treated unfairly because they are disabled, because they're women, or because their skin colour isn't white. In addition to the legal requirement, most unions include the principle of fair representation in their constitutions.

Third, inequalities divide workers and weaken unions. As long as minority workers, women and workers with disabilities are paid less or kept out of the workplace, they will constitute a pool of cheap labour that threatens union jobs and union strength. Fourth, employer initiated affirmative action programs are often ineffective and unions end up dealing with the problems created by badly designed programs which won't address the needs of *all* their

members. Union efforts to remove inequalities, will give all workers confidence and pride in their union.

"AFFIRMATIVE ACTION THREATENS THE PRINCIPLE OF SENIORITY THAT UNIONS HAVE FOUGHT SO HARD TO ESTABLISH"

When discussing seniority in the context of affirmative action it's important to remember two things. First, the conflict between affirmative action and union seniority is often more of an illusion than reality, and even when it is real it can be resolved, given good-will on all sides.

Second, many affirmative action measures are not affected by seniority at all. For example, seniority is not a factor in hiring from outside which is an important part of any affirmative action program.

The basic fact to keep in mind is that both seniority and affirmative action have the same objective — to give workers some control over their employer's decisions, which otherwise might be based on favouritism or discrimination.

Seniority is normally a fair way to give workers job security, training opportunities and promotions. The problem is not seniority itself, but the way seniority is extended to minority workers and women in some workplaces. For example, in many workplaces, women do not have the same access to seniority accumulation because seniority is not accrued during maternity leave.

Limited seniority provisions can also mean that native people and workers with disabilities are not able to use their seniority to get out of traditional job "ghettos". For example, native people may have many years of seniority acquired in traditional job "ghettos" but they may not be able to apply that seniority to train as technicians in the same workplace. That's why employer-wide seniority can equalize opportunities for all workers.

The impact on seniority is a strong argument for union participation in the development and implementation of affirmative action programs. As part of a joint affirmative action program, unions may consider amending or broadening their seniority rights, if such changes are really needed to promote equality. It can also positively affect all members of the union. For example, the Canadian Human Rights Commission, in the CN decision, recognized the principle of seniority in recall rights of men. The decision required CN to establish an affirmative action program but only after senior male workers were recalled. But unions are right to resist any changes to seniority rights that would adversely affect their members.

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**"AFFIRMATIVE ACTION THREATENS
MALE WORKERS' JOB SECURITY**

The fear that women will displace men in the work force has been voiced ever since the first women left the home to take jobs in industry, more than 100 years ago. The same fear was raised about jobs being taken by immigrants in the early 1900s.

Today, women are a major part of the labour force. But they are not yet equally represented in well-paid, high level jobs and are segregated in only a few kinds of jobs (clerical, sales & service).

Opening up jobs to women and minority workers, in most cases, require affirmative action. But it will not mean the layoff or displacement of the men who now hold those positions.

Every employer's work force experiences turnover. People quit, transfer, retire, or die. Entry level jobs are vacated and new jobs are created as an organization grows. Affirmative action programs would give access to these job openings to qualified women and members of minorities. It might even mean giving *preference* to them temporarily at the hiring level if that was needed to reverse a history of discrimination.

Affirmative action does not mean replacing men with women. That's not the purpose of affirmative action. Affirmative action means creating more work opportunities for those now disadvantaged, not taking away jobs from others.



“WOMEN DO NOT REALLY WANT TO WORK IN NON-TRADITIONAL JOBS, THEY WANT BETTER WAGES IN THE JOBS THEY’RE IN”

Better wages for traditionally female jobs and the desegregation of job “ghettos” are two complementary measures of an affirmative action program.

Women are concentrated into a small number of jobs which are seen as extensions of their historical roles in the home as caregivers and homemakers. Women are concentrated into approximately 20 types of jobs, men occupy more than 300.

Barriers to women entering non-traditional work still exist today. For example, traditional attitudes about “men’s” and “women’s” work may discourage women from seeking what are considered to be men’s jobs. This is often referred to as the “chilling effect”. Men can consider entering a wider variety of jobs, because more types of jobs are considered to be “men’s work”.

Even if every non-traditional job does not require physical strength, revised work methods can allow women to meet the job requirements for those that do. These revised work methods would also broaden access to more men and make the jobs easier and safer

for men currently working in these positions. But women are not just under-represented in jobs requiring physical strength. Occupations like engineers and lawyers have a disproportionately small number of women.

Improving the wages in jobs now occupied by women will promote equality. But an increase in wages is not the only reason women may be interested in pursuing non-traditional jobs. Affirmative action programs should address both issues: desegregate job “ghettos” by allowing women access to what have traditionally been men’s jobs; and improve wages in what are traditionally women’s jobs.

