

Applications of Feminist Legal Theory to Women's Lives

⊠ SEX, VIOLENCE, WORK,
AND REPRODUCTION

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D. KELLY WEISBERG



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❖ *Social Construction of Skill: Gender, Power, and Comparable Worth*

RONNIE J. STEINBERG

... PRIOR TO COMPARABLE WORTH, the wage gap was viewed largely as the result of some combination of inadequate human capital on the part of women and of labor market discrimination. Most economists viewed discrimination as a problem of access—of barriers that either blocked appropriately trained women from entering more complex male jobs or blocked women from obtaining the skills needed to qualify for these jobs.¹ Wage determination was not viewed as distorted but as subject to economic forces. A few economists did stress the role of “market power” as a catchall for empirical outcomes that couldn’t be accounted for by economic factors. But even then, discussion of discrimination emphasized flawed analysis.

Comparable worth proponents agreed that allocation processes were flawed. . . . They also suggested that the wage determination process was itself discriminatory. . . .

As pay equity proponents examined job evaluation systems, they uncovered pervasive sex bias in design and application. Since the labor market has never been gender-neutral, assumptions about gender have saturated the structure of compensation. In the nineteenth century, few married women worked outside the home. Single women were only expected to work until marriage.² Bound strictly by the “cult of domesticity,” these women served as status symbols for their husbands. A successful man was one who could support his family. Women may have taken in boarders, washed clothes, taught school, nursed the sick, worked in factories, or even, by the late nineteenth century, replaced men as clerical workers. But wages paid had built into them the assumption that the woman received primary support from fathers, brothers, and husbands.

Paying women less than men has been built on the ideology that men are the main breadwinners, while women are secondary earners who rely on a man’s wage and benefit package. The struggle in the United States over the family wage in the late nineteenth and twentieth centuries was premised entirely on the assumption that men supported families. Both labor and management agreed with these assumptions. The substantial wage increases for men were justified on this basis, allowing for the institutionalization of a two-tiered wage structure.³

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Such assumptions and ideologies became further institutionalized in the job evaluation systems that rationalize and legitimate the wage structure. The systems of job evaluation currently in widespread use were developed at a time when hiring advertisements said, "Help Wanted—Male" or "Help Wanted—Female." When used today, they impose assumptions about work complexity and work context drawn from the 1940s and 1950s onto an employment situation and a set of jobs that have profoundly changed since that time. . . . Since women's work was especially low-paying at the time of the development of these systems, this method of constructing job evaluation systems assured that the characteristics associated with female jobs would remain uncompensated.

Job evaluation systems were developed largely in manufacturing, craft, and administrative contexts⁴ sometimes explicitly designed for male-dominated managerial jobs. For example, Hay offered his Guide Chart-Profiled Method as especially suited to managerial jobs:

In recent years, a method of evaluating high level jobs has been developed which uses management thinking. Called the Guide Chart-Profile Method, . . . it was developed seven years ago in response to the demand of the Owens-Illinois Company for some explanation, or "rationalization," of a high level salary structure established for one of the company's divisions. . . . The "guide chart" was devised to explain the reasons for suggested job and salary standards—to show management how to evaluate high level jobs by thinking of them in management terms. . . . We have seen that the Guide Chart-Profile Method was designed for a specific purpose—evaluating managerial and technical jobs in order to set equitable salary standards.⁵

The Hay system has undergone minor modifications and is now widely used to evaluate *all* jobs in a firm. Evaluating nonmanagerial jobs in managerial terms has, I suggest in the following, a decided gender effect.

There are several ways in which conventional job evaluation systems embed in their design outdated cultural assumptions about work that have the effect of devaluing activities performed by women. The major sources of sex bias found in evaluation frameworks and job descriptions are summarized here.⁶ Few specific systems of job evaluation include all of these problems, but most systems contain many biases.

The Prerequisites, Tasks, and Work Content Associated with Women's Work Are Invisible

The central defining characteristics of jobs are often perceived in terms that are consistent with sex-role stereotypes. Authority is part of the male sex role, and everyone sees the authority associated with male work, while the authority associated with female work is invisible. Male managers are perceived as running offices and departments. Yet the daily work of the secretary in passing on messages, responding to emergencies, training new employees, and coordinating schedules for meetings and other activities remains in-

visible, especially if she performs these responsibilities competently. So too is the authority and coordination involved in the provision of services, where teamwork requires that the work get performed without resorting to formal authority. Thus the invisibility of women's work may extend beyond job tasks to alternative forms of work organization.

