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**PAY EQUITY IN ONTARIO: A LIMITED RESPONSE TO SYSTEMIC
WAGE DISCRIMINATION**

by

Deborah Jayne Neale, B.A.

**A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfillment of
the requirements for the degree of
(Master of Arts)**

Department of Sociology

**Carleton University
Ottawa, Ontario
August 24, 1990**

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WAGE DISCRIMINATION

submitted by Deborah Jayne Neale, B.A.
in partial fulfilment of the requirements for
the degree of Master of Arts

Thesis Supervisor

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ABSTRACT

Mounting pressure from labour and feminist groups, coupled with political realities has forced the Ontario Liberals to address systemic wage discrimination against women. The governmental response has taken the form of the *Pay Equity Act* (1987), which requires the application of the "equal value" concept. Although this pro-active policy, which extends coverage to the private sector, has been hailed as the most progressive in North America, it remains seriously flawed. It is filled with loopholes and exemptions and is weakened further by its reliance on job evaluation, an inherently subjective comparison methodology. Some women have benefitted from this legislation, and more will reap wage adjustments in the future. The *Act*, however, must not be viewed as a panacea for systemic wage discrimination because it provides a narrow "solution" to a complex and broad based problem.

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Chapter One

Introduction: "Pay Equity": A Panacea for Systemic Wage Discrimination?

In the post World War II decades an unprecedented number of Canadian women have entered the paid labour force. This phenomenon, however, has not produced a significant increase in their labour market opportunities or rewards. Instead, they continue to be clustered in a limited number of occupations, doing low-paid "women's work". In 1987, for instance, Statistics Canada reported that full-time, full year female workers earned on average 65.9 percent of the equivalent male wage. (1989b, 88) This gender wage differential, more commonly known as the "wage gap", has narrowed only slightly over the last few decades. Between 1971 and 1987 the gap converged by approximately six percentage points. (Statistics Canada; 1990, 98)

Various theories have been developed to account for this discrepancy in pay. Academics in the tradition of neoclassical economics have posited that the disparity in wages reflects the difference in the aggregate human capital, that is education and work experience, possessed by males and

females. (Becker, 1975) Studies indicate, however, that when such productivity variables are held constant, the gap does not close. (Ostry, 1968; Ornstein, 1983; Gunderson, 1985; Shapiro and Stelcner, 1987; Wannell, 1990) Its persistence has been attributed to discrimination. Direct discrimination, which occurs when individual employers intentionally or unintentionally pay their female employees lower wages than males, has been addressed by 'equal pay for equal work' legislation. Systemic discrimination, which will be explored in this study, is also reflected in the wage gap. The differential payment of female and male workers is a function of the structure of the labour market and other social processes. Such prejudice slots women, as a group, into low-paying positions that offer little or no room for advancement. Judge Abella has defined systemic discrimination as:

A general employment condition, specific practice, or approach to hiring or promotion that applies equally to everyone at a work place but that negatively affects employment opportunities of advancement for specific groups of people. (1984: Appendix D, 341)

Discrimination against women is deeply ingrained in the fabric of our society. Gender bias, as we shall see, is also manifest in recent equal pay for work of equal value initiatives; policies drafted to eliminate such inequities.

The increased visibility of women in the labour force has accentuated the problem of gender inequality. This fact in addition to pressure from the growing female membership in the labour movement, and from prominent women's organizations has ~~forced~~ the Federal and Provincial governments to take action on the issue. The 1970 *Royal Commission on the Status of Women*, played a central role in focusing public attention on gender-based

inequities. Drawing on Sylvia Ostry's 1968 study, the *Report* concluded that the 'equal pay for equal work' legislation had been largely ineffective in dealing with the gendered earnings gap. The policy was inadequate because men and women were employed in different occupations. The *Commission* went on to recommend the application of 'equal pay for work of equal value', a concept that was sensitive to structured labour markets and thus had a greater *potential* to bring redress to women. Thirteen years after the *Status of Women Report* was issued Judge Abella was commissioned, again because of mounting pressure from women's groups, to study inequality in employment practices. In her comprehensive *Equality in Employment Report* (1984) she also recommended that "equal value", subsumed under the title of employment equity, be implemented immediately.

Most jurisdictions in Canada have taken heed of Judge Abella's recommendations. Equal pay for work of equal value legislation, or more precisely "pay equity", exists in various forms in the majority of Canadian jurisdictions. (See Appendix A) British Columbia, Alberta, Saskatchewan and the Northwest Territories have not yet enshrined this principle in their statutes. The Ontario *Pay Equity Act* (1987), which has integrated the proactive and complaint-based equity models to eliminate wage discrimination in both the public and private sectors, is viewed as the most progressive and impressive policy of its kind in North America. (Egri, 1989)

On closer examination, this "superior" statute is seriously flawed and incapable of obtaining its specified goal, namely to redress "systemic gender discrimination in compensation." (Ontario Pay Equity Commission; 1988a, 12) The methodology outlined in the *Act*, specifically Section 6, provides women with a low measure of wage equity, particularly those employed in non-union settings. Its loopholes and weaknesses, in combination with vaguely

defined terms invite employers to avoid paying out equity increases. Restrictions in coverage also prevent thousands of Ontario women from qualifying for adjustments. Casual employees and workers in small establishments are automatically disqualified. Many more women in predominantly female work places are presently ineligible for pay adjustments because they do not have access to a suitable male "comparator" class.

As we shall see the legislation provides a limited solution to the multi-dimensional and pervasive problem of "systemic" discrimination against women. Equal value, a concept which allows comparisons between jobs where the nature of the work performed is different, has the potential to boost the pay received by those women who are concentrated in undervalued "women's occupations". The way in which the equal value concept has been applied in Ontario, however, will limit, or deny pay increases to these women. Moreover, the Ontario *Act* cannot deliver wage justice and gender equality because it ignores the impact that the double day of labour, and the differential social conditioning of males and females within societal institutions, has on women's labour market activity.

It is no coincidence that the *Act* has such a narrow focus and is weakened by loopholes. While feminist organizations and union activists were pressuring the government for broad and strong legislation, business groups were lobbying for no policy or a diluted policy. (Cuneo, 1990) Business organizations such as the Canadian Organization of Small Business, the Canadian Federation of Independent Business and the Retail Council of Canada were adamant about being subject to the *Act*. Complaints about the increase in state regulation masked a more important issue namely maintaining access to a source of cheap female labour. It is no accident, then,

that women in establishments with less than ten employees are exempt from equity coverage. The legislation has also been weakened by the incorporation of a number of *reasonable* factors that legitimize differences in pay between male and female jobs deemed to be of equal or comparable value. The legislation, then, reflects the state's desire to appear as if it is responding to women's and labour's demands for equality, while accommodating business interests. It is within this context that the legislation must be placed and evaluated.

The problems associated with job evaluation methodologies, the tool used to achieve wage equity, coupled with the inherent weaknesses in the legislation may serve to limit the *Act's* effectiveness further. Although the legislation does not specifically state that job evaluation should be used, only that the system of comparison be "gender-neutral", it is widely used by Ontario employers to assess job worth. (Sections 12 and 22) It will be shown how such systems, which are meant to evaluate the content of a job and not the characteristics of the incumbent, are by no means objective or scientific. Rather, they are subjective and politically loaded. Historically, systems of job evaluation have been utilized by Canadian management to justify wage hierarchies. In essence, job evaluation formalized the undervaluation and marginalization of women's work. It seems ironic, then, that this very same tool should be used to root out and rectify gender-based inequities in the workplace.

Eliminating wage disparities, with this particular tool is a contentious issue. The concept of skill, one of four compensable factors that the *Act* states must be used to determine job value, is saturated with gender bias. (Phillips and Taylor, 1980) A skill label reflects the power of a group to restrict the number of individuals entering the occupation, to maintain

control over new technology and so forth. Historically, women have had little success getting their work labelled "skilled". Opposition from employers and craftsmen and the constraints imposed by their domestic role severely limited their organizing abilities. Women, for the most part were rendered powerless and vulnerable. (Rose, 1986; Hartmann, 1984) Given this social component of skill it is questionable how objectively job content can be assessed. Inherent subjectivity, in combination with the expertise and control management has developed in this area over the course of the century, will illustrate how easily job evaluation can be manipulated to contain women's "equity" increases.

Monitoring the impact of the Ontario pay equity legislation is an extremely important task. Simply passing legislation, especially when it so weak, is no guarantee that "pay equity" will be realized. Feminists, although restricted by limited resources and a large agenda, must keep a watchful eye on equity compliance. We need to know how past "victories" are affecting women now so that other steps can be taken to achieve equality. Debra Lewis concludes in her work *Just Give Us the Money*:

we...need to monitor the results as effectively, systematically, and consistently as possible to gain ammunition for the next round of the struggle, and renew efforts designed to promote additional strategies to get more money for women. (1988: 127)

If the public perceives that the legislation is delivering wage justice to women, the government may not be so hasty in introducing amendments. Assertions that this is the strongest, most far reaching legislation could work in the best interests of the Ontario government and employers.

This study, then, is meant to dispel some of the mystique that surrounds this legislation. Drawing on the feminist literature, we will demonstrate how this *Act* which ignores the realities of women's lives and has gender bias built into it, is prohibited from redressing systemic wage discrimination. The public must be informed that the statute represents a preliminary step in closing the gendered earnings gap, not an instant remedy. This study will, it is hoped, provide a useful resource for those dedicated to the acquisition of equality for women and to scholars who want to develop a deeper theoretical understanding of how gender inequality is reproduced. Moreover by examining some of the results thus far it will make an original and up to date contribution to the literature on pay equity.

By examining the goals and means of Ontario Pay equity in relation to the nature of gender inequality, the flaws and limitations of the policy will be exposed. This approach will yield insights into the sociological issues surrounding Ontario pay equity rather than providing a strictly legal analysis. It will reveal the gender bias that is manifest in the *Act* and illustrate how discriminatory practices are introduced and legitimized in the implementation process. The study will begin by looking at the changes in women's participation in the paid work force in the post World War II years and will shed some light on the conditions with which they are now faced there. Chapter Three will review key works within several schools of thought that have made attempts to account for women's low pay and limited labour market opportunities. It also includes a brief outline of the research approach taken in the study. A short history of the "equal value" concept and the circumstances that led to the passage of the Ontario *Pay Equity Act* will comprise the content of Chapter Four. Then the flaws in the legislation will be examined in Chapter Five. In Chapter Six problems surrounding

implementation, specifically those associated with job evaluation, will be addressed. The study will conclude by summarizing the long and short term consequences of the Ontario legislation, and pay equity in general.

Chapter Two

Women in the labour force: Unequal Opportunities and Rewards

Over the course of the last century the number of women active in the Canadian labour force has increased dramatically. In 1901, women comprised 13 percent of the total paid labour force. (White: 1980, 7) This figure jumped to 44.1 percent in 1988. (Statistics Canada: 1990, Table 1, 78) Surges in their rates of participation occurred during wartime, particularly during the Second World War (1939-1945). As more Canadian men went to serve in Europe, and the labour shortage grew acute, the National Selection Service (NSS) and the Federal Department of Labour began to mobilize female labour. Their campaign was first directed at single women, which was proceeded by married women without children. As a last resort women with children were enticed into the labour market with tax breaks and child care services. Thus, the female labour force grew from 638,000 in 1939 to an estimated 1,077,000 by 1944. (Pierson: 1986, 61) When the men returned from their posts the work incentives offered to women were slashed. Women were displaced from the higher paid male jobs to more 'suitable' employments, and married women were shuffled back into their homes. By 1946 the number of women employed began to decline, reaching a post-war nadir in 1954. (Pierson: 1986, 215)

This decrease in women's labour force participation immediately after the War would only prove to be temporary. By 1984 there were 2,026,000

women employed in Ontario, twice the number employed across the nation in 1944. (Ontario Women's Directorate: 1986, 1) In 1970, 2,824,000 women were employed nationally, and constituted 33.6 percent of this labour force. It was in 1980 that the majority (4,638,000 or 50.4 percent) of Canadian women were officially participating in the work force. (See Table 1) An unprecedented 5,853,000 women were reported as working for pay in 1988, accounting for 44.1 percent of all workers. (See Table 1) Women, who have a stronger attachment to the labour market, are vital to the Canadian economy.

Much of this increase can be attributed to changes in the work histories of married women. In the first part of this century the majority of women workers were young, aged 15 to 24, and single. (Phillips and Phillips: 1983, 34). In 1921 only 20 percent of women in the 25-34 cohort and 12 percent aged 35-64 were in the work force. The rise of corporate capitalism at the turn of the twentieth century had created such a demand for cheap labour (See Lowe, 1987) that the presence of single women in the public sphere was "tolerated". (Ramkhalawansingh: 1974, 290) An ideological barrier, however, inhibited married women from engaging in wage work. Upon marriage a woman was expected to leave her employment so that she could assume her "proper place" in the domestic sphere. This "marriage drain" meant that in 1931 only 3.5 percent of all married women reported labour force participation. (Gunderson: 1990, 14) By 1988, however, 3,664,000, or 59.1 percent of all married women were participating in the formal economy. (Statistics Canada: 1990, 79) Their presence would alter the age structure of the labour force and modify the needs of female participants. The variables that contributed to this marked change in women's paid activity will be addressed in some detail.

TABLE 1

Labour Force Participation, by Sex, Canada, 1970-1988

	Labour Force		women as a % Labour Force	Participation Rate	
	Women	Men		Women	Men
	000s		%		%
1970	2,824	5,571	33.6	38.3	77.8
1971	2,972	5,667	34.4	39.4	77.3
1972	3,101	5,797	34.9	40.2	77.5
1973	3,303	5,973	35.6	41.9	78.2
1974	3,477	6,163	36.1	43.0	78.7
1975	3,680	6,294	36.9	44.4	78.4
1976	3,836	6,368	37.6	45.2	77.6
1977	3,996	6,505	38.1	46.0	77.7
1978	4,239	6,657	38.9	47.9	78.1
1979	4,420	6,811	39.4	49.0	78.5
1980	4,638	6,935	40.1	50.4 *	78.4
1981	4,849	7,051	40.8	51.7	78.4
1982	4,916	7,009	41.2	51.7	77.0
1983	5,057	7,052	41.8	52.6	76.7
1984	5,216	7,100	42.4	53.6	76.6
1985	5,365	7,167	42.8	54.6	76.6
1986	5,502	7,244	43.2	55.3	76.6
1987	5,679	7,332	43.7	56.4	76.6
1988	5,853	7,422	44.1	57.4	76.6

Source Statistics Canada. *Women in Canada: A Statistical Report* (Ottawa: Minister of Supply and Service, 1990), Table 1, p. 78.

Factors Accounting for Women's Increased Participation in the Labour Force

A host of social and economic factors are responsible for the dramatic upsurge in women's labour force participation rates. In the post-World War II era, the expansion of the service sector, an area which had traditionally employed females, drew more women into the labour market. More complex corporate structures as well as the expansion of federal and provincial state machinery provided the impetus for the creation of clerical jobs. In 1941, 152,216 women were employed in clerical positions. (Lowe: 1987, Table 3.1 49) By 1988, this figure had increased by approximately 1000 percent to 1,652,000. (Statistics Canada: 1990, Table 11, 86). The expansion of "feminized" industries and occupations is responsible for their increased "opportunities".

The rise in part-time work has enabled more women to balance paid work with their domestic responsibilities. Between 1953 and 1975, for instance, the proportion of workers that were employed on a part-time basis (less than 35 hours per week) increased by 9.2 percent, from 3.7 to 12.9 percent. (White: 1983, 37-38) In 1975, 687,000 women held part-time jobs, accounting for 69.5 percent of all such positions. (Statistics Canada: 1990, Table 10, 83) By 1988, 1,355,000 women comprised 72 percent of the part-time work force. (Ibid) Given that women are disproportionately employed on a part-time basis, it is not surprising that this type of work is concentrated in the service sector. In 1988, service industries accounted for 962,000, more than half (51.1 percent) of the 1,882,000 positions. (Statistics Canada: 1990, Table 11, 86)

Part-time employment, however, is a mixed blessing for Canadian women. (See White: 1983, Chapter 1) It has provided many women with an opportunity to earn an income. In the same token it has reaffirmed their responsibility for housework and child rearing, leaving the sexual division of labour within the household unchanged. In doing this it restricts many women to low paid, dead end jobs, or "ghettos" and ensures that employers maintain access to a cheap supply of labour. In 1985, 78.8 percent of women who worked part-time earned less than 10,000 dollars. (Labour Canada: 1988, 35) Part-time work, then, may not aid women in their achievement of "equality of opportunity in employment" as the *Royal Commission on the Status of Women* had hoped. (1970, 104) In reality it's flexibility may perpetuate the oppression of women in both the family and the paid labour force. Part-time work is an important dimension of women's employment, and will re-emerge throughout this study.

The exodus of women, particularly married women, from the household into the formal economy has been facilitated by several developments. For instance, new household technology, introduced over the last 150 years, has removed much of the drudgery from housework. By reducing the amount of labour required and improving the conditions under which the work must be performed, women have been left with more time and energy to devote to paid activities. (Luxton: 1980, 159) Advancements in birth control methods in the 1960s also made the transition to the paid work force a smoother one. Oral contraceptives, for example, now enable women to control the number and the timing of births. Prior to this, women were frequently forced to withdraw from the labour force because of unexpected pregnancies. On average a 45 year old woman in 1900 had had 6 live births; by 1961 this figure had fallen to 3. (Townson: 1987, 5) In 1971

the average number of children per (husband-wife) family was 1.7, and in 1986 this had declined further to 1.2 (Statistics Canada: 1990, Table 5, 16) Developments in household and contraceptive technologies, then, have eased women's domestic workload providing them with more continuity in their labour market endeavours. The relationship that exists between women's paid work and their unpaid domestic labour is, thus, symbiotic in nature.

Women have taken advantage of the "opportunities" recently made available to them because they, like men, need the income. Changes in the structure of the family unit have played an instrumental role in creating this need. Between 1961 and 1986 single parent families increased from 6 percent of all Canadian families to 13 percent. (Gunderson: 1990, 16) The liberalization of Canadian divorce laws in 1968 precipitated a sharp increase in divorce rates in the early 1970s, a trend that has continued in subsequent years. In 1970 there were 29,775 divorces in Canada, a rate of 621 per 100,000. By 1987, there were 86,985 divorces, a rate of 1,372.2 per 100,000. (Statistics Canada: 1990, Table 8, 18) Separation and divorce frequently means economic catastrophe for many women. With children to support, and no male income, women must try to locate some sort of paid employment to help make ends meet.

More women are also choosing to have and keep children outside of marriage. In 1951, 14,000 children, accounting for four percent of all live births, were born to single mothers. In 1985, this figure had jumped to 59,600 (Moore: 1987, 32), or 15.9 percent of all (375,727) live births. (Statistics Canada: 1990, Table 12, 22) Single parent families are disproportionately headed by women. In 1986 701,900, or 82 percent of the 853,645 lone parent families in Canada were headed by females. Approximately 14 percent of these women were single (not married) and

53.7 percent were either separated or divorced. (Ibid: Table 4, 16) Female single parent families are overwhelmingly poor. (See Gunderson: 1990, p.12-13) In 1986, 44.1 percent of Canadian households headed by women fell below the poverty line, a phenomenon which explains the high rate of child poverty. (Gunderson: 1990, Ibid) Faced with insufficient income from welfare and support payments, these women are forced to find work. Employment does improve their economic status. In 1986, the incidence of poverty for single mothers with at least one child working full-time hours was 25.7 percent, while the rate of poverty for similar women who worked part-time and those not employed was 75 and 91.2 percent respectively. (Gunderson: 1990, 19) Holding a job, however, is still no guarantee that female headed single parent families will remain above the official poverty line. A study released by the National Council of Welfare in August, 1990 indicates that in spite of the large increase in the number of women in the labour force, "...the only safeguard between married women and poverty is their husband's income". (Bell: 1990, A3)

In recent decades, socio-economic factors have also made it difficult for Canadian two parent families to maintain an "acceptable" standard of living on one income. The increased cost of housing, particularly in urban areas, and other goods, now deemed *necessities*, lie beyond the reach of a single income. Moreover, the decline in real income after 1977, (Gunderson: 1990, 113), and waning job security due to technological change, industrial restructuring (waning of smoke stack industries) and the uncertainty surrounding the Canada-U.S. free trade agreement have compelled women to augment household income. (Ibid) Sixty-five percent of all Canadian families in 1965 were deemed traditional; that is, the woman ran the household and the man earned a wage. By 1986, the incidence of this family type decreased

to 12 percent. (Gunderson: 1990, 15) The dual income family, then, has become the norm rather than the exception. In 1986, nine percent of two income families were classified as poor in Canada (527,000 couples) Without the incomes of wives this figure would have been 16 percent, forcing an additional 438,000 more couples below the official poverty lines. (Gunderson: 1990, 22) This debunks the myth that women only work to earn money for extras, or 'pin' money. Women's earnings, which are required to maintain real income, are central to the family economy.

In the last three decades the educational attainments of women have increased, narrowing the gap between male and female qualifications. Women's enrolment in universities and community college programs has increased substantially, as have the number of degrees and diplomas awarded to them. In the 1970-1 academic year, women constituted 36.7 percent of the full-time undergraduate population in Canada. Seventeen years later (1987-88) they accounted for approximately half (50.3%) of the enrolments. (Statistics Canada: 1990, Table 2, 53). In 1971, 38 percent (25,450) of the bachelor's and professional degrees were awarded to women. In 1987, they were granted 54,664, or 53 percent of such degrees. (Ibid. Table 5, 55) Statistics also reveal a positive relationship between women's level of education and their likelihood of being in the work force. In 1975, 25.2 percent of women with less than a grade nine education were employed, while 66.4 percent of women who held university degrees worked. (Ibid: Table 18, 67) In 1988, the participation rate of women with less than grade nine remained much the same (25.1 percent). This reflects the non-participation of women in older cohorts where non-participation is the norm. (Ibid: 51) Larger rates of participation (79.5 percent) were

reported for university educated women in 1988. (Statistics Canada: 1990, Table 18, 67)

Increases in women's educational attainments exacerbated white middle class women's growing dissatisfaction with their prescribed role as homemaker. (See Hooks, 1984) Friedan articulated this sentiment in her ground breaking work *The Feminist Mystique*. In reference to the "problem that has no name" she wrote:

...[it] lay buried, unspoken, for many years in the minds of American women. It was a strange stirring, a sense of dissatisfaction, a yearning that women suffered in the middle of the twentieth century in the United States. Each suburban wife struggled with it alone. As she made the beds, shopped for groceries, matched slipcover material, ate peanut butter sandwiches with her children, chauffeured Cub Scouts and Brownies, lay beside her husband at night - she was afraid to ask even of herself the silent question - "Is this all?" (1974: 11)

Canadian women of a similar background were also beginning to question their occupation in the home. Housewives in the university-based West Coast Women's Liberation group, for instance, identified with the women discussed in Friedan's study. (Stephenson: 1977, 115) They complained of the loneliness, the isolation and the boredom associated with the occupation. (Stephenson: 1977, 109-128) Wage work, which has provided women with psychological benefits, more independence, as well as an opportunity to leave the isolation of their homes, was an appealing alternative to unpaid domestic "boredom".

