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BEYOND "EQUAL PAY FOR EQUAL WORK":

COMPARABLE WORTH

By

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B.S., Minot State College, 1966

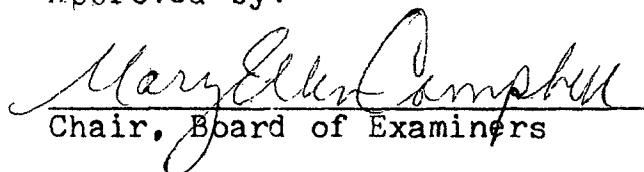
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1983

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I. INTRODUCTION

Comparable worth is "the issue of the eighties for women."¹

Eleanor Holmes Norton
(former EEOC chair)

The decade of the 80s promises to reintroduce the concept of comparable worth as a viable solution to wage discrimination. Much has been written about comparable worth, but questions linger. What is comparable worth? Does it provide a practical answer to the thorny problem of wage inequities? What consequences would its implementation bring?

What comparable worth is, how it has evolved, and how it is changing will be noted here. A vital element of the comparable worth issue is job evaluation, thought by many to be a valid measurement of comparable worth. Four job evaluation techniques will be described as well as the role job evaluation plays in the labor market. Key to a clear understanding of comparable worth is a recognition of the beliefs of its supporters and the convictions of its opponents.

"A woman's work is never done" or so goes the saying. Maybe so. But what bothers many women (and not a few men) is that women are not paid, on average, as much as men are.²

It isn't that women aren't working. Women's participation in the labor force increased from 43 percent in 1970 to 51 percent in 1980.³

Yet the Bureau of the Census reveals that in 1982 for every dollar a full time, year round working man earned, a full time, year round working woman received only 63¢.⁴

Furthermore, lifetime earnings for women are consistently less than for men at all comparable educational levels. In fact, a woman college graduate can expect to earn less than a male high school dropout.⁵ Appendix A provides more details on lifetime earnings.

A foundational understanding of comparable worth is helpful at this point.

A. Definition of Comparable Worth

Ron Pilenzo, chief operating officer of the American Society of Personnel Administration (ASPA), states that "80 to 90% of the companies in this country don't know what comparable worth is all about, and I'd suggest that they don't even know what equal pay is all about."⁶

The National Academy of Sciences (NAS) defines comparable worth as the theory that "jobs that are equal in their value to the organization ought to be equally compensated, whether or not the work content of those jobs is similar."⁷ So comparable worth is equal pay for comparable value, though not identical, work.⁸

Theoretically the principle of "equal pay for comparable work" would increase wages for currently underpaid jobs (mostly held by women), resulting in a reduction in the male/female earnings gap.⁹

Job evaluation is the yardstick being used to measure comparable worth.¹⁰

B. Description of a Job Evaluation Plan

Although several job evaluation methods exist, four of the more common techniques are briefly described.

1. Ranking (or whole job ranking) compares the complexities, responsibilities, and other requirements of one "whole" job with another "whole" job. The most difficult job is selected and then a third job is compared. This process continues until all jobs are ranked.¹¹

2. The classification technique identifies a predetermined number of salary grades (e.g., G-1 through G-10). Each grade specifies job characteristics applicable to it. Then each job is examined and fit into a grade.¹²

3. Factor comparison adds market rates to a combination of ranking and classification. First, compensable factors (e.g., knowledge, skill) are determined. Second, key or representative jobs are chosen and ranked. Third, each factor is judged as to its worth. Lastly, each factor is weighted and often expressed in dollar values.¹³

4. The point factor plan is the most widely used. After compensable factors are developed, levels of worth (e.g., 1=least to 10=most) are assigned within each factor. Then a point value is given to each level (e.g., 50 points for level 1; 2000 points for level 10). The total points a job garners determines its position within a salary grade.¹⁴

While the job evaluation plan is being conducted, job analyses are undertaken and job descriptions written.¹⁵

Job evaluation links external and internal labor markets. How does it do this? First, it's important to know that organizations have two types of jobs: key and non-key. Key jobs are common to many organizations. A registered nurse or an accountant are two examples. Non-key jobs exhibit job content unique to that organization (e.g., planimeter operator).

Wage surveys of several organizations give a company an accurate knowledge of the market rate (the range other organizations pay for certain key jobs). Based on a wage survey a company establishes its own rate for its key jobs.

But non-key job rates can't be established by specifics because there are no easily discernible market rates for them. The solution is to arbitrarily fit them into slots between similar key jobs. Thus, the external market is linked with the internal market.¹⁶

II. BACKGROUND

A. National War Labor Board

During World War II the National War Labor Board (NWLB) froze all wages, allowing increases only where necessary to correct existing inequities.¹⁷ The intent was to equalize pay between men and women for "comparable quality and quantity of work on the same or similar operations."¹⁸ In practice, the NWLB issued several rulings which supported the equal pay for equal work principle, but stopped short of dealing directly with the equal pay for comparable work issue.¹⁹

B. Equal Pay Act of 1963

In the early sixties wage discrimination issues were hotly debated. The House, as had the NWLB, chose the narrower concept of "equal" rather than "comparable."²⁰ This choice culminated in the passage of the Equal Pay Act of 1963 (EPA) which requires employers to pay men and women equally for substantially equal work.²¹ However, unequal pay is acceptable under four conditions: an established seniority plan, a merit system, a method which measures productivity, or any factor other than sex.²² Violating employers cannot comply by reducing the wages of any employee.²³ See Appendix B for a full accounting of the EPA.

