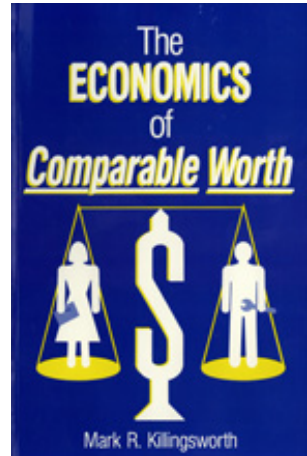

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Introduction

Mark R. Killingsworth
Rutgers University



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The Economics of Comparable Worth

Duane E. Leigh

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Introduction

Comparable worth was one of the most hotly debated employment issues of the 1980s, and seems certain to provoke controversy into the 1990s. Its supporters range from the National Organization for Women to the Association of Junior Leagues, from the AFL-CIO to the staunchly conservative Republican mayor of Colorado Springs, Colorado. Opponents have called it “socialism in drag”; one Federal judge has contended that it is “pregnant with the possibility of disrupting the entire economic system of the United States of America.” Several bills before Congress have called for studies of the federal civil service pay structure along comparable worth lines. The 1988 Democratic platform endorsed comparable worth; the Republican platform rejected it.

The basic notion underlying comparable worth is simple: jobs of the same worth should receive the same pay. (An obvious corollary is that jobs of different worth can legitimately receive different pay.) In a sense, the concept is long established: since the late nineteenth century, the “worth” of different jobs has been a concern of personnel managers, industrial psychologists, industrial engineers and others responsible for developing pay systems.

In a different sense, however, comparable worth is a relatively recent development stemming from concerns about the labor market status of women. Present day advocates of comparable worth (or “pay equity,” as it is sometimes called)¹ readily agree that predominantly female jobs such as nursing, teaching or library work differ from predominantly male jobs such as plumbing, tree trimming or truck driving. However, they argue that predominantly female jobs are all too often paid considerably less than predominantly male jobs that, although dissimilar in

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terms of their functions and duties, are nevertheless comparable in terms of a composite of factors such as skill, effort, responsibility and working conditions, and that such underpayment of women's jobs is discriminatory.² Nor is this problem likely to be alleviated by other means, say the proponents: the average earnings of full time, year round female workers have remained at about two-thirds of the figure for similar male workers—essentially unchanged for the past 20 or 25 years—and other kinds of antidiscrimination measures (e.g., Title VII of the Civil Rights Act, the Equal Pay Act, Executive Order 11246) can be expected to work slowly if at all in alleviating labor market discrimination. Hence the case for a new antidiscrimination remedy: comparable worth.

Comparable worth received a degree of official recognition when, at the end of the Carter administration, the National Research Council's Committee on Occupational Classification and Analysis issued a report, commissioned by the Equal Employment Opportunity Commission, which endorsed the concept in measured but unequivocal terms (Treiman and Hartmann, eds., 1981, pp. 66–7):

The committee is convinced by the evidence, taken together, that women are systematically underpaid. Policies designed to promote equal access to all employment opportunities will affect the underpayment of women workers only slowly. Equal access to employment opportunities may be expected to be more effective for new entrants than for established workers and more effective for those who have invested less in skills than for those who have invested more. Since many women currently in the labor force have invested years of training time in their particular skills (e.g., nursing, teaching, librarianship, and secretarial work), access to other jobs (e.g., physicianship, plumbing, engineering, or sales) may not be preferred. For these reasons the committee believes that the strategy of "comparable worth," that is, equal pay for jobs of equal worth, merits consideration as an alternative policy of intervention in the pay-setting process wherever women are systematically underpaid.

Both before and after the NRC report, proponents of comparable worth attempted to advance the concept—primarily focusing on state

and local government employment – both by litigation under Title VII of the Civil Rights Act and by lobbying (e.g., legislation, changes in union contracts, administrative revision of pay scales). The latter route has produced considerably more success for comparable worth advocates than the former.

Most court cases alleging discrimination against women on the grounds that predominantly female jobs were paid less than comparable male jobs have gone against female plaintiffs. In general, the federal courts have been unwilling to declare such situations to be discriminatory, even when the plaintiffs could present evidence, based on job evaluations,³ that the predominantly female and predominantly male jobs in question were indeed “comparable.”