"AFFIRMATIVE ACTION PROGRAMS ARE FOR THOSE WHO DISCRIMINATE. THERE NEVER WAS ANY DISCRIMINATION IN MY WORKPLACE"

Not all discrimination is obvious. Direct discrimination is where different treatment can be shown to be based on gender or race. People who don't think there is any discrimination in their workplace may not recognize the effect of systemic discrimination where rules and practices appear neutral, are applied the same to everyone but have the effect of disproportionately excluding the members of target groups.

For example, many jobs have entrance requirements which were originally set when they were occupied by men only. These same requirements may exclude people who do not have the same group characteristics as men. For example height requirements may exclude Asians, women and those who are generally smaller in build. Many such requirements may no longer relate directly to the performance of the job.

These practices result in either the absence of, or low representation by, the target groups in the job or the workplace.

We can identify systemic discrimination by analyzing where members of the target groups are under-represented in the organization and determining the reasons.

Affirmative action programs can then be used to deal with such discrimination caused by a system, an established order, a set of values which do not on the surface appear to discriminate.

"AFFIRMATIVE ACTION SHOULD BE REJECTED BECAUSE IT MEANS COOPERATING WITH MANAGEMENT"

Cooperation with the employer can work in specific cases, if properly organized and monitored (for example joint health and safety committees). By negotiating a joint affirmative action program with management, a union gains access to basic decision-making processes that it normally is excluded from. Without such a program, discriminatory practices will continue.

An affirmative action program gives the union a framework within which to influence the employer's hiring, training and promotion practices. While collective agreement bargaining has affected those practices to some extent, in most cases we have not been successful in addressing the more subtle and systemic forms of discrimination that may be built into the employment structure.

Unions are understandably cautious about getting involved in affirmative action programs that require management's participation. That's why CUPE has developed an Affirmative Action Manual to explain the step by step process that ensures the union is an equal partner.

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"AFFIRMATIVE ACTION PROGRAMS ARE TOO COMPLICATED AND COSTLY"

There's no denying that an affirmative action plan involves a lot of work, that it can be complicated, and that there are possibly substantial costs. However, the effort and expense have to be compared to the positive results of achieving affirmative action.

Identifying systemic discrimination necessitates a major task of data collection and analysis, a detailed plan of action, interviews with managers and target group workers, an in-depth study of working conditions and staffing policies, and eventually the drafting of a workable set of affirmative actions to correct inequities.

It can be complicated and costly. But the difficulties should not be exaggerated. They are no greater than those involved in some grievance arbitration cases, or in major contract negotiations. In other words, affirmative action is within our capabilities.

It's not an easy job but CUPE has developed resources to help locals achieve affirmative action. A detailed manual has been prepared to help locals through the process. Education courses exist to train activists. As

well, CUPE's Equal Opportunities Department has skilled staff to help locals deal with the complexities of affirmative action.



POSTSCRIPT

Equality in employment means that no one is denied opportunities for reasons that have nothing to do with inherent ability. It means equal access free from arbitrary obstructions. Discrimination means that an arbitrary barrier stands between a person's ability and his or her opportunity to demonstrate it. . . . Discrimination in this context means practices or attitudes that have, whether by design or impact, the effect of limiting an individual's or a group's right to the opportunities generally available because of attributed rather than actual characteristics."

"To create equality of opportunity, we have to do different things for different people. We have to systemically eradicate the impediments to these options according to the actual needs of the different groups, not according to what we think their needs should be. . . . The process is an exercise in redistributive justice. Its object is to prevent the denial of access to society's benefits because of distinctions that are invalid."

"If we do not act positively to remove barriers, we wait indefinitely for them to be removed. This would mean that we are prepared in the interim to tolerate prejudice and discrimination. By not acting, we unfairly ignore how inherently invalid these exclusionary distinctions are, and we signal our acceptance as a society that stereotypical attributes assigned to these four groups (women, native people, visible minorities, and the disabled) are appropriate justifications for their disproportionate disadvantages."

"No exigency, economic or political, can justify the knowing perpetuation of inequality in Canada. If we fail to rectify it, we guarantee its survival."

Even if it (absolute equality) is (unattainable), no civilized society worthy of the description can afford not to struggle for its achievement. We may not be able to achieve absolute equality, but we can certainly reduce inequality."

*Judge Rosalie Silberman Abella,
in her Royal Commission Report
on "Equality in Employment," 1984.*



CANADIAN UNION OF PUBLIC EMPLOYEES



This booklet can be obtained from
The Equal Opportunities Department,
Canadian Union of Public Employees,
21 Florence St., Ottawa, Ontario K2P 0W6