Since 1979 the Equal Employment Opportunity Commission (EEOC) has administered the EPA.²⁴

C. Title VII

In 1964 Congress passed Title VII of the Civil Rights Act, a legislative tool intended to eliminate employment discrimination because of race, color, religion, sex, or national origin.²⁵ The EEOC is charged with enforcing Title VII.²⁶ Appendix C recounts its core provisions.

The last section of Title VII, known as the Bennett Amendment, states that:

It shall not be an unlawful employment practice under this title 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 6(d) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(d)).²⁷

The ambiguity of the amendment prompted its author, Sen. Wallace Bennett of Utah, to further clarify that its intent was "to provide that in the event of conflicts (between Title VII and the Equal Pay Act), the provisions of the Equal Pay Act shall not be nullified."²⁸

D. Executive Order 11246

In 1965 President Lyndon Johnson signed Executive Order 11246 which banned employment discrimination by federal contractors and subcontractors. It also required written affirmative action plans for women and minorities.²⁹ The

Office of Federal Contract Compliance Programs (OFCCP) in the Department of Labor administers Executive Order 11246.³⁰

E. Equal Employment Opportunity Commission

In 1978 the EEOC commissioned the National Academy of Sciences (NAS) to study job evaluation systems and determine if it is feasible to evaluate the worth of jobs.³¹ In September 1981 the \$200,000 study reported its findings.³²

These findings attributed less than half of the wage gap to differences in age, experience, or education. The study concluded that the remainder of the gap was created by discrimination.³³ Recognizing that job evaluation techniques often reflect marketplace discrimination, the study didn't recommend that the EEOC mandate employers to use job evaluation plans. However, the study suggested the development of less discriminatory job evaluation techniques.³⁴

The EEOC conducted hearings in 1980 on the comparable worth issue preparatory to issuing guidelines.³⁵ In September 1981 these guidelines were published.³⁶

While chair of the EEOC during the Carter administration, Eleanor Holmes Norton maintained that the EEOC was selectively litigating comparable worth cases in an effort to present the issue before the Supreme Court.³⁷ Under the current Reagan administration, the EEOC's chief counsel, Michael Connolly, notes a shift away from pursuing comparable worth cases. "If the comparable worth can of worms

gets opened in this country and the law of supply and demand doesn't apply, it will be doing a great disservice to females and the country," observed Connolly.³⁸

F. Litigation

The court's evolving interpretation of the comparable worth issue can be discerned by examining three well-known cases involving sex-based discrimination.

Lemons v. City and County of Denver

In 1975 several nurses in Denver, citing a pay survey conducted by the city, claimed the city and county of Denver was discriminating against them.³⁹ The nurses asserted that the city's classification system reflected the historic undervaluation of women and, therefore, was discriminatory.⁴⁰ Monthly starting salaries for nurses of \$1064 fell short of the \$1164 tree trimmers received and the \$1191 painters earned, though all jobs were rated comparably.⁴¹

The Tenth U.S. District Court ruled in favor of Denver in 1978. The Court recognized historic discrimination against women existed but felt that the issue of comparable worth did not apply under Title VII or the EPA.⁴² Judge Winner stated that this case was "pregnant with the possibility of disrupting the entire economic system of the U.S."⁴³

County of Washington v. Gunther

The county's wage survey and assessment of job worth showed that female prison guards should be paid 95 percent

as much as male guards. In fact, the four female guards earned only 70 percent as much.⁴⁴ The female guards claimed that the county was denying them equal pay for work that was substantially equal to that of the male guards although the work was not identical (the women performed some clerical work and supervised only 10 percent of the prisoners). They further contended that even if the work was not substantially equal, part of the wage discrepancy was due to intentional sex discrimination.⁴⁵

The district court rejected both claims. The female guards appealed to the Ninth Circuit which reversed the district court's decision concerning Title VII, holding that the Bennett Amendment did not intend to limit sex-based compensation cases only to equal work requirements.⁴⁶ However, the Ninth Circuit did agree with the district court's ruling that the work was not substantially equal.⁴⁷

In June 1981 the Supreme Court upheld the Ninth Circuit's ruling that the Bennett Amendment does not limit the right of women to sue in sex-based compensation cases only to unequal pay for equal work situations.⁴⁸ The Court made a point of saying that it was not directly addressing the comparable worth issue, but its remarks did open the door for future lawsuits to define this issue.⁴⁹ Thus, the Supreme Court held that the intent of the Bennett Amendment was only to include the four exceptions of the EPA under the Title VII umbrella and not the EPA's equal work standard.⁵⁰

The case was remanded to a lower court and was eventually settled out of court with the county of Washington, Oregon agreeing to pay the four female guards \$3250.⁵¹

IUE v. Westinghouse

In 1972 the International Union of Electrical Workers (IUE) brought a suit against Westinghouse Electric, claiming that Westinghouse's wage structure resulted in less pay for women than men earned for comparable jobs. Carole Wilson, legal counsel for the IUE, introduced a 1939 Westinghouse industrial relations manual as evidence of Westinghouse's intentional discrimination toward women. Although the company had discontinued use of the manual, women's pay still was only 80 percent that of men's.⁵²

In August 1980 a federal appeals court ruled that Westinghouse had been guilty of intentionally discriminating against women in jobs "which had been judged by the employer to be of the same value as men's."⁵³

