

# Jack and Jill and Employment Equity

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## 1. The Dilemma of Equality

Jack and Jill have both applied for the same entry-level position at a local university. After interviewing the leading candidates, the members of the hiring committee agree that both Jack and Jill have all the necessary qualifications for appointment to the position. Both have the required education and training. Both have strong letters of recommendation from their Ph.D. supervisors and from their current employers. Both are similarly experienced and both are potentially capable of making important future contributions to their chosen discipline. The members of the hiring committee also agree that Jack and Jill are superior to all other applicants for the position. In short, in the judgment of the hiring committee, they are the two best qualified candidates and both meet their potential employer's expectations concerning a successful applicant. Yet neither Jack nor Jill is clearly superior to the other.

Assuming that either Jack or Jill is a member of an underrepresented group,<sup>1</sup> would it be morally *permissible* to implement a program of affirmative action in this situation? Or, again making the same assumption, would affirmative action be morally *demande*d by such a situation? Or, again making the same assumption, does either Jack or Jill have a morally defensible claim to preferential treatment over the other, simply on the basis of being a member of an underrepresented group?

## 2. The Situation in the Universities

Policies designed to achieve employment equity regularly include the practice of giving some candidates systematic, preferential treatment during hiring.<sup>2</sup> In recent years such policies have become common within

Canadian universities and colleges. Specifically, many Canadian universities and colleges now have policies that require personnel committees to take account of gender when hiring.<sup>3</sup> Examples range from relatively modest policies concerning recruitment procedures, to widely accepted regulations concerning tie-breaking, to more controversial policies concerning quotas. All such policies have in common some form of preferential treatment for one group of candidates that is not available to all. Some go further and require that gender take precedence over merit or excellence within the hiring process.

In many cases, these policies are defended, at least in part, as a means of combatting morally unjustified discrimination against women.<sup>4</sup> Specifically, it is argued that such programs provide the most effective (and perhaps the only) means of combatting entrenched systemic discrimination.<sup>5</sup> It is argued that discrimination that results, not from intentional, individual acts, but rather from unintentional, institutionalized factors cannot be remedied simply by a system of checks, petitions and reprimands. The very nature of such discrimination makes it plausible that any such system, administered as it would be by the same institutions which (albeit unintentionally) promote discrimination, is bound to fail. As Wayne Sumner points out, the centrepiece of this argument "is the claim that introducing a measure of discrimination against men will be the most effective means of eliminating discrimination against women, and thus of minimizing [total] discrimination in the long run."<sup>6</sup>

Ronald Dworkin makes much the same point in a slightly different context.<sup>7</sup> He concludes that "in certain circumstances a policy which puts many individuals at a disadvantage is nevertheless justified because it makes the community as a whole better off."<sup>8</sup> Such a policy may do so in either of two ways. Either it will make the community better off in the consequentialist sense of improving the general welfare of the majority of individuals in the community, or it will make the community better off in the ideal sense of making the community in some way more just, or in some way closer to an ideal society. The latter case, unlike the former, may obtain whether or not average welfare is improved, and whether or not a community's citizens prefer the outcomes entailed. Such is the case with any policy that helps minimize (total) discrimination. Let us therefore call this argument the *argument from total justice*.

The argument from total justice is important not only because of its influence but also because it has been invoked by both the consequentialist and the non-consequentialist alike. Insisting only that discrimination be minimized, and thus that justice (in some sense) be maximized, the argument will often be acceptable both to the consequentialist and the non-consequentialist alike, regardless of the details of their individual moral metatheories.<sup>9</sup> Thus, according to both Sumner and Dworkin, although the short-term goal of affirmative-action policies will be to introduce selection procedures that are explicitly biased, the long-term effect of these same

policies will be to reduce (and eventually eliminate) morally unwarranted discrimination. On this view, given widespread systemic discrimination that cannot be fought in any other way, it is the effectiveness of preferential policies in meeting short-term goals that will actually be the most significant factor in successfully *minimizing* discrimination in the long run.

Keeping these observations in mind, we are often enjoined to consider statistics such as the following: in 1990-1991, only 20.2% of full-time university teachers in Canada were women.<sup>10</sup> In the upper ranks this number shrank to 19.6% of associate professors and only 7.6% of full professors (see Table 1). In some families of disciplines these percentages were even lower.<sup>11</sup> For example, although 30.1% of full-time university teachers in education were women in 1990-1991, only 7.0% of full-time faculty members in mathematics and the physical sciences were women. At the rank of full professor, the percentage of women in mathematics and the physical sciences shrank to 1.9%. In engineering and the applied sciences, the numbers were lower still: 3.6% of total appointments and 0.7% of full professors, respectively (see Table 2).

**Table 1.** *Percentage of Women (F) of Full-time University Teachers in Canada in 1990-1991, by Rank*<sup>†</sup>

<i>Full Prof.</i>		<i>Assoc. Prof.</i>		<i>Assist. Prof.</i>		<i>Lecturer<sup>††</sup></i>		<i>Other</i>		<i>Total</i>	
<i>Total</i>	<i>% F</i>	<i>Total</i>	<i>% F</i>	<i>Total</i>	<i>% F</i>	<i>Total</i>	<i>% F</i>	<i>Total</i>	<i>% F</i>	<i>Total</i>	<i>% F</i>
13,740	7.6	12,703	19.6	8,004	33.4	1,331	49.5	1,643	42.2	37,421	20.2

<sup>†</sup> Calculated from figures in Statistics Canada, *Teachers in Universities: 1990-91*, Catalogue No. 81-241 (Ottawa: Minister of Industry, Science and Technology, 1993), p. 19.

<sup>††</sup> The rank of Lecturer refers to any rank next below Assistant Professor.

What do these statistics tell us? By any standard it would appear that the percentages cited are not high. Do they therefore provide support for the claim that women are discriminated against within Canadian universities? Many have assumed that these low percentages are to be explained by the existence of individual or systemic discrimination in hiring, or promotion, or both. Let us therefore consider these two possibilities in turn.

First, concerning hiring: in order to make the case that discrimination against women has occurred during the hiring process, we must do more than simply cite low participation rates of women within university faculties. Claims of bias on the part of hiring committees (whether such bias is thought to be individual or systemic) require comparisons of sex ratios between applicant pools and job recipients.<sup>12</sup> In other words, for any given rank or discipline, it will be necessary to compare the percentage of applicants (for that rank or discipline) who are women to the percentage of job recipients (for that same rank or discipline) who are women. Only then can it be determined whether it is likely that bias or discrimination (of either kind) has occurred during the hiring process.<sup>13</sup>

**Table 2.** *Percentage of Women (F) of Full-time University Teachers in Canada in 1990-1991, by Rank and Discipline Grouping<sup>†</sup>*

<i>Full Prof.</i>		<i>Assoc. Prof.</i>		<i>Assist. Prof.</i>		<i>Lecturer<sup>††</sup></i>		<i>Other</i>		<i>Total</i>	
<i>Total</i>	<i>% F</i>	<i>Total</i>	<i>% F</i>	<i>Total</i>	<i>% F</i>	<i>Total</i>	<i>% F</i>	<i>Total</i>	<i>% F</i>	<i>Total</i>	<i>% F</i>
<i>Agriculture and Biological Sciences</i>											
1,206	7.7	785	18.6	550	28.9	40	72.5	100	60.0	2,681	18.2
<i>Education</i>											
927	15.9	1,226	26.7	633	44.4	127	50.4	181	61.9	3,094	30.1
<i>Engineering and Applied Sciences</i>											
1,417	0.7	738	3.3	507	7.9	75	16.0	158	11.4	2,895	3.6
<i>Fine and Applied Arts</i>											
367	11.4	643	23.6	391	44.8	61	47.5	135	30.4	1,597	27.5
<i>Health Sciences</i>											
2,050	9.1	2,013	27.5	1,742	37.3	202	72.3	119	78.2	6,126	26.6
<i>Humanities</i>											
2,145	11.1	2,306	23.7	1,239	42.7	256	55.1	333	51.7	6,279	25.9
<i>Mathematics and Physical Sciences</i>											
2,333	1.9	1,462	7.5	827	14.1	132	31.8	157	20.4	4,911	7.0
<i>Social Sciences</i>											
3,234	8.7	3,477	17.8	2,011	34.2	398	43.2	405	37.3	9,525	20.0
<i>Discipline Grouping Not Reported</i>											
61	9.8	53	22.6	104	34.6	40	60.0	55	27.3	313	29.7

<sup>†</sup> Calculated from figures in Statistics Canada, *Teachers in Universities: 1990-91*, Catalogue No. 81-241 (Ottawa: Minister of Industry, Science and Technology, 1993), pp. 32f.

<sup>††</sup> The rank of Lecturer refers to any rank next below Assistant Professor.

In order to do this, let us begin by comparing the percentage of full-time university teachers at each academic rank who are women with the estimated percentage of women applicants at the time these individuals first entered the academic job market.<sup>14</sup> Entry years for each rank may be calculated by subtracting the average number of years an employee has been in the work force from the current year in question (in this case 1990-1991). To obtain the average number of years that a typical employee at each rank has been teaching, we subtract the age of the average first-time applicant from the median age of that rank.

The latter of these two ages, the median age of employees at each given rank, is easily discovered through available statistics (see Table 3). The former of these two ages, the age of the typical entry-level job applicant, can also be calculated without much difficulty. We do so as follows. Assume that the typical candidate for an entry-level, full-time teaching position entered university as an undergraduate at the age of 18. He or

she will then have graduated with a bachelor's degree four years later at the age of 22. If we assume an average of two years of study in order to obtain a master's degree, followed by an additional five years of study for a doctorate, with the possibility of another year spent in the workforce between degrees, then we can expect an average of eight more years of education and training before a candidate realistically will be expected to qualify for a full-time university teaching position. In other words, we can expect the typical candidate to have first entered the job market at about the age of 30.<sup>15</sup>

**Table 3. Median Age of Full-time University Teachers in Canada in 1990-1991 by Rank<sup>†</sup>**

<i>Full Prof.</i>			<i>Assoc. Prof.</i>			<i>Assist. Prof.</i>			<i>Lecturer<sup>††</sup></i>			<i>Other</i>			<i>Total</i>		
<i>M</i>	<i>F</i>	<i>T</i>	<i>M</i>	<i>F</i>	<i>T</i>	<i>M</i>	<i>F</i>	<i>T</i>	<i>M</i>	<i>F</i>	<i>T</i>	<i>M</i>	<i>F</i>	<i>T</i>	<i>M</i>	<i>F</i>	<i>T</i>
52	51	52	47	46	47	37	38	37	36	37	36	46	44	45	48	43	47

<sup>†</sup> From Statistics Canada, *Teachers in Universities: 1990-91*, Catalogue No. 81-241 (Ottawa: Minister of Industry, Science and Technology, 1993), pp. 42f.

<sup>††</sup> The rank of Lecturer refers to any rank next below Assistant Professor.

What this means in practice is that since the median age of a full professor in 1990<sup>16</sup> was 52 years, by 1990 he or she would have been teaching for approximately 22 years, having entered the job market in about 1968. Similar calculations show that in 1990 the average associate professor would have entered the job market in about 1973; the average assistant professor would have done so in about 1983; and the average lecturer would have done so in about 1984. By calculating the percentage of women who graduated with Ph.D.'s (or other earned doctorates) at these times,<sup>17</sup> we can then estimate the percentage of women likely to have been present within each relevant applicant pool (see Table 4). Finally, by comparing these percentages of estimated female applicants with those of women candidates whom we know to have been successful in obtaining positions, we will be able to judge whether discrimination is a reasonable hypothesis for explaining the apparently low participation rates of women within the university (see Table 5).

