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SEATTLE PI 3/11/84

More lawsuits challenging low 'pink collar' pay

By Tamar Lewin
New York Times

NEW YORK — In Biblical times, says Leviticus 27:3-4, women of working age were valued at 30 silver shekels, while men were valued at 50.

That ratio is basically unchanged today, despite the women's movement, the laws that mandate equal pay and outlaw sex discrimination — and thousands of years during which women have moved from hearth and home into the paid work force. In 1982, women working full time earned an average of 62 cents for every dollar paid to men.

Lately, however, a growing number of lawsuits and union negotiations are challenging that ratio, and with increasing success, based on a theory known as "comparable worth."

Most working women remain in nursing, secretarial, light industry and waitressing jobs that make up a low-paying "pink collar ghetto." Statistics show that the more a job category is dominated by women, the less it pays — with the compensation going down about $42 a year for each additional percentage point of women employed in the category.

The electrical industry has already dealt with a round of comparable worth cases, and others may be brought against industries that have traditionally employed large numbers of women — among them communications, food service and health services.

But most cases now involve government employees, many of them represented by the American Federation of State, County and Municipal Workers, which has one million members, 400,000 of them women.

In December, AFSCME and the comparable worth movement won their biggest victory so far when a federal judge in Washington state ordered the state government to pay its women workers back pay and wage increases.

The question of which jobs are comparable to which others is a knotty one — and there is no simple formula for making those decisions.

Traditionally, it has been left to the marketplace to decide such questions, and many businessmen would like to leave it that way. But supporters of comparable worth say that the cost of ending discrimination should not be an excuse for continuing illegal pay practices. They argue that reliance on the marketplace merely institutionalizes the bias against women, and that valuation schemes giving points for the skills, responsibility, physical and mental effort to do a particular job — and the hazards and risks that job involves — are a better guide.

"Ending discrimination costs money," acknowledges Winn Newman, the lawyer who represented AFSCME in the Washington state case, and is now preparing comparable worth cases for several other unions.

"But no one would dare raise that as a reason for continuing to pay blacks less than whites. If you are choosing blacks and women for certain jobs because you know you can get them cheaper, that's illegal. The free market doesn't allow that, any more than it allows employers to ignore the minimum wage laws or the child labor laws."

Most corporate executives are reluctant to discuss the issue. But some indicate privately that even though they personally think women's jobs are undervalued, they cannot justify paying higher-than-market rates, which, they say, would lead to higher labor costs, higher prices, and higher inflation.

"I think any system that gets away from market valuation is an artificial one," said Thompson Powers, a Washington, D.C., attorney who advises employers. "You tell me how to set up a system outside the marketplace that objectively compares rock musicians and brain surgeons and I'll tell you whether nurses and plumbers should have comparable pay. But I suspect it can't be done in any but an artificial way."

Still, in many places, the process is well under way.

"Because of the enormous implications of the Washington state case, employers are now very concerned about the issue of comparable worth," said Ronald Green, a New York labor lawyer who defends employers against discrimination suits. "These days, almost every sex discrimination case we see includes allegations of comparable worth violations: charges that women's jobs are undervalued. But I still think this isn't a problem employers should have to solve. I think it's a societal problem."

The Washington state case is only one indication of how far the legal battle against sex-based pay discrimination has come since a 1981 Supreme Court ruling legitimized comparable worth claims under the Civil Rights Act of 1964.

Until that case — brought by Oregon prison matrons earning $200 a month less than the deputy sheriffs who guarded male prisoners — most sex-based pay claims failed unless they involved wage differences between male and female workers who performed exactly the same tasks and thus were covered by the 1963 Equal Pay Act.

Now, however, the comparable worth cases are proliferating, spurred on by the fact that 80 percent of the women in the work force are crowded into only 20 of the Labor Department's 427 job categories:

- Within the electrical industry, several major manufacturers have in recent years settled sex discrimination charges by agreeing to upgrade jobs held mostly by women.

In a case against Westinghouse, the International Union of Electrical Workers used as evidence a 45-year-old company manual setting out pay scales for different jobs, and stating that women would be paid less because they were women.

- Michigan Bell, a unit of AT&T until the recent divestiture, is facing a class action lawsuit by 400 "engineering layout clerks" who claim that they have been classified as clerical workers because they are women, even though their work is more like the drafting jobs held primarily by men — who are paid $127 a week more.

- In 1982, after a study showing widespread underpayment for female-dominated jobs, the state of Minnesota earmarked $22 million to upgrade women's pay. The study found, for example, that clerk stenographers — 99.7 percent of them women — had about as hard a job as laborers, all of them men. The clerk stenographers got $1,171 a month while the laborers got $1,521.

Some 8,000 state employees, about a third of the state work force, are now receiving adjustments.

According to Joy Ann Grune, executive director of the National Committee on Pay Equity, 18 states have undertaken pay equity job evaluation studies.

Most labor lawyers who represent employers caution that it can be dangerous to undertake such studies.

"If the employer has done a job evaluation study, and isn't paying in accordance with it," said Powers, " that employer is going to face a lawsuit, and the Washington State case indicates that once a study is done, the employer may not be given enough time to change pay scales in a financially realistic way."

WHAT PEOPLE

BY BERNARD GAVZER

WHO MAKES how much across the United States? More than 104 million Americans have jobs, while 8.7 million are out of work. The federal government says that a family of four with an income of $9862 or less is living in poverty. Across the country, the median income—meaning there is an equivalent number of wage earners over and under that figure—is $359.50 a week, or $18,70[illegible] a year.

If your income is between $35,000 and $50,000, you are among the top 6 percent of all wage earners in the country. If you make $60,000 or more, you are in the top 1 percent.

PARADE recently crisscrossed the country in an informal survey to find out what people earn. It came as no surprise that not everyone wanted to talk.

"There are people who do not have anything to conceal but who will not discuss income because it is considered private," says Dr. Lee Salk, a professor of psychology at the New York Hospital-Cornell Medical Center.

"People jockey to find out what other people earn because, in our society, money is a symbol of strength, influence and power," he adds. "It helps them try to establish where they stand in society and among one another."

Most of those who agreed to speak on the record seemed to be content with their lives, their jobs or their locales, and they did not act as if money was of vital importance. Perhaps, given Dr. Salk's comments, this was at least partly why they were willing to reveal how much they earned.

Many of those interviewed spoke of how important challenge was to them. For example, 21-year-old Evelyn Williams works two jobs, as a drugstore cashier at $3.95 an hour and as a checking representative at a savings and loan institution, for which she is paid $700 a month. "I like it," she says. "It was a challenge to learn to use the computer, and it's exciting dealing with people. I'm learning something that's going to get me ahead."

And a man in Wyoming, Urban Schechinger, says he is looking for "a new challenge in a new area." Schechinger, 34, earns $40,000 a year as a construction accountant with the Union Pacific Railroad in Cheyenne. "I've accomplished everything I've wanted to by taking this office from last place to first in the region," he says. "I would like to take over a troubled office and recharge it."


Kevin Galvin

David Stuart, peace activist: $6000 (all figures annual)


Kevin Galvin

Susan Yaghjian, contractor's aide/artist: $5000


Joe Cavaretta

Matt Simon, insurance businessman: $200,000


David Falconer

Lynne Neeley, high school counselor: $29,500


Merry Alpern

Salvador Ramirez, building superintendent: $18,720


Lynne Enkelis

Phil Caragol, one-man ad agency owner: $70,000


Randy Taylor/Sygma

Laura Howell, food service aide: $15,000


Ron Mann

Geoff Evans, car salesman: $22,000


Kevin Horan Picture Group

Juanita Guillen, phone operator: $10,920


Paul Tepley

Carl Stokes, municipal court judge: $57,500


Kevin Galvin

Joan Champagne, therapist: $17,500


Kay Chernush

Son Kim, computer technician: $27,500


Paul Tepley

Evelyn Williams, savings & loan rep/cashier: $9000


Merry Alpern

Cynthia Harrison, cable TV sales: $30,000


Billy Grimes

Ruby Bright, taxicab driver: $7800

For every person willing to be identified along with his salary, at least five insisted on anonymity. Some were involved in the "underground economy," with most transactions, which go unreported to the IRS, being made in cash or bartered goods or services. Among them were a Washington, D.C., bellhop who makes $15,000 a year, a New Jersey student who moonlights as second cook at $6 an hour in a restaurant and pockets $120 "under the table" each week, and a Tennessee fabrics executive who says he reports an annual income of $80,000. "But I really generate $200,000 a year for myself," he adds. "My lifestyle can't be sustained on $80,000 a year."

No matter how you view such a philosophy, life isn't always fair, and case in point. How is it that a college football coach gets more than a college professor, that hotshot Wall Street brokers make far more than noted scientists, or that company controllers, who watch the money, tend to be paid more than the senior engineers, who are responsible for making it?

Nearly 11 million Americans, including dependent children, are receiving some form of welfare assistance.

PARADE talked to a number of individuals whose income was well under or not far over the poverty line. Two of the lowest wage earners, not counting a parish priest in Chicago, were Susan Yaghjian, who helps build homes in Concord, N.H., and David Stuart of Boston. Yaghjian makes $5000 a year from her work, which is enough for her to get by while she pursues a second profession in art. "That's all I need," she says. "My time is my own, and it lets me do my art."

Stuart is one of those quiet, efficient men one encounters at peace and disarmament rallies. He is 36, married and the father of three. "I depend upon my income from contributions from those who support the cause of peace," he says. It's about $6000 a year.

An Atlanta cab driver named Ruby Bright earns almost $2000 a year more than Stuart. She is 53 and has been driv-

COVER PHOTOGRAPHS BY KEVIN HORAN PICTURE GROUP (BARD, SOPHER), ANDREW SACKS (BROWN, DUPUIS), JAY SIMONS (SIMONSON), LYNNE ENKELIS (HARRISON), BILL HESS (BIRD), MERRY ALPERN (GROSECLOSE), PAUL TEPLEY (DELGADO), RANDY TAYLOR SYGMA (JOHNSON)

EARN

ing a taxi since 1961. She has 17 brothers and sisters and says her father, Noah, lived to be 104. "I wouldn't do anything but drive a cab," she says. "I love it." Her annual income is $7800.

Still under the poverty line but not feeling sorry for herself is Orella Delgado, 25, the assistant manager of a record shop in Cleveland. She's surrounded by music and, because of that, she says, "I really love what I'm doing." She makes $9100 a year.

Another who has a job he cares about but not a great deal of money to go with it is Al Wickham, a 43-year-old photographic technician for Wyoming's Game and Fish Department in Cheyenne. "This is a great job," says Wickham. "I like meeting all the different people. But I can make three times what I make now doing something else. I make $10,000 a year. But if I got a job working maintenance on the Minuteman missile system, I'd make $30,000."

Would you tell what you earn? Many won't. Here are some who did.

And up in Montana, there's a 40-year-old Vietnam veteran named Ben Simonson who hauls logs by horse near the town of Noxon. He earns about $12,000 a year. "After I left Vietnam," he says, "I didn't want to be surrounded by people, so I came to Montana. I was a deputy sheriff for a while and, doing that, you only see the bad side of people, and you work long hours. Now, doing what I do, I wouldn't trade away any of the peace and quiet for anything in the world."

How do telephone operators fare? Not great. Juanita Guillen of Chicago gets $5.25 an hour for her job as a telephone operator at an answering service, which works out to be $10,920 a year. "As far as I know, it's pretty good, I guess," she says. "I don't think they'd pay any higher. Most people starting in this business get the minimum wage." That, at present, is $3.35 an hour. Hotel telephone operators, it was found, have wages that vary from region to region. Here are examples of what they earn: in Atlanta, $4.10 an hour; in Detroit, $4.90; in New York, $8.48.

At the midpoint between $10,000 and $20,000 and edging up toward the median income level is 61-year-old Laura Howell, a grandmother who is a senior food service aide at Tampa General Hospital in Florida. "I'm told I could make more in New York," she says, "but I don't want to leave Tampa."

Legal secretaries are a couple of rungs up the financial ladder. Norma Dupuis, a legal secretary in Detroit, makes $17,500. Ninety-nine of 100 secretaries are women, incidentally. Those who perform approximately the same type of work earn $16,068 in Minneapolis, $21,632 in San Francisco, $19,604 in New York and over $15,000 in Atlanta.

In Concord, N.H., an occupational therapist named Joan Champagne makes exactly the same salary as Dupuis. "I like my work," she says. "It's particularly rewarding because I work with geriatrics," or old people, "but I wish the pay were higher." Therapists such as Champagne help those who are physically or psychologically impaired undertake goal-related programs designed to improve their conditions. The median income for occupational therapists in hospitals in Alaska is $20,499.

Right at the median income level, or a shade over, at $18,720, is Salvador Ramirez, 36, who supervises the upkeep, cleaning and daily operation of a 133-unit apartment house in New York. He is known as a building super. "The toughest part of the job," he says, "is dealing with the older people. They depend on you so much and begin to think of you as a son. That's heavy." For consolation, he gets a free apartment, free utilities and a free telephone.

Hovering near $20,000 are a Chattanooga bus driver, a Wisconsin undersheriff and a Denver carpenter. The bus driver is 30-year-old Mike Angel, who works for the city and calls his pay "all right." He adds, "I haven't found anything better. You just have to learn to deal with weirdos." If Angel were driving his bus in Baltimore, Kansas City,

continued

WHY WOMEN EARN LESS

OVER THE YEARS, women have earned, on the average, 60 cents for every dollar earned by a man. Indeed, until recently, women with four or more years of *college* earned the same as men with one to three years of *high school*, says the Bureau of Labor Statistics.

A National Academy of Sciences study shows that women may earn less than men because they have less seniority, stay in the labor force less consistently and tend to work in jobs with lower intrinsic value. But the study also shows that half of the wage gap probably is due to discrimination.

More than half the women in the country now work. Most have to: One-third of all working women are either divorced, separated or married to men who earn less than $15,000 a year. In fact, the Census Bureau estimates that 15.4 percent of all U.S. families are headed by women.

Federal law [illegible] and guarantees equal pay for equal work, but predominantly female occupations traditionally pay far less than largely male ones. The Bureau of Labor Statistics cites these average wages: nurses, $18,300 versus pharmacists, $23,000; kindergarten teachers, $20,042 versus mail carriers, $21,000; bank tellers, $9700 versus stockroom clerks $15,000.

Much of the wage-gap debate focuses on the doctrine of "comparable worth," which holds that women and men should be paid on the same scale not only when they perform identical jobs but also when they perform different jobs of equal skill, effort and responsibility. Advocates of comparable worth maintain that women have been deliberately forced into low-paying job categories: Nearly half the women in the work force are clerical workers, teachers or nurses. Opponents say that women choose these lower-paying positions because they are less demanding and have more flexible hours.

In any case, a study of comparable worth commissioned by the State of Washington in 1973 found that women state employees were being discriminated against because men of similar skills, training and responsibility were being paid significantly more. The inequities persisted, and eventually the women employees sued the state. One of them was Louise Peterson, a licensed practical nurse at Western State Hospital in Tacoma. For supervising the daily care of 60 men convicted of sex crimes, she was paid $1462 a month last year. That was $192 a month less than the hospital's groundskeepers earn. The state's own studies also showed that Peterson made $700 a month less than men at state prisons who held jobs similar to hers.

Federal Judge Jack Tanner found Washington guilty of sex discrimination and ordered the state to pay its women employees about $838 million in raises and back pay.

Sex-bias charges are pending against the states of Connecticut, Wisconsin and Hawaii, and against the cities of Chicago, Los Angeles and Philadelphia. Private employers also face demands for comparable worth studies.

The issue clearly pits against each other two cherished American values: the ethic of nondiscrimination versus

If Judge Tanner's ruling becomes the law of the land, women employees in almost every institution and business will soon be asking for pay equity studies and then for pay equity, which could cost employers in America billions in back pay and raises.

"That may be true," concedes Winn Newman, who represents the women plaintiffs in the Washington case. But he also contends that his is an old-fashioned sex discrimination case, regardless of comparable worth. The Civil Rights Act, he notes, bars discrimination in pay based on sex. And that, he maintains, is what the State of Washington and most other employers do.

He notes that though the state conducted job evaluations, it also ignored them and refused to readjust wages accordingly. Washington State argues that its wages simply reflect prevailing market rates and that, if the market discriminates, the state should not be held liable.

Newman asserts: "We would not think of saying to an employer, 'It's OK to discriminate on the basis of race if you can't afford to correct it.'"

Nina Totenberg, the legal affairs correspondent for National Public Radio, covers the U.S. Supreme Court.

BY NINA TOTENBERG

joy the work. It's so challenging."

A computer education specialist who works in northernmost Alaska makes $40,000 a year, which some say is just about enough to buy groceries up that way. The 30-year-old teacher declares, "I thoroughly enjoy the work. I enjoy working with kids and teachers, and I feel that what I'm doing is going to help young people use the new technology to advance themselves and enrich their lives."

Lynne Neeley, a director of guidance in the R.A. Long High School in Washington State, has a master's degree but, at $29,500 a year, she gets $11,500 less than the Alaska computer teacher. Mrs. Neeley, who is 40, says her salary is "just above average" for her state "and a bit above the national average."

In Washington, D.C., Son Kim, a computer technician, makes $27,500, well over the national average of $22,360 that the Bureau of Labor Statistics says is paid to senior-level technicians.

Government, of course, is in a class by itself. More than 16 million Americans—one out of every six workers of the U.S. work force—are employed by local, state or federal agencies. More than 3 million work for the federal government alone, and that's not counting the 1,686,000 who are members of the military. A woman in her 30s who lives in Fairfax, Va., is a Grade Level 13 chemist for the Environmental Protection Agency. She gets $36,000 a year, somewhat less than the job might pay in private industry.

Others encountered in the $30,000-$40,000 range included a second officer for Eastern Airlines and a meat department manager for a supermarket in Manhattan.

The second officer doesn't fly the plane. He serves as the flight engineer, monitoring electronic and mechanical systems. This one flies the shuttle service between New York, Boston and Washington and, after three years, says he is making close to $35,000. First officers earn up to $63,314; captains are paid up to $94,237.

The meat department manager, Walter Groseclose, is 45, and he works for the Pioneer supermarket chain in New York City. He says he has been a butcher since the age of 10, when he worked off the books in a wholesale meat market. "Times were tough then," he says, "and I helped the family." Now he makes $35,000 a year for a six-day week.

Carl Stokes used to be the mayor of Cleveland. In fact, he was the first black to be elected mayor of a major American city. He later was a TV anchorman in New York, in 1972-73, making $70,000 a year. Now, at 56, back in Cleveland, he's a municipal court judge who is paid $57,500 a year. "I must admit, I miss New York," he says. "Once you become part of the fabric of New York, you really can't get away from it. Life would be perfect if I could move this job to New York."

But a Tampa surgeon named Denis Johnson, 36, who also happens to be black, isn't tempted by New York. He says he makes $60,000 a year from his private practice. "I like the lifestyle here," he says. "I know I could make more money in a larger city, but it's good living here." Various experts in the medical field say the after-tax income for most doctors in the U.S. ranges from $86,000 to $93,000 a year. Surgeons and specialists earn more.

Three entrepreneurs—one in the Southwest, two in the West—are also doing all right. In El Paso, Tex., 56-year-old Matt Simon is the son of sharecroppers. He retired from the Army in 1970 as a lieutenant colonel and started an insurance business. He says he now makes $200,000 a year.

Phil Caragol, 31, has a one-man ad agency in San Francisco. At $70,000 a year, he notes, he makes three times what he did working for other agencies, but he also says, "Now I can start at 5 a.m. and work to 9 p.m. and on weekends as well."

Also in San Francisco is Cheryl Harrison, 26, who started her own company, which helps businesses with image-building through graphic design. Clients include Levi-Strauss, General Mills and Shaklee. Her sister, Cynthia Harrison, 27, works on the East Coast—in Manhattan—for Group W Cable Westinghouse, where she develops national sales programs. With friends, Cynthia also invented the "I Survived New York" parlor game. Each woman earns $30,000 a year and each considers herself the "luckier" of the two.

Finally, consider the clergy. There are 270,000 members of the clergy attending to the religious needs of 133 million Americans who, according to the U.S. Bureau of the Census, are regarded as members of legitimate religious bodies. Salaries for pastors and rabbis vary according to the affluence and size of their congregations, but others are more or less fixed.

The Rev. Dean Bard is pastor of Holy Trinity Lutheran Church of Chicago. Though paid an annual wage of only $15,000, he feels that because he also is given a house, a car and insurance coverage, his income is equivalent to a salary of $31,000 a year. "I have been here three years, and my earnings are average for a person of my tenure," he says, adding, "I think it's fine."

And parish priests in the Chicago archdiocese of the Roman Catholic Church receive $2700 a year, along with $150 for auto insurance, $750 for hospitalization and a $3000-a-year travel allowance. Of course, the salaries are not locked in. Each year, the pay goes up $60.

Thus began one of the great stories of unrequited consumerism of our time. Since that fateful day on Interstate 5, by their account, the Halfertys have spent a total of $45,000, including the purchase price, in a valiant effort to keep their car on the road. The car now has "about 100,000 miles" on it. It is powered by its fourth diesel engine (an average of 25,000 miles per engine), and it is limping along on its third transmission. "It needs a new transmission," Guy reports, "but we're waiting to see if General Motors (the manufacturer) will settle with us before we have it put in."

Naturally, replacing so many engines and transmissions takes time, even for Mr. Goodwrench, and at last report the Halfertys' Cadillac Seville had logged "down time" amounting to 11 months.

On one trip to California for their daughter's college graduation, the Halfertys had just reached San

In the course of their multi-year ordeal, the Halfertys say they have devoted an uncompensated 17,000 hours, or the better part of two years, to a so-far unsuccessful attempt to gain relief from General Motors, both for themselves and for the other 35,000 owners of General Motors diesel vehicles who have now contacted them.

In September of 1982, because so many GM diesel owners found themselves in similar circumstances, the Halfertys formed a group called Consumers Against General Motors, and today that group boasts more than 25,000 members from every state in the union.

According to Diane Halferty, many of these people originally contacted the Halfertys at the suggestion of attorneys general in their home states. These officials, Diane explained, recognized legal realities and the enormity of General Motors' political clout, and they honestly felt constituents had

[illegible] later models are experiencing the same problems as the earlier models.")

The Halfertys' demands are few. According to Diane, "We'll take $50,000 and an apology. I'm not saying I'd settle for that, but that's what it would take to make me go away." Ultimately, she says, that's what CAGM members would like to do: just go away. But they can't when GM makes settlement offers like the following: "They said that if we traded in the car and gave them $7,500, they'd give us a used 1983 diesel," Diane explains. "I told them that was the tackiest offer I'd ever heard of."

"Look," Diane says. "This isn't what we want to do with our lives. We didn't want to do this, and we certainly didn't want to take on the problems of 35,000 people. But we've got a tiger by the tail and it's running with us."

Travel by tiger tail has its obvious drawbacks, but for the Halfertys, the only alternative is to take their car. So, who can blame them if they hang on for dear life?

SEAHIE P.I. 9/11/84

Comparable worth: Our wage system is changing

By Pete McConnell
P-I Reporter

Norma-Jean Holmes is paid $1,171 a month by the state of Washington to be a laundry worker at Fircrest School, a state-operated center just north of Seattle for the mentally and physically handicapped.

Holmes, 43, who has a high school education, folds diapers and towels in a large warehouse with about 17 other employees. The crew handles 140,000 pounds of laundry a month.

Dan Henry, another employee, delivers the clean laundry to the residential quarters on the Fircrest campus and sometimes drives to downtown Seattle to pick up supplies for the kitchen.

As a truck driver, Henry, 36, who also has a high school education, makes $400 a month more than Holmes.

Little in common

Holmes' laundry job and Henry's truck-driving job would appear to have little in common.

But a study by a consulting firm of 206 state job classifications found, in part, that the duties of a state laundry worker such as Holmes should have equal or more "worth" than those of a truck driver such as Henry.

In other words, Holmes should be making at least as much money as Henry.

The concept is known as "comparable worth." And it may well change the basic fabric of how wages are determined in the work place.

The theory goes beyond the old concept of equal pay for equal work. Instead, it calls for equal pay for different jobs of comparable value.

That concept was the basis of a 1982 sex discrimination suit filed by the Washington Federation of State Employees (AFSCME). In December of last year, U.S. District Court Judge Jack Tanner of Tacoma ruled in the union's favor.

"This is one of the biggest issues of the 1980s," said state Rep. Jennifer Belcher, D-Olympia, who chairs a committee in charge of implementing the Legislature's own comparable worth plan. That plan calls for a 10-year phase-in period.

"Society will be asked to re-evaluate how we value our work in this country," Belcher said.

"Every public agency in the country is looking at the Tanner decision very carefully," said Seattle Mayor Charles Royer, past president of the National League of Cities. "Government ought to take the lead in the pay equity issue."

20% disparity

In his ruling, Tanner said the state practiced "direct, overt and institutionalized" discrimination against its women employees. The judge found a 20 percent disparity in pay between "predominantly male and predominantly female jobs" of equivalent value and responsibility.

The judge ordered the state to increase the pay of jobs that are 70 percent or more filled by women — librarians, secretaries, food service workers, laundry workers and welfare case workers and nurses, for example.

Males who are in those jobs dominated by women would receive the same salary increases and back pay as their fellow female workers.

Eventually, the state will likely review all job classifications, and as many as 38,000 out of 65,000 state employees could be affected, said Dan Keller, budget coordinator for the State Office of Financial Management.

Tanner directed that formulas be worked out to raise the pay of those jobs dominated by women.

The Legislature already had told state officials to phase in a similar pay formula over a 10-year period. But Tanner ordered the pay change immediately, including pay raises and back pay retroactive to 1979.

The state has appealed to the U.S. 9th Circuit Court of Appeals in San Francisco. The case is expected eventually to reach the U.S. Supreme Court.

Jim McDermott, Senate Ways and Means Committee chairman, said the question of how the state will raise enough money to implement the comparable worth plan is a serious one. A quick settlement could allow the state to phase in the comparable worth salary structure without serious financial consequences, the Seattle Democrat said.

But if the award is ultimately decided in the courts, "we are looking at major tax increases or a combination of tax increases and cuts in services," said McDermott. "If the U.S. Supreme Court upholds the decision, it will put us in a terrible spot in 1988 and 1989."

The settlement order could cost the state $473 million through June 30, 1985, including $233 million in back pay and $50 million for pension trust funds, according to Keller.

He said the total amount represents about 3.4 percent of the state's 1983-85 budget of $13.9 billion.

Additionally, it would cost the state $125 million a year to maintain the comparable worth salary structure starting in 1985, Keller said.

Attorney general

The appeal of the Tanner ruling is being handled by the state attorney general's office.

Attorney General Ken Eikenberry said the issue is one for state legislatures, not the courts. Washington state, he said, does not totally oppose the comparable worth concept but disagrees with the timetable set by Tanner.

"I certainly agree that the issue of the gap in pay between jobs predominantly held by men and jobs predominantly held by women must be addressed — and it is being addressed by the Legislature," he said.

The issue of comparable worth began in Washington in 1973 when then-Gov. Dan Evans, acting on the request of the AFSCME union, ordered an in-house, state study of a small number of state job classes, comparing jobs predominantly filled by men and those dominated by women.

