Program-Evaluation Criteria
Applied to Pay Equity in Ontario

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The complexities involved in pay equity, especially with many of the design and implementation features, have been frequently emphasized.¹ In this analysis, a set of generic program-evaluation criteria are outlined and applied to pay equity in general and the Ontario program in particular. The intent is to provide a systematic framework for highlighting the inevitable trade-offs that are involved in the design and implementation of any policy initiative, and to highlight lessons that may be learned from the Ontario experience. The criteria pertain to: target efficiency; vertical equity; horizontal equity; allocative efficiency; administrative cost; transparent process; flexible, adaptable and reversible; and politically acceptable.²

When appropriate, illustrations from three case studies are used to highlight some of the program-
evaluation issues. These case studies were conducted in three firms chosen to be representative of “typical” situations with respect to pay equity: (i) a traditional manufacturing firm with a large majority of male blue-collar workers; (ii) a public hospital employing mainly women; and (iii) a relatively new telecommunications firm with a mixed workforce. In each firm, we had a thorough discussion with the human resources (HR) officer in charge of pay equity when the law was implemented, complemented by an examination of all the written documents available on the matter. The persons involved were then asked to validate the information contained in this paper. The Appendix provides a comparison of the three cases under more than 15 dimensions grouped under four headings: (i) description of the firm; (ii) description of its workforce; (iii) description of the implementation of the pay equity process; and (iv) the outcome of this process. These case studies were supplemented with interviews with two consultants, each of whom were involved in the pay equity process of more than 100 firms, mainly in the private sector.

TARGET EFFICIENCY

Target efficiency refers to the extent to which a program assists as many persons in the target group by as much as possible without having the benefits spill over into the non-target groups. In the case of pay equity, the target group would be persons in female-dominated jobs whose pay is “undervalued,” although the real target is likely to be women in such female-dominated jobs. The appropriateness of this target could be questioned, especially in light of the recent evidence in Baker and Fortin (1999, 2001) indicating that females in Canada (unlike in the US and unlike males in Canada) are not significantly penalized by working in female-dominated jobs.

By being proactive and requiring a pay equity plan to be in place whether or not there has been a complaint, the Ontario scheme certainly expands its scope beyond the complaints-based systems, where complaints are likely to be rare because of the information problems, transactions costs, and fear of reprisals. Furthermore, the proportionate value and proxy comparisons are designed specifically to assist those who otherwise would be bypassed because of a lack of male comparator groups. Nevertheless, substantial numbers can still be bypassed if they are in any of the following situations: mixed or even male-dominated jobs; small establishments that are excluded from coverage; private sector jobs that are excluded from proxy comparisons; gender-biased job-evaluation procedures; and establishments that pay low wages to all of their employees. More important, given the complexities of the procedure, it very likely can be “managed” or manipulated to alter the coverage of the target group, especially in the private sector and in non-union environments.

Furthermore, if there is an adverse employment effect from the pay increases, then this will harm some as they move from an “undervalued” job to no job. Economists have been keen in denouncing such perverse effects that could theoretically result from pay equity. The nature of the empirical evidence (mainly US and Australian) on these effects is, however, controversial (Gunderson 1989a, 1994). In a more recent study, based on estimating a complete system of public sector input demand equations for the state of Iowa, Mattila, Orazem and Turk (1996) found public sector employment to be more responsive to wage changes than in most previous studies, and hence their simulation results indicated substantial reductions in employment from comparable worth. On this matter, one of the consultants we interviewed mentioned a case where pay equity had adverse employment effects: a marginally profitable organization, employing only women and constrained by a fixed budget, had to reduce employment because of the pay increase resulting from the pay equity process. In the same vein, at the hospital in our case studies, some respondents had the impression that the substantial pay increase given to regular nurses led the managers to reassess the ratio of regular versus auxiliary nurses required to perform certain duties, resulting in a reduction in nurse employment.
With respect to the dimension of assisting the target group by “as much as possible” the magnitudes of the pay increases for those receiving the pay equity adjustment can be substantial. The adjustments are designed to close the full “undervaluation gap” of the difference in pay between male-dominated and female-dominated jobs of the same value. This is the case whether adjustment is based on the direct job-to-job comparisons or the indirect proportionate value or proxy comparisons. However, the adjustments may not close the undervaluation gap, even for those who receive the adjustments, if they are in the following situations: they had no male comparator group of the same value and had to use a lower value male comparator that has low pay because of its low value; there were multiple male comparators of the same value and they had to use the lower valued male job class; the particular male comparator group was undervalued internally with respect to other male jobs (e.g., it would have been a negative deviation below a male pay line), although it could also have been overvalued; the male job rate (which is the maximum male rate in the job class) was unusually low while the female job rate was unusually high; or female salaries were adjusted only to a lower bound of a band of the salaries of comparable male jobs.

More important, given the complexities of the procedure, it very likely can be “managed” to yield small, token adjustments, as was the case with the coverage dimension. This is especially likely to be the case in the private sector, where the process can be managed with less public scrutiny than in the public sector, and where the profit constraint can be particularly binding. Actually, among our case studies, the wage adjustments were more important in the public firm than in the private ones.

