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JOB EVALUATION AND PAY EQUITY: STAKES AND METHODS

Abstract

Despite significant anti-discrimination laws in most western countries, gender pay gap still remains a substantial concern. To fight the persistent undervaluation of feminised occupations, various actions and research have been conducted on non discriminating ways to evaluate jobs and fix salaries. The notion of Comparable Worth has been promoted for several years by the ILO and a few countries to fight against relatively lower female salaries. It is

particularly pruned by the European Union. In this article, we review the rationales for Comparable Worth and explain how gender biases are generally involved in traditional job evaluation method. We particularly present the case of the French Equality Ombudsman's guide, which has been published in 2013 with the participation of various experts and unions representatives. It aims at giving guidelines and "good practices" in order to prevent gender discrimination in job evaluation. We then expose some experiments in other countries which give insights on how such a guide could really improve pay equity.

Keywords

Comparable worth, pay equity, job evaluation, gender equity, gender pay gap.

JOB EVALUATION AND PAY EQUITY: STAKES AND METHODS

Introduction

Gender equality in the workplace has been introduced through different legislation throughout western countries for many years. Despite significant advances in many fields, and with women continuing to improve their work situation, the gender pay gap still remains a substantial concern. Inequalities exist where the difference in female salaries as compared to males', has not been justified, leaving discrimination as the only explanation.

In this article, we focus on the source of this wage differential by addressing the question of pay equity and job evaluation as a way to reveal potentially effective ways to fight against it. After reviewing the rationale for comparable worth in Part 1, we present evidence of gender biases in traditional job evaluation methods in Part 2. In particular, we develop an analysis of a French sectorial job classification, based on the activity we carried out as HRM specialists in an Expert Committee that worked on developing a *Guide for Non-discriminating Evaluation of Female-dominated Jobs (Défenseur des Droits, 2013)*. Published in March, 2013 by the French Equality Ombudsman (human rights defender), it issued guidelines for employer and employee representatives involved in job classification and negotiation. In Part 3, we present three national pay equity policies using Comparable Worth notions, which could be a source of inspiration for French national industrial relations actors.

Part 1: Gender pay equity and comparable worth

Across the world, all other things being equal or, rather unequal (Silvera, 1996) as we will see hereunder, women still earn less than men, According to the International Labor Organization (Oelz, Olney & Tomei 2013, p. 12) “globally, the gender pay gap is estimated to be at 22.9 per cent; in other words, women earn 77.1 per cent of what men earn. However the size of the gender pay gap varies by sector, by occupation, by group of workers, by country and over time.” In economically developed countries, women's wages stand at about 80% of men's.

As we will see, various factors account for this wage differential, many of them relating to the domestic obligations of women - part-time work, maternity leave, delayed career investments due to children's upbringing¹. In addition to these variables, however, a significant proportion of the pay gap stems from occupational segregation as jobs mostly held by women (“women's occupations”) have lower wages than those predominantly held by men. Not everyone agrees that this differential stems from discrimination processes (see Levine for a review). For the Comparable Worth proponents however, the persistent gap between male and female occupations is caused by a systemic and historical underevaluation of female work (England 1992, Chicha 2006), which can only be stopped by “a public policy that advocates remedies for any undervaluation of women's jobs” (Noe et al., 2010, p. 530).

Such policy is called “pay equity” in Canada (Ontario and Quebec) but pay equity has

¹ As Gunderson (2006) writes “The evidence summarized here is based mainly on the existing comprehensive reviews (cited previously) of the empirical studies done mainly in the United States and Canada but also in countries belonging to The Organisation for Economic Co-operation and Development (OECD) . . . The following generalizations emerge. The unadjusted ratio of female to male earnings tends to be slightly above 0.60, increasing to around 0.70 based on full-year, full-time workers and 0.80 when hours of work are more tightly controlled for by using hourly wages (...)”

a broader meaning and generally refers to reducing the overall gender pay gap. In this article, we will refer to it as “comparable worth”. Indeed, many scholars and women’s rights militants question the gender-neutrality of labor markets and traditional job structures and promote the use gender-neutral job evaluations methods to adjust the wages to the jobs' worth in a non-discriminatory way. As we develop *infra* (1.1.3), debates and local experiments in the ‘70s and ‘80s in the US resulted in “pay equity” legislation (in the “comparable worth” sense cited above) being adopted in Canada, Ontario and Quebec. We will suggest that comparable worth is increasingly becoming an issue in several European countries. It is also of renewed interest in the US under the Obama administration. Such perspective, likely to impact the pay policies of private and public employers in Europe and North America, is of great interest for Human Resources Managers.

