9-1-1998

The Effect of Legislation in Promoting Equal Pay for Women

David F. Marx

Follow this and additional works at: https://scholarsarchive.byu.edu/byuplr

BYU ScholarsArchive Citation
Available at: https://scholarsarchive.byu.edu/byuplr/vol12/iss1/11

This Article is brought to you for free and open access by the All Journals at BYU ScholarsArchive. It has been accepted for inclusion in Brigham Young University Prelaw Review by an authorized editor of BYU ScholarsArchive. For more information, please contact scholarsarchive@byu.edu, ellen_amatangelo@byu.edu.
The Effect of Legislation in Promoting Equal Pay for Women

David F. Marx

For many years women yearned for the passage of the Equal Pay Act (EPA). Although proponents of the EPA were ultimately successful in gaining passage of their bill, their efforts have not produced the results they desired. Today, women average seventy-four cents for every dollar men make. This has increased from 1970 when women averaged fifty-nine cents for every dollar men made (Altman, par. 4). But proponents of the EPA hoped for better results. This paper will discuss the effects of the EPA and some of the reasons why, despite its existence, women continue to receive lower pay than men.

When the EPA was passed in 1963 proponents of the bill received opposition from several business leaders. These leaders feared that passage of the bill would force them to increase the salaries of women employees, resulting eventually in decreased profits for their companies (Hutner 27). To prevent this from happening, these leaders and some politicians vigorously opposed the passage of the EPA.

For the EPA to pass, proponents needed to
compromise some of the language of the bill. These proponents wanted to gain equal pay for comparable work, which entails work requiring similar amounts of training and skill. In order to appease its opponents, however, the U.S. House of Representatives decided to narrow the scope of the bill's language (Fogel 20).

Dorothy Haener of United Auto Workers said:

In order to get the legislation enacted in 1963, the compromise was made, accepting the severely limited language of "equal pay for work requiring equal skill, effort and responsibilities done under similar working conditions in the same establishment." It was a compromise that had to be made in order to get any legislation at all after over 17 years of effort. (Hutner 23)

Instead of giving equal pay for comparable work, the EPA requires that employers pay the same wage to male and female workers doing equal work. This language is much narrower than equal pay for comparable work. To be covered by the EPA, women must do the same work as men, work for the same company, and still be paid less than their male co-workers.

Although passage of the EPA was hailed by many, its actual effect has been minimal. This is because most women do not perform the same jobs as men. Women tend to seek jobs that have traditionally been held by women and men tend to seek jobs that have been traditionally held by men. This segregation makes it difficult to ensure equal pay by merely enacting legislation.

The main reason why women do not receive the same wages as men is not due to employer discrimination against women. Victor R. Fuchs, an investigator of gender-based salaries, said:

In my opinion, most of the 40 percentage points [difference between male and female average hourly earnings] can be explained by the different roles assigned to men and women. We have not found . . . evidence that employer discrimination is a major direct influence upon male/female differentials in average hourly earnings. (Fogel 8)

One solution to this problem is for women to seek jobs that have traditionally been held by men. They would thus receive higher wages. Legally, if a woman is doing the same job as a man, she should receive the same pay. More women are now seeking these jobs but the number is still small in comparison to the number seeking traditionally female jobs. One reason for this is that society seems to steer women in the direction of these jobs. Women sometimes lack the training needed to gain traditionally male jobs, and, as a result, sometimes fail to realize that such jobs are even open to them. Some theorists argue that differences in gender make women more comfortable in jobs that have traditionally been held by women (Morris and Nott 104).

Proponents of the comparable worth philosophy believe that women should be able to continue to work in jobs that have traditionally been held by women and receive the same pay as men who are working in jobs.
compromise some of the language of the bill. These proponents wanted to gain equal pay for comparable work, which entails work requiring similar amounts of training and skill. In order to appease its opponents, however, the U.S. House of Representatives decided to narrow the scope of the bill's language (Fogel 20).

Dorothy Haener of United Auto Workers said:

In order to get the legislation enacted in 1963, the compromise was made, accepting the severely limited language of "equal pay for work requiring equal skill, effort and responsibilities done under similar working conditions in the same establishment." It was a compromise that had to be made in order to get any legislation at all after over 17 years of effort. (Hutner 23)

Instead of giving equal pay for comparable work, the EPA requires that employers pay the same wage to male and female workers doing equal work. This language is much narrower than equal pay for comparable work. To be covered by the EPA, women must do the same work as men, work for the same company, and still be paid less than their male co-workers.

Although passage of the EPA was hailed by many, its actual effect has been minimal. This is because most women do not perform the same jobs as men. Women tend to seek jobs that have traditionally been held by women and men tend to seek jobs that have been traditionally held by men. This segregation makes it difficult to ensure equal pay by merely enacting legislation.

The main reason why women do not receive the same wages as men is not due to employer discrimination against women. Victor R. Fuchs, an investigator of gender-based salaries, said:

In my opinion, most of the 40 percentage points [difference between male and female average hourly earnings] can be explained by the different roles assigned to men and women. We have not found... evidence that employer discrimination is a major direct influence upon male/female differentials in average hourly earnings. (Fogel 8)

One solution to this problem is for women to seek jobs that have traditionally been held by men. They would thus receive higher wages. Legally, if a woman is doing the same job as a man, she should receive the same pay. More women are now seeking these jobs but the number is still small in comparison to the number seeking traditionally female jobs. One reason for this is that society seems to steer women in the direction of these jobs. Women sometimes lack the training needed to gain traditionally male jobs, and, as a result, sometimes fail to realize that such jobs are even open to them. Some theorists argue that differences in gender make women more comfortable in jobs that have traditionally been held by women (Morris and Nott 104).

