

Ida Castro
LBJ Lecture June 29, 2000

UNEDITED

Introduction of Ida Castro
Remarks for Acting President Bob Gratz
Thursday, June 29, 2000
Alkek Library Teaching Theater
7:30 p.m.

It is a pleasure for me to welcome you here today.

I hope that most of you have been able to participate in some of the day's activities surrounding a celebration of the 35th anniversary of the Equal Employment Opportunity Commission.

We have heard from several of the people who worked beside President Lyndon Johnson to develop a government agency that would assure the fairness of the American work place.

President Johnson dreamed of the EEOC because he believed it would make the lives of thousands of Americans better.

But he also knew that a fair work place was a more productive work place.

And he has been proved right.

We also heard during the day from people who are making the EEOC what it is today and what it will be tomorrow.

Tonight's speaker is the perfect person to sum up our day.

She now heads the EEOC.

Ida Castro came to this position two years ago after four years with the department of labor as acting director of the Women's Bureau and Director of the Office of Workers Compensation.

She is a former labor and employment attorney and professor.

And she is the first Latina to head the commission.

She has been praised for her innovative agenda to increase the fairness, quality, effectiveness and efficiency of all aspects of the agency.

She has focused on expanding outreach, education and technical assistance to a broad range of stakeholders, seeking to prevent discrimination in the first instance, while pursuing fair and vigorous enforcement against violators.

We are proud to have her with us tonight to give the Lyndon B. Johnson distinguished lecture.

And we think Lyndon Johnson would be extremely proud as well.

Please help me welcome the director of the EEOC, Ms. Ida Castro.

Thank you Dr. Gratz, and good evening everyone.

First I'd like to express my sincere gratitude to Dr. Gratz, of course the University for the gracious invitation and for hosting such an important event in today and tomorrow

[sic], honoring and commemorating the thirty-fifth anniversary of the Equal Employment Opportunity Commission.

I want to also give very special thanks and acknowledge Walter Wright, who has worked so hard with the oral history project and with the program to make sure that this vision and this event came to fruition.

And perhaps more importantly I would like to also acknowledge, commemorate, congratulate and tell those of you that are hear that started with the EEOC back in 1965.

What a great honor and pleasure it is for me to me to meet you, to share with you, and how much this country owes you for the hard, hard work. For the basic paving the way, paving the way. Getting us closer to the dream of equality. Getting us closer to completing America's promise of equal opportunity for all. So may I take a moment to salute the pioneers that have shared the day with you. And would you join me please in applauding them for their courage and their determination.

[Applause]

Thank you.

Although I have served as chairwoman of the EEOC only since October of 1998, the many concerns shared by hard-working individuals throughout our great country—who strive to support themselves and their families while contributing to the betterment of our society—are not new to me.

I am the daughter of a garment worker and a restaurant worker. My parents migrated from the island of Puerto Rico to the city of New York in the 1930s, with few worldly possessions, speaking only Spanish and determined to overcome the hostility often served up to those who look different or sound different.

My parents, as so many, worked hard to provide their children and extended family the opportunities that they themselves would never enjoy. They instilled in me the firm belief that through education and hard work I could achieve all that my talent, skill, will, and determination would permit. And that for those who persevere, God indeed would provide.

My parents' lessons came to me through example. Although they had arrived barely with the clothes on their backs, they worked several jobs at a time, saved a few dollars, and began a small business enterprise in Spanish Harlem, commonly known as a bodega.

Any New Yorkers in the room?

There ya' go.

And they made sure that we could go to college and make a better life for ourselves, free from the pain caused by the many, many obstacles that they were forced to face.

And thanks to their efforts and the struggle of so many before me, I did in fact become the first lawyer in my entire family.

And thanks to President Clinton and Vice President Gore, who firmly believed that our government should reflect America, all of America, I now stand before you as the first Latina ever to chair the Equal Employment Opportunity Commission; the agency in charge of ensuring that workers throughout the country are saved from the pain and the indignities caused by discrimination at the workplace.