With respect to the dimension of minimizing spillover benefits to non-target groups, pay equity can yield substantial benefits to males in the female-dominated jobs since they also receive the adjustment. This “leakage” can be substantial in jurisdictions like Ontario that define female-dominated as 60 percent or more females, implying that up to 40 percent of the recipients can be male. Of course, this would not be considered a leakage if such males were seen as discriminated against because they were in undervalued female-dominated jobs; nevertheless, it can be a substantial leakage in terms of closing the overall male-female wage gap. It is also possible that spillover benefits could go to non-target groups (e.g., those in mixed occupations within the same establishment, or non-covered groups elsewhere) if their pay is indirectly drawn up by pressure to restore former relative pay structures. The spillover effects could also be negative, however, if pay equity adjustments reduce the pool of funds that could be allocated elsewhere, or if persons who experience an adverse employment effect from pay equity create an excess supply of labour that reduces wages elsewhere.

**Vertical Equity**

Vertical equity refers to the degree to which a program assists the most disadvantaged groups. It requires the “unequal treatment of unequals” in the sense of targeting the benefits to the most disadvantaged.

Pay equity is not intended to be an equity- or distribution-oriented program to provide more redress to the most disadvantaged outside the disadvantaged status associated with being in an undervalued female-dominated job. It is not intended to be an anti-poverty program or a program designed to reduce income inequality. Nevertheless, it would generally be considered a desirable side effect if it did this, and it may be considered an undesirable feature if it exacerbated poverty or widened the distribution of income.

Pay equity may assist the more disadvantaged groups to the extent that female-dominated jobs are at the lower end of the wage spectrum. Furthermore, it does provide “unequal treatment for unequals” because it provides an adjustment for female job classes that have unequal pay relative to comparable
male job classes, and the adjustment is larger the greater the inequality in pay. The proportionate value method is likely to disproportionately help the more disadvantaged since they are in jobs of low pay and low job-evaluation scores that do not have a lower-valued male comparator group. The same applies to the proxy method since it tends to apply to low-paying establishments (e.g., homes for the aged, halfway houses, daycare centres, food or laundry services for hospitals).

Yet these are at best exceedingly blunt instruments to reduce poverty or income inequality since such individuals may well be in higher income families. Furthermore, as discussed above, any adverse employment effect is likely to exacerbate poverty. As well, to the extent that pay equity applies more to the public sector than to the private sector or it is more effective in unionized environments, then it is being applied more in areas that already reduce wage disparity.

Overall, it is difficult to judge pay equity according to the extent to which it facilitates vertical equity. It does not help the most disadvantaged, nor does it appear to be regressive in the sense of protecting the privileged position of high-income persons.

**Horizontal Equity**

Horizontal equity refers to the degree to which a program provides equal treatment to persons of equal status — the “equal treatment of equals.” It corresponds to our notion of fairness in the sense of people in similar situations being treated similarly not subject to arbitrary procedures.

Pay equity is specifically designed to provide horizontal equity between persons in male-dominated jobs and female-dominated jobs in the sense of providing “equal pay for work of equal value.” If the jobs are judged of equal value they are to be given equal treatment in terms of pay. Furthermore, the proportionate value and proxy comparisons are designed to ensure that groups are not bypassed simply because they do not have male comparator groups. In fact, the Ontario Court decision *(Service Employees’ International Union, Local 204 v. Attorney General of Ontario)* that restored proxy comparisons can be regarded as having done so for reasons of horizontal equity to ensure that groups that could not find male comparators still had a means of redress that was available to otherwise similar groups that had male comparators.

Nevertheless, pay equity can involve strong elements of horizontal inequities whereby similar groups can receive vastly different treatment. An individual who is in an occupation that is, say, 58 percent female in Ontario could be in a job that is just as likely to be undervalued than an otherwise similar person in an occupation that is 60 percent female, and yet that person may miss a wage adjustment in the neighbourhood of $5,000 per year in perpetuity. An individual who is in the private sector, and therefore ineligible for proxy comparisons, may miss a similar adjustment that could go to an otherwise similar person who just happens to be in the public sector and hence eligible for proxy comparisons. This “notch” problem or sharp discontinuity can occur every time there is a discrete eligibility rule such as being in the public sector, or having ten or more persons in the establishment, or the occupation being 60 percent or more female. Such rules obviously serve other purposes, but they can create severe horizontal inequities, especially when such large wage adjustments can be involved.

Similar horizontal inequities can be involved if there is, as discussed above, an adverse employment effect from the wage-fixing aspect of pay equity. Amongst a set of otherwise very similar people, some may have a job at a considerably higher wage, and others may have no job at all.

Similar issues can arise under the various possible wage adjustment procedures (detailed in Gunderson, forthcoming). An adjustment procedure
that raises female jobs to the male pay eliminates not only the systematic difference between female-dominated and male-dominated pay lines, but also the random deviations around the female pay line. The elimination of random deviations around the female pay line means that the adjustment can be quite different for individuals within the female-dominated jobs, even if they are very close to having the same job-evaluation point scores.