The Seattle-based consulting firm of Norman D. Willis & Associates, in expanding work on the state study, used a system of determining the worth of jobs by applying points for such factors as knowledge and skills (job knowledge, managerial and communication skills); mental demands (latitude for independent judgment and ability to solve problems); accountability (freedom to take action), and working conditions (physical effort, hazards and discomfort).

Under the Willis model, for example, a beginning laundry worker and truck driver receive 97 points. Additionally, a laundry worker at Fircrest receives 17 more points based on extra duties. Holmes, for example, trains about eight of Fircrest's 491 residents in laundry work at any one time.

Too subjective?

Critics of the model, including Eikenberry, say it is too subjective. Supporters of the methodology, however, defend the system.

"The people who say it is subjective feel that evaluating jobs is something new," Willis said. "But it has been used for many years. It's used to evaluate manager positions and clerical positions."

Based on the results of the original state study, and a more complete analysis by Willis in 1974 and 1976, Evans asked the Legislature in 1977 for $7 million to start closing the pay equity gap. But his successor, Gov. Dixy Lee Ray, killed the plan after she took office.

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Comparable worth: Our wage system is changing

By Pete McConnell
P-I Reporter

Norma-Jean Holmes is paid $1,171 a month by the state of Washington to be a laundry worker at Fircrest School, a state-operated center just north of Seattle for the mentally and physically handicapped.

Holmes, 43, who has a high school education, folds diapers and towels in a large warehouse with about 17 other employees. The crew handles 140,000 pounds of laundry a month.

Dan Henry, another employee, delivers the clean laundry to the residential quarters on the Fircrest campus and sometimes drives to downtown Seattle to pick up supplies for the kitchen.

As a truck driver, Henry, 36, who also has a high school education, makes $400 a month more than Holmes.

Little in common

Holmes' laundry job and Henry's truck-driving job would appear to have little in common.

But a study by a consulting firm of 206 state job classifications found, in part, that the duties of a state laundry worker such as Holmes should have equal or more "worth" than those of a truck driver such as Henry.

In other words, Holmes should be making at least as much money as Henry.

The concept is known as "comparable worth." And it may well change the basic fabric of how wages are determined in the work place.

The theory goes beyond the old concept of equal pay for equal work. Instead, it calls for equal pay for different jobs of comparable value.

That concept was the basis of a 1982 sex discrimination suit filed by the Washington Federation of State Employees (AFSCME). In December of last year, U.S. District Court Judge Jack Tanner of Tacoma ruled in the union's favor.

"This is one of the biggest issues of the 1980s," said state Rep. Jennifer Belcher, D-Olympia, who chairs a committee in charge of implementing the Legislature's own comparable worth plan. That plan calls for a 10-year phase-in period.

"Society will be asked to re-evaluate how we value our work in this country," Belcher said.

"Every public agency in the country is looking at the Tanner decision very carefully," said Seattle Mayor Charles Royer, past president of the National League of Cities. "Government ought to take the lead in the pay equity issue."

20% disparity

In his ruling, Tanner said the state practiced "direct, overt and institutionalized" discrimination against its women employees. The judge found a 20 percent disparity in pay between "predominantly male and predominantly female jobs" of equivalent value and responsibility.

The judge ordered the state to increase the pay of jobs that are 70 percent or more filled by women — librarians, secretaries, food service workers, laundry workers and welfare case workers and nurses, for example.

Males who are in those jobs dominated by women would receive the same salary increases and back pay as their fellow female workers.

Eventually, the state will likely review all job classifications, and as many as 38,000 out of 65,000 state employees could be affected, said Dan Keller, budget coordinator for the State Office of Financial Management.

Tanner directed that formulas be worked out to raise the pay of those jobs dominated by women.

The Legislature already had told state officials to phase in a similar pay formula over a 10-year period. But Tanner ordered the pay change immediately, including pay raises and back pay retroactive to 1979.

The state has appealed to the U.S. 9th Circuit Court of Appeals in San Francisco. The case is expected eventually to reach the U.S. Supreme Court.

Jim McDermott, Senate Ways and Means Committee chairman, said the question of how the state will raise enough money to implement the comparable worth plan is a serious one. A quick settlement could allow the state to phase in the comparable worth salary structure without serious financial consequences, the Seattle Democrat said.

But if the award is ultimately decided in the courts, "we are looking at major tax increases or a combination of tax increases and cuts in services," said McDermott. "If the U.S. Supreme Court upholds the decision, it will put us in a terrible spot in 1988 and 1989."

The settlement order could cost the state $473 million through June 30, 1985, including $233 million in back pay and $50 million for pension trust funds, according to Keller.

He said the total amount represents about 3.4 percent of the state's 1983-85 budget of $13.9 billion.

Additionally, it would cost the state $125 million a year to maintain the comparable worth salary structure starting in 1985, Keller said.

Attorney general

The appeal of the Tanner ruling is being handled by the state attorney general's office.

Attorney General Ken Eikenberry said the issue is one for state legislatures, not the courts. Washington state, he said, does not totally oppose the comparable worth concept but disagrees with the timetable set by Tanner.

"I certainly agree that the issue of the gap in pay between jobs predominantly held by men and jobs predominantly held by women must be addressed — and it is being addressed by the Legislature," he said.

The issue of comparable worth began in Washington in 1973 when then-Gov. Dan Evans, acting on the request of the AFSCME union, ordered an in-house, state study of a small number of state job classes, comparing jobs predominantly filled by men and those dominated by women.

The Seattle-based consulting firm of Norman D. Willis & Associates, in expanding work on the state study, used a system of determining the worth of jobs by applying points for such factors as knowledge and skills (job knowledge, managerial and communication skills); mental demands (latitude for independent judgment and ability to solve problems); accountability (freedom to take action), and working conditions (physical effort, hazards and discomfort).

Under the Willis model, for example, a beginning laundry worker and truck driver receive 97 points. Additionally, a laundry worker at Fircrest receives 17 more points based on extra duties. Holmes, for example, trains about eight of Fircrest's 491 residents in laundry work at any one time.

Too subjective?

Critics of the model, including Eikenberry, say it is too subjective. Supporters of the methodology, however, defend the system.

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Evaluating Job Evaluation: Emerging Research Issues for Comparable Worth Analysis

by

Lorraine D. Eyde

U.S. Office of Personnel Management

The earnings gap between those men and women who work full time and for the full year is a principal source of concern about compensation practices. In the United States, between 1967 and 1978, the earnings gap between women and men has remained largely unchanged, with women earning about 60 percent of what men earn (Hedges and Mellor, 1979). A rough comparison of the female-male earnings gap in the U.S., Canada, and four West European countries indicates that the United States has the widest gap, whereas Sweden, where the ratio between women's and men's earnings is 86 percent (Ratner, 1980), has the lowest differential. Even when attempts have been made to compare similar jobs and jobs of equal worth, sex differences in pay rank among the top international equal employment opportunity concerns for women (Ratner, 1980; Bellace, 1980).

The purpose of this paper is to identify factors contributing to the earnings gap and to examine parallels between employment testing practices and law and compensation procedures and law, identifying potential research areas.

BACKGROUND CONTRIBUTORS TO THE EARNINGS GAP

In the decade and a half since the passage of the Equal Pay Act and the 1964 Civil Rights Act, the female-male earnings ratio has remained unchanged. Many occupationally segregated occupations have been opened up to women and many individual women have experienced considerable upward mobility in the occupational structure. But the overall statistics show little improvement for women as a class. Special civil rights efforts regulating employment selection decisions through the issuance of the federal government selection guidelines (see USEEOC, 1970; USEEOC, et al., 1978) have not helped women as much as they have minorities in opening up employment possibilities. In a large number of civil rights lawsuits, the courts have struck down written tests on which women score well (see U.S. Office of Personnel Management, 1979; U.S. Office of Personnel Management, 1980).

Educational Level

Since the passage of the 1964 Civil Rights Act, the earnings of Black males relative to White males have risen. In 1975, Black earnings were 77 percent of the earnings of Whites,

up from 65 percent in 1963 (Smith and Welch, 1978). Smith and Welch (1978) made an extensive analysis of eight Current Population Surveys, each involving over 40,000 people, for 1968 through 1975, using weekly wages as the dependent variable, analyzing the relationships with schooling, regional residence, market experience, direct and indirect government employment (a measure of the effects of affirmative action), and controlling for part-time work. The authors did not find that affirmative action accounted for changes in the Black-White earnings ratio. Instead, they found that Black men and White men have become increasingly similar in their educational backgrounds, noting that younger Blacks had developed more marketable skills. Education was found to explain 47 percent of the relative growth in Black male wages.

Data from the Current Population Survey, analyzed in terms of the female-male earnings ratio, indicate that White women do not benefit economically as much from education as do men. In 1974 (O'Kelly, 1979), women with four years of college earned only 60 percent as much as men with a similar amount of education. In 1978, women with four years of college earned what men with one to three years of high school earned (Hedges and Mellor, 1979). On the other hand, Black women with four years of college had the same earnings as comparably educated Black men. But Black men with four years of college earned only 75 percent of what similarly educated White men earned.

Geographical Location

Another variable contributing to the increase in wages of black men relative to white men was geographical in nature (Smith and Welch, 1978). In the South, the earnings ratio continues to be the lowest in the country, whereas it is highest in the North Central region where Black men earn 80 percent of the amount that White men earn. However, the relative ratio has risen more rapidly in the South than elsewhere, bringing the 1974 ratio to 59 percent, up from 52 percent in 1967. It is interesting to note that similar marked geographical differences do not appear in the female-male earnings ratio. In the four regions of the United States, only the North Central, with a 57 percent ratio, is somewhat different from the remaining three regions which have female-male earnings ratios close to 60 percent (U.S. Department of Labor, 1979).

Public or Private Sector

The female-male earnings ratio also varies according to whether the job is in the public or private sector. The median ratio for year-round, full-time and full-year civilian workers in the public sector was 68 percent, but for private-sector workers it was 59 percent (U.S. Department of Labor, 1979). This relationship also holds for Great Britain, where data on the average weekly earnings for full-time workers indicate that women earn 69 percent of what men earn when employed in the public sector and 57 percent in the private sector (Equal Opportunities Commission, 1979). In specific public sector occupations, the earnings differential by sex is much smaller. Women postal clerks in the United States earn 98 percent of what men earn and the female-male earnings ratio for elementary and secondary school teachers is around 85 percent (Rytina, 1981).

Interrupted Work Patterns

Women's earnings are less than men's in part because women are more likely to work on a part-time basis (Leon and Bednarzik, 1978). Therefore, most statistics used in computing the female-male earnings gap are based on data from full-time, year-round workers. Women with families are also more likely than men to have interrupted work patterns. Data from the 1967 Current Population Reports (O'Kelly, 1979) show that the annual median income for adult women who were employed for 100 percent of their adult lives was 73 percent of what men earned. For women who worked 75 percent to 99 percent of their adult lives, the female-male earnings ratio was 55 percent, and for women who had worked from 50 percent to 74 percent of their work lives, the female-male earnings ratio was 43 percent.

Age

Age is another variable associated with the sex-earnings gap. Men earn more than women in all age brackets. However, women's weekly earnings are highest for the twenty-five- to thirty-four-year-olds (Hedges and Mellor, 1979). Women earn 77 percent of what men earn in the youngest age group, sixteen to twenty-four, a time when the earnings are relatively low for both sexes. The female-male earnings ratio drops to 53 percent for the thirty-five- to forty-four-year-old age group, in which the men's earnings are among the highest.

Occupational Segregation by Sex

Women's earnings come closer to men's in the comparatively low-paying occupations which are held predominantly by women (Rytina, 1981). Rytina (1981) has come to this conclusion after analyzing cross-tabulations from the 1976 Survey of Income and Education, based on data from about 150,000 households. She documented the extent to which women are concentrated in relatively fewer occupational groups than are men. There are 41 occupational groups, each with more than 90 percent women workers, which employ 40 percent of all women employees. On the other hand, 179 occupations, in which 90 percent of the workers are men, provide employment for 50 percent of employed men. Rytina illustrates that female-male earnings ratios are highest for predominantly female fields of work, but even in these fields, men earn more than women. For example, the female-male earnings ratio is 74 percent for waiters and waitresses, an occupational group that is 93 percent female. The ratio is 58 percent for bank officers and financial managers, of which 27 percent are females. And the ratio drops down to 41 percent for physicians (medical and osteopathic), a group in which 13 percent of the workers are females. Rytina analyzes the female-male earnings ratio for female-dominated occupations (in which 60 percent or more workers are women), male-dominated occupations (in which 20 percent or less of the workers are women), or neutral or mixed occupations (in which 21 to 59 percent of employees are women). Her results show that there is a zero-order correlation of .22 between the female-male earnings ratio and the percent of women in the occupation, showing that the earnings of women tend to be lower than those of men in occupational groups in which there is a low proportion of women. She concludes that "occupational sex segregation has a negative impact on female earnings, thereby contributing to the persistence of male and female earnings differentials" (Rytina, 1981, p. 52).

Historical Antecedents. Highlights from the history of occupational segregation by sex among government clerical workers provide insight into the matter of depressed earnings of workers employed in predominantly female occupations. Presently, one out of every three women workers is engaged in clerical work, an occupation in which 80 percent of the workers are females (U.S. Department of Labor, 1980). More than 100 years ago, clerical work was considered to be men's work. In 1870, less than one percent of the employed women (outside of agriculture) were employed as clerical workers, a term which included clerks, stenographers, typists, bookkeepers, cashiers and accountants (Hill, 1929). Women who were employed by the federal government as clerks were hired as a separate class of women clerks. In 1853 Congress established the basic government pay scales used until the passage of the Classification Act of 1923. The 1853 law established four clerical classes, with the pay range from $1,200 to $1,800, and four subclerical classes for laborers, watchmen, and messengers in which the pay range was $720 to $840. The pay for the female clerks was set between the clerical and subclerical classes. Women were hired as subordinates to "clerks of the first class" and were paid at a rate of $900. By 1870 there were 2,000 women in the United States who worked as clerical workers (McMillin, 1938).

A century ago, clerical jobs, held predominantly by men, were relatively well-paid jobs. Individual federal clerical workers were paid as well as or better than crafts workers. The 1875 *U.S. Treasury Register* (U.S. Department of the Treasury, 1875) listed the names and earnings of each Treasury Department employee. For example, in the Philadelphia Mint an Assistant Calculator earned $4.50 a day, whereas a Plumber earned $3.25. In San Francisco, an Office Clerk earned $6.50 each day and a Machinist earned $5.50. In Carson (City), Nevada a Calculating Clerk and a Carpenter each earned $6.00 a day. This publication also provided an example of discounting pay for women's jobs. The San Francisco District of the U.S. Customs Service employed thirty-four male) Inspectors at the rate of $4.00 a day and paid the one Female Inspector at the rate of $3.00 a day.

In the first two decades of the twentieth century, employment in office occupations rose and clerical work became women's work (Hill, 1929). By 1920, there were 1,910,695 women holding clerical jobs (Hill, 1929), representing 26 percent of the employed women and girls outside of agriculture. In 1930 Saint reviewed numerous surveys about women employed in the public service and concluded that "the types of positions most often held by women are clerical, nursing, social service, and library. The salaries of women have been generally lower than those of men, due largely to the fact that the scale of salaries is lower for the occupations in which women are predominantly employed, and to the fact of lower pay for equal work" (Saint, 1930, p. 54).

During World War II, federal government salaries for classified clerical and classified craft workers did not appear to be very different (Primoff, Note 1). Secretaries were paid at levels three to six in the Clerical, Administrative, and Fiscal service (CAF). In 1942, the CAF grade 5 starting salary was $2,000 for secretaries. At the same time, starting pay was $2,040 for classified supervisors of skilled mechanics maintaining, for example, large heating, lighting and power plants who were paid the Crafts, Protective and Custodial (CPC) grade 7.

The basic principle for establishing blue-collar pay, set forth in 1861, involved basing pay for similar work on prevailing private sector rates of pay. Since 1965, the system has called for using standardized job evaluation procedures and area wage survey data with central control coming from the Office of Personnel Management (formerly the U.S. Civil Service Commission), rather than allowing agencies autonomy to use different approaches to wagesetting.

Congress, however, has not been willing to apply the "going rate" principle to a wider range of federal government jobs (Van Riper, 1958). Recently, more uniform procedures for applying local prevailing pay rates to blue-collar jobs may well have contributed to a widening of the earnings gap between clerical workers and craft workers.

Over a century ago, the U.S. Treasury Department's office and calculating clerks in San Francisco and Carson (City), Nevada were paid as much as or more than machinists and carpenters, at a time when clerical and craft jobs were predominantly held by men. Now that in 1981 most clerical workers are women, experienced clerks are paid at a starting salary of $10,963, at the present nationwide federal GS-4 level. Federally employed craft workers, who are most likely to be men, are paid locality pay based on local private sector wage surveys. In 1981, experienced machinists in San Francisco start at $10.51 per hour or $21,860 annually (equating 2,080 hours with a year of hourly pay) for the WG-10 level, pay which is roughly twice that of clerks. Carpenters in Carson City, Nevada in 1981 are remunerated at the local pay rate starting at $8.76 per hour or $18,22[illegible] on an annual basis, for work at the WG-9 level.

JOB EVALUATION AND THE EARNINGS GAP

In addition to historical antecedents and background contributors to the earnings gap, this paper deals with technical and fairness issues regarding job evaluation. The term job evaluation, as defined in the NAS Interim Report (Treiman, 1979), refers to evaluation and rating of jobs and refers to formal procedures for placing jobs in a hierarchy with respect to their value or worth, for pay-setting purposes. It deals with the identification of the job duties and responsibilities, job demands (physical and mental requirements), and working conditions.

Job Worth Analyses by Sex

Union interest in salary differentials in jobs held predominantly by men or by women has led to a resurgent interest in the concept of equal pay for jobs of comparable worth, a subject of interest to the National War Labor Board during World War II (see Gitt, 1977). The Washington Federation of State Employees, AFL-CIO, and the State Women's Council, in 1973 requested the governor of the state of Washington to produce what has become a classical study of comparable worth (International Women's Year Commission Report, 1976; Remick, 1980). Remick defines *comparable worth* in general as "a concept requiring comparable salaries for dissimilar jobs requiring comparable overall effort, skill, responsibility and working conditions" (Note 2, p. 1). Willis (Note 3) was hired by the state of Washington to conduct a factor-point job evaluation using four factors (Treiman, 1979) found to be very similar to those used in the Hay system: Knowledge and Skills, Mental Demands, Accountability, and Working Conditions. (For a description of conventional job evaluation methods, see Burns, 1978; Treiman, 1979; Henderson and Clarke, 1981). One hundred and twenty-one job classifications held predominantly (70 percent or more) by one sex were chosen. Analysis was made of the total number of job-worth points assigned to each classification in relation to actual monthly salaries paid for predominantly male and predominantly female jobs. The study concluded that, on the basis of measured job content, women's classes were paid approximately 20 percent less than men's. The report also noted that the salary structures were "developed from historic position alignments supported by extensive surveys of prevailing practices of private business and other governmental organizations" (Willis, Note 3, p. 20).

The results of a second study, using the Hay method, which was conducted in San José, California in July and December 1980 (Stone, 1981), led to a major strike involving the American Federation of State, County, and Municipal Employees (AFSCME). The study found that women employed in predominantly female jobs, such as in clerical, library, and recreation work, earned, on the average $3,000 less than men who held comparable jobs in male-dominated areas (Stone, 1981). Nevertheless, the settlement of the nine-day strike of the San José municipal workers led the *Wall Street Journal* to advocate the use of market pricing in an editorial: "The lid was removed from a Pandora's box, and a new approach for setting pay for women has made its escape. Under the innocuous name of 'comparable worth,' it would abolish the labor market and have everyone's pay set by bureaucrats . . . Value, we have always thought, is what the market says it is, not some notion that one job is as 'important' as another" ("Pandora's Worth," 1981).

Additional questioning of the premises behind comparable worth has come from Kenneth McGuiness, President of the Equal Employment Advisory Council (EEAC), in a book edited by Livernash (1981a). He cites Livernash (1980b), stating that "the concept of comparable worth has never been defined in operational terms or associated with any measurement device" (Livernash, 1980a, p. v). McGuiness states the following:

> Briefly stated, proponents content that the marketplace has historically discriminated by establishing lower rates of compensation for jobs held predominantly by women and, in some instances, by minorities. They argue that any job has a certain inherent "worth" to the employer, or perhaps to society at large, and that it is therefore possible to compare these "worths" even though they do not require the same skill, effort and responsibility and are not performed under similar working conditions (the Equal Pay Act Standards). If this comparison indicates that a position held predominantly by women is paid less than a 'male' job of comparable worth, the difference in pay rates is presumed to be exclusively the result of past societal discrimination. Consequently, proponents argue that it is necessary to devise a common measuring system which is capable of assigning a numerical worth to each job, so that jobs which are dissimilar can be compared and their pay rate analyzed for possible discrimination (Livernash, 1980a, pp. iv, v).

In the same EEAC volume, Schwab examines job evaluation and pay setting and concludes that "job evaluation does not measure worth beyond its definition in market wages . . . The choice and weighting of job content variables are based, therefore, on a criterion of wages, and not on a criterion of worth" (Schwab, 1980, p. 76). He notes that "If individuals are aggregated into groups, such as by sex and a [pay] difference is observed, the source of the difference could be due to job and/or individual pay variation. Consequently, attribution of the difference to only a single source may be erroneous. Moreover, to expect that the regulatory manipulation of a single pay procedure will eliminate group differences may be equally erroneous" (Schwab, 1980, p. 77).

The battle of expert witnesses appears to be moving into a new area of law with the initial limited approval of the U.S. Supreme Court. In *County of Washington* v. *Gunther* (1981)[1] Mr. Justice Brennan, delivering the majority opinion, concluded: "We do not decide in this case the precise contours of lawsuits challenging sex discrimination in compensation under Title VII. It is sufficient to note that respondents' claims of discriminatory undercompensation are not barred by Section 703(h) of Title VII merely because respondents do not perform work equal to that of male jail guards."

Concerns Raised by Employment Testing Law

Proponents of equal pay for comparable worth raise questions parallel to those raised in employment testing court cases. I will review some of the issues which I view as having some similarity with those related to comparable worth, that is, those relating to research on validity, documentation requirements, administrative aspects and considerations of fairness.

Technical Issues. In 1966, when the first Equal Employment Opportunities Commission Guidelines were issued (USEEOC, 1966), the first technical test standards were twelve years old (APA, 1954), and there was little current published literature on practical applications in personnel testing. The extensive personnel selection research, chiefly from the 1930s and 1940s, was summarized in Fryer and Henry's 1950 *Handbook of Applied Psychology.* The validity of many employment selection procedures was not documented in detail.

When the first federal guidelines were written in 1966, there were no professional standards for the use of job analysis in conducting validity studies (APA, 1966). The 1974 (APA) *Standards for Educational and Psychological Tests* made an attempt at codifying the use of job analysis as did the 1975 (APA) Division 14 *Principles for the Validation and Use of Personnel Selection Procedures.* However, in 1980, the Division 14 *Principles* (APA, 1980) retreated from the positions of codifying job analysis standards and did not recommend the use of any one type of job analysis procedure.

Job Analysis Documentation. Employers purporting to use content-valid tests, had little information available about the jobs and were not likely to have conducted a formal job analysis. (For description of job analysis methods, see McCormick, 1979.) And when job analysis was used, qualitative evidence rather than systematic quantitative data was available. Job analysis, for many public employers, was performed by making a few phone calls to incumbents or their supervisors to find whether the job under consideration had changed since the last examination was held. Job analysis and/or selection procedures overlooked, undervalued, or inappropriately weighted critical job requirements. Though women were often involved in test development, minority group members were often not consulted or involved in task forces carrying out job analysis or examination development in an effort to insure the fairness of the test content.

Organizational Practices. Many employers used traditional personnel practices "because they always had been used." It was not unusual to find employers preparing job analyses and conducting validity studies to justify existing tests. Requests to revise and develop more comprehensive procedures aimed at covering the whole job were turned down because they were too expensive.

Comparable Issues in Compensation

Technical Research. Job analysis has been called "a mature art and infant science" (Brumback, Note 4). These words may also apply to job evaluation. But it appears that job evaluation procedures are at an earlier stage of development than job analysis was at the time the first U.S. Supreme Court employment testing case was handed down in 1971. There is no single set of authoritative professional standards for job evaluation, nor are there government guidelines on wage discrimination. The 1979 Interim Report of the National Academy of Sciences (Treiman, 1979) on job evaluation, written by Treiman, observed that

"Much of the published literature on job evaluation is twenty-five to thirty years old . . . Job evaluation procedures were the subject of a fairly lively research effort at the time they were first gaining prominence, in the period just after World War II. By the mid-1950s, however, interest in job evaluation as a research topic has largely died out" (Treiman, 1979, p. xii). Otis and Leukart's text, *Job Evaluation*, of which the second edition was published in 1954, is still in print. In one paragraph, Otis and Leukart identify job evaluation's relevance to women in industry: "In applying the 'equal-pay-for-equal-work' principle, particularly in cases where women are wholly or partially performing jobs that are normally considered men's jobs, the existence of detailed job descriptions makes possible an objective determination of correct rate of pay for the job" (Otis and Leukart, 1954, p. 279). And more than twenty-five years later, as we watch the reawakening interest in job evaluation, we find psychologist Schwab's chapter in the EEAC book cited in footnote 20 of the majority opinion in the *Gunther*[2] case, the first U.S. Supreme Court case dealing with sex bias in compensation procedures.

Legal requirements often contribute to research activity. During the generally slow period in job evaluation research, Congress enacted the Job Evaluation Policy Act of 1970, in which the job evaluation requirements for the executive branch of the federal government were defined. As a result, the Factor Evaluation System (Anderson and Corts, 1973), an eclectic method which combined whole-job ranking, factor comparison, and point rating approaches, was developed and used by federal government agencies.

My interest in the fact that little current research has involved job evaluation led me to query three industrial/organizational psychologists who have published in this area: Ernest McCormick (Note 5); C. H. Lawshe (Note 6); and Carroll L. Shartle (Note 7). (See the following references for their publications: Otis and Leukart, 1954; Shartle, 1950; and Treiman, 1979.) All three psychologists recognize that job evaluation has not, especially in recent years, been a central concern of psychologists. Lawshe attributes this lack of interest to the fact that psychologists who work in industry have been preoccupied with organizational development. He notes that, in industry, wage administration is organizationally separate from personnel and industrial relations. Shartle points out that job evaluation is looked upon as being the subject matter of labor relations, labor economics, or even engineering, rather than psychology, and that college training has emphasized the measurement of human traits and aptitudes and not job characteristics (Note 7).

Job evaluation, notes Lawshe, no longer provided the cutting edge for university-based research. Lawshe elaborates: Otis wrote his book. Lawshe published his dozen or so studies. "What else was there to explore? Like personnel testing was (for twenty-five years), too pedestrian!" (Note 6).

