THE IMPACT OF INSTITUTIONAL - POLITICAL FACTORS ON EMPLOYMENT EQUITY : A COMPARATIVE STUDY OF THE POLICY FRAMEWORK IN NEW ZEALAND AND AUSTRALIA

A thesis presented in partial fulfilment
of the requirements for the degree of
Master of Arts in Social Policy
at Massey University

ANNABEL MARY FORDHAM

1995

ABSTRACT

This study addresses the question: to what extent does the development of employment equity for women rely upon direct government intervention in the labour market? Particular attention is given to how institutional arrangements and structural factors in New Zealand and Australia affect the achievement of employment equity. These factors include: the system of wage-fixing and negotiation of conditions; the human rights, equal pay and equal employment opportunity legislation; and the agencies that administer these policies. This research takes a comparative public policy approach, using official statistics and documentary analysis.

The extent of employment equity is measured in terms of equal female and male labour force participation; the elimination of the earnings gap; and the reduction of occupational and industrial segregation.

By making a comparison with the Australian situation, this research examines the proposition that the movement towards a deregulated labour market in New Zealand has inhibited the achievement of employment equity for women. The period covered is 1980-94.

The study found that labour force participation rates increased for Australian women over the period 1987-94, while the labour force participation rate for New Zealand women fluctuated during this same period.

Depending on the measure used, the earnings gap in New Zealand has slightly widened, or at the most, remained static since 1987. In Australia, male and female earnings continue to slowly converge. Ordinary time weekly earnings for Australian women and men are 6-8 percent closer together than is the case for their New Zealand counterparts. The total weekly earnings of Australian women and men are also approximately 6 percent closer than between New Zealand women and men.

In Australia, any improvements have occurred under a centralised

bargaining system, reflecting a greater level of government intervention in the labour market. In New Zealand, however, women's position in the labour market has slightly deteriorated over the period of deregulation and lack of employment equity policies. Women's position in the labour market is discussed critically in the light of the institutional and statutory differences of the two countries.

ACKNOWLEDGEMENTS

I appreciate the help and guidance of my supervisors, Christine Cheyne and Mervyl McPherson, whose tenacity was admirable. I acknowledge the welcome contribution made to this project by the Massey University Graduate Research fund.

I feel grateful to former colleagues at Victoria University library, and staff at Massey University library, for their well informed, reliable and friendly assistance throughout the process of writing this thesis. I also benefited from the skilled help of librarians at Statistics New Zealand library, the State Services Commission Information Centre, and the information supplied by Trudie McNaughton from the EEO Trust.

I would like to thank my parents, Fiona and Robin, for backing me once again, in all sorts of ways. Finally, I would like to thank Campbell, for unflagging encouragement and support during the writing of this thesis.

TABLE OF CONTENTS

Chapter 5
The Institutional Framework to Improve Women's Position in the Paid Workforce in New Zealand

Chapter 6
The Institutional Framework of Australian Employment Equity Policies

Chapter 7
Government Intervention in the Labour Market: A Comparative Analysis

Chapter 8
Conclusion

Bibliography

LIST OF FIGURES

ABBREVIATIONS

ABS - Australian Bureau of Statistics
ACCI - Australian Chamber of Commerce and Industry
ACTU - Australian Council of Trade Unions
AJHR - Appendices to the House of Representatives (New Zealand)
BCA - Business Council of Australia
BIL - Brierley Investments Limited
CAI - Confederation of Australian Industry (now part of ACCI)
CEDAW - United Nations Convention on the Elimination of All Forms of Discrimination Against Women
Census - New Zealand Census of Population and Dwelling
CTU - Council of Trade Unions (New Zealand)
ECA - Employment Contracts Act 1991 (New Zealand)
ECNZ - Electricity Corporation of New Zealand
EEO - Equal Employment Opportunities
HLFS - Household Labour Force Survey (New Zealand)
HRC - Human Rights Commission (New Zealand)
HREOC - Human Rights and Equal Opportunity Commission (Australia)
ILO - International Labour Organisation
IRC - Industrial Relations Commission (formerly the Australian Conciliation and Arbitration Commission - ACAC)
NACEW - National Advisory Council for the Employment of Women (New Zealand)
NZEF - New Zealand Employers' Federation
NZPD - New Zealand Parliamentary Debates
OECD - Organisation for Economic Cooperation and Development
QES - Quarterly Employment Survey (New Zealand)
RCSP - Royal Commission on Social Policy (New Zealand)
SES - Senior Executive Service (Australia)
SOE - State-Owned Enterprise
SSC - State Services Commission (New Zealand)

Chapter 1

INTRODUCTION

> [M]y problem now is to find a minimum wage... for an adult female... [W]hat is the sum per week necessary to satisfy the normal needs of an average female employee who has to support herself from her own exertions; and on the basis of the reasonably necessary requirements of a woman in a civilized community (Justice Higgins, 1919. Commonwealth Arbitration Report 691:13).

Justice Higgins' deliberations led him to set the minimum wage for women at 54 percent of men's (National Women's Consultative Council 1990:8). Attitudes - and women's wages - have progressed some way since then. Australia and New Zealand have both been regarded internationally as relatively progressive in their employment equity policies. This standing reflects, in part, the fact that the earnings gap between men and women in Australia and New Zealand has been small on an international scale (Bryson 1994; Hyman 1994).

At one time it was considered that the structures of the Australian and New Zealand labour markets were broadly similar: both were regulated, centralised, and based around a system of national awards (Working Group on Equal Employment Opportunities and Equal Pay 1988).[1] Recent efforts to deregulate the labour market in New Zealand have been part of a series of reforms which have had major ramifications in, for instance, the health and education sectors, and state sector in general. There has also been considerable pressure in Australia to decentralise the industrial relations process - particularly from employer groups (Hyman 1994). Although modifications have been made, with the aim of introducing more flexibility, the institutional structures in Australia have so far remained essentially unchanged.

Since 1990, New Zealand has moved to a decentralised form of

[1] The focus of this study is upon Australian federal legislation, as it is most comparable with New Zealand legislation. No attempt is made to explore the interface between state and federal legislation which is an area of interest beyond the scope of this study.

industrial relations. The individualist and market-driven emphasis in employment relations and contracts has been reflected by changes in the focus of employment equity policies towards more voluntarism. For example, the repealed Employment Equity Act 1990 depended on the existence of a national award system, whereas the current government/private sector involvement in the EEO Trust is based upon the principle of voluntarism. The underlying philosophy of many of these changes is also apparent in the focus of the Employment Contracts Act 1991.

While the movement of women into the paid labour force since the 1950s is now so widespread as to be unremarkable, it is nonetheless a pattern which implicitly challenges the traditional, gender-based division of labour. The establishment of this new pattern is not without its difficulties, and is still fragile. For instance, issues such as childcare continue to present real hurdles for many women seeking to participate in the paid workforce. Even in the arena of paid employment, legal interventions were necessary to ensure that women were paid at the same rate as men for doing exactly the same work. In New Zealand, 'equal pay' was first legislated for in the state sector in 1960, and later extended to the private sector in 1972. Similar institutional arrangements were made in Australia in 1969 and 1972. The position of women employed both in Australia and in New Zealand undoubtedly improved in the intervening years. There has, however, been little substantial movement in the earnings gap since the late 1980s. This discrepancy between female/male earnings is influenced by a number of factors such as occupational segregation, child-care responsibilities, and discrimination (Hyman & Clark 1987). It is in this context that current employment equity policies are examined.

1.1 Research Question

This study addresses the question: to what extent does the development of employment equity rely upon government intervention in the labour market ? In particular, the question examines how the institutional arrangements and structural factors in New Zealand and Australia affect the achievement of employment equity. These factors will

include: the system of wage-fixing and negotiation of conditions; the human rights, equal pay, and equal employment opportunity legislation; and the agencies that administer these policies. For the purposes of this study, 'government intervention' will refer to any policies and practices initiated and regulated by central government and government agencies. The extent of employment equity will be measured in terms of equal female and male labour force participation; the elimination of the earnings gap; and the reduction of occupational and industrial segregation. This study attempts to enhance understanding about the impacts of employment equity policies through the utilisation of a comparative public policy framework.

It will be argued that women's position in the labour market is an important factor in determining their citizenship status. The construction of citizenship status is complex, stemming from a number of interrelated variables. If women are to fully participate socially, politically and economically - and thus to be full citizens - it will require access to alternative care for dependent relatives or family members; flexible work arrangements; and economic independence. The central objective of employment equity policies, as discussed in this study, is to target and remove the barriers to women's equal participation in the labour market.

By making a comparison with the Australian situation, this research will examine the proposition that the movement towards a deregulated labour market in New Zealand has inhibited the achievement of employment equity for women.

1.2 Definition of Terms

Before outlining the structure of this study, the main terms that are used will be briefly discussed.

a) Employment Equity

The term 'employment equity' is used here to refer to the dual concepts of equal employment opportunity (EEO), and pay equity: sometimes referred to as comparable worth or equal pay for work of equal value.

Employment equity in this study refers to the principles and policies that identify and challenge the barriers causing or perpetuating inequality between women and men in employment. For the purposes of this study, employment equity policies will include both policies aimed at providing equality of opportunity, such as childcare provision, and those policies targeting and redressing inequity in levels of pay. Employment equity involves the principle of affirmative action, in seeking to redress the effects of past discrimination, to bring those disadvantaged groups (in this instance, women) to the level of the advantaged (adapted from Working Group on Equal Employment Opportunities and Equal Pay 1988:10).

b) Equal Pay

The term 'equal pay' is widely used to refer to the practice of paying men and women the same amount for carrying out *exactly the same work*. This is the sense in which it is used here. Although the Equal Pay Act 1972 in New Zealand potentially permitted a wider application of the term 'equal pay' (which could have included 'equal pay for work of equal value'), the narrower meaning, outlined above, has evolved.

c) Equal Pay for Work of Equal Value

The broader concept of 'equal pay for work of equal value' is often used interchangeably with the term 'comparable worth'. This is the way it will be used here. 'Equal pay for work of equal value' assessments generally use job evaluation or work value studies to compare '...the conditions, skills and responsibilities required in traditionally female - and male - dominated occupations' (Royal Commission on Social Policy 1988 vol. II:374; Hyman & Clark 1987). If, as a result of such an assessment, two jobs are found to be substantially similar, the policy of equal pay for work of equal value demands that they be remunerated at a similar rate.

d) Pay Equity

'Pay equity' is another term often used to refer to the process of male/female comparison outlined above. While it is perfectly logical to use this term to refer to a male/female comparison, pay equity also has a broader meaning which refers to '...attempts to raise all pay rates over

a period of time, with the intention of improving low rates of pay for the full range of disadvantaged groups in society' (Royal Commission on Social Policy 1988:374). This is the way it will be used in this study.

1.3 Outline of Thesis

Chapter 2 examines and reviews the literature backgrounding the issues of equal pay, EEO, and employment equity policies in New Zealand and Australia. Attention will be given to the role of government in promoting employment equity, and to theoretical perspectives on employment equity. The connection between women's employment status and their citizenship status is acknowledged.

In chapter 3, the methodology used in this study will be detailed. It is argued that a comparison with the Australian policy framework has the potential to clarify and highlight the impact of different employment equity policies, while also identifying any common themes or issues. The utility and the problems of official statistics and documentary analysis in this study will be discussed.

Official statistics are used in chapter 4 to examine the labour market status of women. In looking at the impact of a deregulated labour market policy on women's labour market status, it is necessary to compare the position of women before and after the change in policy. The period covered will be 1980-94. The variables include: labour force participation rates; unemployment rates; industrial and occupational distribution; hours of paid work; and income and earnings. New Zealand data sources include the Quarterly Employment Survey, Household Labour Force Survey, Census of Population and Dwelling, and the Household Expenditure and Income Survey. Australian data come from sources such as the Labour Force Survey and relevant supplementary surveys, the Quarterly Survey of Employment and Earnings, and the Survey of Income and Housing Costs and Amenities.

Particular attention is given to the size of and change in the earnings gap; the degree of occupational spread and segregation; and the changing participation rates of women. The impact of these factors

upon different groups of women in the labour market is considered, including for instance, variables of age and ethnic group. Information from these sources will be used as a general indicator of recent changes in the earning capacity and position of women in the labour market.

Chapters 5 and 6 outline the current policy framework relating to employment equity in New Zealand and Australia respectively. The focus of the New Zealand policy material will be upon the role of the EEO Trust, and the provisions for EEO programmes within the State Sector Act 1988 and the State-Owned Enterprises Act 1986. The impact and role of the Equal Pay Act 1972 will be discussed, as well as the now repealed Employment Equity Act 1990 and, to a lesser extent, the Human Rights Act 1993. These will be examined with reference to the labour market environment specified by the Employment Contracts Act 1991.

The Australian material outlined in chapter 6 will centre on selected pieces of federal legislation, such as the Sex Discrimination Act 1984, Affirmative Action (Equal Employment Opportunity for Women) Act 1986, the Public Service Reform Act 1984, the Equal Employment Opportunity (Commonwealth Authorities) Act 1987, and the Industrial Relations Reform Act 1993. Relevant decisions by the federal industrial tribunal will be detailed.

The policy framework of Australia and New Zealand will then be compared in Chapter 7. A key question in this comparison concerns the impact that institutional structures have upon the form of policy. In particular, I am interested in the extent to which a centralised labour market is conducive to the development of employment equity policies. One perspective in this debate is illustrated by the following comment from the National Women's Consultative Council of Australia (1990:1-2), which argues that pay equity is not a necessary outcome of a centralised wage fixing system.

> The Australian industrial relations system is unique for its centralised role in wage fixation. The nature of the centralised wage fixation system has at times, acted as a constraint to pay equity for women. Pay equity is not a central tenet of the

industrial relations system. The maintenance of pay relativities between groups of workers has been the major focus of the system.

On the other hand, some commentators argue that centralised wage-fixation is, if not necessary for employment equity, then, certainly the more desirable environment (O'Donnell & Golder 1986; Du Plessis & Jaber 1990). The comparison of Australian and New Zealand employment equity policies is thus, in part, a comparison of broader policy developments in each country.

Chapter 8 will take the form of a final discussion and conclusion. The issues raised throughout previous chapters will be re-evaluated in the context of the literature on employment equity, and the findings will be related back to the research question.

Chapter 2

LITERATURE REVIEW

2.0 Introduction

This chapter will outline a range of recent literature relating to equal employment opportunities (EEO) and pay equity policies in New Zealand and Australia. The key issues that the literature raises will be examined. As noted earlier, the relationship between government intervention in labour market processes and the nature of employment equity policies has been the subject of debate. In this chapter I will discuss this debate and also refer to wider contributions to the debate about employment equity.

I will focus on the nature of the labour market, and labour market segmentation; the strategy of equal opportunity and the utility of the merit principle; and the impact of public sector reforms, particularly the influence of economic rationalism and managerialism. Finally I will examine relevant empirical studies. Particular attention will be given to the changes in structural and institutional frameworks and to the implications that these changes have for employment equity for women.

2.1 Earnings Gap

There is much Australian literature detailing the progress of pay equity in the last twenty years through the federal industrial tribunal. (Johnson & Wajcman 1986; O'Donnell & Golder 1986; Ryan 1988). One issue which arises from these discussions is the suitability of the concept of 'equal pay for work of equal value' as applied in Australia, compared to the concept of 'comparable worth' as applied in the deregulated labour market of the United States. Ryan (1988) accepts that comparable worth is beneficial for the American situation, but she argues that it should not be introduced to Australia, where the equal value comparisons are undertaken on a different basis. Ryan's perspective is evident in the ruling of the Arbitration Commission in

1985, which it rejected 'comparable worth' as unsuitable to the Australian industrial relations system. This point is discussed further in chapter 6.

Michael and Hartmann (1989:17) refer to the findings of Gregory, Anstie et al. (1989), when they comment that:

> it may be easier to raise the relative wages of women in a country where wages are centrally set and where there has been explicit discrimination. In the United States, where the labor market is highly decentralized and where discrimination in wage setting is unlikely to take such an overt form, the circumstances may prove more difficult to change.

2.2 Labour Market Segmentation

Explanations of women's labour force participation and the specific feature of the earnings gap frequently acknowledge the significance of labour market segmentation. This refers to the way in which women and men are concentrated in different areas of the labour market. In part, this is because of unique characteristics of the labour market.

It is widely acknowledged that the labour market is unlike other markets. King (1987), for example, distinguishes between three sorts of markets: labour, consumer goods, and intermediate. Similarly, Offe (1985:173) argues that for participants, the labour market is structurally and functionally different from other markets, and that to equate the two is mistaken.

> Such conceptual equations tend to de-emphasize, to say the very least, structural differences between labour power and any commodity, as well as the resulting asymmetry of power and freedom that emerges between the supply and demand sides as soon as labour power is allocated through markets, i.e. as soon as it is institutionally treated as if it were a commodity, while in fact it is not, because it cannot be physically separated from its 'owner'...

Brosnan and Rea (1992:193) identify the problem in treating the labour

market as if it were any other market.

> The major difference between labour markets and other markets is that the commodity being traded is a social relationship. This influences all aspects of the market. Social processes interact with economic factors to produce labour markets which are heavily segmented.

This segmentation has direct implications for women in the labour market as Brosnan and Rea (1992:194) add.

> On the demand side, the process of segmentation creates a structure of occupations characterised by varying degrees of stability and a varying susceptibility to competition. On the supply side, the process of segmentation ensures that socially powerless and disadvantaged groups are structured into the least desirable occupations.

Moreover, what Brosnan and Rea's argument underlines is the varying way in which the labour market impacts upon women. It is therefore likely that some women, in secure, highly skilled occupations, may not find themselves to be vulnerable in the face of labour market deregulation.

In addition to the choice afforded by personal income, favourable employment status allows women access to a range of services that may be limited or withheld from other women. For instance, Jamrozik (1994:167) explains how access to state-subsidised child-care in Australia has become more closely linked to employment status, through the method of service delivery. Women who are employed are given priority access to childcare. Jamrozik argues that 'those already fortunate in having good employment and a career structure, receive benefits at public expense, while those less fortunate receive nothing'.

Titmuss (1960) outlined three major categories of welfare. One of the categories defined was occupational welfare which, he argued, was expanding in scope. Benefits accruing from employment may include access to childcare services, as mentioned above, or for example, pension schemes and medical coverage. Although linking occupational benefits to the model of the 'good' employer, Titmuss (1960:23) queried their spread.

> One fundamental question that they raise... is whether and to what extent social service dependency benefits should be proportionately related to occupational and income achievement.

It is arguable that women may have less access to occupational benefits, as a result of time out of the labour force. In addition, they tend not to be employed in sectors which receive significant benefits. Rose (1981:478) re-evaluates the arguments of Titmuss in relation to women, and argues that:

> his preoccupation with the micro, with the intimate social relations of redistribution, has a specific relevance to a feminist analysis.

Indeed, it is essential to make connections between the position of wage earners and the social systems - both family and state - that support them. In this regard, the contribution and role of women's unpaid work has gone unrecognised. The family wage concept, applied in both New Zealand and Australia, is an example of this pattern.

Ginsberg (1992:6) outlines the concept of the family wage, and the way in which the assumptions behind it function to constrain the financial independence of women.

> The family-wage model is patriarchal because it puts women financially in a wholly dependent position, which reinforces men's overwhelming private economic power in the family, bolstered by the wider patriarchal culture. In reality men's wages have usually been insufficient to support their families adequately, which has fuelled the pressure from working class men and women for the welfare state.

Moreover, policies such as the family wage supported the position of male workers to the detriment of women's involvement in paid work. Although the assessment of the sufficient family wage has now ceased, echoes of the assumptions behind it still persist. The work that women carry out is less likely to be remunerated, and jobs requiring traditionally female skills tend to receive lower wages than those using traditionally male skills. Arber and Ginn (1995:40) point out that:

> There is a reciprocal relation between the labour market and the family, with women's economic disadvantage in the labour

market influencing their domestic role in the family, which in turn reduces women's ability to participate to their full potential in the public sphere.

2.3 EEO and the Merit Principle

Feminist theorists have approached questions of inequality from varying perspectives, and have argued for the use of differing strategies. The selection of employment equity policy depends upon the way in which the individual is theorised, and where the basis of inequality in employment is thought to originate.

The influence of liberal thought is apparent in much feminist literature. At its most basic, the liberal assumption of equality is a keystone of feminist endeavours. Indeed, the legacy of 'liberal feminism' is substantial, representing most of the basic rights that women now enjoy. The straightforward appeal to egalitarianism, which has been instrumental in the success of liberal feminism, is also the reason why liberal feminism is now an inadequate base on which to build strategies for change. The liberal agenda for women in countries such as New Zealand and Australia has, arguably, been achieved.

The 'merit principle' is widely debated in feminist analyses of employment equity policies and is evident in the current policies in both New Zealand and Australia. The specifics of these policies will be discussed in chapters 5 and 6.

The concept of merit, in relation to employment equity, centres on the perceived ability of the individual as judged by a prospective employer. Appointments based upon 'the merit principle' are solely based upon criteria such as experience, qualifications and ability. Such criteria are promoted as objective standards - although this assumption has been questioned by some feminists.

