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THE PRIVATE SECTOR AND EQUAL EMPLOYMENT
OPPORTUNITY IN THE 1980's,

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SSM WP #1644-85

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THE PRIVATE SECTOR AND EQUAL EMPLOYMENT OPPORTUNITY

IN THE 1980's

I. INTRODUCTION

A. Private Sector

In 1982, private sector nonfarm employment of 83.7 million workers accounted for 82 percent of all employment in the U.S. The U. S. Bureau of Labor Statistics has forecast that about 24 million additional jobs will be generated between 1982 and 1995 and three-quarters of these jobs will originate in the service producing industries. Manufacturing which represented one-fourth of all jobs in 1959 had declined to less than a 19 percent share by 1982. Approximately 52 percent of all private sector jobs are white collar. There is considerable heterogeneity of occupations in this classification, ranging from managerial and professional to sales and clerical. Major structural changes are occurring in these jobs as the use of part-time and temporary workers has increased significantly. At the same time the distinction between blue collar and white collar work has become increasingly blurred. Computer based methods of controlling and monitoring much industrial equipment are becoming indistinguishable from the methods of controlling and monitoring information.

Private sector jobs, especially in the service industries are heavily non-unionized. Thus, what the private sector does to achieve

equal employment opportunity objectives will depend to a large extent on management's initiatives. Unions represent only about a fifth of the American workforce and have remained concentrated in older, non-growth manufacturing sectors.

B. Environment

Organizations respond to many external factors, and American companies have had to deal with several disruptive forces during the past decade. Intense competition from abroad has meant the loss of jobs in some industries and the pursuit of a strategy of exporting jobs to foreign facilities. Deregulation in trucking, airline, and the financial services industries and the widespread introduction of computerized automation have changed the external competitive environment of firms. While these market adjustments may be important, it is the major strategic choices made in the internal labor markets of companies that have far reaching consequences on the ability of minorities and women to advance in their careers. Most Americans spend a large part of their working years attached to a single firm. Employment practices within these companies determine the distribution of occupational positions and rewards.

C. Internal Labor Market

The internal labor market is usually defined as a set of administrative rules and procedures as well as implicit commitments that shape the pricing of labor and allocation of career opportunities within an establishment. In many cases hiring is limited to certain parts of

entry at the bottom of the job ladder and all other jobs are reserved for the employers of the firm. Most enterprises contain several different internal labor markets---each operating with its own set of rules and procedures. These subsystems are embedded in a structure of managerial decisions, employee expectations, and law.

In an insightful recent study of internal labor markets Osterman has classified these subsystems into three types: industrial, craft, and secondary. "In industrial subsystems employees (such as managers and professionals) have a limited number of ports of entry and progress along clearly marked job ladders. Well defined procedures and company norms govern job security rules.--- Craft systems are characterized by greater mobility and more loyalty to the skill or occupation viz. computer programs.--- Secondary subsystems contain jobs with few advancement opportunities and they tend to be low skilled and poorly paid" (many clerical operations).^{1/}

In general firms can and often do seek to alter the internal mix of subsystems even as they may extend personal rules across all job functions. A variety of techniques available for altering the mix of subsystems and moving tasks from one subsystem to another include temporary help services and subcontracting, job redesign, the creation of new job ladders and training programs, opening and closing of ports of entry into job ladders, and spatial relocation.^{2/}

We can also better discern these white collar internal labor markets from the studies of organizational sociologists who have conducted their research as observants within companies. In her 1977 study of a large Fortune 500 Company Kanter argues that most

organizations and their employees subscribe to a "culture of mobility." Several other quotations from this scholar of corporate structure highlights the focus of this report.

(1) "Since communication is a significant task of white collar employees, firms place a premium on recruiting a homogeneous group of employees so that implicit assumptions and attitudes are widely shared and communication errors consequently minimized.