A relatively early example is *Christensen v. Iowa* (563 F.2d 353 (8th Cir. 1977)), in which predominantly female clerical workers at the University of Northern Iowa argued that they had been discriminated against because their jobs received lower pay than predominantly male physical plant jobs even though the university’s job evaluation system put the two job categories in the same labor grade and assigned equal point values to both. The university argued that the wage difference simply reflected different wage rates prevailing in the external labor market, and the Eighth Circuit Court of Appeals apparently agreed, saying, “We do not interpret Title VII as requiring an employer to ignore the market in setting wage rates for genuinely different work classifications.” Similar cases (e.g., *Lemons v. City and County of Denver*,⁴ in which nurses employed by the City of Denver argued that their jobs were paid less than predominantly male jobs – tree trimmers, sign painters, real estate appraisers – that required less training and skill) have met with the same fate. In 1983, a federal district judge ruled in *AFSCME v. State of Washington* (578 F.Supp. 846 (1983); 770 F.2d 1401 (9th Cir. 1985), *reh’g den.*, 813 F.2d 1034 (1987)) that the state had discriminated against its women employees by paying predominantly female jobs less than comparable predominantly male jobs, but in 1985 the Ninth Circuit Court of Appeals reversed the district court’s ruling on all counts, echoing its prior decision, which also rejected comparable worth claims, in *Spaulding v. University of Washington* (740 F.2d 686 (1984),

cert. denied, 105 S.Ct. 511 (1984)).⁵ More recently, the federal courts have rejected comparable worth claims in lawsuits brought by state government employees in Michigan (*International Union, UAW, v. State of Michigan*, 673 F.Supp. 893 (ED Mich. 1987), *aff'd sub nom.*, *International Union, UAW, v. State of Michigan*, no. 87-2228 (6th Cir. Sept. 28, 1989)) and in California (*California State Employees' Association v. State of California*, no. C-84-7275, U.S. District Court (ND Calif. October 3, 1989)).

Developments on the lobbying front have generally been more successful for proponents of comparable worth. No entirely comprehensive survey exists. It appears, however,⁶ that about 30 state governments have at least begun to undertake formal job evaluation studies to determine whether compensation does reflect the "worth" of predominantly female as well as predominantly male jobs, and that over a dozen states have adopted changes to bring about a greater correspondence between jobs' pay and their assessed worth. Comparable worth wage adjustments have also been implemented at the local government level, either by negotiation (Colorado Springs, Colorado), as the result of a strike (San José, California), by administrative decision (Los Angeles), or adoption and implementation of a charter amendment (San Francisco). The Ninth Circuit's appellate decision notwithstanding, Washington State and the American Federation of State, County, and Municipal Employees (AFSCME) agreed in January 1986 to settle *AFSCME v. State of Washington* out of court. The settlement provided for pay adjustments for predominantly female jobs costing an estimated \$482 million, and was hailed by the governor and the chief negotiator for the largest state employee union as a victory for comparable worth (*New York Times* 1986).

Finally, comparable worth studies of federal employment are also a real possibility. On several occasions since 1984, the Congress has considered legislation calling for a study of the pay system in the federal civil service aimed (among other things) at determining whether the worth of predominantly female job classifications was reflected in pay rates; in each case, the legislation has passed the House of Representatives but has died in the Senate.⁷

In contrast, developments bearing on comparable worth in the private sector have been negligible (*Wall Street Journal* 1985a). Recent years have seen no comparable worth litigation in which private firms were defendants. Some firms, including telephone companies and other employers of electrical workers, are reported to have made some pay adjustments along comparable worth lines; these firms have not, however, publicly disclosed the cost of these adjustments (*New York Times* 1989b). Advocacy groups have purchased stock in several companies (including Aetna, Cigna, Kimberly-Clark and J. P. Morgan) and have then introduced resolutions for the firms' shareholders' meetings calling for the companies to pay their employees on the basis of comparable worth. None of these resolutions has been approved, however (*IRRC News for Investors* 1988, p. 125; 1989a, p. 38; 1989b, p. 118). In Wisconsin, employer groups played a leading role in defeating legislation that would have required state government employee pay to be set along comparable worth lines; in neighboring Minnesota, employer groups said little about a 1982 law (discussed at length in chapter 4) requiring comparable worth for state government employees but have since mobilized against application of comparable worth to the private sector (*Washington Post* 1985). In 1988, the Province of Ontario, Canada, adopted a law requiring comparable worth in both the public and the private sectors. Reaction of business groups has been mixed: organizations representing small employers have remained stoutly opposed, but groups representing large employers have professed willingness to wait a year before judging the law (*Wall Street Journal* 1988a,b). (For further discussion of developments in Canada, see *New York Times* 1989a, Hutner 1986, pp. 41–58, and Gunderson and Riddell 1988, pp. 458–467. Willborn 1989 discusses developments in Great Britain.)