Burton (1991) discusses issues arising from the application of the merit principle in the Australian context. She comments on the narrow definition of merit that is traditionally applied, and notes the

opposition that surfaces over attempts to broaden the range of criteria in assessing merit. Burton (1991:45) states that:

> The assumption... is that the narrow, prevailing definition is the better definition. This is not a proposition developed from examination of alternative possibilities, but a defence of traditional ways of doing things and traditional ways of evaluating people's skills and experience.

Burton identifies three types of indirect discrimination affecting women in the paid workforce: difficulties in accessing equal opportunities due to occupational segregation; apparently neutral systems, such as job evaluation, containing a gender-based bias; and finally, the lack of awareness of the different circumstances under which women enter into employment.

The concept of merit in relation to the New Zealand experience is discussed by Briar (1994), who argues that members of EEO target groups, such as women and Maori, may not have had the experience or training to enable them to demonstrate their ability. Because of this lack of opportunity, such individuals will not be highly rated in assessments of merit. Further, Briar (1994:33) points out that 'some jobs are rated as more highly skilled simply because men have traditionally performed them'. In this instance also, assessments of merit may undervalue the experience that individuals have gained.

Other discussions of merit are to be found in the publications of the New Zealand Business Roundtable. Publications by the Business Roundtable represent one extreme but influential side of this debate, arguing that standards of appointment and promotion are lowered by affirmative action and, indeed, any attention to equality of outcome. Milne (1995), on the other hand, argues that discrimination has been occurring in favour of male employees for a long time and therefore sees a need for affirmative action for women.

Much feminist literature examines and challenges the validity of the same/difference dichotomy. Bacchi (1990:259) points out that:

> important political issues lie subsumed beneath a sameness/difference analysis... feminists get locked into debate with each

> other along sameness/difference lines when political alternatives are severely constrained.

It is clear that complex questions of rights, equity, citizenship and power are harboured behind debates of similarity and difference. In seeking, by necessity, pragmatic solutions to these issues, feminists have witnessed the narrowing of the terms of the debate. Few commentators would argue wholeheartedly for strategies that always approached women as the 'same' as men, or for policies that consistently saw women as 'different'.

Scott (1988) is an example of many feminist commentators who argue against the dualism of same/difference, and the limitations implicit in this approach. The development of policy options, for instance, is hindered by exclusively pursuing a path of either similarity or difference. Instead, Scott maintains that it is both possible and essential to seek multiple strategies. Although Scott favours a poststructuralist approach, she also argues against substituting a 'happy pluralism' in place of the same/difference dualism. Rather, Scott (1988:48) argues that 'equality requires the recognition and inclusion of difference'. Theoretically speaking, this is an agreeable point at which to pause, but politically it leaves matters somewhat unresolved.

The degree of change possible from the implementation of employment equity policies is a moot point. Burgmann (1993) argues that affirmative action programmes are of most help to women already holding advantaged positions. Burgmann (1993:102) remarks that:

> Women who are already privileged amongst women, the fortunate few who have already advanced well beyond most other members of the disadvantaged sex, are the primary beneficiaries of affirmative action programmes: only women who already possess the skills and education required for positions valued by men are able to reap its benefits. For the less skilled and less well-educated women, affirmative action offers little in the way of equal opportunities.

In other words, EEO policies may not be as helpful for women working in female dominated, lowly-paid occupations. It could be argued that

in this sort of situation, *pay equity measures* are especially necessary. Burgmann is not, in fact, totally dismissive of EEO measures, but her comments do highlight the need for integrated, comprehensive employment equity policies, which target different areas of the labour force, using both EEO programmes and pay equity.

Jewson and Mason (1986) debate the strengths and limitations of different approaches to EEO, and argue that the practice of EEO can be broken down into two main strands: radical and liberal. While this delineation is useful in highlighting and examining the theoretical basis underlying various policies, Jewson and Mason have themselves rightly acknowledged that the distinction between liberal and radical strategies is forced, and that realistically, EEO practice stems from a combination of approaches.

Depending on the employment equity strategies that are implemented, however, varying emphasis is placed upon equality of opportunity, as opposed to equality of outcome.

Burton (1991:xii-xiii) discusses how liberal and radical approaches appear in the literature on EEO.

> The first [view]... questions whether the programs can be anything more than a 'liberal update' providing new and more subtle forms of patriarchal domination, while the second... argues that EEO programs might be a critical leverage point for more fundamental social change.

Spoonley's critique (1994) of EEO in terms of bi-culturalism, inadvertently hits upon this very aspect. He argues that Maori are concerned with, and seeking resolution to, broad resource issues, rather than micro-level issues within organisations. While raising perfectly valid points, he dismisses the more radical, transformational basis of social justice in employment - which he believes to be lacking - by stressing a more rigid and conservative definition of EEO. What Spoonley refers to is the policy of 'managing diversity', which has a particular focus and is discussed later in this chapter. Spoonley's argument implies that the goals of EEO and bi-culturalism are

mutually exclusive. Considering their combined emphasis on power, justice, and access to resources, this view seems mistaken.

Jewson and Mason (1986) further argue that conceptual confusion between radical and liberal approaches is an integral feature of EEO practice because of the nature of the struggle to achieve change within existing organisational structures. Jewson and Mason (1986:328) comment that:

> confusions may be either the unintended consequences of power struggles and negotiation or the outcome of deliberate attempts to manipulate situations and perceptions. Confusion may then be both a result of power struggles and a tool in their prosecution.

Deeks et al. (1994), and Walsh and Dickson (1993) argue that tensions between liberal and radical models have been resolved substantially in favour of liberal approaches in the New Zealand state sector. Walsh and Dickson (1993:3), in their study of EEO in state sector, comment that:

> EEO in the New Zealand public sector was tied to the intersection of two separate and opposing agendas for change... The two agendas were not easily reconciled. They were informed by different values, oriented to the achievement of conflicting objectives and their prescriptions for managerial practices were markedly at variance. The development of EEO in the New Zealand public sector... reflected to a considerable degree the ability of its advocates to hitch the cause of EEO to that of managerialism.

It is clear that the positive potential of a more challenging approach to EEO has been limited because of its incompatibility with the prevailing political and economic environment in recent years. The hurdle of acceptance is largely overcome when EEO is incorporated within managerialist aims, but is, itself, not without drawbacks, as discussed below.

2.4 Managerialism

The term managerialism is used here to refer to the introduction and application of what have been primarily business management methods to the state sector. Changes to the management style and organisation of the state sector during the 1980s in New Zealand and Australia could fairly be regarded as managerialist. It has been argued that managerialism has had a significant impact upon the practice of EEO in the last ten years. This influence may be seen as positive, in that goals of equity in the workplace have gained prominence and, potentially, the successful implementation of EEO programmes can become an integral part of an organisation's goals and focus. In many ways, EEO and managerialism appear to be compatible. Indeed, the theoretical basis of liberalism - with its individualistic orientation - underpins both managerialism and the concept of 'merit' used in EEO. Deeks et al. (1994:472) point out that:

> For liberals the purpose of an EEO policy is to ensure that the impediments to a freely operating labour market are removed to allow individuals to compete equally, with outcomes decided by relative merit of individuals.

The aims of managerialism, however, clearly have points of tension with the broader goals of employment equity. For instance, the conceptual model of employment equity and, in particular, the working definition of EEO applied by managers may be narrow. The outcomes of EEO programmes will be constrained by the boundaries set up during their implementation and, consequently, employment equity objectives can easily become subsumed within other management goals. It could be argued also that there is little consideration given to the relationship between EEO programmes and pay equity policies. As a result, the emphasis falls, not on how best to adapt the working environment to foster EEO, but on how well an EEO programme can be adapted to suit currently existing workplace practices. As Yeatman (1990:16) observes,

> Equal opportunity in this context comes to be reframed in terms of what it can do to improve management, not of what it can do to develop the conditions of social justice and democratic

> citizenship in Australian society.

Yeatman's comment also reflects the movement that has occurred from the promotion of the employment equity policies in terms of social justice and citizenship rights, to their current incarnation as a novel management tool.

Humphries and Grice (1995) note the shift in emphasis from EEO to 'managing diversity', and the change in philosophy that this reflects. Jones (1994) argues that shifts in policy direction have been echoed in the changing language of employment equity.

Workplace reform can be seen as a potentially positive outcome of managerialism as Deeks et al. (1994) argue. They maintain that workplace reform has similar aims to some forms of organisational development. Ryan (1994:238) defines workplace reform as an 'integrated package of changes involving a number of processes'. The process of workplace reform may include: a re-evaluation of skill definitions; the introduction of new technology; a move to team working; and new approaches to industrial relations. One of the limitations of workplace reform, however, is the tendency to employ a simplistic concept of organisational change. As a result, the broader issues that surround employment equity in practice, and that are fundamentally linked at a philosophical and theoretical level, are ignored or reduced to a 'paint-by-numbers' formula. Ryan (1994:240) notes that EEO programmes are not often included within workplace reform plans and comments that:

> The critical issue is whether the organisations perceive workplace reform as a programme or as involving a cultural change to their method of organisation.

Workplace reform can be a quick-fix application of general principles rather than the introduction of a process of discussion, assessment and re-evaluation of equity issues in each specific workplace. In addition, Bennett (1994) argues that it is important to resist too narrow a focus on the workplace, and instead to acknowledge the inequality that exists *between* occupations and industries, thereby coming to a more systematic understanding of the interface between individuals, organisations and institutions.

Wanna (1993) debates the efficacy and impact of the managerialist reforms within the Australian public sector, particularly focussing on the Hawke reforms of 1987, and questions who has come to benefit from these changes. Wanna (1993:76) argues that managerial and equity goals do not necessarily sit easily together.

> The public sector has moved considerably toward reflecting the social composition of Australian society, with its full range of talents and insights. Again, however, equity measures have cut across managerial and in some cases Ministerial priorities, making their formal existence symbolic while far more problematic at the informal level.

It is argued here that there are significant attitudinal barriers to women's full and equal participation in the paid workforce. Attitudinal hurdles are more challenging, both to identify, and to overcome. Perhaps one of the most difficult aspects in attempting to change attitudes is their invisibility. For instance, unless employers express personal views or company policy in public statements, company documents, or even informally, through newsletters, the potential to challenge or debate the validity of those views is limited. The likelihood of changing these attitudes lessens the more they become embedded within an organisation's culture. Burton's argument (1991:31-2) supports this, when she notes that the difficulty of changing existing structures is further impeded by a strong adherence to an 'organisational culture':

> The culture of the organisation is presented as an almost sacred core of the company's identity and its uniqueness as something which gives the company its competitive edge. It is also presented as a coherent and neutral entity, as if it were possible for it to contain only one set of values and beliefs, to which everyone can equally subscribe. It is also presented as if it were not *constituted* by power relationships, but rather something which expresses the general interests and orientation of the organisation which are at the same time necessarily the shared interests and orientation if its participants.

One of the central tensions in the uneasy relationship between managerialism and employment equity lies in the value placed upon neutrality in decision-making. While this is a desirable attribute in managerialist terms, and is certainly evident in the philosophical basis of the merit principle, there is little acknowledgement of the value-laden nature of many ostensibly objective decisions. For example, promotion decisions, or selection processes may rest upon ill-defined, and potentially biased, beliefs. Where the rationale used in these sort of instances is not made explicit, the opportunity to question the decision is removed. Furthermore, even when, for instance, a decision to employ a well-known sports personality is based openly upon the criterion that high public profiles are good for business, the question of how sporting ability came to be a business advantage remains unanswered. It is argued that the slant of a decision reflects, to a substantial degree, the perspective of the person making it, as opposed to an objective assessment of fact. This is, after all, the reason that many managers are sought for their 'innovative' and 'creative' thinking. Thus managerial discretion, or the 'managerial imperative', takes on a new flavour - one which does not necessarily mix well with the objectives of employment equity.

2.5 Economic Rationalism: a feminist critique

In the mid to late 1980s, the impact of economic rationalism was apparent in the debate about employment equity policies in New Zealand. Strong criticism was raised by proponents of labour market reform, such as the New Zealand Business Roundtable (1990) and Brook (1990a; 1990b). Ginsberg (1992:11) points out that:

> The libertarian New Right see citizenship rights as imposing economic dependence of individuals on the state and a bureaucratically defined solidarity, thereby undermining the social disciplines imposed by markets, as well as individual and voluntary initiative.

The debate around employment equity legislation was framed by some commentators as placing restrictions on individual freedom.

In the face of increasingly pervasive economic rationalism, feminist

theorists have developed incisive critiques of the assumptions underpinning these ideas. Sharp and Broomhill (1988:42) comment that neo-classical economic theory

> uses models with a limited number of general or 'universal' variables... For example, income and prices are taken as the major determinants of an individual's economic behaviour. Other influences on economic behaviour such as beliefs, caring and prejudice are lumped together as 'tastes'... it is in this way the structural features of economic society are eliminated from neo-classical analysis.

Such a critique has particular relevance to women. Hyman (1994) provides a detailed and systematic overview of the influence that orthodox economic analysis has had upon shaping the lives of women. By defining the prototype of the individual as a gender neutral agent who is free to act according to certain 'rational' principles, the more complicated reality is disregarded. Hyman (1994:13) argues that this is not gender *neutral* but gender *blind*:

> Gender-blind analyses, systems and policies appear to be universal, but in fact use methodologies, assumptions and practices which systematically disadvantage women. Thus, they are not gender neutral in effect.

Sharp and Broomhill (1988) argue along similar lines to Hyman, describing the process that effectively excludes the reality of many women's lives.

England (1993) highlights the assumption upon which neoclassical economic theory rests: that economic actors are rational and autonomous individuals. She critiques this from a feminist perspective, pointing out that although individuals are seen to be self-maximising in their market behaviour, it is assumed that their motives become altruistic within the family. England (1993:37) argues that:

> these assumptions exaggerate both the atomistic, separative nature of behavior in markets and the connective empathy and altruism within the family.

Else (1992) also identifies points of contradiction in economic rationalism, and its assumptions about individual behaviour in public

and private spheres.

More generally, the restrictive focus of economic rationalist arguments is discussed by Plowman (1986). Plowman (1986:38) outlines the argument in economics that institutional factors are unimportant in determining wage levels and wage structure. He argues that the '[e]vidence in support of such a hypothesis, however, is far from compelling'. The rapid improvement in female/male wages in Australia is cited as indicative of the influence of arbitrated decisions.

2.6 Comparative Public Policy Literature

O'Donnell and Golder (1986) compare the United States, Britain and Australia, arguing that centralised wage fixing is a positive factor in promoting employment equity. Their approach is critiqued by Johnson and Wajcman, who argue that the issues are more complex than the O'Donnell and Golder comparison suggests. Instead, Johnson and Wajcman (1986:91) state that the relationship between wage fixation systems and women's pay is more complex than the authors admit, and that they do not address some of the deficiencies in the current form of centralised wage fixation in Australia.

Castles (1989:44) has argued that in Australia regulation of the labour market was used to achieve social policy goals.

> The weakness of the Australian welfare state follows naturally from a strategy of social protection which focused on wage levels rather than social wage benefits, and the seeming paradox of equality in the absence of an advanced welfare state is vindication of the effectiveness of that wage strategy.

Arguably, this is a strategy which has been more effective in protecting the wage levels of men than of women who have, historically, had less involvement in paid labour and therefore received less of the protection procured by a strong labour movement. Indeed, the regulation of wages has not been unequivocally positive, and has been used in the Australian context as a tool to set female earnings at lower levels than men.

Whitehouse's (1995) study presents a cross-national comparison of workplace gender equality in OECD countries. Using the measures of female participation rates, and of the relative level of women's earnings, Whitehouse examined the characteristics and effectiveness of 'liberal' and 'collective' approaches to gender inequality. The 'liberal' approach is typified by Whitehouse as being based on legislation, while the 'collective' approach uses both industrial and legal strategies. Whitehouse notes the debate in feminist literature about the effectiveness of 'liberal' legislative strategies and argues that the environment in which policies are implemented is an important factor in their success. Whitehouse's study found no evidence to support the effectiveness of legislative measures on their own. Centralised wage-fixation, however, was found to be connected to higher levels of earnings for women. In addition, centralised wage-fixing was also related to lower female labour force participation. One possible reason for this is that strong union activity reduces the amount of casualised work (Whitehouse 1995:79).

> Centralised wage fixing arrangements are shown to be strongly associated with high relative earnings for women. The fact that this variable is negatively associated with female participation rates is consistent with the hypothesis that regulation under these arrangements tends to restrict processes of casualisation and feminisation.

According to Whitehouse (1995:67), collective strategies, such as centralised wage-fixing, may be more effective for women in the workforce because collective strategies recognise wider grounds for inequality.

> Where legislative approaches to gender issues are combined with other aspects of a liberal vision, for example an adherence to a market logic in evaluating work and devising labour market policy, the likelihood of change becomes more remote.

Support for this view is provided by Gregory et al. (1989), who found in a study of wage levels in Australia, Britain and the United States that women fare better under centralised wage fixing systems.

In the case of Britain, Arber and Ginn (1995:39) also note that:

> women fare worse where there are incentive payments and in establishments where there are no collective agreements, and where there is local rather than national bargaining... gender differences are greatest where pay depends on the employer's discretion.

In this study I will examine questions raised by the above literature, with reference to the institutional arrangements for employment equity and wage determination in New Zealand and Australia. For instance, to what extent is employment equity influenced by particular institutional frameworks? Are institutional factors sufficient to counteract any negative effects of decentralised wage fixation for women? How effective are solely legislative measures in promoting employment equity? What other dimensions should be considered in assessing employment equity? How adequately does a minimal earnings gap reflect employment equity?

The methodology used in this study will now be detailed.

Chapter 3

METHODOLOGY

3.0 Introduction

This chapter outlines the methodology of comparative public policy, as it has been applied to issues of employment equity for women in Australia and New Zealand since 1990. In addition, the data used in this comparative study - documents and official statistics - will be examined.

3.1 Comparative Public Policy

Heidenheimer, Heclo and Teich Adams (1983:2-3) define comparative public policy as 'the study of how, why, and to what effect different governments pursue particular courses of action or inaction'. While the purpose of comparative public policy may be relatively clear, the definition of a methodology is elusive. Berthoin Antal (1987:505) has commented that:

> There seems to be general agreement that there is no special 'comparative methodology'... Cross-national research entails largely the same methodological challenges as those confronted in single-nation studies, but the problems are made more complex by the cross-cultural context. A very basic problem, for example, that takes on a different aspect in cross-national research, is the selection of the unit of analysis.

By its very nature, comparative public policy may involve different levels of analysis: states, political systems, institutions, groups or individuals are potentially the focus of attention.

One of the notable features of comparative public policy, however, is its application and broad utility. As Wilensky et al. (1987:383) argue:

> By specifying broad policy options and programme emphases chosen by diverse countries confronting similar problems, this research brings a wider range of policy options to view. Finally, insofar as this research covers the social, political and economic

> consequences of different types of social policy and levels of social spending, it can improve the policy-maker's understanding of real opportunities and constraints.

In this study, particular attention is given to a comparison of the institutions and actors involved in shaping employment equity policies in New Zealand and Australia. This comparison includes the institutional and statutory framework of each country and the processes of policy development. Australia was selected as a comparison to New Zealand because of the historical similarities between the industrial relations systems in each country. This parallel, however, can no longer be drawn. Recent changes in New Zealand mean that the two countries' divergent approaches to intervention in the labour market can be compared.

Because of the attention given to institutional and legislative arrangements in this research, it may be seen as taking a 'state-centred' approach. The relationship between government action and employment equity for women is of primary interest here, rather than the influence of, for instance, economic change or social movements. Examples of other research adopting a state-centred approach are: Evans, Rueschemeyer and Skocpol (1985), *Bringing the State Back In*; and Skocpol (1992), *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States*.

The central focus on the outcomes of policy directions and choices is an aspect that is common to comparative public policy approaches, as Heidenheimer et al. (1983:5-6) outline.

> Studying comparative public policy, rather than comparative government or political behavior, gives special attention to the effects of government action on peoples' lives. Rarely are the results exactly what governments intended when adopting a policy; sometimes, the result is a new round of political debate and choice.

Official statistics and documentary analysis are used in this study to compare the current employment equity policies in Australia and New

Zealand. Attention is given to possible outcomes of the policies that have been applied, while accepting that such a link is, at best, indirect. Assessing the link between policy and outcomes becomes a process of evaluative judgement, in which the variables are numerous, and in a continual state of flux. Because policies are not implemented within a social vacuum, the impact of other factors cannot be ignored, and therefore the effectiveness of a policy remains an on-going question. Schmidt (1993:222) provides an example of this in his discussion of the increase in female labour force participation.

> the increase in the level of gender equality can be conceived of as the outcome of a process to which targeted policy, unintended consequences of non-target ('tacit') policy, as well as social and economic processes have contributed.

The use of official statistics, particularly, is not without difficulties, as discussed below.

3.2 Official Statistics

Official statistics present a number of practical hurdles. The most pressing of these is the availability of information.

Obtaining current data can be difficult, particularly for large countries such as Australia. The most recent comprehensive published data for Australia are approximately a year and a half old. At the time of writing in December 1994, the most recent comprehensive published source was December 1993 (*Labour Statistics Australia 1992)*, for which the data had been gathered in August 1992. Fortunately, some monthly updated data were available through the *Monthly Summary of Statistics* (similar to *Key Statistics* in New Zealand), and so it was possible to refer to data gathered within the last few months. While this lag would not necessarily have been a problem in some studies, the nature of this topic demanded up-to-date data, because of the many recent changes in New Zealand, such as the Employment Contracts Act 1991, and the establishment of the EEO Trust in 1991. It is likely that more recent unpublished data are available from the Australian Bureau of Statistics (as they are from Statistics New Zealand), but the cost

precludes their use in this study.

