

IN BRITAIN, THERE IS NO AFFIRMATIVE action legislation. Nevertheless, positive action has been undertaken as a strategy to promote employment equity. The events leading up to the necessity for positive action are examined. During the 1960s and 1970s women and other ethnic minorities were profoundly affected by discrimination. Research studies undertaken by Stewart in Britain indicated that a significant number of cases on discrimination were often associated with race.

PROMOTING EMPLOYMENT EQUITY IN BRITAIN

By Goonasagree Naidoo

Gender discrimination was also bound to be predominant in Britain.

Research, however, shows a greater degree of discrimination against Coloured than foreign White applicants, for example, an Indian or West Indian applicant was discriminated against in 30% of the cases, while an Italian applicant faced discrimination in only 10% of the cases. This suggests that discrimination in Britain was associated with racial rather than foreign origin.

Gender discrimination was also predominant in Britain as is evident in the following statistics:

- ▲ in 1961, out of 25.3 million people employed in Britain only 9 million were women;
- ▲ in 1961, women formed only 17% of professional workers;
- ▲ in 1966, women formed less than 1% of the total membership of the major professional accounting bodies;
- ▲ in 1967, less than a third of all women in the workforce were in semi-skilled manual jobs;

- ▲ the political and economic planning report of 1967 found that the ratio of men to women in the total workforce was 2:1 against the income range of 20:1;
- ▲ in 1971, 25% of women were found in skilled categories of the workforce;
- ▲ in 1974, 26% of women were found in skilled categories of the workforce; and
- ▲ in 1980, 30% of women were found in skilled categories of the workforce.

The emphasis on programmes to counter racial and gender discrimination in Britain has shifted increasingly from the problem of overt discrimination to that of providing greater equality of opportunity or positive action. These are entirely directed towards persuasion and the removal of barriers in education, training and usual occupations for women and minorities. The emergence of a vast array of laws, government regulations, guidelines, court decisions, and interpretative regulations, which affected the employment and utilisation of disadvantaged groups are very significant. The most significant aspects of this are outlined in a summary reflected in the Table on page 40.

The Department of Employment

In the early 1970s, the Department of Employment set out five major conditions, outlining the necessity for the development of a policy to promote employment equity in Britain. These were as follows:

- ▲ measures to promote employment equity were to be clearly stated and agreed by workers' representatives and communicated to all employees in the institution;
- ▲ senior management were required to make it their duty to be associated with an employment equity policy. This influenced the attitudes of line management and personnel management;
- ▲ the policy had to be efficiently supervised especially in multiple organisations in which branch, site or departmental management were allowed autonomy in matters of recruitment, training, promotion and dismissal;
- ▲ there had to be periodic feedback of information to senior management so that the efficacy of the policy could be assessed; and
- ▲ the policy had to be seen to work in practice.

The department operates a race relations employment advisory service, which gives advice on practical steps to stimulate equality of opportunity, conducts research, keeps statistics and encourages training of disadvantaged groups to promote employment equity in the workplace.

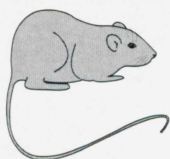
Confederation of British Institutions

The Confederation of British Institutions also played a significant role in the early 70s and required all institutions to formulate positive action policies aimed at achieving employment equity for disadvantaged groups.

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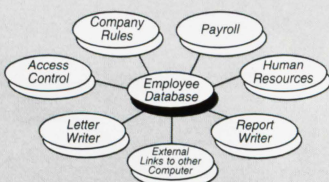
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Institute of Personnel Management

The Institute of Personnel Management in the UK acted upon these directives and issued a policy statement to its members, giving practical suggestions on how programmes to promote employment equity could be operated, and publicised suggestions on how problems involved in handling a multiracial workforce could be overcome.

The Industrial Society

The Industrial Society also played a major part since the 1970s in encouraging institutions to adopt employment equity policies by offering:

- ▲ situation surveys on matters such as labour turnover and absenteeism in a wide range of institutions;
- ▲ advice on recruitment, selection and promotion;
- ▲ help on the implementation of an employment equity programme;
- ▲ in-service training for managers and supervisors and information about the Race Relations Act;
- ▲ help on managing a multiracial workforce;
- ▲ courses for supervisors on the cultural backgrounds of immigrants and on-the-job courses in English;
- ▲ a checklist on managing a multiracial workforce; and
- ▲ advice concerning current interventions on race relations and anti-discrimination.