1.1. Analyzing the gender pay gap

Econometric models explain most of the gender pay gap² using the following variables (Gunderson 2006, Lemière and Silvera 2008):

- Working time differences between men and women account for a significant part of the differential, particularly in countries where part-time work is high, such as the Netherlands and the United Kingdom (Meurs et Ponthieux, 2004). While the question remains whether this part-time work is freely “chosen” by the majority of women concerned, this argument will not be developed here.

² There is a remaining unexplained part which could be due to “direct” or “pure” discrimination, or to non-observable factors.

- Men have, on average greater human capital, as measured by education, experience and job tenure (Lemière and Silvera, 2008). Women experience more career breaks (maternity leave, job interruptions to follow the partner's career, care to the elderly), which affect their salary progress (Cornet and Dieu, 2008). In France, women's average tenure is shorter than men's (12 compared to 14 years, Petit 2006). They may hold comparable levels of education but these qualifications still result in smaller financial return than men (Meurs and Ponthieux, 2004).

- Employer characteristics: Women work more often than men in small companies which pay less (Petit 2006, Gunderson 2006). There is also an industry effect, women being concentrated in lower paying industries as compared to men (Sorensen 1989, Gunderson, 2006).

Last, and this is what comparable worth proponents want to amend, part³ of the gender pay gap is due to the concentration of women in a few occupations which remunerate less than men's occupations (Sorensen 1989, Groshen 1991, Lofstrom, 1999; Levine, 2003; Chicha, 2006 and 2008). As an example, in France, women represent over 70% in only 14 (out of 84) occupational fields⁴, whereas 43 occupations have more than 70% of male workers (Méron, Okba and Vinney, 2006).

In the seventies, in a pioneering action for gender pay equity in the city of San Jose, Texas (USA), a pay audit revealed “that nurses earned \$9120 a year less than fire truck mechanics” (England, 1999:3, citing Blum, 1991). This situation did not change very much

³ Economists disagree on the proportion as they use very different measures and control variables; Sorensen (1989) found that occupational segregation accounted for about 25% of the gender pay gap, other studies find a smaller effect.

⁴ Healthcare, education, services and tertiary jobs are the most feminized occupations.

over the ensuing twenty years: in 1999, US statistics showed that women represented 84% of primary schools teachers and men, 93% of mechanics. The median weekly wage for teachers was \$697 compared to \$1041 for mechanics (Levine, 2003). In France, Lemière and Silvera highlighted similar wage differentials between jobs with comparable requirements and working conditions, namely nurses versus chief of maintenance in hospitals (2010). Citing a large number of statistics, Chicha (2006) sums up the situation as follows: “There is a close match between female or male predominance and pay levels. Generally speaking, both in the labor market and in organizations, the most poorly paid occupations are those where women predominate, while the better paid are those where men prevail”. Research has highlighted that men who work in “female” occupations receive lower wages than men who work in male-dominated occupations (Lofström, 1999). It has also been shown (but not all economists agree on this, cf. Levine 2003) that the feminization of an occupation has a depreciative effect on the wages of that occupation (England, 1999:3).