Hospital settings provide a good example of how sex stereotypes inform perceptions of jobs. Ward clerks are thought to perform routine clerical functions. Yet one of the things they do routinely is handle the family of a patient in a crisis situation, allowing medical staff to treat the patient. When these workers execute their tasks smoothly, no one notices what they are doing.

For another example, compare firefighters and flight attendants in relation to perceived responsibilities for handling crisis that involve decisions about life and death. The skills of firefighters in handling emergencies are central to conventional understandings about their job. Even though the time spent by a firefighter in handling these emergencies is relatively small, he is fully compensated for this aspect of his work. Few realize that the position of flight attendant emerged as a result of Federal Aviation Administration regulations requiring trained staff to work with passengers in case of an emergency. The emotional, communication, and food distribution skills of flight attendants evolved as a way to make use of the extra personnel under normal circumstances. Nonetheless, the emergency skills of the flight attendant—while not as complex as those of a firefighter—remain invisible and uncompensated.⁷

Frequently overlooked characteristics in job evaluation systems include the following:

Skill in the area of communication, coordination, emotional work in crisis situations, fine motor movement, operating and calibrating technical equipment, establishing and maintaining recordkeeping systems, and writing and editing others' correspondence and reports;

Effort, such as concentration, stress from inflexible deadlines, lifting people, listening for long periods, sitting for long periods, getting work accomplished without resort to formal sources of control and authority, and performing multiple tasks simultaneously;

Responsibility, such as protecting confidentiality, caring for patients, clients and inmates, representing the organization through communications with the public, preventing damage to technical equipment and instruments, and actual or proximate (as opposed to formal or ultimate) responsibility;

Working condition, such as exposure to disease and human waste, emotional overload, stress from communication with difficult and angry clients, working in open office spaces, and stress from multiple role demands.

In job evaluation systems, working with mentally ill or retarded persons may be overlooked as a stressful working condition, while working with noisy machinery is not. The range of undesirable working conditions out-of-doors is elaborated in a job evaluation framework, while the range of office arrangements is treated as if all clerical, administrative, professional, and managerial workers are given the same type of office space and privacy. The concentration involved in reading heating system gauges may

be recognized and evaluated, while the eyestrain associated with reading technical instruments or working on VDTs is ignored. Often this form of bias arises when job evaluation systems developed for one set of (primarily male administrative) job classes are applied to other (primarily clerical, service, and health) job classes.

The invisibility of tasks and prerequisites found in women's work extends into the composite descriptions that are used to evaluate jobs. In general, pay equity proponents found that male jobs were described in considerably greater detail than female jobs. . . . These descriptions are problematic because they serve as the information source for the evaluation process. [Also,] the more vague the job description, the greater the likelihood that preconceived stereotypes about jobs will enter into determinations of job complexity. . . .

One reason why skills and responsibilities in female jobs remained invisible until recently may be that, for women's work, we not only selectively perceive job content on the basis of sex stereotypes but we confuse the content of the *job* with stereotypic notions about the characteristics of the *jobholder*. Why else would a dog catcher's work be viewed as more complex than that of a nursery school teacher? While the commonly held assumption that women have better fine-finger coordination has been used to hire them as typists and in electronic assembling work, it has also been used to dismiss the complexity of these jobs.⁸ Yet no job evaluation system of which I am aware acknowledges the skills necessary to perform this work at the pace required in most industrial and clerical settings.

A second reason why women's skills remained invisible may be that until the emergence of comparable worth, women did not contest the values embedded in job evaluation systems. Job evaluation systems emerged to legitimate and gain further control of existing wage hierarchies. They proved useful to employers in union contexts, enabling them to point to an external seemingly nonarbitrary technical rationale for paying some workers more than others.⁹ . . .

