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## Local Contracts and Sub-Contracts: The Roles of City Government and Private Citizen Groups

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# LOCAL CONTRACTS AND SUB-CONTRACTS: THE ROLES OF CITY GOVERNMENT AND PRIVATE CITIZEN GROUPS

MADISON S. JONES\*

## THE ROLE OF GOVERNMENT

**M**OST American Negroes consider equality of opportunity in employment without regard to race or color the core of America's civil rights problem. While there have been many efforts for several generations to outlaw lynching and the poll tax, it was the emergence of the concept of fair employment practices that high lighted current civil rights legislative objectives of today. This would indicate, therefore, that the paramount civil rights objective of the federal government and numerous similar state and municipal bodies is the elimination of bias in employment and job opportunities.

In 1941 we witnessed the first modern-day mass protest effort on the part of the American Negro in the creation of the March on Washington movement. Negro leaders, lead by A. Philip Randolph, realized a sense of urgency for a vigorous effort on the part of all Negroes for greater participation in the wage-earning class of America's economic life. This effort was followed in 1943 by launching one of the most consistent efforts on the part of approximately three score national organizations to achieve the enactment of the federal fair employment practices legislation. The very nature of the interstate complexions of American industry and commerce causes an intensification among civil rights advocates in their efforts for the enactment of federal legislation in this field.

We notice the emergence of state action in this field by the creation in 1945 of the New York State Commission Against Discrimination (now called State Commission for Human Rights). The New York State Commission created by legislative action was followed by the emergence in twenty-one other states of the creation of commissions or committees. This is not to say that each state has recognized equally with all other states the magnitude of the problem and expressed determination to deal with it forthrightly by effective legislation. Indeed, unfortunately, many states have almost insulted the problem as far as its magnitude and seriousness is concerned with almost ineffective legislative or executive action.

However, the important point at this time is an official recognition of the existence of the problem. The future will tell whether people of good will can relate a concern and demand for action commensurate with the magnitude and seriousness of the civil rights objective. To achieve equality of opportunity in employment without regard to race or color demands vigorous and forthright federal legislative action. For federal law would hasten the city's objectives in this field.

Municipal authorities witness today, especially in the large industrial cities,

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an increasing concern for their own specialized human rights commission. There is a limitation of the jurisdiction of the city agencies in this field, although they have an important function either by direct or concurrent jurisdiction and/or by supplementing and complementing state and federal agencies in this field.

In the larger cities, especially New York for example, the concern and determination by responsible city officials including municipal legislators can do much to achieve results in this field. This is especially true where City funds are involved and also where the principal executive offices of national private corporations are located.

The New York City Commission on Human Rights is a case in point. This commission has major functions which, pursued successfully, can do much to guarantee that all the people of the City of New York shall live and prosper in what we regard as an "Open City": an "Open City where all the facilities for job opportunities, housing and education shall be on an equal basis without regard to race, color, religion, national origin or ancestry."

It is essential that the construction and maintenance projects for which City funds are appropriated—public schools, public markets, police buildings, laying of sewers and streets—be accomplished with a contractual obligation guaranteeing that employment is available to all people without regard to any consideration of the applicant's ethnic background. This guarantee must include with equal emphasis the right to apprenticeship training.

New York City, with a budget exceeded only by the federal and its state government, has great opportunities in this field, through its contract compliance program. The City having in effect at any one time awarded over 1,000 contracts can do much through its contract compliance program to eliminate racial bias both in trade unions and employment.

But our cities can do even more. They are the locale of large industries which in many cases offer attractive job career opportunities. In the minds of many of those who believe that they are excluded for racial reasons there is an element of glamour and attractiveness. These industries provide new areas of concentration by human rights agencies seeking to expand the frontiers of employment opportunities for ethnic minorities.

This does not always mean that overt acts of race discrimination are the current reasons for the nonappearance of a Negro or some other racial minority in a particular company's work force. But it does mean that a long history has developed in a particular company which indicates a persistent practice of bypassing certain racial groups in the company's recruiting and employment programs.

