

The Lost Promise of Title VII

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Katherine Turk, [Equality on Trial: Gender and Rights in the Modern American Workplace](#) (2016).

Katherine Turk's elegantly written, deftly argued study of Title VII's first half-century spotlights working-class women's distinctive legal activism, deepening our understanding of the promise and limitations of American antidiscrimination law in an era of increasing income and wealth inequality. Using fine-grained case studies as emblematic of larger themes, Turk takes us deep into ground-level campaigns and controversies in a diverse array of workplaces, organizations, and government agencies, from the New York Times and the National Organization for Women (NOW) to municipal employees' unions to hospitals and hotels where women and men struggled for better and fairer conditions for all workers. Working women built cross-class and interracial coalitions with labor and feminist organizations to fight for pay equity, comparable worth, higher safety standards and workplace protections, paid family and medical leave, occupational mobility, and accommodation of family responsibilities.

Equality on Trial documents how the expansive visions of workplace justice that animated workers and their advocates collided with formidable obstacles: class divisions among women, gender divides among workers, declines in union density and power, conservative counter-mobilizations against civil rights enforcement, and a neoliberal politics that elevated individual opportunity over structural reform. The result is a class-stratified world of gender and work, in which privileged women enjoy the limited benefits of formal equal treatment while their working-class counterparts languish in low-wage, contingent jobs where sex equality means the right to be treated as poorly as men. Elite women gained access to white-collar male-dominated occupations, but failed to unsettle the expectation that the ideal worker outsource all reproductive labor to unpaid spouses or underpaid domestic help. Working-class women, Turk contends, benefited little from the paltry concessions feminists won in the late twentieth century: stingy, unpaid family leave for which many low-income women are ineligible and few can afford to take; desexualized but hardly de-gendered working environments; equal pay for equal (but not comparable) work; freedom from pregnancy discrimination without an entitlement to accommodation; the right to work under the same dangerous and soul-crushing conditions as men.

Grim as this denouement may sound, *Equality on Trial* is a story of promise as well as loss. Even where Turk reveals the darker side of conventional triumphalist narratives, she suggests the power of both individual imagination and collective action to engage in transformative projects of legal and social reform. Her chapter on the early years of the Equal Employment Opportunity Commission (EEOC), for instance, complicates dominant accounts that depict the agency's initial implementation of Title VII's sex discrimination provision as anemic and even obstructionist. In Turk's telling, the Commission, though hampered by its weak enforcement powers, grappled earnestly with the conundrum of how to reconcile Title VII with sex-specific state protective laws. In the late 1960s, the EEOC pioneered "time-intensive, industry-specific" approaches to early sex discrimination claims, which envisioned Title VII as a tool to achieve substantive fairness, measured not in comparison to men but against working women's own conception of justice. By taking seriously the wide-ranging aspirations articulated in women's early Title VII complaints, Turk reveals what was lost as well as gained when the EEOC became a more powerful, bureaucratized entity that increasingly relied on statistical evidence of segregation and exclusion and "aggressively pursue[d] individual women's complaints only where they pointed to entrenched patterns of discrimination by major corporations." (P. 39.) In subsequent chapters, she uncovers important, if short-lived, coalitions that attempted to bridge class divisions among women, including the New York Times Women's Caucus, which briefly united journalists with copy editors and clerical staff, and the feminist attack on discrimination and segregation at Sears, Roebuck & Company, where middle-class activists channeled the concerns of pink-collar workers in a grassroots campaign for substantive sex equality.

But the actions against the New York Times and Sears ended in disappointment for working-class women. And in a tragedy of poor timing that is unfortunately typical of second-wave feminist legal advocacy generally, by the time labor and feminist advocates united behind a workplace justice agenda—the pay equity movement of the 1980s—the political and economic tide had turned. Support for comparable worth, strong before 1970, flagged during feminists' heyday and reignited in the Reagan era just as a conservative retrenchment swept federal agencies and courts. A similar temporal disjuncture afflicted hotel workers who campaigned for higher pay and better working conditions in the sex-segregated occupation of housekeeping. Female room attendants argued for equitable compensation based on the inherent difficulty and dignity of their sex-specific duties, but legal and political constraints pushed their lawyers to minimize gender differences and frame housekeepers' demands as the right to be treated the same as the "housemen" who traditionally performed less repetitive but heavier lifting and cleaning tasks. In one of the book's most poignant passages, Turk describes how hotel employers eventually pulled the rug out from under sex equality efforts by transferring housemen's heavy labor tasks to maids, making their working conditions more onerous without offering commensurate wage increases. Eventually, a literally and figuratively emasculated union "agreed to a settlement that proffered all housekeepers the same back-breaking work: equality without protection." (P. 128.)

Turk's book is a worthy addition to a rich tradition of social and political histories that prominently feature working-class women's use of the law, and intersects with pathbreaking legal-historical scholarship such as Deborah Dinner's work on protective legislation, reproductive labor, and the neoliberal functions of anti-discrimination law. And **Equality on Trial** appears at a critical juncture in the debates Turk so evocatively excavates and historicizes. Gay plaintiffs' late twentieth-century efforts to win protection from discrimination met with limited and localized success, as Turk details. But the tide may have begun to turn, with recent EEOC and federal court decisions reinterpreting Title VII's sex provision to prohibit discrimination based on sexual orientation and gender identity. Advocates creatively interpret the Americans with Disabilities Amendments Act of 2008 in conjunction with the 1978 Pregnancy Discrimination Act to require accommodations for pregnant workers; a smattering of local ordinances do the same. Paid family leave, early childhood education, equal pay, sexual assault and harassment, and income inequality itself headline the national political agenda. The history recounted in **Equality on Trial** reminds us how fragile and fleeting these advances may be, and what is at stake in preserving and extending their reach.

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