The so-called second wave of feminism which burst on to the scene in the 1960s and 1970s has had some impact on all facets of women's lives, particularly their working lives. Feminists, across the country lamented women's limited career opportunities and inferior economic status, and set out to change this situation. Early agitation by Canadian feminists culminated in the establishment of the *Royal Commission on the Status of Women* by the Pearson government in 1967. Three years later the *Commission's Report* would confirm the injustice of the female experience. It should also be noted that pressure from feminist groups affected the content of the Canadian Charter of Rights and Freedoms, specifically Section 15 which in 1985 bequeathed women a constitutional right to equality with men. The prominence of gender issues in the media and the flurry of 'equal pay' laws enacted in response to pressure from vocal women's organizations, have all contributed to the liberalization of attitudes towards women's economic role. (See Boyd: 1982, 82). The extent to which the influx of women into the labour force is determined by economic factors or prevailing liberal attitudes towards their work role, however, remains ambiguous and calls for more research. (See Lowe and Krahn, 1985; Moim, 1978)

Women's Unequal Remuneration

This tremendous increase in women's labour force participation and the concomitant liberalization of attitudes towards their economic role has not translated into more rewards and opportunities. Gender inequality in the labour market remains a serious and pervasive problem. The gendered 'wage gap' is a crude measure of this inequality. The pay differential between the sexes is not unique to Canada because the social and economic

oppression of women is a global phenomenon. International Labour Organization (ILO) figures, for instance, indicate that men in the "third world" earn twice as much as women. (Farquhar: 1988, B1, B4) Lower aggregate wages for women were documented by all twelve of the industrialized nations in Mincer's comparative study of labor force trends. (1985) The magnitude of the gap, however, varies substantially. In 1980 he found that Swedish women earned about ten percent less than their male counterparts, while the women of Japan averaged fifty four percent of the comparable male wage. (Table 2) This variation, although sensitive to differences in definitions of wages and coverage, is indicative of the relative oppression of women. Canada was not included in Mincer's study, but recent statistics indicate that Canadian women earn one-third less than their male counterparts. (Statistics Canada: 1989b, 88)

Over the last thirty years Canadian women, not unlike women in other industrialized nations, have been averaging a higher proportion of men's wages. Using 1961 Census data Sylvia Ostry calculated the wage gap for full year male and female workers to be 41 percentage points. (1968: 41, Table 16) A Statistics Canada sample survey, utilizing Consumer Finance Survey data collected in April 1989, released in December, 1989 reported the gap between full year, full-time male and female workers to be thirty-four percentage points. (Alvarez: 1989, 44) In three decades, despite the existence of "equal pay for equal work", the gap has only closed by approximately seven points. In the last three years the pace of convergence has come to a virtual standstill. (Table 3)

TABLE 2

Wage Ratios, 12 Countries, 1960-1980.

Country	Ratio of Women's to Men's Wages		
	1960	1970	1980
Australia	.59	.59	.75
Britain	.61	.61	.79
France	.64	.67	.71
Germany	.65	.69	.72
Israel	n.a.	.70	.78
Italy	.73	.74	.83
Japan	.46	.54	.54
Netherlands	.60	n.a.	.71
Spain	n.a.	n.a.	n.a.
Sweden	.72	.84	.90
United States	.66	.65	.66
USSR	.70	.70	.70

Source: Jacob Mincer, "Inter-country Comparisons of Labor Force Trends and of Related Developments: An Overview, *Journal of Labor Economics* 3, no. 1 (1985), S6.

TABLE 3

Comparison of average earnings (in constant 1987 dollars) of women and men, and earnings ratio, Canada, 1971-1987.

Year	Women	Full-year/full-time workers Men	Earnings ratio
1971	17,134	28,721	.59
1972	17,788	29,735	.59
1973	17,954	30,294	.59
1974	18,762	31,498	.59
1975	19,445	32,303	.60
1976	20,453	34,585	.59
1977	19,926	32,112	.62
1978	20,582	32,672	.62
1979	20,110	31,745	.63
1980	20,753	32,302	.64
1981	20,198	31,691	.63
1982	20,060	31,353	.63
1983	20,701	32,050	.64
1984	20,438	31,172	.65
1985	20,328	31,301	.64
1986	20,730	31,498	.65
1987	21,012	31,865	.65

Source: Adapted from Statistics Canada, *Women in Canada: A Statistical Report* (Ottawa: Minister of Supply and Services, 1990), Table 29, p. 98.

The Wage Gap: Methodology.

In order to eliminate the inequality manifest in the earnings differential, policy makers must know how particular income determining variables (education, work experience, etc) affect the gap, as well as the portion emanating from some form of discrimination. This task has provided sociologists and economists with an empirical challenge. There are several methods that can be used to measure discrimination. A simple procedure involves examining male and female wages within narrow occupations. This, states Gunderson, substitutes controlling for differences in human capital variables (education, etc) for it is assumed that the requirements of the jobs under study are very similar. (Gunderson: 1985, 227)

Regression, a sophisticated statistical technique, is a powerful analytic tool that is frequently used to measure discrimination. It involves estimating separate wage equations for males and females, which are then regressed upon productivity related factors. (Ibid) Treiman and Hartmann (1981: 21) have compiled a list of such variables. These include education, age, race, formal training, actual labour market experience or a proxy, marital status, health, hours of work, length of service, city size, region, quality of schooling, record of absenteeism, number of children. This technique, which assumes that earnings are a function of human capital characteristics, decomposes the gap into two main parts. (See Oaxaca, 1973; Gunderson; 1989) It produces coefficients that indicate how the labour market rewards productivity-related characteristics, and a residual, which provides an estimation of the effects of discrimination. Thus, the larger the productivity component the smaller the portion attributable to discrimination. This approach, however,

does suffer from a number of limitations. The discrimination component, for instance, may be distorted by insufficient or inadequate information on productivity variables as well as by measurement error. Despite these problems the method has been useful in establishing benchmarks against which changes can be compared and the effects of policy can be assessed. (Shapiro and Stelcner: 1987, 463)

Many Canadian studies of the male-female wage disparity have relied on the decomposition analysis. Sylvia Ostry's study (1968) was one of the earliest in Canada. Using 1961 census data she calculated that female full year, full-time workers averaged 59.3 percent of the equivalent male wage. She found that when the earnings ratio was adjusted to account for sex differences in occupational distribution and productivity factors the gap converged by 26 percentage points (Ostry: 1968, 42). Fifteen percentage points, however, remained "unexplained". Ostry acknowledged that other adjustments would have reduced the size of the residual, but claimed that some of this undoubtedly stemmed from "discrimination". (Ibid)

In 1981 Ornstein (1983) conducted a study of the differential using a representative sample of 3,000 Canadians. He found that each of his chosen variables, education and work experience, part-time vs full-time work, business ownership, firm size and unionization, occupation and industry and authority relations within the place of work all contributed to the 45.8 percent (1983: 1) income differential between employed men and women. (1983: 6) The concentration of women into low-paying occupations, however, was found to have the most impact on the gap. (1983: 46) Approximately 15-20 percent of the gap, however, could not be accounted for by "objective" factors.

Wannell (1990) examined wages of 1982 university graduates who were employed on a full-time basis in 1984 and again in 1987. He found the unadjusted gender differential for these years to be 12 percent and 18 percent respectively. (1990: 21) Using the decomposition technique Wannell calculated that differences in education and background accounted for only one-third of the gap between the male and female graduates. (1990: 27) The unadjusted gap is smaller for this highly educated population than that derived from census data where the entire work force is considered. By focusing on this cohort he had eliminated the need to control for the multitude of variations between men and women that appear in the general labour market.

Variation in wage gap study results can be attributed to differences in the data sets utilized, definitions of income and sampling techniques. Gunderson (1985: 228-230) has summarized trends in the Canadian research on wage discrimination. (Table 4) For studies that examine full year, full-time earnings, across establishments, occupations and regions, the unadjusted ratio is approximately .60 (e.g. Ostry, 1968; Robb, 1978; Gunderson, 1979, 1980; Stelcner and Shapiro, 1980; Ornstein, 1981). When productivity related factors and broad occupational groups are considered, the ratio jumps from .60 to .80. Case studies, which may automatically control for region, industry, etc, or research based on hourly wages in narrowly defined occupations (serving as a control for background variables) in the same establishment have unadjusted ratios of .80. (i.e. Robson and Lapointe, 1971; Gunderson, 1975; Schrank, 1977; Stelcner, 1979; Walmsley *et al*, 1980) The adjusted ratio then increases to .90 to .95. which means that .05 to .10 is attributable to direct wage discrimination. Looking within occupations serves as a control for the effects of the differential distribution

TABLE 4

Female-Male Earnings Ratio, Unadjusted and adjusted for Various Productivity-Related Factors, Various Canadian Studies

Study	Year and Data	Gross Unadjusted Ratio	Net Adjusted Ratio
Ostry (1968)	1961 census	.59	.81
Robson & Lapointe (1971)	University Faculty 1965-66	.80	.90
Gunderson (1975)	Narrowly Occupations same establishment 1968-69	.82	.93
Schrank (1977)	University faculty 1973-74	.83	.95
Robb (1978)	1971 census Ontario: Males vs. single females over 30	.60 n.a.	.76 .94
Gunderson (1979)	1971 census	.60	.77
Stelcner (1979)	University faculty 1976-77	.91	.94
Walmsley et al (1980)	Saskatchewan organization, 1980	.80	.87
Gunderson (1980)	1971 census, Ontario	.60	.76

Table 4, Continued

Shapiro & Stelcner (1980)	1971 census:		
	Canada, public	.65	.83
	Canada, private	.57	.72
	Quebec, public	.66	.87
	Quebec, private	.56	.74
Study	Year and Data	Gross Unadjusted Ratio	Net Adjusted Ratio
Stelcner & Shapiro	1971 census,		
	Quebec:	.60	.82
	single over 30	.83	.82
Kapsalis (1980)	1975 Survey of Consumer Finance.	.61	.87

Source: M. Gunderson, "Discrimination, Equal Pay, and Equal Opportunities in the Labour Market" in *Work and Pay: the Canadian Labour Market*, Craig Riddell, ed. (Toronto: University of Toronto Press, 1985), p. 229.

of men and women in the occupational structure. Gunderson (1985, 231) claims that a larger portion of the differential may stem from occupational segregation than from direct wage discrimination. This would explain why the equal pay for equal work laws have been unable to effect significant reductions in the gap.

The Occupational Structure: Segregating "Women's Work".

In spite of the rise in women's labour force participation and the inroads made by some women into male dominated fields of work, the sex-segregated nature of the labour market has changed very little (See Armstrong and Armstrong, 1975). Fox and Fox examined 1981 Canadian Census data and estimated that 60 percent of men or women would have been required to switch occupational categories in order to equalize the occupational distribution of the genders. (1987: 390) "Women's work", is in most cases an extension of the work that women have traditionally performed in the home. Typically it involves caring, teaching, nurturing, servicing and so forth. Women's occupational aspirations and "choices" are molded by their experience in the family and the school. In the educational system women are channelled into traditional areas of study, where they are equipped with the skills required for work in sex-typed occupations. (See Gaskell, 1982) Discrimination against women inside the labour market, manifested in employer hiring and promotional practices for instance, also reinforces segregation.

Sex-based occupational segregation on the basis of gender occurs when women and men are "differentially distributed over the occupational structure of a particular economy." (Moore: 1985, 2) Segregation can take

various forms. Horizontal segregation exists when males and females are found in different occupations. In 1891 domestic service was by far the most common occupation for women. (Table 5) Forty years later the number of women in clerical positions had surpassed those in domestic employment. Clerical occupations are still predominantly female. In 1986, the secretaries and stenographers category, which employed 425,000 women, had the largest concentration of female employees. (Table 6) A recent study of women in the Federal Public Service, aptly entitled *Beneath the Veneer* (1990), also indicates that when statistics on women's representation are examined by occupational group very little has changed. Aggregate female representation in the Service was 43.2%. Women, however, constituted 82.8 percent of the employees in the administrative support group. (Vol 2: 20) Only 11.7 percent of the positions in the managerial group were filled by women. (Vol. 2: 17) Concentration in traditional fields continues in the Federal Public Service despite the upsurge in women's labour force participation and employment equity measures.

Women are not only segregated into a limited number of occupations, they are also relegated to the lower-paid, less prestigious positions within an occupation. Frequently few women are found at the higher echelons of occupational hierarchies. In academe during the 1985-86 session, 6.1 percent of full professorships were held by women. The proportion of women employed as lecturers, a lower paying, less prestigious post, was much higher at 44.5 percent. (Statistics Canada: 1990, Table 14, 64) Occupations are also stratified, and women are concentrated in the lowest ranking ones. Boyd comments:

TABLE 5

Leading Occupations for Women 1891 and 1921.

1891		1921	
Servant	77,644	Clerical	78,342
Dressmaker	22,686	Servant	78,118
Teacher	14,803	Teacher	49,795
Farmer	11,590	Saleswoman	35,474
Seamstress	10,239	Housekeeper	23,167
Tailoress	7,834	Nurse	21,162
Saleswoman	4,409	Dressmaker/Seamstress	16,612
Housekeeper	4,035	Farmer	16,315
Laundress	3,679	Textile Factory	
		Operative	15,193
Milliner	3,277	Clothing Factory	
		Operative	14,470

Source: White, Julie, *Women and Unions* (Ottawa: Canadian Advisory Council on the Status of women, 1980), p. 4.

Table 6

Top Ten Occupations of Women, Canada, 1986.

Occupations	Total Labour Force	Variation in % 1981-1986
	000s	%
Secretaries and stenographers.	425	15.5
Sales and clerks and Salespersons.	330	12.7
Bookkeepers and accounting clerks.	325	-2.3
Cashiers and tellers.	261	13.8
Nurses.	211	26.1
Food and beverage Serving.	210	4.4
Elementary and Kindergarten teachers.	152	9.2
General Office Clerks.	131	13.9
Receptionists and inform- ation clerks.	107	20.2
Janitors, charworkers and cleaners.	100	3.3

Source. Statistics Canada. *Women in Canada; A Statistical Report*. (Ottawa: Ministry of Supply and Services, 1990) Table 9, p. 82.

many of the occupations in which women are found are characterized by a lower level of skill, responsibility, authority, status, mobility, and income than are those occupations in which men concentrate. (1982: 66)

Not surprisingly, then, occupational segregation, as was noted earlier is accompanied by relatively low pay. The relationship between them, however, is a complex one and will be the focus of the theoretical discussion that follows.

Chapter Three

Women's Unequal pay and Opportunity; Theoretical Considerations

The influx of women into the labour force in recent decades has spurred a theoretical debate over the mechanisms that produce and perpetuate women's economic inferiority. Some of the key theories will be explored in this chapter. The discussion will reveal the complex nature of gender inequality and will be invaluable in highlighting the limitations of the policy response in Ontario. First, socio-biological arguments will be reviewed, and shown to be deterministic and insufficiently sociological. In short, they are incorrect. Then, three models within the school of neoclassical economics will be examined. These include the human capital approach, and the occupational overcrowding and monopsony models. A summary of various strains of segmentation theory, will shed light on demand-side factors and labour market institutions, variables that were neglected by the neoclassical school. Feminist theory, unlike the aforementioned models which merely extend their chief tenets to provide a gender analysis, is in contrast constructed around women. Moreover, feminism, specifically socialist feminist thought, as we shall see, elucidates the relationship between women's paid and unpaid work.

Biology is Destiny; Sex Segregation and Low pay

Sociobiologists contend that social phenomena are largely determined by biological factors. (See Wilson, 1978) Genes, hormones and physiology dictate the sexual division of labour and hence sex-specific pay. (See Armstrong and Armstrong: 1978, Chapter 4; Mackie, 1987) Hutt for instance argued that physical differences left women with a predisposition for:

any tasks requiring manual dexterity...They are particularly deft with their hands, which may be one reason that women are, and often enjoy being, seamstresses and needlewomen...This dexterity results in women generally being extremely competent typists too, and it is a competence that men find difficult to match. (1975: 97)

If Hutt's statement was valid then one would expect surgery, work presumably requiring manual dexterity, to be more suitable for women. Instead, it is a male dominated profession. (Armstrong & Armstrong: 1978, 109) Psychologist Sandra Witelson attributes the paucity of females in the engineering and architecture professions to their inferior spatial ability. (Goleman: 1978, 59) Their concentration in the caring occupations, such as nursing and social work, is indicative of their 'innate' capacity to nurture. (Mackie: 1987, 92) The social forces that affect educational and career "choices" are completely disregarded. Sex differences in strength have also been utilized to account for sexual divisions in the labour force. However, as Peitchinus points out, the "functional reality of the workplace" has changed dramatically. (1989, 21) Developments in technology have removed the strength component from industrial work making the sex of the job

incumbent irrelevant. Clearly, "biology is destiny" justifications for the sexual division of labour are easily falsified.

These tautological arguments and scientifically proven "facts" have provided anti-feminist organizations with ideological ammunition in their struggle to preserve "natural" differences between the sexes. The Christian Labour Association of Canada, which sits to the right of the labour movement, stated that:

certain jobs are more suited for men than women, and vice versa. For example, while it is currently risky to suggest that women may be more apt to be secretaries than construction workers, there are nevertheless good reasons for making such a suggestion. (Cuneo: 1990, 148)

Tinkering with the *status quo*, in this case occupational sex segregation, is seen as dangerous and likely to incur a tremendous social cost. Tiger and Fox, for instance, treat women as mere distractions to men in the workplace. The "force of their enthusiasm for females", they write, "can disrupt the work and endanger the integrity of groups of men." (1984: 224) Women are seen in sexual terms only. Thus, if these creatures cannot be excluded from the economic sphere or male sphere altogether, they must at least be segregated from men. (Ibid) Such arguments are reductionist, ahistorical and completely removed from the reality of the structure of the labour market.

The Neoclassical Approach

Neoclassical economic theory was first used to account for the wage disparity between black and white workers and later applied to the gendered earnings gap. Generally, advocates of neoclassical economics assume that individuals compete in a single, unstructured labour market and that workers are perfect substitutes in production. Wages, then, are equal to the value of a worker's marginal product. Since workers are paid what their work is *worth* women are on average paid less than males, simply because their level of productivity is lower. There are three main models within this school of economic thought; the human capital approach; the overcrowding theory; and the monopsonist model. Human capital theorists propose that women receive relatively low wages, because they, unlike males, "choose" not to invest in human capital. According to the "overcrowding" model women's low pay is a product of low demand coupled with a relatively large supply. In contrast, the monopsony model, rejects the idea of the perfectly competitive labour market. Here, employers who wield monopsonistic power in the labour market are able to manipulate workers' marginal productivity. These will be discussed in more detail.

The Human Capital Model

The individual is at the foundation of human capital theory. She/he exercises freedom of choice and acts in a rational manner in order to maximize utility. (Amsden: 1980, 13) When accounting for the discrepancy in male and female wages, theorists look to the family and women's role

within it. Women, because they assume responsibility for housework and child rearing, are unable to build up their stock of human capital. Mincer and Polachek state that an individual's allocation of time between market and nonmarket activities is:

...best understood within the context of the family. More generally the family is viewed as an economic unit which shares consumption and allocates production at home and in the market as well as the investments in physical and human capital of its members. In this view the behaviour of the family unit implies a division of labor within it. Broadly speaking, this division of labor or "differentiation of roles" emerges because the attempts to promote family life are necessarily constrained by complementarity and substitution relations in the household production process and by comparative advantages due to differential skills and earning powers with which family members are endowed. (1974: S76-S77)

Specialization maximizes the economic efficiency of the family unit.

Since this sexual division of labour is in accordance with utility theory it is treated as a given and not questioned. Becker, in his "Theory of Marriage", likens the conjugal relationship to a "two-person firm" with either member being the "entrepreneur" who "hires" the other at "salary"...and receives residual "profits". (1973: 825) The woman hires a man as her breadwinner, because he has a greater wage earning capacity. The man in turn "hires" a woman as a nurse and childminder because she excels in this area, while his market activity inhibits him from doing so.

When women withdraw from the labour force to fulfill their domestic responsibilities, their job skills depreciate. (Polachek, 1975) Women, thus, "choose" work that penalizes intermittent participation in the labour force the least. Women's lower wages reflect this depreciation as well as foregone

appreciation. This rational, utility maximizing behaviour serves as the basis of sex segregation in the labour market. Polachek's depreciation hypothesis, however, has not been supported by empirical evidence. England (1982), for instance, has shown that women are not penalized any less for time spent out of the work force if they "choose" female occupations. If this "choice" is not an economically rational one the theory is invalidated.

Individual characteristics or "human capital", such as formal education and on-the-job training, rather than structural factors, have been the focus of many theorists of the wage gap. Becker states, "observed earnings are gross of the return on human capital, some persons earn more than others simply because they invest more in themselves." (1975, 231) Age (frequently used as a proxy for work experience) and education are correlated positively with earnings, and account for approximately one third of the variance in earnings (Ornstein: 1982, 33) As was noted in Chapter Two when these 'bias-free' factors have been controlled the wage gap between men and women does not disappear.

Becker (1971) refers to this unexplained portion of the wage differential as the *discrimination coefficient* d . Employer, employee and customer prejudice against a particular group in the labour market, in this case women, has an impact on male and female wages. Discriminating employers will be apt to hire females if they can pay them less than males. Employees who are prejudiced against women will only work with them if they are paid a wage premium, and finally customers who prefer to deal with men will agree to be served by women if offered an incentive, such as lower prices. Becker states:

Individuals are assumed to act as if they have "tastes for discrimination" and *these tastes are the most important immediate cause of discrimination*. When an employer discriminates against employees, he acts as if he incurs non-pecuniary, psychic costs of production by employing them. (1971: 153) (Emphasis mine)

The magnitude of the discrimination *coefficient* d is determined by the intensity of the prejudice and the compensation that must be offered to male employees. Since discriminatory activity is unprofitable, firms that choose not to act in a prejudicial manner have access to a larger pool of labour, and thus gain a competitive edge over those that engage in such practices. According to this model competition is seen as the panacea to all forms of labour market discrimination. (Ornstein: 1982, 32)

More recently Becker has posited that women, because of their domestic responsibilities:

spend less effort on each hour of market work than married men working the same number of hours. Hence, *married women have lower hourly earnings than married men with the same market human capital*, and they economize on the effort expended on market work by seeking less demanding jobs. (1985: S33) (Emphasis mine)

This job selection process is held accountable for women's lower pay as well as the occupational differences between males and females. Bielby and Bielby (1988), however, show statistically that Becker's assumption is false. Women, it appears, do not allocate less of their effort to paid work in order to conserve energy for domestic and child care responsibilities.

The human capital model leaves many issues unresolved. It assumes that women's low wages are a product of a *choice* not to invest in human

capital. Such low levels of human capital may, however, reflect a reluctance to invest because of the low returns women are able to reap. (Amsden: 1980, 16) The direction of causality in the earnings-human capital relationship is nebulous. Women's reproductive and nurturing role, which influences women's *choices*, is used to account for their tendency to be found in lower paying positions requiring fewer skills. This does not, however, explain why women are concentrated in a narrow range of occupations. Blau and Jusenius propose that the model would have to rely on women's "tastes" to account for this phenomenon as well. (1976: 187) Moreover, advocates of the theory do not provide an adequate definition of the concept "taste". Individuals have "tastes for discrimination" but we are not told why this is the case. Instead it is a receptacle for social, cultural, ideological and other "extraneous" factors that influence the behaviour of individuals. Thus the concept is viewed as trivial and left for other social scientists to develop. (Amsden: 1980, 13) Finally, in light of the dramatic increase in women's educational attainments, and their status as permanent workers, segregation and the wage gap should, according to this model, have been reduced. Instead, they have changed very little.