1.2. Why do feminine occupations pay less than masculine ones?

Economists tend to explain this occupational segregation through the Crowding Effect (Sorensen, 1989, Levine 2003, Gunderson 1996). As Sorensen explains: “employers discriminate against women by excluding them from occupations considered ‘men's work’. Since these jobs are reserved for men, relatively few women are hired into these positions. Given that the demand for women in these jobs is limited, they are crowded into other occupations, typically referred to as ‘women's work’. The supply of women accordingly increases for ‘women's work’ which in turn reduces their wage.” According to the Crowding hypothesis, increased competition among applicants (mostly women) in women's jobs has a

depreciative effect on the wages of both women and men in these occupations. Levine (2003) adds: “Similarly, productivity and wages in male-dominated occupations are higher than they would otherwise be, as the supply of labor to them is restricted. Discrimination, it is asserted, prevents labor mobility between the two sets of occupations which would equalize wages between male and female workers with the same human capital endowments”. Discriminating hiring practices further discourage women from entering these occupations (Chicha, 2006)

For many experts however, the Crowding effect doesn't entirely explain the differential in wages (Sorensen 1989, England 1999, Levine 2003, Chicha 2006) and it does not address the core source of wage discrimination that is the devaluation of women's work. According to them, these jobs are paid less because their incumbents are women and because of the social stereotypes which undervalue “feminine” work and the skills and competencies that characterize it. “The kinds of skills traditionally exercised by women [e.g., nurturing social skills] are valued less in wage determination than are traditionally male skills [e.g., physical or supervisory skills].” (England 1992, p. 40). The lower wages for female jobs are also due to a weaker bargaining power, with the historical absence of women in unions⁵ and the predominance of less unionized service jobs. A last factor lies in the remuneration systems and traditional job evaluation methods (Chicha, 2006), a point that we develop in Part 2 of this article.

Whereas classical economists advocate that the real worth of a job is set by the market in a fair and non-discriminatory way, for comparable worth advocates, “fully correcting the discriminatory workings of the market requires that employers compensate workers in

⁵ Union representatives, like all institutional actors, agreed on the predominant conception of men as bread-winners; keeping women far away from well-paid jobs

comparable jobs comparably” (Ames, 1995). The use of gender-neutral job evaluation methods is seen as the most objective way to assess the value of a female’s job in comparison to a male’s requiring a similar level of qualifications and skills.

1.3. Work of equal value, comparable worth and the situation in France

Equal pay for work of equal value appears in the 1919 ILO founding constitution. The ILO Equal Remuneration Convention, 1951 (No. 100), ratified by over 90% of ILO members, reiterated the legal principle that wages should be the same for jobs of equal value, without any discrimination on the basis of sex. In the same context, ILO recently issued several guidelines and documents specifying that work is of “equal value” even when the jobs differ but are of comparable value based on skill, effort, responsibility and working conditions. Such definition is again explicitly written in “*Equal Pay, An Introductory Guide*”, issued in October 2013 by the UN Institution (Oelz, Olney & Tomei 2013) One objective of this guide is to “help apply the principle in national law and practice, assist national equality bodies in promoting the principle (...), provide a basis for ratification of Convention No. 100” (p. 6). ILO has issued guides which promote gender-neutral job evaluation methods as a necessary (but not sufficient) way to reach pay equity (Chicha 2006 and 2008).

Pay equity policies based on Comparable Worth approaches were first adopted in the 1970s and ‘80s to reevaluate feminine jobs in civil service workforces in Iowa, Minnesota, Michigan, Washington state and the cities of Denver and San Jose, as a result of worker and union claims (Chicha, 2006). Pay equity was then implemented in the Canadian province of

Ontario (Ontario Pay Equity Act, effective January 1, 1988), paving the way for similar laws in Quebec and other provinces (Cornish, 2013). By 1989, in the USA, 20 states had made pay equity adjustments for their public workforce but an extension to private employers would necessitate a new legislation later on (England, 1999).

In Europe, the principle of “equal pay for equal work” or for “work of equal value” has been incorporated in Treaties since 1957. It is at the heart of the Directive 2006/54 (recast) of July 5, 2006 on the implementation of the principle of equal opportunity and equal treatment of men and women in matters of employment and occupation. Article 9⁶ of the Directive stipulates:

“In accordance with settled case-law of the Court of Justice, in order to assess whether workers are performing the same work or work of equal value, it should be determined whether, having regard to a range of factors including the nature of the work and training and working conditions, those workers may be considered to be in a comparable situation.”