Westinghouse appealed to the Supreme Court, but after the Gunther decision was announced, dropped that appeal.⁵⁴ In January 1982 Westinghouse settled out of court with IUE, agreeing to upgrade jobs of current and former workers. It also established a \$75,000 back pay fund to be distributed to women employed by Westinghouse between August 8, 1972 and the date of settlement in January 1982.⁵⁵

G. Unions

The Communications Workers of America (CWA), the Coalition of Labor Union Women (CLUW), the IUE, and the American Federation of State, County and Municipal Employees (AFSCME) are a few of the more active unions supporting comparable worth. San Jose demonstrates the collective bargaining strategy of AFSCME.

a. San Jose, California

In 1979 the city of San Jose commissioned Hay Associates, a national consulting firm, to conduct a job evaluation study of 280 city job classifications.⁵⁶ Using a point factor method, Hay Associates concluded that female-dominated jobs fell 2-10 percent below a "trend line" (that is, a line representing an average salary per job evaluation points). Male-dominated jobs rose 8-15 percent above the line.⁵⁷

When AFSCME demanded restitution, the city refused on the grounds that it could not financially afford AFSCME's 4-year, \$3.2 million proposal.⁵⁸ The city's refusal prompted the first municipal strike over a comparable worth issue. On July 14, 1981, after a nine-day strike by AFSCME workers, the city agreed to a \$5.4 million settlement (\$4 million for general pay increases and \$1.4 million for pay equity bonuses for about 750 women).⁵⁹

Winn Newman, a lawyer specializing in minority and women's rights, favors collective bargaining as a strategy over litigation.⁶⁰ Newman states:

Through their knowledge of employer practices, and their access to civil rights-related information from employers, unions are in an excellent position to identify discriminatory practices which might otherwise have gone unrecognized by the affected employees. Unions are also able to inform affected workers about their rights and to assist them in bringing their complaints before the proper authorities. Moreover, as a number of courts have recognized, through their expertise, their ability to offer financial and legal resources, and their knowledge of the plant or employer, unions can and should contribute immeasurably to the effectiveness of fair employment litigation.⁶¹

III. A NEED FOR CHANGE

A. The Proponents

Comparable worth has been labeled a women's issue and, in part, it is. Well-known women's organizations including 9 to 5, the National Federation of Business and Professional Women's Clubs (BPW), the Center for Women in Government, and the National Organization for Women (NOW) support comparable worth. However, they are joined by labor unions, civil rights groups, and professional associations.⁶²

In 1976 the business sector created the Equal Employment Advisory Council (EEAC) to fight comparable worth.⁶³ Proponents of comparable worth responded by developing their own coalition. In October 1979 the first conference on pay equity convened in Washington, D.C. An outgrowth of this conference was the Committee on Pay Equity--"a national membership coalition of women's, labor, civil rights, legal and educational organizations located in Washington, D.C." The Committee, comprised of various task forces, is committed to achieving pay equity for women.⁶⁴

Another visible group is Women Employed, located in Chicago. Research Director Nancy B. Kreiter believes Women Employed can best work toward raising women's pay by pursuing a "litigation strategy that will get the best wage-gap

cases to the Supreme Court for decision." Consequently Women Employed encourages federal and state agencies to focus on the wage-gap problem. Women Employed urges unions to organize women and it hopes to persuade business to voluntarily create pay ranges and career ladders for clerical workers.⁶⁵

Working Women, a national organization of office workers, collects salary data about targeted firms or industries. Then it applies pressure to increase salaries for female-dominated positions.⁶⁶ Its tactics include publicity, employee pressure, and discrimination charges.⁶⁷

B. Positions and Beliefs

1. The wage gap is caused, in part, by discrimination

A recent study, Years of Plenty, Years of Poverty, concluded that two thirds of the earnings gap is a result of "discrimination, stereotyping, and early socialization." The rest is caused by differences in skill and experience.⁶⁸

Occupational segregation refers to high concentrations of men or women in certain occupations. The Department of Labor defines a predominately male occupation to be one with 25 percent or less women in it. A predominately female occupation has 55 percent or more women in it.⁶⁹ Table 1 presents some examples of occupational segregation.

Over 60 percent of all working women are concentrated in twenty predominately female occupations.⁷⁰ These occupations pay lower wages than predominately male jobs.

TABLE 1
 PREDOMINANT OCCUPATIONS

FEMALE

Secretaries	99.1
Child care workers	97.9
Dental assistants	97.8
Preschool and kindergarten teachers	97.4
Registered nurses	96.8
Librarians	80.9
Clerical workers	80.3
Teachers (except college)	70.8
Sales clerks, retail trade	70.7
Social workers	64.3
Service workers	62.4

MALE

Fire fighters	99.6
Carpenters	98.7
Electricians	98.7
Truck drivers	97.9
Engineers	97.1
Dentists	95.4
Craft workers	94.3
Architects	94.0
Police	94.0
Physicians	89.3
Lawyers	87.2

SOURCE: U.S. Department of Labor, Bureau of Labor Statistics, Employment & Earnings, (January 1980), vol. 27, no. 1.