Human capital theory is unable to provide an adequate explanation of women's limited options and the wage differential. Focusing on the characteristics of individuals it ignores demand-side considerations and structural phenomenon. In addition, it, not unlike structural functionalist theory (Davis and Moore: 1945), ignores the inequality of opportunity that pervades Canadian society. Moreover by focusing on freedom of choice it masks the powerlessness of women and distorts the female experience in general. This should not be surprising from a school of thought that has

subsumed women under the heading of economic man. In brief, the theory is ahistorical, classless, raceless and cultureless. (Amsden: 1980, 13)

The Overcrowding Model

Becker's model has been refined by other neoclassical economists. Bergmann (1971), for example, by developing Fawcett's (1918) and Edgeworth's (1922) concept of 'occupational crowding', has directed attention towards occupational sex segregation. Overcrowding occurs when there is low demand but a plentiful supply of a particular type of worker, or when there are excessive restrictions placed on occupational opportunities for certain workers. (Blau and Jusenius: 1976, 183) Women are restricted by employer demand to a few menial occupations. This crowding, in combination with the low capital-labour ratio associated with "women's work", results in relatively low wages. Moreover, by decreasing the labour supply elsewhere it boosts the wages of those who are not "crowded". (Blau and Jusenius: 1976, 184) Although men and women are perfectly substitutable occupational crowding results in different marginal productivities for men and women.

Bergmann, by acknowledging the sex segregation in the labour market, had improved Becker's theory of wage discrimination. Her model, however, was still plagued by "old" problems. To explain why discrimination against women continues in the face of unprofitability, especially given that profit maximization is a chief tenet of neoclassical economic theory, she must (1974) rely on Becker's concept of "employer tastes". In so doing she had united Becker's concept with that of Fawcett and Edgeworth. (Blau and Jusenius: 1976, 184) Thus, only in cases where employers have a "strong"

taste for discrimination against hiring women will they be totally excluded from a particular occupation. (Ibid) The model, which focuses on employer demand overlooks supply-side considerations.

Monopsony

The monopsonist model, formulated by Robinson (1934) and developed later by Madden (1973), takes a different approach to the problem of wage discrimination. Here employers, because they have monopoly power in the labour market, have the ability to set wage rates. Thus, perfect competition, a concept that was central to the two aforementioned models, is abandoned. In a situation where an employer has monopoly power in the labour market, workers may be paid less than the value of their marginal product. Moreover, if the labour supply elasticities are different for men and women, the monopsonistic employer can pay them different wage rates, even though they are equally productive. For women to be paid less than men, their supply curve of labour must be less elastic, that is less responsive to wage increases. Madden posits:

The more inelastic the supply of labor, the greater the difference between productivity and the wage level and, likewise, the greater the monopsony profit. (1973: 89)

This will occur assuming that the employer is determined to maximize profit and an upward-sloping supply curve to the corporation. (Blau and Jusenius, 1976, 189) Women, who are less unionized than their male counterparts, do not have sufficient power vis a' vis the employer to raise monopsonistic

wage levels. Thus, women remain more susceptible to monopsonist exploitation. (See Anselm, 1990)

Women's labour supply is viewed as less responsive or elastic for a variety of reasons. Women's labour is relatively immobile in geographic and occupational terms because their place of residence is typically determined by their husbands who are able to command higher salaries and benefits. An absence of viable employment options due to discrimination and low demand for their skills are other factors worthy of consideration. Domestic responsibilities and child rearing may also constrain their work patterns. (Ornstein: 1982, 41)

Blau and Jusenius have suggested, however, that women's supply curve may in fact be more elastic than that of men. Since it is socially acceptable for women to work outside of the home, they have more mobility than men in that they can move in and out of the work force. (1976: 189) They also cite training and pensions as factors that may reduce the geographic and occupational mobility of men. Women living in larger cities are less vulnerable to monopsonistic control than those in rural areas and small, one company towns because alternative employment opportunities are available. (Gunderson: 1975, 468) The rise in the number of households headed by females may also impact on elasticity. (Ornstein: 1982, 41) The determination of the relative labor supply elasticities for men and women, which are expected to vary between occupations, is problematic and requires empirical analysis. Moreover, the concentration of women in certain occupations is, as England points out, not a logical outcome of the model. (1987, 35)

The neoclassical school of economics deals peripherally with sex segregation and provides a limited explanation of gendered wage inequality.

Human capital theorists claim that women's household and family duties influence their choice of labour market activity. The fact that it is women who are responsible for these tasks is not questioned. Reliance on "tastes", a concept with no sociological foundation, as an explanation of discrimination is wholly inadequate. Economic theorists utilize the term without attempting to explain why employers hold sexist and racist beliefs. The analysis is also restricted by its focus on the individual and the omission of social and labour market structures. Although the overcrowding approach pays more attention to "demand-side" factors, it still suffers from the shortcomings contained in the human capital model. It too, for instance must draw on the concept of "tastes" to make its case. The monopsony takes a different approach to the problem. Its proponents acknowledge that employers may in certain situations wield sufficient power over the work force to engage in wage setting. However, the lower elasticity of women's labour supply, which is the cornerstone of the theory, has not yet been substantiated. The shortcomings prompted Bluestone to claim that:

A revised labour market model is needed which pays proper attention to both sides of the wage nexus and, what is more accounts for the imperfections in mobility of both labour and capital. the model must posit "segmentation" on both sides of the market. (1970: 21)

The discussion will now turn to the segmentation models, which are deemed to have greater explanatory power.

Labour Market Segmentation Theory

The market segmentation hypothesis, (Doeringer and Piore: 1971) looks to groups and the structured nature of the labour market to explain the earnings differential. The economy, according to them, is divided into two sectors, the primary or core sector and the secondary or peripheral sector. The primary sector, Piore posits, provides jobs with several of the following characteristics:

high wages, good working conditions employment stability and job security equity and due process in the administration of work rules, and chances for advancement. (1971: 91)

Primary sector employers are often in an oligopolistic or monopolistic product market and are more likely to deal with a unionized work force. (Ornstein: 1982, 44) In contrast the secondary sector offers positions with "low wages, poor working conditions, considerable variability in employment, harsh and often arbitrary discipline and little opportunity to advance". (Piore: 1971, 91) Women are concentrated in occupations, which rank low on 'task attributes', in the secondary sector, while men are distributed throughout the more challenging occupations in the primary sector. (Boyd: 1982, 70) Hence women's lower aggregate wages.

Internal Labour Markets

The labour markets within firms, particularly those in the primary sector, can also be dichotomized. There are two categories of jobs. Entry level positions are filled by individuals external to the organization. Typically

these positions, termed "job ghettos", are not attached to high promotion ladders and thus offer little room for advancement and relatively low pay. High level positions or "shelters" are filled internally by employees who receive additional training. The allocation of labour within the organization and wage setting are determined by a set of administrative rules. (Doeringer: 1980, 213) Upper level positions remain insulated from the forces of competition while entry level jobs are more susceptible to the operation of market forces. (Blau and Jusenius: 1976, 191) Incumbents in the former represent an investment to the company, and are costly to replace. Higher wages and other benefits are used to attract and retain workers with valuable skills. No such privileges accrue to expendable workers trapped in entry level positions.

Employers, in the process of hiring, rely on ascribed characteristics, such as sex, and assumed traits to differentiate groups. The exclusion of women from the more lucrative primary positions may reflect pure discrimination as postulated by Becker or what is referred to as "statistical discrimination". (Phelps, 1972) According to this model, employers;

perceive that *on average* the marginal productivity of men and women differ for a given line of work. For example, within a specific occupation women may be more likely to quit their jobs. If an employer incurs significant turnover costs due to the expense of finding and training new employees, the expected net contribution of the average female job applicant is less than that of an otherwise comparable male applicant. (Bielby and Baron: 1986, 761-762)

Costs for practicing this kind of discrimination (i.e. limiting the supply of workers to the primary sector jobs and increasing wages), however, are compensated by the reduction in costs in hiring and training. (Piore: 1971,

91) Moreover, women who are forced to take secondary positions because of discrimination become trapped here because they take on characteristics associated with this sector. Poor working conditions and low pay result in high turnover rates.

This theory has been criticized for being overly descriptive, and insufficiently analytical. It is not able to explain *why* the labour market became structured, such that women were crowded into the secondary sector and at the bottom of primary sector organizations. Instead, proponents rely on custom, tradition and unionism. (Doeringer: 1980, 229) Dual labour market theory, not unlike structural functionalism, has been accused of being teleological, of rationalizing the system. (Armstrong: 1984, 29) The model is ahistorical, and treats job categories and occupations as if they were static entities. It also neglects to discuss many factors external to the labour market and fails to address the informal economy. (Ibid)

Radical Segmentation Theory

In recent years compelling theories have been advanced to explain how the labour market became segmented. Gordon, Edwards and Reich postulate that the divisions in the labour market emerged during the transition from competitive to monopoly capitalism. (1980: 234) (See Heron and Storey: 1986) During this time (1870s-World War II) the labour force, which was becoming increasingly homogeneous and proletarianized, posed a serious threat to the hegemony of the capitalist class. The authors cite instances of industrial unrest and conflict in the United States during the inter-war years (successes of the Congress of Industrial Organization, etc.). To undermine collective working class action employers actively and

consciously fostered divisions within the labour force. (1980: 235) The wage differential between men and women which persists even when members of the two categories are equally productive, is functional to capital. It makes for a more fragmented working class, and thus enhances the power of the employer. Sex, then, was one such category utilized to "divide and conquer" the work force.

This historical approach makes for a much more dynamic analysis. Class conflict and changes in the labour process, job structures and occupations, are all located within the process of capitalist development. Moreover, in contrast to neoclassical theory, discrimination is inextricable from the economic system. However, the treatment of the informal economy's relationship to the labour market is inadequate. The authors recognize the "critical historical importance" of the household economy but chose to exclude it from their discussion. (Gordon, Edwards, Reich: 1982, 13) This exclusion, states Armstrong, is an "approach which assumes that women simply can be added on in several sections to provide an analysis of sex differences" (Armstrong: 1984, 30). It is in the feminist literature that the sexual division of labour and the dialectical relationship between the informal and formal economies take centre stage.

Marxist-Feminist Theories

Marxist theory sees women's oppression as being inextricably bound up with private property. Women's chains will only be unshackled when the social system based on private property is abolished. The subordination of women, however, is secondary to class oppression. Feminist scholars made attempts to enrich traditional marxism by applying marxian conceptual tools

to women's situation. Benston (1969), using the distinction between use value and exchange value, argued that women as producers of use-values constituted a class. Similarly Dalla Costa and James (1975) postulated that women, by reproducing labour power, essential to the creation of surplus value, were an oppressed domestic class. These attempts at integration, which neglected women's waged work, were fraught with problems. Since labour, as Armstrong points out, "is only productive in marxian terms when it is exchanged directly for a wage, to define domestic labour as productive is simply confusing". (1984: 33-34)

Patricia Connelly (1978) utilized Marx's concept of the reserve army of labour a surplus population, and applied it to women. During the industrialization process, labour was split into two spheres; commodity production and domestic production. The former was dominated by men while women, because of the existing division of labour which left them wholly responsible for child care and household tasks, were relegated to the latter. Thus, women, engaged in the unpaid production of use-values, became an "institutionalized inactive reserve army of labour." (1978: 26) When women participated in commodity production, part of the value of their labour was included in the male wage, a "family wage". Moreover, women, because the labour market is segmented, are not able to compete directly with men for jobs. Instead, they compete with other women. Thus, women represented a cheap army of labour that could be called upon by capital when necessity dictated. According to these theories, capitalistic productive relations are ultimately responsible for the segregation of women's work and their low pay.

Marxist-feminist thought has received much criticism. Hartmann (1984), for instance, uses the analogy of the English common law marriage to

highlight the imbalance that exists in these theories. In this conjugal relationship marxism, the groom, and feminism, the bride, are one, and that one, claims Hartmann, is marxism. (172) A more equitable balance between the two was required in order to yield a more insightful analysis of women's oppression.

Socialist Feminism; A Call for a More "Progressive Union".

By synthesizing the strengths of marxist and radical feminist thought socialist feminist theory yields insight into the inferior position of women. Marx's historical materialist method proved to be a powerful analytical tool, but the emphasis on the economic failed to demonstrate how women were oppressed as women. In short the theory was sex-blind. Radical feminism, in contrast, had been successful in exposing the inequities in the male-female relationship. However, it substituted biological determinism for marxism's economic reductionism and was ahistorical and "insufficiently materialist". (Hartmann: 1984, 172) Eisenstein treats capitalism and patriarchy as a single system. She explains that:

...when one states that capitalism needs patriarchy in order to operate efficiently one is really noting that male supremacy, as a system of sexual hierarchy, supplies capitalism (and systems previous to it) with the necessary order and control. This patriarchal system of control is thus necessary to the smooth functioning of the society and the economic system and hence should not be undermined. (1979: 27-28)

Eisenstein notes that the relationship between the two systems has, with the influx of women into the labour force, been disharmonious. Women's

presence in the formal economy has served to undermine patriarchal familial relations. Patriarchal control, however, has been regained in the labour market where women are ghettoized. (Ibid: 28)

Heidi Hartmann has also developed a theory in which marxism and feminism are given equal consideration in a more "Progressive Union." (1984: 172) Hartmann defines patriarchy as "a set of social relations which has a material base and in which there are hierarchical relations between men and solidarity among them which enable them to dominate women." (1984:180) The material base is male control of female labour power. Heterosexual marriage, female child rearing and housework and male institutions, such as the state, churches, unions, universities, etc, are the loci of male control. (1984, 181) According to Hartmann capitalism and patriarchy are analytically independent systems that have historically shaped the other. On occasion they have clashed, but at other times they have joined forces to oppress women. Interaction between the two systems has produced sex segregation in the labour market and the wage differential.

Capitalism, argues Hartmann, built upon existing patriarchal relations in the family. As production was removed from the home, women's connection with children and household responsibilities served to limit their participation in the labour market, while facilitating that of their spouses'. Hence, a relationship of mutual dependency became one of female economic dependence on males. (1976: 152) Around the turn of the century the sexual division was reinforced by trade unions, bastions of male power. "Skilled", male workers used their trade unions to resist the threat posed by cheap "unskilled" labour. (See Frager, 1983; Gannage, 1986; White, 1980) Women, who could provide employers with a cheap and flexible source of labour, might undermine the wages of male craftsmen. (See Kealey, 1986) Utilizing

dominant ideas about women, unionists argued that the "weaker sex" had no place in the harsh, unfeminine public sphere and those employed there were in need of "protection". Protective legislation, which prohibited female night work and limited their hours of work, made women less appealing to employers and kept women out of certain "skilled" occupations. Trade unions, promoted policies that would control women and in doing so they "confirmed woman's "alien" status as a worker". (Hartmann: 1976, 165) Women's presence and status in the labour force was limited by patriarchal interests.

In addition to excluding women from unions and supporting protective legislation male unionists struggled with capital for the "family wage". Job segregation, which insured lower wages for women and provided legitimacy to women's domestic role, necessitated women's dependence on men. The family wage, an income that was supposed to enable a male to support his family, secured the patriarchal material base and cemented a partnership between patriarchy and capitalism. (Hartmann: 1984: 182) It gave men access to the better paid jobs and fostered female dependence. Women, because they were unable to earn a living wage, were forced to marry. In marriage they would service their husbands, raise children, etc. Their domestic situation would then impose restrictions on their labour market activities. (Ibid) Moreover women were ideologically barred from the workplace. Those women who had to find jobs to support their families were not deemed full-fledged worker; they worked for 'pin' money. Women were caught in a vicious cycle of oppression.

In the post World War II era, the sexual division of labour has been reinforced in the labour market. As noted earlier women are concentrated in the service sector, in positions that involve skills and tasks that are

associated with women's work in the home. Their ghettoization in a limited number of low paid occupations produces the gendered wage differential. This disparity in income perpetuates women's dependence on men. The latter is then in a position to exercise control over women's domestic labour. Hartmann postulates that:

The "ideal" of the family wage...may be giving way to a new ideal that both men and women contribute through wage earning to the cash income of the family. The wage differential, then, will become increasingly necessary in perpetuating patriarchy, the male control of women's labour power. (1984: 184)

Moreover, women who are employed part-time are viewed as secondary workers with their primary commitments lying inside the home. This type of work provides employers with a cheap source of labour and ensures males access to the products of women's domestic labour.

Despite the rise in female employment women have relinquished few of their domestic and child care responsibilities to men. (Luxton: 1980) Time budget studies reveal this inequitable division of household labour between spouses. Duffy *et al* (1989) document that when a married mother participates in full-time employment, her weekly work-load increases by approximately fifty percent. The woman may work in sum seventy hours per week, after reducing her domestic workload by about twenty-two hours. Her spouse's contribution is likely to increase slightly, but he is likely to perform his new tasks in the capacity of a "helpmate". (Duffy: 1989, 36) Clearly, nurturing children, and housework are still deemed "women's work" and men are still benefitting from this labour.

Although Hartmann has developed a sophisticated and powerful theoretical framework it has not gone uncriticized. (See Beechey, 1987; Walby, 1986) The most salient problem is the theory's failure to address the diversity of the female experience, such as the triple oppression of women of colour. (See Hooks, 1984) Despite these major shortcomings it is a compelling theory, with much potential. Its strength lies in its analysis of the connection between the formal and informal economies. It acknowledges that both women and men's life courses are shaped, albeit in different ways, by their experience in the household. The unequal domestic division of labour places constraints on women's academic and labour market careers. Males, who have fewer responsibilities within the household, in contrast, have more leisure time and flexibility in their paid employment. This allocation of domestic tasks also has implications for the socialization of children. It is in the family that girls and boys are first familiarized with sex-appropriate behaviour. It is here, then, that they are first acquainted with patriarchal cultural definitions. (Gaskell, 1982) In later years other male dominated social institutions (Hartmann: 1984, 181) resume the socialization process. Schools, for instance, stream boys and girls into different fields of study (Hall and McFarlane, 1962) and later as men and women they assume their respective positions in the corporate hierarchy. (Kanter, 1977).

The feminist literature demonstrates that patriarchal control is pervasive. It operates in all areas of social life; in the family, the workplace, in the schools, the media, in the church and so forth. The oppression of women in the workplace, which is reinforced by inequities within the household, is reflected in occupational sex segregation and its concomitant, low pay. Sex-based occupational segregation has no single or simple explanation. It is a product of a historical process and as England notes, it is

"embedded in systems ranging from the psychological to the institutional." (1984: 41) In light of this the Ontario *Pay Equity Act*, which has a mandate to eliminate systemic wage discrimination, is unlikely to do so. It does not address the mechanisms that reproduce gender inequality and, as we shall see, it contains gender bias.

Research Agenda

Pay equity came into effect in the Province of Ontario on January 1, 1988. The *Act*, however, only required public sector and larger private sector employers to post pay equity plans by January 1, 1990. Private sector establishments with less than 500 employees are, therefore, still in the process of developing plans. Adjustments to wages may also be phased-in by employers in both the public and private sectors. In the case of the former all adjustments must be paid by 1995. Private sector employers do not have adjustment deadlines to meet. In light of these specifications it would be premature to collect data on the effects of this legislation on women's wages. This study of the Ontario statute is exploratory in nature. Using the contents of the Ontario *Pay Equity Act* as the chief "data source", it will analyze key factors that may contain equity wage increases, and thus perpetuate gender inequality.

Weaknesses in specific clauses will be revealed by drawing on the theoretical material outlined earlier in this Chapter. The way in which "pay equity" has been operationalized will be assessed in terms of its ability to address the portion of the wage gap emanating from sex segregation in the labour market. Loopholes will be discussed in terms of their potential to be manipulated by employers who are anxious to avoid the costs associated

with implementing the policy. It is assumed that in work places where management does not have to sit down and negotiate equity with bargaining unit(s), contravention of the *Act* will be substantially easier. Focusing on the constraints imposed by the double day of labour, for instance, will also be used to illustrate how the legislation is insensitive to the female experience and thus less effective.

The second part of the analysis will focus on job evaluation, a tool commonly used to achieve pay equity. Drawing on the literature on job evaluation systems will reveal how gender bias can enter or remain undetected in the job description, analysis and the weighting stages. The *Act* assumes that a gender-neutral system of job comparison is in existence. Such an assumption is not made in this study. Gender discrimination is a pervasive problem that has infiltrated all areas of social life. Systems of job evaluation are particularly susceptible to bias against women because they are inherently subjective and politically loaded. Their application requires a plethora of decisions and such decisions can be consciously or unintentionally gender biased. An examination of the concept of skill, a broad compensable factor required by the *Act* to assess job worth, as well as the power relations in the workplace will also help to substantiate this assertion. The focus on job evaluation will reveal the potential that exists for an already weak law to be undermined further. In the implementation stage, then, the measure of equity delivered to women can diminish.

Pay equity legislation in other Canadian jurisdictions is similar methodologically to the Ontario Statute. Gender predominance in job classes, the application of the composite of skill, effort, responsibility and working conditions for determining worth and so forth are common to equity initiatives. Since the Ontario *Act* is viewed as the most progressive law in

North America, its limitations are also likely to characterize the weaker laws in place across the country. In other words the conclusions drawn from this study may be applicable to other Canadian legislation. Before critiquing the *Pay Equity Act* (1987) it will be necessary to review the history of the equal value principle and to become acquainted with the political forces that shaped the *Act's* contents.

Chapter Four

The Transition from "Equal Pay for Work of Equal Value" to "Pay Equity".

An International Standard is Set

Concern with wage discrimination is not a recent phenomenon. On January 25, 1919 the Conference on the Preliminaries of Peace created a commission headed by Samuel Gompers, a prominent figure in the American Trade Union Movement. It met repeatedly from February 1 to March 24 and produced a draft of Article XIII of the *Treaty of Versailles*. Section I spelled out the constitution of the International Labour Organization (ILO). Section II, which listed nine principles for regulating labour conditions, contained the first "equal value" terminology. The seventh principle stated that "men and women should receive equal remuneration for work of equal value." (Labour Canada: 1986, 3) International standards governing the concept, however, would not be developed for another thirty years.

In 1948 the United Nations Economic and Social Council, in response to a submission from the World Federation of Trade Unions, drafted and passed a resolution concerning the equal value principle. On June 6, 1951, equal value was adopted by the ILO at its Equal Remuneration Convention, more commonly known as Convention No. 100. (Appendix B) When member states ratify ILO conventions they are formally obliged to conform with the said principles. Article 2 of Convention 100 reads in part:

Each member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such principles, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value. (ILO: 1986, 195)

Compliance with the Convention would be enforced by the ILO's Committee of Experts.

Convention No. 100 Compliance; The International Scene.