A pay-line-to-pay-line adjustment procedure would take care of this horizontal inequity by giving the same adjustment to all female jobs (assuming a similar slope to the male and female pay lines). But this would create an internal inequity since the female jobs that were previously paid above the female pay line (i.e., positive deviations) would be above the male pay line and female jobs that were previously below the female pay line (i.e., negative deviations) would be below the male pay line and hence still underpaid relative to male jobs of the same value.

The job-to-job adjustment (as is the conventional practice in Ontario) can also create horizontal inequities in that very different adjustments can go to groups who are otherwise very similar in the sense that they have similar job-evaluation scores, but are matched to unusual male comparators.

A further and even more complex horizontal inequity can occur with the proportionate value calculation as used in Ontario. That procedure essentially projects the male pay line below the sample range of the male jobs and into the range of lower job-evaluation scores to provide a hypothetical or phantom male comparator line that indicates the expected wage that male jobs would get if they also had those low job-evaluation scores. It is the case, however, that the prediction error about that line increases as the projection moves away from the mean of the male data, which is obviously the case when it is projected to the lower value scores where there are no male jobs. This means that the uncertainty around the appropriate adjustment for those female jobs could be quite high. They may get an adjustment say of $4,000 as they are moved to the projected male pay line, but it could be the case that the appropriate adjustment should have been $1,000 or $10,000. The horizontal inequity occurs insofar as there is greater uncertainty around their correct adjustment simply because they happen to be in a range of job-evaluation scores where there is a large prediction error around the hypothetical male pay line.

The proxy comparison method can also involve horizontal inequities for the proxy organizations picked for comparison purposes. They are required by law to incur the cost of providing the information to the seeking organization, and they are not reimbursed for these costs. As such, a proxy organization would incur such costs, while an identical organization that did not happen to be picked as a proxy organization would not have to incur such costs.

These outcomes associated with horizontal equity, although possible theoretically, were not raised by any of the respondents we interviewed. This may only reflect that the complexity of these issues is not necessarily well-understood by people on the floor.

Allocative Efficiency

Allocative efficiency refers to the degree to which a program minimizes distortions to the efficient allocation of resources. Advocates of pay equity tend to argue that pay equity fosters the efficient allocation of resources by ensuring that persons in female-dominated jobs are paid the “worth” of their job, where worth is established by job-evaluation procedures.

Economists tend to argue that job-evaluation procedures involve an administrative concept of value (akin to the concept of value in “use”) rather than the economic concept of value as determined by the
interaction of supply and demand (akin to the concept of value in “exchange.”) This is analogous to the diamond-water paradox where water has high value in use but little value in exchange given its abundance, while diamonds have little value in use but high value in exchange.

Economists tend to emphasize that price-fixing above the competitive norm (including any wage-fixing legislation like pay equity) interferes with the efficient allocation of resources. It discourages persons from leaving the so-called undervalued jobs, and it discourages employers from hiring more of such persons. In other words, it discourages the very market forces (respectively, reductions in supply and increases in demand) that would otherwise reduce discriminatory wage differentials. Obviously, this view of the market as “part of the solution” conflicts with the view of the market as “part of the problem” to the extent that the market gave rise to discriminatory wage differentials in the first place.

To the extent that pay equity does interfere with the efficient allocation of resources, its most egregious effects in this area may be mitigated somewhat by the allowable exemptions that usually exist. This is the case, for example, with the exemptions for merit, or skill shortages or temporary training or development assignments as exist in the Ontario legislation.

It may also be the case that pay equity can have positive efficiency effects in such areas as work organization or pay structure. In our interviews, we were able to document certain positive effects in this line. For instance, one consultant we interviewed mentioned that, in two places, through the job-description process involved in pay equity, people discovered that certain tasks were performed by two persons. The consultants also pointed out that in most firms where they intervened (and in the three firms in our case studies), the managers chose to evaluate all the jobs and not only those that were “female-dominated” or “male-dominated,” which in their opinion, has improved the overall coherence of the pay system in these firms. In the same vein, in the hospital, the human resources manager we interviewed told us that the pay equity process made them more conscious about the “compensation consequences” of their decisions. For instance, in a recent re-engineering process, they asked themselves at the outset how the new distribution of responsibilities would affect compensation, a preoccupation they would not have had without the pay equity experience. McDonald and Thornton (1998) report similar effects from interviews they conducted in 27 private firms in Ontario.

Certain analysts (Rhoads 1993) have also talked about positive efficiency effects such as reduced turnover or improved morale. It is, of course, very difficult to verify the existence of such effects, although one example was given to us by the HR manager we interviewed in a manufacturing firm. He perceived that, in his plant, the pay equity process has improved employee loyalty. Indeed, the fact that the wage adjustment was minimal ($30 per month for one category of workers) reinforced employee feeling about the fairness of the treatment they received. Of course, all these positive efficiency effects we just discussed beg the question of why employers did not institute them in the first place if the adjustments “paid for themselves.”

