

Eliminate Sex Discrimination: Shine a Spotlight on the Aggregate Data

Sex Discrimination in the Workplace. Edited by Faye J. Crosby, Margaret S. Stockdale, and S. Ann Ropp, Malden, MA, Blackwell Publishing, 2007. 375 pp. \$44.95 (paperback). ISBN 978-1-4051-3450-7

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“It has been four decades since passage of legislation guaranteeing equal pay and equal employment opportunity between women and men, and the nation is nowhere close to achieving either. Despite significant progress, the workplace remains highly gender-segregated and gender-stratified, with women over represented at the bottom and underrepresented at the top in terms of status, power and income. The annual pay gap between full-time female and male workers is about 20 percent, and significant disparities persist even among those with equivalent education, experience, and job responsibilities” (p. 235). Why?

The editors of *Sex Discrimination in the Workplace* have brought together a distinguished multidisciplinary group of contributors to present a compelling picture of the extent to which sex discrimination in the workplace continues to exist, the forms it takes, the psychological, sociological, economic and legal perspectives on the causes and the consequences, and the changes that are needed to achieve its elimination. This is an extraordinarily ambitious undertaking that succeeds exceptionally well.

Structurally, the book is organized into four parts. “Part I: Understanding Sex Discrimination” seeks to outline the basics that every employer and employee should know about sex discrimination. In this regard, Jonathan Wetchler, a lawyer, with extensive experience in employment litigation, makes a powerful point. Discrimination is synonymous with ignoring qualifications and merit and is therefore inimical to advancing an employer’s business interests. For that and other reasons, which he delineates, good preven-

tive measures make good business sense. In the second piece from this section, Theresa Beiner and Maureen O’Connor incorporate the perspectives of law and psychology in outlining the options available to those who think they may have been the victims of sex discrimination. The authors discuss the pros and cons and implications of a range of options moving from the informal and internal, to mediation, arbitration and litigation.

“Part II: From the Trenches” presents eight individual narratives that put a human face on the constructs. As with section one, these stories represent different perspectives including those of plaintiffs, attorneys and expert witnesses. Included is Ann Hopkins’ own report of her much cited litigation with Price Waterhouse and a particularly moving account by Colleen Crangle of her 3-year suit against Stanford. Crangel won at significant cost to her career. Ironically, the process seemed to have little, if any, impact on the careers of the male colleagues whose behaviors were the basis of the suit. There is also the story of the U. S. Department of Justice’s reluctant participation in litigation to integrate the Fire Department in Buffalo, NY, as well as two interesting narratives in which psychological research on gender stereotyping and prejudice are used in court. I could not help but think as I read through this section that any of these case studies would be particularly rich material for those who teach courses on gender or psychology and women

“Part III: Disciplinary Perspectives” presents four major disciplinary analyses of sex discrimination in employment. All are excellent and, as with the rest of the chapters in the book, each easily stands on its own. Peter Glick and Susan Fiske review the psychological theories that paint “a complex but coherent picture of how, when, why, and toward whom sex discrimination is likely to occur, as well

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as the consequences for women who are victims of discrimination” (p. 155). Writing from a social psychological perspective, Glick and Fiske review the influence of social context and the role of gender stereotypes and ideologies on the creation of meaning and of automatic and nonsconscious processes both of which impact discriminatory behavior. Writing from the sociological perspective, Cecelia Ridgeway and Paula England present an overview of contemporary patterns of gender inequality in employment in the U.S. focusing particularly on sex segregation of occupations and the continuing gender gap in wages and authority. Distinguishing between primary (interpersonal) and secondary (institutional structures and practices) causes of sex discrimination in the workplace, they focus on the impact of gender status beliefs on people’s expectations about performance as well as the literature on in-group bias. The social psychological and sociological perspectives are followed by Barbara Bergman’s presentation of the economists’ point of view. This perspective emphasizes two major aspects of women’s position in the labor market: their lower average pay as compared to men’s and the sex segregation of occupations. Reviewing the statistics relevant to the classical “human capital” position, Bergman shows that in 2002 the estimated loss in women’s weekly pay due to their sex, after education, age and the presence of children are taken into account, is \$231. She also points out that “human capital” (e.g., worker’s education and experience) fails to explain this gap. According to Bergman, women full-time workers may now have better qualifications than men and were it not for discrimination against them, women would be earning as much or even more than men.

Bergman goes on to present data from past (Home Depot) and ongoing (Wal-Mart) law suits that demonstrate how occupational sex segregation works. At Home Depot, as well as other named stores, new hires were assigned either to sales jobs or to jobs as cashiers. Those in sales (disproportionately men) had opportunities to move into positions as department supervisors and assistant store managers. Promotions for cashiers (disproportionately women) were unlikely. These kinds of practices contribute to the fact that women high school graduates still earn less than male high school dropouts, women college graduates earn less than men who have dropped out of college, and women with a doctorate earn less than men with a master’s degree.