The OECD is also promoting pay equity. A 2012 report on Gender Equality states: “Almost all respondents to the 2011 OECD Survey (95%) have introduced legal provisions that seek to guarantee pay equality (equal pay of women and men for equal (the same) work, e.g. Chile) and 85% to guarantee pay equity (equal pay for work of equal value requiring similar qualifications, but not necessarily the same work). Moreover, 40% conduct regular assessments of jobs of equal value to ensure pay equity (e.g. Austria, Belgium, the

⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:204:0023:0036:EN:PDF>
DIRECTIVE 2006/54/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of July 5, 2006 on the implementation of the principle of equal opportunity and equal treatment of men and women in matters of employment and occupation (recast), Official Journal of the European Union, L204/24.

Netherlands, Spain, Sweden, and Switzerland)⁷". In Part 3 of this paper, we will discuss the Swedish experience, Quebec legislation and the UK framework.

In France, the 1983 law on professional equality defined "equal value" in order to strengthen the application of equal pay legislation (dating from 1972). Work of "equal value" was defined as involving a comparable level of professional knowledge, or equivalent qualifications, experience and responsibilities. A May 9, 2001 law (Genisson law) on equal employment makes bargaining on gender equality compulsory at the company and sector levels. It reinforces employers' obligation to publish an annual report of the comparative situation of women and men regarding employment, training, job status, working conditions and pay (Bender, Klarsfeld and Laufer, 2010). Employers must detail the measures taken to reach gender equality and set objectives for the coming year.

The 2004 intersectoral agreement on gender equality (March 1, 2004 Interprofessionnel National Agreement concerning professional diversity and equality between men and women) explicitly requests that negotiators reexamine job classifications and job evaluation criteria in order to correct those which are likely to induce gender discrimination (article 13). Nevertheless, it had little effect on negotiations and another law had to be voted in 2006, aiming to suppress any existing gender pay gap within 5 years. A subsequent law in 2010 threatened to financially sanction companies who had no action plans to reduce the pay gap; sanctions were enforced for the first time in 2013. Negotiations on work equality have accordingly increased over the last 3 years.

⁷ OECD, "GENDER EQUALITY IN EDUCATION, EMPLOYMENT AND ENTREPRENEURSHIP: FINAL REPORT TO THE MEETING of the OECD Council at Ministerial Level", Paris, 23-24 May 2012, p 105

Part 2. Gender bias in job evaluation methods: be aware and avoid

Although this notion of comparable worth appears in many laws and rules, female salaries are still below male salaries. As these salaries depend on the hierarchy of jobs, the way of processing job evaluations appears to be crucial. When talking about “processing job evaluations”, we consider both the job evaluation methods that are involved in the processing, and the social use that is made from those methods (Chiapello and Gilbert, 2013). Moreover, it is important to be aware that management instruments are not neutral; they are conceived and used by men and women in gendered organizations. After presenting the main gendered biases in classification methods (Part 2.1), we will develop the different guidelines as detailed in the *Guide for a Non-discriminating Evaluation of Female-dominated Jobs* (Part 2.2), which was created to prevent gender discrimination and to guarantee pay equity.

2.1. Gender biases in job evaluation process

Like any other management tool, job evaluation methods, as sophisticated or “scientific” as they may be, are not exempt of bias. Some believe that criteria methods (which evaluate jobs on the bases of technical criteria such as “level of knowledge needed”, difficulty, degree of responsibility, autonomy, and so on) are much more objective and fair than other methods, such as “global methods”. Those methods don’t use any criteria : they attempt to classify jobs by comparing them side-by-side or by arranging them inside a predetermined grid, for example. On the other hand, even the use of a criteria method doesn’t guarantee the prevention of gender bias.

Our analysis is based on the work done as HRM specialists within the Expert Committee created in 2010 in France under the authority of the French Equality Ombudsman. We studied the French retail trade job classification, where many jobs are held by women who were not highly qualified. We have been interested in the way jobs are described and the words in which requirements for jobs are expressed. Our analysis shows that biases are derived from the four following points:

- *Criteria are redundant and penalize women*

When we studied the retail trade job classification, we observed that it uses five different criteria, “sexually defined” despite their neutral appearance: *knowledge, abilities, relations, responsibilities and autonomy*. Each comes with a precise definition. The analyses of these definitions show that three criteria are very comparable with one another: *abilities, responsibilities and autonomy*. For instance, to a large part, the definition of *abilities*, involves cognitive skills in the handling of information. It requires that the worker imagines solutions, which are, in turn, directly linked to his/her job autonomy. The first three scores in the scale deal with well-known solutions or situations that have already been encountered. The higher scores correspond to complex problems that demand more information, time and thinking. At the same time, *autonomy* indicates the ability to make choices on what to do to meet the demand. The situations evaluated lower are the most repetitive while the evaluated better ones concern complex and unforeseen situations.