(2) Managerial and clerical jobs then are the major sex-segregated white collar occupations, brought into being by the development of the large corporation and its administrative apparatus. A sex linked ethos became identified with each of these occupational groupings."^{3/}

II. CASE STUDIES

Firms have restructured their internal labor markets in response to equal employment opportunity pressures. Table 1 shows a restructured internal labor market for telephone operating companies as reflected in the telephone consent decree discussed below. Prior to the intervention Affirmative Action Programs (AAP) Jobs 10 and 9 semiskilled craft level were primarily entry level jobs for males. The consent decree attacked the sex-segregated structure of these non-managerial jobs and established relevant labor pools which included operator, and clerical jobs which had been predominately staffed by women.^{4/}

However, as Fernandez notes the combined effects of EEO/AAP not only have changed the makeup of the corporate work force from a relatively homogeneous to a heterogeneous employee body but have produced employee stress and conflict.^{5/} "The inclusion of minorities and women

Table 1

AAP JOBS FOR AT&T

<u>AAP Job</u>	<u>Relevant Labor Pool</u>
15 Service Workers	Entry level (external labor market)
14 Operators	
13 Office/Clerical Entry	
12 Office/Clerical Semiskilled	Jobs 13, 14, 15
11 Office/Clerical Skilled	Job 12
10 Telephone Craft--Inside/Semiskilled	Jobs 11, 12, 13, 14, 15
9 Telephone Craft--Outside Semiskilled	Jobs 15, 14, 11, 10, 8
8 General Services/Skilled	Job 15
7 Telephone Craft--Inside/Skilled	Jobs 10, 9, 8
6 Telephone Craft--Outside/Skilled	Jobs 9, 8
5 Sales Workers	
4 Administrative Positions	
4A Admin. Management	Job 4B
4B Admin. Nonmanagement	Jobs 12, 11
3 First-Level Management	Jobs 11, 8, 7, 6, 5, 4A (some external labor market)
2 Second-Level Management	Job 3
1 Third-Level and Above Management	Job 2

Source: Model Affirmative Action Program of the AT&T Consent Decree, January 1973.

into the managerial ranks has created a power struggle between white men and these groups for the lucrative managerial positions."^{6/} The two companies examined here represent the biggest and perhaps the best in their industries and serve as models as to what might be achieved and how difficult it is to modify existing systems.

A. Telecommunications -- In 1973 the American Telephone and Telegraph Company (AT&T) was the largest employer in the U.S. The AT&T consent decree which was signed in January 1973 and ended six years later served to formalize a variety of personnel procedures in the internal labor markets of the twenty-three telephone operating companies. The agreement between the AT&T, the Equal Employment Opportunity Commission, the Department of Justice and the Department of Labor covered nearly a million employees and effectively restructured the internal labor markets of the telephone companies. Implementation of the decree produced an occupational redistribution of jobs that permitted minorities and women to increase their share of all jobs as well as to upgrade their positions.^{7/}

The improved occupational mobility for women and minority employees was achieved through implementation of goals and timetables but more importantly by specifying new career paths and new upgrade and transfer procedures. Although the pay adjustment policies of the decree received considerable national publicity, the use of the mobility mechanism plus the affirmative action override procedure* resulted in better utilization of women and minorities within the internal labor markets. Since these companies had limited hiring from the external labor market for jobs above the few entry level positions, the competition for pay and status

was from within. The consent decree provided significantly increased career options for minorities and women at AT&T.

By January 1979, the AT&T management had developed a sophisticated model to track all of its employees, and the unions had lost their legal battle over whether the affirmative action override undermined the seniority provisions of their collective bargaining contract, and the utilization of black employees had improved significantly. Table two shows an approximate before and after effect.

Prior to the consent decree, black males were only 2.6 percent of total employees and 5.4 percent of all males. In 1972, thirty-four percent of white males were in managerial jobs and 38 percent were in skilled craft jobs that tracked directly into management. The comparable ratios for black males were 9.0 percent in managerial jobs and 21.4 percent in the skilled jobs. By the end of the consent decree the representation of black males among all employees and among males had not changed but 24.2 percent of black males were managers and 32.9 percent were in the skilled craft categories. This improvement in occupational status is important since technology in the telecommunications/computer industry shifts employment away from blue collar workers towards managers.

*Individuals from protected classes who met the minimum qualifications (rather than best qualified) could be promoted into jobs over more senior workers if the vacancy did not have adequate representation of protected group members.