Of course, official statistics are gathered to provide general information, rather than, as in primary research, to serve an individual researcher's particular purpose. Consequently, the existing official data may not fit the specific needs of a study. For instance, Gwartney-Gibbs (1988:275) comments that cross-national comparisons of particular issues such as occupational segregation are not systematically gathered:

> Despite New Zealand's differences from other industrialised countries, many of the patterns uncovered in this research parallel patterns found in prior research on other countries, particularly Australia. This suggests, first, that similar patterns underlie the sex structure of occupations in industrialised nations, despite considerable latitude in economic and social organisation, and second, that the forces that govern change in those patterns also may be similar. Unfortunately, there currently exists no systematic cross-national examination of the antecedents, correlates, and consequences of change in patterns of occupational segregation.

As a result, the alternative is to weave together a range of statistics from different sources. This has been done here.

Fortunately for this study, general-purpose data were largely applicable to the research question. Issues of comparability are clearly a feature of the research which was, however, hindered somewhat by the incomparability of Australian and New Zealand statistics. For instance, international statistics are regularly compiled by the Organisation for Economic Cooperation and Development (OECD), and are adjusted to allow for general comparison. For Australia and New Zealand, however, the adjustments which are made to the data are irregular - particularly so for New Zealand statistics - suggesting that data from the two countries may not be directly comparable. In addition, a lot of data necessary for this topic are not available through OECD compilations. Nevertheless, for certain measures, the degree of change within each country can be compared over time.

In practice, the use of statistics to define a situation or assess conditions has drawbacks. Most obviously, they can only provide quantifiable information, and this information is, by its very nature, given out of context. For instance, when assessing women's earnings, there are limitations associated with looking at the 'average' in relation to wages. In particular, this measure reveals little about the way that wages are *distributed* throughout a group or population. Nor does it give any picture of how earning the 'average' wage constrains or affects an individual woman's daily life - although one can, of course, draw conclusions.

While official statistics are not useful in detailing the experience of an individual, they are effective in demonstrating larger changes within a group or over a population. This is the type of information required for this study. Because statutory and institutional arrangements are designed to affect large numbers of people, one way of analysing their impact is to look at broad patterns or overviews. Official statistics enable this to be done fairly quickly. In addition, they are readily accessible. Using official statistics - at least in their published form - is also relatively affordable. (This would not be so if official data sets were adapted for a particular project, as can be done if necessary). These were distinct advantages for this project.

I will now outline the official surveys used in this research with regard to relevant indicators such as labour force participation rates, unemployment levels, occupational and industrial distribution, and levels and sources of earnings.

The main surveys used for New Zealand labour force data were: the Census of Population and Dwellings; the Household Labour Force Survey (HLFS); the Quarterly Employment Survey (QES); and the Household Expenditure and Income Survey (HEIS). Quarterly updated data were available through Statistics New Zealand releases, *Hot Off the Press*, for the HLFS, and QES.

The Australian surveys used were: the Labour Force Survey (LFS); the Quarterly Survey of Employment and Earnings (QSEE); and the Survey

of Income, Housing Costs and Amenities (SIHCA). Full Australian census data, however, were not readily available.

For the most part, the Australian surveys are comparable in focus and coverage to the New Zealand surveys mentioned above. For instance, the Australian Labour Force Survey is similar to the HLFS, as is the Quarterly Survey of Employment and Earnings of comparable focus to the QES. The HEIS and the SIHCA are both income and expenditure surveys, which, while not directly relating to the labour force, provide some additional information on income sources. The scope of the New Zealand surveys in particular, is discussed below.

The New Zealand Household Labour Force Survey (HLFS) has been operating since the December quarter of 1985, with accessible data from 1986. HLFS data are used in this research, with the obvious disadvantage that coverage does not begin until the mid 1980s. As a result, Census data have, in some cases, been used alongside HLFS data to give an indication of general trends over a longer period. Census and HLFS data, however, are not directly comparable and, because of this, the Census information can be seen only as supplementary (Brosnan and Rea 1992; Hyman and Clark 1987). The HLFS is a quarterly household-based survey, and is useful in being able to provide recent data which the latest Census (1991) could not. Importantly, the HLFS is similar in focus and coverage to the Australian Labour Force Survey (LFS).

The other main survey used in this study is the Quarterly Employment Survey (QES). This survey was carried out by the Department of Labour until 1989, when it was transferred to Statistics New Zealand. The QES is not comparable to the HLFS, and as has been noted by Brosnan and Rea (1992), data from the two versions of the QES are not strictly comparable. The QES is a quarterly survey covering businesses and industries employing two or more, and provides recent and detailed earnings data, such as exact earnings, which the Census's income bands, for instance, cannot supply. Additionally, the QES is similar to the Australian Quarterly Survey of Employment and Earnings.

The Household Expenditure and Income Survey (HEIS) is an annual survey of households, and gives a recent breakdown of income sources. The Australian equivalent is the Survey of Income and Housing Costs and Amenities (SIHCA).

3.3 Documentary Analysis

The procedure of undertaking documentary analysis covers a number of stages. Sarantakos (1993) summarises four stages: the identification of relevant documents; the organisation and analysis of the documents; evaluation of the information; and finally, interpretation of the data. In reality, these divisions are a useful conceptual tool or model, but do not accurately reflect the on-going, reflexive nature of this process.

It can be argued that many of the stages of documentary analysis occur simultaneously. For instance, identifying relevant documents is a process which continues throughout the research, and is often not possible until some documents have been evaluated and some analysis has taken place. An initial examination of documents inevitably raises other questions and issues to pursue, often more pertinent than the original questions.

In general here, however, major documents were first identified by gaining a familiarity with the central issues through background reading. Searches were made of databases and on-line library catalogues. From these few initial documents, it was possible to identify more specific material relating to one point in the policy process, or representing the views of one group. Bibliographies in secondary sources also provided a useful range of references.

After a document had been located, it was necessary to identify its particular purpose and perspective, in order to place it within the policy framework. This often involved taking summary notes and grouping the document with other similar material. The approach and content of the document determined the focus of the analysis. A variety of information was sought. For instance, information could include: the details of particular policy-making processes, and influences upon that

process; the reasoning behind policy recommendations or; the outcomes of policies. Interpreting a document involved putting the material into context with information from other documents and sources. An awareness of the effect of theoretical perspectives on both the presentation and the interpretation of material was required.

Documentary analysis has the advantage of being manageable, both in a short period of time, and within a modest budget. These were important factors in this project. The necessary variety of documentary sources was plentiful, and relatively straightforward to access, providing a wide scope for interpreting the broad changes in each country.

A disadvantage of documentary analysis is that only certain information is presented in written form. It is difficult, for example, to gain a clear insight into the perspective and motivation of actors who influence the process of policy making. All published information has already been filtered through writers and editors and, in some cases, takes a significant length of time to become available. This research could have been usefully supplemented by interviews, as has been done extensively by Cook (1994), in the history of the Coalition for Equal Value Equal Pay's (CEVEP) central involvement in the pay equity campaign. This study's cross-national focus meant, however, that it was not feasible to include interviews.

The documents used in this study were broadly divided into primary and secondary sources according to the general guide provided in Wood (1992). The range of secondary sources has been detailed and critiqued in chapter 2. Outlined below are the primary sources which have been examined.

Primary sources Statutory frameworks and institutional arrangements are a central focus of this study and, as a result, attention was given to statutes from both Australia and New Zealand. In looking at these, consideration was given to the legal framework and governmental objectives regarding particular employment equity policies.

Annual reports from government departments and agencies, and private sector organisations provided an overview of the structure of the organisation, as well as insight into the way in which policy directives were implemented in practice. The reports of three organisations proved the most useful. They were the State Services Commission's latest annual report (1993); the EEO Trust's annual report for 1993; and, for Australia, the Affirmative Action Agency's reports (1992-93 and 1994-95). This Agency helps to implement and monitor the Affirmative Action Act 1986 in the Australian private sector. Reference was also made to the same Agency's earlier report, as well as the Ministry of Women's Affairs most recent report (1993). New Zealand ministerial press statements were used to assess the policy position and direction of the government at the time, and to identify changes in policy direction.

The EEO Trust is a joint government/private sector organisation, established after the repeal of the Employment Equity Act 1990 in New Zealand, which aims to promote and encourage EEO practice in the private sector. The Trust supplied a range of material relating to the promotion of EEO. This material included lists of current member sponsors, newsletters, the annual report, and an employer's guide to EEO practice. In addition, the Trust has published a compilation of *EEO Success Stories* which details innovative measures taken by various employers. While this is both useful and interesting, it is difficult to fully assess how much progress is being made in the private sector because no comprehensive monitoring is taking place. This applies particularly to the smaller employers, who, it seems, have been less involved with the EEO Trust.

Official publications such as the reports of the Working Group on Equal Employment Opportunity and Equal Pay, and the Working Party on Equity in Employment, detail a particular stage in the policy process, including the recommendations made by the groups to government.

Publications and submissions of lobby groups such as the New Zealand

Business Roundtable (1990) *The Pursuit of Fairness: A Critique of the Employment Equity Bill*, and the Coalition for Equal Value Equal Pay (1990) *Employment Equity A Matter of Fairness: A Submission to the Working Party on Employment Equity*, outline their particular perspectives on employment equity, often including specific recommendations on policy direction.

New Zealand Parliamentary Debates illustrated the views and intentions of the Government and Opposition with regard to particular legislative and policy initiatives.

Official publications from government departments and ministries supplied a detailed description of the policies, once in place. The reports periodically issued by the State Services Commission, (1994) *Equal Employment Opportunities Progress in the Public Service as at June 1993* are examples of documents providing detailed, descriptive information of the steps taken towards implementing the State Sector Act requirements regarding EEO programmes. They offer some insight into the attitude toward EEO within the state sector, and how that may have changed.

Other similar documents include the reports issued by Australia (Office of the Status of Women, (1992) *Women in Australia: Australia's Second Progress Report on Implementing the Convention on the Elimination of All Forms of Discrimination Against Women*), and New Zealand (Ministry of Women's Affairs, (1992) *Status of New Zealand Women 1992: Second Periodic Report on the Convention on the Elimination of All Forms of Discrimination Against Women*), regarding each country's progress in implementing the United Nations Convention on the Elimination of All Forms of Discriminations Against Women.

Occasional parliamentary reports scrutinising certain legislation or policies provided detailed information on their effectiveness. An example of this is the report of the Australian House of Representatives Standing Committee on Legal and Constitutional Affairs (1992) *Half Way to Equal: Report of the Inquiry into Equal Opportunity and Equal Status for Women in Australia.*

Recent developments in New Zealand, and particularly in Australia, were identified through regular and on-going scanning of daily newspapers such as *The Australian* and the *Sydney Morning Herald*, and current affairs magazines, such as *The Independent Monthly*. These proved to be a useful source of up-to-date commentary, not accessible through other published sources such as books.

Chapter 4

LABOUR MARKET TRENDS FOR WOMEN IN NEW ZEALAND AND AUSTRALIA 1980-94

4.0 Introduction

This chapter provides an overview of the position of women in the New Zealand and Australian labour markets from 1980-94, using various official measures of women's employment status, earnings and related labour market experiences. The timeframe used here covers the beginnings of economic recession in both countries, and encompasses the period when employment equity policies in New Zealand have been introduced and then peeled back. Additionally, this period allows for reflection on both the impact of the New Zealand Equal Pay Act 1972, once fully implemented, and key Australian developments, as well as more recent changes in New Zealand stemming from the Employment Contracts Act 1991.

The structure of the labour market in New Zealand and Australia has undergone a period of substantial change over the last fifteen years. For example, not only have an increasing number and proportion of women been visibly participating in the labour force, but unemployment for both men and women has been rapidly rising until very recently. Added to this, periods of economic recession in both countries have dominated the policy-making environment, putting those jobs with less security at risk, moving towards more casual or temporary positions, and increasing the pressure on businesses and employees to maximise productivity and minimise costs (Statistics New Zealand 1995a).

The level of women's earnings relative to men's is determined by a variety of factors, which include: (1) patterns of labour force participation; (2) the number of hours they work; (3) the level of unemployment; and (4) the type of occupation and industry that women are employed in.

Attention is given to the way these variables combine to influence the labour market position and earning capacity of women in New Zealand and Australia. It is the consequent impact of this situation upon women that employment equity policies acknowledge and attempt to address. Employment equity will be measured by the similar labour market participation patterns of women and men. I will concentrate on certain key variables to assess whether any differences in male and female experience have been exacerbated or minimised in New Zealand and Australia during the period of study.

The influences outlined in this chapter are detailed below. Many women have extra work in the home and caring for children or dependent relatives; and, related to this, women's participation in the labour force is more likely to be interrupted, thereby affecting their chances of promotion and career development. Measurement of women's labour force participation reflects the changing pattern of their involvement in the labour market over time. Only relatively recently have women been involved in the paid labour force in significant numbers. In particular, labour force participation rates show the tendency of women to move in and out of the labour market, often as a result of responsibility for caring for children or other family members. There are still substantial differences in participation rates by gender, which may be partly explained by the tendency of women to take time out of the paid labour force to bring up children. In addition, older women have exhibited a lower level of labour force participation than men of their age, although it might be expected that this distinction will lessen over time. These patterns clearly place limitations on the earning potential of individual women, and affect the types of employment in which women are engaged.

Women's earnings are influenced by the high proportion of women involved in reduced hours or part-time work; the level of unemployment; and the primary source from which women gain their income - whether the source is, for instance, from employment, or a government benefit.

Women's earnings are also affected by the existence of occupational segregation, which results in women tending to be located in occupations with lower status and lower pay (and in lower paid positions within those occupations). The way in which women (and men) are distributed across the labour market has a direct relationship to the wages that they receive, the conditions of work they experience, and the chances of advancement that exist. Traditionally, the occupations dominated by women have received low status and low levels of pay, as compared to male-dominated occupations (horizontal segregation), and within occupational groups, women are clustered in the lower ranks (vertical segregation), thereby missing out on the decision-making and higher salaries associated with more senior positions. Often, senior positions are dependent upon experience and length of service, which leaves women who have taken time out of paid work in a weak position. Although some shifts in this pattern are gradually occurring, the general tendency of occupational segregation persists, as is discussed in section 4.4.

4.1 Income and Earnings

a) New Zealand: Income and Earnings

The level of women's earnings relative to men's is affected by a variety of factors, including the number of hours they work per week, the pattern of their labour force participation, occupational and industrial distribution and unemployment levels.

In addition, it is helpful to examine the sources from which women receive their total income, because this shows distinctive patterns, particularly in terms of ethnicity. In 1984, women earned 64 percent of their income from employment. By 1992, women were receiving only 54.5 percent of their income from employment. Men received 86.5 percent of their total income from employment in 1984, and 73.5 percent in 1992. While the proportion of Non-Maori women's and men's income gathered from employment did decrease over this period, the drop was not as large as that for Maori women and men.

Women received 17 percent of their income from Government benefits in 1984. Eight years later, in 1992, this had risen to 24.5 percent. Men received a tiny three percent of their income from Government benefits in 1984, and this increased to 11.5 percent by 1992. When analysed by ethnic group, clear patterns emerge. Maori women received 26 percent of their income from benefits in 1984, and 40 percent by 1992. Maori men received five percent of their income from Government benefits in 1984 - this jumped to 20 percent in 1992. The same dramatic increases did not occur for Non-Maori women and men.

Whereas, in 1984, Maori women's earnings were 74 percent of Non-Maori women's earnings from employment, this ratio had dropped to 64 percent by 1992. As a proportion of Non-Maori men's total income, Maori women's income was only 36.2 percent in 1984. By 1992 this situation had slightly improved, and the ratio was 49.7 percent. More strikingly, Non-Maori women's earnings, while only 39.8 percent of Maori men's in 1984, had climbed to 88.6 percent by 1992 (Statistics New Zealand 1993a:226-7).

One of the most direct measures of the position of women in the labour market is the amount of money that they receive relative to men. In May 1980, women's ordinary time hourly earnings were 78.2 percent of men's. This rose to 79.5 percent in May 1987, 81.2 percent in 1993, but decreased to 80.5 percent in August 1994.

Women's ordinary time weekly earnings as a proportion of men's were 75.0 percent in 1980 - making minor gains to 76.1 percent in 1987 and 77.2 percent in 1993. In August 1994 this ratio was 76.4 percent. The gap partly reflects the greater number of hours per week, on average, in which men are in paid employment.

Women earned 72.1 percent of men's average total weekly earnings in May 1980, and 72.2 percent in 1987. By 1993 this proportion stood at 73.9 percent, slightly decreasing in August 1994 to 73.4 percent. (Horsfield 1988:324-5; Statistics New Zealand 1994c:115; Statistics New Zealand 1994d: Table 1 [August]).

b) Australia: Income and Earnings

In the period 1985-86, wages, salary or their own business was the principal source of income for 48.8 percent of women, and by 1989-90, this was the case for 52.4 percent of women, compared with 75.3 percent of men. Government benefits were the principal source of income for 34.4 percent of women - a decrease from 39.9 percent in the 1985-86 period. By comparison, government benefits were the main source of income for 16.7 percent of men in 1989-90 (ABS 1993b:172).

The Australian Bureau of Statistics notes that 'the major influences [upon average weekly earnings] are increases to award rates of pay as a result of National Wage Case decisions' (ABS 1992a:97). A greater proportion of women's earnings come from basic or award rates than is the case for men, as women tend to work less overtime. In May 1992, overtime contributed 6.4 percent towards male average weekly total earnings, but only 1.9 percent for female (ABS 1993a:105).

In addition, women receive a smaller proportion of their earnings from 'over-award payments'[1] than men (Human Rights and Equal Opportunity Commission 1992). The Australian Bureau of Statistics (1993b:185) note that in 1991, 'on average, women earned 62% as much as men in over-award payments and 92% as much in award or agreed base rate payments'.

The majority of Australian earnings data are in terms of weekly, rather than hourly rates, and therefore that is the basic measure referred to here.[2] Indications are that female and male hourly rates are quite similar (*The Bulletin*, January 1995). In terms of ordinary time weekly earnings, the proportion of female/male earnings improved in the period 1987-93, from 82.1 percent to 84 percent. In August 1994 this rate stood at 84.1 percent.

Total female weekly earnings (including overtime) made a similar slight

---

[1] 'Over-award' pay can be defined as 'amounts of ordinary time pay (irregular or otherwise) that are over the award e.g. attendance, good time-keeping, profit-sharing etc.' (ABS 1993b:276).

[2] Gregory et al. (1989:225) also cite this reason for using weekly earnings data.

improvement from 77.8 percent of total male weekly earnings in 1987, to 80 percent in 1993. August 1994 figures indicate this is 79.5 percent.

The total earnings of all females (including part-time workers) shows the largest disparity in earnings, reflecting the greater number of women than men receiving a part-time wage. In 1987 women's total earnings stood at 65.2 percent of men's, rising to 66.7 percent in 1991 and showing the same rate in August 1994 (ABS 1993a:106; ABS 1994 [February, December]).

The features of women's labour force participation will now be discussed. It should be noted that although total female population data have been relied on in this chapter, the labour force patterns and trends of Maori and Pacific Island women are often quite distinctive, and total population statistics cannot adequately reflect this.

4.2 Labour Force Participation

a) New Zealand: Labour Force Participation

A number of factors can be seen to influence women's labour force participation. In the mid 1980s for instance, economic recession began to impact upon women's experience in the labour force.

> From the mid-1940s to the mid-1980s, the main influences on female labour force participation have been fertility and economic growth. Changing patterns of fertility associated with higher levels of childlessness, delayed childbearing and fewer children have enabled more women to seek paid work. Until the 1980s economic expansion provided the jobs to match this demand (NACEW 1990:39).

The proportion of women making up the full-time labour force has markedly increased, as is evident in Census data. Women made up just over 40 percent of the labour force by 1991, an increase from about 35 percent in 1981 and about 30 percent ten years earlier (Statistics New Zealand 1993a:79-80). This pattern has continued, as is reflected by

recent Household Labour Force Survey (HLFS) data. The HLFS is most comparable with the Australian Labour Force Survey data used here. In New Zealand in 1987, 41.9 percent of the labour force was made up by women, increasing to 43.9 percent in September 1994.

The labour force participation rate[3] for women has been increasing in general since the 1950s until recently. Since the mid 1980s there has been a slight levelling of this movement for the first time. In 1987, women's participation rate was 54.3 percent, dropping to 53.0 percent in 1990, and 53.8 percent in 1993. The 1994 figures indicate a rate of 54.6 percent. In comparison, male labour force participation has dropped more markedly from 78.6 percent in 1987 to 73.0 percent in 1993 (Statistics New Zealand 1993a:81; Statistics New Zealand 1994a: Table 3 [September]; Statistics New Zealand 1994c:48).

Census measurements of participation are based on full-time participation, and thus the rates are slightly lower than the HLFS, which also includes part-time work. Similar patterns emerge, however. In 1981, the rate for women aged 15 years and over was 38.6 percent, rising to 45.2 percent in 1986 and declining to 44.7 percent in 1991 (Statistics New Zealand 1993a:217). It has been pointed out by Brosnan and Rea (1992:216) and Davies and Jackson (1993) that the impact of this decline in female participation was not equally spread across ethnic groups.