The Committee of Expert's documented 107 ratifications of Convention 100 in its 1986 *General Survey of the Reports on the Equal Remuneration Convention*. Ratification of the Convention, however, does not necessarily result in compliance. The European Economic Community (EEC) which was formed in 1957, has enshrined the concept of "equal value" in its founding document, *The Treaty of Rome*. Section 119, which guaranteed "equal pay for equal work" would be clarified in 1975 to include equal value. All member nations have made *attempts* to comply with the 1975 Equal Pay Directive, but not without much foot dragging.

Three years before it acceded to the EEC, and one year before it ratified the Equal Remuneration Convention, the United Kingdom enacted the *Equal Pay Act* 1970. The *Act* guaranteed equal pay for equal work as well as equal pay for work "rated as equivalent". Amendments to the *Act* in 1983 now allow a woman to lodge a complaint even when the jobs in question have not been evaluated under a "valid study". (United Kingdom: Department of Employment: 1985, 6) Such a complaint must be taken to an Industrial Tribunal and, if it is deemed 'reasonable', the Tribunal will

commission an Expert's report. Hearings are held by the Tribunal giving the parties involved an opportunity to cross-examine the expert who undertook the investigation. Taking into account relevant evidence the Tribunal will make a ruling. This long and intimidating procedure, however, may deter many women from launching complaints thereby erecting barriers to the elimination of gender-based discrimination in pay. Despite the 1983 *Amendment Regulations* it is unlikely that the United Kingdom has complied fully with the specifications in Article 119 and Convention no. 100.

Although the United States has not formally ratified the ILO Equal Remuneration Convention, there has been much equal value activity within the public sector at the state level. "Comparable worth" or equal value typically occurs at three levels; research and data collection; pay equity studies; and finally pay equity adjustments. The first level involves holding hearings, studying the concept, identifying the wage gap and occupational segregation, and so forth. Most states have at least undertaken some form of research with the exception of Alaska, Arkansas, Delaware, Georgia and Idaho. (National Committee on Pay Equity (NCPE): 1989, 11) The NCPE deems an initiative a pay equity study when it is quantitative in nature and it specifically seeks to eliminate discrimination in the administration of wages. (1989: 11) Twenty-three states were conducting or had completed studies in 1989. (Ibid: 13) The third level, pay equity adjustments, includes settlements of lawsuits for single classifications and for larger, diverse groups of workers. 'Implementation', which moves a step beyond 'adjustments', is defined as any broad-based plan that seeks to eliminate sex and race-based wage discrimination. (Table 7) Twenty states have embarked on the third phase. (1989: 13)

Table 7

**State-Government Level Pay Equity Activity,
United States, 1989**

Key

Source: National Committee on Pay Equity. *Pay Equity Activity in the Public Sector, 1979-1989*. (Washington D.C.: National Committee on Pay Equity, October, 1989), 10-11.

The National Committee on Pay Equity estimates that between 1979 and 1989 more than 450 million dollars were either paid out or appropriated for adjustments. (1989: 6) Approximately \$382, 560,000 of the adjustments were at the state-government level, over \$61,847,379 were made by municipalities, and 5,456,000 and 5,047,000 were appropriated or paid out by counties and school districts respectively. (Ibid) The push for comparable worth has come primarily from organized public sector workers. Barriers to unionization and restrictions placed on the issues that are subject to negotiation will likely limit initiatives in the future.

In contrast to the United States and the United Kingdom which have utilized state intervention to redress the gendered wage differential, Sweden has relied on centralized collective bargaining. This approach has proved to be relatively successful. In 1985 full-time female workers earned on average 80 percent of the equivalent male wage. (O'Donnell: 1988, ix) Although Convention No. 100 was ratified by the Swedish State in 1962 it has, historically, been reluctant to intervene in industrial relations, particularly in the administration of wages. Strong labour confederations negotiate terms and conditions of employment, including wages with employer associations. Wage solidarity, that is the desire to compress the salary range, and "low-wage" claims or efforts to boost the income of the lowest paid (who are disproportionately women), and not the desire to eliminate sex discrimination per se is responsible for this relatively small wage gap. (Willborn: 1986, 95)

Equal Pay; Developments in Canada

Beginning in the 1950s, around the time equal value was enshrined in international labour statutes, a flurry of equal pay for equal work legislation was passed in Canada. Ontario took the lead in 1951, followed by Saskatchewan in 1952. Within five years four more jurisdictions would enact similar laws. When the Yukon finally legislated equal pay in 1973, many of the other jurisdictions had begun to amend their original laws to require equal pay for substantially identical or similar work.

The *Royal Commission on the Status of Women (RCSW)*, established to investigate the social and economic position of Canadian women, reported that equal pay for equal, or similar work legislation had been ineffective. The jobs performed by men and women were rarely the "same", "identical", or "substantially identical". (1970: 75) With this reality in mind the *Commission* proposed that the existing legislation be broadened, utilizing some form of job evaluation to assess worth. (1970: 76-77) Recommendation number five also urged the federal government to formally ratify the ILO's Convention no. 100. (1970: 396) After consultation with provincial governments the Canadian government did so on 16 November, 1972.

The Move Towards Equal Value in Canada.

In 1975, Quebec became the first jurisdiction in North America to comply with Convention No. 100. Section 19 of the *Charter of Human*

Rights and Freedoms specifies that every employer in the private and public sectors must:

without discrimination, grant equal salary or wages to the members of his (sic) personnel who perform *equivalent* work at the same place. (Conway: 1988, 21)

The term "equivalent" includes the "equal" and "substantially the same" work concept as well as the "equal value" principle. "Same place" refers to all establishments of a single employer. (Cornish: 1986, 13) Equity comparisons, which incidentally are not restricted to gender, must be made by evaluating job worth on the basis of skill, effort, responsibility and the conditions of work under which the work is performed.

The chief weakness of the legislation is that it is complaint-based, that is it "reacts" to discrimination. Employers, it is assumed, will, without coercion, eliminate sex bias from their compensation schemes. Thus, no standards and procedures are outlined, nor are any deadlines set. Individuals, third parties or the Human Rights Commission can lodge complaints and force an investigation of an employer's payment plan. Between 1976 and 1986 the Quebec Commission had received 37 complaints, most of which involved discrimination for identical or substantially similar work. (Cornish: 1986, 22) Discrimination, then, is only addressed after the fact.

The Struggle for Equal Value; The Federal Level.

The feminist discourse around the *PCSW's* recommendations provided the impetus for the establishment of the National Action Committee

on the Status of Women (NAC) in 1972. The organization's mandate was to maintain communication between women across the country and get the recommendations of the *PCSW* implemented. (Marsden: 1980, 245) After the ratification of Convention No. 100 in 1972, NAC pressured the government to translate its commitment into legislation.

On July 21, 1975, in response to the feminist lobby, Otto Lang, Minister of Justice introduced Bill C-72, the *Canadian Human Rights Act* Article 10(1), which dealt with equal pay, however, proved to be unacceptable. Essentially it required equal pay for equal and similar work, and not equal pay for work of equal value. The government opted to withdraw the Bill for amendments. Then on November 29, 1976 it was reintroduced as Bill C-25, and this time it contained equal value terminology. Section 11 (1) reads:

It is discriminatory practice for an employer to establish or maintain differences in wages between male and female employees employed in the same establishment who are performing work of equal value. (Canadian Human Rights Commission: 1984, 1)

Bill C-25 received Royal Assent on July 14, 1977 and came into effect on March 1, 1978.

The *Act* was applicable to all workplaces that fell under the jurisdiction of the federal government. Approximately eleven percent of the Canadian workforce are now covered including those employed in the federal public service, federal crown corporations and agencies and federally regulated companies. The remainder of the labour force falls under the purview of provincial and territorial legislation. Not unlike Section 9 of the

Quebec *Charter*, the *CHRA* was reactive legislation. The Canadian Human Rights Commission also chose to adopt an advisory role in the implementation of equal value, and emphasized voluntary compliance, preferring not to punish employers who evaded the law. R.G.L. Fairweather, the Chief Commissioner, justified this approach at a 1986 Labour Canada Conference. He stated:

we regard initiating complaints as a last resort. We would much rather see compliance come about through employer action or collective bargaining. It's quicker. And it's less painful for all concerned. Far from setting traps to catch the unwary, we draw maps pointing the way to compliance. (Labour Canada: 1986, 13)

Assuming that employers will take the initiative to eliminate gender-based wage inequities, and relying on individuals or unions to report discriminatory practices (Part III, Section 32(1)) limits the effectiveness of the provision.

The *Act* also stipulates that equal pay for work of equal value is to be administered establishment by establishment (S. 11(2)). It should be noted that this restriction was not set out in the ILO Convention. Section 11(3) lists "reasonable" factors that justify unequal wages for equally valued work. Differences in seniority and performance ratings between men and women can be reflected in pay. Rehabilitation assignments, temporary training positions, red-circling, demotion and phased-in wage reductions may also warrant lower pay. In 1982, the *Wage Guidelines* were amended to include two additional factors; internal labour shortage and reclassification of jobs. Such loopholes serve to weaken the legislation. (Canadian Human Rights Commission: 1985, 18-20)

The Public Service Alliance of Canada (PSAC), which represents 170,000 federal employees, 47 percent of which are women, has been filing complaints and raising the issue of "equal value" during negotiations with the Treasury Board. (PSAC: n.d., 6) The union has had some success extracting wage increases for undervalued female job classes. The opposition it has encountered, however, has been strong and the process itself is an expensive and cumbersome one. Complaints lodged by the Alliance on behalf of the Clerical and and Regulatory group in 1983, for example, are still outstanding. (PSAC: 1989, 15)

Employment Equity

In 1983, the federal government succumbed to pressure from women's groups and appointed Judge Rosalie S. Abella as a one person Commission. Her mandate was to:

inquire into the most efficient, effective and equitable means of promoting employment opportunities, eliminating systemic discrimination and assisting all individuals to compete for employment opportunities. (Marsden: 1986, 2)

In her *Equality in Employment Report* (1984) she made 117 recommendations. Abella urged the federal government to implement employment equity, that is "measures to eliminate discriminatory employment barriers and practices", immediately. (1984, 255) Equal pay for work of equal value was subsumed under this heading. In recommendation 32 she impelled the provinces and territories to enact the principle and comply with the international law. The provincial "equal value" legislation

that was enacted after the *Report* will be addressed shortly. First, however, an important legislative development in the United States will be examined.

Pay Equity; The Case of Minnesota.

In 1982 Minnesota became the first jurisdiction in North America to pass special "pay equity" legislation. The Council on the Economic Status of Women, a government body comprised of state legislators, was established in 1976 to study the jobs and salaries of female state employees. Results from the study indicated that women were underpaid in relation to their male counterparts, so in October 1981, the Council set up a task force on "pay equity". The state government responded to recommendations issued in the task force's report in 1982 by passing the *Pay Equity Act*. The law was applicable to state employees until 1984 when the *Local Government Pay Equity Act* extended coverage to local government workers. "Pay equity" in Minnesota, a pro-active or employer-initiated program, proposed to end gender-based wage discrimination. Job content would be assessed using the usual composite of skill, effort, responsibility and working conditions, and the necessary wage adjustments would be phased-in over a four year period. The Minnesota legislation would serve as a model for "pay equity" in Manitoba (1985) and Ontario (1987) and for later pro-active initiatives in Canada. (See Lewis: 1988, Chapter 5)

The 1980s has witnessed the arrival of a new phrase on the equal pay scene in the United States and Canada. "Pay equity" a term which has never been utilized by the women's movement or the ILO, is a government innovation. An informant for Lewis' study explained that the concept had been adopted by the state of Minnesota because "at that moment in history,

it seemed that comparable worth was more of a red flag". (Lewis: 1988, 36) The term equal pay for work of equal value, incidentally, was not utilized once in the 1987 Ontario Statute. In short, "pay equity" is less threatening to employers and the electorate.

Pro-active Legislation in Canada; Manitoba Leads the Way.

Manitoba became the first Canadian jurisdiction to pass specific "pro-active" equal value legislation. In 1981 during the provincial election campaign the New Democratic Party (NDP), a party typically more responsive to women's interests, committed itself to introducing equal pay for work of equal value. In July, 1985 Bill 53 was passed and became effective in the Civil Service in October of the same year. Crown corporations, four universities and the twenty-three largest health care facilities would become subject to the statute exactly in October, 1986. Collective bargaining is the means by which pay equity is achieved. The Civil Service Commission and the pertinent bargaining agents were required to reach agreement on a single gender neutral job evaluation system that would be applied to all male and female dominated job classes. (Section 9(1)) Two years would be allotted for the parties to reach an agreement, and an additional four would be available for the implementation of wage adjustments. A Pay Equity Bureau was also established to "monitor the progress...of the implementation of pay equity" (Section 5(2)) and to disseminate information on the issue. Agreements are binding so no complaint mechanism is in place. Extension of equity coverage to the private sector, which had been planned by the NDP government in 1985, is unlikely as long as the Conservatives, now under the leadership of Premier Filmon, hold power. (Allentuck: 1988)

By 1987, Civil Service Management representatives and the Manitoba Government Employees' Association, the principal bargaining agent for the 18,000 Civil Service employees, had agreed on wage adjustments. Pay equity wage increases, affecting about 5,000 employees, averaged \$1.67 per hour. (Manitoba: April, 1989, 2) Despite this success, the *Act* is seriously flawed. For instance, payouts, which must be no less than one percent of the previous year's payroll costs, are only required for four consecutive years. (Section 7(3)) At this point, according to the *Act*, pay equity has been achieved. Others have complained that the legislation, which best suits the public service, is not easily applicable to other sectors. In the health care system, for instance, 23 employers, nine unions and two non-unionized employee representatives agreed to engage in industry wide negotiations. With consensus being required on all of the issues, any of the participants could withdraw from negotiations and force institution by institution negotiations. Unions, who have a vested interest in centralized bargaining, made concessions to keep management representatives at the negotiating table. (Lewis: 1988, 69) Collective bargaining, an adversarial process in which the relative power of the participants determines monetary and non-monetary gains, may not necessarily deliver wage justice to women.

Pay Equity in Ontario

In 1951, Ontario enacted the *Female Employees Fair Remuneration Act*, the first Canadian equal pay statute. In 1962, these provisions were transferred to the *Ontario Human Rights Code* and then to the *Employment Standards Act* which would be administered by the Department of Labour. In 1980 the *Employment Standards Act* was

amended to provide for equal pay for work which required substantially the same skill, effort and responsibility and that was performed under similar working conditions. In 1981, during the election campaign Premier Davis indicated that the Conservative Party had no plans to introduce equal value legislation because of its complexity and the problems associated with its administration. (Egri: 1989, 285)

In the next few years Liberal MPP Sheila Copps would introduce a resolution for equal value and Bob Rae, leader of the NDP, would introduce the *Women's Economic Equality Act* as a private members bill. No equal value legislation followed these unsuccessful opposition initiatives. Instead the Conservatives introduced amendments to the *Employment Standards Act* which merely required equal pay for "substantially the same kind of work". The Minister of Labour, Russell Ramsay, argued that equal value was out of the question, given the costs, especially in the context of a slowing economy. Later Ramsay and Dennis Timbrell, the Minister responsible for women's issues, in a joint statement indicated "that laws requiring equal pay for work of equal value would be too rigidly interventionist." (Ibid)

Changes in the political climate were instrumental to the passage of the pay equity legislation. In the May election of 1985, the Conservatives, who had held power in the Province for the last forty-two years, won only fifty-two seats, placing them in a minority government situation. Consequently, Bob Rae publicly invited the Tories and the Liberals, who held forty-eight seats, to bid for the NDP's (with twenty-five seats) support. In light of Rae's public contempt for Premier Frank Miller and the Tory party and the similarity between the election platforms of the NDP and the Liberals' it is not surprising that an agreement was struck between the latter. (Egri: 1989, 288) On May 28, 1985, the NDP promised to support

Peterson's Liberal government for two years if certain items on the NDP agenda were introduced into the legislature. Equal pay for work of equal value was one such policy.

The Legislative Process Commences.

On July 2 1985, Peterson announced, much to the outrage of the NDP, that his government would be introducing two pay equity bills, one for the public sector and one for the private. An Inter-Ministerial Task Force on Pay Equity was established to study models for implementing pay equity. On November 19, 1985 the *Green Paper on Pay Equity*, outlining policy options, was introduced into the House by the Minister responsible for women's issues, Ian Scott. Between February and May of 1986, a three person Consultation Panel, which incidentally was accused of having a management slant, conducted public hearings on the *Green Paper*. Three months after the the last hearings the Panel, which had received 236 written and 149 oral submissions, issued its report. No recommendations, however, were included, the submissions were merely summarized.

Shortly after the Panel commenced hearings (February 11, 1986), the Minister of Labour, William Wrye, introduced Bill 105, "an Act to provide Pay Equity for Employees in Predominantly Female Groups in the Public Service" (Lewis: 1988, 74). Women's groups, labour and the NDP, were all critical of this legislation which limited coverage to approximately 29, 000 public service women, while overlooking 200,000 women in the broader public sector. (Egri: 1989, 289) After the Bill received second reading on July 10, 1986 it went on to public hearings before the Standing Committee on the Administration of Justice..

Shaping "Pay Equity": Class and Gender Struggles

Pressure applied by women's organizations and labour also forced the government to take action. The Equal Pay Coalition (EPC), which had formed in 1976 to lobby the province for equal pay, played a key role in the political process. The Coalition represents thirty-eight diverse organizations such as the Business and Professional Women's Group, and left wing groups such as the Ontario Federation of Labour and the International Women's Day Committee. The Coalition lobbied relentlessly during the legislative process. Opponents of pay equity included numerous business organizations, employer associations and an anti-feminist women's group called Realistic, Equal, Active of life Women of Canada (REAL Women).

Proponents of pay equity were not always in agreement on the principle itself or the strategies that should be adopted to achieve it. The EPC, because it represented groups with divergent interests and views, was frequently split on the issue. James Clancy, President of the Ontario Public Service Employees Union (OPSEU) feared that the *Act* would distort the nature of the collective bargaining process. (Cuneo: 1990, 9) The Ontario Public Service Employees Union wanted to redirect EPC's resources away from lobbying and press conferences into researching this issue. Many women questioned whether this law, with its flaws and limited scope, reflected a feminist analysis of wage discrimination and thus warranted their support. Wage discrimination was extremely complex, and the proposed state reform was narrow and weakened by loopholes. Others expressed concern over the tight legislative timetable which would cut short important debate on the Bill. (See Mitchell, 1988; Lewis, 1988) If the

hearings dragged on, the Liberals' two year agreement with the NDP would be up before the Bill was passed. This would provide the government with an opportunity to renege on its promise to enact the policy. Pat McDermott, an Organized Working Women member of the EPC stated "there was pressure not to be too expansive in one's criticism, for fear of extending the [Administration of Justice committee] hearing for too long. (Cuneo:1990, 11)

While the EPC was struggling to strengthen the legislation conservative, anti-feminist organizations like the Ontario Chamber of Commerce, were lobbying the government to abandon or dilute the policy. Forced to adopt a defensive position on the issue, opponents provided the government with a plethora of statistics and predictions to make their case. For instance the business community complained about the legal and consulting costs that the implementation process incurred, as well as the increased payroll costs. Small business associations, such as the Canadian Organization of Small Business were the most vocal on the cost issue. (See Cuneo, 1990; Egri, 1989) Representatives argued that small companies, unlike larger corporations which had market sufficient market power to pass on increases in administration and payroll costs to their customers, were unable to bear the burden of pay equity. In the legislative debates on the Bill, Mr. Partington, Progressive Conservative member for Brock, noted that leaders of Small business:

...have made it clear that our small business sector is being overwhelmed by, in Ms. Andrew's words, "incredible mountains of red tape, regulations and paper burden which plague business, especially small business, on all fronts." Pay equity legislation is seen as increasing this already excessive burden. (Ontario Legislative Assembly: February 3, 1987, 5123)

Big business, realizing that the introduction of the policy was inevitable, concentrated its efforts on containing "the damage". (Armstrong and Armstrong: 1990, 35)

The business community cleverly cloaked its own self-interest in arguments that appeared to reflect the public interest. It postulated, for example, that pay equity would trigger inflation and undermine the competitiveness of Canadian companies. Paul Kovacs of the Canadian Manufacturers Association suggested that pay equity:

could also prompt Canadian subsidiaries of foreign companies to delay expansion plans, or even to transfer operations to a country free of such government interference. (Conway: 22)

Any law that ignored market forces was a threat to the viability of the Ontario economy. Self-interest has also been masked with concern for women. Pay equity, they proposed, would increase female rates of unemployment. Increases in the cost of female labour would force employers to purchase technology in order to remain competitive. Such a policy, then, would have negative ramifications for women, the group it was meant to assist, and Canadians in general.

Pay equity is also viewed as an unnecessary intervention in the economy, and a "government wage control" policy (R.E.A.L. Women: 4). R.E.A.L. Women, business organizations and the National Citizens Coalition (NCC), have lobbied against this interventionist policy by disputing the existence of a discrimination component in the wage gap. David Somerville, president of the NCC, for example, argued that "This so-called discriminatory wage gap does not exist, period...Business pays their employers what they can in a competitive business setting." (Egri: 1989, 297) In Somerville's

words the legislation is "a flawed solution to a non-existent problem" and was opposed by his organization because "we don't like big government and this is a big government Bill." (Ibid) By claiming there was no injustice against women, these groups negated the experience of thousands of Canadian women. In their view the only problem was the legislated solution. The war against pay equity was thus waged on an ideological level as well as in terms of economics.

More Political Wrangling.

After the second reading the NDP and Conservatives introduced amendments that would extend the Bill to the broader public sector. The Liberals reacted to the criticism by threatening to withdraw the Bill. On November 24, 1986, however, Ian Scott introduced Bill 154, which applied to the broader public sector and the private sector. This Bill was also sent to the Standing Committee for public review. On June 3, 1987, Bill 154 was read in the House a second time. The NDP and Tories defeated a motion for a Third reading so that the Bill could be debated and amended. Bob Rae leader of the NDP stated:

...we ask the House leader and when we ask the Liberal Party, why do we not let the public see what amendments are being discussed so that debate can be crystallized...on the particulars that are before us, what do the Liberals say? "No. No way, we don't want to have that debate. We want to ram it through." We say no to that kind of behaviour. (Ontario Legislative Assembly: June 3, 1987, 1051)

When the motion for a third reading was blocked the Bill was recommitted to the Committee of the Whole House. The Tories and the Liberals, however joined forces to defeat the NDP amendments that would strengthen the legislation. Bill 154 was passed on June 15, 1987 and would take effect January 1, 1988.

A host of factors led to the passage of Bill 154, the Ontario *Pay Equity Act*. The shift in political power, specifically the leverage obtained by the NDP in a minority government situation, was instrumental. The Peterson government was forced to address the issue because of pressure applied by women's organizations and labour groups. The increased participation of women in the paid labour force and the prominence of women's issues undoubtedly worked in their favour. The "equal value" precedents set in Quebec, at the federal level and in Manitoba, in combination with the strength of the Ontario economy assisted proponents in their struggle for the enactment of "stronger" legislation. (Egri: 1989, 301) Pay equity, was presented as the next logical step in the "equal pay" legislative agenda initiated by the Ontario Tories in the 1950s.

The contents of the legislation, as noted, were shaped by competing interests. The demands of women were considered but so were those of the powerful business lobby. Hence, in drafting the Bill policy makers tried to strike a balance between feminist and labour demands and the interests of conservative groups. The result, as we shall see in the next chapter, was weak legislation.