For Shartle and McCormick, interest in job evaluation grew out of exposure to the workplace. They, along with Otis (Otis and Leukart, 1954) had all been exposed to practical, real-world considerations when they worked in the Office of Research Programs in the U.S. Employment Service. (McCormick was also chief occupational analyst with the Census Bureau for the 1940 Census and in charge of occupational statistics with the Selective Service System.) McCormick, along with his co-workers, Mecham and Jeanneret, have persisted in their Position Analysis Questionnaire research and applied it to job evaluation (see McCormick, Mecham, and Jeanneret, 1972). McCormick (Note 5) acknowledges that his experiences before coming to Purdue had convinced him of the need for more systematic approaches to human work, that is, to quantitative approaches to job and occupational analysis. He con-

tinued doing research with job evaluation implications during the period before the federal selection guidelines drew attention to job analysis procedures.

In addition to the factors cited by Lawshe, McCormick and Shartle, there are some powerful forces that serve to inhibit job evaluation research. Technical considerations, relating to establishment of job-worth points for the internal organizational alignment of jobs, may often play a secondary role to organizational politics (Jeanneret, 1980), collective bargaining agreements, and the use of prevailing rates of pay in establishing compensation rates. Henderson and Clarke recognize the following constraints: "A pay structure that eventually sets limits on the base pay for a job is a blend of senior management philosophy, external influences and technical considerations" (1981, p. 63). They state that pay structure design is not a scientifically pure procedure, noting that administrative decisions affecting the design of the pay structure are frequently arbitrary in nature.

Role of Job Evaluation in Pay-Setting Procedures. What then is the role of job analysis and job evaluation in pay-setting procedures? Some information may be obtained by examining the results of four surveys (reported in Craver, 1977; Treiman, 1979; Henderson and Clerke, 1981), which describe the extent to which the four conventional job evaluation methods (ranking, classification, factor comparison and point methods), identified in the National Academy of Sciences (NAS) Interim Report (Treiman, 1979), are applied. Two of the surveys also included the market-pricing approach which Henderson and Clarke (1981) describe as being closely related to whole-job ranking. Henderson and Clarke (1981) note that organizations which use a pure market-pricing method allow the marketplace to determine the relative worth of its jobs.

The four surveys vary, not only in the methods covered, but in the number and type of organizations covered, in the response rates of the groups surveyed, and in the way in which procedures are defined and classified. Despite these limitations, the survey data are useful in identifying, in a general way, the extent to which job evaluation procedures are applied. Just as the development of employment testing case law alerted employers to the need for conducting job analyses, the emerging case law[3] on job evaluation has alerted psychologists (Beatty and Beatty, Note 8) to the need for collecting job analysis information to establish the worth of equal and comparable jobs.

The first survey is the Bureau of National Affairs (BNA) Survey No. 113 (cited in Henderson and Clarke, 1981, pp. 32–33) which covered 172 job evaluation plans and considered market pricing and simple ranking procedures to be job evaluation methods. Three-fourths of the companies had at least one kind of job evaluation plan. Job descriptions served as the key source of information on which job evaluations are based. The data for the job descriptions were collected through interviews with supervisors in 57 percent of the plans, through interviews with job incumbents in 49 percent of the plans, and through observations by job analysts in 48 percent of them. In 28 percent of the plans, job descriptions were revised every year. This survey also indicated that 86 percent of the companies with plans had written manuals on their job evaluation plans.

A second survey, reported by Akalin (cited in Treiman, 1979), describes data collected in 1968 from 250 corporations who responded to a survey sent to 1,000 firms. The NAS Interim Report (Treiman, 1979), in commenting on this survey, noted the low response rate and the less than desirable quality of the data, but, nevertheless, concluded that the majority of the large firms were making use of formal job evaluation procedures, ranging from 56 percent for managerial jobs to 67 percent for nonsupervisory office jobs. The point system was the

most popular type of job evaluation, used in 65 percent of non-supervisory factory and office jobs and for 46 percent of the professional and managerial jobs. The BNA Survey also indicated that the point system was most popular and used in 53 percent of the plans. This popular system is considered to be relatively simple to administer because the range of possible points is constant across jobs (Treiman, 1979). The BNA Survey also revealed that 12 percent of the plans used the market-pricing method and another 9 percent used simple ranking. Both methods depend heavily on economic considerations rather than on job demands and working conditions.

The third survey, conducted in 1977 by the American Compensation Association, which covered 634,598 employees, confirmed the BNA finding that 12 percent of the employees were compensated on the basis of a market-pricing plan. The most popular method reported in the ACA survey was the ranking plan with covered 35 percent of the employees.

The fourth survey (Craver, 1977) dealth with the public sector study conducted in 1976 by the International Personnel Management Association (IPMA). It included forty-six states and 44 percent of the seventy largest county government employers surveyed. This report showed that qualitative methods, which included position classification and position ranking, which are "whole jobs" methods of evaluation, were most popular and used by 89 percent of the states and 94 percent of the counties. The county and state jurisdictions frequently used different methods to evaluate different kinds of jobs. Quantitative methods, which mainly involve the use of factor point ranking, were used for some classes by 35 percent of the states and 16 percent of the reporting counties. Future plans called for still greater use of the adoption or expansion of factor point methods and reduction of the use of position classification, indicating plans to move towards more quantitative methods of job evaluation. Although the IPMA did not comment on its use of prevailing rates of pay, it is clear that considerable salary and wage survey data are collected and reported annually by a relatively large number of organizations (e.g., IPMA, the U.S. Office of Personnel Management, the Council of State Governments, and wage and salary surveys are conducted by the U.S. Department of Labor's Bureau of Labor Statistics).

In summary, the survey findings show job evaluation practices vary considerably from one employer to another and by the pay plans used by an employer. There are employers who make little use of job evaluation procedures and who rely on market pricing, letting the market determine the worth of the job. Numerous employers have no written manuals for the job evaluation plans. Many state and local government employers make use of qualitative rather than quantitative methods of job evaluation.

Organizational Practices. Reports of case studies of applications of job evaluation methods in local jurisdictions illustrate problems associated with discrepancies that arise between the results of job evaluation procedures and information gathered about prevailing rates of pay. Wallace and Krefting (1975) and Henderson and Clarke (1980), who applied and studied pay-setting procedures in two small cities, identified discrepancies between the two sources of information in a variety of jobs such as firefighters and department heads which are undervalued and which are jobs held primarily by men. These reports show that the administrative procedures for aligning the results of job evaluation with prevailing rates of pay are worthy of close scrutiny. For example, Henderson and Clarke (1981) reported that such an analysis led to the removal of department-director jobs from the basic pay structure. On the other hand, Wallace and Krefting (1975) concluded that external market factors have a greater bearing on the establishment of compensation structures in the public than in the

private sector. Municipalities, they note, have "less flexibility in establishing the administrative rules that define the internal labor market," and elected officials must approve the pay plans.

Blumrosen (1979), a major proponent of the legal theory relating to comparable worth, has pointed out that pay-setting procedures all involve comparisons between what an employer planned to pay and the prevailing market rates for similar or comparable jobs. A key component of comparable worth analyses will, no doubt, focus on discrepancies between job worth points and organizational use of prevailing rate of pay. Concerns about the extent to which market pricing plays a role in compensation practices are summed up by this controversial question raised by Henderson and Clarke (1981, p. 11): "Does the market relate to past discriminatory practices on [sic] hiring and thus perpetuate pay practices that have an adverse impact on females and minorities?"

Recent publications on the use of job evaluation call attention to practices which are used to justify existing pay structures. The NAS Interim Report (Treiman, 1979) recognizes the distinction between the introduction of job evaluation to an organization and its ongoing application. Treiman notes: "Typically, a job evaluation system is introduced in an attempt to rationalize an existing wage structure . . .[it] is often introduced in a firm, as a way of putting order into a wage- and salary-setting process that has been haphazard or arbitrary" (1979, p. 4). Also, in Great Britain, where the role of job evaluation in achieving equal pay for work of equal value has received some degree of official recognition (Bellace, 1980), Burns (1978) has also noted that the normal purpose of job evaluation serves to rationalize and reinforce existing differences in pay levels.

Critical Job Demands and Working Conditions Undervalued

Job Demands. Concern with equitable pay practices has led many occupational groups to identify critical job demands and working conditions which appear to be undervalued, overlooked or inappropriately weighted in pay-setting procedures. Professional organizations representing nurses and librarians were among the groups which testified at the 1980 Hearings on Job Segregation and Wage Discrimination conducted by the U.S. Equal Employment Opportunity Commission (USEEOC, 1980). The American Nurses Association highlighted similarities between the work of nurses and physicians, stressing that the work of nurses, in which 98 percent of the jobs are held by women, is undervalued. Nursing work, particularly in intensive care units where nurses have critical responsibilities for monitoring sophisticated equipment, concerns itself with the extensive use of judgment in life and death situations. Job evaluations need to identify the amount of discretion and responsibility assigned to nurses and physicians and their overlapping tasks and critical worker requirements.

Librarians, represented by the American Library Association, also testified before the EEOC Hearings on the undervaluing of the work of professional librarians, who held a Master's degree in library science. Approximately 80 percent of professional library jobs are now held by women. The Library Association pointed out that the expertise, knowledge and responsibilities of library workers have not been adequately reflected in the wages paid (USEEOC, 1980), and noted in particular that librarians must apply information retrieval technology to handle increasingly complex procedures for storing, finding and analyzing information for use in research and in decision making.

One of the objectives in job evaluation deals with the identification of the worth of dissimilar jobs. It is harder to meet this objective when an organization has a number of different pay plans, for example, different pay plans for blue- and white-collar workers. Jeanneret (1980) has dealt with this problem in his review of how the Position Analysis Questionnaire (PAQ) may be used to develop a single statistical equation, based on forty-five job dimensions, for each job within an organization. One of his illustrations deals with the use of the PAQ to establish the fairness of three different pay systems, including hourly nonexempt, salaried nonexempt, and salaried exempt positions. (The exempt-nonexempt distinction deals with overtime pay and other provisions under the Fair Labor Standards Act.) For example, twenty-six salaried exempt jobs were analyzed and the PAQ points were compared with the rank orderings established by the organization's evaluation system. By analyzing the PAQ results, Jeanneret was able to indicate why, for example, the controller position was accorded more points than the maintenance superintendent's position. The controller position, he found, involved a higher degree of decision making, more communication and public contact, less job structure, and more overall general responsibilities (Jeanneret, 1980).

Pay equity concerns have also generated a great deal of research in the Federal Republic of Germany, where Bellace (1980) has observed that the issue of undervaluation of women's work is more hotly debated than in nine of the other West European countries she studied. West Germany, in its 1949 Constitution, guaranteed equal treatment to its citizens regardless of sex. In 1955, the Federal Constitution Court interpreted the Constitution as requiring equal pay for work of equal value and declared that this "principle of equality" applied in wage contracts drawn up by employers and trade unions (Bellace, 1980; Helberger, 1980). A European community policy on the matter was established (Bellace, 1980) and Article 119 of the Treaty of Rome guaranteed equal pay for work of equal value. Since many questions arose in West Germany about the implementation of this agreement, the German Federal Diet, in 1966, requested that reports on its implementation in West Germany be submitted to them every two years (German Federal Diet, Note 10). In October 1973 West Germany's Federal Ministry for Labour and Social Order commissioned a large-scale job analysis study to deal with "what work is considered to be heavy or light in today's technological working environment, paying particular attention to work performed by men and women in the lower-wage brackets" (German Federal Diet, Note 10, p. 5). Rohmert and Rutenfranz (1975) were selected to develop scientific criteria to judge work activities as light or heavy and easy or difficult. As a result, they developed a multipurpose job analysis procedure reflecting a human factor, that is, an ergonomic and physiological viewpoint which resulted in a questionnaire which initially consisted of 390 items. This job analysis instrument is called the AET (*A*rbeitswissenschaftliches *E*rhebungsverfahren zur *T*ätigkeitsanalyse), which in its final form (Rohmert and Landau, 1979) is a questionnaire consisting of 216 items to deal with economic and social aspects of work situations which are important in the evaluation and remuneration of work performed predominantly by women (Landau and Rohmert, 1981; Landau, Note 9). The AET's item format and its rating scales, covering physical and nonphysical job requirements and work activities, were derived from the Position Analysis Questionnaire developed by McCormick and his co-workers (McCormick, Jeanneret and Mecham, 1969). The AET, however, was designed to focus on the stress and strain associated with the job requirements of heavy and light work. The final form of the AET included the following types and number of items (Landau and Rohmert, 1981): object of work (33); equip-

ment (36); working environment (50); principles of remuneration (24); analysis of tasks (31); reception of information (17); decisions demands (8); and sensory and postural activity (17).

The AET was used to study the work activities performed by 616 workers employed in ten different types of work settings including industry, trade and public service (Rohmert, Luczak and Kugler, 1979; Helberger, 1980). Fifty-eight percent of the sample consisted of men and the remaining 42 percent of women. A total of 42 percent of the workers were from the steel industry and white-collar workers were represented by 196 workers (32 percent) employed by government agencies, banks and insurance companies.

This study is useful to comparable worth analyses because it goes beyond job titles to identify the job demands and the working conditions faced by men and women employees. Data were not summarized by occupations, but instead show how different the job demands and work conditions are for men and women, which is a necessary first step in recognizing factors associated with occupational segregation on the basis of sex.

Here are some of the highlights of the report on the work activities of 616 West German employees (Rohmert, Luczak, and Kugler, 1979; Helberger, 1980), based on AET data. Men spent 47 percent of their work time engaged in heavy dynamic work, while women workers spent 60 percent of their time performing active light work occurring in short cycles and straining muscles on one side of the body. Men were much more likely to spend time in analyzing information (22 percent vs. 4 percent, respectively), whereas women spent a larger proportion of their time engaging in repetitive work (39 percent vs. 10 percent, respectively). Men working conditions were quite different. The men reported working under extremely high noise level conditions more frequently than did the women (24 percent vs. 15 percent, respectively), and the men were more likely than the women to spend over two-thirds of their work time in dirty or wet work environments (42 percent vs. 8 percent, respectively). And finally, German working men were much more likely than women to have responsibility for costly material asets valued at more than 300,000 DM (35 percent vs. 9 percent, respectively).

Rohmert (German Federal Diet, Note 10) has made proposals for using these data to develop a job evaluation procedure, but these steps have not yet been carried out. Remick (1978) has grouped the AET results into more than a dozen categories and offers suggestions for establishing job worth points for work performed predominantly by men or by women. For example, on the matter of light vs. heavy work she notes: "A bias-free system might give points for total weight lifted during a day or for total caloric output in lifting objects. Male jobs are also characterized as involving full body movement; however, female jobs often tend to involve repeated and confined use of only a few muscles. Evaluation systems should be altered to give value to both kinds of muscle use" (Remick, 1978, p. 86).

Working Conditions. Remick (1978) has also commented on job evaluation considerations of working conditions for men and women. Men in the United States, just as in West Germany, are more likely than working women to be exposed to physical dangers or to unhealthy working conditions (Cohen, 1971). Remick has noted that job evaluation systems which cover working conditions have generally weighted cold, wet, noisy and dirty conditions under which men are most likely to work. Remick (1978, p. 88) comments on other negative conditions found in jobs held by females, but not generally covered in job evaluation systems: "Factors not considered but found in many female jobs include confinement to small spaces, restricted body movement, use of magnifying equipment (as in assembly of microcircuitry), and noise from machines such as typewriters, telephones, key punches and vacuum cleaners.

Noise should be measured for both average and peaks, and the other factors not usually considered should be added to evaluation systems."

American researchers are beginning to identify working conditions and job demands which have been found by European researchers to be sources of stress (see Cooper and Marshall, 1980). Health complaints and job stress may well be considered in future job evaluations of working conditions. A recent study of video display terminal (VDT) operators evaluated the relationship between job demands and health complaints and stress in video display operations (Cohen, Smith and Stammerjohn, 1981; Smith, Cohen, Stammerjohn and Happ, 1981). VDT operators engage in machine-paced work in which their movements are constrained. The approximately 250 clerical VDT operators in the study included data entry clerks, classified advertising clerks, and circulation clerks, employed in five work places including four newspapers and one insurance company. A specially prepared questionnaire included information about job demands, job stressors, job stress level and working conditions for VDT operators, including clerical and professional workers and a clerical control group with more than 150 respondents.

The results indicate the need for considering human factors when studying the impact that jobs have on workers. The results showed that clerical VDT operators reported higher levels of stress and health complaints than did professionals who used VDTs and control clerical workers who were using regular typewriters. The health complaints of the clerical VDTs included visual, musculoskeletal and emotional health complaints. The key job stressors perceived by the clerical VDT operators related to a number of factors including the workload, lack of control over job activities and boredom.

These illustrations of perceived inadequacies in identifying critical job demands and negative working conditions as they exist in jobs held predominantly by women point to the need for gathering better job information and reevaluating procedures for establishing job worth points. This is particularly critical for jobs which are primarily carried out by members of one sex and which are evaluated using different job evaluation systems.

EMERGING RESEARCH ISSUES

The female-male earnings ratio varies according to background factors in education, race, age and continuity in employment. Employment setting (public vs. private), occupational segregation by sex, and historical antecedents are also associated with the relatively low compensation received by women. The use of job evaluation results and prevailing rates of pay in compensation practices will receive increasing attention in lawsuits dealing with equal pay for jobs of comparable worth. However, pay-setting procedures are not the only contributors to the earnings gap. Other personnel practices, for example, the failure to evaluate women's educational qualifications and skills developed in unpaid activities may contribute to the underevaluation of women's job worth, particularly for those women who have interrupted careers.

Interdisciplinary Research

Interdisciplinary research is needed to understand factors contributing to the earnings gap. Investigations of historians, economists, sociologists (e.g., Peterson-Hardt, Note 11) as well as psychologists are needed to unravel the various contributions to the earnings gap. An important question is: Why are the educational qualifications of women undervalued in

the workplace? How does occupational segregation on the basis of sex contribute to the female-male earnings ratio?

Use of New Psychometric Tools

New psychometric tools such as multidimensional scaling (MDS) procedures (for MDS history and applications, see Carroll and Wish, 1974; Wish and Carroll, 1974) might be used in studying the cognitive processes involved in making judgments of the similarities between jobs and establishing their relative worth. The research of Coxon and Jones (1978, Chapter 4; 1979, Chapter 6) on occupational evaluation and the subjective aspects of occupational structure involves the use of multidimensional scaling to study how subgroups of individuals use differing bases for evaluating occupations. Coxon and Jones find MDS to be a more powerful tool for gaining insight into the structure of occupational perceptions than other multivariate techniques such as factor analysis. They find it especially useful to supplement their scaling analyses with the subjects' verbalizations. The verbalizations are used as aids in interpreting the emerging dimensions. A key advantage of MDS is that the dimensional structure is solely a function of the perceptions of the subjects (as expressed in the subjects' judgments of similarity) and not of the speculations of social scientists (reflected, for example, in the choice of rating scales). Basic research on the valuing of occupations might contribute to a better understanding of sources of bias in job evaluation.

New Applications of Existing Job Analysis Methods

Another step might involve turning to job analysis methods developed for other purposes to determine their value as job evaluation tools. For example, Fine's (1973) three functional scales, which assess the complexity of work functions involved in work with Data, People and Things, might be modified for use in job evaluation. Particular attention should be paid to critics of the People scale of the third edition of the Dictionary of Occupational Titles (DOT) (International Women's Year Commission Report, 1976), who suggested adding a separate Caring-Counseling level to overcome subtle biases in the establishment of skill-complexity codes for jobs predominantly held by women. The critics noted, for example, that in the 1965 edition of the DOT, skill-complexity level ratings for barbers were higher than those for nursery school teachers.

Further research needs to be conducted applying one job evaluation method such as the PAQ (see Jeanneret, 1980) to a variety of office, trades, labor, professional and managerial jobs, traditionally covered by different pay systems.

Procedures to Further Identify Critical Job Demands and Working Conditions

Further research on the effects of job familiarity on job evaluation results along the lines of Madden (1962, 1963) needs to be conducted. Madden, in studying the Air Force job evaluation system, conducted two studies in which he found an association between the level of job familiarity and job evaluation ratings. Madden (1962) found that raters who were relatively familiar with a job, gave the job higher ratings on adaptability, decision making, mental work, working conditions and managerial or supervisory factors. He (1963) reported an interaction effect between specialty and familiarity level, noting that this was a complex effect and not a simple matter of ego-involvement. He made practical recommendations for de-

aling with the familiarity effect, suggesting that at least one out of every six raters be thoroughly familiar with a specialty.

Another variable that needs to be studied is the role of gender and/or feminist outlook of the job analyst, job incumbent or rater at all stages of job evaluation, including the collection of critical job requirements and starting with the initial stage at which job information is collected.

Research on Perceived Fairness of Job Evaluation Systems

Another research issue is related to the perceived fairness of systems for establishing compensation rates. Equity, defined as compensation commensurate with employees' perceived contributions, is viewed as a contributor to the quality of work life (Ronan, 1981). One aspect deals with employee participation in pay-setting procedures. What roles do due process considerations, such a providing employees with information about job evaluation procedures, including job-worth scores for jobs and information about the use of prevailing rates of pay, have on workers' perceptions of fairness?

Research on the perceived equity of different job evaluation procedures should build on the research that Atchison and French (1967) conducted, in which they used three systems for setting pay and which involved study of the extent to which scientists and engineers perceived the systems as equitable.

Equity could also be analyzed in terms of how job evaluation procedures differ in terms of their qualitative or quantitative nature. Are more quantitative procedures, such as point systems, perceived as being more equitable by employees of predominantly female occupational groups than are the more qualitative procedures involved in the position classification and whole-job ranking methods? Nieva and Gutek's (1980) review of studies relating to sex effects on evaluation leads to the hypothesis that job evaluation procedures using ambiguous criteria are more susceptible to sex stereotyping and possible underevaluation.

CONCLUSIONS

Background factors are associated with the female-male earnings gap. The smallest pay differential between the earnings of men and women often appears among lower-paying jobs held predominantly by women, younger workers and public sector employees. The application of job evaluation methods and the results of reconciliation between job-worth points and prevailing rates of pay are also important contributors to the earnings gap.

Interdisciplinary research is needed to understand the role of background and historical contributors to the earnings gap. Use of new psychometric tools such as multidimensional scaling may provide insight into the valuing of occupations. Existing job analysis methods should be used to obtain comprehensive information on the worth of jobs held predominantly by members of one sex and occupations traditionally covered by different pay plans. The role of gender and job familiarity in the collection and evaluation of jobs is worthy of further study.

Another emerging research area deals with perceptions of pay equity, including due process considerations and the qualitative or quantitative nature of job evaluation.

The magnitude to which prevailing rates of pay are used in compensation procedures needs to be closely scrutinized. Research on job evaluation and documentation of pay-setting procedures is likely to increase because of the growing civil rights concerns about equal pay for comparable worth.

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NOTES

Based in part on a paper presented at the 1981 Convention of the American Psychological Association, Division 14, the Division of Industrial and Organizational Psychology, for the Symposium on "Equal Pay for Comparable Worth: A Growing Civil Rights Issue," Los Angeles, California, August 26, 1981. The opinions expressed are those of the author and are not necessarily official policy statements.

The author acknowledges information provided by Jane Walstedt, Ernest S. Primoff, and the staff of the U.S. Office of Personnel Management's Library. Clerical assistance was provided by Peggy Peterson and Georgiana Byrnes.

Reprints may be obtained from Lorraine D. Eyde, U.S. Office of Personnel Management, Office of Personnel Research and Development, 1900 E Street, N.W., Washington, D.C. 20415.

[1]*County of Washington et al.* v. *Alberta Gunther et al. BNA Daily Labor Report*, No. 109, D-1–D-12, June 8, 1981, p. D-6.

[2]*County of Washington et al.* v. *Alberta Gunther et al. BNA Daily Labor Report*, No. 109, D-1–D-12, June 8, 1981, p. D-6.

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people know that the good li[illegible] more than the chair," he said.

Judge says to pay woman equally

IGN 4/5/84

WASHINGTON (AP) — A federal judge says the government was wrong to use location of the job as a reason for paying a woman civil service employee less than men doing the same work elsewhere.

The Treasury Department was sued by Margaret Mary Grumbine, a regional counsel of the Customs Service assigned to Baltimore, Md., because she was classified as a GS-14 and the agency's eight other regional counsels, as well as her immediate predecessor, all male, were GS-15s.

A GS-14 has a starting salary of $42,722 a year, while a GS-15 begins at $50,252 per year.

In its defense, the government said each regional counsel's office is a separate "establishment" and did not have to pay Ms. Grumbine the same rate as the others serving in other "establishments" elsewhere in the United States.

In his ruling Tuesday, Judge Harold Greene said, "The court rejects the government's argument based on geographic location, and it holds that, at least for Pay Act purposes, the 'establishment' under the Act is the Civil Service in its entirety.

"It follows that, when a comparison is made between the pay of male employees and that of female employees, it must be made on the basis of the Civil Service as a whole, and a woman may not be paid less than a man merely because she works in a different location."

The government may still distinguish between and among its employees on the basis of their duties and responsibilities, with geography being taken into consideration, Greene said.

"However, if the duties and responsibilities of the position are substantially equal, the burden is appropriately placed on the government, in view of the existence of a single nation-wide Civil Service system, to explain why it should be permitted to pay a lower wage or salary to a female employee in a particular geographic location ... merely because she is employed at that location.

"What the government may not do — as it argues it has the authority to do — is to refuse to take the first step under the Equal Pay Act, that is, to compare the duties and responsibilities of similarly-situated employees of different genders to determine whether they warrant equal pay, merely because the employees happen to be assigned to different locations."

Royce C. Lamberth, chief of the U.S. Attorney's civil division which handled the case, said the government is studying the decision to decide whether to appeal.

Valuing Work
Complications—Contradictions—Compensation

by

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WHAT IS WORK?

One of many complications in valuing of work is to define work. One's work is another's play. For some, work is a way of "resting," or getting away from the problems and tensions of other involvements. Work may be rewarding, fulfilling, painful, dirty, pleasurable, hazardous, moral or immoral, challenging, boring—you could go on almost endlessly in describing the characteristics or qualities of work. Perspectives from which work is viewed are societal, cultural or even geographical; others are personal. Certainly in the setting of today's family, there are different views as to what is work—someone is alleged to have said not too long ago "Infant feeding is messy, but is not work." Would you rather be an ice cream taster or a wine taster? That's work to some!

Some of the first references to work are biblical. In Genesis 3:17,[1] The Lord God said to Adam "... cursed is the ground because of you, in toil you shall eat of it all the days of your life ..." Even earlier, Genesis 2:2 says, "on the seventh day God finished his work which he had done." And in Exodus 20:9, God commanded "Six days you shall labor and do all your work."

In Webster's *Third International Dictionary*,[2] work is references as: "An activity in which one exerts strength or faculties to do or perform;" "Sustained physical or mental effort valued as it overcomes obstacles and achieves an objective or result." (Golf is work for the author, as well as for others who are infinitely more skilled than he, under this definition.) The Webster's Dictionary further suggests that work is to be contrasted with play or rest. A somewhat more economic definition provided by Webster's is, work is "the labor, task, duty that affords one his accustomed means of livelihood—requiring sustained efforts or repeated operations—it may or may not be laborious, burdensome or an onerous expenditure of one's time and energy." Continuing with Webster's, John Dewey is quoted, "... any activity becomes work when it is directed by accomplishment of a definite material result, and it is labor only as the activities are onerous or undergone as mere means to secure a result."