The higher people move up in the hierarchy, the more they meet increasingly complex demands. Yet cognitive complexity is not always the only criteria to differentiate between

jobs. Constant repetition of tasks, very often in the same day or in a difficult context, may also be a criteria to take into account in job evaluation. Additionally, those working in reception and counseling, have to repeatedly manage impolite or demanding clients. In terms of abilities, these kinds of jobs require experience and a good level of vocational training. When three criteria out of five tend to measure very similar situations, and when situations which are evaluated higher on these criteria tend to be male jobs, gender gap may be the explanation.

- *The manner in which hierarchy has been established between criteria is based on gendered consideration*

In order to differentiate between jobs, each criteria is measured from “lowest” to “highest” level. The study showed that the most important issue would be level attribution for jobs that deal with responsibilities. In other words, on a scale from 1 (lowest) to 5 (highest), a job not requiring the exercise of any responsibility, would not have a high score on this specific criteria of “responsibility”, but it also would not have a high score on other criteria such as autonomy or required knowledge. The scale that is generally used to measure each criteria starts from lower levels, corresponding to less qualified jobs, where higher levels are reserved for more demanding jobs in terms of experience or cognitive abilities. As jobs are sexually segmented, women are more often holding jobs with low levels of qualification or requiring few technical abilities and skills. According major importance to criteria like “responsibility” would not help reduce gender pay gap.

- *Female abilities and skills are not “visible”*

Many researchers have given evidence on the way that industrial jobs held by women - specially in the 1960s and ‘70s - are close to domestic work and/or require abilities that are

considered as inherent to women (accuracy or dexterity) and thus undervalued. These skills are not considered “working abilities”. As we showed in Part 1, women, even when more educated, are concentrated in a small number of jobs, often dealing with care (nurses, teachers) or having low qualification (retail trade workers, clerical jobs). Nowadays, women are entering higher education and higher qualified jobs in many fields and they are involved in the “services society” where most jobs, for both male and female, involve communication qualities, empathy, commitment and so on. It is time to render these qualities visible and a valued aspect of professional skills, as they are for men, doing away with the qualification of “natural female skills”.

- *Strength is male, not female*

Most of time, strength is considered either part of male unqualified jobs or for jobs at the bottom of hierarchy, mainly in industry or construction. Strength does not seem to be a part of daily female jobs. However, in hospitals, caring for sick patients, washing or helping them to move (particularly with the elderly) requires strength. Most of these workers are female and it is astonishing to see that this strength is not perceived as having the same degree of difficulty as it is for male workers on a construction site - female strength is not considered a special skill as it is “natural” for women to hold jobs in caretaking.

Moreover, strength is not only physical; it has a psychological dimension. For instance, jobs dealing with the reception of a “difficult” public can involve much “symbolic violence” and so, require psychological strength. However, this is hardly taken into account in job evaluations.

Another important issue in job evaluation is the way negotiation is handled between employers and employee representatives inside the firms themselves. Usually an evaluation committee is created to lead the negotiation, and the participation of union members is positively perceived. However, unions are not welcomed everywhere and the question of pay equality may not be accepted by everybody in the firm.

In cases where negotiation takes place within a professional sector, negotiators are representatives from the firms and unions. We would like to think that unions would be seriously involved in reducing gender pay gap. Yet unions, like any other organization, are gendered themselves and are not somehow more virtuous than firms⁸. They also tend to reproduce gender stereotypes and it is essential to increase their own awareness of discrimination against female employees.

