

Comparable Worth: An Evaluation Nightmare

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Although the comparable worth method of wage-setting has so far made little progress in Australia, its chances of being adopted could be enhanced by any future relaxation of the centralised wage-fixing system. Gabriël Moens, Associate Professor of Law at the University of Queensland, analyses the subjective and unreliable job evaluations on which comparable worth is based.

It is often argued in the feminist literature that sex-based occupational segregation is sufficient proof that market forces do not work for women, and that employers' failure to respond to this failure calls for extensive government intervention. The demonstrable concentration of female workers in typically female jobs coexists with, and is largely responsible for, what is known as the 'earnings gap'. This earnings gap is the difference between the average wage paid to all women workers and that paid to all men. Thus, any legislative attempt to narrow the earnings gap must focus on the promotion of a more integrated workforce. In this context, the 'comparable worth' method of wage-setting is advocated by sections of the feminist movement as a particularly appropriate means to break down occupational segregation.

Advocates of comparable worth usually argue that women in the workforce are paid 'less than they are really "worth" in terms of the "value" of what they do' (Levin, 1984:13). Comparable worth requires wage parity between typically female jobs and typically male jobs if their 'worth' or 'value' is comparable. However, in demanding that women in 'female' occupations be paid as much as men in 'male' occupations having the same 'value', even when there is an oversupply of labour in these female occupations, advocates of comparable worth are really demanding that the law of supply and demand be abrogated.

Is it possible to compare the worth of jobs that are different in content? Usually, the method is implemented by means of a job evaluation system whereby jobs that are 'dissimilar in concrete content could be compared by an abstract point system of measurement and addition' (Flanagan, 1987:16). A point system analysis involves, in a simplified form, the following steps:

- analysis of jobs into a number of factors related to (a) skills and knowledge, (b) responsibility, (c) effort and (d) working conditions;
- a determination of minimum and maximum points that can be earned for each factor, and a selection of the criteria for assigning points, within the allowable spread, to the specific factors;

- an aggregation of the point totals of each job and ranking of jobs against each other; and
- a determination of monetary compensation.

The Legal Status of Comparable Worth in Australia

The Australian Council of Trade Unions brought a test case in 1985 on the issue of comparable worth. The case arose out of an application by the Royal Australian Nursing Federation and the Hospital Employees Federation of Australia to vary the Private Hospitals and Doctors award 1972 in relation to rates of pay. The Council of Action for Equal Pay, in a wide-ranging submission supporting the application, argued that nurses were underpaid because nursing was a predominantly female occupation for which rates had been set with a historical gender bias based on a concept of need. It claimed that this historical bias could only be eradicated 'throughout the Australian workforce . . . if the concept of comparable worth was implemented' (*Industrial Law Review*, 26 March 1986, p.100). The Council argued that the method should be adopted to allow for the rates of pay for all women in predominantly female occupations to be reassessed on a case-by-case basis.

However, the Conciliation and Arbitration Commission (CAC) rejected the comparable worth method:

At its widest, comparable worth is capable of being applied to any classification regarded as having been improperly valued, without limitation on the kind of classification to which it is applied, with no requirement that the work performed is related or similar. It is capable of being applied to work which is essentially or usually performed by males as well as to work which is essentially or usually performed by females. (p.101)

The CAC further commented that the application of the method 'would strike at the heart of long accepted methods of wage fixation' and feared that 'the use of the term comparable worth in the Australian context would lead to confusion'. It would be 'inap-

propriate and confusing to equate the doctrine with the 1972 principle of equal pay for work of equal value' which limits job comparisons to similar (as opposed to different) work. This is the normal manner in which work-value enquiries are conducted in Australia's centralised wage-fixing system.

The CAC thus rejected the comparable worth method of wage-setting mainly because it might undermine the centralised wage-fixing system that had been established by the Commission in the 1983 National Wage Case, pursuant to the Accord reached by the ACTU and the Hawke Government. Arguably, the comparable worth method has not been finally rejected but only set aside for the time being in recognition of the exigencies of current economic policy. The Accord recognises that the central wage-fixing system is incompatible with additional claims except under special and extraordinary circumstances. In addition, the Communiqué of the National Economic Summit of 1983, which was reflected in the 1983 National Wage case decision, stated that 'if a centralized system is to work effectively as the only way in which wage increases are generated, a suppression of sectional claims is essential except in special or extraordinary circumstances proved before the centralized wage fixing authority' (291 *Commonwealth Arbitration Reports*, 1983:12). Such a view ruled out the possibility of comparable worth claims. Any remaining doubts were dispelled by the CAC when it pointed out in the 1983 National Wage Case that the principle of 'equal pay for work of equal value' (which is limited to comparisons of similar work) 'should not be interpreted as allowing comparisons between employees who are not in the same occupation or profession' (291 *Commonwealth Arbitration Reports*, 1983:37). By definition, comparable worth evaluations involve comparisons of different occupations.