In 1981 women sales workers earned 52 percent of what male sales workers earned. In banking, women officers made 60

percent as much as male officers while women college teachers received 80 percent as much as their male colleagues.⁷¹

How did occupational segregation come about? Part of the answer is found in the protective labor laws passed in the late nineteenth century. The intent of these laws was to protect women and children, but it also had a restrictive effect on pay for women. Some of the forbidden jobs (e.g., bartending, mining) were the better-paying positions. Women also were denied shift and overtime pay.⁷²

Why do women end up in lower-paying jobs than men? Newman claims "initial assignment discrimination" is often responsible. Assume a man and a woman have an equivalent education, training, and ability. If an employer assigned the man to a man's job and the woman to a woman's job purely on the basis of sex, initial assignment discrimination would have occurred. Newman charges that many industries discriminate against women in this manner.⁷³

One study discovered that women choose the low-paying jobs because of "early socialization." A young girl is encouraged to be a nurse rather than a doctor, for example. This socialization results in a tendency to choose the low-paying jobs of the "pink collar ghetto."⁷⁴

Why do female jobs pay less than male jobs? One reason is that criteria used in evaluating jobs have favored male positions.⁷⁵ Physical strength, found in many male jobs, is valued higher than finger dexterity, found in female jobs.

Thomas Mahoney, professor of organization behavior at Vanderbilt University, blames the "crowding" theory. Women have difficulty entering male occupations and, therefore, are "crowded" into female occupations. The result is that "restricted supplies in male dominated occupations permit upward wage pressure, and the competition of relative oversupply in female occupations holds down wages there."⁷⁶

Carolyn J. Jacobsen, managing editor of BC&T News, a publication of the bakery, confectionary and tobacco workers, claims that the lack of women in unions contributes to the lower pay of women's jobs. Only 11.5 percent of clerical workers are unionized, Jacobsen notes, though a large number of women are concentrated in this occupation.⁷⁷

NOW reports that a California study undertaken by Professors William T. Bielby and James N. Baron determined that occupational segregation is pronounced. Their prescription? Sex segregation would be reduced by "government monitoring" and top management's commitment to sex desegregation.⁷⁸

Additionally, many assert that discrimination is also found in job evaluation techniques.

2. Job evaluation plans are not bias-free

Most job evaluation plans rely on wage surveys to determine the salary range of key jobs. Some argue that since the marketplace discriminates against women, the use of wage surveys perpetuates that prejudice.⁷⁹

An outspoken critic of benchmark ranking, a vital element in many job evaluations, is David J. Thomsen. In his testimony before the EEOC, Thomsen depicts benchmark ranking as "a method of price fixing which allows the freedom to discriminate against selected groups." Thomsen describes two forms of bias that benchmark ranking promotes. One is that if discriminatory practices occurred in the past, then these practices will only perpetuate themselves. Secondly, the subjective practice of slotting non-key jobs is open to massive personal biases by the evaluators.⁸⁰

Although it is generally agreed that the point factor method is the most accurate, it is not free of bias. The subjective nature of weighting factors often results in giving more weight to the "heavy lifting" or "responsibility for property" factors present in some male jobs than the "finger dexterity" or "responsibility for people" in some female jobs.⁸¹ This undervalues women's jobs.

Another fault is the use of multiple job evaluation plans. In this situation one plan might be used for clerical personnel and another for blue collar workers. The EEOC and comparable worth advocates charge that multiple plans prevent the comparison of different jobs (for example, comparison of a clerical position to a blue collar job), thus, limiting the implementation of comparable worth measurements.⁸² In addition, it is felt that the use of multiple plans keep minority-dominated positions at low wage levels.⁸³

Imperfections in job evaluation methods, notwithstanding, most comparable worth advocates feel improvements are possible.⁸⁴

3. Biases can be eliminated from job evaluation plans

Thomsen, for one, declares that "discrimination can be all but eliminated . . ."⁸⁵ He describes several steps that will do just that:

--Use a single plan rather than multiple plans.⁸⁶

Elaine Wegener, president of PACT--a human resource management and consulting firm, doubts a single plan can be effective industry-wide but supports a separate plan for each industry.⁸⁷

--Select meaningful factors.⁸⁸ AT&T, aware of the high value traditionally placed on "physical strength," is considering revising its factors to include "mental fatigue."⁸⁹

--Choose bias-free factor weights.⁹⁰ Wegener stresses the need to include factors found primarily in sex-segregated jobs.⁹¹

--Avoid the overuse of subjective data.⁹²

--Choose an unprejudiced evaluation committee.⁹³

--Keep job measurements up-to-date.⁹⁴

Although the NAS report found current job evaluation plans to be imperfect, it noted that reliability was heightened by the involvement of "several evaluators and a

review committee comprised of representatives of a plurality of interest groups."⁹⁵

a. The Washington Study

A 1974 study authorized by Gov. Don Evans illustrates the workings of job evaluation.⁹⁶ A 1973 job evaluation conducted on top management positions in state government led to large salary increases for many managers. Believing job evaluation could compare salaries paid to male and female dominated jobs, Governor Evans commissioned Willis & Associates, the same consulting firm who conducted the 1973 study, to evaluate 121 sex-segregated jobs.⁹⁷

Willis used a point factor method. Compensable factors were knowledge and skills, mental demands, accountability, and working conditions.⁹⁸

What were the results? Almost all male-dominated jobs earned more than the female-dominated jobs. How much more? Women received only 80 percent of what men received.⁹⁹

Has the state of Washington restructured its pay system as a result of the job evaluation? No.