The Prerequisites, Tasks, and Work Context Associated with Women's Work Are Included in the Evaluation Framework but Are Not Valued at Equivalent Levels of Complexity as Those That Favor Male Classes

Another way in which job evaluation frameworks embed gender bias is by defining factors and the levels of complexity within factors, such that characteristics differentially found in male work are emphasized and rated as more complex. For example, conventional job evaluation frameworks usually include a measure of contact with people. [C]omplexity of contact is defined as a function of the level in the organizational hierarchy of the person being contact: The contact with higher-status persons is defined as inherently more complex. Yet because higher positions tend to be male-dominated while female jobs are much more likely to involve contact with clients and patients, the definition of this factor is biased in the direction of more highly valuing the content of male jobs.

Similarly, responsibility factors are typically oriented toward scope of financial assets: The greater one's fiscal responsibility, the higher the job evaluation points. Few conventional systems give any points for the responsibility of caring for troubled, sick, or dying patients. Even those organizations that have recently modified such systems to achieve pay equity give responsibility for human life considerably lower complexity levels than fiscal responsibility. . . .

Women's work is treated as invisible in the definition of job factors, just as in the description of jobs. Since nurses aides' work requires few education or experience prerequisites in most jurisdictions, it is likely to be rated as involving a lower level of knowledge than that of a parking lot attendant, simply because the definition of knowledge in most systems allows for more points when jobs involve working with "simple equipment and machines." Most clerical positions are rated below entry-level craft work, because such features as knowledge of grammar, the ability to compose original letters, and being able to perform several skills simultaneously are not included in definitions of technical skill. While credentials for engineers translate into a high rating on technical know-how, the credentials and technical knowledge of librarians are not regarded as "specialized knowledge."¹⁰

Gender bias on job evaluation measures sometimes occurs because job evaluation systems designed for one type of work organization are uncritically applied to another type organized on a different basis. The Ontario (Canada) Hospital Association endorsed a nine-factor job evaluation system for all the province's hospitals, which was strongly oriented to job classes found in administrative settings where decision making is organized bureaucratically with clear, formal lines of command. Six of the nine factors define managerial decision making and responsibilities as involving the most complex work.¹¹ This creates problems for evaluating professional and service-provision hospital jobs, where decision making and work are organized less hierarchically, involving more teamwork. In this job evaluation system, by definition, any job class involved in the provision of medical care is less complex than any job class involved in administrative or managerial work. This lack of organizational fit has a strong gender effect: Hospital administration positions have historically been male-dominated. Professional and service-provision occupations in hospitals are overwhelmingly female-dominated. While seemingly neutral, such systems are biased in favor of job content found in historically male job classes and against historically female job classes. . . .

The Weights Assigned to Factors Differentially Associated with Men's Job Classes Are Substantially Higher Than the Weights Assigned to Factors Differentially Associated with Women's Classes

Gender bias also results because job characteristics associated with men's work are differentially and positively valued in the construction of factors and factor weights while the job characteristics found in women's work are either not valued or negatively val-

ued when other job characteristics are taken into account. In the Hay Guide-Chart system, one of the major a priori job evaluation systems available to firms, the skill factor, labeled Know-How, is constructed as a matrix of three subfactors: technical know-how, managerial know-how, and human relations know-how. Each job class receives one score for Know-How, which is a function of the level of complexity of the class on each subfactor. The managerial know-how scale, defined largely in terms of the characteristics of male managerial work,¹² is allocated five times the weight assigned to human relations know-how. Technical know-how receives seven times the point value of human relations know-how. Although human relations skills are differentially associated with women's work, the Hay system defines it to include both working with people and supervising other employees.

This has two consequences. First, all managers receive points for supervision on both the managerial and the human relations subfactors. By contrast, nurse supervisors receive points only for their client responsibilities. This double-counts managerial human relations and penalizes those whose jobs require both managerial human relations and skills and responsibilities associated with service provision and caretaking.

Consider two jobs—RN and carpenter. The fact that the RN works with patients is likely to increase her know-how points from 175 to 230. However, a carpenter promoted to a supervisory position might increase one's total know-how points from 230 to 400 because of the combined effect of technical know-how and human relations know-how.¹³

The weighting of factors also favors male job classes by evaluating the same job content in several different factors, a so-called double-counting. Since the act of supervision is already part of the definition of different levels of organizational know-how, giving additional points for supervision under human relations know-how means counting the same characteristic twice. . . .