Table 2

Black Employees in Bell Telephone Operating Companies
December 31, 1972 and September 30, 1978

AAP Job	Job Description	Black Men		Black Women	
		1972	1978	1972	1978
1	Middle mgt. and above	79	212	3	56
2	Second level mgt.	308	1,048	116	838
3	Entry level mgt.	1,464	3,715	1,634	4,475
4	Administrative	283	583	2,317	3,657
5	Salesworkers non-mgt.	204	472	119	623
6	Skilled craft (outside)	1,564	3,328	1	162
7	Skilled craft (inside)	2,817	3,420	172	997
8	General services (skilled) ^{a/}	2,150	229	51	51
9	Semiskilled craft (outside)	5,188	4,315	18	453
10	Semiskilled craft (inside)	2,128	2,081	407	1,279
11	Clerical, skilled	446	1,423	8,918	14,777
12	Clerical, semi-skilled	257	1,268	10,274	16,481
13	Clerical, entry level	552	714	8,275	6,758
14	Telephone operators	338	1,102	29,607	18,997
15	Service workers, entry level	2,688	1,622	1,421	1,149
	Total	20,466	20,532	63,333	70,753
	Percent of Total Employees	2.6%	2.6%	8.0%	8.8%

^{a/} Later dropped from classification.

Source: Final Report to the Court on the AT&T Consent Decree.

The implementation of the AT&T consent decree did not require the downgrading of any group and considerable progress was made by women and minorities stemming from the growth in the better jobs. After the termination of the consent decree, the telephone companies continued to accelerate the advancement of protected group members. One lesson from the AT&T consent decree is that minorities do not have to take the lead in an investigation into patterns of discrimination in order to benefit from the outcome. The Federal government pursued a deliberate strategy of attacking sex discrimination, and in the process minorities also gained.^{8/}

B. IBM -- Computers -Through a Glass Darkly

Some of the most difficult experiences for black workers in the 1980's will be in elite white collar labor markets. The opinion of the court in the IBM case which was decided in March 1984 may have a chilling effect on the expectations of minorities in middle management ranks.^{9/} IBM, with some 40.2 billion dollars in gross income and 5.4 billion dollars in net earnings in 1983, successfully defended charges of discrimination in its performance, planning, counseling, and appraisal programs; in its compensation programs, and in its promotion program as these programs applied to black managerial and professional employees at its Data Processing Division (DPD) facility in Maryland.*

Between 1974 and 1981 the number of black managers and professionals in the DPD Maryland facility nearly tripled (from 51 to

*We have quoted verbatim from the court opinion throughout this discussion.

148) while the overall number of managers and professionals at that facility increased by 38 percent (from 872 to 1,205 persons). IBM compared black representation in its employee mix relative to its industry and to other private industry:

Black Representation, 1981

	<u>Managers</u>	<u>Professionals</u>
Office and Computer Industry	2.7%	3.0%
Private Industry Nationwide	4.2%	4.3%
IBM -- All Divisions	6.1%	5.6%
IBM -- DPD	9.8%	8.0%
DPD -- Maryland	13.7%	12.0%

The inability of George Hunter, the primary plaintiff, to maneuver successfully within the upper levels of the IBM internal labor market despite an outstanding performance at lower level jobs provides a modern day Pilgrim's Progress. Hunter started working for IBM in November 1966 as a systems engineer and had been promoted to a variety of jobs until 1974 when he was appointed an administrative assistant (AA) to a DPD Vice President. The court noted that the A.A. "position is generally regarded as a stepping stone into upper level management at IBM. It is a temporary assignment of approximately one year's duration, during which a rising employee is given the opportunity to gain a breadth of experience and exposure to the office of the vice-president and its duties.

Practically speaking the position is 'unleveled' because of its unique training nature, although it is assigned a level 50 holding code. It was customary that no performance plan be prepared for the position.---

The court also indicated that the performance plan, salary and promotion were the primary focus of Hunter's concern. "Although technically unleveled, Hunter was paid a salary equivalent to a level 59. A.A.'s are paid within the salary range of the level they previously held." However, Hunter asserted that he was paid 'below minimum' as an A.A. The court notes that "With respect to promotion George Hunter had a desire almost amounting to an obsession to attain the position of branch manager. Administrative Assistant to a corporate vice-president was very often the springboard to the branch manager's position. It was Hunter's dissatisfaction over his failure to attain a branch manager's job that triggered a deterioration in the employee-company relationship and ultimately led to this lawsuit." Hunter submitted a charge of discrimination to the EEOC in August 1976 and resigned from IBM in April 1977.

It will be instructive to examine some of the administrative rules of the IBM internal labor market as noted in the opinion of the court, in order to demonstrate how even within the most carefully formalized system of advancement, the potential for discrimination still exists.

Performance Appraisal

IBM uses a numerical rating system (except during training periods) by which a manager rates an employee's effectiveness in carrying out responsibilities enumerated in individual performance plans. The manager

measures the employee against the objective of the plan and assigns ratings for each important area, in addition to an average overall score. During the relevant period 1975-1981, there existed four possible levels of satisfactory performance, with 1 as the highest rating and a 4 rating as the lowest of satisfactory performance.---As of 1981, the four categories of satisfactory performance were:

(1) The results achieved far exceeded the requirements of the job in all areas.