AFSCME, represented by Winn Newman, is suing the state of Washington for \$500 million in back pay. The union notes that the state of Washington "has continued to pay different wages for jobs that have the same point values, despite five job-evaluation studies that over the past ten years have corroborated these discrepancies."¹⁰⁰

The verdict is in. U.S. District Judge Jack Tanner ruled September 16, 1983 that Washington state is guilty of "direct, overt and institutionalized" wage discrimination. "The discrimination is pervasive. It is intentional," noted Judge Tanner. In December a preliminary ruling by Judge Tanner indicated that Washington state must pay millions of dollars in damages. Washington state will appeal.¹⁰¹

4. The EPA doesn't help women in "unequal" jobs

Despite the anti-discrimination legislation passed twenty years ago, women's pay has not improved significantly.¹⁰² In fact, the earnings gap is worse than it was in 1955. See Table 2.

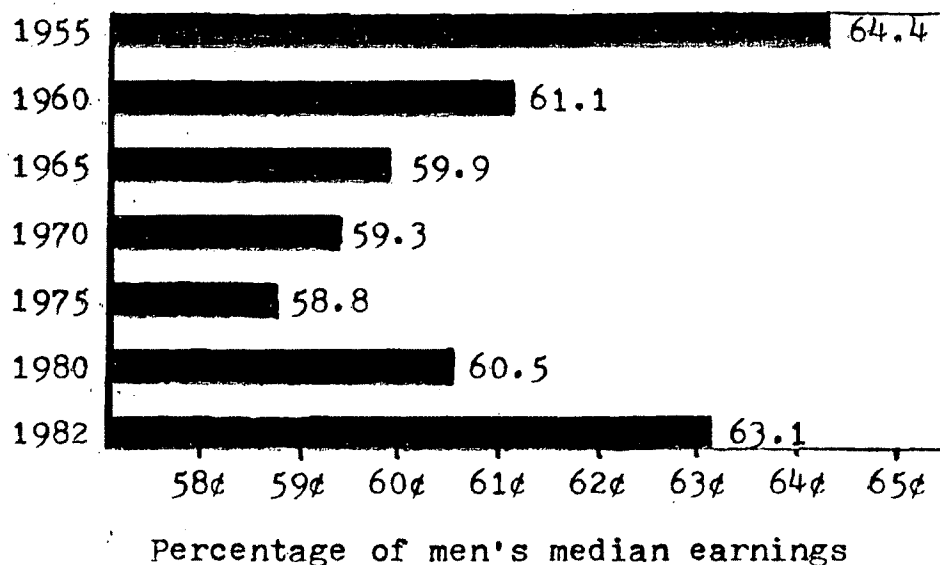
The intent of the EPA was to eliminate sex discrimination in wage structures, but it only covers equal pay for equal work. It does not apply to workers who perform comparable rather than equal work.¹⁰³ Nor does it pertain to workers in sex-segregated positions because it's effective only when jobs of both sexes can be compared.¹⁰⁴ Since the principle of equal pay for equal work doesn't satisfy all situations, another standard must be proposed.

5. Comparable worth is an answer to the wage gap

Although pay equity advocates view upward mobility (the increase of women entering traditional male jobs) as beneficial, they no longer see it as the prime answer

TABLE 2

WOMEN'S RELATIVE EARNINGS
(Full time, year round)



SOURCE: U.S. Department of Commerce, Bureau of the Census, Current Population Reports, Series P-60, No(s). 23, 36, 51, 80, 105, 127, 140.

to the wage gap as they may have two decades ago.¹⁰⁵ They feel that job access has not been achieved to the degree that it was expected.¹⁰⁶

Statistics are often quoted which indicate that women are entering traditional male occupations in great numbers. Helen Remick, Director of Affirmative Action at the University of Washington, cautions that upward mobility has benefitted only a small number of women.¹⁰⁷

Remick develops the point that while it's good for women to enter the traditional male jobs, "true integration

requires not only that women do work traditionally reserved for men, but also that men should integrate into female dominated jobs."¹⁰⁸ How long can the male jobs absorb women when men are unwilling to move into female jobs?

In short, upward mobility hasn't succeeded in closing the wage gap. After almost twenty years the positive results of affirmative action programs have accrued to only a minority of women.

This leads us back to comparable worth. Advocates feel that comparable worth would raise the wages of large numbers of women. Nancy D. Perlman, Executive Director of the Center for Women in Government, and Bruce J. Ennis, Legal Director of the American Civil Liberties Union, state:

Implementation of pay equity would decrease the wage gap between men and women, even if occupational segregation continued. Eventually, however, we would expect pay equity to decrease the number of sex segregated categories.¹⁰⁹

IV. AN ARGUMENT FOR THE STATUS QUO

A. The Opponents

The most powerful foe comparable worth advocates face is, undoubtedly, the Equal Employment Advisory Council (EEAC). In 1969 the Labor Policy Association was formed to propose and write legislation concerning labor relations. Later, in 1976, it gave birth to the EEAC, a group specifically created to address affirmative action policies. Supporters of the EEAC include corporations like General Electric, Exxon, and Sears--all of whom have been involved in wage discrimination suits.¹¹⁰

The EEAC has filed friend-of-the-court briefs in appeals courts and in the Supreme Court, endeavoring to persuade the courts to accept what it believes are the "practical issues" facing employers. The EEAC has also been effective in dealing with governmental agencies, such as the EEOC, by modifying governmental regulations to correspond more closely to the employer position.¹¹¹

But perhaps the most well-known effort of the EEAC to combat comparable worth is the publication of its book, Comparable Worth: Issues and Alternatives, financed by \$150,000 from the Business Roundtable, an association of chief executives of major American corporations. This book

supports the EEAC view that comparable worth is not the answer to the wage gap.¹¹²

In addition to the EEAC and the Business Roundtable, opponents of comparable worth include the U.S. Chamber of Commerce and several professional associations.¹¹³

B. Positions and Beliefs

1. Comparable worth hasn't been operationally defined

What does "comparable" mean? What is "worth"? E.