What we discover in carrying out this comparison is that figures from the 1960s are consistent with there being a modest degree of discrimination against women during the hiring process at that time. During the time that today's full professors were first being hired, the percentage of applicants who were women is estimated to have been 8.6%. At the same time, the percentage of job recipients who were women was only 7.6%. Discrimination against women during hiring might well account for this discrepancy.<sup>18</sup>

**Table 4. Percentage of Women (F) Estimated (on the Basis of Earned Doctorates) to Be Applicants for Full-time University Teaching Positions in Canada in Selected Years, by 1990-1991 Rank<sup>†</sup>**

	Full Prof. (1967-69)		Assoc. Prof. (1972-74)		Assist. Prof. (1982-84)		Lecturer <sup>††</sup> (1983-85)		Other (1974-76)	
Applicants:	Total	% F	Total	% F	Total	% F	Total	% F	Total	% F
	2,893	8.6	5,549	11.0	5,414	25.6	5,699	26.1	5,429	15.6

<sup>†</sup> Calculated from figures in Statistics Canada, *Education in Canada 1975: A Statistical Review for 1972-73 and 1973-74*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1976), p. 340; Statistics Canada, *Education in Canada 1980: A Statistical Review for 1979-80*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1981), p. 70; Statistics Canada, *Education in Canada 1986: A Statistical Review for 1985-86*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1987), p. 193.

<sup>††</sup> The rank of Lecturer refers to any rank next below Assistant Professor.

**Table 5. Percentage of Women (F) of Full-time University Teachers Compared with the Percentage of Women Estimated (on the Basis of Earned Doctorates) to be Applicants for Full-time University Teaching Positions in Canada, by 1990-1991 Rank<sup>†</sup>**

	Full Prof. (1967-69)	Assoc. Prof. (1972-74)	Assist. Prof. (1982-84)	Lecturer <sup>††</sup> (1983-85)	Other (1974-76)
F% of Applicants	8.6	11.0	25.6	26.1	15.6
F% of Appointments	7.6	19.6	33.4	49.5	42.2

<sup>†</sup> From Table 1 and Table 4 above.

<sup>††</sup> The rank of Lecturer refers to any rank next below Assistant Professor.

However, if this observation is correct, it also appears likely that for all other ranks, the data are consistent with there being significant discrimination in favour of women and against men. In the case of associate professors, for example, the percentage of job recipients who were women was 19.6%, while the estimated percentage of applicants who were women was only 11.0%. At the rank of assistant professor, the percentage of job recipients who were women was 33.4%, while the estimated percentage of applicants who were women was only 25.6%. At the rank of lecturer,<sup>19</sup> the percentage of job recipients who were women was 49.5%, while the estimated percentage of applicants who were women was only 26.1%. And in the final category, the percentage of job recipients who were women was 42.2%, while the estimated percentage of applicants who were women was only 15.6%. At each of these ranks,<sup>20</sup> the discrepancy between the percentage of women whom we know to have been hired and the estimated percentage of women who applied for jobs is much larger than the reverse discrepancy at the rank of full professor.<sup>21</sup>

The *prima facie* conclusion that we draw from these statistics is therefore threefold. First, if systemic discrimination is occurring within contemporary university hiring, it is more likely to be occurring in favour of, rather than against, women.<sup>22</sup> Second, it appears that significant, measurable systemic discrimination against women has not appeared in university hiring for at least 25 years. And third, since the evidence appears to indicate that contemporary discrimination against men is much more widespread than was previous discrimination against women, these results are more difficult to explain away as simply the result of random (or other) variables.

These three conclusions are also borne out by a more detailed discipline-sensitive statistical breakdown of applicant-to-employee ratios. By discovering the median ages of university instructors within various families of disciplines and at various ranks (see Table 6), we can once again estimate the relevant percentages of women applicants. We can then compare these estimated percentages within each discipline grouping with the percentages of women known to be full-time university teachers. Once again, it is then possible to judge whether discrimination in hiring becomes a reasonable hypothesis for explaining the apparently low participation rates of women within the university (see Table 7).

**Table 6.** *Median Age of Full-time, Male (M) and Female (F), University Teachers in Canada in 1990-1991 by Rank and Discipline Grouping.*<sup>†</sup>

Full Prof.			Assoc. Prof.			Assist. Prof.			Lecturer <sup>††</sup>			Other			Total		
M	F	T	M	F	T	M	F	T	M	F	T	M	F	T	M	F	T
<i>Agriculture and Biological Sciences</i>																	
52	51	52	44	45	44	36	36	36	33	37	35	41	42	41	47	42	46
<i>Education</i>																	
52	51	52	49	47	48	42	42	42	42	39	40	43	43	43	49	46	48
<i>Engineering and Applied Sciences</i>																	
53	51	53	45	44	44	34	34	34	34	37	34	52	38	50	48	38	48
<i>Fine and Applied Arts</i>																	
54	53	54	49	46	48	39	39	39	40	41	40	47	45	46	48	44	47
<i>Health Sciences</i>																	
53	52	53	45	46	46	37	39	38	35	36	35	39	46	44	47	43	46
<i>Humanities</i>																	
54	52	53	50	48	49	40	39	39	37	39	38	45	45	45	50	45	49
<i>Mathematics and Physical Sciences</i>																	
52	52	52	46	43	46	34	33	34	37	42	40	48	46	47	48	41	48
<i>Social Sciences</i>																	
50	49	50	46	44	46	37	37	37	34	35	34	45	42	44	47	42	46

<sup>†</sup> From Statistics Canada, *Teachers in Universities: 1990-91*, Catalogue No. 81-241 (Ottawa: Minister of Industry, Science and Technology, 1993), pp. 42f.

<sup>††</sup> The rank of Lecturer refers to any rank next below Assistant Professor.

**Table 7.** *Percentage of Women (F) of Full-time University Teachers Compared with the Percentage of Women Estimated (on the Basis of Earned Doctorates) to Be Applicants for Full-time University Teaching Positions in Canada in Selected Years, by 1990-1991 Rank and Discipline Grouping<sup>†</sup>*

	Full Prof.	Assoc. Prof.	Assist. Prof.	Lecturer <sup>††</sup>	Other
<b>Agriculture and Biological Sciences</b>	1967-69	1975-77	1983-85	1984-86	1978-80
<i>F % of Applicants</i>	10.2	16.2	23.4	24.3	17.8
<i>F % of Appointments</i>	7.7	18.6	28.9	72.5	60.0
<b>Education</b>	1967-69	1971-73	1977-79	1979-81	1976-78
<i>F % of Applicants</i>	17.4	13.0	26.2	35.1	26.1
<i>F % of Appointments</i>	15.9	26.7	44.4	50.4	61.9
<b>Engineering and Applied Sciences</b>	1966-68	1975-77	1985-87	1985-87	1969-71
<i>F % of Applicants</i>	1.0	3.6	4.9	4.9	0.0
<i>F % of Appointments</i>	0.7	3.3	7.9	16.0	11.4
<b>Fine and Applied Arts</b>	1965-67	1971-73	1980-82	1979-81	1973-75
<i>F % of Applicants</i>	25.0	23.5	42.9	40.7	12.5
<i>F % of Appointments</i>	11.4	23.6	44.7	47.5	30.8
<b>Health Sciences</b>	1966-68	1973-75	1981-83	1984-86	1975-77
<i>F % of Applicants</i>	13.6	17.4	28.8	31.5	22.0
<i>F % of Appointments</i>	9.1	27.5	37.3	72.3	78.2
<b>Humanities</b>	1966-68	1970-72	1980-82	1981-83	1974-76
<i>F % of Applicants</i>	20.8	22.9	34.8	34.4	27.1
<i>F % of Appointments</i>	11.1	23.7	42.7	55.1	51.7
<b>Mathematics and Physical Sciences</b>	1967-69	1973-75	1985-87	1979-81	1972-74
<i>F % of Applicants</i>	3.7	5.7	15.0	9.4	4.8
<i>F % of Appointments</i>	1.9	7.5	14.1	31.8	20.4
<b>Social Sciences</b>	1969-71	1973-75	1982-84	1985-87	1975-77
<i>F % of Applicants</i>	16.3	19.9	31.5	35.9	21.2
<i>F % of Appointments</i>	8.7	17.8	34.2	43.2	37.3

<sup>†</sup> From Table 2, above, together with figures calculated from Statistics Canada, *Education in Canada 1975: A Statistical Review for 1972-73 and 1973-74*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1976), pp. 340f.; Statistics Canada, *Education in Canada 1980: A Statistical Review for 1979-80*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1981), p. 70; Statistics Canada, *Education in Canada 1984: A Statistical Review for 1983-84*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1985), p. 66; Statistics Canada, *Education in Canada: A Statistical Review for 1988-89*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1990), p. 185.

<sup>††</sup> The rank of Lecturer refers to any rank next below Assistant Professor.



Upon making these comparisons we see that the statistics are once again consistent with there having been measurable discrimination against women during the 1960s but not afterwards. Perhaps surprisingly, during the 1960s it was not in mathematics or engineering where the largest discrepancies occurred, but rather in the humanities, social sciences and fine and applied arts. In the humanities, for example, only 11.1% of job recipients, compared to an estimated 20.8% of job applicants, were women.

However, as was seen previously, since that time the statistical trend is consistent with there having been a movement away from discrimination against women. In fact, in only three instances are female percentages of estimated job applicants even slightly higher than percentages of job recipients. In only one of these cases (that of the social sciences during the early 1970s) is the difference greater than a single percentage point. Even here, though, the numbers have converged so dramatically since the 1960s that it would be unrealistic to expect even greater changes to have occurred over such a short period of time. In every other instance, women are overrepresented when compared to the estimated applicant pool. Sometimes this overrepresentation is quite dramatic, as in both education and the health sciences where the percentage of women hired is often 10% (or more) higher than in the estimated applicant pool.

Of course, it must be stressed that earned doctorates provide only a rough indicator of applicant pools in some disciplines. For example, earned doctorates play a comparatively minor role for many positions in the fine and applied arts. The qualifications required for a studio artist, for example, may rarely, if ever, include mention of a higher degree. The same will be true for related fields such as applied film and television studies, stage and set design, and so forth.<sup>23</sup> Nevertheless, estimates of job applicants based upon figures reflecting earned doctorates will remain reliable in a clear majority of disciplines.

Once again, then, the main conclusion to which we are drawn is that, if discrimination is currently occurring within university hiring, it is more likely to be occurring in favour of, rather than against, women. At the same time, it appears that whatever significant discrimination against women that has taken place during hiring has not occurred for at least 25 years. Is there any reason to doubt these provisional conclusions?

One objection that immediately comes to mind concerns the use of estimated applicant pools. In one sense, of course, it would be preferable to have figures reflecting the historical groups of applicants which in fact applied for these positions. However, since earned doctorates (unlike bachelor's degrees) tend to represent genuine career choices or intentions rather than simple interests, this method of estimation should provide a reasonably close approximation. At the same time, if claims regarding systemic discrimination are to be taken seriously, the current method of estimating (potential) applicant pools may prove to be superior to figures

derived from individual historical cases. This follows, since, unlike case statistics, this method estimates qualified persons who *could* have applied for these posts, therefore taking into account the possibility that social forces and institutional barriers may have discouraged some qualified potential applicants from actually applying.