Toil, as first references in Genesis, and as later described by T. S. Elliott, is "fatiquing, prolonged work (the labor of sifting, combining, constructing, expunging, correcting, testing); this frightful toil is as much critical as creative. Travail stresses the painfulness, difficulty

or struggle in work, as in grind or drudgery." One of the more recent articles on work is "Sharing the Dirty Work, What Equality Really Means," Michael Walzer in *Harper's*, Dec., 1982, in which the author suggests that the nation's dirty, painful work should be shared by all segments of society—not only by minorities, women or the disadvantaged.

FUNCTIONS OF WORK OR WORKER FUNCTIONS

One way of presenting work, as suggested by Webster's definitions, is to list the functions of work, or things people do in jobs, rather than to describe the many hundreds or hundreds of thousands of possible occupations.

The *Dictionary of Occupational Titles*, Fourth Edition, 1977,[4] provides a list of worker functions and also a rating for the tasks or functions performed in the thousands of occupations coded in the Dictionary. "Every job," says DOT, "requires a worker to function to some degree in relation to data, people and things." "A separate digit (as indicated below), expressed the worker's relationship to each of these three groups."

Data	*People*	*Things*
0 Synthesizing	0 Monitoring	0 Setting Up
1 Coordinating	1 Negotiating	1 Precision Working
2 Analyzing	2 Instructing	2 Operating/Controlling
3 Compiling	3 Supervising	3 Driving/Operating
4 Computing	4 Diverting	4 Manipulating
5 Copying	5 Persuading	5 Tending
6 Comparing	6 Speaking	6 Feeding/Offbearing
	7 Signalling	7 Handling
	7 Serving	
	8 Taking Instructions Helping	

"Worker functions involving more complex responsibility and judgment are assigned lower numbers in these three lists, while functions which are less complicated have higher numbers. For example, "synthesizing" and coordinating data re more complex tasks than "copying data;" "instructing" people involves a broader responsibility than "taking instructions—helping;" and operating is a more complicated task than "handling things." The worker functions code may relate to any occupational group, and "The worker functions code indicates the broadest level of responsibility or judgment required in relation to data, people or things. It is assumed that, if the job requires it, the worker can generally perform any higher numbered function listed in each of the three categories."

Without assigning any hierarchical order, some additional functions of work or worker functions might also include the following (recognizing some may be intended to be covered by the DOT functions):

Writing	Fighting	Critiquing
Thinking	Arguing	Viewing
Playing	Inspecting	Collecting
Acting	Driving	Cleaning
Caring	Growing	Greeting
Deciding	Counselling	Judging

Pulling	Examining	Pushing
Opening	Closing	Digging
Warning	Treating	Guarding
Listening	Testing	Diagnosing

Clearly, work, as indicated by these functions, includes a very broad span of human behvior and will be valued as uniquely and differently as it reflects the diversity of the needs and interests of people who perform it and the "employers" for whom it is performed.

CRITERIA, CONDITIONS, STANDARDS OR SYSTEMS FOR VALUING WORK WHAT IS ITS WORTH?

As will be noted in the preceding section, already we have entered the complicated realm of value judgments about work by referencing the hierarchical ranking of worker functions in the *U.S. Dictionary of Occupational Titles*. By examining the following DOT worker function codes for some recognizable jobs, one immediately becomes aware of some of the difficulties in making judgments about relative complexities, responsibilities or levels of judgment required in work.

Data	*People*	*Things*
0 Striptease Dancer		
		1 Tattoo Artist
3 Birth Attendant/Midwife		3 Drive-In Theater Atten.
		3 Parking Lot Attendant
4 Bartender	4 Striptease Dancer	4 Bartender
4 Baggage Porter		4 Child Care Attendant
4 Parking Lot Attendant		4 Animal Ride Attendant
5 Tattoo Artist		
6 Child Care Attendant	6 Dance Hall Hostess	
6 Dance Hall Hostess		
6 Animal Ride Attendant		
6 Drive-In Theater Attendant		
6 Housekeeper/Cleaner		
	7 Bartender	7 Birth Attendant/Midwife
	7 Birth Attendant/Midwife	7 Baggage Porter
	7 Baggage Porter	7 Dance Hall Hostess
	7 Child Care Attendant	7 Housekeeper/Cleaner
	7 Animal Ride Attendant	7 Striptease Dancer
	7 Drive-In Theater Attendant	
	7 Tattoo Artist	
	7 Parking Lot Attendant	
	8 Housekeeper/Cleaner	

Interestingly, the DOT assigns the Striptease Dancer the highest ranking with respect to Data (Synthesizing?), a middle-level ranking with respect to people, i.e., diverting, and a low rating, i.e., handling, with respect to things. (The author would probably have asigned at least a "4," i.e., manipulating.) The Parking Lot Attendant, Baggage Porter, Child Care Attendant, Bartender, Midwife, Tattoo Artist, Drive-In Theater Attendant, and Animal Ride

Attendant, are ranked "lower" and the same in relation to People, i.e., serving, but several score higher with respect to "things," i.e., manipulating or operating/controlling.

Obviously, in referencing the DOT worker functions, we are having fun, playing around (not working), and we are not really being entirely fair to the DOT intent for use. The DOT rankings are for one comparative purpose—one aspect or concept of relative job value or worth. One must speak to a much broader concept to do justice to all of the complications and contradictions which are involved in valuing work. (Otherwise, why would a Pawnbroker receive a 157 by the DOT, a Nuclear Power Plant Mechanic only a 261, and a Morgue Attendant a dismal 667?)

Once again, we must resort to Webster's to obtain a perspective as to what is meant by valuing and worth. Value is said in Webster's to be "... the amount of a commodity, service or medium of exchange that is the equivalent of something else—relative worth, utility or importance, degree of excellence; status in a scale of preferences." "Value may suggest *an evaluation from an individual or specific point of view in an individual or specific situation; worth, more lasting, deeper, intrinsic, and enduring qualities.*" (Emphasis added.)

Worth, again according to Webster's, is "*a specified value* of something measured or judged by its *qualities*, or by the *esteem* with which it is regarded—*having monetary or material value*—exhibiting or marked by desirable or useful qualities." Freud's[5] view of the worth of work was, "... as a path to happiness work is not highly prized by men. They do not strive after it as they do other possibilities of satisfaction." On the other hand, another man's view of worth, G. I. Dickinson's, was that "The ultimate test of true worth is pleasure." Work, then, that gives pleasure is worth more than that which is painful, drudgery or toil? It depends.

What, then, can we do to extricate ourselves from this dilemma—to work out of this problem of value and worth—to have the products of this labor bear fruit—to assure that we do not toil in vain—and to help others to understand better the travail of valuing work? Let's take a look at some of the criteria, standards and conditions against which we value the worth of work. These might include the following:

—market competition (skills, abilities, knowledge, techniques);
—length of preparation required;
—length of performance, seniority;
—excellence of performance, merit;
—productivity; quality, and quantity standards;
—hazards, endurance, fatigue, exposure, mental and physical effort required;
—pleasure, pain, aesthetic, sensory, emotional or intellectual appreciation or enjoyment;
—cultural orientations; locality, geographical, and even national;
—personal needs, survival, situational, self-fulfillment;
—scarcity, timeliness requirements;
—traditional or historical approaches;
—union or organizational impacts—controls—pressures;
—ability to pay, expectations for profit;
—status, recognition, respect, morality; and
—industry or business practices.

This author, in his article on "Criteria for Selecting a Wage System," Public Personnel Management (September-October, 1976),[5] suggests that the primary criterion for a compensation system for valuing work is "that set of compensation policies, structures, and practices

which is followed in remunerating or rewarding employees for their work in behalf of the goals or mission of the organization or enterprise in which they are employed. The extent to which the system contributes to the overall effectiveness of the enterprise—the degree to which the wage system fits the nature and purpose of the organization, and how well it responds to the needs of the work environment it is designed to serve." The author then proceeds to discuss the needs of employers, employees, the public, and others to be served, and provides a model of a wage system meeting these needs.

Considering, then, the definitions of work, worth, and value, it is clear that any *realistic* valuing of work may be from one or more perspectives, but if substantially different, the diverse points of view must then be reconciled in terms of a single, primary criterion or consideration—the purpose for the performance of the work to be performed. The needs and concerns of the organization, employees, the public, unions, and other interested groups—must all be taken into account, but in the final analysis, the *reason* for the work serves as the base on which to construct a standard of value. If the individual's values or needs, or those who represent the worker, are not in consonance with the purpose of the work, the mission of the organization, and the public interest, there must be an accommodation if the organization is to survive and achieve its mission, and if the societal or proprietary objectives of the public or client to be served are to be observed.

CONFLICTS AND CONTRADICTIONS

What are the conflicts and contradictions that one confronts in valuating work? We are speaking of those conditions or criteria which are not necessarily in agreement with the purposes for which the work is performed—or which may be in conflict or contradiction with each other.

Certainly not in any prejorative sense, consider the following:

—collective bargaining—union pressures—employer associations;
—labor market dysfunctions—economic conditions;
—educational biases;
—racial, religious, ethnic, national, and other biases;
—special interest group leverages—ethical, moral;
—professional associations—societies, special objectives and interests;
—contemporary topical concerns—fads, publicity, reactions;
—legislative and political pressures;
—profit and loss, balance sheet considerations; and
—taxpayer/public concerns—fiscal, competitive evaluations.

There has not been, is not now, and probably will not be in the foreseeable future—in a democratic, free, pluralistic society—any single, intrinsic, all-inclusive standard for valuing work, or for qualifying toil, pleasure, pain, complexity, hazard, or morality of work—except possibly from the perceptions of those doing the valuing. This does not, in any sense, mean that bias or discrimination contrary to law or national policy should be allowed to prevail or prejudge in placing values on work. As Virginia Klinger states in her article in the Classifier's Column (April-May, 1983), on The Debate Over Comparable Worth and Its Impact on Management, Labor, and the Courts, "Unequal compensation when jobs are comparable demands attention. Barriers, real and artificial, should not exist. Equality of wages is important to all workers."

In a free, democratic society, the interests of all members must be served, and the interests of each individual must be protected in valuing work. How can we attempt to do this?

COMPENSATING FOR WORK WITH CONSIDERATION OF COMPARABLE VALUES

First, we can adopt and adhere to a pay policy which provides for an intelligent balance between internal equity and alignment—and external, marketplace alignment and realism, for all jobs. The mission or purpose of the organization is best served with a compensation system, including benefits, which values work so as to enable the recruitment, retention, and motivation of a well-qualified and productive workforce.

Secondly, we must use carefully thought out evaluation criteria or factors—free from sex, ethnic, racial, or other bias. The key here is for the factors to be free *from bias*, they must *include* all important aspects of value of the work to be valued—not simply lifting X number of pounds of weight, but also, for example, the need for resistance to boredom and fatigue, and for manual dexterity.

Lastly, we must be certain that those whose work is to be valued have a say in the design of the value system to be used, i.e., employees, unions, and the accountable managers and executives.

There is an axiom which states that "Whatever exists can be measured." The author would add, simply, in applying this to the valuing of work, be certain that the measure or value assigned is rational and equitable, and perceived as such by those whose work is to be valued.

NOTE:

The author deliberately has not set forth an extensive discussion of evaluation factors (i.e., skill, responsibility, effort, and working conditions), and other criteria traditonally used in job evaluation and pay fixing—these are extensively discussed in current literature on the subject of comparable worth (see particularly the Joint Hearings on Pay Equity: Equal Pay for Work of Comparable Value, before the Subcommittees on Human Resources, Civil Service Compensation, and Employee Benefits of the Committee on Post Office and Civil Service of the U.S. House of Representatives, Ninety-Seventh Congress, Second Session).

Other highly useful publications on this subject include "Job Evaluation and Wage Administration in the Public Sector," edited by Harold Suskin, and published by the International Personnel Management Association, and "Elements of Sound Base Pay Administration," published by the American Society for Personnel Administration and the American Compensation Association.

NOTES

[1]*The Holy Bible,* Revised Standard Version, The World Publishing Company, Cleveland, Ohio.

[2]Webster's *Third International Dictionary.*

[3]*Michael Walzer, "Sharing the Dirty Work, What Equality Really Means," Harper's,* December, 1982.

[4]*Dictionary of Occupational Titles, Fourth Edition,* 1977, U.S. Department of Labor, Employment and Training Administration, U.S. Government Printing Office.

[5]Freud, S. (1962), "Civilization and Its Discontents," J. Strachery, translation, New York: Norton.

[6]Robert R. Fredlund, "Criteria for Selecting a Wage System," Public Personnel Management, September-October, 1976, International Personnel Management Association.

[7]Virginia A. Klinger, "The Debate Over Comparable Worth and Its Impact on Management, Labor, and the Courts," *Classifiers Column,* April/May, 1983.

Daily News - Miner
4/13/84

Comparable worth: an idea that won't work

James Kilpatrick

Views expressed here do not necessarily represent those of the Daily News-Miner

WASHINGTON—Most drivers of delivery trucks are men. Most workers in laundries are women. The first question before the house is: Are their jobs substantially equivalent? The second question is: If so, should they be paid at the same rate?

On the resolution of those questions an estimated $320 billion a year in wages and salaries could well depend. What we are discussing is the suddenly hot topic of equal pay for jobs of putatively comparable worth.

That issue is light-years removed from the familiar issue of equal pay for the same job. With certain exceptions for small employers, federal law requires that men and women, whites and blacks, old and young must be treated identically in the workplace. If a male is hired to drive a delivery truck at $1,574 a month, a woman driver must be paid the same salary. This has become elementary.

But over the past couple of years an entirely different concept has taken root. Out in the state of Washington the concept has flowered into a lawsuit as awesome as Jack's famous beanstalk. The story doubtless goes back for eons, to the time when cavemen killed the tigers and cavewomen cooked the tigers. Over the centuries certain jobs became well defined as "women's jobs" and other jobs as "men's jobs." It was that simple.

The more immediate story goes back only to 1971, when the state of Washington enacted a law prohibiting sexual discrimination in employment. The state government itself promptly took action to comply with the statute. The then-governor, now senator, Daniel Evans issued a directive: "If the state's salary schedules reflect a bias in wages paid to women compared to those of men, then we must move to reverse this inequity."

This directive led to a 1974 study by Norman Willis & Associates. The study focused not on individual jobs, but on "job classes." The consultants began by examining 59 job classifications typically dominated by males and 62 that were typically female. They developed a hypothetical point system based on four criteria: knowledge and skills, mental demands, accountability and working conditions. In the case of the truck driver and the laundry worker, it turned out that each scored about 100 points.

From this subjective and conjectural analysis, the Willis study concluded that "the tendency is for women's classes to be paid less than men's classes, for comparable job worth." The disparity resulted in the truck driver's earning $1,574 a month, the laundry worker $1,114.

For one reason or another—parsimony and procrastination both played a part—the Washington state government did nothing about the Willis findings. Their patience exhausted, unions representing state employees filed a class action in July 1982. Last December U.S. District Judge Jack Tanner, a Carter appointee in 1978, sweepingly upheld the Willis postulation and ordered the state to get started at once on equalizing pay for about 45,000 employees in 284 job classifications.

The idea sounds plausible. The male truck driver and the female laundry worker are both high school graduates; both jobs carry about the same mental demands and imply about the same accountability; the hazards and discomforts of a delivery route may reasonably be equated with those of an industrial laundry. Therefore, is it not unjust to pay the women at an annual rate of $13,36[illegible] the man at an annual rate of $18,888?

If that simplistic summary were a that mattered, Tanner's injunctio could not easily be challenged. This i the problem: The apparent inequitie could not be thus resolved witho wholesale abandonment of the princ ples of a free marketplace. Decision that historically have been made b the interplay of supply and demanc of productivity in terms of output, c contributions toward profitability– these decisions would now be contro. led by committees on comparabl worth.

The idea is superficially plausible It is fundamentally implausible. I could not work in either public or pri vate employment unless both labo and management were to abdicat their functions. That Orwellian da may come. It is not here yet.

Comparable Worth: An Overview

by

Merrill J. Collett

Consulting Associate
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Personnel professionals should give thanks that because of "comparable worth" the process of evaluating positions and determining their monetary value has been raised from the level of technicians, arguing over "system" approaches, to the level of executives and legislative bodies, deciding policy issues. This is because they have been forced by determined women to consider more than traditional technical factors in wage determination as they have been told that traditional factors do not truly represent a non-discriminatory basis for evaluating the work of employees in cross-occupational comparisons.

Personnel professionals should give thanks because for too long many have been on the outer circle of management, looking in at inner councils and wondering why they are not a part of the "management team." Now the opportunity is here. Personnel professionals will need basic technical competence, flexibility and breadth of vision to provide operationally useful answers to the questions being raised by top managers and legislative policymakers faced by a new social issue.

WHAT GOES ON HERE?

This issue is overwhelmingly political and volatile. It stems from nationwide demands by increasingly active professional women in government, supported by community-based women's organizations and by government unions. The unions not only are reacting to their women members but see an opportunity to mine an untapped lode of new memberships from among women who work in predominantly female occupations. ". . . 80 percent of all women work in 25 occupations out of the 420 total listed by the U.S. Department of Labor: secretaries are 99.1 percent female; registered nurses are 84.5 percent female; elementary school teachers are 84.5 percent female; librarians are 82 percent female; cleaning and household service workers are 98.3 percent female; and clerks are 86.3 percent female.[1]" Regarding clerks, due to the growth of the service industry, it is the largest occupational job sector and is considered to be the fastest growing. As Karen Nussbaum, Executive Director, 9 to 5, National Association of Working Women, and President, District 925, Service Employees International Union put it, "Today the most typical worker is no longer a man in a hard hat but a woman at a typewriter. The notion of pay equity is painfully significant

for office workers. We are people who have been passed by because of the narrow interpretation of equal pay laws. If equal pay is based on comparing men and women in the same jobs, then nearly all office workers are out of luck—there are just not many men around to compare ourselves to."[2]

This pressure upward for elimination of what are identified as pay inequities due to sex becomes especially significant in view of the number of women entering the labor force and the changes in marital status and education of the woman worker. Today there are more than twice the level of women in the labor force than there were in 1960 (then 23 million women) and ". . . the labor force participation rate has risen to 53 percent . . . In 1970, only 28 percent of working women ages 25 to 35 . . . had completed at least one year of college. By 1980, that figure had grown to 46 percent . . . By March of this year, 51 percent of all wives were working or looking for work. This compares to 41 percent in 1970 and 31 percent in 1960 . . . the number of women maintaining families on their own—with no spouse present—has more than doubled over the past two decades (from 4.5 million in 1960 to 9.7 million). Today one of every six of the 61.4 million families in the nation is maintained by women. In fact, of every eight women in the labor force, one is a woman who maintains her own family."[3]

Women have noted, however, that the basic ratio of their earnings to those of men has not changed much, and that disparity is wide. In 1939, median earnings for women who worked year round were 58 percent of the median earnings for men; in 1981 they had inched up to 59 percent. ". . . at every level of educational achievement, women's median earnings continued to lag far behind men's. The $15,325 women college graduates earned was only 63 percent of the amount earned by male graduates. On average, therefore, whether college graduates or high school dropouts, women earned about sixty cents for every dollar their male counterparts were paid."[4] Though one might give as an explanation that industries with the highest percentage of female employees tend to have low average hourly earnings, another explanation is that *because* women provide the necessary labor in these industries, they continue to have the lowest pay.

It is not strange that women have joined unions at a faster rate than men. "In the last ten years, six out of every ten new union members have been women."[5]

Being profoundly disturbed by what they have concluded to be "discrimination based on job segregation and undervaluation of their skills,"[6] they have taken the routes of activism: (1) the union route of bargaining and either striking or threatening strikes, (2) the political route of pressure on elected officials, and (3) the legal route of court action.

Women's groups and unions are now vigorously pressing for "equal pay for work of comparable value" as being necessary to eliminate the vestiges of sex discrimination in pay. At this writing, some eighty-five state and local governments are said to be studying or implementing "comparable worth" pay adjustments.

HOW DID WE REACH THIS POINT?

"Classifying" positions so that the same title and the same range of pay could be applied to positions having similar duties and responsibilities and similar requirements as to experience, education, and skills, knowledge and abilities was born in the United States with the passage of the Classification Act of 1923. This act established the principle of "equal pay

for "qual work" and set in motion the machinery for the administration of a classification system for the Executive Branch of the Federal Government. A year later, at the urging of the American Federation of Labor printing trades, Congress passed the Kiess Act. This act (1) gave authority to the Public Printer of the United States to pay wages, salaries, and compensation which was in the interest of the government and fair and just to employees, (2) provided that more than ten members of a single trade or craft could select a committee to confer once each year with the Public Printer, and (3) required that the wage package offered the craft by the Public Printer and accepted by the craft would go into effect after approval by the Joint Committee on Printing (a Congressional Committee overseeing the Government Printing Office).

It is significant that in this same organization, the Government Printing Office, women employees only recently won pay adjustments through a court decision affirming their contention that differences in pay between certain jobs performed by men in the early years of printing, only because of the physical requirements involved, no longer were warranted. Though the titles were still different, the differences in physical requirements had been erased by technological changes. The court's decision was based on "equal pay for equal work," under the Equal Pay Act of 1963. But clearly at issue was continuation of different pay based upon a segregation of work between men and women under a "traditional" and invalid *assumption* of work difference.

Working generations of classification specialists from 1923 to 1983 have approached their craft by preoccupation with techniques, arguing over the best "system," and even the best ways to write and present written specifications which indicated the results of position evaluations and identified class contents.

In general, "system" differences have been of two general kinds: quantitative and non-quantitative. Specialists ("technicians" to others than those in this field) have argued the pros and cons of non-quantitative, or "whole job," evaluation and quantitative, or "factor," evaluation. The non-quantitative school favors "ranking" or "classifying" positions. The quantitative school favors the "point system" or the "factor comparison" system.

All too frequently, preoccupation with relative advantages of different "systems" has overshadowed the need of sound basic judgments on management requirements, the accountability to which employees are held in fact, and the realism of claimed qualification requirements. Too many initial "point" totals have been changed to reflect the analyst's awareness that they did not reflect the total job for me to put great weight in the "scientific objectivity" of the "point" system. And too many demands have been made for increased educational requirements, frequently unjustified by the specifics of the work, as pegs on which to hang later salary increases or "professional" designations, for me to be other than sympathetic when minority groups later attack them as discriminatory.

With regard to methods of presenting evaluation results by preoccupation with code words and such ridiculous requirements as twelve-page position evaluations, classifiers may have established themselves as "masters of the mysteries," but they have not thereby endeared themselves to managers. By unthinking or careless use of factors for which they alone have the interpretive key, they not only have dug themselves into a relationship hole, they have laid themselves open to questions of discrimination raised by those who read from a different personal background. It's the old management adage of "where you stand depends upon where you sit," the stance of classifiers being predictably different from that of those affected.

By the "splendid isolation" in which personnel professionals have made their decisions regarding basic classification factors and their application in specific occupational evaluations they have brought much of the current problem on themselves.

WHAT TO DO?

Nothing yet has transpired to date in the controversy over "equal pay for work of comparable value" for me to be persuaded that the personnel professional should run to a lawyer for "protection" against the possibility of future litigation. The courts have been eminently pragmatic in deciding cases brought before them. Uniformly they have examined *practices*, how they were determined and their relationship to the total operational environment. The key phrase is clearly *de facto discrimination*. Personnel managers who are knowledgeable of the social philosophy and management practices of their jurisdiction and agency are quite capable of interpreting whether it exists and of making their recommendations accordingly.

The personnel professional should not view the issue of "equal pay for work of comparable value" as a *legally* accepted principle. He or she should not act under the belief that it forces upon personnel managers or classification specialists a new technique or methodology of job evaluation or wage determination. Finally, the personnel professional *does* need to approach the issue with a thorough knowledge of basic job evaluation principles, a clear understanding of the social concepts of the agency and the community of which it is a part, for "equal pay for work of comparable value" is clearly a *social concept and a policy issue.*

That I not be misunderstood, I shall discuss each of these three points briefly.

First as to the Courts

"Comparable worth" should not be viewed as a legal nightmare posing agency-wide or jurisdiction-wide threats to a soundly developed job evaluation and pay plan as a whole. The courts have weighed cases for evidence of factual discrimination, not the techniques by which decisions have been reached in good faith. In other words, they have not validated "comparability of worth" as a legal principle.

In only two cases has a Supreme Court decision dealt with the issue.

In *Lemons* v. *City and County of Denver*, the Court denied certiorari to an appeal from the Tenth Circuit decision. The Tenth Circuit pointed out that (1) plaintiffs (nurses) who claimed that their work had been traditionally undervalued in relation to non-female positions had not shown that they were deprived of equal pay for equal work and (2) their theory of wage discrimination went "far beyond" the existing statutory law. It also noted that wage rates cannot be set "in total disregard of conditions in the community."

Gunther v. *County of Washington* was indeed a landmark case, but it did not involve "comparable worth." Rather, it broadened the *basis* for bringing a claim of unequal pay for equal work previously restricted to claims of unequal pay for equal or substantially equal work under the provisions of the Equal Pay Act of 1963. Now they are possible under Title VII of the Civil Rights Act of 1964, which guaranteed protection against *discrimination* with respect to compensation, terms, conditions and privileges of employment. In its decision, the Supreme Court specifically noted that "Respondents' claim is not based on the controversial concept of 'comparable worth' under which plaintiffs might claim increased compensation on the basis of a comparison of the intrinsic worth or difficulty of their job with that of other jobs in the same organization or community."

As to Basic Methods

In *Gunther*, the Supreme Court did not require that employers undertake job evaluations, and in post-*Gunther* cases the *kind* of evaluation plan has not been a factor. Courts have, however, held defendants liable if they *did not follow their job evaluation plan, or if they did not have a job evaluation plan.*

Previously, I have noted the varieties of "systems" which serve as the bases of classification and pay plans. There is no reason to believe that making a basic "system" change will ensure greater "protection" from a future adverse court action. *The critical aspect of basic evaluation methodology is whether or not it is understandable by managers and employees and, further, whether it lends itself to participation by groups who "sit" with the classification authority as evaluation and qualification standards are established.* Despite the "mystique" which has surrounded some point systems, they are inflexible and arbitrary, and frequently their "keys" are not made known to managers and employees who are well versed in operating requirements and practices and knowledgeable as the knowledge, skills and abilities required for fully satisfactory performance at various skill and responsibility levels of the occupations involved. I need to note that for openness in approach to plan review or to new plan development and for understanding of details by "users" of the end product, the FES (Factor Evaluation System) of the federal government has produced positive responses from "user" groups, both managers and employees.

The basic methodology of position analysis began with the U.S. Classification Board and Ismar Baruch's "ultimate classification factors." These factors or later modifications of them are still the bases for position analysis. Whether results of this analysis are presented directly in narrative "specifications" or "standards" or are then subjected to quantification in an effort to substantiate objectivity, position analysis based upon an identified number of what Baruch termed "ultimate" factors is basic to either "equal pay for equal work" or "equal pay for work of comparable value." The critical issue is whether the factors to be employed and the definitions and weightings of those factors have been participated in by "users" and whether the requirements as to skills, knowledge and abilities have been worked out in conjunction with these "users," who should include persons sensitive to economic and occupational discrimination involving women.