Evaluation Committees Used Inconsistent Standards for Assessing the Complexity of Male Jobs and Female Jobs

Bias in the treatment of women's work often enters into the process of evaluation. A frequently used approach involves establishing evaluation committees comprising personnel staff or a diverse group of employees who are trained in the application of the evaluation system by compensation consultants. [J]ob evaluation points have been unevenly applied across female and male jobs by such committees.

[One] example is drawn from the job evaluation phase of a pay equity study of Oregon. . . . Job evaluation committees of nonmanagerial employees were created to evaluate all nonmanagerial jobs. The committees contained both male and female employees from a diverse range of occupations. As part of the evaluation process, committee members routinely supplemented specifications with their personal knowledge of the tasks and responsibilities associated with a job. [Male committee members] questioned the women's authority when they suggested that the jobs being evaluated

were more complex than the specification suggested. This made it difficult to achieve a consensus on job worth. As a result, the points assigned to the female jobs in question were always lower than what they would have been had the information been taken into account. By contrast, the women on the committee never questioned the authority of the men or the information they added to the job specifications. This information was taken into account in determining job complexity, resulting in higher point scores than would be the case based on the specifications alone. Even when women are represented on evaluation committees, their ability to effectively win their claims about the complexity of women's work is limited by male images of women's jobs.¹⁴

Redesigning Job Evaluation: The Politics of Skill Reconstruction

How have advocates of comparable worth fared in their efforts to redefine the concepts and techniques used to evaluate women's work? Not well, as the following case material illustrates. As recently as the mid-1970s, federal court judges found it possible to rule against comparable worth suits even as they acknowledged the validity of their claims. For example, in a case comparing registered nurses to more highly paid tree trimmers, the judges remarked:

[The] skills [of nurses] are such that in a truly egalitarian society, [they] would receive more money [than tree trimmers] . . . [the nurses] have established that, by and large, male-dominated occupations probably pay more for comparable work than is paid in occupations dominated by females.

These same judges also viewed this case as "pregnant with the possibility of disrupting the entire economic system of the United States."¹⁵

The roots of comparable worth can be found in the 19th-century demand for equal pay for equal work, although the first national test case was brought before the War Labor Board in 1945 by the electrical workers union against General Electric and Westinghouse. The Board sustained the union's claims of sex discrimination in sex-segregated compensation practices. Unfortunately, the Board's powers provided only for voluntary compliance. The companies failed to comply.¹⁶

In 1962, comparable worth (then called equal pay for work of equal value) resurfaced momentarily in early drafts of federal equal pay legislation. Even with the strong endorsement of the Kennedy administration and intense lobbying by unions and women's groups, direct business opposition prevailed and the bill's standards were watered down to allow only for equal pay for equal work.¹⁷

Comparable worth did not surface again as a political demand until the early 1970s, when a number of states and municipalities undertook comparable worth studies using job evaluation methodologies. From its inception in World War II, comparable worth has been closely associated with job evaluation, to the extent that the most widely used definition sees it as "the application of a single, bias-free point factor job evaluation system

within a given establishment, across job families, both to rank-order jobs and to set salaries.”¹⁸ Ironically, in their efforts to achieve pay equity, proponents have invoked the very job evaluation systems they identified as the source of the problem. To a certain extent they viewed these systems as tools that would facilitate their claims to undervaluation. As we shall see, existing job evaluation systems have proved to be a two-edged sword.

Comparable worth has been a decentralized reform focused mainly on public sector employment.¹⁹ The National Committee on Pay Equity²⁰ estimated that, by 1989, all but four states have taken some action on pay equity and that over 2,000 political subdivisions have implemented pay equity adjustments. For the purpose of understanding the essential features of the struggle over the redefinition of women’s work, these initiatives can be divided into three broad phases.

Phase 1

Early pay equity initiatives . . . relied primarily on unmodified job evaluation systems, largely for reasons of political expediency. In Washington State, a pay equity study was funded on the heels of a job evaluation study of management jobs. State managerial jobs had been found to be undervalued relative to comparable private sector jobs. Proponents were able to get the same procedures applied to a comparison of male and female jobs within the state.²¹ Sixteen years, one major court case, and four studies later, the state agreed to a modest implementation plan that would adjust female wages over 5-year period.