> The female participation data show that Pakeha women actually increased their participation between 1986 and 1990. Thus the decline in female participation is entirely accounted for by a decline in the participation of Maori women (roughly 9 percentage points), and Pacific Island women (almost 6 percentage points).

Labour force participation rates for men (which includes those unemployed) have been gradually dropping since the late 1960s. This trend of a smaller proportion of men in the labour force is thought to reflect the increasing pattern of young men attending educational

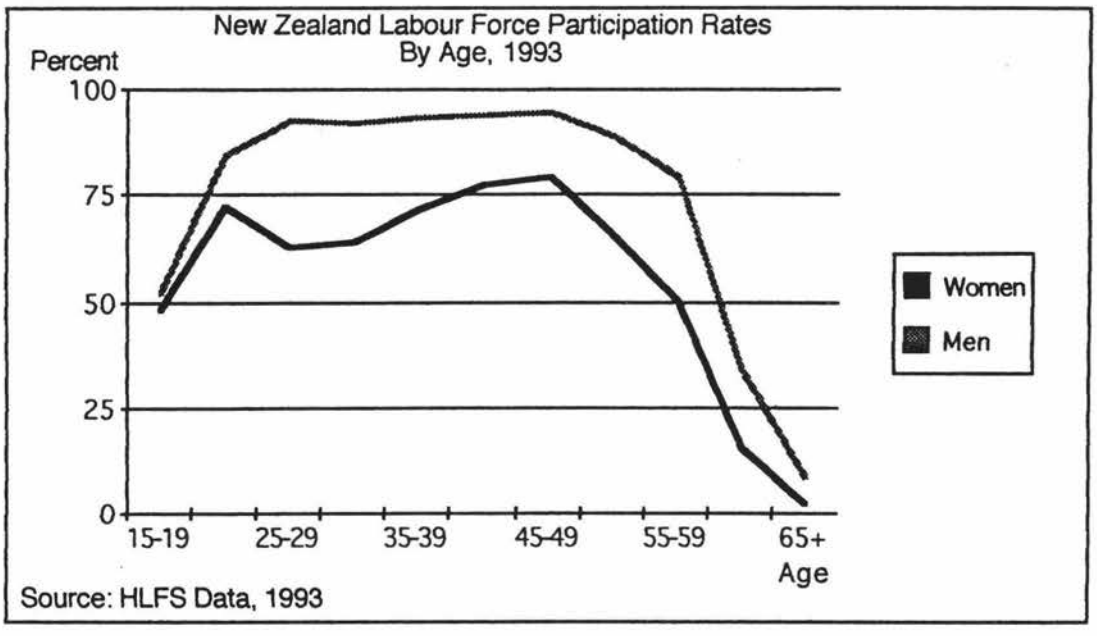
---

3 The labour force participation rate measures the proportion of the total working age population (15 years+) in the labour force. In this case, the measurement is of women. The 'labour force' includes those who are employed (full or part-time) or unemployed.

institutions, and of more men not actively seeking work, or undertaking full-time housework or childcare during this time period. In addition to these influences, since the 1970s there has been a marked trend of older men retiring earlier, or, very recently, dropping out of the labour force before retirement age (Statistics New Zealand 1993a:81; Statistics New Zealand 1993b:95-7) (Figure 1).

Male participation has decreased in all age groups since 1987, with men under 25 years and over 50 years being most severely affected. Participation rates for men, however, remain consistently high (usually over 90 percent) from the ages of 20-54 years (Statistics New Zealand 1994c:51).

Figure 1



A closer analysis of participation rates by age shows differences in the changing labour force participation of women across age groups. For example, all groups of women between 45 and 59 years have increased their labour force participation rate by 4-5 percent since 1987. The participation of women in younger age groups has decreased slightly or stalled, particularly for 15-19 year olds who have dropped from 59.8 percent in 1987, to 48.6 percent in 1993. Women in this age group have suffered recently through high levels of youth unemployment. In addition, unemployment has influenced the tendency of young people to remain in secondary and tertiary education, and thus not to appear in labour force statistics. Women aged 25-34 years have made small gains in participation rates. The highest rate of female participation in 1993 occurs in the 45-49 year group (79.7 percent), while in 1987 this occurred in the 40-44 year group (79.6 percent) (Figure 2).

It is interesting to note that in countries such as Sweden and the

United States, with very high participation of women in the labour force, the pattern of women's involvement approaches that of men - following a plateau or inverted 'U' shape. In New Zealand, the characteristic 'M'-shaped drop in women's participation rates between the ages of 25-35, largely because of child-birth, is still evident, but less distinct. This emphasises the influence that changing patterns of child-birth and rearing have upon women's labour force participation. There have been a number of specific changes. For instance, fewer women are now having children - or they are older when they have children and, after having children, they tend either to move out of the labour force for shorter periods of time, or to continue with full-time employment (NACEW 1990; Davies and Jackson 1993). Davies and Jackson (1993) note that Maori women's patterns of participation have not, historically, been reflected by an 'M' shaped curve. More recent patterns, however, indicate a shift towards this.

Figure 2

Women are almost twice as likely *not* to be in the labour force as men, although this proportion has dropped since 1987. In 1986, women comprised 70 percent of those not in the labour force, decreasing to 65 percent by 1993. In 1987, 27.6 percent of women not in the labour force were at home looking after children, and the proportion was 26.6 percent in 1993. In contrast, this activity occupied a significantly smaller number of men not in the labour force in 1987 (2.5 percent) and in 1993 (2.9 percent). Although 12.6 percent of women not in the labour force in 1993 were carrying out home duties, this had declined from 16.7 percent in 1987 (Statistics New Zealand 1993a:226; Statistics New Zealand 1994c:97-8).

b) Australia: Labour Force Participation

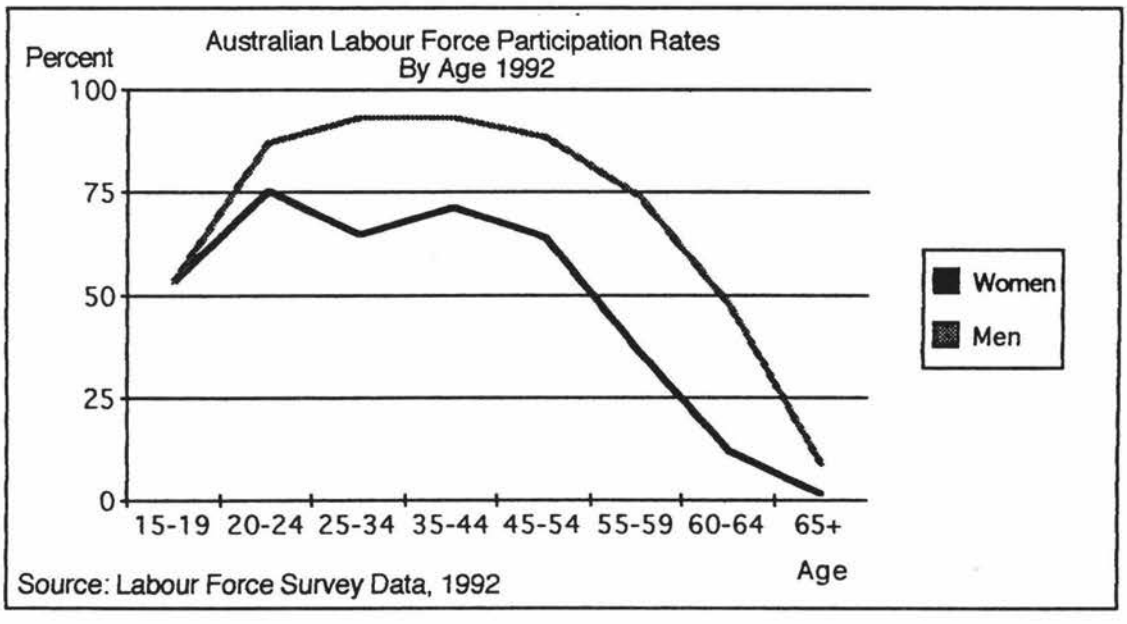
The proportion of the total Australian labour force[4] made up by women has continued to grow. In 1980, women formed 37.2 percent of the labour force, in 1987 they formed 39.9 percent and by October 1994, this rose to 42.5 percent of the total labour force.

While the labour force participation rate of men has undergone a gradual decline from 74.7 percent in 1987 to 73.4 percent in October 1994, the pattern for women's participation has shown a gradual increase from 48.3 percent in 1987, to 51.6 percent in 1992, and 52.6 percent in October 1994 (ABS 1993a:15; ABS 1994 [December]).

Generally, women's participation continues to follow an 'M' curve, with peaks both before and after prime child-rearing years. Participation rates for men remain high across the mid-age groups, with the first substantial increase at 20-24 years, and a major tailing-off at 60-64 years. By the ages of 55-59 years, women's participation rate has dropped to 36.8 percent, while the rate for men remains much higher at 74.1 percent (ABS 1993a:16) (Figure 3).

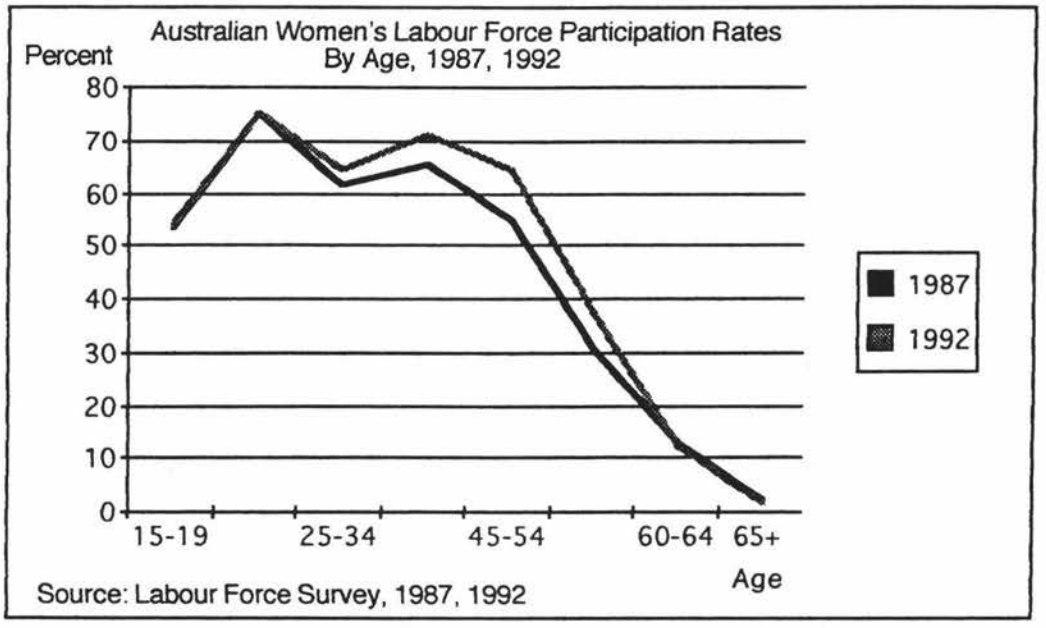
4 The labour force is defined as those aged over 15, who are either employed (full or part-time) or unemployed. The 'labour force participation rate' is the proportion of people involved in the labour force, expressed as a percentage of the total working age population i.e. those over 15 years (ABS 1992b).

Figure 3



A closer analysis of participation rates by age highlights the distinct patterns. Participation rates dropped for all age groups of men from 1987 except those over 60 years, who showed marginal increases. The only group of women *not* showing an increase were those in the 15-19 year group, which, it seems likely, is connected to an increase in the proportion of young people staying on at educational institutions. The characteristic drops in women's participation rates between 25-35 years, however, are no longer as low, perhaps indicating that women are spending less time out of the labour force to care for children. Women aged from 35-54 years showed the most dramatic increase in participation (ABS 1993a:16) (Figure 4).

Figure 4



The proportion of people not in the labour force is dominated overwhelmingly by women, who outnumber men in this situation by more than two to one. In August 1987 women formed 67.8 percent of people not in the labour force, while men formed 32.2 percent. By August 1992 the proportions had changed slightly so that women made up 65.5 percent of those not in the labour force, and men 34.5 percent. Most significantly, of those people not in the labour force in September 1992, 70.6 percent of women were occupied by 'home duties' or childcare, whereas this was the case for only 5.4 percent of men not in the labour force (ABS 1993a:15, 99).

4.3 Unemployment

a) New Zealand: Unemployment

Unemployment[5] levels for both women and men have risen since 1986, when the rate for women was 4.6 percent. By 1993, the unemployment rate for women had moved up to 9.4 percent but, by September 1994, had dropped to 6.8 percent. Male unemployment jumped from 3.5 percent in 1986, to 10.7 percent in 1993, and dropped to 8.1 percent in September 1994 (Statistics New Zealand 1993c:51; Statistics New Zealand 1994a: Table 3 [September]; Brosnan & Rea 1992:208). It is notable that, until 1988, women's unemployment rates were higher than men's. This pattern has now reversed (NACEW 1990:51). Women as a proportion of the HLFS official unemployed have dropped from 48 percent in 1987 to 40 percent in 1993 (Statistics New Zealand 1993a:225).

The HLFS has also developed a measure of 'joblessness' which is believed to be a better measure of the social reality of the decrease in availability of jobs. Someone is considered to be 'jobless' if they are not actively seeking work, but would accept a job if offered; or are actively seeking work but are not available to start immediately. 'Joblessness' also includes the official unemployed. Women are more likely to be 'jobless' than men, because of other responsibilities such as childcare, although this gap has narrowed in recent years. Because 'joblessness' includes the official unemployed, the rise in male unemployment has been reflected in higher levels of male 'joblessness' (Statistics New

---

5 Unemployment is gauged by a number of different measures in New Zealand. The 'registered unemployed' refers to the number of people who are registered as unemployed with the Department of Labour. This measure may not fully reflect the numbers of unemployed people, as some do not register if they are not eligible for an unemployment benefit because of the earnings of a spouse or partner. This is often the case with women.

The Household Labour Force Survey definition of the official unemployed includes those people of working age (15+), who are without a job, are available for work, and have either actively sought work in the four weeks up to and including the survey week, or had a job to start within four weeks (RCSP 1988; NACEW 1990). This measure has been criticised as being particularly strict in its definition of unemployment. For instance, it does not include people who are 'under employed' and wish to work more hours; those who are available for work, but not actively seeking employment; or those seeking employment but not available for work (RCSP 1988). Again, women may be under-represented by this measure.

The New Zealand Census of Population and Dwelling also measures unemployment, but this is on a periodic basis.

Zealand 1993a). The measure of joblessness is broadly similar to the Australian measure of 'marginal attachment' to the labour force, with the exception that 'marginal attachment' does *not* include the official unemployed, while 'joblessness' does.

In 1986, women made up 69 percent of those marginally attached to the labour force in New Zealand, dropping to 64 percent of marginally attached in 1993. In 1986, women comprised 59 percent of those who were 'jobless'. By 1993, this level dropped to 49 percent (Statistics New Zealand 1993a:226).

b) Australia: Unemployment

Unemployment rates[6] for both men and women in Australia have risen since 1986: from 8.4 percent to 9.5 percent in 1992 for women, and from 7.7 percent to 11.3 percent for men. This movement has been somewhat erratic, with levels rising in the early to mid-eighties, dropping to lower levels by 1989, only to rise again in the early 1990s. October 1994 figures show a rate of 8.4 percent for women and 8.7 percent for men. It should be noted that the lower rate of unemployment for women does not fully account for the numbers of women who are at home, not in the labour force, as later sections indicate (ABS 1993a:15, 77; ABS 1994 [December]).

The Australian Labour Force Survey also uses a category of 'marginal attachment' to the labour force, which includes people who are neither classed as employed nor as unemployed, but are seeking work or are available to start work within four weeks, or could start work within four weeks if child care were available (ABS 1993b). Measuring 'marginal attachment' to the labour force thus approaches an assessment of what is sometimes termed the 'hidden unemployed' or, in New Zealand, 'joblessness'. The measure of 'joblessness', however, also includes the official unemployed.

---

6 The unemployment rate represents the number of unemployed people, expressed as a percentage of the labour force. The 'unemployed' are defined in the Labour Force Survey as people aged over 15, who have actively looked for work at any time in the four weeks up to and including the survey week, and are available to start work. In addition, it includes people who are waiting to start a new job (or are waiting to be called back to a job) within the next four weeks (ABS 1992b). This is a comparable definition to that used by the New Zealand Household Labour Force Survey.

Of people not in the Australian labour force, 24.2 percent of women were marginally attached, a rise from 21.4 percent in 1988. Male marginal attachment rose from 17.8 percent in 1988, to 20.8 percent in 1992. Women formed 70.9 percent of all people marginally attached to the Australian labour force in 1992, a drop from their proportion of 73.5 percent in 1988. It is clear that women are altering their labour force participation because of having to care for others. The reason given by 40.2 percent of women for not actively seeking work was 'family reasons' in 1992. This was the reason for only 3.4 percent of men (ABS 1993b:145).

4.4 Industrial and Occupational Distribution

a) New Zealand: Industrial and Occupational Distribution

Women and men tend to be located in different types of occupations and industries, which in turn affects their relative position in the labour market - especially in terms of earnings. Statistics New Zealand (1993a:92) note that this is characteristic of the New Zealand labour force.

> The different distribution of women and men across industries and occupations is a persistent feature of the labour force in New Zealand, as it is in many countries. It effectively creates separate, gender-based labour markets, which are considered to have negative consequences for women, contributing to their lower earnings and secondary status in the workplace.

Industrial Distribution

The industrial distribution of women is narrower than that of men. In other words, women are less widely spread across the range of industrial sectors than men. This pattern is sometimes referred to as 'industrial segregation'. The sectors in which women have high involvement, such as the Service sector, tend to have lower pay than those sectors in which men dominate, such as Building and Construction. Areas such as these, utilising traditionally male skills,

tend to be valued more highly than those sectors using traditionally female skills and receive higher rates of pay. It is argued by Statistics New Zealand (1993b:113), however, that:

> figures indicate that the New Zealand workforce is less highly segregated by gender across industries than it is across occupations.

Although there are general tendencies towards gender segregation across industries, this is countered to some degree because within each industry there exist a range of male and female dominated occupations.

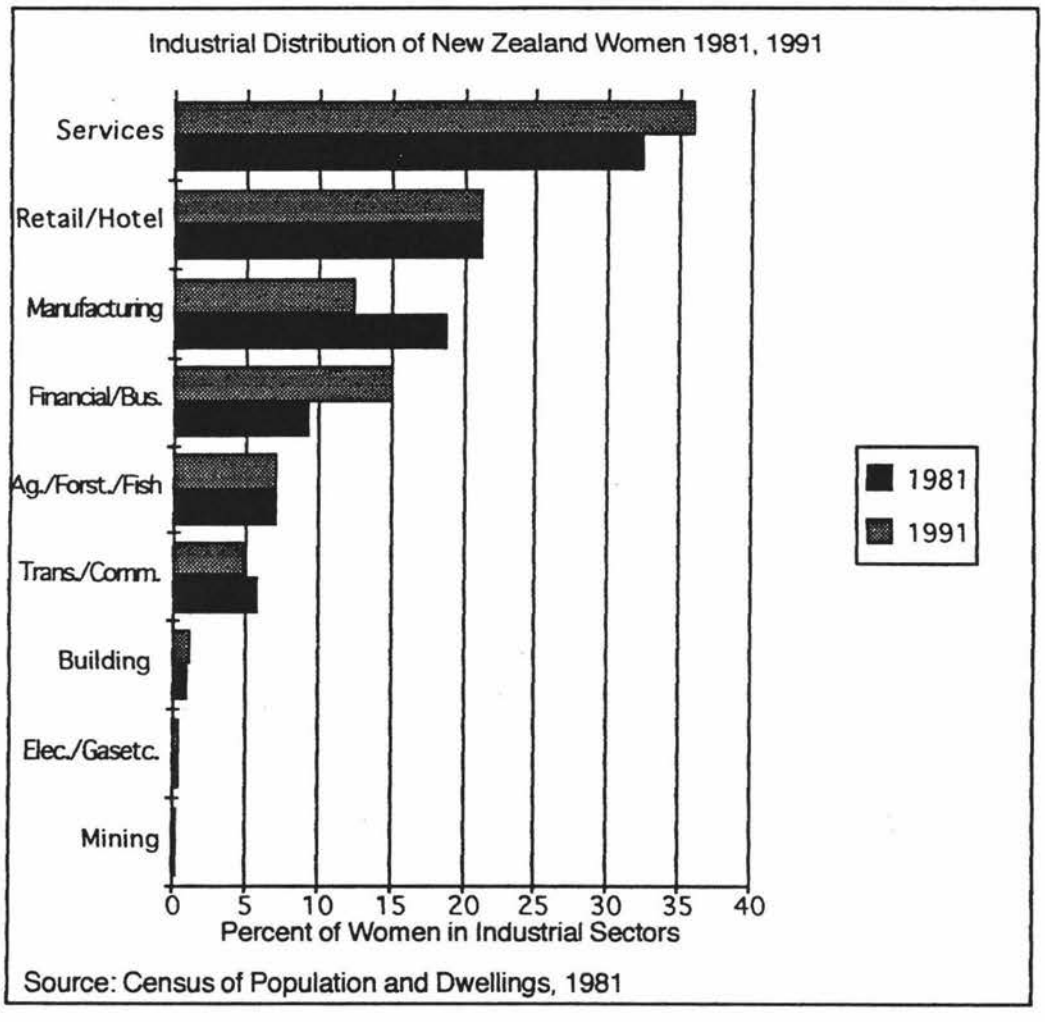
The 1991 Census showed that the greatest change in the industrial distribution of women since 1986 has been a 29 percent swing towards Business and Financial Services. The parallel movement for men to this sector was 34 percent. It is notable that this is the only sector that has shown a significant gain in workers. Business and Financial services attracted 13.5 percent of women in 1991, up from 8.5 percent in 1981, whereas only 5.6 percent of men were employed in this sector in 1981, but rose to 10 percent by 1991 (Department of Statistics 1982: 27, 37; Statistics New Zealand 1993c:23 [full and part-time]).