Robert Livernash, professor emeritus at the Harvard School of Business and editor of Comparable Worth: Issues and Alternatives, charges that no operational definition of comparable worth exists and, without one, it can only be discussed in philosophical terms.¹¹⁴

Milkovich is also troubled by the lack of a workable definition. If there are no measurement devices (e.g., job analysis, evaluation and wage surveys) or other viable processes (e.g., collective bargaining), then how can the concept of comparable worth be applied?¹¹⁵

The ability to distinguish between what is comparable worth and what is not is crucial, yet Milkovich points out that proponents are themselves divided on what measures to use.¹¹⁶ This division leads Livernash to conclude that an operational definition will not be forthcoming.¹¹⁷ Although comparable worth is not well-defined, it is clear that

opponents widely believe that one of its pitfalls is that comparable worth doesn't allow the law of supply and demand to be reflected in wages.

2. Market forces must be reflected in wages

This view holds that wages depend upon give-and-take between the supply of labor and the demand for labor.¹¹⁸ A high demand for computer programmers commands a higher wage than a low demand would. An overabundance of chemical engineers causes wages to fall or remain low. A job's value relates directly to the supply of workers. Purdue professor Ernest McCormick, a disagreeing member of the NAS committee, claims that the "labor market must be the arbiter of basic rates of pay and that there is no other logical, economic or practical basis for determining the values of jobs."¹¹⁹

Believers in the necessity of allowing market forces full sway contend that high wages cause workers to learn skills that are in demand. Low wages, on the other hand, discourage workers from entering fields which already have too many workers.¹²⁰

Michael Carter, a management consultant, looks to market forces and upward mobility to correct the wage gap. First, if women continue to enter traditional male jobs, a glut would develop which would lower wages. Simultaneously, a shortage of workers in traditional female jobs would occur, causing wages to increase. This wage swell would attract

men into female jobs. The end result would be gender job integration and equitable wages for all.¹²¹ Because Carter's expectations have not materialized yet, job evaluation methods continue to be regarded as a means of measuring job worth.

3. Job evaluation does not measure job worth

Donald Schwab, professor at the University of Wisconsin, defines job evaluation as "a procedure that makes judgments about jobs based on content or the demands made on job incumbents."¹²²

Job evaluation results in a job hierarchy. Proponents of comparable worth look to job evaluation as a means to establish the worth of jobs.

Schwab disagrees, saying, "Comparable worth is based on the premise that worth can be defined and measured, something which job evaluation does not in fact do."¹²³

What does job evaluation do? It selects compensable factors and weights them until a good "fit" is developed. Skill is a dominant factor judged by its market value. Demand for a certain skill increases its value. Although responsibility and working conditions are less important than skill, the point remains that the market fixes the value of all factors.¹²⁴

Since these factors are juggled to produce a wage distribution and since different, yet acceptable, distributions

are possible, Schwab feels it is wrong to think job worth is what is measured. Job evaluation "measures factors of jobs that are related to the wages paid in the market place."¹²⁵

George Milkovich, Cornell University professor, and Renae Broderick, doctoral candidate at Cornell, claim that the "value of anything depends, in part, on its use and what it can bring in exchange." In their opinion job worth is subjectively bound up in the value system of the rater.¹²⁶ Beauty (i.e., worth) is in the eye of the beholder.

Opponents also make a case for the use of multiple job evaluation plans by asserting that they produce "a better evaluation point fit and a better wage fit."¹²⁷ Milkovich corroborates this view by stating that job evaluation functions well within job families related in work content, but as differences in work content increase, job evaluations become less useful.¹²⁸ Although multiple plans have been accused of fostering job segregation which increases the chance of low female wages, Donald P. Schwab and Dean W. Wichern, professors at the University of Wisconsin, feel that a single plan will lead to "erroneous monkey job wage predictions."¹²⁹

Not only do opponents question the current use of job evaluation, they also refute the charge that the earnings gap is caused by discrimination.

4. The wage gap isn't caused by discrimination

Joel H. Kaplan and Richard E. Lieberman, law partners specializing in labor and equal opportunity law, contend that women are themselves to blame for much of the wage gap. Why? Women prefer female-dominated positions which happen to be the lowest paying jobs in the market place. Why do women prefer these jobs? Since women do not participate in the labor market as continuously as men, these positions permit easier entry into and out of the labor force.¹³⁰

William E. Blasier, associate general counsel of the National Association of Manufacturers, maintains that the wage gap reflects "collective bargaining, skills, training, education, experience, supply and demand, and geographical location," not discrimination.¹³¹

A more statistically-minded view is taken by Harry Roberts, a statistics professor at the University of Chicago's Graduate School of Business. Roberts asserts that three biases account for much of this gap.¹³²

a. The Underadjustment Bias

The most important bias stems from a failure to allow for differences between men and women due to education, experience, and other job qualifications.¹³³

b. Noncompeting Group Bias

The comparison of dissimilar occupations often creates a prejudiced result. Consider the airline industry. If men

earn mean annual incomes that are substantially higher than incomes for women, it would seem discriminatory. But if you learn that only men are pilots and all women are flight attendants, you realize it's comparing dissimilar job positions. If these jobs are segregated by choice, it is not discrimination but if women are impeded in efforts to be pilots, that is another issue. Roberts proposes comparing male/female salaries in similar job settings (e.g., pilots to pilots).¹³⁴ Occupational segregation may prevent this, however.¹³⁵

c. Seniority Bias

To account for variations in seniority, employees must be studied in small groups for short periods of time. Conversely, if employees are examined over a long period of time, past discriminatory practices may color the results to show that discrimination is a factor when it presently is not.¹³⁶

Roberts concludes that if these biases are measured, the resulting data will be "more consistent with an assumption of nondiscrimination than with an assumption of discrimination."¹³⁷

An even greater concern than the causes of the wage gap to opponents is the economic effects comparable worth would create.