In San Jose, proponents also piggybacked their study off of a study of management salaries. The management study was implemented without controversy. The pay equity study was not. After lengthy attempts to negotiate, the union went out on strike, which facilitated a settlement with the female-headed city council.²²

In Minnesota, a study of state jobs had already been conducted using a conventional job evaluation system, but it had not been implemented. The state’s Commission on the Status of Women reanalyzed the data to determine the pay gap for male and female jobs of equivalent complexity. The gap in pay averaged between 5% and 20%. The Commission drafted legislation proposing that inequities be eliminated. The legislation passed. The relative success of this initiative rests on a unique conjunction of factors: (a) a completed job evaluation study that had not been proposed by feminists, (b) the Commission on the Status of Women with close ties to the governor and legislative leadership, (c) little interest group organization for or against, and (d) reasonable wage adjustments. The legislature was operating with a budget surplus, and the unions were supportive. To implement this among state employees, the governor promoted the executive director of the Commission to be the head of the personnel department that would implement the wage adjustments.²³

Yet, in each of these cases, existing systems of job evaluation remained intact, perpetuating gender bias and the invisibility of skills and responsibilities found in women’s jobs.²⁴ Indeed, in two of the three early studies, the job evaluation system used to estimate wage discrimination was the one that had been most visibly criticized by techni-

cal proponents. Despite their knowledge of these more general critiques of this system, the Minnesota Commission leadership believed that to modify the job evaluation system would have been costly in terms of money, time, and political success. They didn't risk it. Incumbents of female jobs received salary increases of 5% to 20%.

Only Connecticut set out to conduct a job evaluation from scratch. The first study resulted in a second, general classification study of all state jobs, partially as a result of the final report of the compensation consultant who conducted the first study. This recommendation, of course, is in the interest of the consultant, as it could generate more business. In this case, the study is still underway over a decade later, impeded by labor-management battles that created long delays. Each modification to the job evaluation system has involved months of conflict, with little change in the end.

These early precedents resulted in modest pay equity adjustments. Not surprising, the implementation plans that grew out of further political negotiations watered down even more the already limited technical results. In Washington State, pay equity adjustments for incumbents of female jobs are being brought up to 5% below the average pay line—which includes female wages that had been found to be discriminatory. In San Jose, California, wages for undervalued female jobs are being brought up to 10% below the male pay line, meaning that female classes will now make, on average, 10% less than male classes of equivalent job complexity. In Connecticut, interim adjustments varied by union.

The impact of these early outcomes on later initiatives was contradictory. On one hand, they translated a political demand into a policy outcome, making it easier for later proponents to argue that it was a feasible political objective. Yet, on the other hand, they set tight boundaries on how others could use job evaluation. Any attempt to modify existing systems of job evaluation was now made even more difficult because policymakers and administrators faced with demands for comparable pay could point to Washington, Minnesota, San Jose, and a few other early efforts as evidence that using an unmodified system was good enough to achieve pay equity.

Phase 2

A second phase of pay equity initiatives emerged in the early 1980s. Spurred by the first round of successes, the impact of the gender gap of the 1982 elections, positive court cases, and a favorable report on the feasibility of pay equity released by the National Research Council, proponents in many states and municipalities fought for pay equity studies that would be based on the use of modified systems of job evaluation.

By this point, many proponents were aware of the technical difficulties involved in the design and use of conventional job evaluation systems. Yet political and organizational factors often kept them from translating this knowledge into policy initiatives. Often, proponents lost control over efforts to redesign the job evaluation process, with serious consequences for the resulting pay equity adjustments. In addition, proponents underestimated the strength and strategies of administrators and policymakers in containing comparable worth initiatives.²⁵

Most strategies of containment involved manipulation of the process and results of job evaluation. Tactics generally involved taking control of job evaluation away from proponents, while maintaining the appearance of their full participation. The result is that existing job evaluation systems emerge largely intact, are relegitimated, and adjustments for wage discrimination turn out to be less costly than annual cost-of-living adjustments.²⁶

In some cases, administrators and policymakers have succeeded in turning political decisions into technical decisions that can then be removed from the realm of negotiation. In such cases, unilateral control over the study of wage discrimination has often been placed in the hands of personnel administrators, who can then select which consultants will be used. This seems to be the price for achieving a study in the first place. Personnel administrators have defended their expertise, neutrality, and jurisdiction over this matter with great success. Often a condition for allocating labor-management monies for a study has been this unilateral control, on the grounds that the wage structures—opposed to the wage levels not bargainable under the law.