**Minimize Administrative Costs**

A program is generally considered desirable if it attains its objectives with a minimum of real resources being used up in the administration of the policy. In that vein, it is important to make a distinction between transfer costs and real resource costs. With transfer costs, what one group loses another gains. There is no direct loss to the system as a whole; the pie is simply redistributed. Real resource costs in contrast use up real resources that are therefore not available for other purposes. They are lost from the system; the size of the pie itself is shrunk.
Pay equity can certainly involve transfer costs. The positive adjustment that goes to recipients comes from employers. They in turn ultimately pass much of it forward to consumers in the private sector or taxpayers in the public sector. As well, some may be passed backwards to other workers if there is a relatively fixed wage bill to distribute. The costs to employers (and ultimately to consumers, taxpayers, and other workers), however, are transfer costs since they are benefits to the recipients. What one group loses another gains. The size of the pie remains the same except for indirect losses that may come from second-order efficiency effects.

Pay equity, however, can also involve substantial real resource costs in designing, implementing, administering, and litigating the system. This can be the case at each and every step in the pay equity process, given the complexities and technical expertise that is involved. Real resource costs are involved in every aspect: pay equity committees and their training; job-evaluation procedures; consultants; lawyers, experts and tribunal resources if cases are contested; time spent by the parties preparing for and participating in any hearing process; revamping the compensation structure; administering the adjustment process; and managerial time devoted to managing the process. These real resource costs are “eaten up” in the process; they represent shrinkage in the pie that can otherwise be distributed to the parties. As aptly stated by Debra Lewis (1991, p. 225): “that’s the final beauty of pay equity as a reform: it simply consumes so many resources that there’s little left for anything else.”

These costs are likely to be particularly large in a system like Ontario where separate pay equity plans are established for each organization and within each organization, separate plans are required for each bargaining unit and for non-union employees in organizations covered by collective agreements. This is in contrast, for example, to the situation in Manitoba and most US cases where a single plan was negotiated for the relevant government employees (Gunderson 1995, p. 241; Manitoba Civil Service Commission 1988). The costs are also likely to be disproportionately large for smaller organizations that tend not to have more formal job-evaluation procedures or compensation policies.

Solid evidence on the extent of the administrative costs associated with pay equity is extremely scarce, in part because of the difficulty of quantifying the different activities and separating out the component attributable to pay equity alone. Nevertheless, some figures have been cited. Based on evidence from the mid-1980s, Robb (1987, p. 453) cites job-evaluation costs per employee to be in the neighbourhood of $200 to $300 for large employers and $300 to $400 for small employers. Survey evidence of Ontario employers indicates the “administrative cost of developing their plan,” on per employee bases to be:15 $173 for public employers; $88 for large private employers with 500 or more employees; $168 for medium-sized employers with 100 to 499 employees; and $150 for small employers with 50 to 99 employees. These are likely to be lower bound estimates since it is not clear as to whether they also include the actual cost of the job-evaluation procedure — a cost that can be substantial as indicated in Robb (1987). In their survey of private sector Ontario firms, McDonald and Thornton stated that “a majority of firms (58 percent) in our sample, however, find pay equity to be a significant administrative burden, with a common complaint being the indirect cost (time away from work)” (1998, p. 201).

Based on these figures, in some back-of-the-envelop calculations, Gunderson (1994, p. 88) estimated the administrative costs for 20 percent of the individuals in an establishment who may receive an award, to be approximately $750 or about 20 percent of the average award of around $4,000. That is, about 20 cents of every dollar transferred is “eaten-up” in the employer’s cost of administering the system. This may be an underestimate to the extent that it does not include the actual cost of the job-evaluation procedure, or the hidden indirect cost (e.g., managerial time) or the cost to other parties.
It may be an overestimate to the extent that it does not net out other benefits that may result from the process. Furthermore, many of the administrative costs may be one-time only, while the pay equity adjustments may continue.

Based on her consultations across the province, Read also indicated: “For some smaller private sector employers, the cost of compliance sometimes exceeded the actual adjustment made” (1996, p. 4). That is, more than 100 percent of the adjustment would get “eaten-up” in the real resource cost of administering the system. She cites (ibid., p. 38) survey evidence from the Canadian Federation of Independent Business indicating that for small businesses the total cost of consulting fees averaged around $5,400, which was considerably higher than the total amount of around $4,000 that went into wage adjustments. In their survey of private sector firms in Ontario, McDonald and Thornton indicate that “the consultant’s fees were much higher than the subsequent wage adjustments” (1998, p. 194). Two of the three firms that served as our case studies hired a consultant.

As an illustration of the costs incurred, we present the process that was involved in the hospital that served as one of our case studies. First, a job description had to be done for all occupations by people working in HR services. The job description was then presented to the supervisors who submitted them to all workers for approval. Four pay equity committees (one for every bargaining unit and one for non-unionized workers), each of them involving five or six persons, then proceeded to the job evaluation after an evaluation grid was designed. This took many weeks, involving countless numbers of meetings. The results of the job evaluation and the consequent wage adjustment were then presented to supervisors before being posted. Once the plan was posted, HR officers had to meet a large number of workers to discuss the results and the wage adjustment they received. The follow-up with unsatisfied workers was long and painful. The whole process took more than a year (the same as in the telecommunications firm). The pay equity law also requires that firms maintain pay equity, which means that every time a job description is changed (because of re-engineering, or a worker uses a new piece of equipment, etc.), the pay equity process has to be done again.