5. Comparable worth would cause severe economic impacts. Comparable worth would necessitate massive federal regulation involving the wage and salary scales of the entire labor force. A federal agency would have to determine what constituted comparable worth and what didn't.¹³⁸ This would create difficult regulatory problems and would result in severe economic consequences.

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problem*

a. Regulatory Problems

George Hildebrand, professor of economic and industrial relations at Cornell University, sees two major administrative problems.

First, since the number of affected businesses is enormous, the federal agency responsible for implementing comparable worth would have to make a choice. Either it would have to increase its staff tremendously in order to cover all these businesses or it would have to concentrate its actions on a few large corporations.

Second, the regulatory guidelines, usually vague and broadly stated, would also create difficulties. How would comparable worth be measured? Should market forces be ignored totally? Is there one evaluation system that would apply to such a diverse group of firms?¹³⁹

Emphand's Case

b. Economic Consequences

Hildebrand contends that comparable worth would cause unemployment to rise. The resulting poverty would lead to

a greater welfare dependency. Already the federal minimum wage has excluded many young workers from the job market because their personal productivity is too low to justify the minimum wage. Comparable worth would extend this unemployment dilemma even further, displacing, largely, women who are black or members of other minority groups. High labor costs would encourage larger firms to install labor-saving machines and/or to raise hiring standards so fewer, though more productive, workers are utilized. The result? A greater number of unemployed workers will rely on welfare programs. Hildebrand concludes that the implementation of comparable worth would ironically hurt the woman worker it was intended to help.¹⁴⁰

Another economic consequence would be the expense to business in terms of payroll dollars. Since lowering a higher-paying wage is not an option, employers would have to raise the lower-paying wage.¹⁴¹ Some estimate this cost could be as high as \$150 billion.¹⁴²

Increased labor expenditures would result in either less profits for business or higher prices for consumers.¹⁴³

Litigation costs would be pronounced.¹⁴⁴ Additionally, corporations fear substantial "pay-backs" (court-imposed reimbursements awarded to employees) resulting from lost wage discrimination cases. General Electric alone paid out \$35 million in back pay in a three-year period.¹⁴⁵

Business would have to pay for the reclassification of jobs and the reevaluation of wage and salary scales.¹⁴⁶

Lawyers Bruce A. Nelson, Edward M. Opton, Jr., and Thomas E. Wilson see four indirect costs. First, since domestic labor costs would increase, more jobs would be lost to foreign workers. Also, businesses would contract out more for services (e.g., lawyers, janitors) in an attempt to reduce labor costs. Third, the courts would determine wages which would reduce Congress' power to set the minimum wage. Lastly, the increase in wages coupled with no increase in productivity would spark an explosion in inflation.¹⁴⁷

Consequently, opponents reject the principle of comparable worth and, instead, propose a different solution.

6. Upward mobility is the answer to the wage gap

The intent of affirmative action programs has been to gain "equal access to all occupations and equal pay for women." This has been accomplished by the integration of women into traditionally male jobs.¹⁴⁸

Upward mobility enthusiasts contend that the economic status of women will improve when women begin "trimming trees, fixing cars and even sweeping floors, instead of working at clerical and pink collar jobs; and by choosing careers in science, business management or engineering instead of in the 'helping professions.'"¹⁴⁹

Livernash, touting the success of upward mobility, points out that the number of women employed as managers and administrators rose from 1.0 million in 1970 to 2.6 million in 1979.¹⁵⁰ More recent figures peg it at 3.2 million in 1982. Said another way, 28 percent of all managers and administrators were women in 1982, compared to 18 percent in 1972.¹⁵¹

The accelerated promotion of women is a more practical solution, supporters contend, to the wage disparity problem than the adoption of comparable worth. Upward mobility not only allows market forces to continue to operate in an uninhibited manner, but it avoids the severe economic disruptions comparable worth would create.

V. CONCLUSION

Comparable worth is granting equal pay for comparable work. Remick offers a more precise definition of comparable worth: "the application of a single bias-free point factor evaluation system within a given establishment, across job families, both to rank-order jobs and to set salaries."¹⁵²

Proponents decry the slowness of upward mobility and assert that more women will benefit from a policy of comparable worth.

Opponents fear that the exclusion of market forces within the comparable worth solution will wreak extensive economic havoc. The only practical solution, they contend, is upward mobility.

In conclusion, no one denies that a disparity exists between the median earnings of men and women. Few attempt to refute the existence of sex discrimination, historical or current. The crux of the matter is how much of the gap is due to sex discrimination and how can this 37% inequity be reduced.

Is it possible to reduce this gap? It's encouraging to note that in 1973 Sweden had the lowest wage gap in Western Europe--less than 15%.¹⁵³ In 1982 the United Kingdom had an earnings gap of 26%.¹⁵⁴ So it is possible.