2.2. Proposed guidelines to prevent discrimination

As it is evident that job evaluation is not only a technical problem, an expert Committee was created in France in 2010, under the authority of French Equality Ombudsman, with the objective of providing employers and unions with a guide aimed at preventing the underevaluation of female jobs.

The guide is presented in a small three-part booklet. The first two parts expose the problems and biases linked to job evaluation, helping readers (employer and employee representatives, HRM experts or managers) to become aware of the difficulties and of hidden

⁸ Moreover in France, equal pay between men and women is not part of Unions' main claims, which is different in England for instance.

discrimination effects in job evaluation. The third part is the most relevant here as it draws up the list of “good practices” to do in such situations. It is thus possible to identify three main steps in job evaluation processing:

- Involve all social actors and preparing the groundwork for negotiation:

The first step is the preparation for job evaluation. As gender mainstreaming is supposed to cross all negotiations, not only the usual representatives will be involved in the negotiation. Other people, such as HRM experts and managers, are included as they will be responsible for the implementation of the agreement in each service or unit of the firm. These actors must share a diagnosis on equality and job evaluation. As it is not easy to understand how discrimination can be hidden behind non-discriminating intent, all actors have to agree on the result aimed for. This principle includes transparency; showing the scale of salaries that exist and how far it has to be revised. For instance, for each grade in a classification, the percentage of women and men in the grade has to be clear. The third task, according to the guide, is to establish a job evaluation committee in which representation of employer and employee is fair and in which women are in significant number. Once the committee is established, its members must to be trained on the dynamics of salary discrimination and the methodological issues of negotiation (ILO recommendation).

- Describing jobs and salary practices:

The second step is the essential task of clarifying the issues that need to be addressed. First, the committee’s responsibility is to define jobs and salary. The most important issue here is to identify the “female jobs”, in order to know the number of jobs that will be concerned by the initiative. Jobs held by at least 60% of women will be taken into account,

whatever the contract (part or full time, long or short term). These jobs will be described in a way which is as neutral as possible; based upon facts rather than opinions. For example, it is necessary to precisely describe the task to be done without judgment about its difficulty. Each job description will be matched with salary, including all its elements (basic pay, bonus, grants, and so on) and uses for both men and women in order to compare them. For instance, in the public sector, basic pay is the same for everyone in the same grade. There is no gender gap. However, when analyzing how grants are distributed, it appears that male grants are 30% of their salaries and only 16% for female (rapport Guegot, 2011).

Secondly, the committee's responsibility is to agree on which non-discriminating criteria will be taken into account when evaluating jobs and establishing their hierarchy. The choice of criteria remains one of the most important purposes for the committee. Not only does the definition of the criteria need to be exempt from possible misinterpretation in a sense of underevaluation of female jobs but also the committee has to pay careful attention to the combination of different criteria in order to avoid such problems as shown before (redundant criteria, etc., cf part 2.1). Some examples are given about required diplomas: the same diploma ⁹(BTS) should be considered as the basis for the same salary when entering the firm. However, the orientation of the diploma (either "industrial" or "clerical", mostly male or mostly female) appears to explain a difference in starting salary. So it is of utmost importance that the committee meticulously explains how the diploma should be used when establishing salaries.

- Entering the negotiation:

⁹ Brevet de technicien supérieur, a diploma of second year university level, which is well considered by firms.

This third step consists of evaluating each job according to the rules decided in the previous steps. This involves choosing a way of weighting the criteria which will not discriminate against women. For instance, in terms of responsibility, it is possible to consider that those concerning money (budgetary responsibilities) or hierarchy (top management responsibilities) are more important than responsibilities about work coordination or supervision. However, if this continues to be the case, women's responsibilities will remain underevaluated. The State of Oregon has been modifying the famous Hay method of job evaluation by adding a level for the criteria "relations" in order to more fully recognize the relational requirements of "female" jobs. The way of fixing levels within each criteria will also be crucial as it impacts wage progression. The guide recommends an arithmetic progression, so that the differences among levels are constant and straightforward.

The last, and extremely important, step concerns the global balance of the processing: are female jobs generally underevaluated compared to male jobs or are they not? The question must be asked... and answered. Finally, to adequately terminate the process, a follow-up procedure must be implemented. Employees should have the possibility of appeal and the committee has to monitor all main changes in the firm.