At the national level, the Reagan administration actively opposed comparable worth, particularly during its second term (1985–89). During the 1984 presidential campaign, the ranking member of the President's Council of Economic Advisers criticized comparable worth as "a truly crazy idea" and a "medieval concept," and the President's press spokesman—saying he was expressing President Reagan's views—said the concept was "nebulous" and would represent "an unprecedented

intrusion into our private affairs” (*New York Times* 1984). In 1984, the U. S. Department of Justice filed an *amicus curiae* brief in support of the State of Illinois, which was being sued by the American Nurses’ Association on comparable worth grounds;⁸ and in 1988 it filed an *amicus* brief in support of the State of Michigan, which was being sued on similar grounds by the United Auto Workers.⁹

Perhaps the most vociferous opposition to comparable worth within the Reagan administration came from the U. S. Commission on Civil Rights, whose former staff director, Linda Chavez, often criticized the concept and whose then chairman, Clarence M. Pendleton, Jr., called it “the looniest idea since Loony Tunes came on the screen.” In June 1984 the Commission held extensive hearings on the issue (U. S. Commission on Civil Rights, 1984); in April 1985, the Commission voted by a 5–2 margin to urge Congress and government agencies to reject the doctrine of equal pay for jobs of comparable worth (*New York Times* 1985a; U. S. Commission on Civil Rights 1985). The U. S. Equal Employment Opportunity Commission followed suit in June 1985; its five commissioners voted unanimously that federal law does not require employers to give equal pay for different jobs of comparable worth (*New York Times* 1985b).

The Bush administration is unlikely to change the attitude of the federal government and its civil rights policy and enforcement agencies towards comparable worth: as noted earlier, the 1988 Republican platform rejected the concept, and the then Vice-President’s campaign speeches on employment discrimination were limited to expressions of support for equal pay for *equal* work, presumably as embodied in the Equal Pay Act of 1963.¹⁰

The volume of debate on comparable worth—in the courts, Congress, government agencies, the news media, public forums and even scholarly journals—has been considerable. On the whole, however, the quality of the debate has been sadly deficient. Two features of the public debate seem particularly unfortunate. First, in much of the controversy, both proponents and opponents have failed to define terms and concepts clearly—even the concept of comparable worth itself.¹¹ Relatively little effort has been devoted to describing, in concrete terms, what would be

involved in implementing and enforcing a policy of equal pay for jobs of comparable worth. Still less attention has been devoted to the ways in which such a policy would resemble or differ from existing anti-discrimination policies (e.g., under the Civil Rights Act).

A second problem with the public debate on comparable worth is that the protagonists have often been preoccupied with essentially ideological and normative issues, to the almost total exclusion of important conceptual and empirical questions.¹² (Indeed, some of the protagonists seem to be concerned more with questions about how labor markets operate, e.g., whether labor markets are better described by neo-classical or institutional models, than with questions about the merits of requiring “equal pay for jobs of comparable worth.”) Both sides in the debate seem to agree that comparable worth is intended to serve as a means of redressing some of the economic effects of discrimination against (or labor market segregation of) women. The likely effects, however, of actual or potential comparable worth policies on labor market outcomes for women—on wages, employment, etc.—have received relatively little attention. Even less thought has been devoted to comparing the likely impacts of comparable worth measures with the effects of other antidiscrimination measures (e.g., enforcement of Title VII of the Civil Rights Act).

The basic objective of this monograph is to contribute to the debate about comparable worth in two ways. First, I want to provide a clear statement of the definitional and conceptual issues surrounding comparable worth: although policy decisions are ultimately a matter of ideology and normative judgments, such choices can be shaped and informed in important ways by careful dissection of definitional and conceptual questions. Second, I want to analyze the actual or potential effects of comparable worth. One of the most important criteria in the evaluation of any proposed policy is the question of its actual (as opposed to its intended) impact on key “outcome” measures. By analyzing economic models of how comparable worth might work in alternative labor market settings, and by performing empirical studies of the effects of comparable worth measures that have actually been implemented, I hope to contribute significantly to understanding how com-

parable worth (or comparable worth-like measures) would actually work in practice.

One general remark seems appropriate at the outset: since I am an economist, my discussion focuses on *economic* aspects of comparable worth. Other aspects of comparable worth (e.g., legal questions) have been discussed elsewhere (see, e.g., Becker 1984, 1986; Blumrosen 1979, 1986; Clauss 1986; Dean, Roberts and Boone 1984; Fischel and Lazar 1986a-b; Freed and Polsby 1984; Gold 1983; Heen 1984; Holzhauser 1986; Nelson et al. 1980; Stone 1985; Stone, ed. 1987; Weiler 1986; and *Yale Law Journal* 1981), and I have no special expertise in fields other than economics. Accordingly, it seems appropriate to exploit the principle of comparative advantage, and to focus on economic rather than other aspects of comparable worth.