Related to this same point, it should also be noted that the above methodology is preferable to any procedure that compares the percentages of women as full-time university teachers with the *current* female percentage of qualified candidates.<sup>24</sup> Since the percentage of qualified women has been growing steadily over the past several decades, percentages of currently qualified women are not acceptable indicators of the percentages of women who would have been hired in past years, had non-discriminatory hiring practices been in effect. To claim, as some do, that it is appropriate "to ensure that *throughout the entire organization* representation rates of historically disadvantaged groups reflect their availability within the external labour force"<sup>25</sup> is therefore, in effect, to claim that women on faculty today may be underrepresented even if in the past they had been hired in numbers identical to those which resulted from a completely non-discriminatory hiring environment. In other words, following a procedure which calculates overall staffing targets on the basis of current applicant pool percentages would require overt discrimination in favour of women.

Let us therefore turn to a second, more serious objection to the main conclusion that if discrimination is in fact currently occurring within university hiring, it is more likely to be occurring in favour of, rather than against, women. This objection coincides with the concern that perhaps women are being discriminated against, not only at the point of hiring, but in promotion as well. After all, if women have been (individually or systemically) discriminated against at times of potential promotion, we will expect to see large numbers of women trapped in the lower ranks. Thus, a hypothesis of widespread promotional discrimination might account for the apparent overrepresentation of women in these ranks. Given the low percentages of women applicants during the 1960s, even modest systemic discrimination hampering promotion might account for the current low proportion of women at the rank of full professor. Several arguments show that this hypothesis is mistaken.

The first is that if women have been discriminated against during promotion, we would expect to see noticeable differences between the ages of men and women at the various ranks in question. Yet this is not so. At all ranks, the overall median ages of men and women are close to being identical (see Table 3). In the case of full professor, men and women are separated by a single year. The same is true for associate and assistant professors. Much the same is also the case within individual discipline groupings (see Table 6).<sup>26</sup> Yet if either overt discrimination or systemic, social barriers impede the progress of women through university ranks, we would expect this to be re-

flected in significant differences of age between men and women. Since this is not the case, we can conclude that the likelihood of there existing significant, widespread promotional discrimination against women is diminished.

A second important argument in this context is that if widespread promotional discrimination against women has occurred, it follows that more women had to have been hired at the entry level for what are now the higher ranks than appear there today. In other words, increased promotional discrimination *decreases* the likelihood of earlier discrimination in hiring. This follows, since increasing the number of women hired during the 1960s makes it more likely that those women were hired in numbers proportional to their actual representation within the applicant pool. Given this observation, we can therefore ask whether it is plausible to expect that discrimination during promotion might account for the large numbers of women teaching at lower ranks.

In fact it is not. To see this, assume (as our hypothesis claims) that women have not had the advantage of being positively favoured in hiring over the past 25 years but that, instead, women's overrepresentation within lower ranks is a consequence of (individual or systemic) promotional discrimination. It turns out that, in order for this to be the case, women must have been hired at the entry level for what is now the rank of full professor at almost three times the level of their representation within the pool of qualified applicants. In other words, enough women would have had to have been hired during the 1960s to account both for today's full professors and for the "surplus" of women at all other ranks. This means that some 3,514 women<sup>27</sup> would have had to have been hired over a period in which, if there had been no discrimination of any kind, we would have realistically expected only 1,182 women to have been hired (see Table 8).

**Table 8.** *Actual and Expected Numbers of Women Employed as Full-time University Teachers in Canada in 1990-1991 by Rank<sup>†</sup>*

	Full Prof.	Assoc. Prof.	Assist. Prof.	Lecturer <sup>††</sup>	Other
<i>Actual</i>	1,047	2,488	2,675	659	694
<i>Expected</i>	1,182	1,397	2,049	347	256
<i>Difference</i>	-135	1,091	626	312	438

<sup>†</sup> Calculated from figures in Table 4, above, and Statistics Canada, *Teachers in Universities: 1990-91*, Catalogue No. 81-241 (Ottawa: Minister of Industry, Science and Technology, 1993), p. 19.

<sup>††</sup> The rank of Lecturer refers to any rank next below Assistant Professor.

Another way of putting this point is as follows. If the hypothesis of widespread promotional discrimination is used to discount claims of positive discrimination favouring women over the past 25 years, this hypothesis will require that even more highly discriminatory procedures favouring

women would have to have been in place 25 years ago. That is, a full 25.6% of hirings during the late 1960s would have to have been awarded to women candidates despite the fact that women accounted for only 8.6% of the pool of qualified applicants. In other words, this hypothesis requires not only that it not be the case that women were discriminated against during the 1960s, but it also requires women to have been given widespread preferential treatment during hiring even then. Such a conclusion must surely be unrealistic. A more convincing hypothesis—convincing because it is more in keeping with the available data—is simply that some (but comparatively little) discrimination against women did occur in hiring during the 1960s, but that since then the only statistically significant discrimination within university hiring has been in favour of women.

If a third argument is needed in support of the claim that there has not been significant promotional discrimination against women in recent years, one need only observe that if such discrimination had been occurring over the past 25 years, we would expect to find women in the lower ranks to be better qualified than their male colleagues. Yet this, too, is not the case. Although education is only one factor governing university promotion,<sup>28</sup> it is an important one. In most disciplines a doctoral degree is seen as a minimum requirement for promotion to the professorial ranks. If it were the case that women were failing to obtain deserved promotions, we would expect to see equality of educational qualifications between men and women at the same rank. Yet this is not the case. Although the percentages of men and women with earned doctorates is virtually identical at the rank of full professor, this is not the case in any of the lower ranks, ranks in which women are currently overrepresented. At the rank of associate professor, for example, only 65.9% of women have earned doctorates, compared to 72.5% of men. At the rank of assistant professor only 53.3% of women have earned doctorates, compared to 61.5% of men (see Table 9).

Prima facie, these figures show that, at the lower ranks, women tend not to be as well qualified as their male counterparts.<sup>29</sup> The hypothesis of widespread promotional discrimination against women therefore once again becomes unlikely. Not only do these figures disconfirm such a hypothesis, they also provide additional (independent) confirmation of our earlier conclusion that if discrimination is occurring within university hiring, it is currently more likely to be occurring in favour of, rather than against, women.

One final objection to this main conclusion may now be considered. This is an objection based upon immigration. Historically, many applicants for jobs within Canadian universities have come from outside the country. It might therefore be maintained that we are unjustified in assuming that the correct gender ratios for historically relevant applicant pools will be accurately reflected by statistics based on doctorates earned in Canada. In answering this objection, two considerations become relevant.

**Table 9.** *Percentage of Full-time University Teachers in Canada in 1990-1991 by Rank, Highest Earned Degree and Sex (M, F)*<sup>†</sup>

Full Prof.		Assoc. Prof.		Assist. Prof.		Lecturer <sup>††</sup>		Other		Total	
M	F	M	F	M	F	M	F	M	F	M	F
% Doctorate											
83.5	81.3	72.5	65.9	61.5	53.3	13.7	9.1	25.4	17.1	72.4	54.1
% Masters											
8.4	12.0	16.6	25.1	19.5	30.1	57.7	56.8	50.2	48.6	15.6	30.0
% Professional											
5.5	3.3	6.6	4.2	10.4	7.8	4.3	3.8	0.6	0.9	6.6	5.0
% Bachelor											
1.6	2.1	2.7	3.4	3.4	4.4	13.4	19.0	15.3	23.3	3.0	6.8
% Other											
0.9	1.2	1.6	1.4	5.2	4.4	10.9	11.4	8.5	10.1	2.4	4.1

<sup>†</sup> Calculated from figures in Statistics Canada, *Teachers in Universities: 1990-91*, Catalogue No. 81-241 (Ottawa: Minister of Industry, Science and Technology, 1993), pp. 32f. Columns may not total 100% due to rounding.

<sup>††</sup> The rank of Lecturer refers to any rank next below Assistant Professor.

The first is that if our primary goal is to discover whether discrimination against women is *currently* taking place within Canadian universities, the citizenship of applicants will not be a significant factor. Current legislation (which has been in place for several years) requires a "Canadians first" hiring policy on the part of Canadian universities. This means that comparatively few non-Canadians are currently being hired at Canadian universities. At the same time, it is worth noting that among full-time university teachers, the percentage of those with Canadian citizenship has increased from approximately 57% in 1969-1970 to approximately 80% in 1990-1991.<sup>30</sup> Although part of this increase will have resulted from permanent residents taking up Canadian citizenship during this time, this change is also due to the increased granting of Ph.D.'s and other earned doctorates by Canadian universities during this period. In other words, the increased training of Canadian citizens in Canada for university teaching posts makes more plausible the given estimates of male to female ratios within recent applicant pools.

The second consideration relevant here is that even when non-Canadian applicants were being hired in large numbers, this does not appear to have altered the composition of the applicant pool in any very significant way. If we consider the case of the United States, which is where historically most non-Canadian applicants have originated, we find that the estimated female percentages of American applicants, although higher than Canadian percentages, still remain lower than female percentages of appointments at all ranks except that of full professor (see Table 10). Thus, once again we are

left with the conclusion that statistically significant, widespread discrimination against women during hiring is not now likely to be taking place, nor is it likely to have existed, even in a moderate form, for at least 25 years.

**Table 10.** *Percentage of Women (F) of Full-time University Teachers in Canada Compared with the Percentage of American Women Estimated (on the Basis of Earned Doctorates) to Be Applicants for Full-time University Teaching Positions in Canada, by 1990-1991 Rank<sup>†</sup>*

	<i>Full Prof. (1967-69)</i>	<i>Assoc. Prof. (1972-74)</i>	<i>Assist. Prof. (1982-84)</i>	<i>Lecturer<sup>††</sup> (1983-85)</i>	<i>Other (1974-76)</i>
<i>F % of Applicants</i>	12.6	17.6	32.9	33.6	21.1
<i>F % of Appointments</i>	7.6	19.6	33.4	49.5	42.2

<sup>†</sup> From Table 1, above, and calculated from figures in the National Center for Education Statistics, *Digest of Education Statistics 1995*, NCES 95-029 (Washington, DC: U.S. Department of Education, 1995), p. 250.

<sup>††</sup> The rank of Lecturer refers to any rank next below Assistant Professor.

If all this is correct, one question still naturally arises. Why are there still so few women teaching within the university today? The answer appears to be at least twofold. First, despite the likelihood that women have been (and continue to be) the beneficiaries of positive discrimination, there simply have not been enough hirings over the past 25 years to raise the number of women on faculty to anything like 50%. Over the past 25 years comparatively few academics, either male or female, have been hired.<sup>31</sup>

Second, it must be mentioned that women, for whatever reasons, have consistently formed only a small proportion of the total pool of qualified applicants for any given position. Even in the most recent year under consideration, women on average constituted only 32.1% of the overall qualified applicant pool.<sup>32</sup> Usually in the past, and in many disciplines, the percentage has been much lower. Yet neither of these facts, disappointing to some as they are, should be construed as evidence of discrimination on the part of universities, either in hiring or in promotion.

### 3. Equity versus Merit in University Hiring

Despite commonly stated assumptions to the contrary, the above discussion makes it clear that claims of recent, significant, sustained, widespread discrimination in hiring against women in Canadian universities remain unsupported by the available statistical data. If anything, the data show exactly the opposite. If discrimination in hiring has occurred over the last 25 years, it is statistically more likely that it has been occurring in favour of, rather than against, women.

