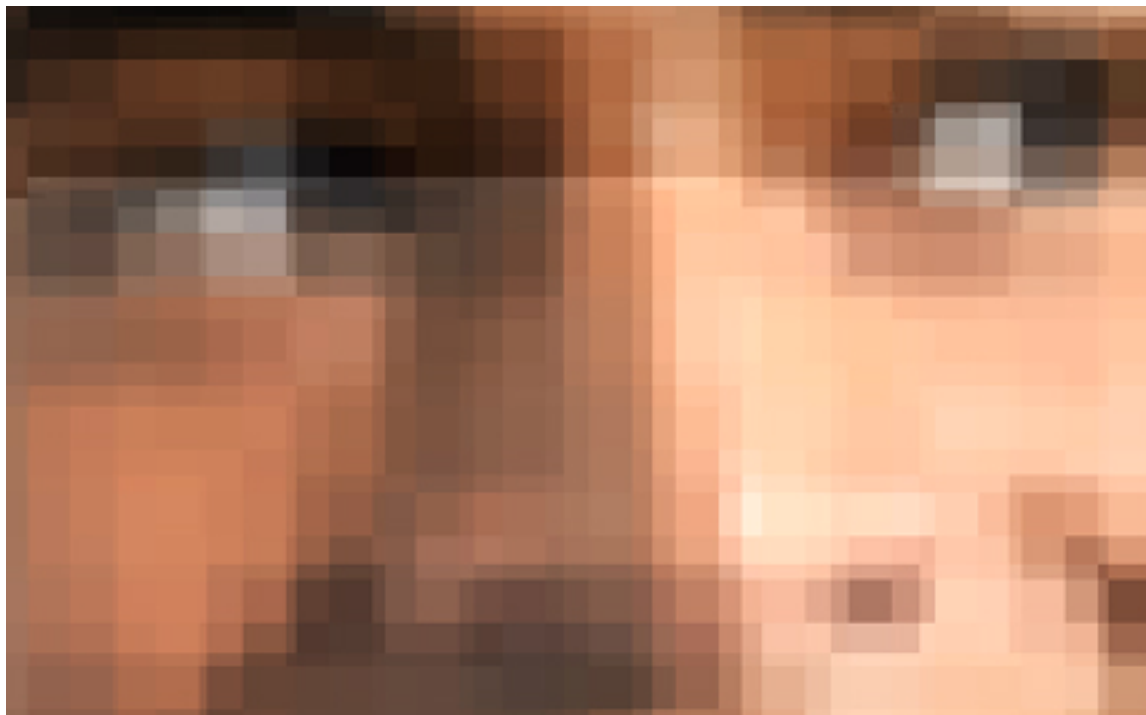


Gotham Gazette - <http://www.gothamgazette.com/article//20080329/202/2477>

Taking a New Look at Discrimination in New York

by Ejim Dike

29 Mar 2008



Last month, New York City paid \$21 million to [settle](#) a class action lawsuit for race-based employment practices in the city Department of Parks and Recreation. At the time of the lawsuit, more than nine in ten of the parks employees making less than \$20,000 a year were black or Latino, while only 14 percent making \$50,000 to \$60,000 were black or Latino. When the Bloomberg administration agreed to the settlement, it nevertheless claimed it did not and does not discriminate.

Earlier this month, Senator Barack Obama [called for](#) open and honest action to address inequality, and in that spirit it is time for New York City's government to examine its own approach to practices. Instead of officials clamming up and insisting categorically that the city does not discriminate, what if policymakers, advocates and residents addressed the problem head on and agreed that policies that further racial and gender disparities -- intentionally or not -- are unacceptable?

This is the approach proposed by the [Human Rights in Government Operations](#) Audit Law (Human Rights GOAL) introduced earlier this month by Councilmembers Helen Foster and Darlene Mealy. This measure would put us one step closer to real equality for all New Yorkers.

To fend off inadvertent discrimination, Human Rights GOAL would do three things:

- Track how its policies affect different populations
- Remedy disparities as they emerge, rather than wait for a lawsuit to challenge them; and
- Include the affected, marginalized populations in implementing the law.

While New York City does have a stated policy of non-discrimination, it lacks the requisite tools to determine if that policy is being adhered to. No standard mechanism exists for knowing when or how government policies have disparate, negative impact on historically marginalized groups. And aside from the occasional audit by the Equal Employment Practices Commission, the only way discriminatory policies get fixed is when people undertake lengthy and costly lawsuits -- after the damage has been done.

The lawsuit settled by the parks department a few weeks ago, for example, might have been prevented if Human Right GOAL had been in effect. The lawsuit, dating back to 1999, was brought by over 3,000 black and Hispanic employees who charged that the department had passed them over for promotion in favor of white employees and paid them less.

After 14 months of negotiation, the Bloomberg administration agreed to pay more than \$21 million and make "major changes in certain of its personnel practices." But the city staff and resources spent to defend the parks department in this lawsuit - and the anguish suffered by the victims of discrimination - is a much higher price than the stated settlement amount. And the open-ended promise to make changes and prevent something like this from happening again can only be fulfilled if it is accompanied by a concrete plan.