Women's involvement in the Service sector overall has increased by five percent while, by comparison, men's involvement in the Service sector has undergone a slight overall drop. For the female population, Community, Social and Personal services have moved from employing 32.8 percent of women in 1981, to 36.0 percent in 1991. The proportion of men working in this sector is much smaller: 18 percent in 1981, and 18.2 percent in 1991. Transport, Storage and Communication showed the largest loss of women and men in the Service sector, 20 percent and 25 percent respectively.

The Manufacturing sector generally showed a negative movement of around 25 percent for both men and women (Statistics New Zealand 1993a:220 [full and part-time]). Manufacturing moved from employing 16.9 percent of women in 1981 to 11.4 percent by 1991. The drop for Maori women in this sector was even greater - from 28.1 percent to 19.1 percent. Pacific Island women's involvement in Manufacturing dropped from a huge 44.2 percent in 1981, to 29.5 percent by 1991 (Department

of Statistics 1982:27, 37; Statistics New Zealand 1993c:23 [full and part-time]; Statistics New Zealand 1993a:223 [full-time only]). (Figure 5).

Figure 5



Occupational Distribution

Women and men tend to be located within different occupational groups. Although this appears to be slowly changing, the movement seems to be occurring more from men shifting into female-typed[7] occupations, than from women moving into male-typed occupations.

> An examination of the 10 occupations employing the largest numbers of women and men, respectively, shows that for women, these occupations have become more evenly spread across gender types in the last decade, while for men, little has changed. The top 10 occupations of men, in which around half of all male workers are employed, have remained overwhelmingly male preserves over the last 20 years (Statistics New Zealand 1993b:115).

In terms of occupational distribution[8] for women, the most 'popular' field - clerical work - consistently attracts women. Indeed, in the 1991 Census, this sector employed as large a proportion of women (31.1 percent) as it had in 1981 (30.4 percent). Men's participation in clerical work (7 percent in 1991) is far lower than women's, and has slightly decreased since 1981 (7.6 percent) (Department of Statistics 1982:32, 38; Statistics New Zealand 1993c:52 [full and part-time]). Statistics New Zealand (1993a:92) note that '[i]n 1991, 46 percent of employed women worked as clerical, service or sales workers, compared with 13 percent of men' (Figure 6).

It should be noted that in New Zealand some groups of women have patterns different from the total female population. For instance, clerical work is an area of *increasing* participation for Maori and Pacific Island women. This shift tends to be a positive change, reflecting an improvement in status and income from the Manufacturing and Service

---

7 'Female-typed' occupations are defined as those where 67 percent or more of the workers are female. Occupations with 32 percent or less women are defined as 'male-typed', and those in between are classed as 'mixed' (Statistics New Zealand 1993).

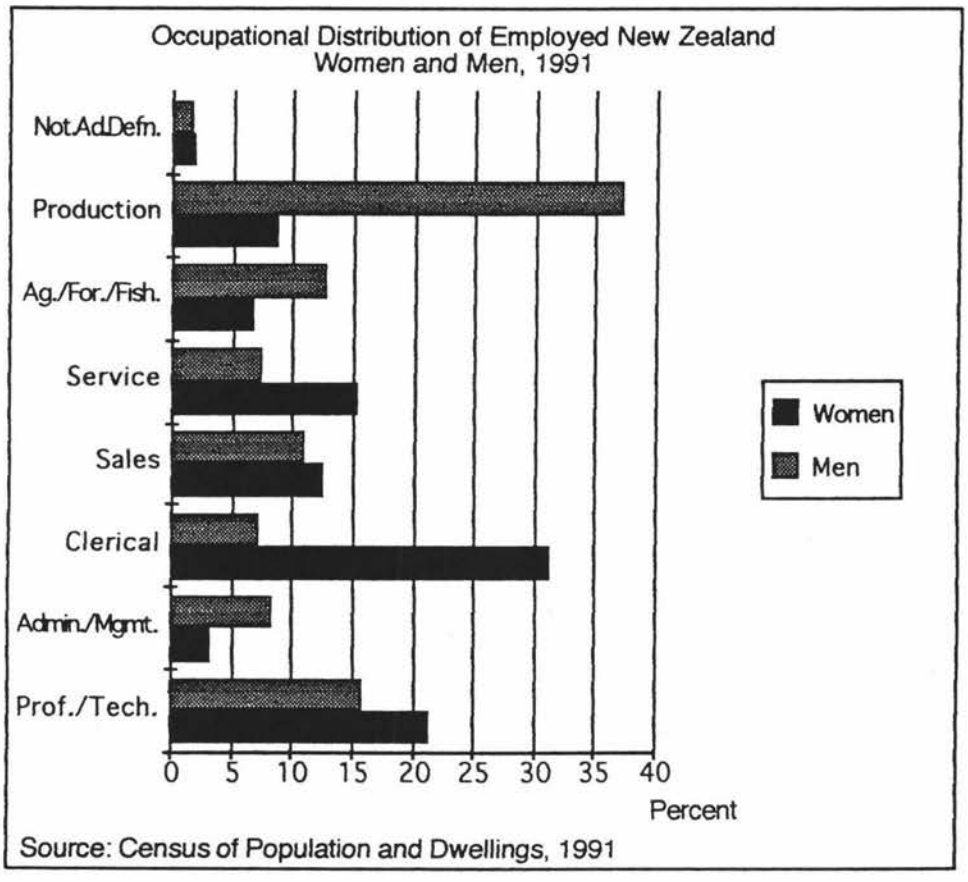
8 The 1991 Census introduced some new occupational classifications. The previously large group of production and related occupations was spread across three categories, including trades workers and elementary occupations, while the separate groups of service and sales workers were combined. As a result, the number of major occupational divisions increased from seven to ten (Statistics New Zealand 1993a).

sectors. Where the clerical work is casualised or poorly paid, however, the effect of increasing involvement in clerical work upon Maori and Pacific Island women may be adverse. In 1981, 21.9 percent of Maori women were involved in clerical work, and by 1991 this had risen to 27.5 percent. Pacific Island women's involvement jumped more dramatically from 15.1 percent in 1981 to 26.9 percent ten years later. Most Pacific Island women, however, continue to be employed in the Production and Transport occupations (31.1 percent), but this is a reduction from their 50.7 percent involvement in 1981 (Statistics New Zealand 1993a:223 [full-time only]).

While clerical work dominates the occupations of women, Production and Related work continues to employ the largest group of men (37.1 percent in 1991). This level, however, is a drop from 44 percent in 1981. By comparison, women's involvement in Production and Related work has also decreased since 1981 (13.3 percent) to 8.6 percent in 1991. The proportion of men employed as Administrative and Managerial workers has grown - as it has for women. Nevertheless, Administrative and Managerial work employs the smallest ratio of women at 3.1 percent, although this is an increase from 0.7 percent in 1981. Men moved from 4.8 percent in Administrative and Managerial work in 1981, to 8.1 percent in 1991 (Department of Statistics 1982:32, 38; Statistics New Zealand 1993c:52 [full and part-time]).

The proportion of men employed as Professional, Technical or Related workers has grown by ten percent, from 11.8 percent in 1981, to 15.6 percent in 1991. The proportion of women doing Professional and Technical work has also increased, although not as much. This occupation employed 17.8 percent of women in 1981 and 21.3 percent in 1991 (Department of Statistics 1982:32, 38; Statistics New Zealand 1993c:52 [full and part-time]).

Figure 6



As mentioned previously, in addition to occupational segregation, vertical segregation exists within occupations where men are over represented in senior or managerial positions, and thereby obtain greater recognition, responsibility and financial reward. This is predominantly the situation in New Zealand, although this pattern is

gradually changing. In the public sector, women made up 10 percent of the Senior Executive Service (SES) in 1988, but had doubled to 21 percent by 1993. At the time of writing, five of the 39 chief executives are women (Statistics New Zealand 1993a:178, 182).

The private sector does not fare as well. In 1992, there were seven women on the boards of directors of the top 20 companies in New Zealand. This represents just three percent of all directors, and is no change from the level of representation in 1990 (Statistics New Zealand 1993a:179).

b) Australia: Industrial and Occupational Distribution

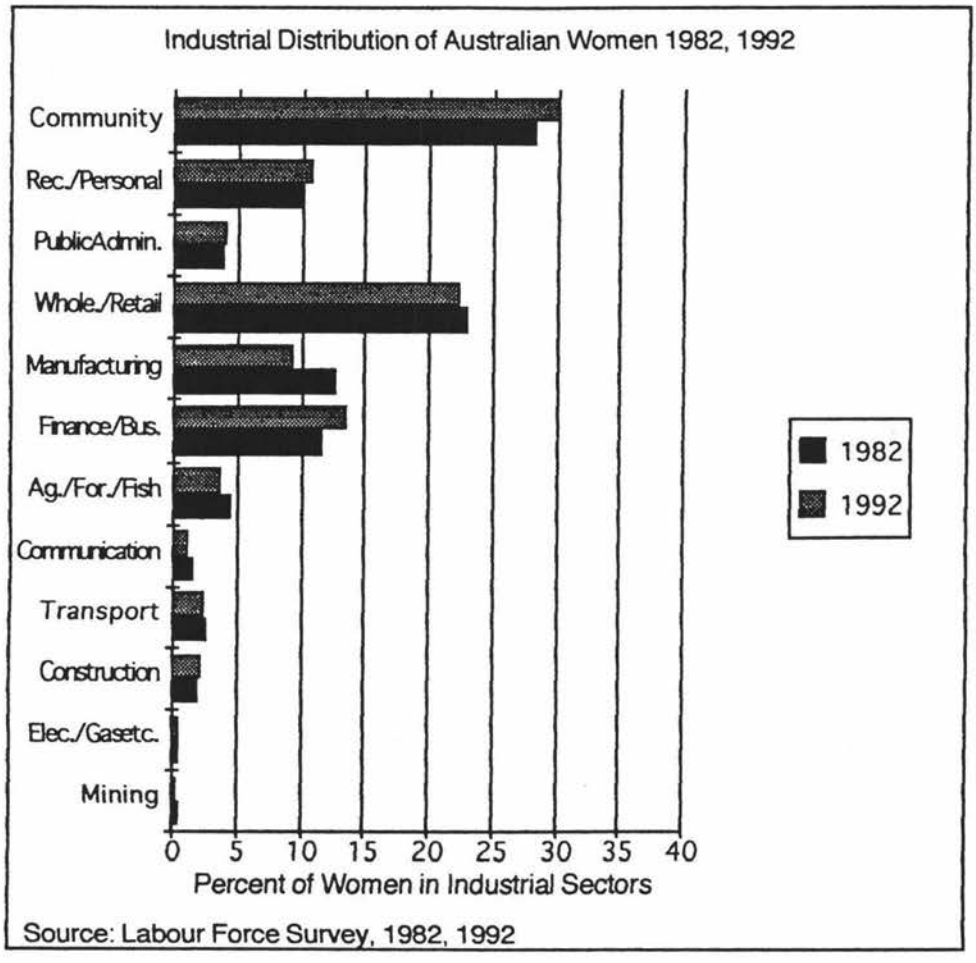
As in New Zealand, the Australian labour market is typified by high levels of occupational and industrial segregation - a major factor contributing to the differential earnings received by men and women.

Industrial Distribution

The largest proportion of women in the Australian labour force are employed in the service sector, and it is this sector that has experienced growth in the numbers of women and men employed in the years from 1982 to 1992. In 1982, the main industry in which men were employed was Manufacturing (22.4 percent), but by 1992 that had shifted to Wholesale and Retail Trade (19.6 percent). Manufacturing was also an area of declining participation for women.

Apart from the service sector overall, other industrial sectors have all been stagnant or shown a decline in the proportion of women who work there. Perhaps the only exception to this is the Construction industry, which, curiously enough, has shown a tiny increase in the proportion of women it employs. The proportion of men employed has, by comparison, dropped very slightly (ABS 1993b:127). Watts (1990) notes that the Construction industry has been an area of employment growth since the mid 1980s. It seems possible that this minor shift reflects a change in the employment patterns of women, but clearly it is too insignificant to draw conclusions at this stage (Figure 7).

Figure 7



Occupational Distribution

The majority of women in Australia, as in New Zealand, are segregated in a few occupational groups. In fact, in 1992, 54.2 percent of all employed women were classified as either Clerks or Salespersons and

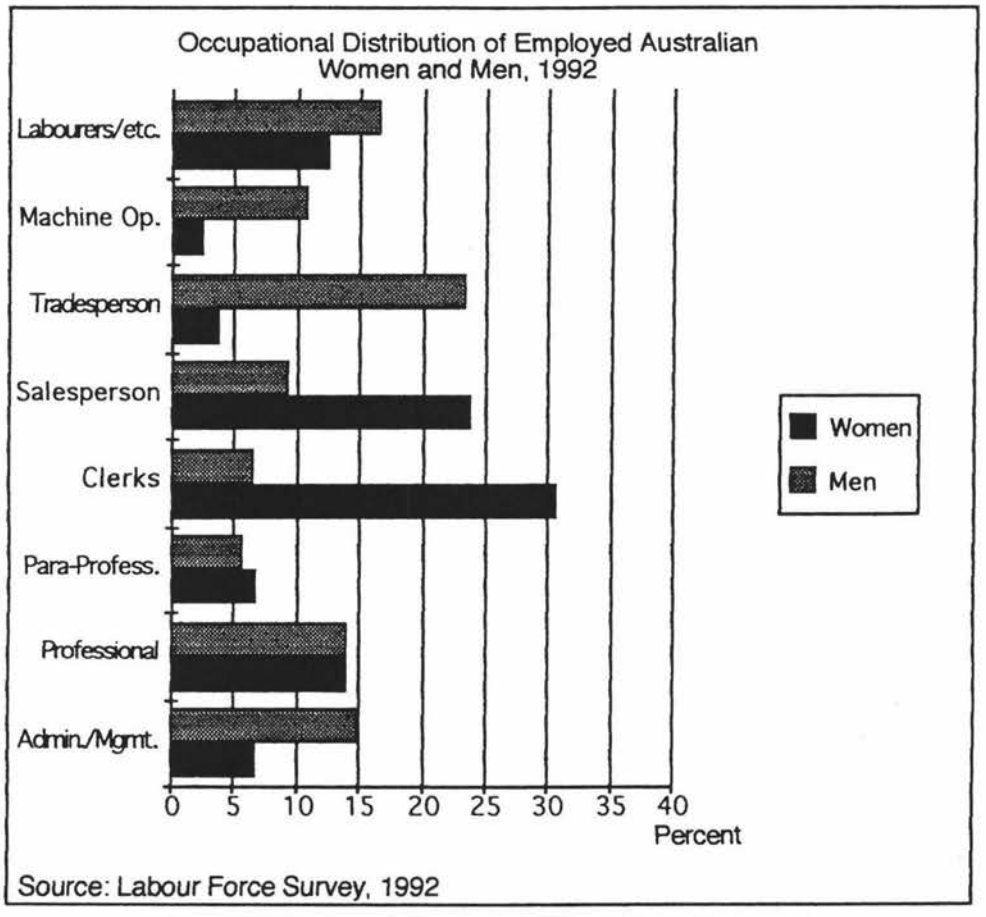
Personal Service workers. Only 15 percent of men were found in the same occupations. When broken down further, 6.5 percent of men were employed as Clerks, compared to 30.6 percent of women. The over-representation of women in this area is evident by the fact that two of the minor groups: Sales Assistants, and Stenographers/Typists, outnumber the total proportion of women employed in the male dominated major categories of Para-Professionals, Tradespersons, and Plant and Machine Operators/Drivers combined. The proportion of women (6.7 percent) involved in Administrative and Managerial work is less than half the proportion of men (14.7 percent) (ABS 1993b:125) (Figure 8).

Although men are spread somewhat more evenly across the occupational groupings than women, there are dramatic divisions along gender lines. The occupation of Tradesperson is male dominated - 23.3 percent of all employed men fell into this category in 1992, whereas this is the case for only 3.7 percent of women.

The most evenly mixed occupations in terms of gender are Professionals - attracting 13.9 percent of women and 13.8 percent of men, and Para-Professionals - employing 6.7 percent of women and 5.6 percent of men. By far the largest proportion of female Professionals (40.3 percent) are School Teachers who receive, relatively, one of the lowest professional salaries compared to male dominated professions (ABS 1993a:43, 45-6; ABS 1993b:125).

The Australian labour market is affected by vertical segregation, where men occupy the majority of senior occupational positions. As is the case in New Zealand, the public sector shows a higher representation of women at management levels. In 1988, women formed 8.2 percent of the Senior Executive Service (SES), and 15 percent by 1994 (Office of the Status of Women 1992:87; *The Independent Monthly*, February 1994:29). By comparison, women in equivalent private sector positions equalled less than two percent (*The Australian*, 10 October 1994). In a study by management consultants Korn/Ferry, women made up three percent of board members (*The Independent Monthly*, February 1994:29).

Figure 8



4.5 Hours of Paid Work

The increasing prevalence of part-time, temporary and casual positions, combined with high unemployment, may contribute to a trend away from full-time employment. There are indications, however, that many people engaged on a part-time basis would prefer to be working full-

time, or to be employed for a greater number of hours (ABS 1993b). In this sense, they may be classed as 'under-employed'. In terms of earned income, the impact of part-time work is negative and, proportionately, women are affected by this more than men. In addition, part-time workers may not have access to some of the benefits of full-time work (NACEW 1990).

a) New Zealand: Hours of Paid Work

In 1987, 67.5 percent of women were employed full-time and 32.5 percent part-time.[9] By 1993, the proportion of those working full-time dropped to 64.3 percent, while part-time employment increased to 35.7 percent. The incidence of part-time work also increased for men, although far fewer men are employed on a part-time basis. In 1987, 6.1 percent of men worked part-time, rising to 10.1 percent by 1993 (Statistics New Zealand 1994c:19, 65).

It is notable that the number of people who are working part-time, but who would rather work more hours, has increased in recent years:

> the number and proportion of part-time workers who would like to work more hours has grown sharply since 1990, more than doubling for both women and men (Statistics New Zealand 1993a:88).

In March 1993, approximately 30 percent of women and 42 percent of men working part-time would have preferred to be employed for more hours - many of these were looking for full-time work (Statistics New Zealand 1993a:89).

Women have tended to work shorter weeks and less overtime on average, reflecting the greater number of hours they tend to spend in unpaid work. This has a negative impact on the wages they receive. In 1987 women were paid for an average of 35.90 hours per week, plus 1.40 hours overtime. By 1993, ordinary time hours increased to 36.36 hours, but average weekly overtime dropped to 0.95 hours. Similar trends were evident for men, although they still worked slightly longer ordinary time per week and did two and a half times as much overtime

9 Part-time work is generally defined as 1-29 hours per week, and full-time work from 30 hours a week. Until 1986, the census defined full-time work as 20 hours or more per week.

(38.24 hours plus 2.55 hours overtime in 1993) (Statistics New Zealand 1994c:126).

b) Australia: Hours of Paid Work

The proportion of both women and men engaged in full-time employment has dropped since 1987. In that year, 60.8 percent of employed women were engaged on a full-time basis, and 39.2 percent worked part-time. By 1992, the part-time rate had risen to 43.3 percent of employed women. Although part-time work has increased for men, only 10.5 percent worked part-time in 1992 (ABS 1993a:40-1).

Women have tended to work slightly shorter weeks than men, and received smaller wages as a result, although the average number of weekly hours worked for full-time employed women and men has gone up since 1982. In 1992, the average for women was 39.2 hours and 43.0 hours for men. The pattern has reversed since 1982 for part-time hours, however, where men now work slightly less per week than women. In that ten year period, part-time hours increased slightly for women from 15.4 hours to 15.6 hours, but part-time hours for men dropped on average from 16.7 hours, to 14.9 hours in 1992 (ABS 1993a: 118-9).

4.6 Summary: New Zealand and Australia

The gap between the earnings of women and men is the result of a number of factors. The influences outlined in this chapter are: the extra responsibility that many women have for housework and care of family members; the tendency to have interrupted labour force participation; the greater proportion of women who are employed part-time; the levels of unemployment and joblessness; the principal source of income (for example, government benefits or wages); the existence of occupational segregation - both horizontal and vertical. The data discussed in this chapter are briefly summarised below.

Income and Earnings

In 1992, men in New Zealand obtained a greater proportion of their total income from employment than women, although this proportion has dropped for both sexes since 1984. On the other hand, the proportion of income women and men receive from Government benefits has increased since 1984. This trend is much more extreme for Maori women and men.