Assuming (as seems plausible) that this is in fact what has happened, what are the consequences of this "positive discrimination"? There appear to be two main ones.

The first is the self-evident consequence that more women have been hired over the past 25 years than otherwise would have been. Most accept that the social consequences of this fact, although difficult to judge, have been positive. Young women have been given role models, universities have been perceived to be liberal institutions, and individual women have benefited from the appointments.

The second main consequence is that, in all likelihood, more less-qualified applicants have been appointed over the past 20 years than otherwise would have been the case. If this is true, the consequences (although, again, not easy to judge) will be much less positive. They will include lower standards in teaching and research, poor academic (as opposed to social) role models<sup>33</sup> and generally poor morale among those within the university community (both students and faculty alike) who believe that merit and excellence should not be sacrificed for social expediency. It should also be emphasized that such consequences will typically mitigate any positive social benefits brought about by preferential policies. Providing poor academic role models within an institution whose primary function is to produce and promote knowledge does little if anything to further the ultimate social goals that advocates of preferential policies profess to be attempting to implement.

*It must also be stressed that to assert this consequence is not to make a disparaging claim about women. Nor does it in any way support or entail the claim that women and men may fail to function equally well within the university.* Exactly the same point would be true if we were to give widespread, preferential treatment to men at the expense of women, as appears to have been the case during the 1960s. By typically favouring the hiring of one group over another on grounds other than merit, one significantly raises the probability of appointing less-qualified applicants. The reason is that, if we assume women and men to be equally well-qualified, it follows that within the group of best qualified (potential) applicants, women and men (in all likelihood) will appear in numbers representative of their proportions within the total pool of (potential) applicants.<sup>34</sup> To depart from these proportions during hiring will significantly increase the probability of hiring outside this group.

Another way of making much this same point is to recognize that, whatever their other merits, programs systematically favouring the hiring of women *will not increase* the number of women within the pool of qualified (potential) applicants. At best, such programs will merely redistribute qualified women from smaller, less prestigious colleges and universities to larger, higher paying ones. At worst, such programs will result in the hiring of less capable people. Once enough major universities introduce quotas for the hiring of women that are higher than the supply mandates (as almost all institutions that have introduced quotas have done), it becomes almost inevitable that these universities will hire virtually all the best

qualified female candidates (if they hire at all). In such cases, smaller, less prestigious institutions may very well experience a decline in the percentage of women on faculty as women academics begin to migrate to those institutions in which positions are being held open for women only.

At this point, the only remaining alternative appears to be the view that the overrepresentation of one group (in this case women) comes about as a result of the qualificational superiority of that group, in education, experience, publications or the like. Such a possibility is not to be dismissed out of hand, but neither is it to be accepted without evidence. In fact, what evidence there is suggests that it is incorrect.

In a majority of disciplines a doctoral degree is seen as the minimum qualification for full-time university appointment. Yet, as we have already seen, over the past 20 years women have been hired without this minimum requirement more regularly than men. At the rank of associate professor, for example, only 65.9% of women have earned doctorates, compared to 72.5% of men. At the rank of assistant professor only 53.3% of women have earned doctorates, compared to 61.5% of men (see Table 9). *Prima facie*, it appears that some factor other than (or in addition to) merit has been governing many university appointments.

Still, one should not read *too* much into these figures. As mentioned earlier, education is only one factor among several governing appointments although, at the entry level especially, it remains an extremely important one. Although unlikely, it could turn out that a further breakdown of statistics will show that men and women in fact have very similar qualifications within individual disciplines.<sup>35</sup> Nevertheless, in the absence of such evidence, the provisional conclusion to be drawn is that in recent years gender has played a measurable role in university appointments.

However, one final consequence of these observations should now be noted. Given the statistics in Table 9, it may now rightly be claimed that our earlier method for estimating applicant pools at the non-professorial ranks was less than ideal. Given that comparatively few lecturers, lab demonstrators and other non-professorial appointments have earned doctorates, it follows that using earned doctorates as the basis for estimating applicant pools at these ranks is bound to be misleading.<sup>36</sup> Using master's degrees (or a combination of earned doctorates and earned master's degrees) should provide a more reliable method for estimating these applicant pools. Yet what we find when applicant pools are estimated on the basis of either of these two methods is that even in the most favourable case (the case in which applicants are estimated on the basis of earned master's degrees alone), the female percentages of appointments are still significantly higher than the estimated female percentages of applicants. At the rank of lecturer, the estimated percentage of female applicants is never higher than 41.2%, while the percentage of appointments at this level is 49.5%. Similarly, at other non-professorial ranks, the percentages of female applicants and appointments are 26.8% and 42.2%, respectively (see Table 11).<sup>37</sup> Thus,



once again the hypothesis still appears likely that if systemic discrimination is occurring within contemporary university hiring, it is more likely to be occurring in favour of, rather than against, women.

**Table 11.** *Percentage of Women (F) of Full-time University Teachers Compared with the Percentage of Women Estimated (on the Basis of Earned Doctorates or Master's Degrees) to Be Applicants for Full-time University Teaching Positions at Non-professorial Ranks in Canada, by 1990-1991 Rank<sup>†</sup>*

	Lecturer <sup>††</sup> (1983-85)	Other (1974-76)
<i>F % of Applicants Estimated on the Basis of an Earned Doctorate or Master's Degree</i>	39.5	26.8
<i>F % of Applicants Estimated on the Basis of an Earned Master's Degree Alone</i>	41.2	28.7
<i>F % of Appointments</i>	49.5	42.2

<sup>†</sup> Calculated from figures in Statistics Canada, *Education in Canada 1980: A Statistical Review for 1979-80*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1981), pp. 69f.; Statistics Canada, *Education in Canada: A Statistical Review for 1987-88*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1989), pp. 181, 185.

<sup>††</sup> The rank of Lecturer refers to any rank next below Assistant Professor.

#### 4. Positive Sexism and Social Engineering

At this point it is probably fair to say that all serious arguments favouring affirmative action on the basis that it helps combat recent discrimination in university hiring are seriously undermined. Specifically, the claim that giving preferential treatment to women is the best (or the only) way to stop widespread, systemic hiring discrimination turns out to be unrealistic. In all likelihood, such discrimination simply does not exist.<sup>38</sup> Hence the argument from total justice fails.

From this it may seem to be a small step to the conclusion that programs favouring the hiring of women over men within the university are no longer justified; and from here an even smaller step to the claim that they should be abandoned. However, it is not. Three groups<sup>39</sup> are bound to remain dissatisfied with the discussion up to this point.

First, some will want to claim that the argument so far has done nothing to address the fundamental issue of showing why we should expect statistics concerning earned doctorates to reflect morally correct employment ratios. After all, it may turn out that women who earn doctorates are more certain about their career goals than are men; or that women are more likely to prefer university employment while men are more likely to prefer employment in industry; or that women, for whatever reasons, simply make better scholars than men. Hence, it may turn out that earned doctorates alone will fail to reflect *any* significant indicators concerning

discrimination. Until such issues are addressed (and there will be large numbers of them), we simply have no morally significant baseline with which to compare actual hirings.<sup>40</sup> On this view, the only appropriate indicator will be the market itself. As a result, we will have no basis at all for conjectures regarding systemic discrimination of any kind.

Second, quite a different group of critics will want to claim that the argument so far has done very little to address the fundamental fact that women still do not account for anything close to 50% of university faculty. Thus, even if women are no longer being discriminated against during hiring or promotion, this only shows that the most obvious potential sources of discrimination have been addressed. Even if it is no longer occurring during hiring or promotion, discrimination must still be occurring elsewhere in order to impede the eventual hiring of women scholars. On this view, the lack of women faculty must itself still be corrected and, as a result, universities will be obligated to help do so through programs of affirmative action.

Third, a final group of critics will want to advance a very different kind of argument, one based upon general social utility. These critics will argue that even though programs of affirmative action may hamper the maximization of justice, and even though they may fail to promote merit, it may still be claimed that such programs (on balance) will increase general social welfare, and so should be accepted. In short, programs designed to achieve employment equity will help achieve other important societal goals, which in some sense outweigh immediate concerns of justice and merit.

All three of the above groups of critics will find comparisons between applicant pools and job recipients mildly interesting but will argue that such statistics simply miss the relevant point. Jointly satisfying all three groups is bound to be a difficult task. Nevertheless, all three objections can be addressed by means of arguments concerning burden of proof.

The first objection can be answered relatively easily. Although it has not been shown that women and men who earn doctorates are equally certain about their career plans, or that women and men are equally likely to prefer university employment to employment in industry and so forth, such assumptions need not be defended unless there is some evidence to suggest that they might be false. As mentioned previously, earned doctorates (unlike bachelor's degrees) do tend to represent genuine career choices, rather than simple interests, and so function as reliable indicators of both preferences and abilities of men and women alike. Thus, the burden of proof falls naturally in the other direction, given common-sense population assumptions about people with earned doctorates. Until this burden is shifted, no more detailed answer need be given.

The second objection cannot be answered quite so quickly. Nevertheless, it can be answered, and in at least two ways. The first is to grant (if only for the sake of argument) that widespread, systemic discrimination must be occurring somewhere within the educational or social system in order to

account for the fact that so few women hold full-time teaching positions within the university. However, from this assumption alone it does not follow that preferential treatment for women within university hiring is the best, or even an acceptable, way of addressing this problem. In fact, several considerations show this type of policy to be an undesirable method for correcting, or compensating for, this form of hypothesized discrimination.

As many commentators have pointed out, most policies designed to achieve employment equity violate generally accepted principles of restitution. Not only do they regularly fail to assist or compensate those who have been victims of discrimination while benefiting those who have not, they also tend to penalize those who have not benefited from either past or present discrimination.<sup>41</sup> In addition, because affirmative action policies involve preferential treatment for some applicants at the expense of others, it is unfair both to those applicants who are rejected on grounds of their sex (when such applicants exist) and to the applicants who are ultimately hired (because of the stigma surrounding their appointment, whether deserved or not).<sup>42</sup> At the same time, because such policies make more likely the hiring of less-qualified candidates, it follows that the university will not be serving its students and other constituencies as well as it otherwise might. In short, the burden of proof once again remains on the advocates of affirmative action to show that their policies are the best means available for combating the perceived difficulty.

Essential to this argument is the fact that other means also exist for achieving the desired end, means that solve the problem at its cause rather than by attempting simply to alter its effects. If one is convinced that social policies must be implemented in order to combat systemic discrimination outside the university, then why not implement policies that rectify the situation at its cause? Such policies may include increased or universal daycare, increased educational opportunities for women at the graduate level by means of private scholarships and fellowships, increased encouragement within the school system for young women to consider academic careers, and so on. Such policies not only have the potential to bring about the changes desired but they would do so without the harmful consequences, both to individuals and institutions, as mentioned above.

Let us therefore turn to a second possible response to the claim that even if there is no longer discrimination against women at the point of hiring, there must still exist other forms of discrimination that impede their placement within the university. This second response is to deny that there exists adequate evidence in support of the claim that discrimination currently occurs anywhere within the educational or social system at significant enough levels to impede the hiring of women faculty within Canadian universities, and so to warrant preferential policies of the kind advocated. Such a response may at first appear implausible<sup>43</sup> but, once again, statistical evidence appears in its favour.

