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BAKKE AND AT&T CASES

The Supreme Court's decision to let stand the affirmative action program adopted in 1973 by the American Telephone & Telegraph Company is likely to have fa'r greater impact than the waffling decision tn the much-heralded Bakke case.

In effect, the AT&T case approves the principles of reverse job discrimination and quotas, even though it avoids those emotion-generating words.

The Bakke case decided that Allan Bakke must be admitted to medical school and could not be excluded by an affirmative action program based on a strict numerical race quota. Whether it decided anything else remains to be seen. Attorney General Griffin Bell boasted immediately that the Bakke decision actually enhances affirmative action.

The AT&T case is as clearcut as Bakke is inconclusive. The AT&T consent decree requires reverse discrimination (called affirmative action) for women and minorities, and quotas (called goals, timetables, and intermediate targets) in hiring and promotions. It calls for an "affirmative action override"; that is, in order to meet sex and race quotas, reverse discrimination must override merit and seniority, even when contained in union contracts.

The consent decree was forced on AT&T in 1973 in the face of a federal suit waged by the Equal Employment Opportunity Corrmission (EEOC), the Justice Department, and the Labor Department. It required AT&T to pay $38 mi11 ion in back pay, mostly to women, but also to some blacks and other minorities. Sizeable payments were made not only to women who had not been paid what they should have been paid, but also to women who had not been promoted as they should have been promoted, and even to women who had not applied for jobs because they had not anticipated being hired.

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Bell then created a computerized ystem for hiring and promotions that divides

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all employees into ten racial, sexual and ethnic groups, ranging from white men to American Indian-Native Alaskan women. A target for hiring and promotions was then set for nine of these groups, excluding white men, in each of Bell's 15 employment categories and 280 company locations. Through a complex mathematical formula, Bell identified the target figures for jobs to be allocated to each group.

The unions were understandably unhappy with this setup because it bypassed their collectively-bargained seniority rights. The case was taken to the Supreme Court by the Communications Workers of America, the Telephone Coordinating Council of the International Brotherhood of Electrical Workers, and the Alliance of Independent Telephone Unions. They lost.

Under the AT&T consent decress, the company is not permitted to assume that more women than men are suited for inside, sit-down jobs handling numbers clearly over the telephone, or that more men than women are suited for outside, all-weather jobs climbing up telephone poles carrying 40 pounds of gear. Regardless of common sense, experience, or availability of job applicants, AT&T is in contempt of court if it does not meet its affirmative action targets in each job category.

The code word that facilitates the aggressive enforcement of affirmative action by EEOC is [11]mi"nimally qualified.[11] The employer must establish the lowest possible minimal qualifications for job openings, then hire minorities and women
on a quota (timetable) basis from those who meet those bare minimal qualifications. The employer is not permitted to hire merely from those who apply, but must actively recruit to find his quota hirees.

Of course all this is incompatible with equal employment opportunity because it forbids the employer to hire the best qualified, regardless of race, creed, color, or sex. The resulting cost in productivity is indicated by the business executive who told me that, to meet his minority quota, he was forced to hire as a secretary a high school graduate who types 40 words a minute in preference to a

college graduate who types 70 words a minute.