When the pay equity system was first conceived in Ontario, it is not likely that the complexities and “litigation nightmare” were anticipated. Nor were the long delays and legal wranglings of the tribunal over seemingly simple, but inherently complex and important matters. Examples of issues dealt with by the tribunal include: the definition of the establishment and the employer; gender composition of the job; gender bias in job evaluation; appropriateness of certain male comparators; exemptions for bargaining strength; retroactivity in the wage adjustment; language difficulties in understanding the pay equity plan; disclosure of documents; the possibility of an “officially induced error” if a review officer gives an opinion; the rights of employees to paid time off to participate in the tribunal hearing; and procedures for dealing with “changed circumstances” as when there is the sale or merger of an organization, or the restructuring of work.

The job-to-job comparison procedures were likely utilized because of the apparent simplicity of comparing one job to another once the appropriate comparison group was established — not anticipating the complexity of selecting the comparison group. This could be minimized by allowing the estimation of pay lines, but that, too, can give rise to endless technical wrangling. The problem of a lack of male comparator jobs was not likely anticipated, nor was the complexity of proportionate value methods (with their pay lines) or proxy comparisons to close those loopholes. Regulations beget further regulations to close the loopholes, with the process often bordering on the impenetrable to all but a few. Of course, there is money to be made by such complexities, but that money does not go to those for whom the system was designed to assist.

No litigation was mentioned in any of our case studies, but a dozen complaints had to be resolved
locally in the hospital and in the telecommunications firm. The consultants we interviewed talked about the one litigation in more than 100 firms they dealt with that was finally settled out of court.

**Transparent Process and Mechanisms**

In general, it is desirable that a program be transparent, with its processes well-understood. This facilitates the implementation as well as “buy-in” by the stakeholders, and it reduces the suspicion that naturally arises when new programs are introduced.

In one case before the tribunal, the employer retained the services of a major consulting company to provide the parties with consultative services and to draft material necessary for the pay equity plan.\(^{21}\) Even with that material in hand, the tribunal indicated in its decision that “What is not clear from the evidence is how the parties arrive at the gender dominance of the job classes” (p. 3). “The parties did not consider benefits in the calculation of job rates” (p. 3). “The parties agreed to develop a banding system of 30 points per band. We have no evidence as to why a banding structure of 30 points was agreed to especially when the total maximum number of points in the system is 1000” (p. 4). “The parties also agreed to a pay policy of $0.96 job rate differential from band to band. This pay policy or wage line, was developed by simply identifying the highest paid job and the lowest scored job — both of which happened to have been male-dominated job classes — and connecting the two points disregarding the rest of the evaluated jobs. We do not have any evidence as to what formula, if any, was used to determine the job rates for each band” (p. 5). Clearly, when the transparency of the process is not evident to the tribunal when it has the written material, it will not likely be evident to the person on the shop floor or to the lay public.

The complexities of the pay equity process as described above make it doubtful that the process is transparent and well-understood. This is certainly the case for the person on the shop floor and it is even likely to be true for higher level personnel. At the hospital which served as one of our case studies, the HR manager said that the implementation of the pay equity process would not have been possible without the training provided by the Pay Equity Commission. At the telecommunications firm, a consultant was hired specifically to interpret the requirements of the law. At the manufacturing firm, a specific communication plan was designed for the workers to understand the outcome of the pay equity process. Furthermore, the parties involved in administering and litigating the system can have a vested interest in making the system more complex since it then increases the demand for their services. Some feel that complexity tends to be a natural by-product of the involvement of lawyers and economists. As stated by Willborn: “This complexity should be expected. Many lawyers and economists are interested in comparable worth, and if there is one universal truth, it is that the complexity of an issue increases in direct proportion to the number of economists and lawyers dealing with it” (1989, p. 157).

This complexity makes the program vulnerable to being interpreted only by “experts.” It is also likely to raise suspicions even by those who receive an adjustment. Recipients may not even know that their wage adjustments emanated from pay equity. This was demonstrated by the evidence from the Minnesota experience.\(^{22}\) Apparently, neither the union nor management wanted this known, since then they could then claim credit for the increase.

**Flexible, Adaptable and Reversible**

In general, it is desirable for a program to be flexible and adaptable so that it can adjust to a changing environment, and even dissipate if the need disappears. Programs can develop a life of their own, especially if bureaucratic empires and vested self-interests develop around them. Even those who are regulated, and who initially strongly resisted the program, often support their continuation in part
because they have already adjusted to the program, and they want to make sure that new competitors will also have to comply.