In the case of overall education, it is unlikely that claims of discrimination occurring within either undergraduate or graduate degree programs (and of the kind necessary to support the view that the hiring of women faculty within Canadian universities is currently being impeded) can be supported on the basis of the available data. The evidence for this is that over the past 25 years women have consistently received approximately the same (or a higher) percentage of both undergraduate and graduate degrees as would be expected on the basis of enrolments within these programs. In other words, there does not appear to be the kind of statistical evidence that would indicate the attrition that one would expect to find, should systemic discrimination of the kind postulated be present.

In the case of graduate degrees, combined full- and part-time enrolments over the three years leading up to graduation have typically coincided almost identically to the percentages of degrees granted to women over the past 25 years. For example, in 1990 women accounted for 45.2% of all graduate degree recipients. At the same time, women constituted 44.4% of all full- and part-time graduate student enrolments during the three-year period leading up to graduation. In 1985 the percentages were 40.2% and 40.3%, and in 1980 they were 35.7% and 34.6%, respectively.<sup>44</sup> (See Table 12).

**Table 12.** *Percentage of Women as Graduate Students Compared with the Percentage of Women as Graduate Degree Recipients in Canada from 1965 to 1990<sup>†</sup>*

	1963-65	1968-70	1973-75	1978-80	1983-85	1988-90
<i>F % of Full-time Enrolments</i>	16.2	19.5	25.9	33.5	38.0	40.9
<i>F % of Full- and Part-time Enrolments</i>	16.8	20.7	26.5	34.6	40.3	44.4
	1965	1970	1975	1980	1985	1990
<i>F % of Graduates</i>	17.9	19.8	26.4	35.7	40.2	45.2

<sup>†</sup> Calculated from figures in Statistics Canada, *Education in Canada 1975: A Statistical Review for 1972-73 and 1973-74*, 4-2251-501 (Ottawa: Minister of Industry, Trade and Commerce, 1976), pp. 182f., 328f., 340f.; Statistics Canada, *Education in Canada 1977: A Statistical Review for 1976-77*, 4-2251-501 (Ottawa: Minister of Industry, Trade and Commerce, 1978), pp. 32, 35; Statistics Canada, *Education in Canada 1980: A Statistical Review for 1979-80*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1981), pp. 69f.; Statistics Canada, *Education in Canada 1981: A Statistical Review for 1980-81*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1982), pp. 57, 60, 152, 154; Statistics Canada, *Education in Canada 1986: A Statistical Review for 1985-86*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1987), pp. 99, 115, 189, 193; Statistics Canada, *Education in Canada: A Statistical Review for 1990-91*, Catalogue No. 81-229 (Ottawa: Minister of Industry, Science and Technology, 1992), pp. 97, 113, 185, 189.

In the case of baccalaureate degrees it is similarly difficult to make the claim that women have been discriminated against. This is because women at this level are again just as likely to complete a degree successfully. For example, in 1990 women constituted 55.7% of all graduates. At the same time, they accounted for 55.8% of all full- and part-time undergraduate student enrolments during the three-year period leading up to graduation. In 1985 the percentages were 51.9% and 52.4%, and in 1980 they were 49.6% and 49.9%, respectively (see Table 13). Other commentators have pointed out that this is not just a recent phenomenon. In 1926, for example, women made up 21.2% of all university undergraduates, yet in that same year constituted a full 26% of all recipients of undergraduate degrees granted by Canadian universities.<sup>45</sup>

**Table 13.** *Percentage of Women as Undergraduate Students Compared with the Percentage of Women as Baccalaureate Degree Recipients in Canada from 1965 to 1985<sup>†</sup>*

	1963-65	1968-70	1973-75	1978-80	1983-85	1988-90
<i>F % of Full-time Enrolments</i>	29.3	35.1	39.8	44.9	47.5	51.1
<i>F % of Full- and Part-time Enrolments</i>	32.0	37.3	44.3	49.9	52.4	55.8
	1965	1970	1975	1980	1985	1990
<i>F % of Graduates</i>	30.8	38.3	44.4	49.6	51.9	55.7

<sup>†</sup> Calculated from figures in Statistics Canada, *Education in Canada 1973: A Statistical Review for 1960-61 to 1970-71*, 4-2200-501 (Ottawa: Information Canada, 1973), p. 166; Statistics Canada, *Education in Canada 1975: A Statistical Review for 1972-73 and 1973-74*, 4-2251-501 (Ottawa: Minister of Industry, Trade and Commerce, 1976), pp. 182f; Statistics Canada, *Education in Canada 1977: A Statistical Review for 1976-77*, 4-2251-501 (Ottawa: Minister of Industry, Trade and Commerce, 1978), pp. 31, 34; Statistics Canada, *Education in Canada 1980: A Statistical Review for 1979-80*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1981), p. 68; Statistics Canada, *Education in Canada 1981: A Statistical Review for 1980-81*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1982), pp. 56, 59; Statistics Canada, *Education in Canada 1984: A Statistical Review for 1983-84*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1985), p. 64; Statistics Canada, *Education in Canada 1986: A Statistical Review for 1985-86*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1987), pp. 89, 105; Statistics Canada, *Education in Canada: A Statistical Review for 1987-88*, Catalogue No. 81-229 (Ottawa: Minister of Supply and Services Canada, 1989), p. 171; Statistics Canada, *Education in Canada: A Statistical Review for 1990-91*, Catalogue No. 81-229 (Ottawa: Minister of Industry, Science and Technology, 1992), pp. 87, 103, 175.

The natural lesson to be drawn from these statistics is this: the hypothesis that discrimination, at either the undergraduate or graduate level, impedes the hiring of women faculty within Canadian universities, is simply not supported on the basis of the statistical data available.<sup>46</sup> At the

same time, since women now enter and graduate from baccalaureate degrees in numbers approximately equal to those of men, it is difficult to claim that *prior* discrimination is the determining factor in discouraging women from choosing a career in academia, even if such discrimination exists.<sup>47</sup> At the very least, the burden of proof has now been shifted to the advocates of affirmative action to show both that such discrimination, if it exists, does in fact impede the hiring of women within the university, and that a program of affirmative action in hiring is the best way of addressing this difficulty.

Finally, let us turn to the third main objection to the discussion so far, namely an objection based upon general social utility. Advocates of this view are regularly willing to admit that policies of affirmative action may create (short-term) injustices. They are also regularly willing to admit that these same policies may have deleterious consequences concerning (short- or long-term) merit. Instead, what they argue is that affirmative action programs designed to achieve employment equity will help bring about other important societal goals, goals which in some sense outweigh immediate concerns of justice and merit. Nevertheless, given such an argument, we are entitled to inquire into the nature and desirability of these general societal goals, and into the likelihood that they will be achieved through programs of affirmative action.

One reason that such inquiries will be important is that in such cases it will be even more difficult to calculate a morally appropriate baseline for comparisons of the kind necessary. In such contexts, a target of 50% presumably will not be adequate, since it remains far from clear that women and men have proportionately the same professional desires or goals. The very fact that there currently exists such widespread, emotional debate about affirmative action policies shows that there exist fundamental divisions of opinion throughout society about what individual men and women want by way of careers, families and other social goals. In other words, there exist fundamental divisions of opinion about what would constitute the ideal social milieu. Even among women, there is nothing like unanimity concerning these issues. Nor should there be. Nevertheless, until advocates of such policies can obtain some form of reliable estimates concerning what career opportunities women actually want to follow,<sup>48</sup> they are in no position to make claims concerning what percentage of women would constitute an ideal target within any particular job category. Unless we become convinced that equal numbers of women and men want to become professional biologists, mathematicians and philosophers, it will be premature to claim that we have found a morally appropriate hiring ratio for men and women.

Given this observation, many claims of (relevant) widespread, systemic discrimination occurring within the gates of the university should therefore be seen as what they are—controversial social hypotheses that are

based not just on objective, elementary demographics but on controversial claims about people's preferences as well. Thus, unless evidence can be marshalled to the contrary, one natural assumption to make in the current context is that ratios based on earned doctorates remain an appropriate indicator of people's actual desires and capabilities. Targets higher than those associated with earned doctorates simply have not been justified. If our ultimate goal is one of bringing about a *non-discriminatory* social system, such ratios remain morally significant.

In this context, preferential policies that go beyond these ratios, but that are defended on the grounds that they are designed to further women's "true" interests, are seen to be what they are—controversial political programs designed to bring about changes that have neither a clear moral justification nor a broadly accepted political mandate.<sup>49</sup> Such policies must be rejected by anyone who is in favour of liberal, non-discriminatory, merit-based hiring practices. They must also be rejected by anyone who is opposed to programs of social engineering, programs which themselves reject the idea that informed individual choices within a non-discriminatory educational and hiring environment are an appropriate means of determining social policy. For those who believe that it is incumbent upon the university to help change women's *preferences* concerning career choices, the burden of proof is surely to show why, in addition to the ordinary tools of argument and persuasion, state-enforced machinery of affirmative action should be implemented. On this view, participation rates are not something to be legislated. Equality of opportunity is not a guarantee that everyone will have the same preferences or that they will want to make the same choices. It is not a guarantee of uniformity; in fact, it is just the opposite. The claim that unwarranted discrimination is the only reasonable explanation for low participation rates of some groups is unfounded in the extreme. To believe, as many advocates of affirmative action apparently do, that outcomes—rather than non-discriminatory structures—are something that can be socially engineered is to misconstrue equality at its most fundamental level.

If this position is even approximately correct, it becomes unlikely that political programs such as those currently under consideration should be supported by public university policy, rather than by individuals within these institutions. By hiring, in part, on the basis of political criteria rather than merit,<sup>50</sup> the university betrays its ultimate principles, principles based essentially upon the belief that the best way for the university to combat prejudice and discrimination is by fighting (as it does) ignorance, falsehood and superstition, and by acting in a clearly *non-discriminatory* way.

## 5. Jack and Jill

Finally, let us return to the dilemma with which we began. Assuming that Jill turns out to be a member of an underrepresented group, is it morally

permissible to appoint her because of this fact? Or, again making the same assumption, is her appointment morally demanded by this fact? Or, again making the same assumption, does Jill have a morally defensible claim to preferential treatment over Jack, simply on the basis that she is a member of such a group?

The answer, I believe, is "no," and the reason is straightforward. If it is being argued that Jill is to be given preferential treatment on the ground that such treatment helps combat morally unjustified discrimination against the group to which she belongs, then it must be the case that women continue to be discriminated against in a manner relevant to the implementation of such a policy. Specifically, as Sumner and Dworkin have convinced us, policies of affirmative action which have been designed to eliminate systemic discrimination against women, and thus minimize overall systemic discrimination in the long run, should be viewed as short-term, corrective measures. Thus it is essential to the argument that claims of current, widespread hiring discrimination against women within the university be proven. Yet such claims appear unlikely to be true. In fact, the situation is much better than the advocates of affirmative action would regularly have us believe: significant contemporary discrimination against women at the point of hiring remains unsupported by the available statistical evidence. At the same time, women currently enter undergraduate programs in numbers approximately equal to those of men. Once in the university they do not appear to be discriminated against any more than men are, either at the undergraduate or the graduate level. Upon completion of their degrees, women are hired and promoted in numbers at least as large as their proportion within the qualified applicant pool would demand, and this has been the case for approximately 25 years. In other words, for the many talented and highly qualified women who expect to succeed within the university on the basis of merit alone, their prospect of success is at least as high as it is for similarly qualified men.