It was in this light that the New York City Commission recently convened a meeting of the leaders of the City's giant advertising industry. A similar gathering of leaders of the brokerage and investment industry was also convened. In both cases a challenge was hurled to these leaders to recognize their responsibilities in seeking out Negroes and Spanish-speaking Americans for job opportu-

nities in their employment. A responsibility born by the very nature of the respectability and prestige which such industries maintain in the community poses a real challenge. A forceful and vigorous city commission has the responsibility, which it must always assume, for vigorously challenging and inspiring leaders of these industries to play their role in the City's human rights objectives.

What is the role then, especially of a City Commission in the field of human rights in a significant-sized industrial metropolis? Is such a commission to pursue its official responsibilities with an objectivity usually and rightfully found in courts of law? By the very nature of the problem can such a commission's policies and programs be in the hands of appointed officials and staff representatives who lack a sympathy for the very existence of these problems of racial bias? Can the very damaging effects that these problems create in many ways be ignored and their harmful psychological reactions upon the individual personality be passed over?

It would seem that the very nature of the problem and the responsibility of human rights specialists require always a warm sympathy and concern not only for the problem, but also for the individual who looks to such commissions for help and guidance.

Further, it would seem that such a commission must recognize by aggressive action a definite responsibility for provoking thought and through such provocation help create a better informed public on the real issues which underline a current civil rights issue or crisis. For it is at these times that the cry for bold, imaginative, moral and visionary leadership must be answered. It is not enough for such a commission to be in step; it must rather be out in front providing leadership.

This leadership often must be provocative and controversial. It must not be expected that this leadership will always, in the initial stages, be popular. In the beginning it may find itself supported or rejected by the majority of the City's population. At other times it can find itself supported only by those ethnic groups around which the conflict stirs. Such a commission can find itself frustrated by public and private groups in its efforts. But what such a commission, including state and federal bodies in this area can never permit itself is a lack of conviction. For its own positions once taken must be pursued, in light of the established facts, with vigor and determination.

For in the final analysis, the very fact that racial bias has existed with great damaging economic, political, social and moral consequences for a period predating the life of the nation assures success in this field only by remaining consistently on the offensive. It is an aggressive position of leadership, a recognition of the historic human rights goals to which our nation is dedicated, that compels the City Commission on Human Rights of the City of New York, as it does many other bodies similarly concerned, to justify its existence.

Currently there are vigorous efforts by many local Civil Rights groups to crack a virtual "iron fence" against the employment of qualified Negro journey-

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men and Negro apprentices in the construction trades industry of our large industrial cities.

In New York City last summer we experienced numerous demonstrations which resulted in work stoppages on vital projects being erected with public funds. Recognizing a threat to the public welfare, Mayor Robert Wagner requested his Commission on Human Rights to conduct public hearings. It would seem to me appropriate to set forth here the results of those hearings as an illustration and also as a means for helping other cities to deal with the problem which may currently be of some concern to them.

Perhaps you would be interested in first knowing what were the charges leveled by civil rights spokesmen. I would like to enumerate them:

1. That unions control employment by restricting union entry through sponsorship requirements, by hiring hall agreements with contractors and by a system of issuing work permits.
2. That unions with the tightest control of jobs discriminate the most.
3. That "no union jobs—and this includes all public construction and all major private construction—can be performed without members of these unions being involved."
4. That Negro and Puerto Rican vocational school graduates are unable to enter unions and apprenticeship programs of the crafts for which they have been trained.
5. That apprenticeship and on-the-job training is denied minority group members. In this connection the civil rights spokesman cited a New York State Commission Against Discrimination (SCAD), now State Commission for Human Rights, 1960 study, which said that "the nature of the internal union political structure and process" is a major factor responsible for this denial. He also referred to a 1948 SCAD order to the sheet metal workers to desist "from executing and/or maintaining constitutional or by-law provisions which exclude Negroes" and pointed out that the 1960 SCAD analysis reported little, if any, progress in that area since 1948.
6. That conscious discrimination is practiced in the construction craft unions, the reference in this connection is a United States Civil Rights Commission report.
7. That the foregoing pattern of exclusion helps perpetuate disparity of income, adds to the burden of Negro and Puerto Rican unemployment, and discourages Negro and Puerto Rican youth from completing their high school education, especially those in vocational schools.
8. That unions have offered nothing of substance for solving the problem.
9. That state and city officials have failed to enforce existing anti-bias laws.