As to Policy

This is, and will be, fought out within the bargaining process. Whether that process takes place at the management level through formally established bargaining procedures or at the legislative level through the interaction of competing pressures from interested and affected groups, the results will be based upon community mores and social values. Internal "pay equity" increases are now being granted to lower-paid classes of predominantly women officeholders, in addition to across-the-board increases, in a growing number of jurisdictions. "Equity pay adjustments" are now being made in labor contracts when job difficulties match even though wages in the competitive labor market differ for the classes compared. Legislation is now being passed which calls for the establishment of pay plans based upon recognition of the "factor of comparability of worth." These reflect policy conclusions in those jurisdictions where a pay gap exists between occupational groups predominantly filled by women workers and groups predominantly filled by males, gaps which cannot be adequately explained by differences in age, experience, or education—and that these represent discrimination.

Of course cost is a significant issue in these policy decisions. They have been weighed in each decision. However, whether or not these decisions, regardless of inner convictions concerning the need to correct a social inequity or of political pressure, have considered costs *beyond* initial implementation of these policy changes is problematical. Time will provide this answer. It will depend largely upon the reaction of craft and other male-dominated unions whose wages in the competitive labor market are higher than they receive in public agencies and whose considerable political pressure in many agencies will be focused on ratcheting their wages upward to achieve the other use of the term "comparability"—comparability with the private sector.

CONCLUSION

To date the drive in state and local governments for implementation of a policy of "equal pay for work of equal value" has taken four routes. These are: the courts, collective bargaining, changes in evaluation factors and legislation. Of these *the courts* have clearly reacted to factual evidence of discrimination as to the existence of unequal pay for equal work, but thus far the courts have failed to validate the broader concept as a legal principle. The drive has produced changes in *collective bargaining* contracts in several jurisdictions. It undoubtedly will produce more because the drive is intensive. *At the legislative level*, the concept has been reflected in pay legislation or in studies to review such legislation in a significant number of jurisdictions, and it will surely spread during the 1984 election year.

To the personnel professional, the personal course should be clear. No professional worthy of the name can be ignorant of the underlying reasons, the concept in detail and the implications. And no professional should lack the flexibility and social awareness to take the initiative in reviewing evaluation methodology used in his or her agency to the end that evaluation factors or their implementing definitions which maintain sexual discrimination are eliminated. As a professional resource to policymaking executives and legislative bodies, the professional needs to have a well-thought-out technical base and an ability to include a broadened base of participation in basic system development or review. The extent to which a professional's personal acceptance or rejection of the social concept of "equal pay for work of equal worth to the organization" should be consciously recognized. As in any other issue of public administration, he or she will need to balance personal commitment against legal or administrative policy and the environment in which the agency functions. Failure to do so may result in unexpected consequences. Some forty years ago a state personnel director announced a wage plan based entirely upon internal comparisons of classification factors and the placement of classes into pay levels based upon those comparisons. The resulting uproar, initiated by department heads whose budgets were a shambles therefrom, led to legislative elimination of a newly established state civil service. It was several years before continued public demand for the concept of civil service led to its reestablishment through an amendment to the state constitution.

NOTES

[1]From the "Foreword" prepared by the Subcommittee on Human Resources for the Joint Hearings on Pay Equity: Equal Pay for Work of Comparable Value, held before the Subcommittees on Human Resources, Civil Service, Compensation and Employee Benefits of the Committee on Post Office and

Civil Service, House of Representatives, September 16, 21, 30 and December 2, 1982. U.S. Government Printing Office. Washington: 1983 (VII).

[2]Ibid. p. 87.

[3]Statement of Janet Norwood, Commissioner, Bureau of Labor Statistics. Ibid. p. 51.

[4]Ibid. p. 53.

[5]Statement of Ellen Wernick, Center for Education and Research, Coalition of Labor Union Women. Ibid. p. 73.

[6]Idem.

Labor

Battle of the Sexes Over "Comparable Worth"

Women's-rights groups are winning the early skirmishes to get fatter salaries for traditionally female jobs.

The newest weapon against sex discrimination is triggering a nationwide dispute, with billions of dollars in back pay and raises for women riding on the outcome.

The basic question goes beyond the notion of equal pay for equal work. It is: Are American women systematically and illegally underpaid for work that is different from but is just as demanding as that done by men?

Women's-rights advocates, who charge that millions of women are victims of such bias, are winning the early rounds in a campaign seeking equal pay for what is called comparable work.

The dispute has been intensified by a recent court decision in Washington State that ordered higher wages and back pay for female state employes—a ruling that could cost that state's taxpayers hundreds of millions of dollars.

"The pay-equity question has been lurking for a decade. Now it has the potential to be the hot labor issue of the 1980s," says Roger Dahl, executive director of the National Public Employer Labor Relations Association.

Deep changes looming? At the heart of the struggle is a controversial technique called "comparable worth," in which every job is given a numerical rating of its value that then is used to set salaries. Wide adoption of this system could change the way in which wages are determined around the nation. Contends Linda Chavez, staff director of the U.S. Civil Rights Commission: "The principle that underlies comparable worth is a fundamentally radical one that would alter our existing marketplace economy."

Fueled by the fall campaign, the issue is becoming a major battleground—

- Leading Democratic presidential aspirants have been quick to embrace pay equity. But the Reagan administration may risk offending women by supporting Washington State in its appeal of the ruling.
- Nearly half of the 37 states charged by labor and women's groups with wage-rate bias have commissioned studies of the issue.
- The U.S. Equal Employment Opportunity Commission has pending 250 wage-discrimination complaints. How the commission decides these cases could have a big impact on private employers.
- Opposition to pay equity is building among employers and conservative activists, who argue that the value of jobs should be established by the marketplace.

The Equal Pay Act of 1963 required identical salaries for men and women doing the same work. It helped eliminate most blatant workplace pay discrimination, but an overall wage gap has persisted between the sexes.

In 1982, women on average earned 63 cents for each dollar paid to men—a ratio that has remained roughly constant since the 1950s.

Although more women are rising to higher corporate positions and are entering male-dominated professions such as medicine and law, most female workers still are concentrated in occupations such as secretary, saleselerk, teacher and nurse. New figures from the Department of Labor show that some of these traditional "women's jobs" have even become more female dominated over the last decade.

Feminists insist that many women—no matter what their job classification—deserve higher salaries on the basis of their training and skill.

To prove their point, women's groups and unions have persuaded many government agencies to employ job evaluators who try to make a scientific comparison of the background and effort needed for various jobs. "Employers evaluate jobs and set salary levels all the time," says Nancy Reder of the Washington, D.C.-based National Committee on Pay Equity. "All we're asking is that they do so in a sex-neutral manner."

One of the earliest studies of the equity-pay issue was commissioned in 1974 by Washington Governor Dan Evans, now a U.S. senator. A private firm, Norman D. Willis & Associates,

As Some Experts See the "Wage Gap"—

Studies by "job evaluators" in Washington State, Minnesota and Illinois found these disparities in monthly salaries in male-dominated and female-dominated state-government jobs ranked of roughly "comparable worth":

Predominantly Male Job		Comparable Predominantly Female Job	
Washington			
Carpenter	$1,654	Social-service worker	$ 961
Security officer	$1,114	Telephone operator	$ 808
Mechanic	$1,462	Medical-record analyst	$ 892
Highway engineer	$1,654	Registered nurse	$1,392
Illinois			
Accountant	$2,470	Nurse	$1,794
Electrician	$2,826	Secretary	$1,486
Highway worker	$1,816	Clerk-typist	$1,075
Minnesota			
Delivery driver	$1,382	Pharmacy assistant	$1,202
Auto-parts handler	$1,505	Dining-hall director	$1,202
Game warden	$1,808	Behavior analyst	$1,590

ESTIMATES—Associated Washington State Women's Commission on the Status of Women, Minnesota Commission on the Status of Women

rated as comparable many kinds of work in which men consistently received fatter paychecks than women. The firm attributed many of the differences "to traditional job relationships rather than to relative job worth."

After studying the Willis report and state wage scales, U.S. District Judge Jack Tanner ruled last December that Washington State had "historically engaged in employment discrimination on the basis of sex." Tanner ordered wage increases and four years' back pay for more than 15,000 workers, 90 percent of them women. The ruling will cost the state between 500 and 800 million dollars, depending in part on findings of an expert appointed by the judge to monitor the case.

Union leaders predict that this scenario will be repeated in state after state as discriminatory patterns are uncovered and challenged. What's more, says Diana Rock of the American Federation of State, County and Municipal Employes, "there's every reason to believe that the private sector is just as bad."

Studies bear fruit. Labor and women's groups are pushing cases in 37 states and within the federal equal-employment agency. Besides Washington, the states of Connecticut, Idaho, Illinois, Michigan, Minnesota and Wisconsin have completed studies of their civil-service systems. All of the studies have turned up at least some sex bias. Investigations are under way in Alaska, Florida, Iowa, Kentucky, Maine, Massachusetts, Montana, New Mexico, New York, Ohio and Oregon.

Legislators in California, Iowa, Minnesota and Washington have enacted laws requiring pay equity for comparable work in state jobs.

Labor leaders contend that the expense of raising women's pay to levels comparable to men's can be held down if states negotiate adjustments with workers and avoid lengthy court fights.

Minnesota, for instance, is spending a relatively modest 21.8 million dollars—about 1 percent of the state payroll—to correct sex bias in 8,500 jobs. "We have had support from the Legislature and the business community," reports Nina Rothchild, state commissioner of employe relations.

In other areas, however, opponents of comparable worth are waging a fierce fight against the idea. They contend that the wage gap between the sexes exists largely because women have ended up in jobs on which the free market has placed a lesser value. Women are said to take these jobs either voluntarily or because they have lacked the time or resources for sufficient training.

"It's unrealistic to think that employers have colluded to hold down wages in certain occupations. How could they do that?" asks economist June O'Neill of the Washington, D.C.-based Urban Institute.

Some critics contend that the supporters of comparable worth are mixing apples and oranges. "There is no objective way to define job worth—it's a very subjective process that overvalues paper credentials and undervalues some working conditions," says labor economist Judith Finn of Oak Ridge, Tenn., who is working with the conservative Eagle Forum to battle the comparable-worth campaign.

For example, Finn says, a typical numerical rating that equates a male truck-driver and a female laundry worker does not take into account the risk and mental anguish involved in trucking.

Some conservatives contend that success of the pay-equity movement eventually would mean a centrally planned U.S. economy in which government boards would make arbitrary decisions on the value of every job.

Raising salaries of secretaries, nurses and other "women's jobs," add some skeptics, will simply encourage women to remain in those positions and not seek careers that have historically brought higher paychecks.

Partisan politics may play a big part in the pay-equity fight in 1984. Leading Democratic presidential contenders—including Walter Mondale, John Glenn, Gary Hart and Alan Cranston—have declared themselves in favor of comparable worth, but President Reagan has reserved judgment. Reagan is being pressured by conservatives to join the opposition, but his political advisers—including daughter Maureen—say such a stand could alienate scores of women voters.

Criticism from Justice. William Bradford Reynolds, chief of the Justice Department's Civil Rights Division, stated recently that he has "absolutely no doubt" that Judge Tanner's decision was "wrong." Reynolds is expected to urge top Justice officials to support an appeal filed by Washington State.

On Capitol Hill, hearings are planned in coming weeks in both houses on proposals to institute a comparable-worth plan to set wages for federal employes.

At the EEOC, which handles mostly bias complaints against private firms, staff members are working on a study of the comparable-worth issue. Critics say the agency's indecision on the matter has allowed 250 complaints of wage discrimination by sex to pile up in recent years. If the commission takes action against private firms similar to that ordered by courts against public agencies, the resulting wage adjustments could total billions of dollars. □

By TED GEST

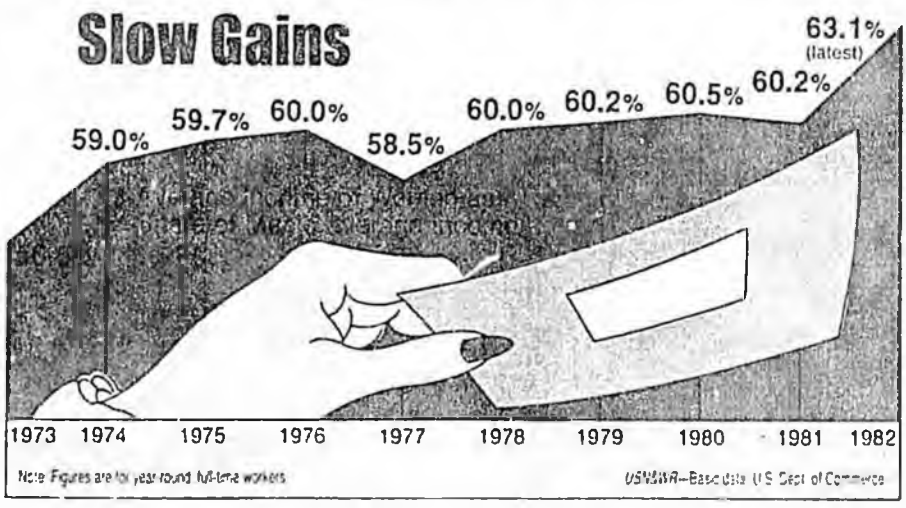
No End to the "Women's Ghettos"

Despite their entrance into many jobs formerly held exclusively by men, women complain that they still are concentrated in positions that consistently pay less than those held by men with comparable skills. Among such jobs, and the percentage held by women—

	1973	1983
Secretaries	99%	99%
Child-care workers	96%	97%
Registered nurses	98%	96%
Billing clerks	83%	88%
Waiters, waitresses	92%	88%
Librarians	83%	87%
Health technicians	72%	84%
Elementary-school teachers	81%	83%
Bank tellers	90%	81%
Retail salesclerks	69%	70%

USN&WR—Based on U.S. Dept. of Labor

Slow Gains



Note: Figures are for year-round full-time workers

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WHAT GOES ON HERE?

This issue is overwhelmingly political and volatile. It stems from nationwide demands by increasingly active professional women in government, supported by community-based women's organizations and by government unions. The unions not only are reacting to their women members but see an opportunity to mine an untapped lode of new memberships from among women who work in predominantly female occupations. ". . . 80 percent of all women work in 25 occupations out of the 420 total listed by the U.S. Department of Labor: secretaries are 99.1 percent female; registered nurses are 84.5 percent female; elementary school teachers are 84.5 percent female; librarians are 82 percent female; cleaning and household service workers are 98.3 percent female; and clerks are 86.3 percent female.[1]" Regarding clerks, due to the growth of the service industry, it is the largest occupational job sector and is considered to be the fastest growing. As Karen Nussbaum, Executive Director, 9 to 5, National Association of Working Women, and President, District 925, Service Employees International Union put it, "Today the most typical worker is no longer a man in a hard hat but a woman at a typewriter. The notion of pay equity is painfully significant

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This pressure upward for elimination of what are identified as pay inequities due to sex becomes especially significant in view of the number of women entering the labor force and the changes in marital status and education of the woman worker. Today there are more than twice the level of women in the labor force than there were in 1960 (then 23 million women) and ". . . the labor force participation rate has risen to 53 percent . . . In 1970, only 28 percent of working women ages 25 to 35 . . . had completed at least one year of college. By 1980, that figure had grown to 46 percent . . . By March of this year, 51 percent of all wives were working or looking for work. This compares to 41 percent in 1970 and 31 percent in 1960 . . . the number of women maintaining families on their own—with no spouse present—has more than doubled over the past two decades (from 4.5 million in 1960 to 9.7 million). Today one of every six of the 61.4 million families in the nation is maintained by women. In fact, of every eight women in the labor force, one is a woman who maintains her own family."[3]

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Women's groups and unions are now vigorously pressing for "equal pay for work of comparable value" as being necessary to eliminate the vestiges of sex discrimination in pay. At this writing, some eighty-five state and local governments are said to be studying or implementing "comparable worth" pay adjustments.

HOW DID WE REACH THIS POINT?

"Classifying" positions so that the same title and the same range of pay could be applied to positions having similar duties and responsibilities and similar requirements as to experience, education, and skills, knowledge and abilities was born in the United States with the passage of the Classification Act of 1923. This act established the principle of "equal pay

for equal work" and set in motion the machinery for the administration of a classification system for the Executive Branch of the Federal Governnment. A year later, at the urging of the American Federation of Labor printing trades, Congress passed the Kiess Act. This act (1) gave authority to the Public Printer of the United States to pay wages, salaries, and compensation which was in the interest of the government and fair and just to employees, (2) provided that more than ten members of a single trade or craft could select a committee to confer once each year with the Public Printer, and (3) required that the wage package offered the craft by the Public Printer and accepted by the craft would go into effect after approval by the Joint Committee on Printing (a Congressional Committee overseeing the Government Printing Office).

It is significant that in this same organization, the Government Printing Office, women employees only recently won pay adjustments through a court decision affirming their contention that differences in pay between certain jobs performed by men in the early years of printing, only because of the physical requirements involved, no longer were warranted. Though the titles were still different, the differences in physical requirements had been erased by technological changes. The court's decision was based on "equal pay for equal work," under the Equal Pay Act of 1963. But clearly at issue was continuation of different pay based upon a segregation of work between men and women under a "traditional" and invalid *assumption* of work difference.

Working generations of classification specialists from 1923 to 1983 have approached their craft by preoccupation with techniques, arguing over the best "system," and even the best ways to write and present written specifications which indicated the results of position evaluations and identified class contents.

In general, "system" differences have been of two general kinds: quantitative and non-quantitative. Specialists ("technicians" to others than those in this field) have argued the pros and cons of non-quantitative, or "whole job," evaluation and quantitative, or "factor," evaluation. The non-quantitative school favors "ranking" or "classifying" positions. The quantitative school favors the "point system" or the "factor comparison" system.

All too frequently, preoccupation with relative advantages of different "systems" has overshadowed the need of sound basic judgments on management requirements, the accountability to which employees are held in fact, and the realism of claimed qualification requirements. Too many initial "point" totals have been changed to reflect the analyst's awareness that they did not reflect the total job for me to put great weight in the "scientific objectivity" of the "point" system. And too many demands have been made for increased educational requirements, frequently unjustified by the specifics of the work, as pegs on which to hang later salary increases or "professional" designations, for me to be other than sympathetic when minority groups later attack them as discriminatory.

With regard to methods of presenting evaluation results by preoccupation with code words and such ridiculous requirements as twelve-page position evaluations, classifiers may have established themselves as "masters of the mysteries," but they have not thereby endeared themselves to managers. By unthinking or careless use of factors for which they alone have the interpretive key, they not only have dug themselves into a relationship hole, they have laid themselves open to questions of discrimination raised by those who read from a different personal background. It's the old management adage of "where you stand depends upon where you sit," the stance of classifiers being predictably different from that of those affected.

By the "splendid isolation" in which personnel professionals have made their decisions regarding basic classification factors and their application in specific occupational evaluations they have brought much of the current problem on themselves.

WHAT TO DO?

Nothing yet has transpired to date in the controversy over "equal pay for work of comparable value" for me to be persuaded that the personnel professional should run to a lawyer for "protection" against the possibility of future litigation. The courts have been eminently pragmatic in deciding cases brought before them. Uniformly they have examined *practices*, how they were determined and their relationship to the total operational environment. The key phrase is clearly *de facto discrimination*. Personnel managers who are knowledgeable of the social philosophy and management practices of their jurisdiction and agency are quite capable of interpreting whether it exists and of making their recommendations accordingly.

The personnel professional should not view the issue of "equal pay for work of comparable value" as a *legally* accepted principle. He or she should not act under the belief that it forces upon personnel managers or classification specialists a new technique or methodology of job evaluation or wage determination. Finally, the personnel professional *does* need to approach the issue with a thorough knowledge of basic job evaluation principles, a clear understanding of the social concepts of the agency and the community of which it is a part, for "equal pay for work of comparable value" is clearly a *social concept and a policy issue.*

That I not be misunderstood, I shall discuss each of these three points briefly.

First as to the Courts

"Comparable worth" should not be viewed as a legal nightmare posing agency-wide or jurisdiction-wide threats to a soundly developed job evaluation and pay plan as a whole. The courts have weighed cases for evidence of factual discrimination, not the techniques by which decisions have been reached in good faith. In other words, they have not validated "comparability of worth" as a legal principle.

In only two cases has a Supreme Court decision dealt with the issue.

In *Lemons* v. *City and County of Denver*, the Court denied certiorari to an appeal from the Tenth Circuit decision. The Tenth Circuit pointed out that (1) plaintiffs (nurses) who claimed that their work had been traditionally undervalued in relation to non-female positions had not shown that they were deprived of equal pay for equal work and (2) their theory of wage discrimination went "far beyond" the existing statutory law. It also noted that wage rates cannot be set "in total disregard of conditions in the community."

Gunther v. *County of Washington* was indeed a landmark case, but it did not involve "comparable worth." Rather, it broadened the *basis* for bringing a claim of unequal pay for equal work previously restricted to claims of unequal pay for equal or substantially equal work under the provisions of the Equal Pay Act of 1963. Now they are possible under Title VII of the Civil Rights Act of 1964, which guaranteed protection against *discrimination* with respect to compensation, terms, conditions and privileges of employment. In its decision, the Supreme Court specifically noted that "Respondents' claim is not based on the controversial concept of 'comparable worth' under which plaintiffs might claim increased compensation on the basis of a comparison of the intrinsic worth or difficulty of their job with that of other jobs in the same organization or community."

As to Basic Methods

In *Gunther*, the Supreme Court did not require that employers undertake job evaluations, and in post-*Gunther* cases the *kind* of evaluation plan has not been a factor. Courts have, however, held defendants liable if they *did not follow their job evaluation plan, or if they did not have a job evaluation plan.*

Previously, I have noted the varieties of "systems" which serve as the bases of classification and pay plans. There is no reason to believe that making a basic "system" change will ensure greater "protection" from a future adverse court action. *The critical aspect of basic evaluation methodology is whether or not it is understandable by managers and employees and, further, whether it lends itself to participation by groups who "sit" with the classification authority as evaluation and qualification standards are established.* Despite the "mystique" which has surrounded some point systems, they are inflexible and arbitrary, and frequently their "keys" are not made known tc managers and employees who are well versed in operating requirements and practices and knowledgeable as the knowledge, skills and abilities required for fully satisfactory performance at various skill and responsibility levels of the occupations involved. I need to note that for openness in approach to plan review or to new plan development and for understanding of details by "users" of the end product, the FES (Factor Evaluation System) of the federal government has produced positive responses from "user" groups, both managers and employees.

The basic methodology of position analysis began with the U.S. Classification Board and Ismar Baruch's "ultimate classification factors." These factors or later modifications of them are still the bases for position analysis. Whether results of this analysis are presented directly in narrative "specifications" or "standards" or are then subjected to quantification in an effort to substantiate objectivity, position analysis based upon an identified number of what Baruch termed "ultimate" factors is basic to *either* "equal pay for equal work" or "equal pay for work of comparable value." The critical issue is whether the factors to be employed and the definitions and weightings of those factors have been participated in by "users" and whether the requirements as to skills, knowledge and abilities have been worked out in conjunction with these "users," who should include persons sensitive to economic and occupational discrimination involving women.

As to Policy

This is, and will be, fought out within the bargaining process. Whether that process takes place at the management level through formally established bargaining procedures or at the legislative level through the interaction of competing pressures from interested and affected groups, the results will be based upon community mores and social values. Internal "pay equity" increases are now being granted to lower-paid classes of predominantly women officeholders, in addition to across-the-board increases, in a growing number of jurisdictions. "Equity pay adjustments" are now being made in labor contracts when job difficulties match even though wages in the competitive labor market differ for the classes compared. Legislation is now being passed which calls for the establishment of pay plans based upon recognition of the "factor of comparability of worth." These reflect policy conclusions in those jurisdictions where a pay gap exists between occupational groups predominantly filled by women workers and groups predominantly filled by males, gaps which cannot be adequately explained by differences in age, experience, or education—and that these represent discrimination.

Of course cost is a significant issue in these policy decisions. They have been weighed in each decision. However, whether or not these decisions, regardless of inner convictions concerning the need to correct a social inequity or of political pressure, have considered costs *beyond* initial implementation of these policy changes is problematical. Time will provide this answer. It will depend largely upon the reaction of craft and other male-dominated unions whose wages in the competitive labor market are higher than they receive in public agencies and whose considerable political pressure in many agencies will be focused on ratcheting their wages upward to achieve the other use of the term "comparability"—comparability with the private sector.

CONCLUSION

To date the drive in state and local governments for implementation of a policy of "equal pay for work of equal value" has taken four routes. These are: the courts, collective bargaining, changes in evaluation factors and legislation. Of these *the courts* have clearly reacted to factual evidence of discrimination as to the existence of unequal pay for equal work, but thus far the courts have failed to validate the broader concept as a legal principle. The drive has produced changes in *collective bargaining* contracts in several jurisdictions. It undoubtedly will produce more because the drive is intensive. *At the legislative level*, the concept has been reflected in pay legislation or in studies to review such legislation in a significant number of jurisdictions, and it will surely spread during the 1984 election year.

To the personnel professional, the personal course should be clear. No professional worthy of the name can be ignorant of the underlying reasons, the concept in detail and the implications. And no professional should lack the flexibility and social awareness to take the initiative in reviewing evaluation methodology used in his or her agency to the end that evaluation factors or their implementing definitions which maintain sexual discrimination are eliminated. As a professional resource to policymaking executives and legislative bodies, the professional needs to have a well-thought-out technical base and an ability to include a broadened base of participation in basic system development or review. The extent to which a professional's personal acceptance or rejection of the social concept of "equal pay for work of equal worth to the organization" should be consciously recognized. As in any other issue of public administration, he or she will need to balance personal commitment against legal or administrative policy and the environment in which the agency functions. Failure to do so may result in unexpected consequences. Some forty years ago a state personnel director announced a wage plan based entirely upon internal comparisons of classification factors and the placement of classes into pay levels based upon those comparisons. The resulting uproar, initiated by department heads whose budgets were a shambles therefrom, led to legislative elimination of a newly established state civil service. It was several years before continued public demand for the concept of civil service led to its reestablishment through an amendment to the state constitution.

NOTES

[1]From the "Foreword" prepared by the Subcommittee on Human Resources for the Joint Hearings on Pay Equity: Equal Pay for Work of Comparable Value, held before the Subcommittees on Human Resources, Civil Service, Compensation and Employee Benefits of the Committee on Post Office and

Civil Service, House of Representatives, September 16, 21, 30 and December 2, 1982. U.S. Government Printing Office. Washington: 1983 (VII).

[2]Ibid. p. 87.

[3]Statement of Janet Norwood, Commissioner, Bureau of Labor Statistics. Ibid. p. 51.

[4]Ibid. p. 53.

[5]Statement of Ellen Wernick, Center for Education and Research, Coalition of Labor Union Women. Ibid. p. 73.

[6]Idem.

Pay Equity: An Innovative Public Policy Approach to Eliminating Sex-Based Wage Discrimination

by

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and

Nancy Reder

National Committee on Pay Equity

INTRODUCTION

Pay equity, or equal pay for work of comparable value, has emerged as one of the most innovative policy approaches to the continuing wage discrimination against people in predominantly female jobs. The principle of pay equity means that jobs of equal value to the employer should be paid the same regardless of the sex or race of the people holding the jobs.

Pay equity public policies now being adopted by a rapidly growing number of state and local governments, are, on the one hand, simply an extension of anti-discrimination efforts of the last twenty years. In many other ways, they are a uniquely creative approach to the severe, unrelieved patterns of job segregation and wage depression.