Now, what I would like to do is just to turn the clock back a little bit, and think about America's workplace 35 years ago, if just for a moment.

Many of us may have remembered, or perhaps read in some study, about the struggles that led to the passage of the Civil Rights Act. This was a time when blacks, women and persons of varying national origins were systematically excluded from job opportunities. Individuals with disabilities were so at the margin of our economy as to be completely invisible. And people were fired, regularly, because they were too old, or perhaps worshipped religions that others would not tolerate.

Employment tests were used to exclude, not to include.

Work areas were segregated by race, national origin, and gender.

Doors, left wide open for some, were out of reach or simply unknown to others.

Access was indeed restricted, at times, at the point of a gun.

As a result, skills went untapped. Talent, which could have contributed to our nation's growth, was lost. And for too many the American dream would never be fulfilled.

This pervasive and egregious racial discrimination and segregation was exposed to the world during the civil rights protests in the sixties. Unrest in the streets of Birmingham, Alabama, and a number of other Southern cities, plagued the nation like an unrelenting conscience. During the spring of '63, the world watched as demonstrators were beaten, attacked by police dogs, sprayed with high-pressure water hoses, and then arrested and jailed. The sight of this brutality against peaceful demonstrators, many of whom were children, outraged the world and tarnished the image of this great country. In August of 1963, approximately 250,000 Americans of all races, the largest gathering at the time, marched on Washington DC demanding racial equality and justice.

During the height of the civil rights demonstrations, in an address to the nation, then President Kennedy captured the essence of the debate and he stated, and I quote, "We are confronted primarily by a moral issue. It is as old as the Scriptures and is as clear as the American Constitution. The heart of the question is whether all Americans are afforded equal rights and equal opportunities, whether we are going to treat our fellow Americans as we want to be treated."

President Johnson was key in enduring that the moral answer to the question became law with the passage of the 1964 Civil Rights Act.

Five days after President Kennedy's assassination, President Johnson told the joint session of Congress as follows, and I quote, "We have talked long enough in this country about civil rights. It is time to write the next chapter and to write it in the books of law. . . . No eulogy could more eloquently honor President Kennedy's memory than the earliest possible passage of the civil rights bill for which he fought so long."

His perseverance and our nation's collective uprising demanding that the promise of equality and opportunity be made to all resulted in the passage of the 1964 Civil Rights Act. And through its Title VII, created the Equal Employment Opportunity Commission.

And EEOC's mission has not been an easy one to carry out.

Charged with enforcing the provisions of Title VII, in the area of employment, it has faced many challenges and obstacles throughout its history.

One year after the passage of the act, on July 2 1965, the EEOC finally opened its doors and was confronted with an instant backlog. In its first year, the commission received almost 9,000 charges of employment discrimination, more than four times the number that it had expected. The agency had been funded and staffed for an estimated workload of barely 2,000 charges.

Indeed, our early days paved the way for our continued and troubling resource problem, which EEOC has continued to encounter, all too often during our thirty-five year history.

And I'll give you an example. In our first four years alone, the commission received over 40,000 charges, the majority of these involved race and sex discrimination addressing egregious discriminatory employment practices such as exclusion from employment; segregated facilities including washrooms, lockers, and shower rooms, cafeterias; and separate seniority systems and lines of progression, which established class within the wage system.

Initially, the EEOC, as you may recall, was not granted the power to enforce the law and ensure employer compliance with Title VII. However, through the effective use of its bully pulpit, the commission was able to assist in tearing down the vestiges of segregation and opening employment opportunities previously unavailable to the protected classes by achieving far-reaching agreements with major employers.

The most publicized of these early agreements negotiated in cooperation with the departments of Justice, Labor, and Defense, affected 5,000 black employees of the Newport News Shipbuilding and Drydock Company. The agreement desegregated company facilities, obtained equal pay for black workers performing the same job as white workers, and provided black workers with equal opportunity to participate in apprenticeship programs and compete for supervisory and craft jobs.