In Australia, over the period 1989-90, more men (75.3 percent) than women (52.4 percent) had Wages, Salary or Own Business as their principal source of income. Although in 1989-90, slightly fewer women were reliant on Government benefits as their main source of income than was the case eight years earlier, twice as many more women used benefits as their main source of income than men. Women continue to receive less overtime and fewer 'over-award' payments than men.

New Zealand women's ordinary time hourly earnings were 78.2 percent of men's in May 1980, rising to 79.5 percent in 1987, and 81.2 percent in 1993. In August 1994, however, this proportion dropped to 80.5 percent of men's.

In 1987, New Zealand women received 76.1 percent of men's ordinary time weekly earnings. Australian women at this time received 82.1 percent of men's ordinary time weekly earnings. By 1993, the proportion in both countries had increased, reaching 77.2 percent in New Zealand and 84 percent in Australia. In August 1994, New Zealand women's ordinary time weekly earnings dropped to 76.4 percent of men's. At this time, Australian women earned 84.1 percent of men's ordinary time weekly earnings. The proportion of female/male ordinary time weekly earnings in 1987 and 1993 in New Zealand and Australia is shown below.

Women's Ordinary Time Weekly Earnings as a Percentage of Men's, 1987, 1993

	New Zealand	Australia
1987	76.1	82.1
1993	77.2	84.0

Source: Household Labour Force Survey (New Zealand); Labour Force Survey (Australia).

Women tend to receive less in overtime earnings than men. When overtime earnings are included, New Zealand women received 72.2 percent of men's average total weekly earnings in 1987. Australian women received 77.8 percent at this time. By 1993, this proportion stood at 73.9 percent in New Zealand, and 80 percent in Australia. New Zealand women earned 73.4 percent of men's average total weekly earnings in August 1994. In Australia in August 1994, total female weekly earnings stood at 79.5 percent of male earnings. Once part-time workers are included as well, this ratio drops to 66.7 percent.

The proportion of female/male earnings in Australia and New Zealand in August 1994 is detailed below.

Women's Earnings as a Percentage of Men's
August 1994

	New Zealand	Australia
Av. Hourly earnings	80.5	...
Ord. Weekly earnings	76.4	84.1
Total Weekly earnings incl. overtime	73.4	79.5
Total Weekly earnings incl. part-time	...	66.7

Source: Household Labour Force Survey, August 1994 (New Zealand); Labour Force Survey, August 1994 (Australia).

Labour Force Participation

In New Zealand, in the 1991 Census, women made up just over 40 percent of the total labour force. In September 1994, women made up 43.9 percent of total labour force. In Australia too, the proportion of the labour force made up by women has grown. In October 1994, women formed 42.5 percent of the total Australian labour force.

The steady rise in women's labour force participation rate recently stalled for the first time in New Zealand. In Australia, the labour force participation rate of women has increased from 48.3 percent in 1987, to 51.6 percent in 1992. This rate continued to rise to 52.6 percent in October 1994. In New Zealand in 1987, the labour force participation rate of women was 54.3 percent, dropping to 53.6 percent in 1993. In September 1994 the labour force participation rate for New Zealand women was 54.6 percent. This downward movement has been particularly noticeable for 15-19 year olds, whose participation rate dropped from 59.8 percent in 1987, to 48.6 percent in 1993. Women's labour force participation typically reflects an 'M'-shaped curve, reflecting the low levels of participation for women aged between 25-35 years as a result of child-rearing.

The participation rates for all age groups of Australian women has increased, except those aged 15-19 years. By comparison, participation rates for virtually all age groups of men have dropped. The pattern of women's labour force participation generally follows an 'M'-shaped curve, however, the drop in participation levels over the main child-rearing ages are no longer as low.

Men's labour force participation rates in New Zealand have been dropping since the 1960s, with men under 25 years and over 50 years being most affected. Participation rates for men, however, usually remain high - over 90 percent - for men aged between 25-54 years.

New Zealand women are almost twice as likely *not* to be in the labour force as men. In 1993, women comprised 65 percent of people not in the labour force. At that time, 26.6 percent of those women were

occupied at home, looking after children, whereas this was the case for only 2.9 percent of men. Women are over-represented in those people not in the labour force in Australia. In 1992, women made up 65.5 percent of those not in the labour force, while men made up the remaining 34.5 percent. Of women not in the labour force, 70.6 percent were occupied by 'home duties' or childcare, whereas this was the case for only 5.4 percent of men.

Unemployment

Unemployment levels for both men and women in New Zealand have risen since 1986, although 1994 rates show a drop in unemployment. Until 1988, women's unemployment rate was higher than men's, but this situation has now reversed.

In Australia, unemployment rates for men and women have increased since 1986, although this movement has been somewhat erratic. In October 1994, the rate of unemployment for women was 8.4 percent and 8.7 percent for men, which represents a drop of 1-2 percent from 1992 levels.

Levels of marginal attachment and joblessness in each country better reflect the decrease in availability of paid work. The levels of marginal attachment are higher for women in Australia than in New Zealand, as shown in the table below.

Marginal Attachment to the Labour Force in
New Zealand (1986, 1993) and Australia (1988, 1992)

New Zealand	%	Australia	%
1986	69	1988	73.5
1993	64	1992	70.9

Source: Household Labour Force Survey (New Zealand); Survey of Persons Not in the Labour Force (Australia).

Industrial and Occupational Segregation

Both New Zealand and Australia are characterised by high levels of 'horizontal' and 'vertical' segregation. Not only are women and men employed in *different types of industries and occupations*, but even within occupational groups or within organisations, women and men tend to be clustered at *different levels*.

In New Zealand, women's industrial distribution is narrower than that of men's. Since 1986, the biggest movement for both men and women has been to the Business and Financial Services sector. Women are primarily located in the Service sector - an area of increasing involvement for women in New Zealand. For instance, in 1991, 36.9 percent of women were employed in Community, Social and Personal Services - twice the proportion of men. The Service sector is a major area of involvement for women in Australia (30.2 percent in 1992).

In Australia in 1982, the main industry that men were employed in was Manufacturing (22.4 percent), but by 1992 this had changed to Wholesale and Retail Trade (19.6 percent). Women and men in New Zealand have also moved from the Manufacturing sector. This is particularly the case for Maori and Pacific Island women.

Women and men are highly segregated in terms of occupation in New Zealand. The 1991 Census shows that one third of all women are Clerical workers, compared to only seven percent of men. The main occupation for men in 1991 was still Production and Related work (37.1 percent), while this employed only 8.6 percent of women. Women have low representation in Administrative and Managerial occupations (3.1 percent), which is less than half the proportion of men involved in these occupations (8.1 percent).

Women in Australia are not spread widely across occupational groups. Like New Zealand, a third (30.6 percent) of women are employed in Clerical work, with 54 percent of women working as either Clerks, Salespeople or Personal Service workers. This is the case for only 15 percent of men. Alternatively, Tradespeople are male-dominated - 23.3

percent of men fell into this category in 1992, but only 3.7 percent of women. Men (14.7 percent) are more than twice as likely to be employed in Administrative or Managerial work than women (6.7 percent).

In addition, occupations in New Zealand can often be vertically segregated, with men holding the greater proportion of higher paying senior positions. This situation is more extreme in the private sector. The Australian labour force is also vertically segregated, with few women in decision-making, senior positions. Again, the public sector holds a better record in this regard.

Hours of Paid Work

In New Zealand in 1993, the prevalence of part-time work had increased for both women and men. Despite this, far more women (35.7 percent) work part-time than men (10.1 percent). Women tend to work slightly shorter ordinary time weeks than men, and do two and a half times less overtime.

A similar pattern appears in Australia for 1992, where a greater proportion of women (43.3 percent) than men (10.5 percent) work part-time, and undertake slightly shorter paid weeks. The proportion of Australian women engaged in the full-time employment is smaller than is the case in New Zealand.

Chapter 5

THE INSTITUTIONAL FRAMEWORK FOR IMPROVING WOMEN'S POSITION IN THE PAID WORKFORCE IN NEW ZEALAND

5.0 Introduction

I argue in this thesis that the form and focus of employment equity initiatives is shaped by the specific labour market and industrial relations systems in place in a given country. To demonstrate this, I compare the different labour market and industrial relations systems in New Zealand and Australia. This chapter outlines the current institutional framework in New Zealand relating to employment equity, and discusses some of the implications that the various policies have for women's full and equal participation in the labour market.

Historically in New Zealand, the state sector has initiated progress to improve women's position in the paid workforce. The first efforts towards employment equity were in the form of legislation to achieve equal pay for men and women. In 1960, the Government Service Equal Pay Act was passed, requiring that men and women carrying out the same work should be paid at the same rate. Equal pay legislation was introduced to the private sector in the Equal Pay Act of 1972.[1] More recently, the need for equal employment opportunities (EEO) has been recognised through the development of the State-Owned Enterprises Act 1986, and the State Sector Act 1988, which both contain 'good employer' provisions and requirements for the preparation of equal employment opportunity programmes. In addition, both Acts contain some provision for monitoring EEO progress. This aspect, however, is much more fully developed in the case of the State Sector Act.

The Employment Equity Act 1990 covered the private and public sectors

[1] Until the State Sector Act in 1988, wage-fixing in the state sector occurred outside the national award system. The State Services Conditions of Employment Act 1977 governed wage-fixing in the state sector, with the State Services Commission acting as employer and employing authority. Thus, until 1988, state and private sector wage-fixing operated under separate jurisdictions (Martin 1990; Fryer and Oldfield 1994).

but, shortly after it was passed by the Labour Government, the Act was repealed by the National Government. Instead of introducing statutory measures, the National Government chose to establish the EEO Trust - a joint government and private sector initiative.

It is instructive to consider these policies, designed to improve women's position in the workforce, alongside a brief review of the major changes in New Zealand's industrial relations framework, as detailed below.

The Industrial Conciliation and Arbitration (IC & A) Act 1894 instituted a system of national collective awards, with a process of conciliation and compulsory arbitration. Either party to an award could refer grievances to a Conciliation Board, consisting of employer and trade union representatives. If this step failed, the matter could be referred to the Arbitration Court, which consisted of a trade union representative, an employer representative, and a judge. In 1936, an amendment to the Act made unionism compulsory (Deeks et al. 1994). This amendment also introduced the concept of a 'family wage'.[2] Wage increases were determined to a large extent by the Arbitration Court and its ability to deliver General Wage Orders. These Orders also helped to maintain the family wage and its purchasing power (RCSP vol. III part one 1988:582-3).

> One function of the GWO [General Wage Order] mechanism was to ensure that minimum rates of pay set in awards were adjusted in line with cost-of-living increases, thereby maintaining the family wage in real terms.

State sector wage-fixing operated separately at this stage.

A later amendment to the IC & A Act in 1961 abolished compulsory unionism, replacing it with the option of negotiating qualified and unqualified preference clauses in an award. Unqualified preference meant that all employees in an industry would be covered by the same award, regardless of whether or not they were union members. A

[2] The term 'family wage' refers to a wage that is sufficient to support a male breadwinner and his family. In New Zealand, this was based upon a husband, wife and three children. The family is premised on the existence of a nuclear family in which the male is the sole earner and the female carries out unpaid work in the home. This model has had the effect of raising male wages in relation to female wages, because of its assumption that women do not have to support families, and therefore do not require equal pay (RCSP vol. III part one 1988; O'Donnell & Hall 1988)

qualified preference clause in an award required the employer to hire the union member over a non-member, where both applicants were equally suitable. Although not legislated for, compulsory unionism was effectively still in place (Anderson et al. 1993; Deeks et al. 1994).

Qualified and unqualified preference continued under the Industrial Relations Act 1973, but the award system was modified to allow for a limited amount of free collective bargaining. For the first time, a distinction was drawn between disputes of *interest* and disputes of *rights* (Hince 1993).

The Industrial Relations Amendment Act (№2) 1976 abolished qualified preference: union membership was no longer a prerequisite for employment. Unqualified preference clauses were still permissible. Ballots of union members were required to determine support for the retention of such clauses (Anderson et al. 1993).

The Industrial Relations Amendment Act 1983, which came into effect in February 1984, has been described as marking 'the beginning of the policy to deregulate wage fixing procedures' (NACEW 1990:120). Under the Act, preference clauses were abolished, and voluntary unionism was introduced. The Act repealed the right to compulsory arbitration for interest disputes which, Wilson (1992:120) argues, was 'the single most important protection for women in paid employment'. At this time, the fourth Labour Government also considered the alternative possibility of a corporatist agreement with unions and employers, akin to the Australian Accord. Instead, the Government opted for a more decentralised approach, partially in an effort to weaken the wage-relativity links, and thereby moderate wage growth (RCSP vol. III, part one 1988:539). A wage and price freeze from 1982-1984 led to the Government's concern about unmanageable wage growth. Brosnan and Rea (1992:190) argue that the Act:

> allowed employers in weakly organised industries to refuse to settle awards and eroded the historical system of relativities.

The Labour Relations Act 1987 provided for a certain amount of decentralised enterprise bargaining. Workers were allowed to be covered

only by a single agreement. This provision effectively removed the possibility of second-tier bargaining, which was believed to be a major contributor to wage inflation (Brosnan & Rea 1992; Beaumont 1993).

The State Sector Act 1988 meant that for the first time, all workers were integrated under one system. The provisions of the Labour Relations Act 1987 were applied to the state sector: compulsory arbitration for this sector was abolished (Hince 1993).

The Employment Contracts Act 1991 (ECA) has dramatically altered the industrial relations framework in New Zealand. Deeks et al. (1994) argue that the ECA is, to a certain extent, a culmination of the changes apparent from the period of the fourth Labour Government, rather than a new departure. The major impact of the ECA has been the introduction of a contracting approach to the labour relationship (Harbridge 1993; Deeks et al. 1994). The overriding emphasis of the Act, as stated in its long title, rests upon the promotion of an efficient labour market. The ECA, and its implications for employment equity, are discussed more fully later in this chapter. This chapter outlines how employment equity policies have changed, and questions how well these adapted policies work for women.

5.1 Equal Pay Act 1972

In 1971, the National Government established the Commission of Inquiry on Equal Pay in New Zealand. The Commission was to take into account the provisions contained within the International Labour Organisation (ILO) Convention Nº100 on Equal Remuneration, although New Zealand did not, in fact, ratify this Convention until 1983. One of the recommendations in the Commission's report was that equal pay legislation should be passed.

> The most desirable means to give effect to the principle of equal pay is by way of an Equal Pay Act which would prohibit discrimination in pay rates on the basis of sex, lay down the principles to be followed and establish the rights and obligations of employers and employees (Commission of Inquiry on Equal Pay, 1971, recommendation 14).

Prior to this report, and the introduction of equal pay legislation covering the private sector, similar legislation had been passed for the state sector.

The Equal Pay Act 1972 introduced broad measures with the aim of eliminating substantial discrepancies between the earnings of women and men. Its introduction was to take five years, with the first stage completed by October 1973, and full implementation by 1 April 1977. Two reviews of the Act were undertaken, in 1975 and 1979, as had been recommended by the Commission report (1971). The Act was reviewed again in 1986 by the *Equal Pay Study*, as is discussed later in this chapter.

The Act resulted in an improvement in the proportion of female/male ordinary time hourly earnings, which stood at 72.1 percent in October 1973. In October 1978, women increased their hourly earnings to 78.5 percent of men's. Progress slowed down, however, and by 1987 women's ordinary time hourly earnings stabilised at around 80 percent of men's (Horsfield 1988:324-5). This remains the current situation, as recent statistics indicate. In February 1995, women's ordinary time hourly earnings were 81.1 percent of men's (Statistics New Zealand 1995b: Table 1). The report of the Working Group on Equal Employment Opportunities and Equal Pay (*Wilson report*) (1988), notes that the early reviews of the Act 'highlighted the continuing difference between male and female rates of pay' and raised the question of addressing pay inequality through a proper evaluation of work (Working Group on Equal Employment Opportunities and Equal Pay 1988:11).

As argued by many commentators, the Equal Pay Act does not address the issue of equal pay for work of equal value, or 'comparable worth', and is thus unable to deal with the reality of occupational segregation affecting women's employment and earnings. The test case taken by the Clerical Workers Union[3] in 1986 sought a ruling on this very aspect of the Act. The key issue raised in the case was whether an employer must negotiate on a claim of equal pay for work of equal value (Cook 1994). The union argued that the female-dominated occupation

[3] *NZ Clerical Administrative etc IAOW* v *Farmers Trading Co. Ltd. and others* [1986] ACJ 203.

of clerical work is undervalued and, therefore, that the award settlement reached was contrary to the provisions in the Equal Pay Act. The Arbitration Court (now Employment Court) declined to make a judgment on the case, arguing that the issues raised by the union were outside the Court's jurisdiction (Deeks, Parker & Ryan 1994). Further, the Court decided that 'acceptance of awards during the implementation period of the 1972 Equal Pay Act was proof of incorporation of equal pay' (Cook 1994:6). As a result, any potential in the Act for equal pay for work of equal value comparisons was curtailed.

The Equal Pay Act was constructed in the context of an industrial relations framework based on a system of national awards. The Employment Contracts Act, on the other hand, has dismantled the structures upon which the Equal Pay Act depended. Anderson et al. (1993:581) note that the implications for the Equal Pay Act were almost forgotten during the passing of the Employment Contracts Act.

> Overlooked during the early stages of the passage of the Employment Contracts Bill, it was hurriedly - and very untidily - amended to take account of the radical changes to employment structures imposed by the EC Act.

Currently, a complainant can resort to the Employment Tribunal in seeking to rectify an inequality in remuneration (Equal Pay Act 1972 s12). The ramifications of this are discussed later in the section on the Employment Contracts Act.

5.2 Anti-Discrimination Legislation

The Human Rights Commission Act 1977 was passed in accordance with New Zealand's obligations under the various United Nations international covenants on human rights. The Act established the Human Rights Commission and the Equal Opportunity Tribunal.[4] This Act allowed individuals to bring a complaint of discrimination under the terms of the legislation. The Act was amended in 1992 to

[4] The Equal Opportunity Tribunal has recently been superseded by the Complaints Review Tribunal. In 1985, the Equal Opportunity Tribunal ruled that the anti-discrimination provisions of the 1977 Act included sexual harassment (Deeks, Parker & Ryan 1994). Hyman (1994) notes that insurance and superannuation schemes are exempted under the Human Rights Act, provided the differences are based upon actuarial data.

make discrimination illegal on the grounds of age.

In 1993, the Race Relations Act 1971 and the Human Rights Commission Act 1977 were repealed, and their provisions consolidated and amended under the new Human Rights Act 1993. The Human Rights Act came into force on 1 February 1994. The terms of the 1993 Act regarding employment provide that where an applicant or employee is qualified for the work, it is unlawful to:

> (a) refuse or omit to employ the applicant on work of that description which is available; (b) to offer or afford the applicant or employee less favourable terms of employment, conditions of work, superannuation or other fringe benefits...; (c) to terminate the employment of the employee...; or (d) to retire the employee, or require or cause the employee to retire or resign... (s22)

on any of the grounds set out in section 21.

Section 21 of the 1993 Act broadens earlier coverage, so that discrimination on the grounds of disability, political opinion, employment status, family status, and sexual orientation is not permitted, as well as the previous grounds of sex, marital status, religious or ethical belief, colour, race, ethnic origin or national origin, and age.

Hyman (1994) notes that until 1991, no complaint concerning equal pay could be brought through the Human Rights Commission (s15(12)), but instead would be referred on to the Department of Labour, to be considered under the Equal Pay Act 1972. Since the Equal Pay Amendment Act 1991, however, this section has been repealed, and it is therefore possible to bring a case of unlawful discrimination before the Commission. This amendment provides a mechanism for implementing the principle of equal pay through the Commission's structure. The Equal Pay Amendment Act was passed in conjunction with the Employment Contracts Act 1991. The resulting anti-discrimination provisions under the Human Rights Act concerning employment conditions are similar to those that apply under the personal grievance procedures of the Employment Contracts Act, and are discussed in a later section. It is, therefore, possible to pursue an equal pay

complaint through three mechanisms: the Human Rights Commission; the personal grievance procedures of the Employment Contracts Act; and the Equal Pay Act itself.

5.3 International Obligations

In addition to national legislation and initiatives, New Zealand has also signed and ratified several international conventions which have implications for equal employment opportunity policy and equal pay for work of equal value. The three central conventions are: (1) the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); (2) the International Labour Organisation (ILO) Convention Nº100 (Equal Remuneration); and (3) the ILO Convention Nº111 (Discrimination - Employment and Occupation). (Chen 1989; Burton 1991; Briar 1994). The National Government of New Zealand ratified Conventions Nº100 and Nº111 in 1983 (Chen 1989).

CEDAW is based upon the 1967 United Nations Declaration on the Elimination of Discrimination Against Women. The Convention was signed by New Zealand in 1980 and ratified by the Fourth Labour Government on 20 December 1984. The Convention requires ratifying countries to implement equal pay for work of equal value policies (article 11(1)(d)). In addition, CEDAW's General Recommendation Nº13 states that ratifying countries should implement ILO Convention Nº100, in addition to adopting a system of job evaluation (Chen 1989).