Even when a compensation consultant agrees to modify a system, it is easy to do so in appearance only. An Oregon task force debated with the consultant hired to conduct their study about gender bias in several factor definitions. With great resistance, the consultant agreed to several modifications, one of which was to a “Human Relations” factor. It stretched a three-level factor into five levels. After the State jobs had been evaluated, the consultant admitted that “a job with [the highest] level of skill probably did not exist in the state of Oregon.”²⁷ By the time the task force understood this, most of the evaluations had been completed. To undo this consultant manipulation would cost additional money, delay the announcement of the findings, and require the task force members to explain to their constituencies how they had allowed this to happen.

In other cases, administrators have sought to contain comparable worth initiatives by withholding information, making it impossible for advocates to develop a counterproposal in a timely fashion. In New York State, for example, a proponent-directed study was followed by a second, state-controlled “interim study,” employing a technical staff of 17 full-time state employees. Funded by joint labor-management monies, the technical unit was unilaterally controlled by management, arguing that the union was entitled to “meet and confer” on issues of classification. The unions were updated regularly on the progress of the unit and had no reason to believe that the state was acting in bad faith.

Some two years later, the pay equity adjustments recommended by the state were a shock to the leadership of the two unions, especially to the union representing entry-level professional employees. With no warning, the state recommended significant wage downgrades for almost one half of all the classes in the professional bargaining unit. The leadership of this union, caught off guard and without its own information base, and with its membership having waited over 5 years for the study results, ended up trading off any pay equity adjustments in order to avoid pay downgrades. The state recommendations were timed to dovetail with union elections, forcing the leadership to accommodate state offers of tradeoffs rather than jeopardize their elected positions. For

the other union, representing clerical and hospital workers as well as operational jobs, the recommendations, while low, were good enough for their leadership to save face.

In still other cases, administrators have placed proponents in a minority position on a task force or advisory committee, seeking to divide them, or to push them out entirely after they have succeeded in gaining monies to undertake a study. In Hawaii, New Hampshire, North Carolina, and Vermont, advocates were excluded from all decisions surrounding the job evaluation study. Not one of these studies was completed.

One group is often offered special privileges or fuller information as a way to divide a potential coalition. Unions are frequently privileged and women's groups marginalized, on the argument that unions formally represent the incumbents of historically male jobs. Unfortunately, not all unions have supported pay equity. Others must balance the claims of their women workers with those of the more powerful male membership. This has been used to great advantage by administrators. Acker showed that in Oregon, unions representing male employees actively opposed the reform in the legislature, facilitating managerial objectives.²⁸

Even during this second phase of the evolution of pay equity policy, the reconstruction of evaluation systems for women's jobs took second place to other routes for obtaining wage adjustments. Specifically, with little consensus over this reform and an intractable compensation consultant, it proved easier to achieve consistency in the application of existing systems (i.e., to receive the same number of job complexity points and the same point-to-pay relationship for a given educational requirement, for example) than to achieve the redesign of systems.

Thus pay equity has resulted in wage adjustments to millions of employees working in historically female jobs. But it has not yet resulted in the social redefinition of women's work. In taking the very systems of job evaluation that they have criticized and utilizing them to estimate the extent of wage discrimination, they failed to appreciate the extent to which these systems, in the hands of others, could be used to legitimate the existing wage hierarchy. . . .

Phase 3

Fortunately, the efforts to achieve comparable worth have moved into a third phase that builds on these lessons. Utilizing technical knowledge of gender bias, proponents are conducting unilateral pay equity studies. The Pay Equity Program of the National Education Association has designed a job evaluation system customized to positively value the distinctive characteristics of nonteacher school staff, including food service workers, librarians, secretaries, and teaching assistants. The Collective Bargaining Committee of Local 34, Federation of University Employees, at Yale University realigned the jobs in its bargaining unit without recourse to a job evaluation study. It placed the new wage structure on the bargaining table. Yale accepted the union's proposed reorganization. Wage adjustments amounted to an average of 28%. The union and the university are jointly supervising a job evaluation study to create a new evaluation system that will legitimate the new ordering of jobs.