As a result of these charges and after appropriate conclusions based on the testimony of more than a score of witnesses, our commission, in the interest of

the general welfare of the City of New York, made the following recommendations. These recommendations, we believe, can help other cities through similar difficult problems.

A. *City Policy for Integration*

In order to encourage full integration in the construction industry and promote equal employment opportunity, by encouraging the recruitment of qualified nonwhite craftsmen, it is recommended:

That the city require, as a prerequisite for obtaining a contract, that an employer secure and maintain an integrated work force, just as he must show financial stability, administrative competence and wholesome industrial relations;

That each city official responsible for the awarding of such contracts be accountable for proper enforcement of nondiscrimination clauses contained in each City contract;

That city officials include in every contract a stipulation by the contractor that the work force will be fully integrated, and that the contract include a provision that the City Commission on Human Rights shall have the power to determine whether discrimination exists before, during or after awarding the contract;

That failure to fulfill contract provisions on integration to the satisfaction of the City Commission on Human Rights result in appropriate action by the City to cancel the contract;

That the Mayor, by Executive Order, require that all contractors with the City in the initial stages of implementing the personnel requirements of a contract insure that all employees and all applicants for employment receive fair and equitable treatment including opportunities for promotion without regard to race, creed, color, ancestry or national origin and that this policy apply to unskilled, semi-skilled and all work categories in the clerical, technical, professional and administrative jobs and positions of the contractor.

That contractors be required by such Executive Order to:

1. Include nonwhite workers on every level of their work forces.
2. Institute aggressive and affirmative programs to assure the inclusion of minority workers in every job category.
3. Assure that a policy of inclusion and emphasis upon equal employment opportunity of minorities not only be recognized and stated publicly, but also effectuated through all administrative and supervisory forces as a major policy and administrative objective of the contractor.
4. Assure that in implementing an aggressive and affirmative action program that recruitment sources be considered and used which complement and re-enforce the City's programs to accomplish equal employment opportunity for all workers.

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5. Establish procedures assuring that hiring and placement be administered with emphasis on aggressive and affirmative action to achieve equal employment opportunity for all of the City's minority workers.
6. Make certain that promotion procedures are consistent with the aforementioned objectives.
7. Take cognizance of the neighborhood residential concentrations of ethnic minority residents and the implications such concentrations have for the locale and direction of their recruitment programs.
8. Assess the available skills and manpower resources in these neighborhoods and, in recognition of such circumstances, establish recruitment offices or maintain representatives of these offices in close proximity to these residential concentrations.

### *B. Freedom of Entry into Union Membership and Apprenticeship Programs*

The City has no authority to enact legislation to outlaw race discrimination by trade unions. However, Section 43 of the State Civil Rights Code and the State Law Against Discrimination in employment provide a legal basis for correcting the abuses herein described. It is therefore incumbent on the appropriate state agencies to fully enforce these laws.

Specifically, all apprenticeship training programs sponsored by New York labor unions, jointly or independently administered, should be required to meet the following standards.

1. The selection of apprentices on the basis of merit alone, in accordance with objective standards which permit review, after full and fair opportunity for application, unless the selections otherwise made would themselves demonstrate that there is equality of opportunity.
2. The taking of whatever steps are necessary, in acting upon application lists developed prior to this time, to offset the effects of previous practices under which discriminatory patterns of employment have resulted.
3. Nondiscrimination in all phases of apprenticeship and employment during apprenticeship after selections are made.

### *C. Priority for Nonwhites Over Out-of-Towners*

To promote maximum utilization of the City's nonwhite manpower and nondiscrimination in the construction industry, by encouraging the recruitment of nonwhite craftsmen, it is recommended:

That contractors be required to give priority to nonwhite qualified journeymen, when faced with a shortage of workers in a particular craft, before employing journeymen residing outside the New York Metropolitan area;

That in order to insure an integrated work force where none or a token few nonwhite workers are employed, local trade unions—prior to issuing work permits to out-of-town white union members—be required to refer qualified

nonwhites, whether union members or not, whenever these unions are unable to supply workers from their New York City membership.