Explicit discrimination may be less common now than it once was, but, as Obama indicated in his speech, discrimination persists in seemingly neutral policies that create obstacles to equality.

The Precedent for Need

The discrimination documented in the park employees' suit was not an isolated incident. The City of New York has found itself in this position before.

--In 2005, the parks department [settled](#) a separate, federal discrimination lawsuit claiming that it routinely bypassed black and Hispanic employees for promotion.

--A year ago, a [lawsuit](#) by the U.S. attorney's office named the Department of Transportation for discriminating against women in its hiring practices. In the last 10 years, the lawsuit alleged, the department never hired a single female bridge painter despite the applications of a number of qualified women. The transportation department claimed to have a "gender neutral" hiring policy.

--Last year the federal Department of Justice [sued](#) the Fire Department of the City of New York charging that its written examinations discriminate against blacks and Hispanics applying to be entry-level firefighters.

Less documented but even more pervasive are the disparities reflected by the unequal application of municipal services. For example, while black and Latino youth are arrested more for use of illegal substances like marijuana, the city's own health department reports that white youth are more likely to use marijuana. In the child welfare system, black and Latino youth comprise an overwhelming 87 percent of the children in foster care. In 2006, 43 percent of black students and 41 percent of Latino students in New York City graduated on time, compared to 67 percent of white students and 68 percent of Asian students.

In one of the saddest facts, the infant mortality rate of children citywide is 5.9 per 1000 births, compared to 10.5 per 1000 for African American children.

It's not the official New York City policy to under-employ or under-serve certain groups, but as a result of seemingly benign policies and their implementation, men, women and youth wind up the repeated victims of de facto discrimination.

Setting a GOAL

Human Rights GOAL addresses disparities by drawing on two human rights treaties signed by the U.S.: the [International Convention on the Elimination of All Forms of Racial Discrimination](#) and the [Convention on the Elimination of All Forms of Discrimination Against Women](#). Notably, both treaties prohibit any policies and practices that are discriminatory in effect even if that is not in purpose. This definition of discrimination is broader than the definition in the existing civil rights law, which requires evidence of intent - and often a lawsuit - to determine the presence of discrimination.

Upon passage, Human Rights GOAL would mandate that all city agencies undergo an audit to determine what kind of data they already collect, what existing mechanisms are in place to address discriminatory practices, and to what extent agencies engage those most affected by their policies in evaluating and improving them. Based on the

idea that the first step to remedy discriminatory practices is to identify and determine the extent of the problem, the bill requires all city agencies to collect and publish data on employment and service delivery, then use this data to analyze their programs to identify if they have a discriminatory effect.

While some agencies do track certain numbers -- hiring practices have gradually become better documented thanks to Equal Employment Opportunity policies -- it is notoriously difficult to know what kind of information the city tracks in other areas, and, if so, how one gets that information. Indeed, many advocates supporting Human Rights GOAL list getting access to data -- numbers on race, gender, immigration status, religion and more -- as the biggest obstacle they face in conducting research about the very communities they seek to help. These groups have filed Freedom of Information Act requests, only to be repeatedly ignored by the city.

Last year, the [New York Civil Liberties Union](#), New York Times and several others filed a lawsuit against the police department for not sharing electronic data on [police stops](#). The department has since released the data -- but sent it to a third party in another state. Meanwhile, in its annual firearms report, the police break down information on dogs that have been harmed by police gunfire by breed but neglects to do the same by race for people it has harmed.

Judging from departmental reports and the [Mayor's Management Report](#), other agencies fare better. The Department of Health and Mental Hygiene, for one, collects disaggregated data and makes it available. This should be a practice for all departments -- parks, buildings, transportation, education, environmental protection, children's services and more.

With data in hand, these agencies would then publish a human rights analysis, and develop an action plan targeted at fixing trouble spots. The action plan might entail hiring more broadly, offering better housing or legal services to certain communities, or expanding access to good schools.

Finally, to oversee implementation, Human Rights GOAL would create a human rights taskforce of civilians and city representatives. The taskforce would do some of the heavy lifting to carry out the audits, the assessment of areas for improvement, and what an action plan should look like.

Freedom from discrimination is a basic human right, one New York City has a history of recognizing. But it should not rest on its laurels - a progressive city remains progressive only by constantly searching for ways to expand equality and hold itself accountable.

Across the country, San Francisco passed a version of Human Rights GOAL in light of unfair hiring and service practices. The city has now increased the number of women hired in non-traditional positions and even appointed the first woman to its airport commission.

For the sake of New York and its residents, it is time we employ policies that protect our basic human rights before agencies get slapped with hefty law suits. It is time to turn this human rights bill into law.

Ejim Dike is director of the Human Rights Project at the [Urban Justice Center](#).

Gotham Gazette is brought to you by [Citizens Union Foundation](#). It is made possible by a grants from the Alfred P. Sloan Foundation, the Altman Foundation, the Fund for the City of New York, the John S. and James L. Knight Foundation, New York Times Foundation, the Charles H. Revson Foundation, the Robert Sterling Clark Foundation, the Rockefeller Brothers Fund and readers like you. Please consider making a [tax-deductible contribution](#).

Gotham Gazette - <http://www.gothamgazette.com/article//20080329/202/2477>