Chapter Five

The Contents of the Ontario *Pay Equity Act*: Loopholes, Exclusions and Exemptions

The Ontario *Pay Equity Act* appears to be quite impressive, and when compared to equity legislation in other jurisdictions it is. Claudia Wayne, Executive director of the Washington-based National Committee on Pay Equity declared that "There's nothing to compare with the experience in Ontario. There is only one word to describe what is happening there, and that is 'wonderful'" (McKay: 1990, 32) Despite such assertions the legislation remains seriously flawed. The purpose of this section is to reveal the shortcomings of the legislation that restrict the acquisition of wage justice for women. First a brief summary of the steps to achieve "pay equity" will be provided. Then the loopholes and weaknesses will be investigated.

Pay Equity; An Overview

The stated purpose of the Ontario *Pay Equity Act* is to "redress *systemic* gender discrimination in the compensation (which includes wages, salary, payments and benefits) of employees employed in female job classes". (Ontario Pay Equity Commission, Series 11: 1988b, 1) The *Act* is applicable to all employers in the public sector, and private sector organizations that employ more than ten workers. There are two routes to pay equity. In unionized work settings the process must be negotiated with appropriate bargaining units. In cases where there is no union the procedure can be managed unilaterally by the employer.

Systemic gender discrimination in compensation must be determined by comparing female job classes to male job classes of equal or comparable value within an establishment (Section 4-(2)). The value of job content is determined by applying a composite of skill, effort, responsibility and the working conditions under which the work is usually performed. (Section 5-(1)) After the evaluation process is complete the female job class must find a suitable male class so that the job rates (highest rate of compensation) can be compared. Where the female rate is found to be less than that of the male, wage adjustments must be made that bring the former's in line with the latter's. Results from the evaluation must be included in a pay equity plan and posted in the workplace. After the document has been posted in the workplace(s), and complaints have been dealt with, the necessary adjustments must be phased-in. Pay equity is achieved when the job rate for a female job class is at least equal to the job rate for the male "comparator" (Section 6-(1)). It is worth noting that fines of up to \$25,000 may be levied for non-compliance with the legislation and contravention of an order issued by the Hearings Tribunal. (Ontario Pay Equity Commission: 1988b, 12)

Steps to Implementation; Employer, Establishment and Job Class

Determining employer and establishment, the first step in the pay equity procedure, is also a crucial one. (Table 8) Decisions that are made here may restrict the comparisons that can be made between female and male classes, ultimately affecting the final wage adjustments. Determining the employer, a term which is not defined in the *Act*, can be problematic. In some cases there will be no question as to who the employer is. Corporate structures and complex financial relationships may, in other instances, make

TABLE 6**Steps to Pay Equity**

- 1** **Determine** -employer
 -number of employees
 -number of establishments
 -number of plans required
- 2** Determine female job classes and male job classes.
- 3** Select an appropriate gender-neutral comparison system
- 4** Evaluate all female and male job classes which appear to be potential comparators.
- 5** Determine possible comparable jobs.
- 6** Compare compensation of each female job class with that of their male comparator class.
- 7** Determine adjustments required to achieve pay equity.
- 8** Prepare pay equity document
- 9** Post the pay equity plan.
- 10** Deal with any objections and/or official complaints
- 11** Make required adjustments.

Source: Ontario Pay Equity Commission. *Pay Equity Implementation Series* 15 (October, 1989), 5-7.

identification more difficult. The Hearings Tribunal, a body set up under the *Act* to deal with complaints, has decided the criteria that should be used to determine employer. Ascertaining who exercises control over the employees, who determines compensation, who hires, disciplines and dismisses employees; and who the employees perceive the employer to be are all factors to be considered. Determining whether there was an intention to create an employer-employee relationship can also be used. (Ontario Pay Equity Commission, Series 2: 1988b, 2) The Commission has also suggested that the parties reference Ontario employment law jurisprudence. (Ibid) Including a definition in the *Act* would have simplified this task. Its omission is certain to result in litigation which will slow down the process, and thus delay the payment of wage increases to women.

Calculating the size of an employer's total workforce is particularly important in the private sector. It is the number of employees that is used to determine whether an employer is subject to the *Act* and in some cases whether a pay equity plan *must* be posted. The dates for posting pay equity plans and for making the first adjustments are also based on this figure. (Table 9) Employee is defined as all full-time and part-time workers employed by an employer throughout the province of Ontario. Students who are working during their summer vacations, however, are exempt (Section 1(1)).

The *Act* provides guidelines (Section 1(4)) for calculating the number of employees. The figure for the total workforce should be an *average* of all employees employed from January 1, 1987 to December 31, 1987. The average, whether it be computed on a monthly, quarterly, or annual basis, must be calculated in such a way that employee representation throughout the year is *fair*. (Ontario Pay Equity Commission, Series 3: 1988b, 4) That is,

TABLE 9

Pay equity implementation timetable for Ontario.

Employer	Posting	Wage Adjustments Timetable
Public Sector	Jan. 1, 1990	Jan. 1, 1990.
Private Sector with 500 + employees	Jan. 1, 1990	Jan. 1, 1991.
Private Sector with 100-499 employees	Jan. 1, 1991	Jan. 1, 1992.
Private Sector with 50-99 employees	Jan. 1, 1992*	Jan. 1, 1993.
Private sector with 10-49 employees	Jan. 1, 1993*	Jan. 1, 1994.

* Posting is voluntary for private sector employers with fewer than 100 employers.

Pay Equity Commission. *Questions and Answers: Pay Equity in the Work Place* (Pay Equity Commission, 1988a), 3.

the level of employment must reflect annual fluctuations. (Ibid) The Commission has urged employers not to calculate the number of employees in such a way that they are exempt from the legislation or delay implementation. (Ibid)

Once the employer and the size of the work force have been ascertained, the number of establishments must be determined. Establishment refers to "all the employees employed in a particular geographic division" (Section 1(1)). A geographic division is a county, territorial district or regional municipality. The Municipality of Metropolitan Toronto can be treated as a division and the Territorial District of Sudbury and the Regional Municipality of Sudbury are also considered a single geographic division. (Section 1(1)). All of the employees of an employer in a particular geographic division constitute an establishment. (Ontario Pay Equity Commission, Series 4: 1988b, 1) Thus if the employees are dispersed throughout three geographical divisions there will be three establishments. An employer may exercise the option to expand the definition of establishment to cover more than one geographical area. Employers must obtain the permission of bargaining units to do this for the organized portion of their work force. (Section 14(3)) Under no circumstances can an employer render the establishment smaller than the geographic division specified in Section 1(1).

Where applicable, pay equity plans, documents (See Section 13) that identify the establishment to which the plan is applicable, the job classes, and the gender-neutral comparison system utilized as well as the results, must then be developed. There must be separate plans for each of the bargaining units and for unorganized employees in each of the employer's establishments. (Ontario Pay Equity Commission Series 4: 1988b, 1) Thus,

within a single establishment there may be several pay equity plans in place.

The Ontario *Act* specifies that equity must be achieved by comparing male job classes with female ones, within the same establishment. A job class is defined as:

those positions in an establishment that have *similar* duties and responsibilities and require similar qualifications, are filled by similar recruiting procedures and have the same compensation schedule, salary grade or range of salary rates. (Section 1(1)) (emphasis mine)

Female job classes are generally those in which at least sixty percent of the incumbents are women and a male job class exists when seventy percent of the incumbents are men. (Section 1(1)) Incumbents in female classes that are found to be undervalued will, regardless of sex, be compensated accordingly.

The male job classes, referred to as the "comparators", are used to assess whether female job classes have been undervalued. The *Act* outlines a sequential comparison procedure (See Ontario Pay Equity Commission, Series 10: 1988b) which restricts the matches that can be made within the establishment. Unionized and non-union female job classes must first look for a male job class of equal or comparable value that is covered by their respective plans. (Section 6(4)) This is referred to as an *inside* comparison. (Table 10) If a "suitable" male job class cannot be found among the job classes covered by the same plan the female class can search for an *outside* comparison elsewhere in the establishment. (Table 11). Pay equity is obtained when the job rate for the female class is at least equal to that of the male comparator.

Table 10

"Inside" Comparison; A male comparator of equal or comparable value covered by the same pay equity plan.

F = female job class

M = male job class

Source: Ontario Pay Equity Commission. *Pay Equity Implementation Series 10*, (July, 1988b), 2.

Table 11

"Outside" Comparison; A male comparator of equal or comparable value not covered by the same plan, within the establishment.

F = female job class

M = male job class

Source: Ontario Pay Equity Commission. *Pay Equity Implementation Series 10*, (July, 1988b), 3.

Coverage

It has been estimated that the Ontario legislation fails to cover about 1.2, or 54.5 percent of the Province's 2.2 million female workers. (McKay: 1990, 32) Women who work in small private sector establishments, specifically those where there are less than ten employees, do not fall under the purview of the *Act* (Section 3(1)) The Ontario Federation of Labour (OFL) and the Equal Pay Coalition (EPC) have estimated that this Section disqualifies approximately 238,000 women, twelve percent of the total female labour force, from coverage. (1989) Since women are more likely than men to work in small workplaces, this exclusion will likely have a disproportionately negative impact on them. (Cuneo: 1990, 171) Ten employees is, of course, an arbitrary cutoff point and was undoubtedly included to quell the small business lobby. (See Cuneo: 1990)

Casual workers are also excluded from equity coverage (Section 8(3)). If the work is performed at least one-third of the normal, full-time work period, or it is seasonal or performed on a regular and continuing basis, Section 8(3) does not apply. (Section 8(4)) Despite the inclusion of these subsections the OFL and the EPC have estimated that the Ontario *Act's* definition of casual worker would deny wage "equity" to 200,000 part-time employees, or approximately ten percent of the Ontario female labour force. (1989) Many women take on low-paid, part-time work because it is more compatible with their domestic and childcare responsibilities. In 1988, 1,355,000 women accounted for 72 percent of all part-time workers. (Statistics Canada: 1990, Table 10, 83) Since women are disproportionately employed on a part-time basis, this Section does not apply to men and

women equally. Section 8(3), like the *Act* as a whole, ignores the structural features of the household and the impact this has on women's paid labour. It does ensure, however, that business continues to have access to a pool of cheap female labour.

Job Class

Since the determination of the job classes can affect the magnitude of the final wage adjustments, employers may try to manipulate any ambiguities or weaknesses in the *Act* that are related to this concept. The definition of job class is itself problematic and thus provides management with a perfect opportunity to contain costs. It is unclear what is meant by jobs with *similar* duties and responsibilities. Grouping jobs is useful because it reduces the number of job-to-job comparisons, and thus simplifies the process. (Ontario Pay Equity Commission, Series 5: 1986b, 2) If jobs that are quite different are grouped together for comparison purposes, however, the adjustments may be distorted.

Job Class Gender Predominance

To qualify for pay equity, women must perform work in a job class that is predominantly (sixty percent) female. These must then be compared to male job classifications. Job classes found to be gender-neutral are not affected by the legislation. (Ontario Pay Equity Commission, Series 7: 1988b, 1) Gender predominance thresholds, however, are subject to gerrymandering. In other words it is possible for employers to purposely employ less men and women than is required for a class to be deemed male

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MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS
STANDARD REFERENCE MATERIAL 1010a
(ANSI and ISO TEST CHART No. 2)

or female. Material from the Wisconsin Association of Manufacturing and Commerce, demonstrates how they can do this. The position entitled 'Institution Aide' was calculated to have a comparable worth gap of \$5,132. These workers, however, were not, entitled to this raise because women only constituted sixty-seven percent of all job class incumbents. In order to qualify for this equity increase they were required by Wisconsin law to account for at least seventy percent of the job class members. (U.S. Congress:1985, 454-5).

The gender threshold clause may be circumvented by contracting out available work. For instance, if a company fears that it may become subject to the *Act* because a job class has crossed the incumbency threshold, it may contract out these particular jobs to another firm. Pay equity is avoided because comparisons between the the establishments of two or more employers is not a requirement of the *Act* (See Section 2(1)) (Cuneo: 1990, 166)

The Ontario *Act* does contain a safeguard against the manipulation of gender incumbency. Section 1(5) states:

In deciding or agreeing whether a job class is a female class or a male job class, ~~regard~~shall be had to the historical incumbency of the job class, gender stereotypes of fields of work. (emphasis mine)

Historical incumbency refers to the gender of the employees who have held a certain job in a particular firm over a period of time. Gender stereotype goes beyond the scope of the individual employer. It recognizes the gender of those workers who have traditionally performed a particular kind of work

in Ontario, or the belief that a certain gender engages in particular employments. (Ontario Pay Equity Commission, Series 7, 1988b, 2) There is, however, nothing in the *Act* which deters employers from contracting work out.

Section 1(5), however, will not necessarily prevent employers from evading pay equity. First, there is no time frame specified for establishing historical incumbency and gender stereotyping. Although this may be negotiated by the employer and the bargaining unit, non-union employers may not have any input into this decision. Their only recourse, if they were aware of the Section, would be to lodge a complaint after the plan had been posted. Since some jobs are unstable in terms of their gender composition, the establishment of historical incumbency is difficult (Cuneo: 1990, 163) This gives employers another opportunity to manipulate the proportions in order to avoid implementing pay equity. Finally, it appears that employers are not forced to comply with the historical incumbency and gender stereotyping specifications contained in section 1(5). Instead they are advised to "regard" these criteria. (Cuneo: 1990, 163) Other Pay Equity Commission literature that makes reference to this Section states that the legislation "allows" for the consideration of stereotyping and historical incumbency and that incumbency "could" be utilized. (Ontario Pay Equity Commission, Series 7: 1988b, 3) Getting a job class labelled female is a crucial and complex procedure.

Legislation that requires gender predominance (Manitoba, Ontario, PEI, New Brunswick, PEI, etc) in job classes, Cuneo has argued, assumes that wage discrimination against women emanates from the crowding of females into job ghettos (1990: 175) According to the Ontario *Act* then, women employed in gender-neutral and male job classes regardless of whether they

are *bona fide* or distorted, have not been affected by discrimination. Clearly, the legislation does not reflect a feminist analysis of sex-based wage discrimination. It disregards the prejudice these women encounter in the educational system, and the oppression they experience in the household. In short, all women may be victims of systemic wage discrimination.

The Establishment

Although the *geographic* definition of establishment allows for comparisons within a relatively large area, it remains a restrictive division. While ten work sites of a single employer in the Metropolitan Toronto area would be considered one establishment, chain operations, such as McDonald's, would in some areas have an insufficient number of employees in their establishment to warrant the posting of a pay equity plan. (Armstrong and Armstrong: 1990, 36) Moreover, an employer may have an office, which employs a large number of women in clerical positions, in one region and production plants, where the work force is predominantly male, in several geographical areas. More than one plan would be required and comparisons between male and female classes covered by different plans would be subject to a number of restrictions.

The search for *suitable* comparators within the establishment highlights the weaknesses contained in Section 6. Pay equity is obtained when the job rate for a female class is at least equal to that for a male class when the work is found to be of *equal or comparable value* (Section 6-(1)) This does not mean, however, that the job classes have to be *identical* in terms of their value. For instance, the two classes can be within a specified range, as long as the ranges are applied consistently. (Ontario Pay Equity

Commission, Series 10: 1988b, 1) If more than one suitable male class is available, the comparator with the *lowest job rate* may be utilized. (Section 6(3)). The term *equal value* as defined by this *Act* is deceiving.

If neither an inside nor an outside comparison of equal or comparable value can be found, the female job class can look for a *throughout* comparison in the establishment. (Table 12) That is, the female job class can be compared to a male job class that has a *lower value*, but is paid more. If there is more than one class, the one with the highest job rate must serve as the comparator. (Section 6(2)) Pay equity is achieved when the female job rate is equal to that of the chosen male comparator, even when it is of less value to the employer. The measure of "equity" obtained is potentially low. Undoubtedly, this clause will reduce wage adjustments and save employers thousands, if not millions of dollars.

The definition of the establishment can, in certain instances, be expanded to cover workers of an employer in more than one geographic division. An employer can make this decision unilaterally for its non-unionized workforce. Employees can lodge a complaint after the plan has been developed if they disapprove of this move. Modifying the definition of establishment must, however, be negotiated with each of the affected bargaining units. (Section 14(3)) In light of Section 6 employers and bargaining units may see certain advantages in combining establishments for achieving *pay equity*. When it is in the interest of one, however, it is likely to disadvantage the other. Employers will want to seek out male job classes within other divisions that will result in lower adjustments for the female classes. In contrast, the bargaining unit will pressure for expansion if there is a male class in another area that will boost the female class' adjusted job rate. After agreement has been reached on the definition of establishment,

Table 12

"Throughout" Comparison; A male comparator of lower value which has a higher job rate.

* Assuming this is the highest paid of male job classes of lesser value than the female job class under consideration

F = female job class

M = male job class

Source: Ontario Pay Equity Commission. *Pay Equity Implementation Series 10* (July, 1988b), 4.

the location of suitable comparison classes is restricted. (See Ontario Pay Equity Commission, Series 4: 1988b, 6) This inflexibility represents a key flaw in the structure of the *Act*

No Male Comparator, No Pay Equity

Some women do not qualify for pay equity because Section 6(3) specifies that male and female job class comparisons must be made within the establishment. Due to the sex segregated nature of the labour market many women, however, are employed in establishments where there are no suitable male job classes. Hence, no male comparator, no pay equity.

Eleven sectors of the economy were reported by the Equity Commission as having a predominantly female labour force. In the public sector this includes workers in child care, health care, community and social services, public libraries and educational services. In the private sector women employed by apparel and clothing manufacturers, other manufacturing companies, in financial and insurance industries, personal and business services, and tourism and retail are likely to experience difficulty locating a male comparator. The Commission has estimated that 541,000 women will be disqualified by this loophole. (Ontario Pay Equity Commission: 1989e, 6) The EPC and OFL estimate is significantly higher. These organizations claim that 867,000 will not benefit from the legislation; 214,000 in the public sector and 653,000 in the private sector. (1989) Immigrant and visible minority women, the most oppressed group in the labour force, are concentrated in these positions (Equal Pay Coalition: 1988, 7)

The government was aware that thousands of women would be denied the benefits of pay equity when Bill 154 was passed in 1987. (Ontario: February, 1990, 3) This led to the inclusion of Section 33(2(e)) which states that a study of predominantly female sectors, where male comparators are difficult to find, must be undertaken and completed within one year of the effective date. In October, 1989, the Commission submitted a *Report* to the Minister of Labour, Gerry Phillips, summarizing the options that could redress this problem (1989e). Four months after the *Report* was issued the Ministry of Labour released a discussion paper outlining its proposed amendments to the *Act*. The proportional value approach was viewed as the most effective way of extending coverage to these women. Female job classes that could not locate comparators can: receive adjustments proportional to those received by other female classes; determine their value by calculating the points-wage relationship ("formula approach"); or plot wage lines (job rate against value) for male and female job classes. The *Report* (1989e) concludes that proportional value is viable in organizations with some male classes. It is not, however, a panacea. The *Report* states explicitly that the proportional value is not helpful to women in childcare agencies, *many* social services agencies, *many* health care organizations with the exception of hospitals and many libraries. (1989e, 50-51) The Liberal Government has been slow to act on this issue. Results from the September 6, 1990 election will undoubtedly affect whether this and other amendments are introduced into the legislature in the Fall session.

A decision made by the Pay Equity Tribunal in June, 1989, may make pay equity more accessible for more women. The ruling, which was upheld by the Supreme Court of Ontario in November, allows the Halimand-Norfolk nurses (predominantly female) to compare their jobs to the local police

officers (predominantly male) for pay equity purposes. The decision was based on the fact that both groups had the same employer - the local government. The regional municipality, however, is now challenging this wider definition of employer, arguing that the police were employed by a separate board, and not directly by the local government. Expanding the municipal definition of establishment to a corporate definition, which would allow comparisons between *all* of an employers operations, would represent an important step towards universal coverage.

Occupational Segregation

The equal value concept is meant to address the portion of the wage gap that stems from discriminatory labour market sex segregation. The method for achieving "pay equity" in Ontario is inhibited from doing so. Gunderson has estimated that segregation within establishments may account for about 12 to 25 percent of the (.4) gendered wage gap. (1985, 231) Requiring a plan for each bargaining unit, however, may reinforce existing gender inequities. Consider Section 6(3) of the Ontario *Labour Relations Act* which states that the Labour Relations Board may use "distinguishable" and "technical skills" to determine appropriate bargaining units. Since skills are sex specific, the membership of the union will likely be dominated by one gender, typically the male gender since skilled work is synonymous with men's work. (Phillips and Taylor, 1980) Prohibiting comparisons between union and non-union workers would also remove the higher paying male job classes out of the reach of female job classes. Lower paying, less valued male comparators may be sought out for non-union female job classes. The portion of the earnings differential arising out of

horizontal occupational segregation across establishments has been estimated at 25 to 37 percent. (1985, 231) Restricting comparisons to the establishment, states Gunderson, "limits the scope of...comparable worth policies". (1989: 52) The method outlined in the Ontario *Pay Equity Act* then, has the potential to perpetuate pay discrepancies between men and women.

"Reasonable" Exceptions?

The Ontario *Act* contains a host of loopholes that may serve to perpetuate the wage gap. (Appendix C) Section 8 lists five instances where differences in compensation are allowed in the process of developing and maintaining pay equity plans. These "permissible differences" may result from the application of a formal seniority plan, the presence of temporary training or development assignments, a merit system, red-circling and finally when there is a proven temporary shortage of skills. These exceptions, which the *Act* states are only justifiable when their *application is gender neutral* can be abused by employers who want to avoid the costs associated with pay equity. Unions, such as the Canadian Union of Public Employees (CUPE), were opposed to the inclusion of these factors, with the exception of the gender-neutral seniority system. Since seniority is sacred to the union movement, its inclusion was necessary to garner male support. The Public Service Alliance of Canada, because of its experience with the Federal legislation, and the Ontario Federation of Nurses were among the few unions to oppose all exemptions. (Cuneo: 1990, 44)

Subsection 1(a) states that differences in pay between incumbents in comparable male and female job classes are justifiable when an employer

can show they were produced by a formal seniority system. (Table 13) Seniority, the relative length of service to an employer, confers advantages to employees in the determination of promotions, vacation, lay-offs and recall. For the purposes of pay equity employers must prove that such a system is free of gender bias. The Commission states that if the difference between two comparable job classes is one thousand dollars, and three hundred dollars is attributable to the higher seniority of the male job class incumbents, then the pay equity adjustments for the female class would be 700 dollars. (Ontario Pay Equity Commission, Series 13: 1988b, 2). This assumes that such fine calculations can be made.

Can, however, any seniority system, now in place be deemed gender-neutral? Clearly, the *Act* assumes this is possible, but it does not elaborate. It fails to recognize that women's work histories, because of their domestic and maternal roles, are characterized by more disruptions than their male counterparts'. This movement in and out of the paid workforce translates into less seniority. Women's seniority is frequently frozen when they exit the labour market, and in other instances, when women return to their jobs, they are placed at the bottom of the seniority scheme.