Voluntary agreements, although critical in our pursuit to eliminate discrimination, proved too slow and ineffective against employers that found it difficult to change workplace practices as required by law.

Finally, in 1972, Congress vested the commission with litigation authority and the commission began to utilize this newly granted authority to actively pursue its mission and assertively enforce the civil rights laws.

Litigation authority catapulted the commission to the forefront of the debate regarding the meaning and scope of the law and allowed it to assume its rightful key role in the development of employment discrimination laws in the courts.

Through its enforcement activities, EEOC changed discriminatory employment systems, obtained substantial remedies for victims of discrimination, and opened many new job opportunities for minorities and women. And its pivotal role, now amply recognized by victims of discrimination throughout the country, resulted in an overwhelming tide of discrimination charges, which culminated in a backlog of about 95,000 charges by the end of 1977.

From 1970 through 1979, the commission received over 445,000 charges of employment discrimination. Race- and sex-based charges continued to dominate this inventory. However, by the end of the decade, harassment began to emerge as a significant issue representing then over 33,000 of those charges.

Of course, the agency continued to suffer from insufficient resources to address the universe of need.

Then Chair Eleanor Holmes Norton squarely faced these challenges by seeking new resources and stepping up enforcement initiatives to reduce the backlog and address systemic discrimination prevalent throughout the American workplace.

As the agency continued to address prevailing discriminatory workplace practices, it also maintained its role in identifying and addressing new issues unveiled as old barriers were continuously torn down.

Wage discrimination, sexual harassment and glass ceiling concerns highlighted the need to address equality within the workplaces.

In addition to facing the continued challenge of increased charge receipts, EEOC was presented with additional challenges, as it had to deal with the growth in workload that resulted from the expansion of its enforcement authority.

In 1980, the agency was charged with enforcement responsibility for the Age Discrimination and Employment Act and the Equal Pay Act, and the enforcement of civil rights laws applicable to civilian, federal employees. As a result, charge receipts increased substantially during the 80s.

For example, from 1980-89, more than 638,000 employment discrimination charges were filed with the commission—over fifty percent more charges than in the previous decade.

During the 1980s, EEOC renewed and expanded its education outreach and technical assistance efforts to encourage voluntary compliance and improved services to protected groups. However, despite a strong commitment to technical assistance, budget restrictions forced the EEOC to reallocate resources to charge processing and enforcement activities. Over 800 staff positions were lost and by 1990, the commission's education outreach technical assistance was limited to barely participating in workshops and seminars when invited.

Early in the 1990s, the EEOC once again was charged with expanded jurisdictional responsibilities as a result of the enactment of three key statutes: The Americans with Disabilities Act and the Older Worker Benefit Protection Act of 1990, and then in 1991, the revisions to the Civil Rights Act of 1991. Of course, added responsibilities equate to an expanded workload and EEOC faced the daunting task of addressing the largest workload before it ever—more than 780,000 charges filled in that decade.

Charges continued to allege race-and sex-discrimination in high numbers, but were compounded by the additional workload that brought forward charges based on age and disability discrimination. Indeed, disability discrimination charges represented, then and now, almost one-quarter of our entire workload. To the agencies detriment, however, the commission did not receive additional funding to fully handle the exploding charge workload. Ever increasing workloads, and cumbersome procedures were the fatal combination, which brought the commission, once again, to the public eye in negative terms.

The debate shifted and its primary mission, the elimination of workplace discrimination was replaced by onerous backlogs and what many perceived as procedures, which brought the agency to a virtual standstill.

In the mid-nineties, the Clinton-Gore administration addressed these concerns with renewed vigor. The administration's newly appointed bipartisan commission immediately took action to reduce the backlog, renew its outreach to underserved communities, and develop a strategy to increase the commission's litigation effort.