This guide represents a major first advance in this area; an area little known by employers and by unions in France. We can, nevertheless, question the guide's ability to have a real influence on practices of negotiators and employers. The analysis of the more successful experiences, proposed in the following section, will enable the study of the conditions necessary for the successful outcomes.

Part 3. Advances in implementing comparable worth

Countries who have adopted proactive attitudes towards pay equality have recorded the progress made relative to the salaries of certain feminized professions. Using Chicha's categorisation (2006) concerning the hierarchy of employer incentives, these countries fall principally in her first category, that is "sanctions applied by law".

3.1. Ontario and Quebec (Canada)

In these provinces, a law requires firms to follow a plan to reach gender pay equity, if need be through salary adjustment between work of equal value. We refer to the legislation on pay equity implemented in Quebec in 1999, which was inspired by an earlier legislation passed in Ontario in 1987. This applies to firms of 10 or more employees, in public, private or parapublic sectors. By November 21, 2001, all employees concerned had to determine if salary adjustments were required or establish a program for pay equity. These firms had until November 21, 2005 to correct any gaps in salary.

As Marchand states (2007, p. 7), the employer must "determine equivalence between male and female jobs. To do that, job evaluations must be conducted, for example, by attributing points to each job category in function of the four criteria provided by law:

- required qualification (education, training, skills and competencies necessary to the job, etc);
- responsibilities (responsibility for people, materials, financial and/or confidential data, etc.);
- required efforts (physical or mental, etc);

- work conditions (noise, physical and psychological risks, isolation, etc).

The next step is the comparison of each category of feminine work to those of masculine jobs and thus estimate any existing salary gap and bridge them by adjusting the salaries of those concerned. (...) Once this is accomplished, the results must be displayed in areas that are both visible and accessible by employees and be explained in such a way as to allow for complete understanding of their rights and the recourse available to them.”

According to Chicha (2006), in Quebec, 2005, the average increase in salary received by the 1098 predominantly female professions was 5.6%. The frequency of adjustments was higher for office staff, followed by service employees, workers and finally, technicians. Marchand (2007) observes that a reduction of the salary gap between the average hourly pay for men and women between 1997 (16.1%) and 2006 (13.4%) occurred, not only because of the law, though it did help.

3.2. Sweden

According to the Equal Opportunities Act of 1991, all organizations with 10 employees or more must annually formulate and implement a pay equity action plan, which comprises a list of proactive measures to promote equality and a survey of pay disparities between women and men. Employers are required to draw up an action plan to correct any pay gaps observed. In 2001, an amendment further specified employer obligations. Remuneration must be fixed on the basis of objective criteria common to all jobs (Chicha, 2006). They include qualifications, responsibilities, effort and working conditions, with

special attention to the latter. The 2009 Discrimination Act brought several changes and replaced seven previous acts. One public authority, the Equality Ombudsman, replaced four Ombudsmen dealing with different grounds for discrimination. An important element of the Discrimination Act is its active measures. Focusing on result compels the employer to remedy pay inequalities and take actions to overcome obstacles to nondiscrimination. This work is to be done by the employer and the employee organization in collaboration. Trade unions that have a collective agreement with the employer have a special responsibility in the process. In order for them to cooperate with the employer, the latter must provide them with the information they need. The Act also changed the periodicity of the pay survey, which now must take place every three years.

To help employers and unions work towards pay equity, the Office of the Equality Ombudsman published a brochure on pay surveys explaining the difference between equal work and work of equal value, setting out the steps to be taken for pay surveys and analysis (ILO 2013). It also developed an easy method to facilitate pay equity, called “Steps to Pay Equity Method”. It determines the demands and degree of difficulty associated with particular jobs and helps to ascertain whether differentials in men’s and women’s wages are due to sex discrimination.

The Ombudsman investigates complaints based on the law’s prohibition of discrimination and can represent victims in court free of charge. If the investigation shows discrimination or unfair treatment, the Ombudsman will first try to negotiate a voluntary settlement between the employer and the employee and, if not successful, will take the matter

to the Labor Court, which ensures high compliance¹⁰. The active participation of trade unions in the pay equity process is likely to lead to further corrective actions.