Women are frequently disadvantaged because they start out at lower pay rates than their male counterparts. Thus, proportional wage increases serve to benefit male employees because in absolute terms their raise will be larger. Moreover women may have to go through more steps to achieve the same pay rate as their comparable male job class incumbents. (Cunéo: 176) Pay equity is still achieved when the job rate (maximum rate) for both job classes is equal even though the "minimum salaries and the number of steps in the scales...may be different between the job classes." (Ontario Pay Equity Commission, Series 11: 1988b, 6) Many CUPE locals, acknowledging

Table 13

Achieving Pay Equity in a Seniority System

The job rate is the **maximum** rate for each job class.

Source: Ontario Pay Equity Commission. *Pay Equity Implementation Series 11*. (August, 1988b), 6.

this discriminatory practice, have negotiated reductions in increment steps for women's jobs. (CUPE Local 2424) Given women's unequal access to seniority systems due to inequities within the household, their role in reproduction, as well as discrepancies in job ladders, seniority systems cannot be considered gender-neutral.

Section 8(1(C)) allows for differences in remuneration between incumbents in two comparable or equal job classes based on job performance when three requirements are met. A *formal* compensation system must be in place, employees must be informed that their wage increases are in fact based on merit, and finally the plan must be free of gender bias. (Ontario Pay Equity Commission, Series 13: 1988b, 4) The Commission uses a salary range with a reference point (this is not necessarily the midpoint of the range) to illustrate how such a plan might work. A discrepancy in pay is permissible between job class incumbents when one is judged to have met the requirements of the job and another is viewed as having performed more than the basics. The latter's merit pay, which is exempt in the application of pay equity, may range from the reference point, or job rate, to the maximum of the salary range. (Ibid) (Table 14)

Again it is questionable whether this slippery concept is gender-neutral. Appraising job performance is a subjective process. Individuals, for instance, may not be evaluated on their job skills per se but on personal attributes. Kanter reports that in managers' evaluations of secretaries:

...managers' concerns with the personal rather than the skills side of the relationship were demonstrated throughout the form. Two central traits that recurred and tended to determine a secretary's overall rating...were "initiative and enthusiasm" and "personal service orientation..." (1977, 85-86)

Table 14

Achieving Pay Equity in a Merit System

The job rate is the reference point.

Source: Ontario Pay Equity Commission. *Pay Equity Implementation Series 11*. (August, 1988b), 6.

Kanter concludes that the secretaries' ratings were more a function of the quality of the relationship with their bosses, than of their job skills. (Ibid: 86) Thus, who is doing the evaluating, who is being evaluated, as well as their gender may affect how and what aspect of the work performance is appraised. Utilizing this exclusion in smaller non-unionized workplaces where, for instance, paternalistic work relations operate may be even more problematic. Issues surrounding evaluation will be discussed at length in the next chapter.

The unequal division of household labour may also have a differential impact upon the job performances of men and women. (Cuneo: 1990: 178) Since women are responsible for more of the domestic labour than their male counterparts, they will have less time and energy to devote to performing more than the basic requirements of the job. (See Duffy *et al*: 1989) Hence, they are less likely to be rewarded with merit pay.

Gender socialization in patriarchal institutions may also limit women's job performance. Throughout this process many women develop low self-confidence and a fear of success. Assertiveness, aggressiveness, characteristics that are considered prerequisites for "success", have not been instilled in women. Moreover, these are viewed as unfeminine. Thus, women who exhibit these traits and who are "successful" may be perceived as 'castrating, iron-maidens'. (Kanter, 1977; See Mackie: 1987, 85-91; Kimball, 1981;) It is doubtful, then, that merit pay is completely free of gender bias.

Differences in remuneration because of temporary training or development assignments are also allowed (Section 8 (1(b))). Positions exempt from a pay equity plan must be developmental in nature, that is they must lead to career advancement and be equally open to both men and women. (Ontario Pay Equity Commission, Series 13, 1988b, 3) Some women,

due to the monotony of the work or the strains placed on them by the 'double day', never work long enough in temporary training programs to qualify for a permanent position. This "revolving door" ensures that many women never qualify for pay equity. (Cunéo: 1990, 165) Employers with a high turnover of female workers, then, are in a position to abuse this exception.

Red-circling can be used by an employer to justify differences in rates of compensation between comparable or equal job classes. This practice is described in the *Act* as:

a gender-neutral re-evaluation process, [where] the value of a position has been down-graded and the compensation of the incumbent employee has been frozen or his or her increases in compensation have been curtailed until the compensation for the down-graded position is equivalent to or greater than the compensation payable to the incumbent. (Section 8 (1d))

The Commission in its monthly *Newsletter* has outlined two instances where red-circling is "appropriate" and thus not a way of "avoiding the spirit and intent of the *Act*" (June 1989d: 4) The first involves the introduction of technology and the subsequent downgrading of jobs. For the purposes of pay equity the job rate is that for the lower job classification. (Ibid) In the second example a job is red-circled after a gender-neutral comparison system has been applied and it is found to be overvalued. (Ibid) The article concludes by warning employers not to utilize red-circling to compensate for increases in women's wages.

The practice of red-circling confirms men's worst fears about the legislation; namely that any increase in women's pay will necessitate

employers to freeze or reduce increases in male wages. This fear is legitimate given that employers, eager to maintain profit margins, have voiced their approval for this method of allocating wage resources. The Board of Trade of Metropolitan Toronto, for example, argued that "by decreasing the costs of male dominated occupations, the impact of the equal value legislation will be somewhat minimized." (Cuneo: 1990, 166) Even though Section 9 (1) specifies that an employer cannot reduce wages to achieve equity, this can be circumvented by the red-circling exemption. Employers can manipulate job evaluation systems in such a way that the wages of male job class incumbents are frozen. Under these conditions, as Cuneo has pointed out, red-circling *positions* really means red-circling *wages* in essence wage reductions. (1990: 167) It is not difficult to see, then, how the *Act* in general and this practice in particular has the potential to provoke a male backlash. Pay Equity threatens to exacerbate gender divisions in the labour movement.

A skills shortage may also warrant a *temporary* wage differential between job classes in order to attract workers with such skills. (Section 8(1(e)). "Temporary", however, is not defined in the *Act* and no criteria are set out in the Commission's Implementation literature. The Commission, however, does *suggest* that employers refer to labour market surveys, or a combination of market indicators and employer-specific recruitment history to demonstrate a shortage. (Ontario Pay Equity Commission: Series 13: 1988b, 5) Feminists have been highly critical of this exception. Taking into account market forces, which reflect bias against women contaminates the administrative procedure for determining job worth and job pay. The market, thus, re-introduces the discrimination that the equity legislation is attempting to eliminate. (Goodwin: 1984, 21) This exception is unlikely to be

gender-neutral given that it is "male skills" that are likely to be in demand. Past shortages, which have boosted the job rate cannot be used to legitimize wage inequities. (Ontario Pay Equity Commission, Series 13: 1988b, 5) Employers may, however, try to use this subsection to reduce equity costs.

Section 8 (2) states that a discrepancy in pay may continue between an equal or comparable male and female job class after pay equity has been realized if the employer can prove that this is the outcome of differences in bargaining strength. Feminist and labour organizations seeing the danger in this practice, lobbied, unsuccessfully, for its exclusion. Union bargaining strength is gender-biased in several ways. Male unionists have more marketable skills than women, and thus more power to extract higher wages from employers. Male dominated organizations are also more formidable because of their tradition of unionism. In contrast, women's paucity of marketable skills as well as their historic exclusion from the labour movement, have left them with less clout in wage negotiations. The labour movement has, in recent decades, undergone a feminization process. Statistics for 1987 indicated that 1,364,500 women constituted 37.2 percent of the Canadian union membership. (Statistics Canada: 1989b, 31) The double day of labour, however, leaves these women with less time than their male counterparts for union activism. (See Gannage: 1986)

This section of the *Act* will likely result in the widening of the wage gap between men and women after "pay equity" has been achieved. It may also facilitate contravention of Section 7 which states that employers must "*maintain* compensation practices that provide for pay equity". The bargaining strength exclusion, is still subject to interpretation by the Equity Tribunal. This "permissible difference", like the other exclusions listed in

Section 8, are in essence and open invitation for employers to avoid implementing equity.

Complaints

The Ontario legislation can be classified as an "integrated" model of pay equity. It combines the pro-active approach, which places the responsibility on employers to eliminate gender based wage discrimination, with the complaint based method, which puts the onus on the employee and the bargaining agent to report discrimination and contravention of *Act*. The pro-active model is in effect during the initial phase when employers must formulate and implement equity plans. The *Act* becomes complaint-based after a plan has been developed and posted. Section 22(1) states that a complaint must be filed when the *Act*, the regulations or an order of the Commission has been contravened.

Pay equity plans are negotiated by employers and bargaining units. When an impasse in the process is reached third party assistance may be required. The equity plan for non-union employees is developed by the employer. In such workplaces, the employer may prepare a plan, post it and hope that no complaints are filed so that "the plan shall be deemed to have been approved by the Commission." (Section 15(7)) Thus, an employer can prepare a plan that utilizes a methodology which is unlikely to produce wage adjustments, with the hope that no complaint will be lodged. This gamble may pay off because, employees, although "protected" against (Section 9(1)) coercion and intimidation from employers, might be reluctant to file a grievance. Fear of harassment from employers, and pressure from co-

workers, not to mention insufficient time, energy and resources may, therefore, compel women to accept unequal remuneration.

Wage Adjustments.

Section 13(4) of the Ontario *Act* states that a *minimum* of one percent of the previous years payroll must be allocated to the necessary pay equity adjustments. (See Appendix C) "Payroll" refers to wages and salaries only (Section 13(8)). Thus by excluding benefits from the definition, the absolute size of the one percent equity fund is reduced. Limiting the establishment to the geographical division also contains the monies that must be appropriated for pay equity. A broader definition would mean a larger payroll and thus larger annual adjustments. It is understandable, then, why business has resisted the corporate definition of establishment.

In the public sector full adjustments must be paid by 31 December, 1995. This means that annual increases will, in some cases, exceed the minimum one percent payout. Small private sector employers, specifically those with more than nine employees but fewer than 100 *may* post plans. (Section 19) When such organizations do not develop plans the Commission will set a deadline for the achievement of full equity. (Section 21) Complete pay equity adjustments must be made by January 1, 1993 if there are between 50 and 99 employees, and by January 1, 1994 if there are fewer than 50 but more than 9 employees.

Deadlines, however, have not been set for private sector employers with more than 100 employees and smaller employers (with 10-99 employees) who choose to develop plans. This means that many women, particularly those employed in the private sector, will have to wait years

before their wages are equivalent to those employees in the male comparator class. By the time "equity" is effectuated many of these women are likely to have left the company, and some because of the low wages and poor working conditions. Those in the public sector, who are already better off than their sisters employed in the private sector, will also reap the benefits of the legislation much sooner. (Cornish: 1986, 17; See Clemenson, 1990)

The exclusion of specific groups from coverage, the inclusion of "permissible differences" the narrow definition of establishment and the restrictions placed on comparisons that can be made within the establishment all serve to weaken the legislation. These flaws can be used by some employers to contain women's pay adjustments, while they may enable others to avoid implementing equity altogether. In non-union settings, employers, who are not renowned for their benevolence, are likely to make unilateral decisions that will further the interests of business at the expense of women. Contravention of the *Act* will, undoubtedly, be more difficult when employers must deal with a workforce that enjoys the protection and expertise of a bargaining unit. Unions are able to oppose the use of exclusions, as well as monitor the implementation phase and the maintenance of pay equity in compensation schemes. Section 6, which outlines the comparisons that can be made between classes accorded a certain worth, however, will have a detrimental effect on the wage increases of Ontario women. In this case adjustments can be reduced regardless of whether or not the workers are protected by a union.

The methodology specified in the Ontario *Act* for eliminating systemic wage discrimination is riddled with problems. The narrow definition of establishment coupled with restrictions in the comparison

procedure will undoubtedly inhibit the policy from redressing the portion of the gap associated with occupational segregation. A host of exclusions and loopholes then undermine an already weak pay equity model. Moreover, these exemptions do not apply equally to the sexes. The seniority and merit exclusions, for instance, have no regard for women's work in the home. The *Act* then, can be accused of discriminating against women. Gender bias may also infiltrate or be overlooked in the implementation phase. As we shall see in Chapter Six, assessing job value "objectively" is an extremely tricky, if not an impossible task.

Chapter Six.

Job Evaluation: A "Gender Neutral" Tool for obtaining Pay Equity?

In order to achieve equity in pay the Ontario *Pay Equity Act* specifies that female and male job classes must be evaluated and compared using a *system of comparison* that is *gender-neutral*. (Section 12) Since pay equity is regarded as a "self-managed process" in non-union work settings, and a "negotiated process" where employers deal with bargaining agents (Ontario Pay Equity Commission, Series 1: 1988b, 1) the Commission has chosen not to develop a prototype scheme. (Ibid: 1988a, 7) Instead the participants must tailor a comparison system, which assesses the relative worth of jobs *to the employer*, to the work force in question. The process must effectuate "internal equity", or fairness between jobs within the establishment. (Ibid: 1989c, 20)

Job evaluation, a common method used to achieve pay equity, is frequently used interchangeably with the term comparison system. The former, however, is only one approach. (Ibid: 19) Job evaluation has been described as a "systematic application of a set of value judgements." (Blaszczyk: 1988, 5) Its objectivity is thus called into question. The following discussion will explore the issue of gender neutrality in such systems. First, the concept of "skill", which is key to the assessment of job worth, will be addressed. Then the means by which gender bias can infiltrate the planning and application of the evaluation, serving to perpetuate existing gender inequities, will be highlighted. Finally, the inherent management bias in such

systems and the implications of their use for the work force will be dealt with.

Value

Establishing the value of work is key to the pay equity process. But what exactly is value? Child care, for instance, has a high 'social worth'. (McArthur: 1985, 65) Consider the social costs that would be incurred if this service was not provided by parents and child care workers. The worth of child care to society is quite different from its market value, in marxian terms its exchange value. The marketplace does not place a great deal of value on child care. In 1989, the average worker earned \$17,820 a year. (Pigg: April, 2, 1990) Moreover, those women who perform this "work" outside of the market are not remunerated monetarily. In this context it becomes a "labour of love". (See Luxton: 1980) Job worth or value, then, is a relative concept, it can mean different things to different people.

According to classical economic theory the price of labour is determined by the intersection of supply and demand. This rests on the assumption that firms operate to maximize profits and that perfect competition exists. While the former is likely to be true Chapter Three demonstrated that the latter is a fallacious notion. Governments and large private corporations, which dominate product markets, have sufficient power to determine what job characteristics deserve high remuneration. Disadvantaged groups, such as women, have been unable to muster the economic strength to resist such initiatives. Job evaluation has enabled many employers to rationalize their wage hierarchies, and thus women's low wages.

Skill

Section 5 of the The Ontario *Pay Equity Act* specifies that the value of work should be assessed through the application of a composite of skill, effort, responsibility and the normal conditions work under which the work is performed. To determine job worth it is necessary to operationalize these four concepts. While there are difficulties associated with all of them, skill, in particular has serious implications for the gender neutrality of the process. What is a skill and why is it seen as such? The Pay Equity Committee has compiled a list of some of the sub-factors that can be used as indicators of the broader skill factor. These include education, experience, knowledge and managerial techniques. (See Ontario Pay Equity Commission: 1989c, 26) To capture adequately the content of the work in different industries and work sites different sub-factors can be applied. Management and their consultants, however, may prefer to use different measures of skill than the workers to which the plan applies. Skill, like value, is a relativistic concept that can be operationalized in various ways. (Gaskell: 1983, 13) This has ramifications for the validity of the evaluation process and thus the subsequent wage adjustments that are made.

Feminist scholars (Gaskell: 1983) have argued that skill is a social construct. The length of training periods and educational attainment, viewed as objective measures of skill, are not necessarily indicative of the amount of time required to obtain proficiency in a task. The training time and qualifications that are deemed necessary before a job can be performed adequately are, because of political and economic struggles, inflated. Apprenticeships which restrict the supply of labour that has access to certain

knowledge, thus enables some workers to command higher wages. This artificially induced shortage reinforces the group's economic and social power. It is also questionable whether the official school curriculum is useful to employers. (Gaskell: 1983, 15) It is plausible that students learn more about how to submit to authority and how to become docile workers, than technical knowledge per se. (Ibid) Advocates of the human capital theory, who attribute women's lower pay by pointing to their paucity of "skills", fail to recognize the social component of these so-called objective productivity variables.

In Chapter Three we saw how male craft unions fought to exclude women from certain occupations in order to resist employers' attempts to maintain some control of the labour process. "Men's work" thus retained its "skill" label. (See Kealey, 1986) Phillips and Taylor refer to this historical process as the "sexualization" of skill. (1980: 85) They comment:

Men workers have fought long and hard against this process [deskilling], fought to retain their craft position, and failing all else, at least their craft labels. And in these struggles, craft has been increasingly identified with masculinity, with the claims of the breadwinner, with the degree of union strength. Skill has been increasingly defined *against* women - skilled work is work that women don't do. (1980: 86)

Men fought for their position at the top of skill hierarchies while women were relegated to the bottom. Socially constructed notions about the female sex were useful in legitimizing women's place in this hierarchy. (See Frager, 1983; White, 1980) For a woman to supervise, or have any degree of control over men in the workplace stood in stark contradiction to the dominant gender ideology. In short, it would subvert the patriarchal system. (Rose:

1986, 122) Skill definitions are thus indicative of the gender hierarchy within industrial capitalism.

Women's abilities were also undervalued because they were culturally devalued. Phillips and Taylor comment that "Skill definitions are saturated with sexual bias. The work of women is often deemed inferior simply because it is women who do it." (1980, 79) The hierarchy that conferred benefits on white males, simultaneously left women in a vicious cycle of oppression. The power relations that shaped definitions of skill are not, as we shall see, seriously threatened by supposedly gender-neutral job evaluation systems.

Job Evaluation; The Description Phase

The purpose of job evaluation, state Beatty and Beatty (1984), is to:

develop an internal hierarchy of job worth (i.e., job structure), which denotes the value of the job, as seen by the firm relative to other jobs within that firm. (60)

The origins of job evaluation can be traced to the work of Babbage in the early nineteenth century and later Taylor's studies in scientific management. (Livy: 1975, 41) Job evaluation was first utilized in 1871 by the United States Civil Service in order to eliminate wage discrepancies between governmental departments. (ILO: 1986, 9) This was, however, an isolated case for widespread use of the method would not come until the 1930s and 1940s. In Canada larger corporations have made use of this approach since the 1940s and 1950s. In the last two decades job evaluation has been adopted to achieve equal value.

Job evaluation is concerned with job content, not the characteristics of the incumbent. The first stage of any evaluation methodology begins by reviewing the tasks and responsibilities performed, as well as the required qualifications. After the job content information has been collected it is translated into a job information statement or specification. This may summarize the purpose of the job; the tasks and duties performed, and the effort required to complete the noted tasks; supervision; details about the work environment and hazards; and the tools required to perform the listed duties. (Ontario Pay Equity Commission: 1989c, 12) Job specifications provide the link between job content analysis and the evaluation and comparison procedures.

Collecting information on the content of jobs is perhaps the most crucial stage in the process. As Livy notes "Any error or bias in the *choice* and presentation of factual evidence at this stage will be compounded later." (1975, 123) An assessor may ignore the compensable job content in "women's jobs". (See Table 15) Each evaluator brings with her/him particular assumptions and biases about the work under study. The evaluation procedure involves more interpretation than is first evident, much of which tends to be unconscious. (Geis: 1982, 1) Most social judgements are "evaluatively consistent." (McArthur: 1985, 57) In other words when individuals are labelled as "good" on one important dimension they tend to be surrounded by a positive aura or "halo" (McArthur: 1985, 57). This means that their other qualities are also viewed in a favourable light. Conversely, when an individual is labelled as "bad" on an important dimension she/he is perceived as having other negative characteristics. (Ibid: 58) This "halo" effect may operate during the job content analysis. Job descriptions, for example, may be affected by the prestige attached to certain jobs or by the

Table 15
List of Frequently Overlooked Job Content
in Female Jobs.

- Fine motor movement skills like rapid finger dexterity
 - Special body coordination or expert use of fingers and hands (e.g. typing, giving injections, sign painting)
 - Scheduling appointments
 - Coordinating meetings
 - Record keeping
 - Filing
 - Writing standard letters
 - Reading forms
 - Protecting confidentiality
 - Working office machines
 - Cleaning up after others
 - Sitting for long periods of time
 - Time stress
 - Communication stress (dealing with upset people)
 - gathering information from upset or ill people
 - calming upset people
 - Stress from distractions
 - Stress from concentration (e.g. from video display terminal)
 - Stress from exposure to the sick and disabled with no hope of recovery
 - Stress from multiple role demands (being asked to do work quickly and to provide better service to several people)
 - Working with constant noise
 - Working in an open office setting: with room dividers: without room dividers
 - Answering questions for the public on the phone or in person
 - Answering complaints from the public
 - Responsibility for inmates, patients, or residents of institutions
 - Degree of severity of problems of inmates, patients, or residents of institutions
 - Degree to which new or unexpected problems on the job arise
 - Damage to equipment from a mistake
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Source: Steinberg, Ronnie and Lois Haignere, "Equitable Compensation: Methodological Criteria for Comparable Worth" in *Ingredients for Women's Employment Policy*, C. Bose and G. Spitze, eds. (New York: State University of New York Press, 1987), 168-169.

salary they command. Moreover, the sex composition of a job class may also bias the descriptions. Since males are more highly valued than females, occupations that are dominated by the latter tend to be evaluated less favourably than those dominated by the former.

The "availability bias" (McArthur: 1985, 55-57) also has important implications in the content analysis. This involves the manifestation of an individual's tendency to describe the frequency of job-related tasks according to the ease with which they can be retrieved from her/his memory. (Ibid: 55) In addition to frequency, the familiarity of particular tasks in the work under study and their "perceptual salience" may affect the content of the job specification. (Ibid: 56) A supervisor's evaluation of her/his secretarial staff may emphasize typing because it is audible, while overlooking their editing and interpersonal skills. (Ibid) Remick (1984) notes that men's work is seen as deserving higher compensation than that performed by women because it is "dirty". Yet the environment in which nurses operate is perceived to be clean and thus more pleasant. Their work site is just not "visibly" dirty. They are constantly exposed to blood, vomit, disease and so forth, but are required to keep their work areas clean. In an evaluation, such a perception might result in a lower rate of compensation for the nursing occupation. (1984: 114) Supervisors, experts and incumbents may report the same work quite differently. Thus the "availability bias" may have ramifications for the reliability of evaluations.

Cultural expectations are also likely to affect the outcome of a job description. An "expectancy bias" is manifest in the evaluator's tendency to describe a certain job in terms of the qualities that are expected for that kind of work. (McArthur: 1985, 60) This is particularly problematic when describing predominantly male and female jobs. Women, for example, may

have their job related skills overlooked because they are perceived by assessors not as full-fledged skills deserving remuneration, but as "qualities intrinsic to being a woman." (Steinberg and Haignere: 1987, 165) Here, there is a confusion about the content of a particular job with stereotypic notions about the characteristics of the incumbent. "Stereotypes, states Klatsky, "can lead us to see what is not there and not see what is there." (Geis: 1982, 14) Moreover, such perceptions are deemed "valid" when other evaluators are in agreement as to what they "see". (Ibid)

Poorly constructed job content questionnaires can also serve to perpetuate wage discrimination. If a female and male employee are asked questions that are not applicable to them or if they are not required to answer others that might shed light on the content of their jobs, a complete picture of their work will not emerge. It is not uncommon for non-supervisory staff and management to be given different questionnaires. (Steinberg and Haignere: 1987, 166) This inconsistency can affect the points allotted, the comparisons that can be made between job classes and ultimately the size of the wage adjustments. Open-ended questions, such as "Describe your duties", are also problematic. Some individuals may have more limited communication and conceptual skills which may be reflected in the final award. (Ibid: 165) In short, credit may be given where it is not due and *vice versa*.

