“Equality of Opportunity”

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The ERA Passes in Congress. Through the efforts of two Democratic congresswomen, Martha Griffiths of Michigan and Edith Green of Oregon, the ERA passed the House of Representatives in 1970. Previous obstructions were bypassed through a discharge petition which received bipartisan support, especially from President Richard Nixon. When the ERA was reintroduced in 1971, it easily passed with overwhelmingly favorable votes in the House and in the Senate the following year.

The text of the Equal Rights Amendment was extremely simple:

1. Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

2. Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

The ERA failed for several reasons. Nixon was the only executive to give personal support to the ERA. The Republican party platforms had included the ERA for several decades, but it did not in 1980 or thereafter. Conservative activist Phyllis Schlafly became a highly articulate and effective opponent of the ERA, raising arguments that it would force women to support high taxes and would deprive them of preference in divorce and child custody cases. Some members of minority groups perceived the ERA as providing gains for middle-class white women at the expense of men and women of color. Male government workers feared that the ERA would undermine laws that gave war veterans preference in employment. The Soviet invasion of Afghanistan in 1979 brought about draft registration for all but college students, raising fears about individual rights.

Equality of Opportunity

Definition: The ideology that one's chance for economic success should depend on one's abilities and effort rather than on one's sex, race, socioeconomic background, or other such accidents of birth.

Significance: The U.S. government and courts since the 1950's have implemented numerous policies to promote equality of opportunity.

American society is characterized by large job-related inequalities in incomes, prestige, and influence. These inequalities are commonly framed as acceptable provided that there is equality of opportunity. In other words, the competition for desirable positions should be fair so that individuals who are similarly qualified and motivated have similar chances to obtain these positions. It does not mean that individual who are equal in all respects win the race for these positions (equality of outcome), but the race can be made fair (equality of opportunity).

Mimimality, equality of opportunity involves a situation in which one is not excluded from competing for desirable positions because of one's race, sex, or class background. More broadly, this idea of justice requires that one's race, sex, and socioeconomic background do not negatively influence one's chances for economic success. Thus equality of opportunity calls for hiring processes, including recruitment and screening practices, free of discrimination against minorities and women. To make the competitive race for desirable positions fair, it is also necessary that men and people of different races, and the economically disadvantaged have equal educational and occupational opportunities for developing their abilities. The same applies to groups such as visually impaired individuals and people with physical disabilities.

During the 1950's and 1960's it became widely acknowledged that American society did not offer equal opportunity to all its citizens, and judicial and legislative action was undertaken to correct this situation. In Brown v. Board of Education (1954), the Supreme Court mandated racial integration in public schools, arguing that segregated schools deprived minority children of equal educational opportunity. Title VII of the Civil Rights Act of 1964 prohibits discrimination in employment.

BIBLIOGRAPHY

ment. During the 1970's the federal government initiated affirmative action programs, requiring that employers not only refrain from intentional discrimination but also actively recruit women and minorities for underrepresented positions and eliminate bias in job criteria. These programs might involve that qualified minorities or women are hired or promoted instead of equally or seemingly more qualified white males. Critics view these programs as violating the equality of opportunity of white males, whereas their defenders maintain that they only eliminate the undeserved competitive advantage that white males have acquired because they are not subject to institutional discrimination as minorities and women are. Critics succeeded during the 1980's in curtailing but not eliminating affirmative action programs. Since the 1960's, various laws have been adopted that improve the educational and job opportunities of individuals who are physically impaired. Much less political attention has been given to addressing inequality of opportunity caused by economic poverty as such.

See also Affirmative action; Brown v. Board of Education; Civil Rights Act of 1964; Equal Employment Opportunity Act; Equal Employment Opportunity Commission (EEOC); Great Society; Racial and ethnic discrimination; Regents of the University of California v. Bakke; Sex discrimination.

Equitable remedies

Equitable remedies are those remedies originally granted by an equity court, as distinguished from a court of law. In the English common-law tradition, a court of law could give a plaintiff money, land, or some other property if the plaintiff won a lawsuit. These remedies were often inadequate, however, and did not give people substantial justice. As a result, the courts of equity were developed to expand the relief available. The number of equitable remedies expanded over time; the more traditional ones include injunction, specific performance, reformation, contribution, and estoppel.

An injunction is a legal writ issued by a court of equity directing someone to do or refrain from doing an act that threatens injury to someone else. It is issued only if the legal remedy is inadequate or inconvenient, a court will grant an injunction only if the harm threatened outweighs the harm that may be caused by the injunction.

Specific performance is an order directed to parties to a contract, compelling them to perform their obligations under the contract. It is most often granted when the subject matter of the contract involves unique goods or land. In such cases, money damages are not sufficient to compensate the injured party; for example, the moresy cannot be used to purchase an identical item when there is no identical item.

Reformation is an equitable remedy granted when a written instrument does not express the real agreement of the parties. A court will reform or rewrite the instrument to protect an innocent party. Deeds, contracts, and other instruments will be reformed where there has been fraud, error, mistake, or inaccuracy. Normally, however, reformation will not be granted if a person had the opportunity to read a contract but failed to do so.

Contribution is the sharing of loss among several persons. Two or more people may be liable on the same contract or may have committed a tort together. If one of these people has paid the whole debt or suffered the entire liability, the other parties must reimburse him or her for a proportionate share.

Equitable remedies

Significance

Equity will not grant a remedy where the parties have an adequate remedy at law. Equity follows the law, so it will rarely undo rights created by law.

Equity will not grant a remedy where the parties have an adequate remedy at law. Equity follows the law, so it will rarely undo rights created by law. Under the doctrine of laches, parties can lose their remedies if they wait too long to file their case in court. Under the clean hands doctrine, a party who seeks equity must not have acted unfairly.

See also Civil law; Common law; Equitable remedies; Injunction.