Proponents are also maintaining greater control of every phase of the job evaluation process. In Philadelphia, a proponent consulting firm was hired to feminize the standard job evaluation system operating in the jurisdiction. In Ann Arbor, Michigan, the same consulting firm designed a customized system based on achieving gender neutrality given state-of-the-art technical knowledge. Among other actions to protect their interests, proponents in both cities hired a technical monitor to review the work of the consultant at every juncture of the study. In Boston, a coalition of union and women's organizations has turned an advisory committee into an advocate-controlled decision-making body that reviews all the details of the job evaluation process. This group stopped the initiative when the city excluded it from choosing the job evaluation consultant and went public with their complaints. The consulting firm chosen was one of the two proponent firms that had submitted proposals. While none of these initiatives has been implemented, they already have gone farther than any undertaken in Phases 1 or 2.

Finally, legislation in Ontario, Canada, explicitly prohibits gender bias in systems of job evaluation and extends pay equity to the private sector.²⁹ Unfortunately, the government has thus far only issued guidelines about gender neutrality, preferring instead to allow its scope to be determined through labor-management negotiations. The law established the Pay Equity Tribunal to consider unresolved issues.³⁰

The comparable worth movement offers a unique opportunity . . . to examine basic questions about the character of work, the dynamics of complex organizations, the contours of new social movements, and determinants of social reform. [W]e must develop a more sophisticated understanding of the political and cultural factors that surround economic processes, especially an understanding of the gendered character of the labor market. We need to understand how our ideas about gender shape what we see and don't see and influence what is considered appropriate, productive, and valuable work.

Notes

1. P. England & D. Dunn, *Evaluating Work and Comparable Worth*, 14 *Ann. Rev. Soc.* 227 (1988).

2. A. Kessler-Harris, *Out to Work: A History of Wage-Earning Women in the United States* (Oxford Univ. Press, 1982); J. Matthaei, *An Economic History of American Women* (Schocken, 1982).

3. E. Boris & P. Bardaglio, *The Impact of the State on the Family and the Economy, 1790–1945*, in N. Gerstel and H. Gross eds., *Families and Work*, 132 (Temple Univ. Press, 1987); M. May, *The Historical Problem of the Family Wage: The Ford Motor Company and the Five-Dollar Pay*, in Gerstel and Gross, *supra*, at 111–131.

4. D. Treiman, *Job Evaluation: An Analytic Review* (Washington, D.C.: National Research Council, 1979).

5. E. Hay, *Setting Salary Standards for Executive Jobs*, 34 *Personnel* 63–65, 72 (1958).

6. This review of types of sex bias is not comprehensive. It emphasizes those fea-

tures of job evaluation systems that treat characteristics found in historically female work differently than characteristics more prevalent in male jobs. A second, major category of bias in job evaluation systems involves inconsistencies in valuing the same job characteristics in historically female and male jobs.

7. A. Hochschild, *The Managed Heart: Commercialization of Human Feeling* (Univ. California Press, 1983).

8. J. Brecher, *The Roots of Power: Employers and Workers in the Electrical Products Industry*, in A. Zimbalist ed., *Case Studies in the Labor Process* 229 (Monthly Review Press, 1979); M. Davies, *Women's Place Is at the Typewriter* (Temple Univ. Press, 1982).

9. Treiman, *supra* note 4, at 4–5.

10. Blake and Schneider, personal communication, 1989.

11. L. Haignere, *Pay Equity Implementation: Experimentation Negotiation, Mediation, Litigation Aggravation and Compensation* (paper presented at the Conference on Pay Equity: Theory and Practice, York Univ., May 1990).

12. J. Acker, *Doing Comparable Worth* (Temple Univ. Press, 1989).

13. R. Steinberg & L. Haignere, *Review of Massachusetts Statewide Classification and Compensation System for Achieving Comparable Worth* 170 (Albany, NY: Center for Women in Government, 1987).

14. Acker, *supra* note 12, at 91–98.

15. *Lemons v. City and County of Denver*, 17 FEP Case 906, as quoted in R. Feldberg, *Comparable Worth and Nurses in the United States* (unpublished manuscript, 1990).