Proponents of the comparable worth philosophy believe that women should be able to continue to work in jobs that have traditionally been held by women and receive the same pay as men who are working in jobs
traditionally held by men. Some economists, however, argue that the market sets wages, and that if a job performed by a woman were equal in value to a job performed by a man, then the pay would be equal (Hutner 9).

Proponents of comparable worth claim that it is politics, not the market, which sets the pay scale. They argue that since women have traditionally worked to earn extra money while men worked to support families, women have always received less money than men. Further, society was more concerned about paying a fair salary to men because men were perceived to need money more than women. In short, it is not the value of their jobs which differs between men and women but the way society values the different genders (Kessler-Harris 105-106).

Comparable worth issues the call for the revaluation of women. Proponents claim that women have the right to seek jobs that they have traditionally held. Women should be paid the same as men and still be able to seek jobs that utilize such qualities as nurturing and maintaining good relationships (125). Proponents of comparable worth are no longer satisfied with achieving equal pay for equal work. They want women's work to be valued the same as men's (125).

On average, women earn a lower rate of return on their education and skills than men. Supporters of comparable worth point to the fact that women receive lower wages whose skills and levels of education are similar to those of men. This, they claim, is not right (Michael, Hartmann, and O'Farrell 134).

Even women who do seek traditionally male jobs often encounter problems. Many people stereotype women and do not look at them as individuals. Employers often think a woman will only want to work at their companies for a couple of years before having children. Even if women continue to work after having children, employers sometimes assume these women are less committed to their work than men and ultimately less valuable to their companies (Morris and Nott 104-105, 133).

Because of these assumptions employers sometimes spend less time and money training women, thinking that the training will be wasted. Women, therefore, often do not advance as quickly or as often as men. This lack of training and confidence by employers partially explains why, even in careers that are hiring many more women than in the past, women still rarely make it to the top of a company.

Some women often equate “female” jobs as worth less than “male” jobs. As a result, many are satisfied earning less than men. Even if a woman does occupy a job traditionally held by a man, she may compare her salary to that of other females and think she is earning a good wage. Women are therefore less likely than men to seek high wages (Michael, Hartmann, and O’Farrell 94).

These problems show why legislation is currently ineffective and will probably be ineffective in the future. One recent attempt to ensure fairness is the Paycheck Fairness Act. This bill, which has not yet been passed, strengthens the Equal Pay Act by allowing compensatory and punitive damages and by making class action lawsuits
traditionally held by men. Some economists, however, argue that the market sets wages, and that if a job performed by a woman were equal in value to a job performed by a man, then the pay would be equal (Hutner 9).

Proponents of comparable worth claim that it is politics, not the market, which sets the pay scale. They argue that since women have traditionally worked to earn extra money while men worked to support families, women have always received less money than men. Further, society was more concerned about paying a fair salary to men because men were perceived to need money more than women. In short, it is not the value of their jobs which differs between men and women but the way society values the different genders (Kessler-Harris 105-106).

Comparable worth issues the call for the revaluation of women. Proponents claim that women have the right to seek jobs that they have traditionally held. Women should be paid the same as men and still be able to seek jobs that utilize such qualities as nurturing and maintaining good relationships (125). Proponents of comparable worth are no longer satisfied with achieving equal pay for equal work. They want women's work to be valued the same as men's (125).

On average, women earn a lower rate of return on their education and skills than men. Supporters of comparable worth point to the fact that women receive lower wages whose skills and levels of education are similar to those of men. This, they claim, is not right (Michael, Hartmann, and O'Farrell 134).

Even women who do seek traditionally male jobs often encounter problems. Many people stereotype women and do not look at them as individuals. Employers often think a woman will only want to work at their companies for a couple of years before having children. Even if women continue to work after having children, employers sometimes assume these women are less committed to their work than men and ultimately less valuable to their companies (Morris and Nott 104-105, 133).

Because of these assumptions employers sometimes spend less time and money training women, thinking that the training will be wasted. Women, therefore, often do not advance as quickly or as often as men. This lack of training and confidence by employers partially explains why, even in careers that are hiring many more women than in the past, women still rarely make it to the top of a company.

Some women often equate “female” jobs as worth less than “male” jobs. As a result, many are satisfied earning less than men. Even if a woman does occupy a job traditionally held by a man, she may compare her salary to that of other females and think she is earning a good wage. Women are therefore less likely than men to seek high wages (Michael, Hartmann, and O'Farrell 94).

These problems show why legislation is currently ineffective and will probably be ineffective in the future. One recent attempt to ensure fairness is the Paycheck Fairness Act. This bill, which has not yet been passed, strengthens the Equal Pay Act by allowing compensatory and punitive damages and by making class action lawsuits
more viable. It fails, however, to achieve equal pay for comparable work (Altman, par. 12).

In order to effect change, people must change their perceptions. The value of work traditionally done by women must be revalued to allow a rate of return equal to that of jobs traditionally held by men. However, these changes are difficult to achieve through legislation. Employers cannot be forced to change the value they place on certain jobs. Women must continue to demand higher wages for the work they perform.

In addition to revaluing their work, women must receive the same training and opportunity for advancement as their male co-workers. This result may be achieved through legislation, but must also be achieved through the demands of both women and men.

Works Cited


more viable. It fails, however, to achieve equal pay for comparable work (Altman, par. 12).

In order to effect change, people must change their perceptions. The value of work traditionally done by women must be revalued to allow a rate of return equal to that of jobs traditionally held by men. However, these changes are difficult to achieve through legislation. Employers cannot be forced to change the value they place on certain jobs. Women must continue to demand higher wages for the work they perform.

In addition to revaluing their work, women must receive the same training and opportunity for advancement as their male co-workers. This result may be achieved through legislation, but must also be achieved through the demands of both women and men.

**Works Cited**