State and local governments, which have established positions of leadership over the last two decades in promoting justice and opportunity for women and minorities, are now exercising their leadership to achieve pay equity.

Overall, women earn fifty-nine cents for every dollar paid to men in the U.S. (figures for year-round, full-time workers). In state and local governments, women earn seventy-one cents for every dollar earned by men. In the federal government, the ratio is sixty-three cents to one dollar, while in the private sector, employed women earn only fifty-six cents for each dollar men earn.

This paper will describe the problem, review the new approaches and solutions in place or underway, and look at the challenges facing public policymakers and advocates of pay equity.

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WHAT IS THE NATIONAL COMMITTEE ON PAY EQUITY?

The National Committee on Pay Equity, founded in 1979 by a group of individuals dedicated to achieving pay equity for women, is the only national coalition working exclusively to accomplish this goal. The committee has over 130 organizational and individual members including international labor unions, major women's and civil rights groups, as well as education and legal associations.

The goals of the National Committee include:

—Providing leadership, coordination and strategy direction to members and other comparable worth advocates;
—providing assistance and information to the growing number of public officials, labor unions, women's groups and other organizations and individuals pursuing pay equity;
—stimulating new comparable worth activities; and
—bringing national and local attention to this issue.

EXTENT OF THE PROBLEM

The wage gap between women and men is not new; it is one of the oldest and most persistent symptoms of sexual inequality in the United States. While many people believe that the situation of employed women has improved markedly—particularly with the influx of women into nontraditional jobs—the facts indicate otherwise. Women have been making fifty-nine cents for every one dollar earned by their male counterparts for over fifty years.

None of the major economic, demographic and political changes of the past twenty years has had any impact on the wage gap. The growth of white collar industries and the accompanying demand for female labor, the massive entry of women into the labor force and the development of anti-discrimination laws (notably the federal Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964) have all been insufficient to break down this barrier to equality.

The vast majority of women do not work at the same jobs as men. And this is the main reason enforcement of the Equal Pay Act, which mandates equal pay for equal work, has not reduced the wage gap.

The concentration of women in a narrow range of overwhelmingly female-dominated jobs, which, not incidentally, pay low wages, is the single most important cause of the wage gap.

Although there have been some changes in the types of jobs men and women hold, the degree of job segregation has remained essentially the same since the beginning of the century. The entry of new women workers into traditionally female jobs has simply not been matched by the movement of women into male jobs.

In the 1970s, more than 40 percent of all women workers were employed in ten occupational categories: secretary, retail trade salesworker, bookkeeper, private household worker, elementary school teacher, waitress, typist, cashier, sewer and stitcher, and registered nurse. Each of these occupations employed over 800,000 women. In 1982, more than 50 percent of all female employees were found in only twenty of a total of 427 occupations.

Men, on the other hand, are spread among many job categories. For example, less than 20 percent of all male employees are found in the ten largest male-dominated occupations. It is important to point out that there is segregation by sex even within occupations, with women filling the lower-paid jobs. Men who fill male jobs within female-dominated occupations, i.e., mail clerks within the clerical occupation, also suffer low wages as a consequence.

In 1981, the National Academy of Sciences released a landmark study entitled *Women, Work and Wages*, which concluded: "Not only do women do different work than men but also the work women do is paid less, and the more an occupation is dominated by women, the less it pays." The study added that "only a small part of the earnings differences between men and women can be accounted for by differences in education, labor force experience, labor force commitment, or other human capital factors believed to contribute to productivity differences among workers."

The cost of this discrimination to families and to society as a whole is devastating. Along with the dramatic increase in the number of households headed by women, there has also been a rise in the number of families headed by women living in poverty. Almost one in three female-headed families is poor in contrast to one in eighteen families headed by a man. Almost half of these families living in poverty would not be there is they were compensated for the real value of their jobs.

And there is a deeper social cost which cannot be measured in dollars and cents: the critical impact on the quality of life for millions of families—especially for our children, the loss of self-esteem for countless women who work in a society which too often assigns value according to earnings, and the depletion of the human capital that is such a central factor to our nation's economic growth.

HOW IS WAGE DISCRIMINATION DOCUMENTED?

The best technique for documenting wage discrimination is a job evaluation study of the workplace. Employers have often made use of some type of job evaluation to set wages. Now these studies are being used to document wage disparities. Typically, the process involves three steps:

(1) Through the use of questionnaires and interviews, composite job descriptions are developed for the positions to be evaluated. These ensure that all job tasks performed by an employee are explicitly spelled out.

(2) Each job title is then assigned a number of points for each of a variety of factors such as skill, effort, responsibility and working conditions.

(3) Jobs which have similar numbers of points are then compared to see whether their salaries are similar and if not, to determine whether the difference is related to the gender of those filling the jobs. In an ideal world, a predominantly female job receiving 220 points should be paid the same salary as a predominantly male job receiving 220 points.

What these studies demonstrate, however, is that the real world is far from the ideal. Job evaluations have uncovered a consistent pattern of undervaluation of women's work in every work place examined an example of which is shown in Table I.

Studies such as these provide indisputable evidence that jobs held predominantly by women are underpaid relative to their worth.

Having outlined the nature and scope of the problem, the next question is: What is being done to achieve pay equity for women?

OVERVIEW AND HIGHLIGHTS OF PAY EQUITY ACTIVITIES

The wage gap is not new, but what *is* new is the sudden proliferation of actions aimed at eliminating sex-based wage discrimination. In addition to ongoing education and research, four primary tactics are being used: (1) state and local government efforts to move toward

TABLE I

Job Title	Monthly Salary	# of Points
Minnesota		
Registered Nurse (F)	$1723	275
Vocational Ed. Teacher (M)	$2260	275
Typing Pool Supervisor (F)	$1373	199
Painter (M)	$1707	185
San José, California		
Senior Legal Secretary (F)	$ 665	226
Senior Carpenter (M)	$1119	226
Senior Librarian (F)	$ 898	493
Senior Chemist (M)	$1119	493
Washington State		
Licensed Practical Nurse (F)	$1030	173
Correctional Officer (M)	$1436	173
Secretary (F)	$1122	197
Maintenance Carpenter (M)	$1707	197

pay equity in their own wage structures, often accomplished through legislation, (2) collective bargaining in the private and public sectors, (3) non-union organizing, and (4) enforcement of Title VII of the Civil Rights Act and Executive Order 11246[1] which prohibit sex discrimination in employment.

> Working women continue to suffer from widespread wage discrimination in the workplace. Full-time women workers earn fifty-nine cents for every dollar earned by full-time men in the workforce.
>
> A 1981 EEOC-commissioned study completed by the National Academy of Sciences confirms that an enormous wage differential results from discrimination against women.
>
> The AFL-CIO calls upon its affiliated unions:
>
> - To work through contract negotiations to upgrade undervalued job classifications, regardless of whether they are typically considered "male" or "female" jobs; and
> - to initiate joint union-employer pay equity studies to identify and correct internal inequities between predominantly female and predominantly male classes.
>
> The AFL-CIO urges its affiliates to recognize fully their obligations to treat pay inequities resulting from sex discrimination like all other inequities which must be corrected and to adopt the concept of "equal pay for comparable work" in contract negotiations.
>
> The AFL-CIO will take all other appropriate action to bring about true equality in pay for work of comparable value and to remove all barriers to equal opportunity for women.

In addition to passing resolutions, some unions have adopted bargaining guidelines which specifically direct affiliates to pursue pay equity in contract negotiations. For example, the

American Nurses Association reports that five state nurses' associations in Florida, Massachusetts, Pennsylvania, New York and California have taken bargaining positions that require specific comparable worth provisions in all contracts with health care employers.

The bargaining recommendations of the Newspaper Guild urge that "Locals should give special attention to wage improvements in clerical wage classifications to bring these rates up from substandard levels where necessary." Another recommended bargaining goal for the Guild states that the "Locals should establish minimums reflecting the true differentiation in job content . . ." Even more directly, equal pay for equal work or work of equal value is a mandatory collective bargaining proposal which must be made each time a local enters into negotiations.

Union Conducted Wage and Job Studies. Prior to bargaining for either pay equity studies or wage increases, some unions have conducted their own studies. The Associated Clerical, Office, Laboratory and Technical Staff (ACSUM), part of the Maine Teachers Association, a National Education Association (NEA) affiliate, performed a job survey in Orono, Maine in 1979 which revealed that two-thirds of the employees in the ten lowest wage categories were female. No woman held a job in any of the two eight wage categories at the university.

The preliminary studies often calculate the sex composition of each major job and the average salary. Findings usually indicate that the more a job is dominated by women, the less it pays. Depending on the findings and the strength of the union, the study is usually followed by lobbying or bargaining for a joint labor-management job evaluation study or directly for wage equity increases.

Negotiated Joint Labor-Management Job Evaluation Studies. Joint labor-management studies are another major approach taken by unions, especially in the public sector. The Civil Service Employees Association (an AFSCME affiliate) representing 100,000 New York State employees has negotiated a $500,000 joint pay equity study. It will examine both sex- and race-based wage differentials and will also include an economic forecast and budget analysis for the state of New York so that the parties can plan for orderly implementation of the results.

In the private sector, the 1980 national collective bargaining agreement between the Communications Workers of America (CWA) and the Bell System established a joint national CWA/AT&T Occupational Job Evaluation (OJE) Committee comprised of three union and three management representatives. The Committee was charged with responsibility to research, develop and make recommendations concerning the design and implementation of a job evaluation plan for non-management workers in the Bell System which would provide for an equitable wage structure for all workers, both male and female, compensating for many of the inequities caused by technological change.

Wage Equity Increases through Collective Bargaining, Grievance Procedure and Arbitration. Collective bargaining has produced more wage equity increases than other approaches. After striking for nine days in July 1981, AFSCME Local 101 in San José, California won wage equity increases of $1.5 million for municipal employees over a two-year period (on top of increases of 7.5 percent for the first year and 8 percent the second year). In another action, AFSCME was able, through arbitration, to obtain an upgrading for 300 word processing operators employed by the state of Illinois. The union hired an expert job evaluator who determined that the operators' jobs were undervalued.

A 1981 contract between the state of Connecticut and the New England Health Care Employees Union, District 1199, RWDSU, calls for the state to establish a pay equity fund equi-

valent to one percent of the health care workers' payroll to be used to begin to correct internal wage inequities.

Some union locals are attempting to negotiate across-the-board dollar rather than percentage increases as a way of moving toward pay equity, since dollar increases raise the wages of the lowest paid workers—usually women—a greater percentage, closing the wage disparity.

This spring in a Pennsylvania school district, Local 585 of the Service Employees International Union (SEIU) negotiated "catch-up" raises for the most underpaid job categories—primarily secretarial and clerical jobs held by women—even while securing average raises of 10.8 percent for all workers, including males.

SEIU has also relied on reclassification as a tool for winning pay equity. In Santa Clara County, California, SEIU Local 715 signed a two-year contract in 1981 that upgraded clerical employees, resulting in salary increases of 5–10 percent (this was in addition to general wage increases of 16.5 percent). That contract also called for the formation of an appeals board comprised of representatives of labor, management and a neutral party to hear individual challenges to classification decisions. In recent contracts Local 715 has strengthened the powers of the appeals board and union access to it.

Legal Action. When bargaining fails to result in a pay equity agreement between the union and the employers, one option available to the union is legal action.

At its 1972 convention, the International Union of Electrical, Radio and Machine Workers (IUE) initiated a Title VII Compliance Program because it found that collective bargaining was often not sufficient to remedy sex-based wage discrimination. The program educated union members and union staff and conducted research on job and wage comparisons by sex and race.

Under this program, if an employer refused to bargain to correct wage discrepancies, IUE files a charge with the National Labor Relations Board as well as complaints under Title VII and/or Executive Order 11246.

In addition, IUE has worked closely with federal agencies. Under the Carter administration, the EEOC adopted a "Resolution on Title VII and Collective Bargaining" which encouraged union participation in affirmative action.

The IUE has been a leader in comparable worth litigation. In addition to the landmark third Circuit Court of Appeals decision *IUE* v. *Westinghouse* in 1981 (which ruled that sex-related wage patterns constitutes discrimination under Title VII), the union filed five other Title VII pay equity lawsuits against Westinghouse. Five of the six suits filed have resulted in settlements which include substantial back pay awards and significant upgrading for predominantly female electrical assembly jobs.

Almost ten years ago, AFSCME Council 28 persuaded the state of Washington to investigate whether female-dominated jobs paid less than male-dominated jobs requiring comparable skill, effort and responsibility. The resulting study—the first pay equity study of its kind—showed that female-dominated jobs paid on the average about 20 percent less than comparable male-dominated jobs. The state refused to comply with the recommendations of its own Personnel Board and raise wages. AFSCME filed sex discrimination charges with the EEOC, and on July 20, 1982, filed a multimillion dollar lawsuit in federal district court. The trial will be held in late August 1983.

In addition to the case in Washington, AFSCME has pending charges or lawsuits against the states of Hawaii, Wisconsin and Connecticut and the cities of Los Angeles, Chicago and Philadelphia.

Political Activity. Unions are forbidden by law from bargaining for wages in the federal government and in some state and local governments. In such circumstances, unions have often turned to lobbying for pay equity legislation and enforcement. Unions are particularly concerned that workers and the organizations that represent them are guaranteed roles as full participants with management in pay equity studies and implementation effected through legislation.

On the federal level, the American Federation of Government Employees (AFGE), National Federation of Federal Employees (NFFE), and National Treasury Employees Union (NTEU) testified before Congress in September 1982 about wage discrimination against women in federal employment.

As a result, the Subcommittees on Human Resources, Civil Service, and Compensation and Employee Benefits have requested that the General Accounting Office (GAO) undertake an evaluation of the federal sector position classification system to determine if it contains sex bias.

In Minnesota, AFSCME supported legislation that established a policy of pay equity and funds for implementation for state employees.

The United Auto Workers (UAW) has supported pay equity through its political activity and its leadership in coalitions. The UAW participated in a broad coalition which struggled seventeen years for the passage of the 1963 federal Equal Pay Act, which, in draft, originally included comparable worth language. The UAW has also been active in a statewide pay equity coalition in Michigan.

Non-Union Organizing

Organizations such as 9 to 5: National Association of Working Women, the American Library Association, and Women Employed of Chicago do not collectively bargain but are organizing around wage equity in the workplace. They are also active in promoting state, local and county laws that address the issue of pay equity.

This past spring, the 9 to 5 chapter in Muncie, Indiana won an eight percent wage increase for clerical workers at Ball State University by organizing a public pressure campaign. The office workers had *averaged* $9,798 a year prior to the raise, while the *starting salary* for custodial workers is $12,100.

This past May, the Fairfax County (Virginia) Library Association filed a complaint with the EEOC alleging sex discrimination in violation of Title VII. Two studies done by the association showed that librarians, especially at entry levels, were not receiving wages equal to those for comparable male-dominated job categories. To date, the county has refused to correct the inequities.

Women Employed participated in a pilot pay equity study of state employees in Illinois. The study was completed in May 1983 and showed systematic undervaluation of women's jobs.

Enforcement of Title VII of the 1964 Civil Rights Act

The *Gunther* v. *Washington* and *IUE* v. *Westinghouse* decisions mentioned elsewhere in this journal established that Title VII *does* cover wage discrimination involving jobs which are not identical. These decisions are important victories because opponents of pay equity had argued that the application of Title VII was restricted solely to equal work situations.

The *AFSCME* v. *Washington State* case will, we hope, resolve favorably some questions co[n]cerning the types of evidence necessary to win a pay equity lawsuit.

The National Committee and its members have developed recommendations for the EEO[C] and are meeting with officials and staff at the agency.

CHALLENGES FOR THE FUTURE

Pay equity as a goal in the U.S. can be traced back to the War Labor Board set up dur[ing] World War II to deal with wage disputes and forward from there to the original draft lan[-] guage of the Equal Pay Act and to IUE's landmark litigation efforts in the early 1970s. [In] the last four years, there has been a spectacular leap in the number and variety of pa[y] equity initiatives as this article has described.

But experiences in the U.S. and in other countries demonstrate that closing the wage ga[p] will require *direct* and *deliberate* challenges to the existing system of wage setting. Indirect approaches—such as job integration—and laissez faire approaches—relying on the mar[-] ketplace to make wage adjustments—are insufficient to reduce the wage gap. Discrimination is too pervasive and built into the structure of wages and into the process of wagesetting to be reached by either of these methods.

Pay equity advocates have come a long way in the last four years. There is still a long way to go. We face four specific challenges:

(1) We must take this issue beyond the already committed. We need to reach opinion leaders and all working women with the message of the unique promise pay equity holds.

(2) We must move beyond education and research to action. We need to lobby, organize, collectively bargain and sue for pay equity.

(3) We need to experiment with approaches to pay equity in the private sector which lags behind state and local governments in addressing the wage discrimination of working women. We need to give direction to those in management positions who agree with the goals of pay equity and give support to unions bargaining in the private sector. We need to facilitate "dialogues" among relevant sectors. We need to pressure government enforcement agencies to move more aggressively. And we need to file charges and bring lawsuits when employers refuse to eliminate discrimination.

(4) We must mobilize support to encourage elected officials to take *action* on behalf of pay equity. One year ago we were analyzing the political vacuum surrounding pay equity. Today, there is an amazing amount of interest among public officials, especially, but not exclusively, at the state and local levels. The gender gap, the ERA and the uniqueness of pay equity have all combined to stir up this interest. The result has been a number of studies but too few wage equity increases. Pay equity advocates need to make the most of the political potential of this issue.

WHERE DO WE GO FROM HERE?

The National Committee will continue its efforts to reach out to individuals and groups to present the possibilities of pay equity and to provide strategic advice and technical assistance to those wishing to pursue pay equity in their own workplaces or areas. We will continue to educate employers and employees about laws which prohibit discrimination and to pressure the Equal Employment Opportunity Commission to look for discrimination and file pay equity lawsuits. We will intensify our efforts to work with private employers and workers and to encourage voluntary compliance in the private sector.

Through these specific actions, it is our goal to tear down the connection between wages and sex and to reaffirm the intrinsic value of work—especially those functions that have historically not carried a price tag, functions such as serving, nurturing and caring that now form the basis of many women's paid jobs.

It is our goal to implement pay equity so as to give full expression to the dignity and potential of our citizens, and as we do so, to free our society of the tremendous burden of inequity and provide new fuel for our nation's economic growth.

APPENDIX

Members of the National Committee on Pay Equity have approved a specific set of recommendations for actions that public officials can take to achieve pay equity.

Recommendations for Actions Elected and Appointed Officials Can Take to Achieve Pay Equity

1. Enforcement—including lawsuits—of Title VII of the Civil Rights Act of 1964 and Executive Order 11246, the federal statutes that prohibit wage discrimination on the basis of sex, race or national origin, especially involving jobs predominantly occupied by females and minorities.
2. Appointment of staff and officials who are committed to full enforcement of the Civil Rights Act and the Executive Order to positions in enforcement, personnel and budget agencies at local, state and federal levels, including positions in the U.S. Department of Justice, Office of Federal Contract Compliance Program, Equal Employment Opportunity Commission and the Office of Personnel Management.
3. Implementation of pay equity for federal employees as mandated by the Civil Service Reform Act of 1978 in conjunction with federal labor unions. Opposition to the U.S. Office of Personnel Management's present efforts to downgrade jobs held predominantly by women. Provision of necessary funds to implement pay equity in the federal government.
4. Implementation of pay equity in state and local governments through collective bargaining, joint labor-management job evaluation studies, enforcement of existing laws which prohibit wage discrimination, or enactment of new legislation. Provision of the necessary funds to achieve pay equity.
5. Appointment of expert legislative and administrative staff who are knowledgeable about relevant economic, employment and training issues relating to pay equity.
6. Establishment of policy of pay equity in all employment and training programs to insure that female-dominated jobs receive appropriate salaries.
7. Involvement of labor unions and advocacy groups in enforcement agency efforts to eliminate wage discrimination.
8. Encouragement of private employers to undertake voluntary compliance programs to achieve pay equity. Initiation of lawsuits and all other appropriate action if employers refuse.
9. Education of the public about pay equity and the need for enforcement of wage discrimination laws through speeches, publications, conferences and all other appropriate avenues.

NOTES

[1]Title VII of the Civil Rights Act of 1964, which is enforced by the Equal Employment Opportunity Commission (EECC) forbids, among other prohibitions, sex discrimination in compensation. Executive Order 11246 requires affirmative action on the part of government contractors and is enforced by the Office of Federal Contract Compliance Program (OFCCP) of the Department of Labor.

[2]The survey was undertaken jointly by the National Committee on Pay Equity, the Comparable Worth Project and the National Women's Political Caucus and is available for $6.00 from the National Committee on Pay Equity.

THE INDEPENDENT WEEKLY EDUCATION NEWSPAPER

EDUCATION USA®

PUBLISHED BY THE NATIONAL SCHOOL PUBLIC RELATIONS ASSOCIATION

WASHINGTON, D.C.

JANUARY 30, 1984
VOL. 26, NO. 22

ED USA THIS WEEK

Need some synonyms under which to hide budget cuts? The National Council of Teachers of English found these in their "Doublespeak" awards: internal reallocation, institutional self-help, negative base adjustment, productivity increases and personal services.

COMPARABLE WORTH GAINING IN SPITE OF OBSTACLES

In recent months, the concept of equal pay for jobs of "comparable worth" has gotten some boosts. A federal court awarded millions of dollars in back pay and raises to female employees of Washington State. Clerical workers for the city of Berkeley, Calif., received raises as large as 14% after a job evaluation found a $300 per-month "pay inequity" between comparable men's and women's work. Education could see a major impact because 70% of teachers are women. But such gains won't come easily or quickly in most cases, according to participants at a seminar sponsored last week in Washington by the American Arbitration Assn. and the Labor Management Relations Service of the U.S. Conference of Mayors.

Despite passage of the Civil Rights and equal pay acts, women still average only 61 cents for every dollar earned by men, said Joy Ann Grune, executive director of the National Committee on Pay Equity. Studies of the wage gap have accounted for only about 20% of the disparity through legitimate differences such as seniority, she said. The rest is due to "major, severe, enduring, unforgivable patterns of discrimination" that say women's work is less important than men's, she charged.

Basing jobs on "comparable worth" as determined by skills, efforts and responsibilities required could make up for this earnings gap. But the concept is loaded with problems. With a workforce of 43 million females, it would cost $280 billion to bring them up to a salary close to men's, said Daniel Glasner of Hay Associates of Philadelphia. If this were done in one year, it would add 8.5% to the national inflation rate. If the adjustment were retroactive for five years, the cost could hit $1.13 trillion.

Another problem is the difficulty in comparing jobs. The Bell system and the Communications Workers of America worked two-and-one-half years before they could come up with a job evaluation plan acceptable to both sides, and an initial field test showed stereotypic judgments still were being made, said Florine C. Koole

(continued on last page)

EDUCATION USA (ISSN 0013-1571) The Independent Weekly Education Newspaper Published each Monday by the National School Public Relations Association, 1801 N. Moore St., Arlington, Va. 22209. Second-class postage paid at Arlington, Va. Index twice yearly. Subscription price $69 a year. Address editorial and subscription correspondence to EDUCATION USA. Telephones: Editors (703) 528-6560; Subscription Desk (703) 528-6771.

Bulk Rate Subscriptions: For six issues or more, sent to separate addresses, $52 per subscription; for 15 issues or more, sent packaged to one central address, $36 per subscription.

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Comparable Worth Gaining

(continued from first page)

of CWA. "Job evaluation is not scientific; it is highly individualistic," added Robert E. Williams, an attorney representing management in comparable worth issues. Congress opted for an equal-pay-for-equal-work law after concluding that evaluations were not enough on which to base a legal mandate for comparable worth, he noted.

Yet another snag is the difference in interpretations of existing laws and court rulings. Michael Gold, associate professor with the New York State School of Industrial and Labor Relations, warned that the Washington ruling may be an exception because the state admitted it intentionally paid women less than men. But an attorney in that case, Winn Newman, argued that comparable work in any case is covered by the Civil Rights Act because "the issue is simply one of sex-based discrimination, not of what jobs are worth." He chastized the Reagan administration's decision to challenge the Washington ruling, charging its "simple solution" for victims of job discrimination is to "go get another, higher-paying job."

Despite the problems, pay equity is not likely to fizzle. About 18 states have completed or are conducting comparable worth studies; some have enacted laws to increase women's pay. The issue is coming up increasingly at the bargaining table, and unions are learning how to pursue pay equity. Congress will look at the issue again next month. And there are ways to make comparable worth affordable, Glasner said. The major step is to prohibit retroactive raises, even though it shortchanges those who have been paid less in the past. Other possibilities include reducing male pay (an aspect opposed by pay equity supporters), eliminating some occupations from discussion and tying a program to non-inflationary economic growth, he said. Basically, Glasner said, "we have to find ways to reason together."

THE INDEPENDENT WEEKLY EDUCATION NEWSPAPER
EDUCATION USA
PUBLISHED BY THE NATIONAL SCHOOL PUBLIC RELATIONS ASSOCIATION

1801 North Moore Street
Arlington, Virginia 22209

SECOND CLASS POSTAGE PAID AT ARLINGTON, VIRGINIA

NEWSPAPER

A Status Report on the Theory of Comparable Worth: Recent Developments in the Law of Wage Discrimination

by

Lawrence Z. Lorber

and

J. Robert Kirk[1]

INTRODUCTION

On June 8, 1981 the United States Supreme Court handed down its much anticipated decision in the case of *County of Washington* v. *Gunther*.[2] Civil rights lawyers had hoped the Court would endorse the new theory of wage discrimination and declare that women were entitled to equal wages for doing work that was different from but of "comparable worth" to work done by higher paid men. Employers urged the Court to reject the novel theory of comparable worth because they believed it had no statutory foundation. They also warned that a flood of litigation would ensue if the Court adopted the new theory.

Much of the morning after rhetoric seemed to ignore the fact that the Court's five to four decision chose neither option. The day after the decision *The Washington Post* reported that "Both sides in the 'comparable worth' controversy agreed yesterday that the flood may now begin . . . and that the door is now open for the concept of comparable worth."[3] One might have concluded from such commentary that the theory of comparable worth, what Eleanor Holmes Norton had labelled "the issue of the 80s for women," was off to a fast start.

But even some in the popular press noted that the Court's split decision left "the door to the comparable-worth theory . . . barely ajar."[4] Experience has shown this perception was accurate. Only a year after the *Gunther* decision the leading proponent of the theory was telling members of the American Nurses Association to steer clear of the concept of comparable worth. Professor Ruth G. Blumrosen advised the nurses "Don't even say 'comparable worth,' it's losing language."[5]

This article will discuss selected recent court decisions showing that two years after *Gunther* Professor Blumrosen's advise is still wise. After a brief review of the applicable statutes and the case law through the Supreme Court's decision in *Gunther*, we will describe

two recent cases indicating that the historic reluctance of judges to adopt a theory of comparable worth was not altered by *Gunther*. Finally, we will report two other cases that have developed a different theory of wage discrimination that is based on traditional Title VII principles but that indicate equal wages may be required for jobs that are unequal but comparable in content.