(2) The results achieved consistently exceeded the requirements of the job in all key areas.

(3) The results achieved consistently met the requirements of the job and exceeded the requirements in many areas.

(4) The results achieved consistently met the requirements of the job.

A commentary running throughout the court's opinion is that several of the plaintiffs had started their careers with performance appraisals of 2 and somewhere along the way received a lower rating of 3. When they complained that the appraisals did not accurately reflect their performance, they negotiated with more senior managers and some of the ratings were revised. Performance appraisals are used to administer salary, or indicate the critical monetary significance of getting a better than average performance appraisal.

One of the most unusual comments by the district judge was that the testimony of one of the plaintiffs, Jacqueline Cole, a very articulate, exceptional performer on the IBM fast track supported the effectiveness of IBM's appraisal system. The primary focus of Cole's testimony, however, was that certain of her appraisals were low and that she had been locked into a level 59 position since 1976. She speculated that she had suffered repercussions from protesting two performance appraisals.

IBM's expert witness on personnel management, personnel administration, and merit systems found IBM's performance evaluation system to be of very high quality. "Although it is impossible to have a system that does not include some subjectivity, he was unable to identify any mechanism by which managers could discriminate against employees.---He gave IBM's performance evaluation system an A because it is well designed and fits IBM's business objective. He noted that IBM possesses an excellent reputation in the academic community and other members of the industrial community copy its merit system. He testified that he was unaware of any other performance evaluation system that would provide as reliable and useful information or less opportunity for bias in evaluations."

Compensation

IBM uses a formal merit pay system to compensate its employees. Each position in IBM is assigned a two-digit salary level. At each salary level there is a set range of possible salaries, which is adjusted annually for industry competitiveness. The maximum figure in the range

is 60 percent higher than the minimum figure. The salary range at each salary level is divided into quarters that correspond to the four satisfactory performance ratings (1-4). For example, in 1980 the monthly pay ranges for Level 55 was:

	4th Q	3rd Q	2nd Q	1st Q
Level 55	\$2,185-2,512	\$2,513-2,839	\$2,840-3,167	\$3,168-3,495

The difference within each pay quarter allows room for an increase when an employee, who remains at the same salary level, sustains his performance rating over time. When first promoted to a higher salary level, employees typically are compensated near the bottom range for that new level until sustained performance raises it. This may result in employees being "below minimum" at the beginning of the year when a new salary range is established to account for inflation. It is expected that by year end the employee's salary will be brought up to minimum. However, if an employee moves up the ladder quickly, it takes some time in a new level before the rate of compensation fully catches up. This salary setting practice is prevalent throughout the corporate structure. However allowing a company to base starting salaries at a new level on prior pay, if it so chooses, may in practice give that company leeway to make that salary decision on the basis of an impermissible discriminatory motive.

Open Door Policy

The open door policy is one of several safeguards built into IBM's Performance Planning, Counseling and Evaluation (PPC and E) program. It

is one of the methods by which employees bring grievances to the attention of upper level management. IBM averaged between 800 to 1,000 open doors a year to the Chairman's office (out of a work force of 364,000). In theory, an employee may jump over the head of the next line manager(s) all the way to the Chairman of the Board requesting investigation of a problem. One might ask why such a disproportionate number of the black managers and professionals resort to this procedure when, as several plaintiffs hinted, reprisals might follow.

Understanding the Corporate Culture

Black managers and professionals perceived the performance appraisal rating as the major hurdle to their internal upward mobility. Yet an IBM manager testified that "a good career step might not always be a level promotion, and it is very often not, as a matter of fact." A severe lack of communication between black managers and professionals is reflected throughout the court document. Since we know that career success is closely associated with a keen understanding of corporate culture, we could ask why blacks are not aware of this? Within the IBM internal labor market the absence from the mainstream of the product for a brief period while one does social service leave may be detrimental to one's career. The judge refers to the progress of plaintiff Cole: "Although Cole may not have progressed to the level that she would have liked at IBM, it was apparent that if anything held her back, it was the amount of time that she spent away from the business. It is difficult to conceive that an employee earning almost \$70,000 a year who has been away from the business for almost four years out of the past ten and who

continued to be offered challenging positions could have a credible complaint against a company." The question we must ask is whether Plaintiff Cole was made aware of the consequences of her choosing to take a leave of absence before she made that choice.