While all of these Conventions, and particularly the comprehensive scope of CEDAW, have the potential to work as a springboard for positive change for women, such legal instruments remain largely untested. The reasons for this are numerous, but most compelling is the limited impact that international law has upon domestic legislation.

While signing an international convention indicates an intention to implement its provisions, it is the practice in New Zealand that conventions are *ratified* only when domestic legislation that fulfils the

obligations is substantially in place (Human Rights Commission 1984). Signing a convention does not imply international obligations, but the process of ratification does. Even when a country has ratified a convention, that convention has 'no teeth' to ensure it is transformed through suitable domestic legislation. Nor are there appropriate sanctions if a country does not meet (or even *attempt* to meet, as is sometimes the case) the recommendations of a convention. Monitoring of CEDAW occurs through reports made to a reporting committee. The Human Rights Commission (1984:5) has noted that:

> The Committee has no power to compel any country to do anything. It is not an enforcement agency and its members cannot enter the country and conduct investigations. Its role is to consider States' reports on progress made or difficulties experienced in giving effect to the Convention.

Chen (1989:5), when referring to CEDAW, has argued that it 'remains the major document for women's advancement in New Zealand', and clearly, if provision was made within domestic legislation, this could be so. Australia recently utilised ILO Conventions Nº100 and Nº111 in this way, as is discussed in chapter 6.

At the very least, the Convention may be used as a tool of statutory interpretation where there is ambiguity in the law.[5] It seems possible that this might have usefully occurred in New Zealand, with the Equal Pay Act 1972. Chen (1989:5) states that:

> [the] Courts should choose the meaning most consistent with the Convention. In international law, the act of ratification binds New Zealand to implement the convention's obligations. Thus, if the Government fails to do so, by not providing any legislative right for women to pay equity, for example, it breaches its international obligations.

The National Government's decision to repeal the Employment Equity Act 1990 makes Chen's comment appear, in retrospect, remarkably optimistic. There can be little doubt that New Zealand is in breach of its international obligations under CEDAW, but it is apparent that

---

5 *Van Gorkom* v *Attorney-General* [1977] 1 NZLR 535 provides a notable example of an international convention being used as a tool of interpretation. The convention used in this instance was CEDAW.

sanctions invoked against non-compliant countries are insufficient.

5.4 Beyond Equal Pay

The Labour Party's 1984 election manifesto included a women's policy programme, derived from the Labour Women's Council. Part of this programme recommended the establishment of a ministry for women's affairs. The Ministry was established in November 1984, providing a vehicle for women's perspectives to be considered in the formulation and implementation of public policy (Wilson 1992). Ann Hercus held the position of the Minister of Women's Affairs. Before the establishment of the Ministry, a series of women's forums were held throughout the country, during which employment equity for women was highlighted as a priority area (Ministry of Women's Affairs 1985).

In 1986, the Department of Labour commissioned research on the progress of equal pay and pay equity in New Zealand: the *Equal Pay Study Phase I* (1987) and *Phase II* (1987). By this stage, it was almost ten years since the full implementation of the Equal Pay Act (1972) had come into effect in 1977. Although the Equal Pay Act had been reviewed in 1975 and 1979 (Working Group on Equal Employment Opportunities and Equal Pay 1988), the *Equal Pay Study* was to investigate further and, in particular, to determine the extent to which remaining differences in female/male earnings were the result of discrimination, or of other factors (Hyman & Clark 1987).

The Coalition of Equal Value and Equal Pay (CEVEP) was formed in May 1986 to lobby for equal pay for work of equal value policies (Cook 1994). Shortly after this, CEVEP released a leaflet, which was distributed at the 1987 Labour Party Conference. The Coalition considered that amending the Equal Pay Act 1972 would not be sufficient, and that new legislation was required. As Cook (1994:23) outlines, their specific focus was the need for pay equity.

> Prior to the pay equity campaign occupational segregation was seen as a problem in women's pay. It was thought that if women moved into other high paying occupations then the pay gap would close... The pay equity campaign however argued that

> women dominated occupations were undervalued and the solution is for women to receive adequate earnings in women's traditional occupations by the proper valuing of those occupations and their skills.

The Labour Party's 1987 election manifesto contained a women's policy that included proposals for equal pay for work of equal value (New Zealand Labour Party 1987).[6] As part of the Fourth Labour Government's focus on its social policy programme, a number of working parties were established. One of these was the Working Group on Equal Pay and Equal Employment Opportunity - the aims and outcomes of which will be discussed later.

In addition, at this time the report of the Royal Commission on Social Policy (RCSP) (1988) was released to provide direction to the Government's social policy agenda. The RCSP was supportive of the need for and concept of equal pay for work of equal value (vol. II).

5.5 Developing EEO in the State Sector

Walsh & Dickson (1993) note the pressure from an informal group of union officials and government managers for EEO in the state sector in the early 1980s. During this time, the right to permanent part-time work was introduced, as well as the option of returning to employment after up to five years of childcare. The same coalition prompted the State Services Commission (SSC) policy statement in 1984.

In 1983 an EEO coordinator was appointed in the State Services Commission although, as Tremaine (1991) notes, the appointment was at a very low level. In 1986 an EEO Unit was established in the Commission, with a Unit Director and specialist officers.

The Commission also issued a policy statement on EEO in 1984, on behalf of Government Employing Authorities. While the statement is clearly aimed at promoting equal employment opportunities practice, it

---

6 Neither the 1987 or the 1990 election manifestos of the New Zealand National Party contains any mention of EEO or employment equity policies for women (New Zealand National Party 1987;1990).

is interesting to note that, at that time, the state sector had no explicit policy on occupational segregation amongst its employees.

> There has been no active policy in the government sector encouraging people of either sex into occupational groups in which they have not traditionally been represented. Rather, the general policy is *not to discourage* people of either sex from entering any occupational group where specific dispensation has not been granted under the Human Rights Commission Act 1977. In practice, occupational groups which have traditionally been staffed mainly by one sex continue to be dominated by that sex (emphasis added) (Government Employing Authorities 1984:12).

Although the implicit intention of the statement is gradually to address this situation, there is no mention of how this might occur, nor is there any legislative requirement to do so.

Shortly after this time, the state sector in New Zealand experienced a period of substantial reform, and with that came the statutory requirement to develop EEO programmes. Those developments, contained within the State-Owned Enterprises Act 1986 and the State Sector Act 1988, will now be discussed.

5.6 State-Owned Enterprises Act 1986

The debate in parliament during the passing of the State-Owned Enterprises Bill was not concerned with the 'good employer' provisions, focusing instead on the broader issues of privatisation (NZPD vol. 474-476 1986). The State-Owned Enterprises (SOE) Act came into effect on 1 April 1987, introducing some EEO provisions, and mention of the 'good employer'.

> (1) The principle objective of every State enterprise shall be to operate as a successful business and, to this end, to be--
> (a) As profitable and efficient as comparable businesses that are not owned by the Crown; and
> (b) A good employer; and
> (c) An organisation that exhibits a sense of social responsibility by having regard to the interests of the community in which it operates and by

> endeavouring to accommodate or encourage these when able to do so (s4(1)).

The EEO provisions in the SOE Act are broadly similar to those contained in the State Sector Act, although there are fewer 'good employer' requirements, and the terms of the legislation are not as specific (s4(2)). For instance, the SOE Act does not contain direct reference to appointments being made on 'merit', although it refers generally to the impartial selection of employees.

The Act contains general reporting requirements, including EEO, through the select committee review process. Annual reports of SOEs are tabled in Parliament and are available for scrutiny by the State Enterprises select committee. EEO programmes, however, do not need to be detailed in the annual reports of SOEs. Although respective Directors and Ministers are, theoretically, to ensure an SOE's compliance with the 'good employer' section of the Act, ultimately this occurs through the Employment Court. To date, however, there have been no successful cases brought enforcing these provisions (Deeks et al. 1994). It would also be possible to bring a personal grievance under the Employment Contracts Act 1991 (Ministry of Women's Affairs 1992).

In practice, the requirements of the Act leave room for varying interpretations. Deeks at al. (1994:484) remark that:

> Managerial discretion was not limited by way of specific legislative definitions of EEO programmes or methods of implementation.

For example, the 1992/3 select committee review of the Electricity Corporation of New Zealand (ECNZ) was released in May 1994, in which the committee commented on the ECNZ's lack of progress toward EEO. During the hearing, ECNZ's chairman and chief executive were questioned about the corporation's EEO policies, following the resignation of the only female senior executive, in February 1994 (*Evening Post*, 5 May 1994). The State Enterprises committee (1994: section 5.4) comments in the report that:

> [the corporation's] EEO policy appeared to consist principally of

broad statements of principle. There appears no specific plan of action or targets against which such action could be measured or the corporation's progress assessed.

Following the release of the report, the performance review of ECNZ was debated in parliament. Elizabeth Tennet and other Opposition Members of Parliament questioned the Government on the lack of progress made by ECNZ in instituting an EEO programme (*NZPD* vol. 540:1680-1702). This failure to pursue EEO in a determined way emphasises the need for clear statutory requirements for the standard and content of EEO programmes, and for effective sanctions in the case of non-compliance. Without such requirements, some employers may have neither the motivation, nor the skills, to design and implement their own programmes.

5.7 State Sector Act 1988

The State Sector Act came into effect on 1 April 1988 and marked the arrival of a new ethos in the state sector.[7] The changes initiated by the State Sector Act and other reform legislation were numerous. Scott and Gorringe (1989:82) identify four key aspects to the reforms. (1) '...a change in the relationship between ministers of the Crown and the heads or chief executives of their departments'; (2) '...chief executives will have much greater discretion in the management of their departments'; (3) '...a distinction between the outputs of services a department produces and their outcomes, or success in achieving social goals'; (4) '...a system of financial accounting that is based on accrual accounting of inputs and on output measures'.

A significant effect of the Act was to alter the role of departmental chief executives[8], both in terms of their relationship to the minister, and to

7 Other related legislation includes: the Public Finance Act 1989, which came into force on 1 July 1989; the State Sector Amendment Act 1989, which came into force on 1 October 1989 and applied the reforms to the compulsory education sector; and the State Sector Amendment Act (N°2) which came into force on 19 December 1989 applying to the tertiary sector and the restructuring of the State Services Commission (Steering Group, Review of State Sector Reforms 1991).

8 Chief executives were previously referred to as 'permanent heads' and held, as the name suggests, tenured positions. Currently they are employed on contract by the State Services Commission for a period up to 5 years.

departmental staff. The Act made chief executives directly accountable to their minister particularly regarding the 'efficiency' of the department. This accountability occurs through the chief executive's annual 'performance agreement' and subsequent review. The agreement generally covers three areas: the services to be supplied; the financial performance to be attained; and the management practices to be followed (Steering Group, Review of State Sector Reforms 1991).[9]

In addition, the State Sector Act gives chief executives considerably more freedom in matters of staffing and pay. Each chief executive has become the 'employer' of departmental staff, and negotiates directly with staff on matters of pay and conditions, rather than through the centralised control of the State Services Commission (SSC). The Act introduced a form of performance pay with 'ranges of rates' rather than the narrower salary scale, thus granting the chief executive more latitude in adjusting an employee's salary. The Steering Group (1991:1) reviewing the state sector reforms points out the reasoning behind the change.

> The reforms focused upon generating improvement by clarifying objectives and allowing managers freedom to manage within a framework of accountability and performance assessment.

Of interest to this study is the statutory requirements in the Act for chief executives to plan and implement an EEO programme for their department, and report upon its progress.[10] Personal responsibility rests with the chief executive to see that the programme is initiated. Section 58(3) of the Act defines the goals of an EEO programme:

> an equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect to the employment of any persons or group

[9] The chief executive's performance agreement is distinct from the contract of employment, which sets out the conditions and terms of their employment. The performance agreement is not a public document (Steering Group, Review of State Sector Reforms 1991).

[10] Section 58 of the Act covers the requirements of EEO programmes; section 56 the general 'good employer' provisions; and section 60 specifies that all appointments be made on merit. EEO and 'good employer' provisions for the local government sector are found in the Local Government Amdt. Act N° 2 1989. These provisions are the same as those in the State Sector Act 1988 (Commission for Employment Equity 1991).

of persons.

Three reports are required annually by each department. The first report will provide an EEO plan; the second, a progress report on the previous year's plan; and the final report includes a statistical profile SSC 1992). The SSC has the responsibility to 'promote, develop, and monitor equal employment opportunities policies and programmes for the Public Service' (s(6)(g)). The Reviews Division of the State Services Commission was set up in July 1989 to monitor and review the EEO programmes, departments and chief executives on an on-going basis (Tremaine 1991). The evaluation process uses a three stage methodology developed by the SSC, and is designed to provide a cyclical and dynamic model which will 'ensure progress in EEO by the ongoing adaptation of the EEO programme to the changing internal environment of the department' (SSC 1992).[11]

Enforcement of the 'good employer' provisions (s56) of the State Sector Act comes through the Employment Court.[12] The 'good employer' provisions include:

(a) Good and safe working conditions; and

(b) An equal employment opportunities programme; and

(c) The impartial selection of suitably qualified persons for appointment; and

(d) Recognition of --

(i) The aims and aspirations of the Maori people; and

(ii) The employment requirements of the Maori people; and

(iii) The need for greater involvement of the Maori people in the Public Service; and

(e) Opportunities for the enhancement of the abilities of

11 Recently, the State Services Commission was restructured so that as of 1 July 1993 it is organised around four operational branches. A legal section and a corporate development branch support the activities of the operational branches. The Strategic Human Resource Development Branch includes the EEO Team, which provides advice to departments and monitors EEO plans. The position of Chief Advisor EEO and Programmes is currently held by Margaret Hanson. The Team currently has a staff of seven (Department of Justice 1993; SSC 1993; SSC 1994).

12 It is possible to gain a compliance order from the Employment Court to ensure that an EEO plan is prepared (Deeks et al. 1994).

individual employees; and

(f) Recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and

(g) Recognition of employment requirements of women; and

(h) Recognition of the employment requirements of persons with disabilities (s56(2)).

Boxall (1991:216) emphasises the elusive quality of the 'good employer' concept. He argues that the definition of the good employer involves value judgments, and that the notion of goodness will necessarily be 'bound' by other concerns.

> As in the private sector, then, the ascendancy of 'accountable management' makes it clear that the good public sector employer must be regarded as exhibiting 'bounded' goodness. Goodness is bounded by a concern to keep the size of the state within economically sustainable limits, to ensure it behaves commercially when it engages in commercial activity and to make executive accountability more readily manageable...

Since the Act was passed, it is notable that the position of women managers in the state sector has improved. In 1988 when the Act was passed, there were 13 (10 percent) women in the senior executive service.[13] This had risen to 27 (21 percent) by 1993. In July 1993, five of the 39 chief executives were women (Statistics New Zealand 1993a:178,182). The percentage of management positions held by women has risen from nine percent in 1991, to 20 percent in 1993 (SSC 1994:49). Equivalent data is not readily available for the private sector.

5.8 Employment Equity Act 1990

As noted earlier, the Labour Party's women's policy contained in the 1987 election manifesto included proposals for equal pay for work of equal value, and equal employment opportunity (EEO) legislation. After the re-election of the fourth Labour Government, Deputy Prime Minister Geoffrey Palmer announced a series of working parties on

13 The Senior Executive Service (SES) was established under the State Sector Act (s46), and is a group of senior managers who are viewed as a source of future chief executives (Martin 1990).

social policy issues. One of these parties was to consider equal pay for work of equal value and EEO (Wilson 1992).

The Working Group on Equal Employment Opportunities and Equal Pay was established by the Labour Government in March 1988, and was headed by Margaret Wilson. Building on the findings of the *Equal Pay Study*, the terms of reference required the Working Group to consider and make recommendations on:

> • current trends in equal employment opportunities and equal pay, and the social and economic environment influencing them;
> • the need and justification for new equal pay legislation and/or equal employment opportunities legislation, taking into account social, economic, industrial relations, economic and labour market implications, legal aspects and the overall balance between equity and efficiency;
> • if legislative changes are appropriate:
> • the nature of the legislation; and
> • the non-administrative systems necessary for the changes to be effective; and
> • what non-legislative policies/programmes should be introduced to secure equality of employment opportunity and equal remuneration for work of equal value (Working Group on Equal Employment Opportunities and Equal Pay 1988:7)

The Working Group initially reported to Cabinet in June 1988, and included a draft bill. The Working Group in its report (*Wilson report*) stressed the need for a dual focus in employment equity policies: including both pay equity measures, and EEO programmes. This approach acknowledged that the problem of discrimination in employment is complex. The Working Group argued that discrimination was reflected in both the female/male pay gap, and the lack of employment opportunity for women, due to the continuing pattern of occupational segregation (Working Group on Equal Employment Opportunities and Equal Pay 1988).

An Implementation Committee was established in mid 1989 to prepare drafting instructions. The progress of the Implementation Committee

was slow, made up of opposing interests from various government departments. Wilson (1992) argues that its formation was aimed at hindering the introduction of the legislation. Cabinet at this time was also split in its support of the proposed legislation. A Cabinet reshuffle, as a result of the resignation of the Prime Minister David Lange in August, meant that its composition was more sympathetic to the passage of employment equity legislation. Helen Clark became Minister of Labour, replacing Stan Rodger, and Geoffrey Palmer became Prime Minister.

The amended recommendations of the Working Group report formed the basis of the Employment Equity Bill, jointly drafted by the Department of Labour; State Services Commission; and the Ministry of Women's Affairs (Wilson 1992).

The Employment Equity Bill was introduced by the fourth Labour Government in December 1989 (Wilson 1993; Hyman 1994). Strong opposition to the Bill was voiced by business and employer groups. An example of this was the submission to the Labour Select Committee by the New Zealand Business Roundtable (1990): *The Pursuit of Fairness: A Critique of the Employment Equity Bill*. The submission detailed the grounds for their opposition. The Group criticised the Bill for presenting barriers to productivity, equity, and the expansion of employment opportunities, and stressed that the Bill would compound the injustices of those already disadvantaged in the labour market, by reducing the number of jobs and training programmes.

The Bill had dual focus on equal employment opportunities and pay equity, and both were denounced by the Business Roundtable. Although not wholly opposed to the principle of equal employment opportunity, the Business Roundtable argued that the Bill contained an *affirmative action* rather than an equal employment opportunity policy. Their conclusion was based on the 'results oriented' nature of the EEO component, and the reference to 'targets' which, the Business Roundtable believed, meant 'quotas', and was not consistent with appointments according to merit. The pay equity component was totally unacceptable to the Roundtable and would, they maintained,

sacrifice equity and efficiency. Instead, employment equity must ultimately be left to the 'spontaneous ordering process' of the market (1990:14). The New Zealand Business Roundtable (1990:i) stated that:

> a true concern about equity must emphasise individual freedom and opportunity. This means working in the tradition of civil and women's rights movement to break down privilege and all barriers to individuals being treated according to their merits. The Employment Equity Bill, with its focus on equalising outcomes, is utterly at odds with this tradition.

The Business Roundtable's position highlights a recurring issue in the debate during the passage of the Employment Equity Bill: whether importance should be attached to equality of *outcome* as well as to equality of *opportunity*.

The National Party opposed the Bill and, in particular, its attention to equal outcomes. During the third reading of the Employment Equity Bill, National Party MP Bill Birch remarked that:

> The Bill attempts to *coerce people into equal outcomes*, and, by doing so, it completely bypasses the route to equity by simply saying that everybody should be paid the same. It is unfortunate that the overall effect of that would be to reduce job opportunities for women, particularly for vulnerable women. The legislation will deny women entry into the work-force, and for many it will cost them their jobs. Opposition members are not prepared to support legislation that will cost women their jobs and will make it more difficult for women to enter the work-force. For that reason we will oppose the legislation and will repeal it on becoming the Government later this year (*NZPD* vol. 509: 2821) (emphasis added).

The Employment Equity Act did, however, reflect both the aim of equal opportunity and of equal outcome. The Act extended EEO coverage to the private sector and moved beyond the relatively narrow interpretation given to the 1972 Equal Pay Act, by introducing the concept of 'equal pay for work of equal value' through pay equity claims. These pay equity claims were based upon occupational and industrial comparisons from the national award system.

The Act was divided into three main sections, and provided for: (1) the establishment of the Commission for Employment Equity, and an Employment Equity Commissioner, who would administer the legislation; (2) the development of EEO programmes by all public sector employers, and employers of over 50 employees in the private sector; and (3) the introduction and implementation of a system for pay equity claims. The Act was passed on 17 July, and came into force on 1 October 1990.[14]

5.9 A Change in Leadership

The National Government was elected on 27 October 1990, with a policy to repeal the Employment Equity Act 1990. The Government's determination to do so became apparent when they commissioned a working party in November, headed by Anne Knowles, to examine equity in employment. The introduction to the report (*Knowles report*) states that the Working Party had been

> advised by the Ministers that in light of the Government's decision to repeal the Employment Equity Act 1990 before Christmas that work was needed to be undertaken with some urgency in identifying barriers that did exist which inhibited women, ethnic minorities and persons with disabilities (the designated groups) from taking a full part in employment (Working Party on Equity in Employment 1991:1).