In view of the CAC's explicit disapproval of the comparable worth method, it is little wonder that the 1985 attempt to establish the method as a wage-setting principle was rejected. The main feature of the present system, namely, centralised wage determination, remains officially in place (though its future is in some doubt following the April 1991 wage case). In any event, the comparable worth method which, in other countries, applies only where the compared categories of workers have the same employer, sits uneasily with a centralised wage-fixing system, whose decisions generally apply industry-wide or even nation-wide, and are therefore binding on classes of employers or even on all employers.

The Subjectivity of Comparable Worth Evaluation

Evaluation methods used by comparable worth advocates involve the selection of a number of factors to which points are assigned. But how is it possible to compare two jobs that are different in content? General agreement on which factors ought to determine wages cannot possibly be obtained. The comparable worth

method allows for great differences between the points assigned to particular factors because all points are aggregated to create a composite picture of worth or value. In the celebrated American case of *Lemons v. City and County of Denver* (1978), nurses claimed that they were not paid in accordance with their worth to the city. Although they conceded that they were paid as much as nurses working in the general hospital of Denver, they felt that their pay was discriminatory compared to the pay for predominantly male jobs, such as, in particular, tree-trimming and civil engineering.

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This example indicates the many problems associated with the selection of jobs that can meaningfully be compared.

The essence of the comparable worth method is that the worth of a job be measured by an evaluation procedure irrespective of the market forces of supply and demand. But once the market forces are relinquished, the evaluation of a job necessarily involves subjective judgments. Phyllis Schlafly (1985:3) argues that any 'evaluation of jobs depends on an almost endless series of arbitrary and subjective judgments'. The subjectivism starts, of course, with the selection of an evaluator. Evaluators are seldom independent contractors but are usually hired to attain a precise result. They therefore tend to skew the results in favour of the paying agency. Again, a subjective judgment is involved in the selection of the factors to be evaluated. While most evaluation techniques concentrate on knowledge, skills, effort and working conditions, additions and deletions to this list can easily be made to

secure a predetermined outcome. For example, the exclusion of working conditions from the list would disadvantage people who do unpleasant work. This problem is compounded by the fact that different meanings may be attributed to the factors selected. Indeed, what should count as a 'skill' is certainly open to reasoned debate; some definitions of this factor may even be mutually incompatible.

A further subjective judgment has to be made by the evaluator when determining the **weight** of each factor. Evaluators could easily skew, within the allowable spread, the results of an evaluation by increasing the points that could be earned for a particular factor while decreasing those for another factor. Thus, the assignment of fewer points to the working conditions factor than to the knowledge factor would arguably advantage those employees who are well-educated and possess relevant paper qualifications. If this were to happen, a labourer whose job is rated lowly may well ask why society should value bureaucrats or academics or diplomats more highly than people who do the dirty work. Thus, by skilfully manipulating a points system, it becomes possible to elevate the worth of characteristics that are usually associated with white-collar jobs, and to depress the worth of other characteristics, particularly those associated with labouring jobs.

Commenting in June 1985 on the subjective nature of the comparable worth method, the United States Commission on Civil Rights concluded that the method 'is profoundly and irretrievably flawed' (Schlafly, 1985:4). For the same reason, the District Court Judge who wrote the judgment in the *Lemons* case remarked that the comparable worth method is 'pregnant with the possibility of disrupting the entire economic system' (17 FEP Cases, p.907).

Even a perfunctory study of the comparable worth literature reveals that the jobs of blue-collar workers are systematically downgraded. For example, in the infamous case of *AFSCME v. Washington State* (1983), the State of Washington Job Evaluation was undertaken by Norman D. Willis & Associates. The evaluation study valued truck drivers at 97 points, electricians at 193 and nurses at 573 points. It determined that the 'mental demands' on a nurse are worth 122 points, whereas the mental demands on an electrician are worth 30 points and those on a truck driver only 10 points. This survey also had a comparison alleging that laundry workers (who are mainly female) are paid 40 per cent less than truck drivers (who are mostly male), even though their jobs are deemed to be of equal value. The Minority Report of the Illinois Commission on the Status of Women, commenting upon this result, states that 'most people would say that . . . there is something the matter with the common sense of the experts' who claim 'that persons who dump loads of laundry into washing machines are "worth" the same wage as persons who drive big trucks on the highways' (Schlafly, 1984:238).

Even some feminists admit that job evaluation studies are inevitably infected with 'subjectivism'. For

example, Thornton (1981:480) writes that the 'main drawback of the job evaluation study is that it is not possible to eradicate the subjective element because the criteria for selecting and analysing jobs, the writing of job specifications, ranking and weighting are necessarily influenced by the perceptions and biases of the personnel carrying out the study'. Burton (1988:3) comments that there 'is no such thing as an "objective" job evaluation system' and that 'the literature on job evaluation techniques is consistent in its emphasis on the subjective judgments that form part of the evaluation'.