In 1995, the commission adopted the Priority Charge Handling Process, which eliminated the policy to fully investigate each and every charge regardless of merit. With

a process that now exists, which allows the swift closure of non-meritorious charges and a prioritization of charges according to the likelihood that discrimination has in fact occurred. This process slashed the backlog by almost fifty percent in just three years; a milestone indeed.

In addition, the commission adopted its national enforcement plan, which emphasizes employment discrimination prevention through stepped up outreach, education, and technical assistance efforts. It also supports the effective use of alternative dispute resolution and affirms the commission's commitment to effective enforcement and litigation strategies should voluntary resolutions fail. By removing the need to address non-meritorious charges, the backlog was reduced significantly, and the breakdown of our workload therefore changed dramatically. Whereas before the commission had been previously burdened with [a] large number of charges that were non-meritorious, now most of our charges are indeed potentially meritorious charges.

Potentially meritorious charges, by definition, require greater investigative, enforcement, and litigation resources as well as a reexamination of the way we do our work in order to assure maximum utilization of our still quite limited staff. Two important initiatives were undertaken to address these concerns and support the national enforcement plan.

First, thanks to President Clinton and Congress, EEOC received in 1998 a much needed budget increase; thirty-seven million additional dollars. They also received a new chairperson. [Audience chuckles] Now the dollars were to establish an early mediation program and expand its staff to further slash [sic] its backlog.

Second, once I was there, I implemented the comprehensive enforcement program, to ensure that investigators and lawyers worked closely together early on to improve the quality and quantity of the prioritization of charges and of course of the investigation and ultimate litigation. This early prioritization will maximize our efforts in the mediation process, permitting a greater number of charges to be successfully resolved through a voluntary dispute resolution mechanism, which we established just last year—which on average resolves charges in less than ninety days.

And I heard a “huh.” [Audience laughs] And I know why I heard that “huh.” Because I know that most people never thought that we could do anything in less than ninety days, let alone resolve charges. So I think that that has been a major step in the right direction.

In this manner, the limited investigation and litigation resources can now be strategically focused on egregious, systemic, and pattern and practice discrimination, increasing our effectiveness, improving customer services, and moving our agency with determined steps towards our ultimate goal to eliminate discrimination at the workplace.

In addition, this commission has focused on increased use of its rule making and policy guidance authority to clarify difficult areas of the law and increase compliance.

Last, stepped up efforts to forge new partnerships with all of our stakeholders, advocates and employers alike will continue to assist the commission in two important areas; to wit, outreach and prevention.

This comprehensive approach has already reaped desired results.

In fiscal year 1999, the commission further slashed its backlog to a record low of just over 40,000 charges—twenty-four additional percent reduction in the backlog and an overall sixty percent reduction from just four years ago when it stood at 111,000. In

addition, this past year, the commission obtained a record 307.2 million dollars on behalf of charging parties. Doubling the benefits obtained in just 1995.

The early mediation program has been a resounding success, resolving nearly 5,000 charges in its first six months and obtaining nearly 59 million dollars on behalf of charging parties. Indeed, during the decade of the 90s, the commission enforcement efforts resulted in two billion dollars of monetary benefits for charging parties, a 67% increase over the previous decade, despite net diminishing resources.

I still don't have the level of staff that Eleanor Holmes Norton had in 1979.

Still, even though our jurisdiction has been basically tripled. And the agency's impact has been felt.

Since 1966, every minority group substantially increased its participation in managerial and professional jobs. For example, in 1966 women occupied only 9.3% of the jobs in the officials and managers category and 20.5% of professional jobs. By 1998, women held about 1/3 of all managerial jobs, and half of all professional jobs. Also, blacks, Hispanics, and Asians have increased their participation in the management and professional job categories four fold since 1966. And similar results have been felt by individuals and the older workforce.

Now can EEOC take all the credit?

No.

But the progress of minorities and women in the workforce strongly suggests that the vigorous enforcement of Title VII and other laws prohibiting employment discrimination has in fact had a positive effect on the availability of employment opportunities for all.