The plan of this work is as follows. Chapter 2 discusses definitions, concepts and analytical issues: the basic premises underlying comparable worth and practical details of implementing it; the nature of labor market discrimination and the question of whether equal pay for jobs of comparable worth is nondiscriminatory; analysis of how adoption of comparable worth might affect wages and employment of men and women. Chapter 3 is concerned with empirical questions: conventional economic and comparable worth studies of the actual magnitude of the female/male pay gap, and methodologies for analyzing the actual effects on wages and employment of adoption of comparable worth policies. Chapters 4–6 describe the adoption of comparable worth or comparable worth-like policies in three different settings—San José, California; Minnesota; and Australia—and present analyses of the effects of these policies on wages and employment. Chapter 7 summarizes the work and presents the main conclusions.

NOTES

¹ Some writers appear to use “comparable worth” and “pay equity” interchangeably; others appear to regard “pay equity” as synonymous with nondiscrimination in pay and “comparable worth” as one means (among others) to that end.

² In principle, there is no reason why comparable worth is not as pertinent to minorities as it is

to women. However, proponents of comparable worth appear, for the most part, to regard the problem of unequal pay for jobs of comparable worth as affecting women more than minority men (see, e.g., Treiman and Hartmann, eds., 1981, esp. pp. 9, 28). The Rev. Jesse Jackson's speech to the 1988 Democratic National Convention referred to "working women seek[ing] comparable worth" (*New York Times*, 1988a); the Democratic platform referred to "pay equity for working women" (*New York Times*, 1988b).

³ See chapter 2 for a discussion of job evaluation methods. In brief, such evaluations assign "points" to jobs on the basis of characteristics (skill, effort, responsibility, working conditions, and the like), with jobs receiving many points (i.e., requiring much effort, involving onerous working conditions, etc.) being deemed to have a greater "worth" than jobs receiving few points.

⁴ 17 FEP Cases 906 (D. Col. 1978), 620 F.2d 228 (10th Cir., 1980), *cert. denied*, 449 U. S. 888 (1980).

⁵ As noted below, the parties ultimately agreed to settle out of court, rendering moot a request made by the plaintiffs for a rehearing *en banc* by the Ninth Circuit. For detailed discussions of the case, see Remick (1988) and Willborn (1989).

⁶ See Bureau of National Affairs (1981), Cook (1984), and (quoting a survey conducted by the National Committee on Pay Equity) *The New York Times* (1987).

⁷ For a summary of developments in Congress through 1988, see U. S. Congress, House (1988).

⁸ The ANA contended that nurses in state government employment were paid less than persons in predominantly male jobs that, according to Illinois' job evaluation results, were comparable in terms of skill, effort, responsibility and working conditions. The federal district court decision (606 F.Supp. 1313 (1985)) dismissed the ANA's suit on the basis of arguments similar to those used in *Christensen*. On appeal, the Seventh Circuit (783 F.2d 716 (7th Cir., 1986)) reversed the district court and remanded the case for further proceedings on the grounds that although the ANA had alleged intentional sex discrimination, the state had answered only on the theory that plaintiff's entire claim was based on comparable worth. The appellate court made clear, however, that it also rejected the ANA's complaint to the extent that it raised comparable worth issues, and intimated that the complaint might not survive a future motion for summary judgment if plaintiffs failed to produce evidence that went beyond comparable worth.

⁹ See *International Union, UAW*, mentioned earlier in this chapter. In the interest of full disclosure, I should note that I served as a consultant and expert labor economist for the defendant (the State of Michigan) in this litigation.

¹⁰ For example, see the then Vice-President's July 24, 1988, address to a convention of business and professional women's clubs (The Vice President, Office of the Press Secretary, 1988), which expresses support for "equal pay for equal work" but does not mention "comparable worth" or "pay equity."

¹¹ The same comment applies even to discussions of the issue by neutrals interested primarily in reporting, rather than debating, the issue. For example, the Bureau of National Affairs (1981, p. 1) discusses "several interpretations of the 'comparable worth' doctrine," including (a) "the 'pure' comparable worth doctrine," according to which "discrimination exists when workers of one sex . . . in one job category are paid less than workers in a totally different job category . . . when the two groups are . . . , in some sense, of 'comparable worth' to their employer" (emphasis added); and (b) "the 'common' comparable worth doctrine," according to which "discrimination exists when workers of one sex in one job category are paid less than workers of the other sex in the same

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general job classification... when the two groups are performing work that is not the same in content but that is *of comparable worth* to the employer in terms of requirements" (emphasis added). The circularity of both of these definitions is evident.

¹² An exception is a 1986 symposium on comparable worth in the *University of Chicago Law Review* (Fischel and Lazear 1986a-b, Holzhauser 1986 and Becker 1986).