The Ontario pay equity program does not have a formal “sunset” clause which indicates that it will exist only for a finite time period unless renewed. However, the legislation specifies that once pay equity is achieved, it only has to be maintained. Also, it can obviously be repealed (as was Ontario’s short-lived Employment Equity Law), although subcomponents like proxy comparisons cannot be repealed if such changes have a disparate impact on particular subgroups. The tribunal and the Human Rights Board of Inquiry have recently merged, and the library of the commission (along with the libraries of the Ontario Labour Relations Board) were merged into the library of the Workplace Safety and Insurance Appeals Tribunal. Both the Read (1996) report and the Red Tape Review (Sheehan 1997) recommended reverting back to a complaints-based approach, and the Read report recommended that the Pay Equity Commission revert back to a complaints-based approach, and the Read report recommended that the Pay Equity Office become a specialized, but separate Board of the Ministry of Labour. She also recommended elimination of the requirement that the tribunal be tripartite. The effective implementation can also be affected by budget changes. In essence, the policy does not appear cast in stone if needs change. Furthermore, there is no evidence that the original needs for the program have dissipated over time in that the discriminatory pay gap that could be reduced by pay equity has now been closed.

**Politically Acceptable**

In general, it is considered desirable if a program is politically acceptable to the main stakeholder so as to facilitate “buy-in” or at least reduce resistance that could otherwise thwart the establishment and implementation of the program. This can be especially important in programs like pay equity since the complexity provides ample opportunity for thwarting the intent. Of course, there is a trade-off since political acceptability can also lead to compromises that effectively emaciate the program, especially since the “powers that be” which have to be placated presumably gave rise to the problem in the first place.

The Ontario pay equity program has numerous features designed to facilitate political acceptability. Union buy-in was facilitated by various features: separate pay equity plans for each bargaining unit and for non-bargaining units; exemptions for pay differences arising from seniority or bargaining strength (the latter after pay equity has been achieved); the potential “deemed” approval by the Pay Equity Commission of plans that are negotiated by an employer and union (Handman and Jensen 1999; Todres 1990). Resistance on the part of employers was also reduced by a number of other features: exemptions for merit, skill shortages, red-circling, temporary training and development, and casual employees; phasing first into the public sector then into large private employers and then smaller employers; optional development of a pay equity plan for employers with 10 to 49 employees and exemptions for employers with fewer than ten employees; maximum adjustment of 1 percent of payroll per year until pay equity is achieved; exemption of private sector employers from proxy comparisons; and the fact that the plans had to be posted, but not filed with the commission (Cuneo 1991; Armstrong and Armstrong 1991). Of course, there is also the possibility that employer resistance was reduced by the fact that the complexity of the legislation would make it nearly impossible to enforce in a systematic fashion.

**Summary and Concluding Observations**

Pay equity can be a complex procedure even if it is intended to be simple. That very complexity can give rise to negative features when judged according to program-evaluation procedures. Not all persons in the target groups are assisted in a manner sufficient to fully redress their problem. Significant spillover benefits can leak to non-target groups. Otherwise
similar groups can receive very different treatment. The process may foster rather than break down the sex segregation of jobs. Significant real resources can be used up in the administration and implementation of the complex procedures. Such procedures are not transparent, nor well-understood by the parties.

Our assessment is that these negative features, especially associated with the complexity of the policy, are a significant barrier to the effective implementation and wider adoption of the policy. Pay equity runs the real risk of “imploding” under its own weight. The problem is exacerbated by the fact that simple rules for its application are elusive. Rather than closing loopholes, further regulations seem to add more complexity, begetting even further regulations. The pie gets eaten up in the process of being administered.

These problems appear to be inherent in the nature of the policy, at least when it is applied proactively and on unit-by-unit bases, as is inevitable when applied to the private sector. This raises the danger that the legislation will be ignored because it is unwieldy, a possibility enhanced by the fact that settlements have been much smaller in the private sector than the public sector.

The case studies we used to illustrate some of the issues raised by pay equity were particularly useful to show the administrative burden associated with implementing it. However, an unexpected benefit seems to emerge from the process (at least, according to the people we talked to), that is, the development of a more up-to-date and coherent pay system.

Pay equity was instituted in large part because of the limitations and ineffectiveness of conventional equal pay policies in reducing the male-female wage gap.25 Unfortunately, we know remarkably little about the overall effectiveness of initiatives like Ontario’s pay equity programs. We know that Ontario is a leader in the world in the area of pay equity, and we know that this system has turned out to be complex, but we have remarkably little evidence on the bottom-line question: Has pay equity been successful in closing the wage gap or in achieving other social objectives?26

NOTES

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1See references cited in Gunderson (2002).

2Application of similar criteria to poverty programs are given in Gunderson (1983) and for sector councils in Gunderson and Sharpe (1998).

3Proportionate value involves estimating a pay line between pay and job-evaluation points in male-dominated jobs and then extending that pay line downward over the range of points of the lower-valued female-dominated jobs for which there is no comparable male comparator job. The proxy method allows comparisons with a proxy organization in cases where direct comparisons or indirect proportionate value comparisons are not possible. These procedures and the evolution, mechanics and other intricacies of pay equity in Ontario are provided in Gunderson (2002).

4McDonald and Thornton (1998, p. 193), for example, find that only 15 percent of female workers in their analysis of 27 private sector firms in Ontario received adjustments. Handman and Jensen (1999) state that “one of the most significant problems with the PEA [Ontario Pay Equity Act] is the number of women who are excluded from its benefits in the private sector as a result of lack of male comparators or the small size of the enterprise.” Gunderson (1995, p. 239) also cites evidence that wage adjustments occurred in only about 20 percent of the female-dominated jobs in the private sector, compared to 40 percent in the public sector.