BACKGROUND

The legal basis for the theory of comparable worth is found in two familiar statutes that outlaw sex-based wage discrimination. It is important to keep in mind specific provisions of these laws, and the case law interpreting them, in order to appreciate the sometimes subtle distinctions important in recent comparable worth cases.

The Equal Pay Act

The Equal Pay Act of 1963 requires equal pay only for men and women doing *equal* work.[6] From 1945 to 1963 Congress had rejected legislative proposals containing a "comparable work" standard. Only after the standard was tightened did the Equal Pay Act become law. As passed, the Act provided for equal pay "on jobs the performance of which requires equal skill, effort and responsibility, and which are performed under similar working conditions."[7] An Equal Pay Act plaintiff has the initial burden of proving that she is paid less for doing a job that is substantially equal to a job done by a man.[8] To meet this burden a plaintiff must convince the court that her job requires equal skill, effort and responsibility and is performed under similar working conditions. This does not mean that the jobs must be identical, but only substantially equal.

Once a plaintiff has met her initial burden, the burden of proof shifts to the defendant to convince the court that the reason for the wage difference is covered by one of the Act's four exceptions and is not because of the sex of the plaintiff. Paying workers of different sexes differently is permitted by the Act if the reason for the pay differential is either

> (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex.[9]

The fourth exception is a "catch-all" category allowing any pay differential that is proven to exist for nondiscriminatory reasons. Nevertheless, a defendant's burden is substantial because it must do more than merely articulate a legitimate rationale for the differential. The defendant must affirmatively prove that the wage disparity can be justified by one of the four exemptions.

Title VII

Title VII of the Civil Rights Act of 1964 makes unlawful any employment practice that discriminates against members of several protected classes, including women, with respect to any terms or conditions of their employment including compensation. Employment discrimination claims under Title VII are generally of two types, "disparate treatment" claims and "disparate impact" claims. These categorizations are important primarily because of the different burdens faced by plaintiffs and defendants once the plaintiff has met its initial burden of proving facts that support an inference of discrimination. Most claims of sex-based wage discrimination are of the "disparate treatment" variety.

In the context of wage discrimination, "disparate treatment" claims allege that an employer has intentionally paid employees differently because of their sex. Plaintiffs claiming disparate treatment carry the initial burden of proving facts that support the inference that a pay differential is the result of intentional sex-based discrimination.[10] Such proof can take many forms. While direct admissions of an employer's discriminatory intent would be powerful evidence, such direct evidence of intent is not required at this initial stage. Rather, it is sufficient if the plaintiff proves facts "showing actions taken by an employer from which one can infer, if such actions remain unexplained, that it is more likely than not that such actions were based on a discriminatory criterion illegal under the Act."[11] Thus, a purely statistical analysis showing gross disparities between the wages of men and women can be sufficient to support an inference of intentional discrimination where all legitimate reasons for the differential are controlled and sex is the only remaining explanation.[12]

Once the plaintiff's initial burden has been met, the defendant in a disparate treatment case must "produce admissible evidence which would allow the [court] . . . to conclude that the [wage differential] had not been motivated by discriminary animus."[13] Unlike an Equal Pay Act rebuttal that must be proven, a defendant's burden to rebut a showing of disparate treatment is only one of producing *some* evidence. "It is sufficient if the defendant's evidence raises a genuine issue of fact as to whether it discriminated against the plaintiff."[14] Should the defendant carry this burden, the plaintiff must then have an opportunity to prove that the legitimate reasons offered by the defendant were not its true reasons but were a "pretext for discrimination."[15]

The Relationship between the Equal Pay Act and Title VII—the Bennett Amendment

The theory of comparable worth is not based on a comparison of the *content* of jobs done by men and women but rather on a comparison of the *worth* of jobs to an employer. The legislative history of the Equal Pay Act makes it quite clear that Congress did not intend to extend its remedies to women doing work merely comparable to work done by men on different jobs which might somehow be determined to be of equal value to an employer. Thus, it is generally acknowledged that the theory of comparable worth must be authorized, if at all, by Title VII rather than the Equal Pay Act. The question answered by the Supreme Court in *Gunther* was whether Title VII authorized any sex-based wage discrimination claim that did not meet the equal work test of the Equal Pay Act. The Court's main job in answering this question was to interpret the meaning of the Bennett Amendment to Title VII. This amendment was Congress' attempt to reconcile possible conflicts between the two statutes.

As originally drafted, Title VII had nothing to do with sex discrimination. Just two days before its vote on Title VII, the House of Representatives amended the bill to proscribe sex discrimination but did not attempt to reconcile the overlapping provisions of Title VII and the Equal Pay Act. When the bill reached the Senate, concerns were raised about possible inconsistencies between the two statutes. In an attempt to resolve these concerns, Senator Bennett proposed an amendment that added a sentence to the section of Title VII that excluded prohibitions of the Act. As adopted, the Bennett Amendment provided:

> It shall not be an unlawful employment practice under this subchapter for any employer to differentiate upon the basis of sex in determining the amount of the wages or compensation paid or to be paid to employees of such employer if such differentiation is authorized by the provisions of section 206(d) of title 29 [the Equal Pay Act].[16]

The meaning of the amendment depended on which sex-based wage differentials were deemed to be "authorized by" the Equal Pay Act. Prior to the decision in *Gunther*, courts had answered this question in two different ways. Many courts concluded that the Bennett Amendment intended to build into Title VII the equal work standard of the Equal Pay Act.[17] A few courts held that a plaintiff's failure or inability to demonstrate equal work did not preclude a Title VII action for sex-based wage discrimination.[18] Since the equal work standard and the theory of comparable worth are incompatible, the way courts interpreted the Bennett Amendment determined whether they were willing to even consider the theory of comparable worth.

Pre-Gunther Case Law Addressing Comparable Worth

Prior to the Supreme Court's decision in *Gunther*, several courts decided whether plaintiffs should prevail on a theory of comparable worth. With only one limited exception, the theory of comparable worth was repeatedly rejected.

In *Christensen* v. *State of Iowa*, female clerical employees of the University of Iowa claimed that Title VII required the school to pay them wages equal to wages paid to predominantly male physical plant workers doing jobs of equal worth to the University.[19] The University had done an objective evaluation of the relative worth of each job based on an assessment of thirty-eight job factors. Jobs with similar numerical evaluations were grouped together, and the salary range for each group was determined by reference to market rates in the local community. But because the local job market paid higher wages for physical plant jobs than those available under the University's system, the school increased the starting pay for many of the physical plant workers but not for the clerical workers. Consequently, male physical plant employees were paid more than female clerical employees despite equivalent seniority and job rating under the University's system.

The Court of Appeals held that plaintiffs failed to meet their initial burden under Title VII of proving facts demonstrating that the pay differential was the result of sex discrimination. So long as the University did not prevent females from becoming physical plant employees and did not discriminate *within* job categories, the court permitted a wage differential between jobs of different *content* despite their equal worth to the employer.

Two and a half years after *Christensen*, the Tenth Circuit rejected a comparable worth claim in *Lemons* v. *City and County of Denver*.[20] Nurses employed by the city brought a class action under Title VII challenging the city's pay plan that equalized the pay of city employees with pay for the same jobs in the local community. The nurses claimed that this system perpetuated historical wage discrimination against predominantly female occupations. The nurses sought to be compared to non-nursing positions that they claimed were of equal worth to the employer. The court provided no description of any evidence advanced by the nurses to support their claim of equal worth.

The court of appeals held that plaintiffs' complaint

> was not sought to be adjusted by the Civil Rights Act . . . The courts under existing authority cannot require the city . . . to reassess the worth of services in each position in relation to all others, and to strike a new balance and relationship . . . This would be a whole new world for the courts, and until some better signal from Congress is received we cannot venture into it.[21]

About a year later, a district court in the Tenth Circuit cited *Lemons* for the proposition that the theory of comparable worth "has apparently been rejected by the Tenth Circuit

Court of Appeals as a cognizable basis for relief under either Title VII or the Equal Pay Act."[22]

In *Gerlach* v. *Michigan Bell Telephone Co.*, a district court in Michigan concluded that although a Title VII plaintiff need not prove equal work as an element of a sex-based wage discrimination claim, "there is no independent cause of action based on a theory *solely* relating to comparable worth and undervaluation."[23] Plaintiffs were women employed as engineering layout clerks. Among plaintiffs' several claims was a proposed allegation that they were not being paid wages reflecting the true value of their work to their employer. Plaintiffs claimed the value of their work was equal to or greater than the value of work done by workers in a traditionally all-male field assistant classification.

The court held, as a matter of law, that a lawsuit based only on a theory of comparable worth and without any claim of intentional sex discrimination was not cognizable under Title VII. The court concluded that evidence of comparable worth "at best could be construed as setting forth an evidentiary basis for the allegations [of intentional discrimination]."[24] While the court was clearly sympathetic to plaintiffs' concerns, it concluded that it was without authority to compare the relative worth of employees.

> While the court wholeheartedly concurs in the observation that the advancement of women and minorities will not be assured until employers pay all persons according to their value to the enterprise, it is my judgment that Congress has, thus far, seen fit to limit an employer's wage rate evaluations only by the preclusions against discrimination in wages and by the requirements of equal pay for objectively defined equal or substantially equal work. Thus, I cannot conclude at this point in time that Congress has authorized the courts to undertake an evaluation and determination of the relative worth of employees.[25]

Finally, in a case decided only two months before the Supreme Court's decision in *Gunther*, a court accepted evidence of comparable worth not as a legal basis for recovery but as a means to determine the wages that female workers should have been paid. In *Taylor* v. *Charley Brothers Company*, the court found that female workers had been the victims of intentional discrimination by being segregated into a lower paying "female department" of a grocery warehouse where they did jobs equal or comparable to or those done in a department staffed by men.[26] With respect to jobs in the two departments that were not equal but comparable, the court found that the differences in wages could not be justified by minor variations in job content. The court relied on a job evaluation plan of the American Association of Industrial Management in holding that women doing jobs comparable to male jobs should have been earning 90 percent of the wages paid to the men.

COUNTY OF WASHINGTON V. *GUNTHER*

Lower Court Opinions

Alberta Gunther was one of six matrons employed at the Washington County jail. Their job was to guard female prisoners and perform related administrative and clerical duties. Male prisoners were guarded by a group of workers called "corrections officers." Matrons were paid from $176 to $224 less per month than corrections officers.

Four matrons sued the county claiming, in part, that they deserved wages equal to those paid to men doing substantially equal work. In the alternative, the women argued that even

if the jobs were not substantially equal the pay differential between the men and women was greater than could be justified by differences in the difficulty of their work. The matrons thus contended that at least part of the pay differential could only be explained by the existence of sex discrimination. The action was originally brought under both the Equal Pay Act and Title VII. However, since the Equal Pay Act did not apply to government employees until more than two months after the matrons were terminated, the case was treated solely as a Title VII action.

As the plaintiffs' equal work claim, the district court held that under Title VII, plaintiffs claiming equal pay for equal work were required to show that the men's and women's jobs were substantially equal and that plaintiffs had failed to meet this burden.[27] The court focused on the fact that there were, on average, three matrons for every female prisoner but only one corrections officer for every four male prisoners. Consequently, the matrons spent from 10 to 75 percent of their time doing clerical work while the male guards spent very little time on such tasks. The court concluded that even if the jobs required equal skill, the matron's jobs did not require equal effort or responsibility.

The district court did not even reach plaintiffs' claim of sex discrimination based on the existence of a disproportionately large pay differential since the court held that proof of equal work was an essential element of any sex-based wage discrimination claim under Title VII.

It was the district court's refusal to consider evidence of intentional sex discrimination that was overturned by the Ninth Circuit.[28] The court of appeals held that the Bennett Amendment did *not* incorporate the equal work standard into Title VII but merely incorporated the four affirmative defenses available to an employer under the Equal Pay Act. The court noted that at trial plaintiffs had offered some evidence indicating that a part of the wage differential could be ascribed to sex discrimination.[29] It instructed the district court to consider this evidence.

Although the Ninth Circuit did not speak directly to the issue of comparable worth, it did discuss the concept of "comparable *work*." In a footnote in its original opinion, the court suggested that proof of discrimination in wages paid to men and women holding comparable jobs in sex-segregated job classifications would state a claim under Title VII.

> Likewise, in a situation where primarily women are employed in a type of job that is comparable but not substantially equal to that performed by men, an employer is free under the Equal Pay Act to decrease the wages of the women solely because of their sex. Such a practice is prohibited by the plain language of [Title VII] and will continue to be under our interpretation of the Bennett Amendment.[30]

However, in its supplemental opinion denying the county's motion for a rehearing, the court made it very clear that proof of comparable work *standing alone* would not state a claim under Title VII.

> The effect of our decision will not be to substitute a "comparable" work standard for an "equal" work standard. Where a Title VII plaintiff, claiming wage discrimination, attempts to establish a prima facie case based solely on a comparison of the work she performs, she will have to show that her job requirements are substantially equal, not comparable, to that of a similarly situated male . . .
>
> All we hold here is that a plaintiff is not precluded from establishing sex-based wage discrimination under some other theory compatible with Title VII . . . We do note that, because a comparable work standard cannot be substituted for an equal

work standard, evidence of comparable work, although not necessarily irrelevant in proving discrimination under some alternative theory, will not alone be sufficient to establish a prima facie case.[31]

Of interest in the Ninth Circuit's opinions is the fact that the court focused only on the comparable *content* of the male and female jobs. The court did not focus at all on the comparable *worth* of those jobs.

The Supreme Court's Opinion

The Supreme Court's decision in *Gunther* decided a very narrow question.[32] The court's opinion was limited to the issue of whether the Bennett Amendment meant that Title VII's prohibition against sex-based wage discrimination was limited to claims of equal pay for equal work. By a five to four vote the Court affirmed the opinion of the Ninth Circuit. The Court held that Title VII plaintiffs need not prove that they were working at substantially equal jobs in order to sustain a wage discrimination claim under Title VII. Rather, the Court said plaintiffs can prevail by proving that their wages were depressed because of intentional sex discrimination even though their jobs were not equal to jobs held by higher paid men.

The majority opinion went to considerable lengths to emphasize the narrowness of its holding and to avoid endorsing the theory of comparable worth.

> We emphasize at the outset the narrowness of the question before us in this case. [Gunther's] claim is not based on the controversial concept of "comparable worth," under which plaintiffs might claim increased compensation on the basis of a comparison of the intrinsic worth or difficulty of their job with that of other jobs in the same organization or community.[33]

The court emphasized the fact that the matrons' claim would not require the trial court to undertake a comparison of the content or worth of different jobs but would merely entail a traditional Title VII analysis of disparate treatment. In support of this point the court described specific evidence in the record that might support an inference of intentional discrimination. The court noted evidence that the county had done an evaluation of the male and female jobs and paid the women only 70 percent of the evaluated worth of the female jobs while paying the men 100 percent of the evaluated worth of the male jobs. Thus, the matrons' case would not require "a court to make its own subjective assessment of the value of the male and female guard jobs."[34]

Even though dissenting justices were bitterly critical of the majority's reasoning, they viewed the majority's failure to endorse comparable worth as the "saving feature" of the opinion.

> The opinion does not endorse the so-called "comparable worth" theory; though the Court does not indicate how a plaintiff might establish a prima facie case under Title VII, the Court does suggest that allegations of unequal pay for unequal, but comparable, work will not state a claim on which relief may be granted. The Court, for example, repeatedly emphasizes that this is not a case where plaintiffs ask the court to compare the value of dissimilar jobs or to quantify the effect of sex discrimination on wage rates.
>
> * * *
>
> Because there are no logical underpinnings to the Court's opinion, all we may conclude is that even absent a showing of equal work, there is a cause of action under Title VII where there is direct evidence that an employer has *intentionally* depressed

that the state violated Title VII by paying women lower wages for work which defendants had determined to be of comparable or equal value to work performed by male employees. The state asked the court to dismiss this claim arguing that comparable worth is not a legitimate basis for recovery under Title VII. The court refused to dismiss the claim, but only because it read plaintiffs' complaint to allege intentional discrimination. Citing *Power v. Barry County*, the court said:

> This Court will not engage in a subjective comparison of the intrinsic worth of various dissimilar jobs. If the plaintiff's allegations are proven, however, and if the defendants did in fact determine that dissimilar jobs were of equal value, but did not provide equal pay because of the sex of the employees, then this would be evidence of intentional discrimination.[40]

The only recent acknowledgment of comparable worth, albeit in a somewhat off-handed manner, was in *E.E.O.C. v. Hay Associates*.[41] After holding that the defendant had violated the Equal Pay Act in certain respects, the district court turned to plaintiff's alternative claim of comparable worth. The court disposed of this issue in a single paragraph. It suggested that "It is clear after the Supreme Court's decision in [Gunther] that [comparable worth] claims are cognizable under Title VII, [however] the elements of such . . . claims have yet to be defined."[42] The court did not discuss what these elements might be since it held that plaintiff had produced no evidence of comparable worth on which the court could base any relief beyond what it had already granted on the theory of equal work. In the context of this opinion, the court's statement about the vitality of comparable worth after *Gunther* must be read most narrowly. While *Gunther* did not rule out development of a theory of comparable worth, neither the Supreme Court nor the court in *E.E.O.C. v. Hay* provided meaningful precedent for the theory.

To date, the theory of comparable worth remains on the drawing board, and the blueprint for its adoption in the future is very unclear. Since *Gunther*, no Title VII plaintiff has advanced a general, objective mechanism for proving that different jobs are of comparable worth. And no court has shown the least inclination to undertake this task, or even to consider plaintiff's evidence unless it is offered in connection with an allegation of intentional discrimination. For the present, the theory that proof of the equivalent worth of jobs *standing alone* can support an inference of intentional discrimination shows no signs of life.

COMPARABLE WORK AS AN ELEMENT OF CONTEMPORARY WAGE DISCRIMINATION

Although the theory of comparable worth has not blossomed since the Supreme Court's decision in *Gunther*, the broad outlines of another theory of Title VII wage discrimination have started to emerge. This theory depends not on a comparison of the value or worth of jobs but on a traditional comparison of the skill, effort, responsibility and working conditions of different jobs. Since the decision in *Gunther*, two courts have held that if different jobs are sufficiently similar in terms of these traditional criteria and if the jobs have been historically sex-segregated, these facts can be sufficient to support an inference of intentional discrimination meeting a Title VII plaintiff's initial burden of proof. This is not a theory of comparable *worth* but of comparable *work*. The theory does not require proof that jobs are substantially *equal* as under the Equal Pay Act, but that they are sufficiently *similar* to remove the factor of job content as an explanation for a wage differential. This emerging

theory thus relies on the traditional Title VII principle that once all legitimate reasons for a wage differential have been eliminated, it is more likely than not that an employer has based his wage scale on an impermissible factor such as sex.[43]

The jobs of public health nurses and public health sanitarians were compared in *Briggs v. City of Madison*.[44] Public health nurses provided nursing services in the public schools, operated health clinics, conducted health education programs, and enforced various city and state health rules. For twenty years prior to the lawsuit, all but one of Madison's public health nurses had been women. City of Madison sanitarians inspected restaurants, bars, stores, hotels and pools for compliance with health regulations, reviewed plans for and handled complaints concerning sewage systems, investigated reports of food-borne illness, assisted with hazardous waste disposal and utility shut-off procedures and enforced various city and state health rules. For twenty years prior to the lawsuit, all of Madison's sanitarians had been men.

Marsha Briggs and seventeen other public health nurses sued the city alleging a violation of Title VII. The court emphasized that their claim was *not* that they had been denied equal pay for equal work. Rather, the nurses charged that the city had discriminated against them by paying them only about 85 percent of the wages of male sanitarians whose jobs, plaintiff claimed, required the same or less qualifications, skill, effort and responsibility and who worked under similar working conditions. The court noted that the nurses' claims were based "on a theory that seeks to correlate wage differentials with wage discrimination, where the wage differential applies to sex-segregated jobs of comparable content."[45]

The court agreed with plaintiffs' factual claims. It found that the nurses and sanitarians occupied sex-segregated job classifications and that the nurses jobs required skill, effort, and responsibility at least equal to that required of the sanitarians who worked under similar conditions.

Applying a traditional disparate treatment analysis, the court held that plaintiffs had met their initial burden by proving facts that supported an inference of intentional discrimination. The five elements of proof relied upon by the court were that (1) plaintiffs were members of a protected class (2) who occuped a sex-segregated job classification (3) that was paid less than (4) a sex-segregated classification occupied by men and that (5) the two classifications involved work that was so similar in skill, effort, responsibility and working conditions that it was reasonable to infer that the jobs were of comparable value to the city. The court reasoned that plaintiffs' five-step prima facie case

> rests upon the logical premise that jobs which are similar in their requirements of skill, effort and responsibility and in their working conditions are of comparable value to an employer, and upon the equally logical premise that jobs of comparable value would be compensated comparably but for the employer's discriminatory treatment of the lower-paid employees.[46]

Even though this rationale included the notion of comparable value, the court was very careful to distinguish plaintiffs' theory from the theory of comparable worth.

> Plaintiffs' showing does not require the court to evaluate the abstract "worth . . . to society or to an employer" of one job as against another or to compare jobs that differ from one another in their requirements of effort or responsibility, cf., *Gunther*, . . . or to "cross job description lines into areas of entirely different skills," cf., *Lemons* . . . Here plaintiffs have been able to show such a substantial similarity of work requirements and work conditions as to raise a presumption of illegal sex discrimination.[47]

Although the nurses met their initial burden, they failed to win the case. The court held that where male and female jobs are similar but not equal, the standards and burdens of proof of the Equal Pay Act do not apply as they do when a Title VII plaintiff shows it is entitled to equal pay for *equal* work. Thus, the city was only required to articulate a legitimate reason for the wage differential in order to rebut plaintiffs' case. And unlike a defendant rebutting a showing of equal work, the city could rely on evidence of greater difficulty in recruiting and retaining men to justify its wage differential. The court held that plaintiffs' case was rebutted by the city's evidence that the wages of sanitarians were higher because the city thought this was necessary to retain these workers. Thus, the burden shifted back to the nurses to show that the city's explanation was a pretext for discrimination. Although the court described several categories of evidence by which this showing might have been made, the court concluded that plaintiffs' had failed to demonstrate that the city's explanation was pretextual. And even if this demonstration had been made, the court held that plaintiffs failed to prove that the pay differential was not wholly due to actions taken by the city prior to the date when the prohibitions of Title VII became applicable to public employers.

Although the nurses in *Briggs* collected no damages, their lawsuit defined a new formula for wage discrimination claims under Title VII. That formula has recently been recognized by another court as a viable Title VII theory of wage discrimination.

Lanegan-Grimm v. *Library Association of Portland* involved a comparison of the job of a bookmobile driver and that of the library's delivery truck driver.[48] Sheri Lanegan-Grimm was one of four bookmobile drivers employed by the defendant. Her job was to load books and other library materials on and off the bookmobile and drive the bookmobile throughout the county in order to extend library services to members of the public located at some distance from the library's several branches. Historically, the defendant employed predominantly women as bookmobile drivers. The duties of the delivery truck driver were those ordinarily associated with that job title. The defendant had never employed a female as a delivery truck driver.

Lanegan-Grimm sued the defendant under Title VII claiming that her lower wages constituted unlawful sex discrimination. The court pointed out that under Title VII a plaintiff may prevail either by proving equal work or intentional discrimination.

The court analyzed these two theories separately. First, employing traditional Equal Pay Act standards the court examined in great detail the content of the two jobs. The court found that the jobs required substantially equal skill, effort and responsibility and were performed under similar working conditions. Thus, the court held that plaintiff had met her initial burden in proving a violation of Title VII's requirement of equal pay for equal work. Since the only substantial defense advanced by the defendant related to supposed differences between the jobs that the court had already discounted, the plaintiff prevailed on her equal work theory.

The court then addressed plaintiff's theory that the defendant intentionally discriminated against her in setting her wages. Citing *Briggs* v. *Madison*, the court held that plaintiff had met her initial burden of proving facts sufficient to support an inference of intentional discrimination. In light of the fact that the two job categories had been historically sex-segregated and that delivery truck drivers had historically been paid more than bookmobile drivers, the court held that the jobs were sufficiently similar to support an inference of intentional discrimination.

However, the court concluded that the defendant could point to sufficient differences between the jobs to meet its minimal burden of rebutting plaintiffs' initial showing of disparate treatment. Nevertheless, the court concluded that the plaintiff proved that these differences did not explain the wage differential but were a pretext for discrimination. The court credited plaintiffs' testimony that when she asked why she was paid less the director of bookmobile services told her it was because the delivery truck driver was a man and head of a household. The court also made reference to a remark made to plaintiff by the head librarian that was "extremely derogatory and sexist" and "of sufficiently poor taste that it will not be repeated." This uncontested testimony was sufficient to prove that the reasons for the wage differential advanced by the defendant were pretextual.

Lanegan-Grimm thus confirms the theory of wage discrimination enunciated in *Briggs* v. *Madison* and hinted at in *Gunther*. Where a Title VII plaintiff shows an otherwise unexplained historical wage differential between sex-segregated jobs, those jobs may be sufficiently similar to support an inference of intentional discrimination.

CONCLUSION

Courts have not outgrown their historic reluctance to evaluate the *worth* of male and female jobs in order to make decisions about wage discrimination. This reluctance is not surprising and is probably permanent. Judges clearly do not feel at home in the highly technical discipline of job evaluation where fundamental guiding principles seem scarce. While evidence of comparable worth will be considered in support of an inference of intentional discrimination, such evidence standing alone will not be sufficient.

But courts are perfectly comfortable making detailed comparisons of the *content* of male and female jobs. Judges have undertaken such comparisons in twenty years of decisions under the Equal Pay Act. The *Briggs* and *Lanegan-Grimm* opinions suggest that detailed comparisons of job content will become increasingly important to Title VII actions claiming equal wages for different but comparable work. Under this developing theory, women in historically sex-segregated jobs may be entitled to equal pay if their work is so similar to that of higher paid males that the factor of job content cannot be an explanation for the differential. Of course, there may be other legitimate explanations for differences in wages. Courts still face the task of determining which explanations for a wage differential will be deemed legitimate under new theories of wage discrimination. For example, the extent to which the market rate defense will be successful in responding to a comparable work/wage discrimination claim is still to be decided. The nature of the duty placed on an employer to articulate and prove non-discriminatory reasons for wage differentials will continue to be a crucial concern as new theories of wage discrimination emerge.

NOTES

[1]Mr. Kirk is an associate resident in the Washington D.C. office of Breed, Abbott & Morgan. Mr. Lorber is a partner in the Washington office of Breed, Abbott & Morgan, specializing in labor and regulatory law.

[2]452 U.S. 161 (1981).

[3]"Court Allows Women's Suit in Pay Dispute," *The Washington Post*, ne 9, 1981, at 1.

[4]"Women's Issue of the 80s," *Newsweek*, June 22, 1981, at 58.

[5]"Pay Equity Cases Can be Won Blumrosen Says," *Convention News* issued during the American Nurse's Association 1982 Convention, June 29, 1981, at 3, col. 1.

[6]29 U.S.C. §206(d)(1).

[7]*Ibid.*

[8]*Corning Glass Works* v. *Brennan*, 417 U.S. 188, 195, 9 FEP Cases 919 (1974).

[9]29 U.S.C. §206(d)(1).