Job descriptions might be incomplete or distorted because women tend to under-report their job responsibilities and skills while men are more likely to over-enhance their job content. (See Remick, 1979) This tendency for women to underestimate their abilities (See Kimball, 1981) is undoubtedly a function of gender socialization. (McArthur: 1985, 61) Systematic inaccuracy in job descriptions, as Steinberg and Haignere propose,

"become[s] nothing more than job content-based justifications for perpetuating undervaluation of female dominated or minority jobs." (1987, 166) The way in which job information is translated into job specifications and job titles may be biased. Titles may be sexist, in that they reflect characteristics of the incumbent, as well as the work performed. Charwoman, for example, may be used instead of the gender-neutral equivalent - cleaner. Such titles inform evaluators of the incumbents sex which may disadvantage women in the evaluation process. For instance, seven CUPE Local 994 women employed at the York Board of Education classified as "Matrons" earned 2,500 dollars less per year than male the Caretaker/Cleaner category whose incumbents were performing substantially similar work. (CUPE: n.d., 4) Linguists have also found consistent differences in the wording of male and female job descriptions. Weaker verbs such as 'co-ordinating', 'caring for' and 'monitoring' tend to be used to describe 'women's work'. 'Manage', 'responsible for' and 'control' are frequently found in summaries of 'men's work' (Ontario Pay Equity Commission: 1989c, 7) Language, a powerful concept that reflects patriarchal attitudes and beliefs, may disadvantage women in this process.

The Evaluation Phase.

The evaluation process, not unlike job content analysis, is highly subjective. Job evaluation involves assigning worth to the content of jobs in a particular firm, and then ranking them accordingly. This hierarchy can then be translated into appropriate compensation rates. Various qualitative and quantitative methods are available to assess the work performed. Qualitative methods determine worth by examining jobs in their entirety. (Beatty and

Beatty: 1984, 68) Ranking, for instance, is a simple method suitable for a small work force. After the jobs are described the employer arranges them, from that with the lowest value to that with the highest. Since the criteria for judgements may not be specified the potential for sex discrimination to enter the process increases. Moreover because jobs tend to be associated with a particular gender, it is difficult to assess the job independently of the incumbent's characteristics. (Ontario Pay Equity Commission: 1989c, 33)

The classification method is based on arbitrarily determined groupings of jobs in similar occupations. (i.e. clerical jobs and managerial jobs). Within these "families" jobs are frequently sorted into levels. (e.g. Clerk I, Clerk II) Each classification is described. Then each individual job description is compared with the class descriptions, and slotted into the most appropriate one. (Ibid: 23) Again jobs are not compared on a factor by factor basis. Frequently, the entire content of one position is compared to that of another. The likelihood of bias entering this procedure is also great. For instance, a job that ranks high on skill but low on education may be incorrectly classified. (Beatty and Beatty: 1984, 69) More importantly, it is not useful to pay equity because dissimilar jobs are not compared and job families are likely to be gender specific. (Ontario Pay Equity Commission: 1989c, 23) This method like the ranking approach must, as the Pay Equity Commissions notes, have gender neutrality "built into" it. (Ibid: 34)

Quantitative job evaluation, in contrast, assesses job content on a factor by factor basis to produce numerical scores. These are then used to compare jobs. Factor comparison is one such method, and is perhaps the least popular because it is so complex. (Ibid: 26) This approach, which was developed by Edward N. Hay *et al* in the late 1930s, relies on current salaries to assess job worth. (Beatty and Beatty: 1984, 67) Jobs are ranked

according to the dollar value allotted to the chosen compensable factors. The evaluations for the individual factors are tallied and compared to the original job worth (current salaries) ranking. Any discrepancies must then be dealt with. (Ontario Pay Equity Commission: 1989c, 26) By relying on existing wages, however, it is likely to reflect discrimination that is embedded in the existing wage hierarchy. This method is, therefore, unacceptable for achieving pay equity.

The point factor model, which was developed in 1920 by Merrill R. Lott, is a more suitable method. Each job is broken down into factors and sub-factors. Each sub-factor is divided into a number of levels and each level is defined and allotted a certain number of points. This way a specific value can be assigned to sub-factors for all jobs. The total number of points are then used to match male and female job classes so that job rates can be compared.

When utilizing the point factor method compensable factors can be weighted so as to reflect their relative worth to an organization. Before weighting it is necessary to determine which factors and sub-factors will be utilized. The four broad compensable factors, skill, responsibility, effort and working conditions, are specified in the *Act*. The sub-factors are selected by the employer, and in unionized work places by the employer and the bargaining agent. This choice is a subjective one. The "availability heuristic", for example, may generate sub-factors that are frequently responsible for the discrepancy in men's and women's earnings. For instance, physical exertion, special skills and responsibility, factors that do not characterize work performed by many women, may be picked. (McArthur: 1985, 65) The "halo effect" may also prejudice the selection process. Sub-factors that already reap financial rewards are likely to be chosen. Skills and working

conditions that are associated with women's poorly remunerated work might be overlooked. (Ibid) Thus, the selected factors capture the content of men's jobs, not women's. (See Table 16)

The number of sub-factors utilized in the evaluation can also influence the results. If an organization decides to use a large number so that an array of job characteristics can be represented adequately, it may in reality have the opposite effect. Factors may overlap, benefitting one gender at the other's expense. Moreover, definitions alone do not necessitate factor independence. Thus, it becomes necessary to check for high correlations between pairs of sub-factors. This would prevent assessors from judging twice what is in essence the same job characteristic. (Gill: 1984, 50)

Weighting the factors may serve to benefit or disadvantage women. There are two approaches to weighting; the *a priori* and the policy capturing methods. The former involves deciding weights independent of salaries. The employer and the bargaining agent in unionized settings, decide which sub-factors are most valuable to the organization and weight them accordingly. The halo and availability biases discussed earlier may also affect the relative weights of the factors. Characteristics associated with men's work (Physical activity, responsibility) are weighted more than those frequently found in women's. (See Table 17) Deciding the weights is a highly subjective procedure that can easily perpetuate discriminatory wage structures.

Policy capturing, utilizes regression analysis to determine the value an organization places on certain sub-factors. Job characteristics are correlated to the salaries that are in place. This method makes fewer assumptions about what the firm should value. However, by relying on current wages the evaluation is likely to reflect market discrimination which disadvantages women. Thus, this method may be suitable for identifying the weights of

Table 16

Example of Discriminatory Job Factors

Factors	Maintenance Fitter	Company Nurse
(each factor is scored from 1 to 10) (for simplicity no weights have been applied)		
Skill		
Experience in job	10	1
Training	5	7
Responsibility		
For money	0	0
For equipment	8	3
For safety	3	6
For work done by others	3	0
Effort		
Lifting requirement	4	2
Strength requirement	7	2
Sustained physical effort	5	1
Conditions		
Physical environment	6	0
Working conditions	6	0
Hazards	7	0
Total	64	22

Source: Equal Opportunities Commission. *Job Evaluation Schemes Free of Sex Bias*. (London: Equal Opportunities Commission, n.d.), 8.

Table 17

Example of Discriminatory Factor Weighting

Factors	Unweighted Scores		Biased Weights	Weighted Scores	
	Fitter	Nurse		Fitter	Nurse
Basic Knowledge	6	8	7%	.42	.56
Complexity of task	6	7	8%	.48	.56
Training	5	7	7%	.35	.49
Responsibility for people	3	8	15%	.45	1.20
Responsibility for materials & equipment	8	6	15%	1.20	.90
Mental effort	5	6	8%	.40	.48
Visual attention	6	6	10%	.60	.60
Physical activity	8	5	15%	1.2	.75
Working Conditions	6	1	15%	.90	.15
Total	53	54		6.00	5.66

Source: Equal Opportunities Commission. *Job Evaluation Schemes Free of Sex Bias*. (London: Equal Opportunities Commission, n.d.), 10.

men's jobs, but not those for women. Both of these methods then have the capacity to perpetuate sex-based inequities.

Statistical analysis is central to the weighting procedure. Insufficient knowledge about these tools, however, can reproduce pay discrimination. It is often thought that factor ratings which are not multiplied by a weighting number are unweighted or have equivalent weights in the final total. This is not necessarily true, for the weight of a particular factor is dependent upon the dispersion of the assessments, even where average scores are the same. Tiffin and McCormick in *Industrial Psychology* write:

In actual operation, the functional weightings are determined by the variability of spread of the ratings on each trait. Thus, if the variabilities of the item values were to differ in proportionate value from the maximum values assigned, the actual weightings would not follow the assumed weightings. (1965: 448)

As the standard deviation of ratings for a particular sub-factor increases, its influence upon the grand total would have a similar impact. Table 18, shows an example taken from an evaluation completed by a prominent British firm. It shows the number of ratings, on a four point scale, for each of the nine factors. Some of the factors make use of the scale more than others. Factor B, for example, has a total of 7 ratings in the extremes while Factor E has 19. Note that factor C is weighted almost twice as heavily as factor G. (See Gill and Ungerson: 1984, 46-47) The weighting effects of dispersion can be quite large and in some instances they can be larger than the 'official' weights. (Gill: 1984, 46) Therefore, it is necessary to determine the effects of the ratings spread before factor ratings are multiplied. Once this is assessed,

Table 18

Unacknowledged Weights - The Effects of Dispersion

Factor	Scores				Average	Standard Deviation
	1	2	3	4		
A	20	18	15	3	2.018	0.916
B	2	28	21	5	2.518	0.707
C	13	20	14	9	2.339	1.005
D	6	32	14	4	2.286	0.749
E	10	22	15	9	2.411	0.959
F	4	27	23	2	2.411	0.676
G	2	35	18	1	2.321	0.570
H	32	13	7	4	1.696	0.943
I	24	16	11	5	1.946	0.990

Source: Gill, Deirdre and Bernard Ungerson, *Equal Pay: The Challenge of Equal Value* (Plymouth: Latimer Trend & Co., 1984), 46.

women's compensable job characteristics must be weighted more heavily so that they can be remunerated fairly for their work.

Wage Setting

When the point scores have been tallied a wage line, which summarizes the linear relationship between points and pay, can be computed. Scattergrams (Table 19) of job value points (x-axis) against current wages (y-axis) often show that positions held predominantly by women cluster below the line, while those of men are located above it. (England: 1988, 232) Separate pay lines can be computed for the male and female employees and then, if necessary, the wages of women are raised to that of their comparable male class. (See Manitoba Labour, n.d. for a summary of adjustment techniques) Bias can also enter at this point because the employer can determine what the *best* linear fit is. Managerial categories, for instance, might be excluded from the procedure thereby lowering the slope of the male line. (Steinberg and Haignere: 1987, 173) Converting points into pay ranges, like the other stages, is easily contaminated with sex bias, intentional or otherwise.

Multiple Pay Equity Plans

Requiring separate plans for each bargaining unit and for non-union employees, adds a twist to the evaluation procedure. Multiple plans may mean multiple systems of evaluation (different sub-factors and weights) and multiple sets of pay lines. As already noted the existence of more than one plan within the establishment can reproduce sex-based inequities which

Table 19

**Minnesota State Government Employees, Job
Classes by Evaluation Points and Salary**

'F' represents a female job class

'M' represents a male job class

Note that the female jobs are consistently paid less than male jobs.

Source: Labour Canada, *Equal Pay for Work of Equal Value*, (Ottawa: Minister of Supply and Service, 1986), 39.

emanate from labour market segregation and gender differences in bargaining strength. It also complicates the comparison procedure. If, for example, a suitable "inside" male comparator can not be found, an "outside" or "throughout" comparator, which might have been evaluated using different sub-factors and weights, must be sought. In such cases the Commission advises the participants to modify one system or the other, combine the two methods. (Ontario Pay Equity Commission: 1989c, 40-42) Multiple plans within the establishment render an already intricate comparison process even more complex.

Job Evaluation; Another Management Prerogative

In spite of its claim to be *gender-neutral* job evaluation is an inherently subjective practice that has the potential to reproduce existing inequities. Placing control of the process in the hands of management compounds its ineffectiveness, particularly in non-union settings. Since this group wields power in the employment relationship the evaluation will likely reflect its particular goals and interests. A company will likely select a methodology with sub-factors and weightings that will facilitate profit maximization. In addition to containing or avoiding equity payments, management has a vested interest in maintaining the wage hierarchy. The *Act*, not surprisingly, does not threaten the internal *status quo*. It promotes horizontal equity but not vertical equity. The Commission's Implementation literature states:

Pay equity adjustments need not alter employees' positions in their salary range or their positions relative to each other within their job classes. (Series 14: 1988b, 2)

Job evaluation is a management tool designed to entrench differences between workers. In the pay equity process it remains a conservative tool, with a mandate to effect conservative change.

When feminist members of the Oregon Comparable Worth Task Force (1983) pressed for more levels in the Human Relations Scales set out in the Hay evaluation system, they encountered strong opposition. (See Acker: 1987) Hay consultants insisted that such a move would accord a higher value to human relations skills than managerial skills. This was troubling to them because the rank order of some jobs would be altered and the point spread between managerial and non-managerial positions would have been reduced. (Ibid: 189) Acker concludes that any attempt made to minimize sex bias in the evaluation procedure will be met with powerful opposition if it threatens to disrupt the internal hierarchy. (Ibid: 196) Even though the traditional job evaluation system has been modified and proclaimed *gender neutral*, it remains an ideological tool meant to further the particular interest of management. (See Warskett, 1990)

Job Evaluation; Implications for the Workforce

Control of job evaluation rests in the hands of management and their retinue of "experts". Women workers, with little, if any, knowledge about the *Act* and the comparison methodology being utilized, are alienated from the pay equity process. (Cuneo: 1990, 185) In April 1990, Jane Adams, a spokesperson for the Ontario Pay Equity Commission informed the media that many of the complaints received from non-union workers were lodged because they "didn't understand how pay equity works". (Gorrie: 1990b, C2)

Union officials, many of whom are forced to become "instant experts", must spend extended periods of time away from the work site in negotiations. The rank and file members, however, may have a limited amount of information on the issue. For many workers, then, the pay equity procedure remains shrouded in mystery.

The evaluation procedure has the potential to pit worker against worker. An informant for Lewis' Study concluded:

job evaluations really hurt people's feelings - I don't know how else to put it. You know, they're all based on, or can be interpreted as being this person is smarter and this person is dumber. (1988: 86)

Workers may be displeased with the comparisons that are made, and harbor resentment towards that category of employees. When a group of Mississauga Nurses were compared to pastry chefs, Noelle Andrews, assistant director of government relations for the Ontario Nurses' Association (ONA) representative commented angrily "Do you want us to deal with you in a cardiac arrest or bake your cake." (Gorrie: 1990a, C2) A lack of understanding about the process, claims the Commission, was responsible for the affront experienced by secretarial incumbents when they learned that their male comparator was the Senior Custodian Class. (Ontario Pay Equity Commission: 1990, 3) Workers who receive adjustments may be isolated from those employees in male and gender-neutral job classes and casuals who do not receive adjustments. Job evaluation, by accentuating employees' differences, has the capacity to reduce worker solidarity and foster bureaucratic control.

Gender bias can enter or remain undetected in all of the steps of the job evaluation procedure. Confusion of job content with the characteristics of the incumbent is likely to occur in the description phase when a job is associated with one sex or the other. (Treiman: 1979, 45) Stereotypes, notes Geis *et al* "cause consensual misperceptions of candidates, performances and credentials." (1982, 3) When characteristics of the incumbent are inadvertently measured, women, because they are culturally devalued, are more likely to suffer than to benefit. This phenomenon highlights the degree to which gender inequality pervades our society. Bias is a deep rooted problem; it is ingrained in our language, attitudes and social institutions. During the implementation of the Ontario *Pay Equity Act* this bias may operate to reproduce gender-based wage inequities.

It is apparent that each decision that is made has implications for the gender-neutrality of the process. In cases where the workers are not unionized decisions made by the employer are likely to go unchallenged. Management is in a position where it can choose a system that will produce small adjustments for some employees, as in the case of Holt Renfrew and Campbell Soup Company or no increases at all. (Gorrie: 1989b, F1) The Ontario *Pay Equity Act* assumes that a gender-neutral comparison system is available. Moreover, the emphasis on the technical aspect of the procedure, detracts from the implicit biases in the system and the political issues. (Armstrong and Armstrong, 1990, 45) This also gives the impression that evaluation is scientific, when in reality it is the application of a series of judgements. Although bias can be reduced by modifying traditional systems and by setting up job evaluation committees, given the power relations that shape its application it is questionable whether bias can be eliminated

completely. Job evaluation's role in providing wage justice to women is clearly suspect.

Chapter Seven

Impact of the Legislation; Conclusion and Recommendations for Further Research.

Although fundamentally flawed the Ontario *Pay Equity Act* is having a number of positive effects. Some women in female job classes have already been awarded substantial wage increases. One of the first pay equity settlements was reached between the Canadian Union of Public Employees and the Durham Region Board of Education in September, 1988. School secretaries received a two dollar an hour raise which would be phased in over a two year period. (Slotnick: 1988) *The Ottawa Citizen* has agreed to a plan where 67 of the 400 unionized workers in its newsroom will receive increases of up to \$3.57 per hour. (McKay: 1990, 32) In the Ontario Public Service 51 of the 64 female-dominated job classes will receive pay increases. The largest adjustment was awarded to the Dietitian classification which will receive 6.74 per hour by January 1, 1992. (Appendix D) The Canadian Union of Public Employees has also negotiated equity plans that will produce some dramatic pay increases for female members employed by various school boards, hospitals and municipalities. (Appendices E, F and G) Clearly women in public sector unions are benefitting from the legislation and some are even receiving their adjustments earlier than the *Act* stipulates.

The media attention that equity policies have received may, in part, be responsible for the increase in the public's awareness of discrimination against women, and the economic hardship they face. A *Gallup* poll conducted in October, 1989 found that 45 percent of those surveyed did not think that women "get as good a break as men". This represents a decrease

of 19 percentage points when this question was first posed by *Gallup* in 1971. (Bozinoff and MacIntosh, 1989) This perception of the female condition may translate into public support for more effective policies.

The publicized wage increases generated by the *Act* may, however, give the impression that the provincial state is promoting real change and providing the solution to women's disadvantaged economic status. As we have seen the policy now in place clearly reflects patriarchal and capitalistic interests. Cuneo has found that out of 26 issues in the pre-legislation debates, business managed to get 16 of its demands included in the final draft. Feminist and labour groups, however, were not as fortunate. (Cuneo: 1990b, 26) Instead, the government has thus responded to their demands by transforming "equal pay for work of equal value", with universal coverage, into "pay equity", a much more limited program. (Lewis: 1988, 28-32) The public hearings and the legislative debates which preceded the passage of the Bill 154, however, provide the statute and the government with legitimacy. (See Cuneo, 1990 and 1990b; Mitchell, 1988)

Despite these positive effects, the impact of the *Act* as it presently stands, will be limited. The definition of establishment, and the exclusion of casual employees and workers in small establishments denies pay equity to thousands of Ontario women. These specifications which benefit business directly, are unfair, possibly unconstitutional, to women. The equal value concept, which enables dissimilar jobs to be compared, is meant to help close the portion of the wage differential that stems from sex-based occupational segregation. The geographic definition of the establishment in combination with the restrictions that are placed on job class comparisons will in all likelihood prevent the legislation from realizing this objective. The statute, because it has accommodated some of the demands made by progressive

forces, contains contradictory clauses. On the one hand, for instance, slashing wages to compensate for equity increases is prohibited, while on the other, the practice of red-circling is condoned. The *Act* (Section 12) also assumes that a gender-neutral comparison system is available to deliver equity in pay to women. The contents of Chapter Six, by illustrating the ways in which gender bias, a pervasive phenomenon, is able to infiltrate, or remain unnoticed in the various stages, debunks this supposition. Existing gender inequities in compensation schemes can, consciously or unintentionally, be masked and perpetuated. Section 6 which deems comparisons and equal job rates between female and less valued male classes "pay equity" undermines and discredits the entire process. Moreover, the complexity of pay equity alienates workers, and places control firmly in the hands of a few experts. Technically, then, Ontario has not complied with the ILO's Equal Remuneration Convention.

The complex nature of this process has also been blamed for the delays in the posting of equity plans. The Ontario Public Service, for example, could not even meet its posting deadline. A survey conducted by *Insight Canada* in December, 1989 reported that 19 percent of the 4,000 public sector employers and 700 private sector firms, with more than 500 employees, would miss the January 1, 1990 deadline for posting. (Ontario Pay Equity Commission: 1989f) Thirty-five percent of those employers surveyed who had completed their plans indicated that they would not be adjusting women's wages. (Ibid) Mitel Limited, an Ottawa-based computer firm, for instance, has announced that it does not need to make adjustments because "it is already paying men and women equitably". (Gorrie: 1989b, F1) Non-union nurses at Toronto's Hospital for Sick Children will also receive no wage increases. (Gorrie: 1990a, C2) Pay equity is coming slowly to some of

the women covered by the *Act*. The magnitude of the equity increases that will be paid to women by the companies which responded to the *Insight* survey, is unknown. Adjustments could be minimal and distorted by bias.

In non-union settings, where management is under no obligation to consult with workers on the pay equity issue, there is a greater potential for bias to enter the process. Unlike their unorganized counterparts, workers in unions must agree to the terms of pay equity with the employer. Unions, if the will is there, can play a crucial role in the implementation phase. They have financial resources as well as their own "experts" in this area to challenge employer intransigence and self-interest. After the plan has been implemented unions can ensure that Section Seven, which requires the maintenance of pay equity in compensation schemes, is enforced. Adjustments obtained by women in the public sector so far indicate that unions can help women reap benefits from this legislation.

The *Act* must be amended so that all Ontario women have the opportunity to benefit. All workers, regardless of whether they work on a full or part-time basis, or where they work should fall under its purview. Expanding the definition of "establishment" would enable those women, who are technically covered by the statute (Section 3 and Section 8(4)) but are disqualified because they are unable to find a male comparator, to benefit. The Equal Pay Coalition in a submission to the Commission in response to the legislated 1989 study (Section 33), has recommended that the municipal definition be replaced by a corporate one. (1988, 10) This would allow women to look for a suitable male comparator throughout all the employer's work places in the Province. Expanding the definition of employer to include *related employers* would prohibit the present practice of splitting corporate operations into several entities. (Ibid: 11) Magna International, which

employs 12,000 Ontario workers in 120 plants, with all but three employing less than 500 workers, is treating each of its divisions as a separate employer. This enables the corporation to delay posting and implementation. (Toronto Star: September 3, 1989) The term employer should also be expanded to include *dependent contractors* (Ibid: 10) These amendments would allow more women to qualify for, and receive wage adjustments earlier.