5Examples are given in McDonald and Thornton (1998, p. 195). Overall, they find that 37 percent of Ontario firms in their analysis had not complied with the legislation or had manipulated it to reduce costs. Findlay (1991, p. 81) indicates that “Almost 50 percent of the women in
workplaces covered by the act are unable to claim pay equity adjustments under it.”

6 Adjustments in the early years of the Ontario legislation ranged from $400 to $13,500, averaging around $4,000 or 22 percent for those receiving an increase (Gunderson 1995, p. 238), an amount that was similar to adjustments in several cases in the federal complaints-based system (Gunderson 1989b).

3 McDonald and Thornton (2001, p. 362), cite the case of an Ontario university where female salaries were raised to equal 90 percent of comparable male salaries — dubbed the 10 percent gender tax. Haignere (1991, p. 169) cites an Ontario university that defined male jobs as involving a band of plus or minus 7 percent around the job-evaluation scores. “This meant that a 14 per cent point band could be used to search for a male comparator with a lower salary. If one could be found within the band, then no raise had to be given.” Examples of banding used in other jurisdictions are given in Steinberg (1991, pp. 202, 203).

9 In the private sector in Ontario, for example, pay equity adjustments were much smaller than in the public sector, in spite of the evidence that wage discrimination is likely to be larger in the private compared to the public sector (Gunderson 1989a, p. 52). In the private sector, for example, only about 20 percent of the female-dominated jobs received an adjustment amounting to less than 1 percent of payroll, compared to about 40 percent of female-dominated jobs in the public sector, amounting to about 2.2 percent of payroll (Gunderson 1995, p. 240). From a survey of 27 private firms, McDonald and Thornton (1998) reported that 57 percent of the firms in their sample gave adjustments to 10 percent or fewer of their female employees. The data we gathered in our case studies also reflect this reality. Wage adjustments were modest in private firms (one category of job received a $30/month adjustment in the manufacturing firm; 300 persons, out of 2,000, received a $200–$500/year adjustment in the telecommunications firm). In the hospital, wage adjustments were more substantial (from $0.40 to $2.42 an hour), with more than 50 percent of the workforce being affected.

11 Based on her consultations across Ontario, Read (1996, p. 17) referred to “the disappointment felt by women who received small or no adjustments,” and “differing pay equity outcomes amongst workforces in the same sector,” and perceptions of pay equity outcomes being “inconsistent.” Similar comments were reported by the people we interviewed in a hospital where the pay equity process was fairly extensive. In particular, many workers had problems understanding the difference between job evaluation and performance evaluation, and felt that low-wage adjustments reflected a poor appreciation of their performance.

12 Although it is not possible to document the extent to which each of these rules contribute to the pay equity adjustments, the fact that wage adjustments occurred in about 20 percent of the female-dominated jobs in the private sector compared to 40 percent in the public sector, and the adjustments were twice as likely to occur in large establishments compared to smaller ones in the private sector, suggests that the rules are important (Gunderson 1995, p. 239).

13 The University of Western Ontario, for example, “brought the female payline up to the male payline by giving every individual in a traditionally female job an annual increase of about $3,200” (Haigere 1991, p. 168).

14 Evidence of this is found in Kahn (1992) based on US data, although it is the case that such jobs are no longer undervalued. Orazem and Mattila (1998), however, indicate that comparable worth can raise the portion of
females in both male-dominated and female-dominated jobs because the elasticity of female labour supply is greater than the elasticity of male supply in female-dominated jobs, but less in male-dominated jobs. Therefore, as real wages increase in female-dominated jobs, females disproportionately enter those jobs, and as real wages decrease in male-dominated jobs, males disproportionately leave.

15The figures for public and large employers are from SPR Associates (1991), for medium-sized employers from Canadian Facts (1992, p. 45), and for small employers from Canadian Facts (1993, p. 43).

16Experts in the area have indicated to us that consultants costs would be typically in the neighbourhood of $10,000 to $15,000 if mostly internal people were involved in the evaluation, with the figure being more in the neighbourhood of $25,000 for the larger consulting firms. In general, a consultant’s intervention involved: (i) training and explanation of the requirements of the law; (ii) assistance for job description; (iii) suggestion of a job-evaluation method and assistance to implement it; (iv) participation in the pay equity committee; and (v) suggestions of wage adjustments.

17These litigation issues are discussed in Fudge (1991a,b), Fudge and McDermott (1991), and McDermott (1991).

18McDonald and Thornton (2001, p. 362) report that negotiations over pay equity went on for over six years at the University of Western Ontario. That pales in comparison, however, to the 15 years (1984 to 1999) for the pay equity award for federal employees represented by the Public Services Alliance of Canada that resulted in awards averaging about $15,000 for 230,000 employees, only 54,000 of whom were still working at the time of the award (many having since deceased). Details of that award are discussed in Fudge (2000) and Sulzner (2000).

19From 1 April 1996 to 31 March 1997, 113 files were active at the tribunal, with 73 carried over from the previous year, and 40 new cases opened. Of those 113 files, 48 were carried over into the next year, and of the 65 that were closed in 1996–97, 40 were withdrawn, 14 expired, and 11 involved a final decision. (Information provided by the Pay Equity Commission).