[10]*McDonell Douglas* v. *Green*, 411 U.S. 792, 802, 5 FEP Cases 965 (1973).

[11]*Furnco Construction Corp.* v. *Waters*, *438 U.S. 567, 17 FEP Cases 1062 (1978) citing Teamsters* v. *United States*, 431 U.S. 324, 358, 14 FEP Cases 1514 (1977).

[12]See *Hazelwood School District* v. *United States*, 433 U.S. 299, 307–8, 15 FEP Cases 1 (1977); *Melani* v. *Board of Higher Education*, 31 FEP Cases 648 (S.D.N.Y. 1983).

[13]*Texas Department of Community Affairs* v. *Burdine*, 450 U.S. 248, 257, 25 FEP Cases 113 (1981).

[14]*Ibid.*, at 255.

[15]*Ibid.*

[16]42 U.S.C. §2000e–2(h).

[17]*Ammons* v. *Zia Company*, 448 F.2d 117 (10th Cir. 1971); *Orr* v *MacNeil & Son, Inc.*, 511 F.2d 166 (5th Cir. 1975).

[18]*International Union of Electrical, Radio and Machine Workers* v. *Westinghouse Electric Corp.*, 631 F.2d 1094 (3rd Cir.), *cert denied*, 449 U.S. 1009 (1980); *Fitzgerald* v. *Sirloin Stockade*, 624 F.2d 945 (10th Cir. 1980).

[19]563 F.2d 353 (8th Cir. 1977).

[20]620 F.2d 228 (10th Cir. 1980).

[21]*Ibid.*, at 229.

[22]*Martin* v. *Frontier Federal Savings & Loan Ass'n.*, 510 F. Supp. 1062 (W.D. Okla. 1981).

[23]501 F. Supp. 1300, 1321 (E.D. Mich. 1980).

[24]*Ibid.*, at 1321.

[25]*Ibid.*

[26]25 FEP Cases 602 (W.D. Penn. 1981).

[27]*Gunther* v. *County of Washington*, 20 FEP Cases 788, 791 (D. Or. 1976).

[28]*Gunther* v. *County of Washington*, 602 F.2d 882 (9th Cir. 1979).

[29]The court pointed to testimony by Sheriff Barnes that he thought the wage differential should have been less and that he had attempted to upgrade the matrons' salary. *Ibid.*, at n.11.

[30]*Ibid.*, at n.9.

[31]*Gunther* v. *County of Washington*, 623 F.2d 1303, 1321 (9th Cir. 1979).

[32]*County of Washington* v. *Gunther*, 452 U.S. 161 (1981).

[33]*Ibid.*, at 166.

[34]*Ibid.*, at 180–1.

[35]*Ibid.*, at 204 (emphasis original).

[36]*Gerlach* v. *Michigan Bell*, *supra*, p. 1321.

[37]539 F. Supp. 721 (W.D. Mich. 1982).

[38]*Ibid.*, at 726–7.

[39]31 EPD ¶33,528, 31 FEP Cases 191 (D. Conn. 1983).

[40]*Ibid.*

[41]545 F. Supp. 1064 (E.D. Penn. 1982).

[42]*Ibid.*, at 1085.

[43]*Furnco* v. *Waters*, *supra*, at 967.

[44]536 F. Supp. 435 (W.D. Wis. 1982).

[45]*Ibid.*, at 442.

[46]*Ibid.*, at 445.

[47]*Ibid.*, at 446.

[48]31 EPD ¶33,512, 31 FEP Cases 865 (D. Or. 1983).

46 - Employment - Comp Worth

POLITICS & POLICY

"PAY EQUITY" IS A BAD IDEA

hich doesn't mean that the idea—also known as comparable worth—will just go away quietly. it became the law of the land, employers would have to pa·· salaries based on job evaluation ores rather than labor market forces.

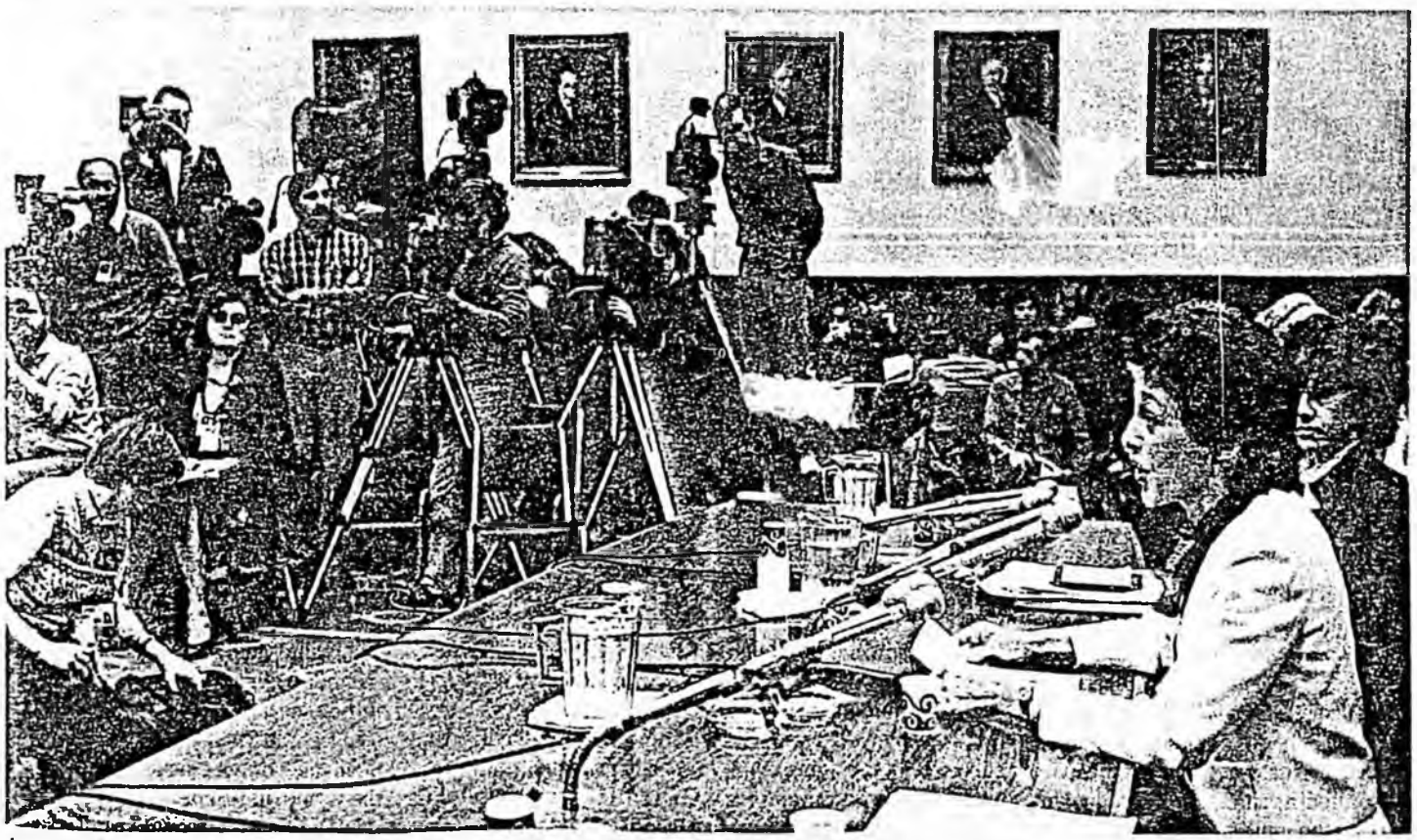
by Daniel Seligman

A PHENOMENON scarcely noticed during the endless race for the Democratic presidential nomination is that all the runners have rather ually come out for something called mparable worth." True, some of them e appeared a bit blurry about what they re endorsing—Walter Mondale uses the rase "comparable effort"—but, then, the ctrine is not easy to grasp. Comparable rth is at once revolutionary and loony.

RESEARCH ASSOCIATE *David Kirkpatrick*

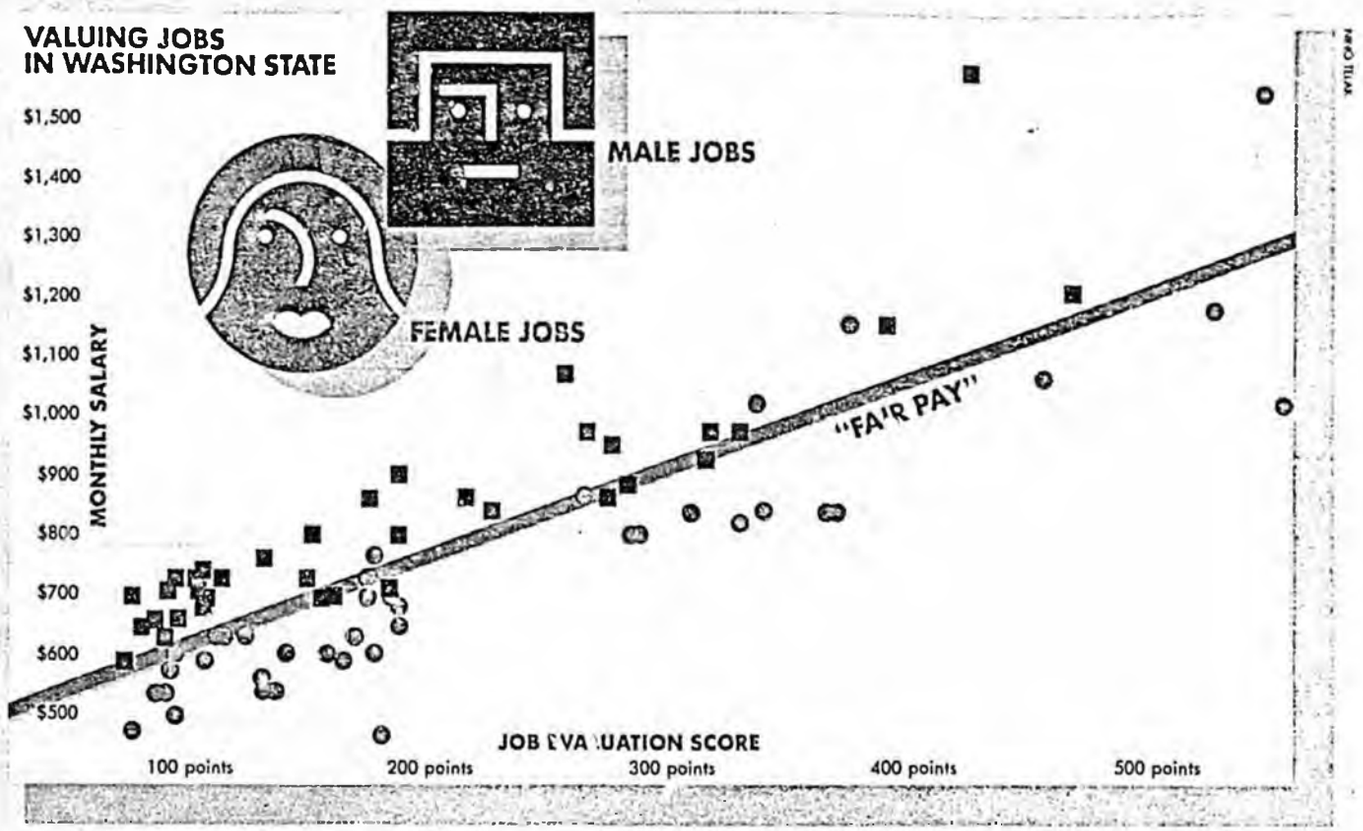
It rests on three extraordinary propositions. First, that it's possible to compare different jobs—even jobs that are totally dissimilar, like secretary and truck driver—and establish some "right" pay relationship between them. Second, that the pay relationships established by supply and demand in the job markets are frequently inequitable and discriminatory, especially with respect to women's pay. And third, that government must therefore intervene to ensure that the pay relationships are right.

Somewhat incredibly, and ominously for business, these ideas now have a lot of momentum behind them. Eleanor Holmes Norton looks to have been prescient back in 1978 when she identified comparable worth as "the women's issue of the Eighties." (Mrs. Norton was then head of the Equal Employment Opportunity Commission.) In 1984 the doctrine, also loosely known as "pay equity," is supported by all feminist organizations, by just about all liberal politicians, by a surprising number of moderate-



Joan Mondale *(right) preaches the comparable worth gospel at a friendly forum on Capitol Hill.*

PHOTOGRAPH BY TERRY ASHE



BUT DOES IT PROVE DISCRIMINATION?

■ The chart is a "scattergram"—a pictorial device that is endlessly onstage in the comparable worth debate and supposedly tells you whether there's discrimination in a given job universe. The universe shown here consists of 75 job categories monitored by the state of Washington's personnel department in 1974—the year in which the state began doing job evaluations. The chart depicts only jobs that were predominantly (70% or more) male or female. and it reflects the logic by which the state satisfied itself that it was indeed discriminating.

Scattergrams show the extent to which jobs are paid more or less than their evaluated worth. In an ideal world, workers' pay (vertical scale) would precisely reflect the evaluation point scores (horizontal scale), and all the plot points would fall on one straight line. Nobody expects this to happen in the real world, where such complications as seniority, unionization, and plain measurement errors are bound to scatter the plot points, leaving some jobs with more dollars per evaluation point than others. But suppose you drew a "fair pay" line that best expressed the trend of the plot points. And suppose it turned out that virtually all the "overpaid" jobs (those above the line) were predominantly male, while those below the line were just about all female. As you can see, that happened in Washington and encouraged a federal judge to find the state had violated the Civil Rights Act.

However, it is far from clear that purely statistical measures like scattergrams prove anything about discrimination. Women were not, after all, barred from the higher-paying job categories above the line; indeed, the state had affirmative-action programs designed to encourage their entry into those jobs. Nor were the majority of women paid less than the minority of men in the categories below the line. In effect, the state was paying market wages for all the jobs depicted and usually finding that it was possible to fill "women's jobs" more cheaply.

to-conservative politicians, and even by some businessmen for whom it would manifestly create many migraines. Its core ideas have been upheld in a landmark ruling by a federal district judge in Tacoma, Washington. It has been endorsed by the *New York Times* and the case for it has been learnedly elaborated in an authoritative-looking study bearing the imprimatur of the National Academy of Sciences. None of which, to be sure, rules out the possibility that comparable worth will ultimately collapse of its own deadweight dumbness.

Fans of comparable worth (hereafter CW) tend to believe that it is the natural and inevitable next step in the long march of civil rights; judging from the public dialogue, this view commands a substantial majority among those who have heard of the issue. The minority view is that CW is just the latest dodge in the never-ending effort of interest groups to get a better deal than the market is giving them.

In principle CW is an effort to extend the reach of the federal Equal Pay Act. This legislation, enacted in 1963, requires employers to pay men and women equally when they're doing the same job. The CW proponents wish to extend this proposition to dissimilar jobs that are nevertheless deemed compara-

ble in value. (Congress considered this idea, but rejected it as impractical, when it was debating the Equal Pay Act.)

How would employers decide which jobs were comparable? The answer usually vouchsafed by CW proponents goes somewhat as follows. It is not really difficult to evaluate the worth of jobs; the employer need only hire one of the many consulting firms that specialize in job evaluation studies. The consultant will rank all the jobs according to such criteria as the knowledge and skill required to handle them, the amount and varieties of problem solving they would require, the accountability of the person doing the job, and any hazards or unpleasantness associated with it. Those are, in fact, the criteria used by Philadelphia-based Hay Associates, the largest of the consultants.

Quantifying all these matters, the consultant will then assign a total point score to each job, and the points will determine the range for the job's base pay. If jobs found to be comparable nevertheless offer different pay scales, a CW advocate will presume that something funny is going on. If jobs predominantly held by men turn out to pay more than those predominantly held by women, the advocate will presume the "something" to be sex discrimination.

The Washington State case is our most famous example of CW in action. Washington was sued in 1982 by the American Federation of State, County, and Municipal Employees (AFSCME), which charged that female employees of the state were victims of discrimination. AFSCME's case was helped by the fact that the state had already accepted comparable worth in principle. Washington began sidling up to this principle in the early Seventies, when Republican Governor Dan Evans (he's now a U.S. Senator) became concerned that the state might really be underpaying women. To test his suspicions, Evans assigned the consulting firm of Norman D. Willis & Associates to perform evaluations on certain state job categories. Norman Willis was a former Hay consultant who had left the firm and set up his own shop in Seattle in 1971. His evaluation procedures are essentially similar to the Hay system.

Sure enough, Willis reported that women's work was underpaid. When you looked at the job categories that were either predominantly (70% or more) male or predominantly female, you found the male jobs paying about 20% more on average after adjustment for point scores. More recent studies have modified the details, but they

An electrician, *Kirk Hanson works for the Washington State education system, filling a job evaluated at 197 points. Jacqueline Bristol, an "attendant counselor III" (she counsels disabled children), has a job that is rated higher, at 209 points; yet the salary range for her job is around $600 a month less than for his. Why is the state, by its own logic, discriminating? It had to pay Hanson more to meet market competition.*

show no overall gains for women's pay relative to men's.

Against this background, U.S. District Judge Jack E. Tanner last December found the state guilty of discrimination. His order, which is being appealed, requires the state to bring all members of the predominantly female job categories up to their "evaluated worth," and to do so immediately. (Washington had been planning to deal with the problem over a ten-year period.) The state estimates that compliance with the order would cost around $400 million in 1984 and about $60 million a year thereafter.

Washington is by no means the only government employer taking CW seriously these days. Belief in the doctrine has also led Minnesota, New Mexico, and Idaho to appropriate money to indemnify groups of mostly female state employees. Minnesota, which hired Hay in 1979 and now has an elaborate job evaluation system, has been giving special raises (they average $1,600 over two years) to 8,225 employees in predominantly female job categories. California and Iowa also have CW laws for state employees, although they're not yet implemented. Other states, including Wisconsin, Oregon, Kentucky, and Alaska, are conducting legislatively mandated studies of CW. In New York and Maine, CW studies have been mandated by contracts reached in collective bargaining. The city of San Jose has a contract with AFSCME, signed in 1981 after a nine-day strike, requiring special raises for women employees of the city who had been found to be getting less than their worth, as evaluated by Hay Associates.

OF SPECIAL INTEREST to business are some rumblings in Hawaii and Pennsylvania. The legislature in Hawaii has passed a resolution that is nonbinding but calls on all employers, public and private, to establish CW pay standards. Pennsylvania is considering an amendment to the state Human Relations Act that would require all employers to adopt CW standards; the amendment is thought to have a good chance of enactment within a year or two.

Then there are stirrings at the federal level. Mary Rose Oakar, Democrat of Cleveland, recently held much publicized hearings (see photograph, page 133) to promote two bills: her Federal Employees Pay Equity Act of 1984 and her Pay Equity Act of 1984. The latter covers private enterprise; however, it purports not to be introducing any new obligations for business, only to be requiring stricter enforcement of an obligation that already exists. Oakar believes that Title VII of the 1964 Civil Rights Act, which deals with employment discrimination in both the public and private sectors, prohibits unequal pay for jobs comparable in value. Her belief is evidently shared by Judge Tanner—who based his Washington State decision on Title VII—and is explicitly endorsed by many liberals in Congress, including Senator Gary Hart. Both Hart and Mondale have pledged that, as President, they would strictly enforce this interpretation of the law.

Is it conceivable that CW is *already* the law of the land? John H. Bunzel, Reagan-appointed member of the Civil Rights Commission, says that it certainly isn't. But Clarence Thomas, Reagan-appointed chairman of the

EEOC, says the law is simply unclear. The Administration is obviously not eager to interpret the law as favoring CW; however, it is also not eager to start any more arguments with organized feminism. Accordingly, it is volunteering no legal opinions on CW for the record these days.

What makes the disagreements possible is a marvelously murky opinion delivered by the U.S. Supreme Court in *County of Washington* v. *Gunther*, the only case with a CW angle that it has tackled. The case involved a claim that matrons guarding women in an Oregon county prison should be paid as much as the guards watching over male prisoners. The Court ruled that, yes, it was permissible under Title VII to bring a suit concerned with different jobs but that, no, it wouldn't specify what had to be proved for the plaintiff to establish illegal discrimination. The Court will presumably get an opportunity to demystify things when the Washington State case lands on its doorstep.

Meanwhile, the more interesting disagreement about CW is on the merits of its case. Does the doctrine make economic sense? Or moral sense? Or any kind of sense?

Not all supporters of CW make precisely the same case for it, but all of them are logically required to at least believe in job evaluation. Without those evaluation scores, they would have no basis for stating that two dissimilar jobs were comparable in worth. So the first question is whether job evaluation systems provide a solid basis. It's not clear that they do.

THE FIRST THING you note when you focus on the systems is that all of them are floating in a sea of subjectivity. Job evaluation consultants inevitably differ among themselves about what factors to measure and what weights to assign the different factors. In the Washington case the state attorney general attempted to counter the evidence provided by Norman Willis by introducing the testimony of Paul Richard Jeanneret, a job evaluation consultant based in Houston. Jeanneret's clients have included a fair number of FORTUNE 500 companies as well as states and municipalities. Applying his PAQ System (so-called because it's based on a position analysis questionnaire) to a sizable sample of the jobs that Willis had scored, Jeanneret found that he and Willis were producing substantially different results. If you had used the scores generated by each system to rank-order jobs controlled by the Department o the rankings would have varied s on average, the jobs were 2.9 ra Furthermore, said Jeanneret, " stance where the Willis metho higher than the PAQ, the job w nantly female. In every case wh method rated the job lower th the job was exclusively male."

A second limitation of job e that the scores it generates d anything about the labor mark you somehow satisfied yourself ticular jobs were truly compa good would that conclusion do turned out that one of the jobs w while the other had endless app peting for it? The question is n Coming off its 1981 labor settlen Jose Personnel Department has at schedules showing librarians cians as comparable in value a requiring the same pay (abou month). Unfortunately for the ci specified is around $300 a mont it really needs to hire and retain brarians; meanwhile, the electri big demand—Silicon Valley bein miles away—so San Jose is pay

tially above the evaluated rate to hold on to them. (The contract allows the city to pay more than the rate in predominantly male or female categories.) Illogical bottom line: the city is overpaying the librarians in relation to the market and overpaying the technicians in relation to their evaluated worth. Says Personnel Services Administrator David Armstrong of the double standard: "They've got us in a vise."

A fair number of CW proponents admit that job evaluation is inherently subjective and less scientific than it looks—but still make a case for using it to set pay levels. A scholarly version of this case was developed in an influential and much quoted 1981 study sponsored by the National Academy of Sciences. The study had been triggered by a 1977 request from the EEOC to assess "the feasibility and desirability" of developing a CW standard. Translation: give us some good scientific reasons to support it. Outcome: the commission got some bad reasons to support it.

Many economists take the view that market forces represent the only meaningful basis for saying what jobs are worth. The NAS study strenuously rejects this belief, and Wesley Liebtag, a panel member who is director of personnel programs at IBM, says that none of the panelists (himself included) would subscribe to the belief. They argued that pay systems based on CW and job evaluation are fairer than systems which simply reflect what's happening in the market.

THE MARKET, the panelists sadly found, discriminates. After mentioning various academic models of the labor market, the NAS report indicated a strong preference for one of them: a so-called institutional model that generally deemphasizes the role of supply and demand in wage setting. The model assumes that employers are able to impose their own preferences on workers and that they relentlessly segregate women in low-paying jobs. The employers are said to be doing this because they perceive women to have higher turnover rates than men and less career attachment to their jobs. To be sure, the employers understand that this perception does not apply to all women; however, the "information costs" associated with finding the women to whom it is inapplicable are dauntingly high, so employers end up viewing women in general as bad bets for the most valuable jobs—which are, typically, those requiring the most training and also those in which heavy turnover would be most expensive.

So the National Academy panel cautiously concluded that government must do something. It found that (a) "market wages cannot be used as the sole standard for judging the relative worth of jobs," (b) "policy interventions to alter market outcomes may be required," (c) CW "merits consideration" as a way to intervene, and (d) for all the shortcomings of job evaluation, the use of evaluation scores to set pay rates "will go some way toward reducing discriminatory differences in pay when they exist."

Unfortunately, the panel nowhere addressed two rather obvious questions raised by its analysis. First, if women in general are barred from the "good" jobs, why does it make sense to bring in CW—whose whole point is to prove that their jobs are as valuable as those held by men? Second, why would anybody expect CW to be more effective in helping women than the Civil Rights Act, which has been "intervening" for the past 20 years and clearly outlaws the kind of segregation by sex that the panel believes to be still routine?

You often get a sense in talking to CW proponents that they don't take the logic of their case very seriously. If they really believed it was possible to establish the relative worth of jobs, they would presumably be calling for laws even more radical than those now contemplated. They would want to adjust the pay associated with *all* jobs, and not just those held by women, to the "right" level; furthermore, they would want reductions for those found to be overpaid, not just raises for those below the line. At bottom, it seems clear, many CW proponents aren't really buying the whole theoretical case for the doctrine and view it essentially as a politically expedient way to get raises for women.

This appears to be the perspective of some businessmen who support CW. One of them is William Asher, industrial relations director at Xerox. Asher made it clear in a recent interview that he is much concerned about the enormous practical problems entailed in any legislation mandating CW, but said he nevertheless favors a federal law because he doesn't know another way to end sex discrimination. "The concerns are valid," he argued, "but we can't go on keeping an inequity alive. So let's be on our way!" Asher said he hopes that any law Congress writes will specify the kind of job evaluation system business must use; otherwise, he fears, the courts would be choked with arguments about the relative merits of different systems. His preferred legislation would allow business to pay above (but not, of course, below) the evaluated rate where it could demonstrate a need based on market considerations.

SOME OF THE TRADE unionists pushing hardest for CW plainly view it more as a tactic than as an idea worthy of real commitment. One wonderful example of not taking the idea too seriously was provided by the San Jose strike in 1981. The CW movement there was inspired and directed by feminists working in a variety of mostly professional city jobs; although women constituted only about half of those represented by AFSCME Local 101, feminists played a major role in the union leadership. Their demand throughout the strike was equity for all predominantly female categories, with equity defined as getting them up to the "trend line" drawn through the Hay Associates scattergram. (For a short course in scattergrams, see page 134.) Later, the city proposed a compromise that would at least get all those categories up to a point 10% below the trend line. But the union leadership turned out not to like this idea. While the compromise would still provide huge wage increases, exceeding 30% in some cases, for women in the most menial jobs—most of whom were not even union members—it would do little or nothing for some of the office workers most active in the strike. Solution: the "special equity adjustments" were structured to provide increases of at least 5% for just about all the female groups. The money to pay for this deal was raised by capping increases at 15%, leaving many of those low-paid workers, theoretically the main victims of discrimination, well below the line. So much for CW logic.

CW in its pure form is almost certainly going nowhere in the U.S.; to sweepingly replace market-based wages with any concept based on intrinsic job worth would be too radical for the legislatures to swallow whole, or possibly too medieval. (Many arguments for CW seem to echo the ancient Catholic idea of the "just price.") On the other hand, it is hard to believe that the idea will just fall off the table and be forgotten anytime soon; the momentum now behind it, manifest at every level of government, seems to rule out any such possibility. So in some attenuated form or other, CW will doubtless continue to spread across the land, providing special "equity" raises for women. There being no such thing as a free lunch or an unlimited raise pot, men might actually begin objecting to this process at some point, but we are clearly not there yet.