Can we rest on our laurels?

No, not yet.

Indeed, as we review the challenges which lie ahead of us, it is clear that despite the significant progress the nation has made, there is still much left to be done before equal employment opportunity becomes a reality for all.

In the first six months of this fiscal year alone, the commission has already received over 40,000 charges—approximately the same amount of charges the commission received in the first four years of its existence. And our charges are now more complex, often involving the intersection of two or more major issues or presently issues that are new because they arise within the context of a new and ever evolving workplace. Hiring practices in the high-tech industry, in the information technology industry, genetic discrimination, cash balance pension plans, and what is now referred to as “sophisticated discrimination” are just but a few examples of the challenges that lay ahead.

And I say what is now referred to as “sophisticated discrimination” because I have problems with the term, I think it is a misnomer, I cannot believe, nor will I ever believe, that discrimination can be sophisticated. What is sophisticated is how they impart it. What makes it sophisticated is the difficulty that we now face in attempting to prove it. Why? Because smoking guns, if you will, are now much harder to come by, so one would think.

However, I submit that since the workplace is merely a microcosm of society, reflecting both its advances and shortcomings, we have also, and therefore seen a rise in

charges in cases filed in court that present precisely the same type of fact patters as though that we experienced early on.

We have seen a disturbing trend of increased harassment at the workplace in the most egregious forms.

You know, when you see hangman's nooses threatening the lives or well-being of African Americans, when you see black workers being spat upon, and segregate at work, and subjected to a flood of daily epithets, when you see Hispanic and Asians workers working in slave like conditions, immigrant women being raped on the job, older workers being fired after thirty years of impeccable work for buying a damaged lemon for twenty-five cents, developmentally disabled individuals performing their jobs extremely well being fired because some supervisor shows up and says, "We don't hire those kind of people;" when you hear all of these things, would you not believe that I'm describing cases that happened in 1965, 66, 67?

Let me tell you why I'm troubled with the trends that we're seeing.

I just described cases that we have just either filed or won in the last six months.

This is the year 2000.

I have spoken, I have had town hall meetings where African Americans talk to me about white supervisors coming in with KKK hats to the job; using big ropes and teaching people how to do a hangman's noose and how to double noose it because this one happens to be a "big one." That was just one month ago in South Carolina.

I think that we need to think about these issues as a country. And I think that we need to talk about these issues as a country. I think that for far too long, we have all *wished* for discrimination to go away. For far too long, we don't read about it we see images in TV, we see images in the newspaper that would tend to make us believe that our true hope as American people has been basically accomplished.

That what we want as a nation, which is to have an equal basis and foundation for everyone, that we've accomplished it.

That's what we want as a country.

That's what I thought, myself, when I came to EEOC that we had mostly achieved that.

That as chairwoman I had to now face the difficulty of figuring out are people being excluded when they apply for jobs through the Internet? Should there be a concern, a public policy concern, with those questions? Isn't it the same if you were around thirty-five years ago and weren't permitted to apply to a job because of your race, your gender, or your national origin? Isn't it the same if you can't get through the Internet process because there's some program that codes your resume? And that depending on when you went to school, or where's your Zip code, or what's your surname, your resume will or will not pop out? Aren't these serious concerns that we should be addressing? In a new economy where the high technology is going to be the workplace of the future? I mean, failure to address these threshold questions means that we would basically condemn large groups of people to nothing in the future, to no place in this new economy.

At the same time, as jobs get restructured, you know, the other thing I've seen is a lot of temporary agencies, employment agencies that now take job orders like Burger King. Have it your way. Employer doesn't want blacks? So they put "no blacks."

Employer doesn't want women? They just put "no women," and don't refer women. No disabled, no accent, etc.

We just won a preliminary injunction against one of these agencies.