D. *An Apprenticeship Training Program for the City*

To afford youth entering the labor market full opportunity to develop their full skill potential, it is recommended that city agencies responsible for maximum utilization of available manpower, in cooperation with local vocational schools and city contracting agencies, take immediate steps to:

1. Broaden the training courses offered in local schools so as to provide students with training in the full gamut of construction trades;
2. Develop cooperative work programs whereby graduates from local vocational schools will be enabled to make an orderly transition from school to work, at the craft of their choice, in City operated agencies;
3. Insist that unions and contractors currently sponsoring apprentice programs in the construction industry:
  - (a) Review present apprentice-to-journeymen ratios and revise entry quotas to meet fully estimated manpower requirements of the future;
  - (b) Insure that skilled-craft training opportunities be afforded the City's nonwhite youth either through expansion of existing apprentice programs (as recommended above) or by allotting a portion of the existing openings to nonwhite high school graduates.

These are specific proposals that illustrate the present and future course of this problem in the nation's largest City. To those who are similarly situated and have similar responsibility in this difficult field, I hope the proposals will succeed in pointing a positive and vigorous course.

THE ROLE OF PRIVATE CITIZEN GROUPS\*\*

How have private groups—citizen and trade groups and organizations receiving no public funds—operated to achieve progress toward the goal of equal employment opportunities by persuasion rather than by formal enforcement procedures? Since I am unable to indicate specifics, it all depends on how you interpret the word "persuasion." Some private groups have been able to persuade through picketing and demonstrations and have therefore, made many changes in the industrial life in some areas of the country.

First: I have seen some private and community groups, not through picketing or boycott or demonstration, negotiate directly across the table with management in an effort to employ Negroes and Puerto Ricans. I think you have seen this most effectively in some neighborhood operations. In Brooklyn, for example, a group negotiated with one of the chain stores. I do not believe there was any

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\*\* Mr. Jones agreed to comment on this topic in place of an absent speaker.

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demonstration or picketing in that case, but the group was able to get Negroes and Puerto Ricans employed.

Second: Last summer the CORE group in the Bronx picketed White Castle and through subsequent negotiation were able to get people employed. This situation was interesting because the Commission became the mediator in the dispute. White Castle sent its chief attorney from Columbus, Ohio to join its local staff in the negotiations with CORE and the Commission's representatives. In the beginning there was no confrontation. White Castle would meet with the Commission's representatives and then the CORE group would sit down with us. Two or three days elapsed before everyone sat around the table together. I think a great deal was learned on all sides. All of the demands were not met but people did get jobs. Not only did we mediate this dispute but a procedure was set up with the company wherein Commission representatives would survey and give some guidance to their employment operations over the months. We are still active in the case, finding out who is employed and apprising the CORE group of what is going on.

This also happened in the dispute between CORE and the Waldorf Astoria Hotel. There again, not only did we settle the dispute, but management took upon itself, as a result of negotiations, to take affirmative steps to go out and seek nonwhite workers. This is very important.

Someone said this morning, "How do you know there is discrimination?" "If there are no Negroes or Puerto Ricans employed, industry should try to find them." Local groups can help whether it be through overt action by demonstration or other action by negotiation with company representatives.

Many of these industries and companies have had no contact with minority groups. They know nothing about the community. They know nothing about resources that are available in a community. I think community groups have a great responsibility to be of assistance, not only in helping with dissident organizations, but educating the dominant groups in what their responsibilities are and how they can find the answers.

I think this has been evidenced a great deal in New York.

Third: I would like to point out what may be a unique approach; the interest of a Commission in practices which discriminate against the consumer. We find that in minority neighborhoods higher prices are being charged, that shoddy goods are being foisted on the public and that quality goods are not sold in all neighborhoods. For instance, in one section of Harlem, we found a chain store that was selling black pepper, I believe, for about thirty-five cents over what had been advertised. We did not just go in and find that. A community group shopped the area. The group sat down with management and not only was the question of goods and prices discussed but also the question of jobs. Now, these community groups have to be stimulated; I use that word advisedly. But such local groups can prod the community to realize and resolve its problems.