16. R. Milkman, *Gender at Work: The Dynamics of Job Segregation by Sex During World War II* (Univ. Illinois Press, 1987).

17. G. Milkovich & A. Broderick, *Pay Discrimination: Legal Issues and Implications for Research*, 21 *Indus. Rel.* 309 (1982).

18. H. Remick, *Major Issues in A Priori Applications* in H. Remick ed., *Comparable Worth and Wage Discrimination* (Temple Univ. Press, 1984).

19. There are several reasons why pay equity emerged first in the public sector. Proponents wanted to avoid direct confrontation with business opposition in getting the reform off the ground. The emergence of comparable worth also intersected with a vigorous organizing drive of public sector employees. Since a disproportionate percentage of women workers are found in public sector employment, comparable worth becomes an obvious way for unions to establish their commitment to the needs of women workers. Finally, comparable worth was pushed forward by state and local groups, such as the Commission on the Status of Women.

20. *Pay Equity Activity in the Public Sector, 1979–1989* (Washington, D.C., National Committee on Pay Equity, 1989).

21. F. Hutner, *Equal Pay for Comparable Worth: The Working Women's Issue of the Eighties* (New York: Praeger, 1986); H. Remick, *Beyond Equal Pay for Equal Work: Comparable Worth in the State of Washington*, in R. Steinberg Ratner ed., *Equal Employment Policy for Women* 405 (Temple Univ. Press, 1980).

22. J. Flammang, *Effective Implementation: The Case of Comparable Worth in San Jose*, 5 *Pol'y Stud. Rev.* 815 (1986); J. Flammang, *Women Make a Difference: Comparable Worth in San Jose*, in M. Katzenstein & C. Mueller eds., *The Women's Movements in the United States and Western Europe* (Temple Univ. Press, 1987).

23. S. Evans & B. Nelson, *Wage Justice: Comparable Worth and the Paradox of Technocratic Reform* (Univ. Chicago Press, 1989).

24. Although the methods for describing and evaluating jobs were not modified, the studies corrected for part of the wage gap. This occurred because the study carried out consistent procedures between historically female and male jobs. In addition, all jobs were evaluated by the same job evaluation framework. While these represent modifications, they do not positively value job characteristics differentially found in women's work.

25. R. Steinberg, *Job Evaluation and Managerial Control: The Politics of Technique and the Techniques of Politics* (paper presented at the Conference on Pay Equity: Theory and Practice, York University, May 1990).

26. Haiguer, *supra* note 11; Steinberg, *supra* note 25.

27. Acker, *supra* note 12, at 189.

28. *Id.* The role of unions and comparable worth has been mixed. Unions have been responsible for moving the reform forward and for limiting its impact. In some instances, unions representing different and sex-segregated bargaining units have fought each other. In other instances the same union has acted differently in different places, depending on whether the specific bargaining unit represented female classes or male classes. Most common, bargaining units with a mix of segregated classes will negotiate a settlement with management without much stand against low wage adjustments.

29. Pay Equity Act, R.S.O., ch. 34 (1988) (Can.). The Pay Equity Act, enacted in the province of Ontario in 1987, required that employers with 100 or more employees review their job classifications in selected female-dominated occupations to determine the extent of gender discrimination in pay practices. Where unions represent employees, it requires that corrections for wage discrimination be undertaken through joint labor-management negotiation and through the use of job comparison systems that are gender neutral. The "value" of the work carried out in the normal performance of the job is the basis upon which wage adjustments between equivalent male and female jobs are made. For a discussion of the Act and especially of its shortcomings, see, N. Kubasek, J. Johnson, and N.M. Browne, *Comparable Worth in Ontario: Lessons the United States Can Learn*, 17 *Harv. Women's L.J.* 103.

30. For a discussion of Tribunal decisions on gender neutrality in job evaluation see R. Steinberg, & L. Walters, *Making Women's Work Visible: The Case of Nursing; First Steps in the Design of a Gender-Neutral Comparison System*, Proceedings, Third Institute for Women's Policy Research Conference. Washington, D.C., June 1992; R. Steinberg, & J. Jacobs, *Pay Equity in Nonprofit Organizations: Making Women's Work Visible*, in M. O'Neill & T. Odendahl, eds., *Women and Power in the Nonprofit Sector* 79 (John Wiley, 1994).