The Equal Pay Act of 1970

The Equal Pay Act of 1970, administered by the Public Service Department, played a significant role in promoting employment equity. It aimed at bringing about equal pay for women and other terms of contract of employment such as holidays, holiday pay, bonus and sick pay. The other relevant body responsible for the implementation of this act was the Employment Opportunity Commission, which was also set up to investigate problems related to discrimination in the workplace; it also has the powers to obtain evidence and hear witnesses, issue non-discrimination notices, make recommendations for changes to promote equality of opportunity and investigate:

- ▲ procedures and policies in promotion, training and recruitment;
- ▲ provisions for pre-entry training for women returning to work; and
- ▲ protective legislation prohibiting women from working the same hours and doing the same jobs as men.

In the event of persistent discrimination by an employer, the Commission could apply to the court for an injunction to be granted against the employer to restrain him from further committing such acts.

The Public Service Department

In 1973, the Public Service Department issued a

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circular to all government departments to draw their attention to ensuring equality of treatment and opportunity. It suggested that measures to promote employment equity were to be included in staff management training courses and in interview appraisals.

Rehabilitation of Offenders Act of 1974

There were also provisions relating to certain past convictions such as the Rehabilitation of Offenders Act of 1974, which provides that certain past convictions should not be regarded after the expiry of a rehabilitation period.

The Equal Protection Act of 1975

In 1975, the Equal Protection Act was passed which required men and women performing equal work to receive equal pay. The Employment Protection Act also aimed at safe guarding jobs for women and providing some payment during maternity leave.

The Race Relations Act of 1976

In 1976, the Race Relations Act which played an equally important role in promoting employment equity became effective. This Act proved to be very

effective and is therefore enforced to the present day. It provides for positive action to be taken where groups are under-represented in particular institutions. Positive action is the term used for measures taken under sections 37 and 38 of the Act, which enables employers, training bodies, trade unions and employers associations to:

- ▲ encourage applicants for jobs or membership from people of a particular racial group; and
- ▲ provide training to help place under-represented groups in particular work or posts.

Three sections of the Race Relations Act relate to positive action:

SECTION 35 covers access to facilities or services to meet the special needs of persons of a particular racial group in relation to their education, training and welfare, employment or any ancillary benefit.

SECTION 37 allows training bodies to provide members of a particular racial group access to facilities for training for particular work or encouragement to take advantage of opportunities for doing that work when they have been under-represented in that work at any time within the previous twelve months.



PROBLEM	YEAR	INTERVENTIONS	AGENCIES	REGULATORY ACTION
Discrimination Race & Gender	1970		Dept. of Employment	Set 5 conditions EEP
Discrimination Race & Gender	1970		Confederation of British Institutions	Required all Inst. to formulate EEP
Discrimination Race & Gender	1970		Inst. of Personnel Management	Issued Policy Statement and directives on EEP
Discrimination Race & Gender	1970		Industrial Society	Encouraged Inst. to adopt EEP
Gender Discrimination	1970	Equal Pay Act	Public Service Dept & EEC	Equal pay for Equal Work and other benefits
Discrimination Race and Gender	1973	Public Service Dept.	Advisory Conciliation/ Arbitration Service	Issued circular to State Dept on EE
Discrimination against persons of criminal convictions	1974	Rehabilitation Offenders Act	EEC	Protected Persons against past conviction
Gender Discrimination	1975	Equal Protection Act	EEC	Safeguarded jobs for women & provided maternity benefits
Discrimination Race and Gender	1976	Race Relations Act	Office of Minister for the civil service	Invest. Discrimination and made recommendations
Discrimination Race and Gender	1977	Code of Practice	EOC	Provided recommendations and steps on EE
Gender Discrimination	1984	Programme of Action	EOC	State Dept to comply with European Directives & with the Equal Opportunities Commission Code of Practice in Employment
Discrimination Race and Gender	1988	Code of Practice		Removal of barriers in education, training, usual occupations for women
Gender Discrimination	1992	Action List		State Departments required to draw up strategies and goals for improving EE

EE = Employment Equity; EEC = Equal Employment Commission;
EEP = Employment Equity Policy; EOC = Employment Opportunity Commission



SECTION 38 allows employers to provide training for their employees of a particular racial group, and encouragement to persons of a particular racial group, to take advantage of opportunities for work in which they have been under-represented.