An African American came to us and told us, "You know I can't get a job with these guys. I can't get placed." So, we did a request for information. And lo and behold, when they sent us all the job orders it wasn't just blacks, they covered each and every aspect of each and every one of our laws. They hit a homerun. A grand slam actually. Better than a homerun, a grand slam. So much so that I authorized the office to move ahead with a preliminary injunction to stop this. To stop it now, on a dime. You're preventing access, you're preventing people from supporting their family.

And certainly, I think you would agree with me, if you thought, as I did once, that surely this does not happen anymore, that surely it did once—and the pioneers you heard from this morning gave those incredible battles to get rid of that, all of it, not a little bit, just all of it, and they were quite successful at the time—that something's going on.

We have a new workforce.

We have new, younger supervisors.

We have younger workers.

And we have a lax attention to this question.

So I commend the University for holding this type of forum. Because we need to recommit to the level of education that we impart to our faculty, to our administrators as an employer, but really as an academic institution, so that our students learn what a good workplace is all about. So that when they go to the workplace, they don't commit the same atrocities that we've worked so hard to prevent.

And I'm telling you I'm seeing it pop back like toast.

In the last six months alone, we have filed eight hangman's noose cases across the country.

Now that may not seem like a lot to you, "Eight? What's the big deal Madam Chairwoman?"

Let me tell you what the big deal is.

Our system, our process, by statute permits employers to settle these things quietly. That's the conciliation process. That's the mediation process. If they settle during that process, they resolve that issue, which is important, but more importantly, you never find out. You never find out. Right? So there's a lot of stuff that goes on in the workplace where smart employers, or genuinely committed employers move ahead to resolve, to address the situation and put it to rest. And you never hear about that.

But, I just filed eight hangman nooses cases. That means eight employers, eight sets of numerous attorneys that think that that is OK. That think that people should be able to work in an environment that, quite frankly is life threatening. Now that is scary ladies and gentlemen for the year 2000. And that is a trend that I submit we should not permit to grow.

And I need the resources to be able to address that question as vigorously as I need resources to address the issue of high tech, to address issues of genetic discrimination and what will happen with that whole trend and all these discoveries, and need resources to figure out what is going on in the pension business how is it that we ensure that people are not deprived of their legal rights just because they're aging. Simple, clean-cut issues that cost a lot of money to pursue, and require a lot of resources,

commitment and will—not just from our agency, but from all of you so that we in partnership can then figure out how to best address these concerns.

In addition to everything that I've mentioned, we've also seen an explosion in contingent and temporary workforces.

As you know, the aging workforce also faces continued assaults to their expectations of hard-earned security and benefits.

Glass ceilings persist for women and minorities. While the floor itself gets stickier and stickier for only too many.

Discrimination rears its ugly head in ways that cannot be easily proved—like I said smoking guns are hard to come by, unless you are a low-wage earner, of course. Then there are smoking guns, smoking ropes, smoking whips, smoking everything.

Now more than ever, the commission is challenged with the responsibility of protecting the many gains achieved, while paving the way to ensure the promise of opportunity for all is kept; in technology and information [super]highway industries, as well in poultry, agricultural and meatpacking industries.

At the commission, we are committed to investing our resources to obtain our nation's goals.

I am indeed extremely grateful for the honor that the President has conferred upon me to allow me to lead the commission at this important time.

I'm also grateful that President Clinton and Vice President Gore have supported an increase to our budget for three consecutive years.

Now, I remain hopeful that soon Congress will also agree and invest in one of our most precious rights—or right to work, support ourselves and our families with dignity and respect and free of discrimination.

So as we celebrate the EEOC's thirty-fifth anniversary, the thirty-fifth year of hard work, I ask you to join me, and I ask you to redouble your efforts so that we may achieve our shared goals.

In doing so, we will honor those who came before us and laid the solid foundation upon which we now stand.

And most importantly, as we do this let us be humble in our celebration for we still have a long road ahead of us.

Thank you, and God bless.

Lecture transcribed by Benjamin Hicklin, graduate research assistant 2007-08