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# Nominee's Memos Critical of Gender-Equality Efforts

By David G. Savage, Times Staff Writer

WASHINGTON — Supreme Court nominee John G. Roberts Jr. was sharply critical as a young Reagan administration lawyer of various efforts in the 1980s aimed at gender equality, calling them "highly objectionable" and probably unconstitutional.

In several memos, he described as "pernicious" the notion that salaries for jobs held mostly by women should be raised to the comparable level of jobs that were held traditionally by men.

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He also disputed affirmative action programs in which states sought to hire more women or to protect newly hired women from layoffs. His comments were made in a 1983 memo in which he criticized a state-by-state summary of efforts to eliminate sex discrimination.

California, for example, had said layoffs from government jobs should "reflect affirmative actions programs and not merely seniority," Roberts wrote, saying this conflicted with the Reagan administration policy that the least-senior worker should be laid off first, regardless of race or gender.

California had also enacted what Roberts called "a staggeringly pernicious law codifying the anti-capitalist notion of 'comparable worth,'" he said.

This idea briefly gained popularity in the early 1980s. Some jobs, such as nursing and teaching, were traditionally held by women and had lower salaries than jobs that required less education and were held mostly by men, such as bus or truck driving.

Some women's rights advocates said this disparity amounted to sex discrimination. A U.S. district judge in Washington state had agreed with this argument and said such pay disparities violated federal laws against sex discrimination.

But the U.S. 9th Circuit Court of Appeals disagreed and overruled the decision. The Supreme Court also turned away legal challenges that were based on the theory of "comparable worth."

Roberts also raised objections to the proposed Equal Rights Amendment. It would "override the prerogatives of the states and vest the federal judiciary with broader powers in this area, two of the central objections to the ERA," he wrote.

In another instance, he called "presumably unconstitutional" a Florida proposal to charge women less tuition at state schools because they had less earning potential.

Roberts said the Reagan administration was simply compiling a record of efforts in the states. Reagan officials did not endorse these efforts, he added, since many were "highly objectionable."

In a 1985 memo on an award program to honor women who changed fields, he said: "Some might question whether encouraging homemakers to become lawyers contributes to the common good, but I suppose that is for the judges to

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decide."

Roberts later married a lawyer.

*The Associated Press contributed to his report.*

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