3.3. The United Kingdom

This country chose a middle road, as described by Chicha (2006) “Incentives and increased awareness of employers, with legal risks if defaulted on”. In the UK, the Equality and Human Rights Commission, responsible for combatting all forms of discrimination, published a code of practices for employers¹¹. This code, which has the strength of law behind it since April 6, 2011, specifies best practices in terms of pay equity. It states (§ 27) that a woman can demand equal remuneration as well as other contractual conditions as her male “comparator”, if the latter performs work that is the same or similar to hers (“*like work*”), a job that is different but recognized, in a *job evaluation scheme* as being of equal value (“*work rated as equivalent*”), or a job that is different but of equal value in terms of required effort or capability (“*work of equal value*”). Adherence to this practice guide will operate in favor of the employer in case of employee complaint regarding pay equity. In particular, to be considered as validated by law, the method of job evaluations must (§41):

- be applied for female employees as well as their male comparator;
- be rigorous in its analysis and impartial in its implementation;
- only take into account factors related to the demands of the job;

¹⁰ <http://www.oregon.gov/boli/docs/Pay%20Equity%20Model-%20Sweden.pdf>, consulted December 13th, 2013

¹¹ *Equality Act Codes of Practice 2010, Code of Practice on Equal Pay*
Site: http://www.equalityhumanrights.com/uploaded_files/code_of_practice_equalpay.pdf
Consulted January 8, 2012

- be analytical in its evaluation of job components rather than taking into account its general content in a global evaluation. (...)

The evaluation method must not be neither discriminatory, nor influenced by gender stereotypes or presumptions about what constitutes female or male work. A method that would result in point differentials between jobs based on the different valuing of demands of jobs traditionally occupied by women differently as compared with job demands of those occupied by men, would be considered discriminatory.

These recommendations were diffused by unions, institutes and professional associations (Advisory, Conciliation and Arbitration Service, Chartered Institute of Personnel and Development, ...) as well as by the government for the public sector. They led to the revising of job classifications for local authorities and public employers (National Health Service, Universities, BBC).

In May, 2011, the coalition government submitted a proposal to intermediate bodies for imposing salary equity audits on companies that had been condemned by the courts for salary discrimination due to gender.¹² In this framework, the court would order audits unless the company had already conducted them within the previous 3 years, or the company had other appropriate methods to insure pay equity or the court deemed a recent audit not effective – for example, when transparent pay equity structures are put into place . The review was

¹² <http://c561635.r35.cf2.rackcdn.com/11-699-consultation-modern-workplaces.pdf>, Consulted April 11, 2012

finished at the end of 2012 and the proposals on audit imposition for employers for 2014 is contained in a document submitted for public consultation¹³.

To this day, evaluation method revisions concern mostly the public sector and local authorities. Assessments indicate increases in the lowest paid female professions (Wright, 2010). Current legislative change aims at spreading these practices to the private sector.

Conclusion

Pay equity represents a global challenge that is particularly asserted in the European Union. The establishment of fair salary levels between male-predominant and female-predominant professions in terms of job demands is one means to reduce the salary gap between women and men. The stages of advancement vary by country, but the integration of the notion of comparable worth for jobs is progressing in most of the European countries (cf BIT 2006 and 2013 for examples of this).

Over the last thirty years, France has enacted several laws to fight against wage discrimination between men and women but has only recently asked employers for a reporting of results, accompanied by financial sanctions. In particular, the notion of comparable worth of jobs is still little known, despite the work of Lemièrè and Silvera. The publication of the Rights Defender Guide in March 2013 has been the object of several mentions in the press, but its impact on pay practices is yet to be demonstrated. Will employers and unions take the opportunity to amend their job classifications? On the one hand, the present economic and

¹³ This document can be found on the site (<https://www.gov.uk/government/consultations/equal-pay-audits-a-further-consultation>), consulted December 13, 2013.

social context may be too difficult to make the question of pay gap a priority for firms, as well as, for trade unions. On the other hand, the recent financial sanctions on outlaw companies should make employers more aware of this issue.

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