The cost to implement comparable worth is too high, opponents declare. If the cost is only couched in economic terms, then perhaps that expression is too narrow. That comparable worth involves economics is an understatement, but it also forces moral as well as social and political decisions. Is it more costly in the long run to not pay individuals equal pay for comparable work? Can or should economics dictate how much justice is the right amount?

Answers to questions of this nature don't come easily. Rather, they prompt an even more difficult question. How could comparable worth be put into effect?

Certainly, legislation quickly comes to mind as a vehicle for clarifying and establishing pay equity as more than a philosophical theory. On the national level no such legislation currently exists. However, twelve states have passed comparable worth laws.¹⁵⁵

Recent pay equity articles have focused on litigation. Rulings in the Westinghouse and Gunther cases have indicated that Title VII, broader in scope than the Equal Pay Act, is not limited by the EPA's equal pay standard. The recent suit brought against the state of Washington leaves no doubt that the court views comparable worth to be a practical solution, not just a legal theory.

Unions, promoting the comparable worth issue, may be instrumental in its ultimate resolution. Perlman and Ennis

unequivocally state: "The most successful pay equity strategy to date has been unionization." This strategy has netted unionized women a 30 percent higher wage than non-unionized women.¹⁵⁶ Still, not all jobs fall under the purview of unions.

The opponents' charge that the enforcement of comparable worth would create an economic disaster can't be dismissed. But Australia's experience in the wake of its policy of equal pay for work of equal value, effective since 1975, is instructive. Australia's economy has not been disrupted.¹⁵⁷

The job evaluation methods currently in use are not perfect, but some job evaluation experts contend that bias-free evaluation systems can be designed. At worst, an imperfect instrument is better than no instrument at all.

Those who preach upward mobility are right. Those who expound the virtues of comparable worth are also correct. These are not mutually exclusive concepts.

While testifying in 1982 at a pay equity hearing, Congresswoman Geraldine Ferraro remarked concerning a little girl's ambition to become a lawyer:

She can become a lawyer, and it's a man's profession, and she can get equal pay to a man for that work. But wouldn't it be nice if she could have the freedom of choice to choose a woman's profession and get equal pay for work of that value?¹⁵⁸

That's a cogent point. Are we trading one form of socialization for another? Women who choose nursing as a career because it was socially acceptable may be replaced by women who choose law as a profession because they know they can receive equal pay in a man's profession.

The obvious solution to this dilemma is free choice. Women (as well as men) should not be restricted overtly or otherwise from pursuing the careers of their choice. The implementation of comparable worth would strengthen this freedom by reducing restrictive economic factors.

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APPENDIX A

EXPECTED LIFETIME EARNINGS IN 1979 FOR
YEAR-ROUND, FULL-TIME WORKERS,
BY YEARS OF SCHOOL COMPLETED,
SELECTED AGE GROUPS, AND SEX.

Age and sex	Less than 12 years	High school 4 years	College		
			1 to 3 years	4 years	5 years or more
MALE					
Year-Round, Full-Time Workers					
18 years old	\$845	\$1,041	\$1,155	\$1,392	\$1,503
25 years old	776	954	1,075	1,329	1,444
35 years old	614	750	864	1,097	1,196
45 years old	410	501	586	762	820
55 years old	203	249	297	388	422
FEMALE					
Year-Round, Full-Time Workers					
18 years old	\$500	\$634	\$716	\$846	\$955
25 years old	437	567	630	772	900
35 years old	335	436	482	606	710
45 years old	222	300	316	434	470
55 years old	118	150	162	226	238

(Expected lifetime earnings in thousands of 1981 dollars.)

SOURCE: U.S., Department of Commerce, Bureau of the
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APPENDIX B

EQUAL PAY ACT OF 1963

Sec. 2. (a) The Congress hereby finds that the existence in industries engaged in commerce or in the production of goods for commerce of wage differentials based on sex-- (1) depresses wages and living standards for employees necessary for their health and efficiency; (2) prevents the maximum utilization of the available labor resources; (3) tends to cause labor disputes, thereby burdening, affecting, and obstructing commerce; (4) burdens commerce and the free flow of goods in commerce; and (5) constitutes an unfair method of competition.

(b) It is hereby declared to be the policy of this Act, through exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to correct the conditions above referred to in such industries.

Sec. 3. Section 6 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. et seq.), is amended by adding thereto a new subsection (d) as follows:

"(d) (1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (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: Provided, That an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

"(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section shall cause or attempt to cause such an employer to discriminate against an employee in violation of paragraph (1) of this subsection.

"(3) For purposes of administration and enforcement, any amounts owing to any employee which have been withheld in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this Act.

"(4) As used in this subsection, the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work."

Sec. 4. The amendments made by this Act shall take effect upon the expiration of one year from the date of its enactment: Provided, That in the case of employees covered by a bona fide collective bargaining agreement in effect at least thirty days prior to the date of enactment of this Act, entered into by a labor organization (as defined in section 6(d) (4) of the Fair Labor Standards Act of 1938, as amended), the amendments made by this Act shall take effect upon the termination of such collective bargaining agreement or upon the expiration of two years from the date of enactment of this Act, whichever shall first occur.

SOURCE: Equal Pay Act of 1963, Statutes at Large 77, sec. 2-4, 56-57 (1964).

APPENDIX C

TITLE VII--EQUAL EMPLOYMENT OPPORTUNITY

Sec. 703. (a) It shall be an unlawful employment practice for an employer--

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

SOURCE: Title VII--Equal Employment Opportunity, Statutes at Large 78, sec. 703, 255 (1965).

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