Some Consequences of Comparable Worth

Credentialism. It is not unusual to read in the relevant literature that it is not fair that men without a high school education should earn more than a woman graduate. If this view predominates, then it is not surprising that the importance of the 'knowledge' and 'scholarship' factors of a job evaluation will be overestimated at the expense of the working conditions and physical exertion factors. If this were to happen, a comparable worth evaluator would be artificially raising the worth of paper credentials, thereby unwittingly or unintentionally promoting a paper chase among prospective applicants for jobs.

A comparison with cases dealing with access to employment is instructive. There has been a discernible trend in some Western societies to ignore paper qualifications and educational achievements in the selection of prospective employees. Indeed, supporters of affirmative action argue that positions that were formerly closed to women should be opened up by allowing the greatest possible number of people to compete. This is usually achieved by disregarding qualifications that are not directly relevant to the job. Thus, selection guidelines increasingly stress the need for job-relatedness of selection tests to avoid the elimination of candidates who, on proper testing, may turn out to be better than those who in the absence of an affirmative action program would have been hired.

It could be argued (but not proven conclusively) that the linking of qualifications to the performance of the job while disregarding other qualifications that are not immediately relevant may have improved the upward mobility of minorities and women. In any case, the affirmative action movement, in paying less attention to paper qualifications, aims at greater job mobility in order to improve the career opportunities of its intended beneficiaries. However, affirmative action, to the extent that it downplays the importance of paper qualifications, is incompatible with the comparable worth method, which tends to inflate the worth of such qualifications. If this argument is valid, those who favour both affirmative action and the comparable worth method are guilty of intellectual inconsistency.

Job reclassification. A government that embraces the comparable worth method would be confronted with constant attempts to reclassify jobs. Workers could be expected constantly to try to demonstrate that their jobs

are more complex than they really are. Indeed, the comparable worth 'philosophy' might encourage workers to concentrate on factors that look important on the job evaluation itself, whereas those factors which are not likely to yield desired results would be overlooked. Constant reclassifications could not possibly increase the total productivity of the employers' company because too much energy would be spent by the employees on proving that their jobs, because of their alleged complexity, require (or deserve) higher pay.

Widening wage differentials. Depending on the extent to which subjective judgments intrude into the evaluation procedure, a number of distributional consequences could be expected. As already noted, the comparable worth method requires that the salaries of women who work in typically female occupations be raised. The raising of these salaries to artificially high levels in an effort to close the 'earnings gap' would most likely result in the salaries of blue-collar workers being held at a lower level than otherwise.

Occupational segregation. The comparable worth method would be unlikely to improve the integration of the workforce. Indeed, once women who work in typically female occupations were given substantial salary increases, they might no longer feel the need to pursue non-traditional (and arguably dirtier and more unpleasant) jobs. It is noteworthy that the affirmative action legislation, which aims at integrating the different occupations through an improvement in the horizontal and vertical distribution of women in the workforce, pulls in the opposite direction from comparable worth, which tends to perpetuate occupational segregation. In addition, it could be expected that men, attracted to the salary increases given to women who work in typically female jobs, might invade these well-paid female occupations, thereby further reducing the chances of women being employed in first place. If so, the adoption of the comparable worth doctrine may well, in turn, lead to increased government intervention and to the erosion of the right of employers to hire and fire.

Arbitrary compulsion. Because of the inevitably subjective nature of its evaluation procedures, the comparable worth method involves a continuous adjustment of the material positions of particular groups (and individuals within these groups). A decision as to which groups or individuals are to benefit from a comparable worth job evaluation procedure usually depends on their political strength or influence at any given time. Thus, the comparable worth method inevitably favours some persons at the expense of others and makes everyone's life choices subject to someone else's discretion. This reminds us of Hayek's prophetic admonition that a continuous determination of the material positions of different groups and individuals in the name of 'social justice' is the consequence of 'a demand of some special interest which can give no real reason for it' (Hayek, 1976:99).

Conclusion

Two special elements may be recognised in the adoption of the comparable worth method, which involves the advancement of the members of a group who believe they are disadvantaged. First, there is the political expedient of presenting initially persuasive, though substantially simplistic and even misleading, arguments spuriously masquerading as evidence. An example of this false logic is the equating of sex differences in average salaries with sex differences in opportunity. Second, there is the erroneous assumption that an easy objective solution can be found to questions of value judgments. There is a major component of subjectivity, eminently susceptible to bias, in judgments about value. Though it is quite standard practice to exaggerate claims in political arenas, equally it is incumbent upon an intelligent electorate to evaluate political arguments and claims very carefully. Comparable worth arguments are most appropriately treated as political slogans in need of critical analysis. Lack of such critical analysis has already been responsible for the considerable erosion of the principle of merit in job selection, to the inequitable advantage of some women and, what is often forgotten as a necessary corollary, to the equally inequitable disadvantage of many mainstream males.

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