The Commission's code of practice

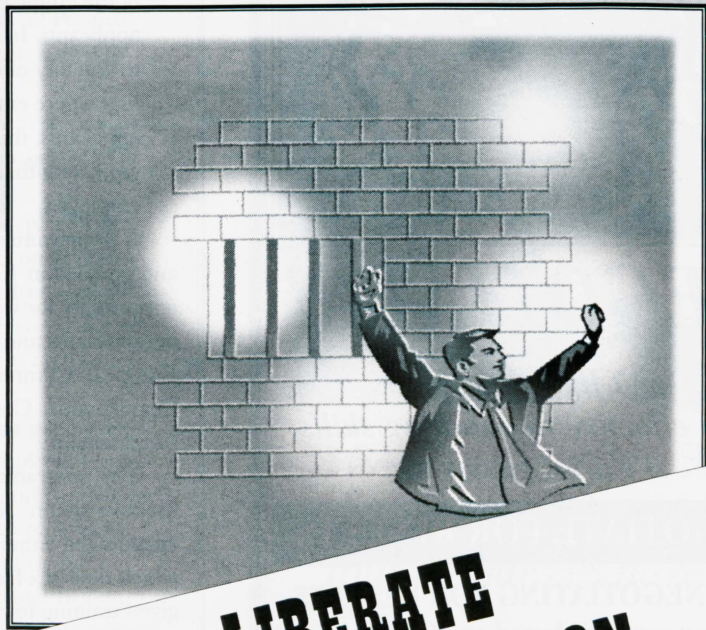
In 1977, the Commission's Code of Practice (updated in 1988) recommended that employers adopt a Positive Action Policy, designed to ensure:

- ▲ that no job applicant or employee received less favourable treatment than another on racial grounds;
- ▲ that no applicant or employee was placed at a disadvantage by requirements or conditions which had a disproportionate effect on his or her racial group and which could not be shown to be justifiable on other than racial grounds; and
- ▲ that where appropriate and permissible under the Race Relations Act, employees of under-represented racial groups were given training and encouragement to achieve equality within the organisation.

The code further recommended that an institution's policy statement be translated into a programme which contained the following steps:

- ▲ responsibility for the policy was to be allocated to a suitably qualified member of senior management;
- ▲ the contents and implementation of the policy were to be discussed and agreed on with trade unions or employee representatives;
- ▲ the policy was to be made known to all employees and job applicants;

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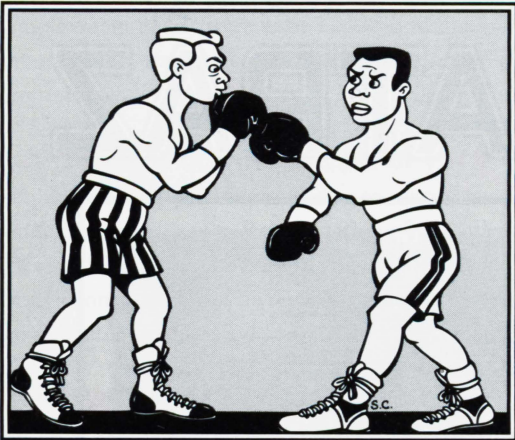
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- ▲ training and guidance regarding the law and the institution's policy were to be provided for supervisory staff and other relevant decision makers;
- ▲ selection procedures and criteria were to be examined for indirect discriminatory effect and changed where this was found; and
- ▲ the policy was to be monitored through analysis of the ethnic origins of the workforce and job applicants. In order to demonstrate commitment to equality of opportunity it was recommended that where employers send literature to applicants, this was to include a statement indicating that they were equal opportunity employers.

A programme of action was developed in 1984, and updated in 1992, to achieve equality of opportunity for women employees. It required organisations and agencies to comply with the European Community Directives and with the Equal Opportunities Commission Code of Practice in Employment.

The programme of action also provided for 'positive action', to allow steps to be taken which encouraged either men or women to apply for jobs in which their sex has been under-represented or to be given training to help them develop their potential.

The office of the minister for the public service is responsible for reviewing and reporting on the implementation of the programme of action. Departments and agencies are responsible for drawing up, implementing and monitoring their own action plans. In line with these aims, as part of the employment equity programme a number of

*Senior
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institutions have adopted targets. These consist of percentages of ethnic minority and female employees or defined improvements to the current percentage which they would expect to reach by a specific date through the implementation of positive action strategies. These targets may be defined in relation to the percentage of ethnic minorities and women in the relevant area of the labour market, but they are not specifically quotas.

It can therefore be concluded that all Positive Action policies and initiatives in Britain aimed to ensure:

- ▲ that no job applicant or employee received less favourable treatment than another on racial or gender grounds;
- ▲ that no applicant or employee was placed at a disadvantage by requirements or conditions which had a disproportionately adverse effect on his or her racial group and which could not be shown to be justified on other than racial grounds; and
- ▲ that, where appropriate and where permissible under the Race Relations Act, employees from under-represented racial groups and women are given training and encouragement to achieve equal opportunity within the organisation.

However, very little changed in Great Britain, since there is no requirement that employers adhere to the code of conduct. The only sanction is if an individual takes the employer to court on the grounds of discrimination, the employer is more likely to be found guilty if he has taken no steps to comply. **HPM**

Goonasagree Naidoo

Deputy director, affirmative action and human resource advice

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