Amending the pay equity legislation is only one front on which the battle for equal pay and sexual equality must be waged. Other policies need to be formulated and enforced. The programs that are developed are predicated upon the policy maker's perception of the "problem". According to the human capital theorist, then, wage inequities can be eliminated by encouraging women to spend more time in the labour force, and to upgrade their educational qualifications. Although statistics indicate that this has transpired, more human capital has not translated into a substantial reduction in the wage gap. To address Becker's *discrimination coefficient* d , the portion of the gap unaccounted for by gender differences in productivity, laws that require equal pay for equal, or substantially similar work should suffice. These policies have been in place in many Canadian jurisdictions for almost thirty years but they have had a limited effect.

Segmentation theorists recognize that increases in human capital will not necessarily produce higher financial returns. Women cannot make use of their education because they are trapped in job ghettos. Extending the protection and benefits enjoyed by many workers in the primary sector to those employed in low paid, dead-end secondary sector positions would be more effective. Facilitating unionization in this sector would bestow underprivileged women of colour and white women with more power vis a`

vis management. (Gunderson and Reid: 1983, 19) Affirmative action policies would be useful in overcoming barriers erected by discriminating employers. In addition, policies aimed at dispelling myths about women and their work would be useful in combatting statistical discrimination. Women may then be given more opportunities to utilize skills acquired in the educational system and on-the-job, and be rewarded for them.

Feminists acknowledge that women's forced economic dependence upon men must be abolished. Recent studies indicate that the old adage, "just one man away from poverty" is still applicable. (See Bell, 1990; Gunderson, 1990) Many women can only access economic security through marriage. Enabling women to achieve independence, which subverts the patriarchy, will, however, require a plethora of initiatives. The constraints that women's work in the home places on their paid activities, a phenomenon overlooked in segmentation theory, is central to patriarchal control. The sexual division of labour within the household needs to be addressed and universal child care must be made available. This would enable women to take advantage of educational and job opportunities. Since gender inequality permeates every facet of social life, the productivity variables used in the decomposition of the wage gap cannot be deemed "objective". Education and work experience are tainted with gender bias. Policies aimed at eliminating pre-labour market discrimination, such as that in the educational system, are therefore necessary. (See Abella: 1984, Recommendations) The eradication of the discriminatory practices that operate outside of the labour market would, for instance, address some of the structural factors that restrict the effectiveness of affirmative action programs. If more women can graduate from engineering faculties, then, more women will be qualified to work in this profession. Attacking gender stereotypes and discriminatory attitudes, which

are inculcated in males and females from birth, will undoubtedly increase women's opportunities in the educational system and in the marketplace.

The minimum wage should be increased so that women at the bottom of job hierarchies, specifically immigrant and visible minority women, can get more money in their pockets immediately. (Equal Pay Coalition: 1988, 7) The Equal Pay Coalition recommends \$8.30 per hour. (Ibid: 16) Labour unions can also play a crucial role in closing the wage gap. Cornish notes that, on average, a woman earns \$3.35 per hour more if her job is unionized. (1986: 17) In contract negotiations, bargaining units can pressure management for equal base rates, flat rate wage increases and the elimination of incremental steps that precede the payment of the full job rate. (See Lewis: 1988, 114-116) Facilitating the organization of workers, who work full and part-time hours, will aid women in their struggle for workplace equality. These policy options, which flow from a feminist analysis of wage discrimination, are not, however, in the best interests of employers and patriarchal and capitalistic federal and provincial states.

All Canadian jurisdictions must move beyond equal pay for equal work, a concept that has been found to be ineffective. Whether they should legislate pay *equity*, however, is questionable. Other policies, which do not rely on the determination of job value, such as increasing the minimum wage, may be more efficient and useful, particularly to those women who are grossly underpaid. The Ontario Public Service Employees Union has proposed a method that can determine adjustments by calculating the linear relationship between the number of women in a job classification and the pay rate. This is predicated upon the same theory of wage discrimination as the *Pay Equity Act*, that is women's low pay is a function of "crowding". The OPSEU model, in contrast to pay equity, determines adjustments fairly

without evaluating and comparing job content, and offers employers less room for manipulation. The problem of gender inequality and plausible solutions need to be researched more thoroughly.

Questions for Further Research

A statement made by Julie Davis, Vice President of the Ontario Federation of Labour, in reference to Bill 154 raises some key questions about the effects of pay equity. The statute, she notes, "is a limited programme which will close *part* of the gap, for *some* women, in *some* work places, over a lengthy period of time." (Lewis: 1988, 78) Given the definition of establishment, the loopholes and the exclusions in the *Act*, how much of the wage gap can be expected to converge? When more employers have begun to phase-in wage increases, information should be made available so that a comprehensive study of the gap can be undertaken. In 1995, the year in which all public sector adjustments must be paid out, the Lieutenant and Governor in Council must appoint a person to review the *Act*. (Section 37) Perhaps results from this undertaking will yield some insight into changes in the economic status of Ontario women. It is also crucial that the long term effects of the legislation be monitored. Will, for instance, the gap widen after pay equity has been implemented?

This study has maintained that women in unions are likely to reap more benefits from the legislation than their unorganized sisters. The distributional effects of the legislation, then, need to be investigated. This may indicate whether the gap is widening between those women at the top of the female job ghetto, in the unionized public sector, and the immigrant and visible minority women at the bottom. The distribution, and the factors

that produce equity wage gains by women within certain industries would also be of interest. Early developments in the child care field indicate that workers employed by the municipality, who are able to find male comparators, may receive higher wages than non-civic child care employees. Ms. Brachi, co-ordinator of the non-profit Orde Day Care, claims, "this is creating two classes of women." (Pigg: 1990)

The position of women within the union also requires investigation. Does the participation of women in the pay equity process result in more women getting involved with regular contract negotiations? How is pay equity perceived by men and women in union and non-union settings? Do men see the process as a threat? The relationship between race/ethnicity and earnings, a topic which has been addressed extensively in the United States, needs to be studied in the Canadian context. This calls for theoretical developments on the interconnections of class, gender and race. Finally an examination of other strategies that might deliver more money to women would be useful, particularly to women in those jurisdictions where there is presently no pay equity legislation.

Although there are many problems associated with pay equity in Ontario and in various other jurisdictions throughout Canada, this study does not propose that such policies be dismantled. It's not working so let's get rid of it would be 'business' approach to the issue. The law, although weak, at least forces employers to address the problem. Moreover, some women are actually benefitting. The limitations of the legislation, however, must be elucidated and the notion that pay equity is a panacea to systemic wage discrimination must be dispelled. The policy is too narrow and weak while the problem is complex and pervasive. Those groups working with the legislation must endeavour not to become so preoccupied with the technical

details of the process that they forfeit the struggle for equality that lies ahead. Feminist organizations and the labour movement in Ontario and across the nation, coordinating their efforts, must pressure governments for improvements in existing legislation as well as broad policy initiatives that address the mechanisms which reproduce gender inequality. The fight for the elimination of discrimination against women is far from over.

Appendix A

Pay Equity Initiatives Across Canada.

Quebec

Model	Complaint
Mechanism	Legislation. <i>Charter of Human Rights and Freedoms</i> . 1975.
Coverage	All work places under its jurisdiction.

Canada

Model	Complaint
Mechanism	Legislation. <i>Canadian Human Rights Act</i> 1978
Coverage	Section 11. All work places under its jurisdiction.

Manitoba

Model	Pro-active.
Mechanism	Legislation. <i>Pay Equity Act</i> 1985
Coverage	Civil Service-effective October 1985. Crown corporations, universities, colleges and 23 largest health care facilities.- effective October 1986.
Time Frame	Four year phase-in period.
Adjustments	Minimum of 1 percent of previous year's annual payroll must be allocated to equity increases.
Complaint	
Mechanism	No

Appendix A.

Ontario

Model	Pro-active/Complaint
Mechanism	Legislation. <i>Pay Equity Act</i> 1987. Effective January 1, 1988.
Coverage	All public sector work places. All private sector work places - with the exception of those with 1-9 employees.
Time Frame	Varies according to sector and size of establishment.
Adjustments	Minimum of 1 percent of previous year's annual payroll must be used for equity wage increases.
Complaint	
Mechanism	Yes

The Yukon

Model:	Voluntary/Complaint-based.
Mechanism:	<i>Yukon Human Rights Act</i> passed February 1987. Section 14 contains an "equal pay for work of equal work" provision.
Coverage:	Applicable to the civil service, corporations, commissions, boards, schools and the college July 1, 1987. Municipalities, their corporations, boards and commissions December 10, 1987.
Adjustments:	Outlines minimum of one percent of payroll per year

Appendix A.

Prince Edward Island.

Model: Pro-active
Mechanism: Legislation - *Pay Equity Act* Effective January 1, 1989.
Coverage: Civil Service January 1, 1989
 Crown Corporations, regional school boards, Health care facilities, the university and college January 1, 1990.
Time Frame: 24 months to negotiate
Adjustments: Minimum 1 percent of previous year's payroll must be allocated to wage adjustments
Complaint mechanism Yes.

Nova Scotia

Model: Pro-active
Mechanism: Legislation
Coverage: Civil Service, two hospitals, corrections and highway employees. September 1, 1988.
 Crown corporations, school boards, other hospitals September 1, 1989
Time Frame: Employee and Employer representatives have 24 months to negotiate pay equity.
 Four year phase-in period.
Adjustments: No annual wage adjustment specifications.
Complaint Mechanism: No

Appendix A.

Newfoundland and Labrador.

Model:	Pro-active
Mechanism:	Collective agreement. <i>Pay Equity Agreement</i> June 24, 1988.
Coverage	Agreements have been reached between the government and five public service unions, covering workers in government departments, crown corporations, health care facilities, external agencies and community colleges.
Time Frame:	18 month negotiation period-start dates vary.
Adjustments:	five years phase in period maximum one percent of payroll for each of the first four years, remaining adjustments in the fifth year.
Complaint	
Mechanism:	No

New Brunswick.

Model:	Pro-active
Mechanism	Legislation <i>Pay Equity Act</i> Effective June 22.
Coverage	Part I of the Public Service (Phase I)
Time Frame	Twenty-seven months to negotiate agreement
Adjustments	Minimum of one percent of previous year's payroll for four consecutive years.
Complaint	
Mechanism	No

See Manitoba Labour, Pay Equity Bureau, *Equality at Work*, 4, no. 1 (April, 1989), p. 5, p. 12.

Appendix B

Convention No. 100 of the International Labour Organization

Article 1

For the purpose of this Convention -

- a) the term "remuneration" includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;
- b) the term "equal remuneration for men and women workers for work of equal value" refers to rates of remuneration established without discrimination based on sex.

Article 2

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women worker for work of equal value.

2. The principle may be applied by means of -

- a) national laws or regulations;
- b) legally established or recognized machinery for wage determination;
- c) collective agreements between employers and workers; or
- d) a combination of these various means

Article 3

1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.

2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.

Appendix B

3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.

Article 4

Each member shall co-operate as appropriate with the employers' and workers' organisations concerned for the purpose of giving effect to the provisions of this Convention.

Appendix C

Relevant Sections of the Ontario *Pay Equity Act*

6 - (1) For the purposes of this Act, pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate for a male job class in the same establishment where the work performed in the two job classes is of equal or comparable value.

(2) Where there is no male job class with which to make a comparison for the purposes of subsection (1), pay equity is achieved when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate of a male job class in the same establishment that at the time of comparison had a higher job rate but performs work of lower value than the female job class.

(3) If more than one comparison is possible between a female job class in an establishment and male job classes in the same establishment, pay equity is achieved when the job rate for the female job class is at least as great as the job rate for the male job class,

(a) with the lowest job rate, if the work performed in both job classes is of equal or comparable value; or

(b) with the highest job rate, if the work performed in the male job class is of less value.

8. - (1) This Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of,

(a)
a formal seniority system that does not discriminate on the basis of gender;

(b)
a temporary employee training or development assignment that is equally available to male and female employees and that leads to career advancement for those involved in the program;

Appendix C

(c)

a merit compensation plan that is based on formal performance ratings and that has been brought to the attention of the employees and that does not discriminate on the basis of gender;

(d)

the personnel practice known as red-circling, where, based on a gender-neutral re-evaluation process, the value of a position has been down-graded and the compensation of the incumbent employee has been frozen or his or her increases in compensation have been curtailed until the compensation for the down-graded position is equivalent to or greater than the compensation payable to the incumbent; or

(e)

a skills shortage that is causing a temporary inflation in compensation because the employer is encountering difficulties in recruiting employees with the requisite skills for positions in the job class.

(2)

After pay equity has been achieved in an establishment, this Act does not apply so as to prevent differences in compensation between a female job class and a male job class if the employer is able to show that the difference is the result of differences in bargaining strength.

(3)

A position that an employer designates as a position that provides employment on a casual basis may be excluded in determining whether a job class is a female job class or a male job class and need not be included in compensation adjustments under a pay equity plan.

Appendix C

(4)

A position shall not be designated under subsection (3) if,

- (a) the work is performed for at least one-third of the normal work period that applies to similar full-time work;
- (b) the work is performed on a seasonal basis in the same position for the same employer; or
- (c) the work is performed on a regular and continuing basis, although for less than one-third of the normal work period that applies to similar full-time work.

13- (6) Except for the purpose of making retroactive adjustments in compensation under a pay equity plan or unless required to do so by an order described in clause 36 (g), nothing in this Act requires an employer to increase compensation payable under the pay equity plans of the employer during a twelve-month period in an amount greater than 1 percent of the employer's payroll during the preceding twelve-month period.

Appendix D

Comparison Results

Ontario Public Service Pay Equity Plan

Female Job Class	Male Job Class	Difference in Compensation at the job rate
Audiologist	Specification Officer 3	\$2.12
Canteen Operator	Technician 3 Traffic	\$1.50
Cartographic Technician 3	Maintenance Mechanic 2	No adjustment
Child Care Worker 2	Agricultural Worker 4	\$2.55
Cleaner 1	Buildings Caretaker	\$1.17
Cleaner Office Buildings	Technician 3 Traffic	\$2.03
Community Development Officer 2	Specification Officer 3	\$0.33
Cook 1	Agricultural Worker 1	\$0.95
Counsellor 2 (Residential Life)	Clerk 6 Supply	\$2.07
Court Reporter 2	Ambulance Officer 4	No adjustment
Data Processing Technician 4	Ambulance Officer 4	\$0.64
Dental Assistant	Maintenance Mechanic 2	No adjustment
Dental Hygienist	Maintenance Machinist	No adjustment
Deputy 2 Administration of Justice	Cartographer 4	\$0.93
Deputy Senior 1 Administration of Justice	Technician 4 Road Design	\$2.63
Dietitian 1	Specification Officer 3	\$6.74
Economist 1	Technician 2 Engineering Office	\$2.76
Economist 2	Technician 2 Engineering Office	\$2.76
Employment Standards Auditor 1	Geologist Assistant 3	\$1.71
Hairdresser	Maintenance Mechanic 2	\$1.57
Helper Food Service	Technician 3 Traffic	\$1.03
Historical Research Officer 2	Specification Officer 3	\$4.08

Appendix D

Female Job Class	Male Job Class	Difference in Compensation at the job rate
Home Economist	Specification Officer 3	\$0.02
Housing Analyst 2	Agricultural Worker 4	No adjustment
Indian Development Officer	Ambulance Officer 4	No adjustment
Information Officer 3	Agricultural Officer 2	\$3.52
Instructor 2 (Occupational)	Clerk 6 Supply	\$2.07
Instructor 2	Clerk 6 Supply	\$2.07
Recreation & Crafts	Maintenance Mechanic 2	\$1.33
Laboratory Attendant 2	Specification Officer 3	\$0.13
Language & Citizenship	Technician 3 Traffic	\$1.03
Training Specialist 1	Technician 2 Engineering Office	\$2.02
Laundry Worker 2	Specification Officer 3	\$3.23
Legislative Assistant	Ambulance Officer 4	\$1.75
Editor	Clerk 6 Supply	\$2.07
Librarian 3	Geologist Assistant 3	\$2.41
Library Technician 3	Specification Officer 3	\$1.68
Medical Assistant 2	Scientist 2	\$0.54
Museum Assistant 2	Specification Officer 3	\$2.27
Nurse 2 Clinic	Specification Officer 3	No adjustment
Nurse 2 General	Agricultural Worker 4	No adjustment
Nurse 2 Nursing Education	Specification Officer 3	\$3.89
Nurse 2 Public Health	Technician 2 Engineering Office	No adjustment
Nurse 2 Special Schools	Technician 1 Construction	\$1.32
Nutritionist 1	Maintenance Mechanic 2	\$2.38
Occupational Therapist 3	Technician 4 Road Design	No adjustment
Office Administration 8	Maintenance Machinist	No adjustment
Operator 2 Microfilm	Clerk 6 Supply	\$2.07
Pharmacist - Staff	Biologist 2A	\$1.25
Pharmacy Technician 1	Technician 2 Engineering Office	\$3.19
Psychiatric Nursing Assistant 2		
Psychometrist 1		
Records Officer 2		

Appendix D

Female Job Class	Male Job Class	Difference in Compensation at the job rate
Residence Counsellor 2	Clerk 6 Supply	\$1.34
Sewer 1	Technician 3 Traffic	\$1.44
Social Worker 2	Specification Officer 3	\$2.12
Speech Therapist	Specification Officer 3	\$2.13
Supervisor 1 Food Services (B/U)	Technician 3 Traffic	\$1.03
Technician 1 Chemical Laboratory	Maintenance Machinist	\$0.49
Technician 2 Chemical Laboratory	Maintenance Machinist	\$0.49
Technician 1(B) X-Ray	Agricultural Worker 4	No adjustment
Technologist 1 Medical Laboratory	Ambulance Officer 4	No adjustment
Translator 3	Agricultural Officer 2	\$1.18
Travel Counsellor 3	Agricultural Worker 4	\$2.01
Volunteer Services Assistant	Cartographer 4	\$4.28
volunteer Services Organizer	Specification Officer 3	\$5.54
Welfare Field Worker 2	Technician 4 Road Design	\$4.06

Source: "Ontario Public Service Pay Equity Plan" Signed February 28, 1990.

Appendix E **Canadian Union of Public Employees** **Pay Equity Settlements**

Selected School Board Results

Local	Female Job	Pay Equity Increase
1176 Grey County Board	Educational Assistant	\$1.19/Hour.
1229 Timiskaming Board	Cafeteria Manageress	\$1.74/Hour
	Janitor	\$1.87/Hour
	Cafeteria Worker	\$0.14/Hour
1939 Kenora Board	Custodial Helpers	\$1.02/Hour
	Accounts Payable	\$0.03/Hour
	Board Secretary	\$0.32/Hour
	Head Secretaries	\$1.23/Hour
3152 Sault Ste. Marie Roman Catholic Separate School Board	Machine Operator	\$0.50/Hour
	Payroll Clerk	\$0.50/Hour
	Switchboard Operator	\$0.50/Hour
	P/T Clerk	\$2.58/Hour
	Secondary School Secretary	\$3.62/Hour
	Clerk Typist	\$1.54/Hour
	Dept. Secretarial	\$3.62/Hour
	Elementary School Secretary	\$4.60/Hour
	Revenue & Accounts Clerk	\$0.62/Hour
	Special Ed. Secretary	\$3.62/Hour
	Secretary-Curriculum	
	Co-ordinator	\$4.60/Hour
	Secondary Secretary	\$7.63/Hour
	Benefits Clerk	\$3.65/Hour

Appendix E

Local	Female Job	Pay Equity Increase
<hr/>		
3152 (cont.)	Senior Secondary Secretary	\$5.82/Hour
	Secretary - Resource Centre	\$3.65/Hour
332 and 1791 Elgin County Board	Office Manager	\$2.15/Hour
	Assistant Payroll	
	Clerk	\$3.81/Hour
	Elementary Secretary	\$3.42/Hour
	Assistant Secretary	\$3.42/Hour
	Paraprofessional	\$2.66/Hour
	Clerk	\$2.87/Hour
	Bookkeeper	\$1.41/Hour
	Mini-computer	\$1.02/Hour
	Part-time Custodian	\$2.18/Hour

Source: Canadian Union Public Employees, "Equal Times; CUPE Pay Equity Newsletter." no. 8 (March, 1990)

Appendix F

Canadian Union of Public Employees Selected Hospital Settlements

Local	Female Job	Pay equity increase
<hr/>		
3043 Women's College Hospital	R.N.A. (Family Practice & Operating Room)	\$2.90/Hour
	R.N.A. - General	\$2.90/Hour
	ANTE - NATAL Technician	\$3.16/Hour
	NON - REG. Nursing Assistant	\$0.44/Hour
	A.V. Technician	\$1.49/Hour
	Aide	\$0.14/Hour
	Cashier	\$0.51/Hour
	Cleaner I	\$0.72/Hour
	Kitchen/Cafeteria I	\$0.52/Hour
	Film Librarian	\$1.21/Hour
3082 Whitby General	RNA	\$1.26/Hour
	Pur. Clerk	\$2.89/Hour
	O.R. Aid	\$0.96/Hour
	Dietary Aid	\$0.36/Hour
1657 Ottawa General	R.N.A.	\$2.34/Hour
	Nurses Aid	\$0.92/Hour
	Lab. Asst. III	\$0.54/Hour
	Lab Asst. II	\$0.32/Hour
	Food Service Aid	\$0.76/Hour

Source: Canadian Union of Public Employees, "Equal Times; CUPE Pay Equity Newsletter." no. 9 (March, 1990)

Appendix G **Canadian Union of Public Employees** **Selected Municipal Settlements**

Local	Female Job	Pay Equity Increase
<hr/>		
87		
Township of Shuniah	Clerk 1	\$7,424.72 Annually
	Clerk 2	\$5,139.13 Annually
	Clerk 3	\$ 83.80 Annually
528.3		
Corporation of the Town of Kingsville	Senior Office Clerk	\$1.65/Hour
	Office Clerk "A"	\$1.99/Hour
	Office Clerk "B"	\$2.04/Hour
	Probationary Workers	\$1.93/Hour
	Temporary/Casual	\$1.54/Hour
20. City of Vanier	Horticulturalist	\$1.22/Hour
	Steno, Public Worker	\$0.52/Hour
	Library Technician	\$1.14/Hour
	Library Clerk	\$0.58/Hour
	Clerk Typist	\$0.49/Hour
1385		
*City of Stratford	Clerk II	\$2.14/Hour
	Clerk II - social Service	\$2.33/Hour
	Clerk Secretary - Parks and Recreation	\$1.48/Hour
	Clerk IV Social Service	\$1.67/Hour
	Clerk II	\$3.12/Hour
	Bookkeeper	\$2.46/Hour
	Day Care Housekeeper	\$3.71/Hour
	Payroll clerk II	\$2.88/Hour
	Tax Off. Clerk II	\$4.60/Hour
	Accounting Clerk	\$2.98/Hour
	Senior Payroll Clerk	\$5.42/Hour
	Day Care Teacher	\$6.35/Hour
	Assistant Day Care Supv	\$6.52/Hour

*The employer has agreed to achieve pay equity by July 1, 1991.

Source: Canadian Union of Public Employees, "Equal Times; CUPE Pay Equity Newsletter." no. 11 (June, 1990)

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