Yet if all this is true, preferential policies that have been designed to function as short-term, corrective measures should be abandoned. As Sumner himself points out, the argument from total justice

has the same logic as the justification sometimes offered for imposing temporary restrictions on basic liberties in order to safeguard or expand such liberties in the more distant future. Liberals should, of course, always be suspicious of such authoritarian measures, for the reality is usually that repression is accelerated in the short run in order that it may be further increased in the long run. But this merely reminds us that consequentialist arguments in favour of repression are usually sophistical or hypocritical. It has no bearing on any case in which the temporary or partial restriction of some social good is truly necessary for its ultimate expansion.<sup>51</sup>



Thus, once the "sexist attitudes which now prejudice [women's] chances in a purely merit-based competition" disappear, policies which discriminate in favour of women "become redundant and can then be dismantled."<sup>52</sup>

In contrast to all this, if Jill's membership in an underrepresented group is instead being offered simply in the sense that women fail to account for approximately the same proportion of university faculty as in the population at large, then we have discovered no persuasive reason for thinking that this, by itself, is a morally relevant factor in hiring. We have discovered no reason for thinking that underrepresentation in this sense results from discrimination, or for believing that general social utility will be increased as a result of affirmative action. In fact, a case can be made for just the opposite. Given that there should be a strong presumption in favour of individual choice, and given the belief that the best way for a university to combat prejudice and discrimination is by vigorously fighting ignorance, falsehood and superstition (while at the same time making sure that it is acting in a clearly *non-discriminatory* way), such methods are likely inappropriate.

It may even be argued that the *de facto* policy of unquestioned, wide-scale preferential treatment for women that appears to have been in place within universities in recent years has done more harm than good. The reason is that such actions appear to have been widely interpreted as a tacit admission on the part of universities that they have discriminated, and continue to discriminate, against women, either overtly or covertly. Such an interpretation has meant that people no longer ask for evidence to support serious claims of immoral and illegal discrimination. It has also meant that comments, detrimental to our universities' reputations, have been allowed to stand unquestioned.

Thus, in a 1990 issue of *University Affairs* we are told that "In Canada's universities less than a fifth of the full-time faculty are women. Since 1960 their number has climbed from 11.4 percent to only 17.6 percent. Yet since 1982 women have outnumbered men in undergraduate classrooms. *No one claims that women have been equitably treated . . .*"<sup>53</sup> Similarly, in recent issues of the *CAUT Bulletin* we are told that the "documentation of women's experiences in the university has demonstrated that a focus on tenure and hiring decisions, on proving ourselves, on playing by the rules . . . has not worked for women. *We are rarely considered good enough to hire . . .*";<sup>54</sup> and even that "Women hold fewer full-time appointments *than would be expected from the number of qualified applicants.*"<sup>55</sup> At the very least, these statements are damaging to the reputations of those individuals who are responsible for faculty hiring within Canada's national educational institutions. In all likelihood they are also damaging to the reputations of the institutions themselves.

In conclusion, does this mean that a university might have no reason for preferring Jill to Jack? Not at all. Instead of relying solely upon letters

of reference, transcripts and an interview, a hiring committee might expand its evaluative procedures and ask leading candidates to give sample undergraduate lectures in addition to formal research papers. It might also allow for telephone interviews with referees, long-range estimates concerning administrative as well as academic needs and so forth, thereby discovering any number of reasons for preferring Jill to Jack, or Jack to Jill. At the same time, a hiring committee may have reason to believe that, for whatever reasons, having more women on faculty will improve the university's ability to carry out its research and teaching. If this is so, a candidate's sex—in some contexts at least—becomes inexorably intertwined with merit. And if this is so, one will (in good conscience) be able to claim that, in some contexts at least, Jill will do a better job than Jack *because* she is a woman. Of course, within any society that promotes gender-blindness as an appropriate social goal, such cases will be few and far between.<sup>56</sup> And given a presumption in favour of gender-blindness, the onus will be on the advocates of preferential treatment to show why exceptions to the general rule of gender-blindness should be made. Such cases will also turn out to have nothing to do with discrimination, whether it be past or present, systemic or individual, and current proponents of affirmative action should have the courage to say so.<sup>57</sup>

## Notes

- 1 Typically, a group has been said to be underrepresented in a given job category if that group constitutes a smaller percentage of those employed in that job category than in the population at large. Thus women will, on this view, be said to be underrepresented within a given category if they constitute significantly fewer than 50.6% of those employed in that category. Conversely, women will be overrepresented if they constitute significantly more than 50.6% of those employed in that category. For discussion of representation measured relative to the relevant available labour pool, see §2 below.
- 2 In fact, this is often how employment equity and affirmative action programs are defined. For example, see Michael Philips, "Preferential Hiring and the Question of Competence," *Journal of Business Ethics*, 10 (1991): 161-63.
- 3 Although many universities and colleges also have in place policies designed to stop discrimination on the basis of race, religion, sexual orientation and so forth, very few have implemented policies that *positively* discriminate in favour of candidates because of factors other than gender and citizenship. (One exception is Dalhousie University's Johnson Chair in Black Canadian Studies, which was advertised in 1994 as being open only to black applicants. The advertisement was widely criticized in the media and elsewhere. For example, see Crawford Kilian, "Why Must a Scholar in Black Studies Be Black?," *The Globe and Mail*, October 31, 1994, p. A19.) As a result, the current study considers only the single prominent case of affirmative action favouring women, based, as it is, on alleged discrimination against women.

- 4 The University of Western Ontario, for example, defended the introduction of its employment equity program on the basis that it helps guarantee that each individual applicant "will have genuine access to employment opportunities that are free from artificial barriers, systemic or otherwise" (University of Western Ontario, "The Employment Equity Program," *Policies and Procedures*, No. 3.2, §1, November 24, 1988). Similarly, at Ryerson, employment equity programs were introduced to help "eliminate, when they exist, systemic barriers which may prevent women from maximizing their potential" and to "help women increase their participation in areas of work and study where they are under-represented" (Ryerson Polytechnical Institute, "Employment and Educational Equity: Guiding Principle and Objectives," *Policy-Procedure*, 1-090, March 1988).

For more general accounts of recent developments see Judy Lord, "Moves in the Right Direction," *University Affairs*, 31, 8 (October 1990): 3f.; and Morris Wolfe, "Artful Dodgers," *Saturday Night*, 105, 10 (December 1990): 15ff. For some of the more detailed theoretical reasoning behind the introduction of affirmative-action programs within Canadian universities see L.W. Sumner, "Positive Sexism," *Social Philosophy and Policy*, 5 (1987): 204-22, and Leo Groarke, "Affirmative Action as a Form of Restitution," *Journal of Business Ethics*, 9 (1990): 207-13.

- 5 Thus, one commonly cited definition of systemic discrimination is that it is "indirect, impersonal and unintentional discrimination that is the result of inappropriate standards which have been built into the employment systems over the years" (see "CAUT's Policy Statement on Positive Action to Improve the Status of Women in Canadian Universities: The Preamble," *CAUT Status of Women Supplement*, *CAUT Bulletin*, 38, 3 [March 1991: 12]. It was in order to combat systemic discrimination against women, visible minorities, native people and the handicapped that *Bill C-62, The Employment Equity Act*, was proclaimed in 1986 and *Bill C-64, An Act Respecting Employment Equity*, was proclaimed in 1995.
- 6 Sumner, "Positive Sexism," p. 212.
- 7 See Ronald Dworkin, "Reverse Discrimination," in his *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1978), pp. 223-39, especially §4. Also see Ronald Dworkin, "Why Bakke Has No Case," *New York Review of Books*, 24, 18 (November 10, 1977): 11-15.
- 8 Ronald Dworkin, "Reverse Discrimination," p. 232.
- 9 Actually, this overstates things slightly. Traditional non-consequentialists may still not be willing to break a rule of justice even in order to prevent other, more numerous, breakings of that same rule. Other non-consequentialists, in contrast, will be willing to do so, not on the ground that doing so will increase utility, but on the ground that doing so will maximize justice in the long run, regardless of whether it maximizes utility.
- 10 At the time of writing, this is the latest year for which complete statistics are available.

- 11 Discipline groupings used in this study are those provided by Statistics Canada.
- 12 Of course nothing in this initial process of comparison will indicate whether *previous* (individual or systemic) discrimination has led to a skewing of the applicant pool. For discussion of this possibility and its relevance to the current debate, see §4 below. Nevertheless, as even Sumner accepts, it is at least a reasonable assumption, when establishing quotas, to have the quota for any given category reflect "the percentage of women in the national pool of qualified candidates for the position in question" (Sumner, "Positive Sexism," p. 209). Similar comparisons have also regularly been used as a basis for defining the very notion of systemic discrimination. For example, see Rosalie Abella, *Royal Commission Report on Employment Equity* (Ottawa: Minister of Supply and Services, 1984), pp. 2, 3, 193. In other words, comparing percentages of qualified applicants with percentages of job recipients is commonly agreed, by both the advocate and the opponent of affirmative action, to be a reasonable, if not infallible, first test for discrimination at the point of hiring.
- 13 Strictly speaking, of course, even this process of comparison may not be sufficient. A fully adequate evaluation of claims of alleged discrimination will ultimately require comparisons between applicant pools and job *offers* (rather than comparisons between applicant pools and job *recipients*). After all, a *non-discriminating* employer who makes exactly the same percentage of job offers to women as appears in the applicant pool may still end up hiring a lower percentage of women than expected. Such a scenario is not as unlikely as it may at first appear, since it will likely occur whenever women are more highly sought after within a given market than their representation within the applicant pool demands. In other words, such a scenario is likely to occur whenever widespread, effective affirmative action programs are in place. In such cases it becomes likely that individual women candidates will receive more offers, and hence reject more offers, than will their male counterparts. However, since such situations clearly discriminate in favour of, rather than against, women, they may be ignored within the present context.
- 14 The procedure used in this comparison has been suggested by previous studies done by both Leo Groarke, in "Beyond Affirmative Action," *Atlantis*, 9 (1983): 13-24, and Ted Byers, in "Don't Shut Out Current (Male) PhDs," *University of Toronto Bulletin* (May 29, 1989), p. 12. The results of this section bring up to date and extend significantly such previous studies.
- 15 Unfortunately, Statistics Canada has not published sufficiently detailed statistics concerning the ages of graduates over the years in question to allow for anything other than this type of estimate. Nevertheless, this estimate is consistent with those statistics which are available. For example, see Statistics Canada, *Postgraduation Plans of 1981 Ph.D. Graduates: 1981* (Ottawa: Minister of Supply and Services Canada, 1982), p. 39, which indicates that 71.3% of all 1981 doctoral graduates were between the ages of 25 and 34 at the time they received their degrees. Statistics concerning the ages of graduate students

(rather than graduate degree recipients) can be misleading, of course, if used to predict graduation ages because of the high attrition rate (for both men and women alike, sometimes as high as 40%) within many disciplines. Nevertheless, it is worth noting that Statistics Canada recently gave the national median ages of graduate students of both sexes as being identical (Statistics Canada, *Universities: Enrollment and Degrees* [Ottawa: Minister of Supply and Services, 1987], p. 57).