20These issues are based on a perusal of the cases on file in the Pay Equity Commission. Hodgson (1992) and Kelly (1994, Appendix) outlines issues involved in early pay equity cases, and the annual reports of the commission contain summaries of key tribunal decisions.

21Essex, 15 November 1996.

22Evans and Nelson (1989) report that almost half (43 percent) of the employees who received a pay equity wage adjustment were not aware that they had received one, in spite of the substantial magnitude of the adjustment (averaging US$2,200 per recipient).

23In general, the recommendations of the Read report have been put “on hold,” at least for the time being.

24The extent to which complexity can work in the favour of employers is emphasized in Armstrong and Armstrong (1991), Cuneo (1991), and Steinberg (1991).

25Conventional equal pay policies in Ontario were found to be ineffective in reducing the male-female pay gap, whether comparisons were made across establishments before and after the initiation of the policy (Gunderson 1975) or based on longer time-series comparisons surrounding the implementation of the policy (Gunderson 1985).

26The exception is the important new work by Baker and Fortin (2000). Their econometric analysis indicates that Ontario’s pay equity legislation as applied to the private sector has had no substantial impact on women’s wages in female-dominated jobs in part because such jobs tend to be in the smaller firms where implementation and compliance is difficult. There was a slight reduction in the male-female wage gap in female-dominated jobs, but mainly because of a fall in male wages. There was, however, an increase in the male-female wage gap in male-dominated jobs as a result of a decrease in female wages and increase in male wages in such jobs. Overall, across all occupations, there was no substantial change in the male-female wage gap because the reduction in the gap in the female-dominated jobs was largely offset by the increase in the gap in the male-dominated jobs. There was a small decrease in female employment in the larger firms where compliance is more likely, and a small increase in female employment in the smaller firms where compliance is less likely, with no substantial change in overall female employment as a result of these offsetting forces. The lack of any substantial impact of the legislation is attributed largely to the fact that compliance and enforcement are extremely difficult in small firms that
employ the majority of women. This in turn reflects a variety of factors, including: the cost to small firms of implementing the job evaluation and legislation; the difficulty of finding male comparator jobs (or estimating male pay lines) when there are few male employees; and the fact that they find that female pay tends not to be substantially lower in female-dominated jobs.

REFERENCES


**APPENDIX**

**Some Facts\(^a\) About the Firms\(^b\) in our Case Studies and Implementation of Pay Equity**

<table>
<thead>
<tr>
<th>Firm 1</th>
<th>Firm 2</th>
<th>Firm 3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I. Description of the Firms</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sector</td>
<td>metallurgy</td>
<td>telecommunications</td>
</tr>
<tr>
<td>Age</td>
<td>58 years</td>
<td>25</td>
</tr>
<tr>
<td>Localization</td>
<td>Northeast Ontario</td>
<td>Northeast Ontario</td>
</tr>
<tr>
<td>Markets/clientele</td>
<td>75% of the sales in United States</td>
<td>North America</td>
</tr>
<tr>
<td><strong>II. Description of the Workforce</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of employees</td>
<td>500</td>
<td>2,000</td>
</tr>
<tr>
<td>Principal types of jobs</td>
<td>blue collars manufacturing jobs, technicians, engineers</td>
<td>assembly workers/blue collars, professionals, technicians, engineers, engineering level group.</td>
</tr>
<tr>
<td>Percentage of female</td>
<td>less than 10%</td>
<td>55%</td>
</tr>
<tr>
<td>Presence of a union</td>
<td>yes, for all workers except managers and engineers</td>
<td>for blue collars</td>
</tr>
<tr>
<td><strong>III. Implementation of Pay Equity</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cooperation between plants</td>
<td>discussion with other Ontario plants of the company</td>
<td>cooperation between the different plants of the company</td>
</tr>
<tr>
<td>Pay equity committee</td>
<td>no</td>
<td>yes</td>
</tr>
<tr>
<td>Existence of a job-evaluation system</td>
<td>2 systems existed, 1 for clerical, 1 for non-clerical</td>
<td>yes</td>
</tr>
<tr>
<td>Hiring of a consultant</td>
<td>yes, to evaluate the job-evaluation system</td>
<td>yes, to better understand the requirements of the law</td>
</tr>
<tr>
<td><strong>IV. Outcome</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wage adjustments</td>
<td>1 category of workers received a $30 adjustment/month</td>
<td>300 persons received a $200–500/year adjustment</td>
</tr>
<tr>
<td>Litigation</td>
<td>no</td>
<td>a dozen complaints settled at the local level</td>
</tr>
<tr>
<td>Other costs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other benefits</td>
<td>“Given that a very small wage adjustment was required, the pay equity process was an occasion to reinforce employees’ loyalty by showing them they were treated fairly.”</td>
<td>increase awareness about the way women are treated</td>
</tr>
</tbody>
</table>

Notes: \(^a\)Information is related to the period when pay equity was implemented (1990).  
\(^b\)In the case of firms 1 and 2, our information is relevant for one plant of the firm.