Daniel Bailey, another plaintiff, received numerous awards as he moved up through the ranks and in 1974 received a four level promotion from level 55 marketing manager. It was during his tenure in this position that he experienced difficulties with management. The court found that the primary reason for Bailey's lack of promotion was his refusal to relocate. In reviewing the progress of countless careers of IBM managers during the trial, one aspect of IBM employee dynamics was obvious: in an international firm, one must be willing to relocate in order to maximize one's job opportunities and career potential. Bailey's refusal to do so obviously lost him what had been his manager's fervent support. This supervisor told Bailey that he could achieve a high level in IBM including the "run for the roses" the IBM terminology for the "race to be president." It is likely that by now IBM's old-styled inflexible rules on relocation have been modified. Many young dual career couples have forced companies to respond to their needs. Young managers refuse to relocate just because the employer determines that it is in line with business policy.

Findings

IBM's econometric expert ran regressions in which he controlled for race, salary level, years of IBM service, time in salary level, and level of educational attainment. He found no statistically significant differences between the promotion probabilities of blacks and whites at

the Maryland DPD IBM facility, and that black class members had suffered no disparate treatment. The court opined that many of the black managers and professionals seemed intent on self-destructing careers that, if anything, were enhanced rather than limited by their race. Isolated incidents of perceived discrimination the court found, is not sufficient to establish that discrimination was the standard operating procedure of the employer without a valid statistical showing. Finally the court noted that IBM's performance evaluation system is the standard for its industry and for private business nationwide, (emphasis added)) and it is hard to imagine a system with any tighter controls.

Importance of the IBM Case

Although the IBM decision has not been widely discussed, it is clear that it has vindicated the operation of many standardized white collar internal labor markets. In many corporate structures these administrative rules and procedures have evolved over a long period of time and have been codified by personnel departments. These departments until recently lacked status and influence and were seen by line managers as staff functions not especially critical to operations. The IBM case demonstrates that with the linkage of management of human resources and strategic planning for the company it is easier to rationalize a non aggressive policy on affirmative action issues.

The primary players in this game are (1) chief executive officers who may serve shorter terms as they endeavor to produce operating results that please institutional investors and other shareholders. (2) senior managers who may be ill equipped to deal with the great diversity of the

workplace. How do you choose the brightest and the best if the behavior of some of the participants violate company standards? One of the plaintiffs in the IBM case, for example, was accused of misusing the power of his office (as a technical manager) to become a "surrogate equal opportunity manager." (3) Another principal player is management consulting firms. As many private companies have upgraded their personnel practices they have employed outside consulting firms to assist them. Many of these firms are specialized by industry (banking or high technology) or function (internal wage structure or job evaluation). Their inclination is to develop a boiler plate model to sell to a variety of customers. Across the private sector identical practices are embedded in internal labor markets. Thus, to anoint the IBM systems means that it will be exceedingly difficult to criticize these programs elsewhere.

III. CONCLUSION

I regret that I find nothing in the way that the private sector conducts business that would encourage these companies to be more aggressive in implementation of equal employment opportunity laws. Shareholders of publicly owned companies have consistently voted against social issues which have appeared on proxies. Even where there may be Board members who are concerned about these issues, companies may not respond immediately.

The two cases discussed above, the AT&T and the IBM were concluded a decade apart. If the IBM case is a prototype for the future in terms of white collar employment of minorities, the net change in opportunities will be limited. During the past twenty years private sector employers

have not attempted to deal with the most disadvantaged segment of the workforce. Employment and training programs sponsored by the Federal government have not always been linked with equal employment opportunity programs. The present Job Training Partnership Act of 1983 (JTPA) relies strongly on the private sector to deliver training. Questions have been raised about whether the funds are adequate to provide the long term training sessions for the most disadvantaged enrollees. The JTPA was seen by the private industry councils (PICS) as a vehicle to connect economically disadvantaged individuals with labor market needs. This was to be achieved in the most efficient manner, and thus those individuals who need minimal services and training are enrolled first. This is a small percentage of the individuals who are eligible. It is too soon to know whether the JTPA will by-pass those most in need.

The fact that women and minority males accounted for 50.7 percent of the civilian labor force in 1983 and is forecast to be 53.7 percent of that work force by 1995 may ultimately force the private sector to respond to some of the concerns raised by this conference.

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