It is also worth mentioning that the profile used is slightly generous to women, since many job candidates (of both sexes) spend one or more years either in postdoctoral work or in industry prior to applying for university positions. In other words, since the percentage of women graduates has been steadily increasing over the years under consideration, this means that actual applicant pools will typically have slightly lower percentages of women than will our estimated applicant profiles. Thus, although individual cases will of course vary, this scenario should be sufficient for current purposes. It is also worth noting that it is unlikely that differences in age of only a year or two will have any significant effect on our overall statistical profiles. See note 21 below.

- 16 Faculty numbers given for the academic year 1990-1991 represent hiring data up to the autumn of 1990.
- 17 In order to avoid single-year anomalies, these percentages have been calculated on the basis of three-year periods. Extending these periods does not appear to alter the relevant percentages significantly.
- 18 If it also turns out that women have been unfairly discriminated against during promotion, this differential would no doubt be smaller, since this means that more women were in fact hired during the mid-1960s than are represented by today's full professors. The same point will also hold if attrition rates (which could be expected to reflect some forms of systemic discrimination) turn out to be significantly higher for women than for men. In either case, the difference between these figures represents a reasonable upper bound on discrimination. Despite all this, the statistical evidence that is available indicates that significant discrimination against women during promotion appears unlikely.
- 19 Or rank next below assistant professor.
- 20 Unfortunately, Statistics Canada does not make a distinction between those lower-rank positions that are tenure-track and those that are not. Thus, it might be argued that even if women are overrepresented at the rank of assistant professor generally, women still tend to be underrepresented when it comes to tenure-track assistant professors. If so, this may be evidence of systemic discrimination against women, at least at the rank of assistant, if not associate, professor. Nevertheless, recent figures released by the Canadian Association of University Teachers (CAUT) appear to discredit such a hypothesis, since CAUT has reported that, of the tenured and leading-to-tenure appointments at the rank of assistant professor in Canada (excluding Quebec) in 1989-1990, 33.6% were women. Yet during 1989, only 30.4% of earned doctorates went to women. See the tables entitled "Proportion of Tenured and Leading to Tenure

Appointments Held by Women by Province and Rank, 1989-90" and "Proportion of Women Granted Doctorate Degrees by Field (Canada), 1989," in "CAUT's Policy Statement on Positive Action to Improve the Status of Women in Canadian Universities: The Preamble," *CAUT Status of Women Supplement*, *CAUT Bulletin*, 38, 3 (March 1991): 13.

- 21 At this point it is worth noting why differences of only a few years in the age of graduates are unlikely to affect this overall picture. The reason is that the discrepancy between female percentages of appointments and female percentages of estimated applicant pools is high enough to outrun such differences. For example, in the case of associate professors, we see that the percentage of women in the estimated applicant pool does not reach the 1972-1974 level of appointments (19.6%) until 1978-1980, a full six years later. In the case of assistant professors, the percentage of women in the estimated applicant pool has still not reached the 1982-1984 level of appointments (33.4%) by 1989-1991, seven years later.
- 22 Another possibility is that over this period there may have existed a lack of correlation between disciplines in which job openings have occurred and disciplines in which women have tended to train. During the early 1980s, for example, new academic positions favoured those disciplines in which women accounted for less than the national average (viz., agriculture and the biological sciences, engineering and the applied sciences, mathematics and the physical sciences, and the social sciences). In contrast, during the late 1980s, new positions have favoured those disciplines in which women accounted for more than the national average (viz., education, the fine and applied arts, the health sciences and the humanities). As a result, this factor does not appear to be significant over the long run. For example, see Statistics Canada, *Teachers in Universities: 1986-87*, Catalogue No. 81-241 (Ottawa: Minister of Supply and Services Canada, 1990), p. 12, and Statistics Canada, *Teachers in Universities: 1990-91*, Catalogue No. 81-241 (Ottawa: Minister of Industry, Science and Technology, 1993), p. 13.

It is also worth noting that since the statistics cited extend back many years, these figures predate most official employment equity programs within Canadian universities. The University of Western Ontario, for example, first introduced its Employment Equity Program in 1988. Ryerson's controversial program (which designated a minimum of 80% of its positions over a 10-year period as being for women only) and the University of Windsor's Positive Action Plan were also not approved until that same year. Other programs followed.

- 23 The unimportance of earned doctorates in this family of disciplines is also reflected by the low numbers of doctoral degrees granted over the years. In some cases these numbers are so low as to make statistical comparisons in this area insignificant.
- 24 Institutions that have explicitly based their employment-equity policies upon such comparisons include both the University of Western Ontario and Ryerson Polytechnical. In the case of the former, see the University of Western Ontario,

- "The Employment Equity Program," §1; in the case of the latter, see Ryerson Polytechnical Institute, "Statement of Direction: Employment Equity/Faculty Tenure Stream Staffing" (November 1988), §2.
- 25 See the University of Western Ontario, "The Employment Equity Program," §1, emphasis added.
  - 26 Here the only significant exception concerns the rank of Lecturer. For a detailed discussion of this case, see the end of §3 below.
  - 27 That is, 1,047 (i.e., today's full professors) + 1,091 + 626 + 312 + 438 (i.e., the apparent "surplus" at other ranks) = 3,514. In other words, some 3,514 women would have had to have been hired in order to account for the apparent surplus of women at other ranks, despite the fact that one might realistically have expected only 1,182 women to have been hired in a non-discriminatory environment during this period.
  - 28 The other main factor in determining a candidate's qualifications for a given academic position, namely publication record, is unlikely to be a major source of bias. This is because the blind refereeing of most academic manuscripts makes it relatively unlikely that women will be adversely discriminated against at this point in their career development. See Rebecca M. Blank, "The Effects of Double-Blind versus Single-Blind Reviewing: Experimental Evidence from *The American Economic Review*," *American Economic Review*, 81 (1991): 1041-67. In fact, as some journals, such as *Queen's Quarterly*, adopt a 50/50 policy of manuscript acceptance, women may even have an advantage in this respect, provided, once again, that the quotas involved continue to exceed the availability of women scholars. On *Queen's Quarterly* editorial policy, see Martha J. Bailey, "The Editor's Column: Alternative Visions," *Queen's Quarterly*, 96 (Spring, 1989): 219.
  - 29 It is worth noting here that one alternative explanation might be that women, more than men, tend to specialize in disciplines that do not require earned doctorates. Yet, if this is so, we should also expect to see similar degree variations at the level of full professor. In fact, the variation that does occur at this level does not appear consistent with this hypothesis. For more on this hypothesis, see note 35 below.
  - 30 Statistics Canada, *Teachers in Universities: 1986-87*, p. 13, and Statistics Canada, *Teachers in Universities: 1990-91*, p. 14.
  - 31 See Groarke, "Beyond Affirmative Action," p. 16.
  - 32 The figure is for 1990. See Statistics Canada, *Education in Canada: A Statistical Review for 1990-91*, Catalogue No. 81-229 (Ottawa: Minister of Industry, Science and Technology, 1992), p. 189.
  - 33 In this context it is helpful to note that the claim that increased numbers of women professors are necessary for increases in the number of women graduate students is in large measure unsupported by the available statistical evidence. For example, in the decade from 1960-1961 to 1970-1971 the percentage of female university faculty in Canada was comparatively stable, moving from 11.4% to only 12.8% (Statistics Canada, *Teachers in Universities*:

1986-1987, p. 11). Yet over the same period, the percentage of female graduate students in Canada rose quite dramatically from 15.1% to 22.3% (Statistics Canada, *Education in Canada: A Statistical Review for the Period 1960-61 to 1970-71* [Ottawa: Minister of Industry, Trade and Commerce, 1973], p. 151). So, at the very least, female role models do not appear to be necessary for increased female enrolment.

- 34 Of course, in any individual case, this statistical parallel may fail to obtain. Nevertheless, such parallels become increasingly valuable as the sample size increases. In the case currently under consideration (viz., that of all university hirings over the course of several decades), the statistical evidence becomes overwhelming.

It should also be mentioned that it does not follow from what has been said here that every program of affirmative action *necessarily* lowers the general level of employee competence from what would otherwise have been the case. Michael Philips, for example, has argued that within certain contexts, the revising of appointment procedures (rather than appointment criteria) to the advantage of certain groups may have no negative effects. In certain cases the general level of competence of job recipients may remain constant or even improve. Thus, "[t]o achieve the goals of Affirmative Action, one might abandon the first-come-first-served procedure in favour of one that holds positions open until they are filled by members of targeted groups who satisfy the fair and accepted criteria . . . Suppose one has twenty-five openings. Thus, instead of hiring the first twenty-five qualified people who apply, one might take additional applications with the intent of hiring additional (fully qualified) members of targeted groups" (Michael Philips, "Preferential Hiring and the Question of Competence," p. 161).

Nevertheless, it is clear that such observations are unlikely to be relevant within the current context. This follows, since it is essential to the success of Philips' example that the appointment criteria in question not include an imperative to hire the best qualified applicant, a criterion which is clearly relevant given any university hiring in which excellence, rather than simple competence, is believed to be an essential factor for determining ideal job recipients. At the same time, since the comparisons made earlier (between applicant pools and actual appointments) have also been designed to take account of many potential systemic biases, they (unlike those in Philips' example) will remain neutral with respect to all such appointment procedures.

It is also worth noting that some advocates of affirmative action simply deny the assumption that within the group of best qualified (potential) applicants, women and men (in all likelihood) will appear in numbers representative of their proportions within the total pool. On this view, women (typically) will be believed to be better qualified than men simply because they are members of a minority group. For advocates of such a view, statistical evidence of the kind given here will be judged to be largely irrelevant to issues relating to affirmative action. See note 39 below.



- 35 For example, it might turn out that a large proportion of women who have been hired without Ph.D.'s are concentrated in professional faculties where professional degrees (rather than doctoral degrees) are the norm for faculty appointments. However, in order for such a hypothesis to obtain, higher percentages of women would have to appear in the "professional" row of Table 9 than do in fact appear. Hence, even without a more detailed discipline-by-discipline statistical breakdown, such a hypothesis appears unlikely. See also note 29 above.
- 36 I owe this point to Grant Brown.
- 37 It is worth noting that, in fact, the historical differences between applicants and appointments are likely to be even greater than the numbers here indicate. The reason is that successful applicants who have completed only a master's degree will likely be slightly younger than successful applicants who have completed both a master's degree and a doctorate. Hence, they will have entered the job market somewhat earlier than the years given in Table 11 indicate, at a time when the percentage of female applicants will have been slightly lower.
- 38 Of course, such a claim remains consistent with the fact that there may exist individual cases of discrimination against women in both hiring and promotion. Nevertheless, the available evidence indicates that such discrimination does not occur in significant amounts *on the basis of sex*. In other words, when discrimination does occur, a candidate's sex is no more of a handicap for women than it is for men. In fact, possibly the reverse is true.
- 39 In addition to these three groups, there will also be a fourth group worth mentioning, namely, that group of affirmative-action advocates who believe that affirmative action should be practised not for reasons of justice but, rather, for reasons associated with merit itself. On this view, minority applicants are (typically) deemed to be better qualified than others on the ground that they bring to a discipline perspectives that would otherwise not be present. Given the only tangential connection between this defence of employment equity and the argument from total justice, detailed consideration of this view is beyond the scope of the current paper.
- 40 For an example of this type of argument, see Thomas Sowell, *Preferential Policies* (New York: William Morrow, 1990), chap. 5.
- 41 For example, Grant Brown concludes that "the most significant net effect of preferential hiring for women will be that relatively privileged women bump relatively under-privileged men from university jobs" ("'Fixing' What Ain't Broken," *Policy Options* [March 1993], p. 11). See also C. R. Carr, "Unfair Sacrifice: Reply to Pluhar's 'Preferential Hiring and Unjust Sacrifice'," *Philosophical Forum*, 14 (1982): 94-97; Alan H. Goldman, *Justice and Reverse Discrimination* (Princeton, NJ: Princeton University Press, 1979), chap. 3; Leo Groarke, "Affirmative Action as a Form of Restitution"; Janet Radcliffe Richards, *The Sceptical Feminist* (Harmondsworth: Penguin Books, 1982), chap. 4; Robert Simon, "Preferential Hiring: A Reply to Judith Jarvis Thomson," *Philosophy and Public Affairs*, 3 (1974): 312-20; and Celia Wolf-Devine, "An

Inequality in Affirmative Action," *Journal of Applied Philosophy*, 5 (1988): 107-8. It is to Groarke's original example concerning Jack and Jill and restitution that I owe the suggestion for the title of this paper.