In the final chapter in this section, Deborah Rhode and Joan Williams write from the legal perspective. They begin with a highly readable review of the law and the inequalities it has failed to address in the paid labor market. They then offer explanations, based on psychological research and the limits of the law, for the disjuncture between the law’s aspirations and achievements. In the third section, they document recent developments with a particular focus

on successful litigation challenging the “maternal wall”. The success of the suits, they assert, seems to be at least partially due to the overt display of prejudices that employers have expressed. These include employer decisions based on assumptions that mothers won’t relocate, but fathers will; prejudicial statements such as women are “no longer dependable” once they become mothers, as “babies get sick...”; as well as the appeal these cases hold for both conservative and liberal judges and jurors. The authors conclude their chapter with reform proposals that might help narrow the distance between principles and practices concerning gender equity in the workplace. These include expanded legal protections – not just equal compensation for identical work, but equivalent compensation for comparable work; gender neutral parental leave – and oversight and accountability in which data is collected, progress is monitored and employers are held accountable.

Part four of the book focuses on “Potential Solutions to the Problems of Sex Discrimination in Employment.” Susan Bisom-Rapp, Margaret Stockdale and Faye Crosby review the characteristics of policies that are positively associated with progress for working women. They suggest that the most effective remedies are formal and identity conscious (as compared to identity neutral) policies that promote concrete organizational responsibility for change. They are particularly critical of the courts’ propensity to focus on form (the existence of a grievance procedure) rather than substance (undertaking an inquiry into the effectiveness of the procedure and court ordered monitoring.)

In the closing chapter, titled “The Watched Variable Improves,” Linda Hamilton Krieger notes the changing nature of federal employment discrimination litigation. Forty years ago, most suits were pattern and practice class actions. Employing a technique called “utilization analyses”, pattern and practice suits were based on a comparison of the percentage of women in the relevant selection pool with the percentage of women actually selected for the positions being studied. If women were underrepresented in the positions relative to their representation in the relevant selection pool and if this under representation were statistically significant, a *prima facie* inference could be raised that some sort of discrimination was operating in the selection procedure. Today, according to Krieger, pattern and practice class action has been almost completely replaced by individual disparate treatment and sexual harassment suits, in which one plaintiff claims, and attempts to prove, discrimination against herself alone. From Krieger’s perspective, this is a negative development. Research consistently shows that it is easier to identify discrimination from aggregated data than from case-by case data. As well, there is little evidence that individual discrimination lawsuits actually result in increased compliance with anti-discrimination laws over time.

In 2005, the Equal Employment Opportunity Commission (EEOC) received over 23,000 charges of sex discrimination in employment. Of these, approximately 5,700 were resolved through voluntary settlement involving some sort of remedy to the charging party. Just under 1,700 led to a formal administrative finding of discrimination by the EEOC. Currently, the law prohibits the EEOC from making public any information that would identify the employers, labor unions, or employment agencies against whom charges of discrimination were filed or the findings of discrimination made. The same rules of confidentiality apply to all private Title VII employers and federal contractors who file annual EEO-1 reports specifying the proportion of women and minorities employed in each of nine job categories. These reports yield aggregated data from which patterns of underutilization can be identified. The public, however, has no access to these data.

Kreiger argues forcefully that we need wider availability of EEOC data. To that end, the relevant laws (Title VII and Executive Order 11246) should be amended to include rigorous disclosure requirements allowing advocacy organizations to review promotion rates, pay equity data, and sex discrimination complaint and dispute resolution information for different employers. This would allow individual women, women's organizations, and advocacy groups

to more effectively take EEO enforcement into their own hands. Quoting Louis Brandeis, Kreiger asserts that "Sunshine...is the best of disinfectants, electric light the most efficient policeman" (p. 317). The watched variable improves!

Sex Discrimination in the Work Place is an important book and an excellent resource that should be in every library. The editors not only did a great job of identifying and recruiting a truly distinguished list of contributors, they also effectively edited. Despite the differences in contributor orientations and disciplines and the potential complexities of the material, the chapters are uniformly well written—clear, accessible and informative throughout.

As Bergmann notes early on, "the importance of conquering employment discrimination for improving women's lives and status can hardly be overestimated... Women who are not living in households where they are sharing the income of a man have a particular need for access to jobs and to pay on the same basis as a man if they and their children are to escape poverty and lead a mainstream lifestyle. But all women deserve such access and have a right to it" (p. 231).

I wish I had been armed with the information in this book at various points over the course of my academic career. Hopefully, women of the future will be.