It should also be noted that this type of objection will never be conclusive for the consequentialist, since sufficiently attractive consequences may always, in principle, outweigh issues of restitution. Nevertheless, such considerations will likely have some weight, even for the consequentialist. (I am grateful to an anonymous referee for drawing my attention to this point.)

- 42 Although, see Sumner, "Positive Sexism," pp. 217ff., together with the more detailed account given in L. W. Sumner, *The Moral Foundation of Rights* (Oxford: Oxford University Press, 1989), for a general consequentialist argument against this type of consideration. Within the current context, the details of the argument can be safely passed over since, even if successful, Sumner's argument shows only that affirmative action is an acceptable method of addressing discrimination, not that it is the best or most efficient method.
- 43 For example, such a claim appears to run counter to the results of many "chilly climate" reports, ranging from the 1988 University of Western Ontario Backhouse Report to the 1995 University of British Columbia McEwen Report (see The Chilly Collective, eds., *Breaking Anonymity: The Chilly Climate for Women Faculty* [Waterloo, ON: Wilfrid Laurier University Press, 1995], and Joan I. McEwen, *Report in Respect of the Political Science Department of the University of British Columbia* [Vancouver, BC: University of British Columbia, 1995]). Nevertheless, the limitations of reports such as these, based as they are, typically, on uncontrolled anecdotal evidence, should be obvious. For example, in any environment in which critics of affirmative action programs are regularly branded as reactionary, misogynist and lacking in compassion, it is likely that men as well as women will be able to recount a large number of "chilling" incidents. Thus the need for comparisons and controls is not as arbitrary as some would have us believe.
- 44 For anyone concerned that the enrolment figures given here might not accurately reflect the specific enrolments of the individual graduating classes in question, it can be pointed out that since part-time students often take significantly longer to complete their degrees, and since part-time figures significantly raise enrolment percentages for women, these figures represent an appropriately generous upper bound on enrolments for any given graduation year. In other words, the percentage of women actually enrolled will likely be slightly lower than the figures in Table 12 and Table 13 indicate.
- 45 After reviewing census and other data, Guppy, Balson and Vellutini defend the conclusion that "women have historically received a *greater* percentage of undergraduate degrees than their proportion of enrollments would seem to warrant" (Neil Guppy, Doug Balson and Susan Vellutini, "Women and Higher Education in Canadian Society," in *Women and Education*, edited by Jane S. Gaskell and Arlene T. McLaren [Calgary, AB: Detselig, 1987], chap. 7, p. 177; emphasis added).

Is it possible that women tend to graduate in ratios equal to (or better than) those of men, despite significant discrimination, because, unlike men, only the very best qualified women tend to enter Canadian degree programs? Such a hypothesis may once have been plausible, but is unlikely today, given that enrolments of women have increased from less than half of those of men 70 years ago to virtual parity now.

- 46 Conceivably it might be claimed that despite the fact that women consistently graduate in numbers equal to those which would be expected in the absence of discrimination, women are subject to grading discrimination, and it is this which discourages their advancement into graduate school and beyond. Despite the plausibility of such an argument it, too, is unsupported by the available data. For example, statistics compiled by WISEST ("Women in Scholarship, Engineering, Science and Technology," a women's group at the University of Alberta, whose goal is to promote women in engineering and science) show that, if anything, women tend to do better than men in their grade-point averages, even in male-dominated disciplines. The fact that this trend was constant across disciplines and during a period in which women's enrolment increased dramatically also shows that it is unlikely that women achieved higher grades as a result of some overt or covert selection process. The statistics covered selected academic years from 1970-1971 to 1980-1981 at the University of Alberta, and appeared in *Gateway*, March 7, 1991. They are reprinted in Grant Brown, *The Employment Equity Empress Has No Clothes* (Edmonton, AB: Gender Issues Education Foundation, 1992), pp. 16f.
- 47 The evidence that there is pervasive discrimination against women within the educational system, and in society at large, remains largely inconclusive. In the case of the educational system, some studies appear to support the view that women are discriminated against. Yet others do not. For a survey of the relevant literature, see Brown, *The Employment Equity Empress Has No Clothes*.

Much the same is true of studies that examine the question of evaluative discrimination against women in general. For a survey of this literature, see Veronica F. Nieva and Barbara A. Gutek, "Sex Effects on Evaluation," *Academy of Management Review*, 5 (1980): 267-76. After reviewing and evaluating the available research on the prejudicial evaluation of women, their qualifications and performances, Nieva and Gutek conclude that evaluation bias is most common in cases where evaluators are given little or no evidence other than gender on which to base their conclusions. In other words, the greater the need for extrapolation, the greater the risk of bias (*ibid.*, p. 270). Such a conclusion dramatically lessens the chance of there being significant bias, either in the university classroom or at the point of hiring.

- 48 Such choices are of course not to be confused with which career opportunities are open to women
- 49 In order to make this point more explicit, it is helpful to consider the distinction made recently by Christina Sommers between "naïve" and "critical" feminism. Naïve feminism, in Sommers' words, "understands women's interests

uncritically as manifested by what most women say they want, or what they believe would make them happy" (Christina Sommers, "Should the Academy Support Academic Feminism?," *Public Affairs Quarterly*, 2 [1988]: 99). It does not discount the desire that many women have for a traditional family, but neither does it discount the expressed preferences of many women for a greater role within the workplace. Naïve feminism is liberal in the traditional sense of being based upon individual preferences and freedoms. In contrast, critical feminism is "unimpressed by what many women say they want since the average woman is in the thrall of a patriarchal society where it is difficult or impossible for her to be aware of her true interests" (*ibid.*, p. 99). Because of this, critical feminism purports "to represent women's interests in a way that frankly acknowledges that the objective interests of women cannot be ascertained by asking the average woman what she wants. Since, in the nature of the case, a poll of what women want is not a trustworthy guide to their true interests, the critical feminists have formulated objectives that serve the true interest of women—what women would reject or want once they become fully aware of their predicament" (*ibid.*, p. 99). Critical feminism is radical rather than liberal.

One by-product of critical feminism is that it turns out, on this view, not to be sufficient simply to place women in a suitably large number of positions. The women appointed must also be of the right political views. In fact, in many cases, it may even turn out to be preferable to hire a man with the "correct" political views, rather than a woman who will fail to advance the cause of radical feminism. As Sommers points out, because of its primarily political goals, critical feminism turns out to be a movement that can "easily come into conflict with scholarly objectivity," and a "sincerely anti-intellectual movement that has a principled contempt for the standards of academic excellence" (*ibid.*, pp. 113f.).

- 50 Lest one believe that this is an overstatement, one need look no further than the Recommendations (§4) of the 1990 "Report of the University of Western Ontario's President's Standing Committee for Employment Equity." Recommendation 10 states (in part) that all short-listed candidates should be "interviewed regarding evidence of their understanding of, and commitment to, employment equity" ("Abridged Version of the First Annual Report of the President's Standing Committee for Employment Equity," *Western News Supplement*, January 31, 1991, p. S6; emphasis added.)

In this context it is also worth noting Sheila McIntyre's claim that anti-feminism is not simply a political view but also a form of sexual harassment and that, as such, it should not be allowed under ordinary principles of freedom of speech (Sheila McIntyre, "Reflections from Sheila McIntyre," *CAUT Status of Women Supplement*, *CAUT Bulletin*, 36, 3 [March 1989]: 3). Such blatantly partisan political agendas will be inconsistent with even the most modest of liberal principles.

- 51 Sumner, "Positive Sexism," p. 213. It remains to be seen into which of Sumner's two categories various academic employment equity policies will fall.

- 52 Sumner, "Positive Sexism," p. 211.
- 53 Judy Lord, "Moves in the Right Direction," *University Affairs*, 31, 8 (October 1990): 3; emphasis added. Cf. also Misao Dean, "Shock Troops on Campus," *Canadian Forum* (July-August 1995), p. 19.
- 54 Linda Briskin, "Beyond Individual Victimization and toward a Transformed Academy," *CAUT Status of Women Supplement*, *CAUT Bulletin*, 36, 3 (March 1989): 10; emphasis added.
- 55 "CAUT's Policy Statement on Positive Action to Improve the Status of Women in Canadian Universities: The Preamble"; emphasis added.

Other examples abound. By reporting the introduction of preferential policies at the Ontario College of Art under the banner "Fighting Sex Discrimination," *Maclean's* magazine implicitly makes a claim to the effect that such policies have been introduced in response to the (apparently uncontroversial) fact of discrimination (Barbara Wickens, "Fighting Sex Discrimination," *Maclean's*, 103, 36 [September 3, 1990], p. 38).

- 56 It is also interesting to note that Dworkin himself is on record as advocating the view that what constitutes merit depends upon the social context in which work is to be done. In his words, "there is no combination of abilities and skills and traits that constitutes 'merit' in the abstract . . . If a black skin will, as a matter of regrettable fact, enable [a] doctor to do a . . . medical job better, then that black skin is by the same token 'merit' as well" (Dworkin, "Why Bakke Has No Case," p. 14). However, such an argument appears to depend crucially upon a desire to satisfy agents' *external* (rather than personal) preferences, something which Dworkin is noted for criticizing elsewhere (Dworkin, "Reverse Discrimination," pp. 234ff.).
- 57 An early version of this paper originally appeared, with the same title, as Working Paper No. 1 in the UBC Centre for Applied Ethics Working Paper Series (Vancouver, BC: University of British Columbia, 1991). An abbreviated version of the paper was also read at the Canadian Philosophical Association's 1991 Annual Congress at Queen's University in Kingston, on May 27, 1991. Work on this project began at the University of British Columbia and was completed at Stanford University. Support during this time came from both UBC's Killam Memorial Fellowship fund and Stanford's Center for the Study of Language and Information (CSLI). I would like to extend my warmest thanks to both CSLI and the Killam Trust for their respective generosity. I would also like to thank the referees at *Dialogue*, James Archer, Samantha Brennan, Alison Buchan, Sam Coval, Jim Dybikowski, Pamela Courtenay Hall, Graeme Hunter, Joan Irvine, Howard Jackson, Sharon Kahn, Peter Loptson, Louis Marinoff, Judith Myers, Jan Narveson, Kathleen Okruhlik, Robert Schutz, Mike Philips, Mike Rostad, John Russell, Paul Russell, Wayne Sumner, Gary Wedeking, Susan Wendell and especially Grant Brown and Leo Groarke for their many helpful comments on various drafts of this paper.