Clearly, the Working Party did not have the option of recommending the retention of the Act. The recommendations in the *Knowles report*, however, included:

> that legislation be enacted requiring employers to develop, implement and monitor EEO programmes. That in drafting the legislation, consideration be given to the Australian Affirmative Action Act 1985 [sic] and to the views set out in this Report (Working Party on Equity in Employment 1991:27,

14 The Act was repealed on 19 December 1990, under the Labour Relations Amendment Act (N°2). The Employment Contracts Bill was introduced to parliament on the same day. Following the repeal of the Employment Equity Act, Helen Clark introduced the Equal Employment Opportunities 1991 Bill on 19 June 1991, but the Bill remained at the Committee stage, and ultimately lapsed (*NZPD*, vol. 516: 2534-53).

recommendations 18 and 19).

The principal component of the Australian Affirmative Action Act (1986), was the legal requirement for employers with over 100 employees in the private sector to develop and implement EEO programmes.

The National Government, however, did not act upon these recommendations of the Working Group, once again leaving the private sector to its own devices regarding EEO programmes. Legislating for EEO programmes in the private sector was seen as too prescriptive by the National Government. In response to a question on the Government's position toward EEO programmes by Deputy Leader of the Opposition, Helen Clark, the Minister of Labour, Bill Birch replied that:

> The previous Administration put in place a prescriptive and bureaucratic arrangement to deal with those matters, and that was thoroughly criticised in the Knowles report. On the other hand, the Knowles report suggested that there should be a council for employment equity largely funded by the private sector, and with the ability to promote and monitor. That is an entirely different approach, and it is one that I commend (*NZPD*, vol. 514:1366).

The proposition that the Minister of Labour refers to, originated from recommendation 24 of the *Knowles report*. The Government's intention was that the proposed council would be modelled upon the Australian Council for Equal Opportunity in Employment, as discussed in the *Knowles report* (*NZPD* vol. 516:2537-8). As discussed in chapters 6 and 7, the functions of the Australian Council for Equal Opportunity in Employment and New Zealand's EEO Trust are similar.

Opposition to the Employment Equity Act from business groups was centred on the 'pay equity' component, rather than the notion of EEO programmes (Deeks et al. 1994). Indeed, in May 1982, the Employers' Federation had issued a policy statement on EEO, including a number of recommendations to employers. Ten years later, the Employers' Federation (1993:35) declared that it had:

> long supported the principle of equal opportunity (EEO) in employment, education and training, emphasising how important

> it is that employment decisions be made on the ground of merit, not on the basis of personal characteristics unrelated to ability.

The Federation's statement, however, indicates their opposition to affirmative action, proportional quotas or numerical goals. Despite deciding against implementing EEO programmes, the Government professed to have a commitment to the promotion of EEO.

In fact, the stated aims of the EEO Trust, set up by the National Government, are perfectly consistent with the development of EEO programmes. Nevertheless, private sector participation is voluntary, and the Government does not involve itself in monitoring the development of EEO. To do this would demand more vigorous commitment, both from employers and from government itself, towards employment equity in New Zealand.

The National Government's avoidance of any form of compulsion around employment equity merely emphasises the overriding importance they attach to voluntary action or 'freedom'. This philosophical direction also guided the reforms to the industrial relations system brought about by the Employment Contracts Act 1991. The implications of this Act will be discussed further in the following section.

5.10 Environment of the Employment Contracts Act 1991

The Employment Contracts Act 1991 (ECA) was founded upon a decentralised, contractual approach to the labour market - an area which had escaped extensive reform until this point. The Act repealed the Labour Relations Act 1987, and sought to encourage efficiency in the labour market by a number of measures. These included deconstructing the award system by the introduction of voluntary unionism and enterprise bargaining. Both individual and collective contracts are possible under the Act; this issue is a matter for negotiation between the parties to the employment contract. There is no process of conciliation or arbitration specified in the provisions of the ECA, and if parties cannot agree upon the terms of a contract, they are under no duty to negotiate. The Employment Tribunal *may* be used

as a mediator in a dispute if one party wishes. Certain conditions of employment are implied terms in the Act. Anderson (1991:127) comments that:

> The central theme of the new legislation is to locate the centre of labour law and the employment relationship *at the level of the individual worker within the enterprise in which the worker is employed, and to move collective organisations to a peripheral role* (emphasis added).

There is considerable debate about the alleged benefits of the ECA, both in terms of general employment conditions, and in terms of the outcomes for female workers in particular. The Minister of Women's Affairs, Jenny Shipley, and the Minister of Labour have hotly disputed this, denying the claim that the ECA presents particular barriers to women's employment and is anti-union (*The Dominion*, 1 December 1992; Minister of Labour, *Press Release*, 17 September 1993; 21 September 1993).

The Labour Select Committee examined the effects of the ECA in 1992, including its impact upon women employees. The finding of the Committee (1993:28) in relation to the Act's effect upon women was that:

> remedies available under the Act are sufficiently robust to deal with any issue of exploitation...

While the possibility of exploitation is an issue for many workers under the ECA, the Committee does not address other questions relating to the effect of the ECA upon women. Dawson (1992:158) has argued that the current environment provides little support.

> Rather than the law moving forward to explicitly recognise the linkages between the 'public' and 'private' zones, we see instead, in the Employment Contracts Act, the beginning of a reconceptualisation of the zone of employment as itself a 'private' zone, in which arrangements will be made between 'individuals'. This augurs badly for feminists who seek to rely on equalities in outcomes between groups of men and women as a justification for legal reform.

Importantly, for example, with the breakdown of the national award structure, the relative movement of wages is more difficult to monitor. As noted earlier in this chapter, the increasing number of workers employed on an individual contract means that not only can different wages be paid to workers doing the same work on the same site, but there is no effective way of judging the level of variance among the wages of women and men across occupational or industrial sectors.

With the growth of enterprise bargaining and individual employment contracts, there could be variation in the wages paid for the same or similar work across workplaces or industries. Dawson (1992:156) argues that under the ECA it will be increasingly difficult to prove that a wage difference between male and female employees is 'based on the sex of the employees' as was specified under the Equal Pay Act 1972 (s2). Dawson adds that the ECA had made it difficult to achieve 'equal pay' because employment contracts were less public, and therefore access to information concerning wages or salaries more limited.

While the overall impact of the ECA upon women can be seen as negative, one positive feature is the specific provisions in the Act for personal grievances (Part III). The prohibited grounds of discrimination are broadly similar to those in the Human Rights Act 1993, with certain notable differences. The provisions in the ECA do not include the new grounds covered by the Human Rights Act. Discrimination on the ground of involvement in the activities of an employees' organisation, however, is prohibited in the ECA, but is not a prohibited ground in the Human Rights Act (Anderson et al. 1995). It is possible, therefore, to bring a personal grievance complaint concerning equal pay under the ECA.

5.11 EEO Trust

Plans for the Equal Employment Opportunities Trust were announced in July 1991, by the Minister of Labour, Bill Birch, and the Minister of Women's Affairs, Jenny Shipley (*Joint Press Release*, 18 July 1991). This decision came in response to recommendation 24 made by the

Working Party on Equity in Employment contained in the *Knowles report*, as discussed earlier. The Trust was launched on 29 June 1992, with Trudie McNaughton as Trust director.

The EEO Trust is based in Auckland, and is coordinated jointly by the Employers' Federation and the Government. The Trust was established with money from government, and donations from the business sector. An initial governmental grant of $100,000 to set up the Trust will be repeated for three successive years. This grant is to be matched by employers' contributions. The size of these membership donations vary in accordance with the numbers of employees in the organisation. In addition, a contestable government fund of up to $300,000 has been established to promote EEO in the private sector and to support research. Funding from the EEO Contestable Fund is allocated annually on a competitive bidding basis, and is managed by the Ministry of Women's Affairs and the Department of Labour (Ministry of Women's Affairs 1992; New Zealand Parliamentary Debates, vol. 521). In announcing the EEO Trust, the Ministers outlined the functions of the Trust as being to:

- educate and promote to employers the benefits of equal employment practice
- acknowledge and recognise those good employers who promote EEO programmes
- develop educational material that will change attitudes to EEO...
- coordinating existing EEO resources (eg establishment and maintenance of a database of EEO personnel)
- commission research, review and monitor existing and proposed research, and disseminate research results (*Joint Press Release*, 18 July 1991).

The Trust has a clear focus on facilitating the aims of businesses, evident in the mission statement.

> The purpose of the Equal Employment Opportunities Trust is to promote to New Zealand employers the implementation of EEO principles and EEO best practice in the workplace as a means of improving their effectiveness, efficiency and competitiveness

> through the successful management of diversity (*EEO Trust News*, March 1995).

In March 1995, the Trust had 156 members. Interestingly, many of the Trust's members are state-funded institutions, such as schools and tertiary institutions, voluntary organisations, or arms of local government, such as city councils. The local government organisations and tertiary institutions, however, are *already covered* by legislation requiring them to produce EEO plans and programmes. It remains to be seen whether the Trust is widely supported by core private sector organisations: small businesses, private and publicly listed companies.

Membership of the Trust is voluntary and once businesses belong, they have no obligations or requirements to fulfil. The Trust does not have a defined monitoring role. Even Bill Birch, the Minister of Labour at the time, was unable to articulate a clear set of guidelines regarding the monitoring function of the Trust. When asked about such guidelines, he responded,

> Well one of the tasks which the trust will turn its attention to will be monitoring progress and to develop parameters for doing that. I don't see that as being difficult but it's something I can't give you an answer to off the top of my head. There's various ways of doing that but what Ministers will be looking for is good progress and good value for money (*Evening Post*, 4 March 1992).

The Minister is seeking 'good progress and good value for money' from the Trust. The Trust is accountable through its annual audit and the Crown and private sector trustees. Considering the relatively substantial amount of funding contributed by Government, it seems inconsistent that the EEO Trust is not subject to stricter levels of financial accountability, when that is demanded of government departments and other recipients of Government funding.

The ambivalence of the Minister about monitoring EEO progress in the private sector suggests that he believes any monitoring requirements conflict with the marketing of EEO as 'best business practice'. While monitoring EEO would, necessarily, *require* certain standards or levels to be attained, the notion of best business practice is predicated upon

the concept of voluntarism. The promotion of EEO has thus undergone a subtle shift of focus, from its application as a broad principle of social justice, to its narrower incorporation as a tool of management practice. In addressing the 1993 AGM of the EEO Practitioners' Association, Maurice McTigue expressed a similar idea.

> The imperative for the implementation of EEO seems to have moved from meeting legal requirements or for social justice reasons, to also include a commitment to the business value of EEO. This means that more organisations are beginning to see why the practice of EEO is good for their particular business and to use it as part of their strategy to meet their business goals (Minister of Labour, *Press Release*, 7 September 1993:4).

The current promotion of EEO within the narrow confines of best business practice is an attempt to encourage the voluntary adoption of EEO programmes in the private sector. As Trudie McNaughton points out, however, the added impetus that is necessary, if rhetoric is to be translated into an EEO programme, is lacking in some employers.

> Employers often tell me that they think EEO is a good idea but they don't have to do it. They feel that they need to move on things they have to do. So if EEO is not already part of their accountability, or if the organisation doesn't have a statutory requirement to perform, of if EEO is not part of their appraisal systems, or if there is limited senior support and no resourcing, then EEO falls off the end of the list of good intentions (Sayers 1994:305-6).

The risk of EEO programmes never taking root seems most extreme for small businesses, where resources, staff and time are more limited, and the benefits of EEO appear less certain. The Trust is, therefore, targeting small employers through an EEO self-assessment kit (*EEO Trust News* №10, March 1995).

5.12 Recent Initiatives

On 19 September 1994, Elizabeth Tennet, Opposition Spokesperson on Women's Affairs, revealed her intention to introduce a private member's

bill to parliament with the aim of ensuring employment equity for women, ethnic minorities and people with disabilities. If enacted, the Bill would establish an office for employment equity to promote equality to employers and employees. The office would also be involved in running research and education programmes. In addition, the Bill would require large businesses to have an EEO programme (*Evening Post*, 19 September 1994; *Dominion* 27 February 1995).

In addition, a collaborative endeavour has been undertaken by the Ministry of Women's Affairs; the Employers' Federation and the EEO Trust to encourage the creation of 'family-friendly' workplaces. The year-long Work and Family Directions project involves 55 employers from both the public and private sectors, and aims to help organisations devise and implement strategies for improving their family-workplace practices. The project has two phases. Each organisation spent the first six months assessing current workplace practices and identifying an action plan with the help of consultants. In the second phase of the project, organisations will put their plans into effect. A report will be published by the Ministry of Women's Affairs at the end of 1995, detailing problems encountered by the organisations, and the plans that were carried out (*The Dominion*, 14 June 1995; Women's Studies Association Newsletter, 15:3, Autumn 1995; *EEO Trust News* №11, June 1995).

5.13 Conclusion

There is a legislative requirement for the development of EEO programmes in the state sector in New Zealand. This requirement was introduced through the State-Owned Enterprises Act 1986, and more fully developed in the State Sector Act 1988. There is no equivalent statutory provision for EEO programmes in the private sector in New Zealand. The joint government/private sector EEO Trust works to encourage the development of EEO policies and programmes in the private sector, but does not fulfil a monitoring role. Assessment of EEO progress in the private sector, and the outcomes of the Trust's involvement occurs on an informal basis.

The Employment Contracts Act 1991 (ECA) has changed the basis of industrial relations in New Zealand from a largely centralised system of awards, to one which is individualised and contractual in nature. A key principle that the ECA is founded upon is voluntarism. Bargaining strength and skill are important factors for many employees in negotiating an employment contract. Questions have been raised by some commentators over how well many women are equipped to negotiate such contracts (Bennett 1994).

Equal pay can be accessed through one of three routes in New Zealand. The Equal Pay Act 1972 is still in force in New Zealand, although its application is far less certain in the industrial relations environment of the ECA. The potential for any complaint is weakened by the dismantling of the national award system, the consequent absence of relativities, and the privacy of contracts. There is no widely accepted rate for a job and, as a result, it is possible that individual difference may be accepted by the Employment Tribunal as justification for unequal remuneration. The possibility for drawing comparisons across employment contracts is not promising and, therefore, workers employed on an individual contract may not be covered by the Act (Hyman 1994).

Alternatively, a complaint of unlawful discrimination could be taken to the Employment Tribunal as a personal grievance under the ECA, or to the Human Rights Commission, through similar provisions in the Human Rights Act 1993. Hyman (1994) argues that, on balance, the Human Rights Commission may be the most favourable alternative because the Commission is a specialist organisation with a high level of awareness of gender issues.

Currently there is no provision for pay equity in New Zealand. The Employment Equity Act 1990 would have implemented, for the first time in New Zealand, equal pay for work of equal value. This Act was subsequently repealed by the incoming National Government.

In addition, New Zealand has signed and ratified three international conventions with relevance to employment equity: ILO Convention

Nº100 (Equal Remuneration); ILO Convention Nº111 (Discrimination - Employment and Occupation) and; CEDAW. The general practice in New Zealand is that international conventions are not ratified until domestic legislation is in place to implement the provisions in the convention. This, however, has not taken place with respect to these documents.

Australian employment equity policies will be discussed in the following chapter.

Chapter 6

THE INSTITUTIONAL FRAMEWORK OF AUSTRALIAN EMPLOYMENT EQUITY POLICIES

6.0 Introduction

The focus of this chapter is the institutional framework in which employment equity policies in Australia have emerged. At one time New Zealand and Australia had similar wage fixing systems that were highly centralised, award-based and regulated. Changes in the New Zealand environment throughout the late 1980s, culminating in the Employment Contracts Act 1991, have meant that this parallel can no longer be drawn. Australia is also moving away from a centralised model - albeit at a more sedate pace - towards what commentators have described as 'a dual system of central and decentralised wage-fixing' (Quinlan 1994:378; Sutcliffe & Kitay 1994).

Australia had a system of decentralised collective bargaining in the early 1970s. This changed in the period 1975-1981 when wage indexation was introduced. A second period of decentralisation was introduced from July 1981, but the pressure for wage increases proved so great that a wage freeze was applied in December 1982. By mid 1983, after a change of government, Australian industrial relations altered again with the Accord between the Hawke government, employers and unions and the restoration of wage indexation. These policies heralded a return to an era of centralisation (Plowman 1986; Quinlan 1994).

More recently there have been moves to liberalise the industrial relations system in Australia, beginning with the introduction of second-tier bargaining in 1987 and including debate about whether wages should be determined at national, industry or enterprise level. A recent example of this is the process of 'award restructuring' that has been instituted following the Structural Efficiency Principles outlined

by the Industrial Relations Commission (IRC) in 1988.[1] In addition, the Industrial Relations Reform Act 1993 provides the basis for negotiating enterprise agreements, and will be discussed later in this chapter (Quinlan 1994).

Developments in Australian employment equity policy have occurred in two main areas: government legislation at both state and federal level; and the wage-fixing decisions of industrial tribunals. Although changes in both of these areas can be seen as contributing to a similar goal, the manner in which they came about, and the bases of the policies are somewhat different. They will now be addressed separately. In addition, other key influences on the development of employment equity policy in Australia will be discussed.

6.1 Government Agencies

A number of agencies are involved, both directly and indirectly, in promoting employment equity in Australia. Perhaps most obvious is the Office of the Status of Women, established in 1974, which is responsible for providing policy advice to government on matters relating to women. The basis for much of the work of the Office of the Status of Women is the National Agenda for women. The National Agenda is a strategic plan, identifying priority areas to be addressed, and includes the findings of recent reports, such as those in *Half Way to Equal* (ABS 1993b:viii). In February 1993, a second national agenda for women was released. *Women - Shaping and Sharing the Future: the New National Agenda for Women 1993-2000* was the result of a series of nationwide consultations with women in the community; women's groups, and women from all areas of government (Office of the Status of Women 1992).

The Affirmative Action Agency was established to administer the Affirmative Action (Equal Employment Opportunity for Women) Act 1986. The Agency is responsible for facilitating and monitoring the

[1] Award restructuring involves awards being overhauled to provide broad classifications of tasks and skills, and to set minimum rates. Reviews may also include other elements such as a reorganisation of working patterns and arrangements, plus the removal of discriminatory provisions (Kramer 1991; Office for the Status of Women 1992).

development of EEO programmes in the private sector. The work of the Agency is discussed in more detail later in this chapter.

Industrial tribunals exist at both state and federal levels in Australia. Although wage-fixing tribunals are not primarily concerned with issues of employment equity, their decisions have, in the past, played a significant role in shaping the relative pay of women and men. Recent changes to the federal industrial relations legislation should mean that issues of equity in employment are addressed during the process of wage determination. It is conceivable that this process may be less effective due to the fact that the same legislation also encourages enterprise bargaining.

The Human Rights and Equal Opportunity Commission (HREOC) administers anti-discrimination legislation in Australia. Part of the role of HREOC is to administer the Sex Discrimination Act 1984 as is discussed later in this chapter.

6.2 Legislation

Although most of the Australian states have anti-discrimination and equal opportunity legislation, the focus here is on Commonwealth legislation. In general, the relationship between Commonwealth and state legislation has been termed a 'parent' one. Section 109 of the Australian Constitution provides that Commonwealth legislation prevails if there is a conflict with state legislation (Craig 1993). The extent to which state laws will be altered is determined by the High Court of Australia. As interpreter of the Australian Constitution, the High Court has significant powers, as Summers (1994:81) has pointed out:

> The High Court can invalidate any legislation which it finds to be unconstitutional. In the process of acting as umpire in the federal system and ruling on the constitutionality of legislation, the High Court has, over the years of federation, had a great effect on the federal balance of power. Changing interpretations of the Constitution by the High Court have resulted in effective constitutional change without any significant change in the

written Constitution itself.

The Australian Constitution came into effect on 1 January 1901 and established the structures of federal government. The result has been described as a 'hybrid' system, combining the notion of 'responsible government' based on the Westminster system of government, and the American style of 'federalism' (Parkin & Summers 1994). In Australia, the national government is generally called the 'Commonwealth' government, and the combined state and national levels are called the 'Commonwealth of Australia'. The term 'federal', however, is used very freely.

The federal system of government is based upon a division of power between central government and state or regional government. This relationship is referred to as the 'federal balance of power'. It has been argued that since federation, and the declining powers of the states, this relationship has become an unequal one.

> The residual powers, the ones not mentioned in the Constitution, in theory belong to the states alone... Today Commonwealth involvement in these and other areas of state responsibility is highly visible and the independent role of the states has accordingly declined (Craig 1993:18).

Three pieces of Commonwealth legislation designed to achieve employment equity are the Sex Discrimination Act (Cth) 1984; the Public Service Reform Act (Cth) 1984; and the Affirmative Action (Equal Employment Opportunity for Women) Act (Cth) 1986.

6.2.1 Sex Discrimination Act 1984

This Act was prompted in part by Australia's obligations as a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Australia signed in 1980, and ratified in 1983 (O'Donnell & Hall 1988; Poiner & Wills 1991). Although other anti-discrimination legislation had been enacted at a state level, the Sex Discrimination Act was only the second piece of Commonwealth anti-discrimination legislation - the Racial Discrimination Act was

passed in 1975. Commentators noted considerable opposition to the Bill, centring on the supposed threat it represented to the family unit (Ronalds 1990; Poiner & Wills 1991).

The Sex Discrimination Act was passed on 21 March 1984, and came into effect on 1 August of the same year. The Act made it unlawful to discriminate either directly or indirectly, on the basis of sex, marital status or pregnancy.[2] The Act is a complaints-driven measure which is administered by the Human Rights and Equal Opportunity Commission (HREOC) and a sex discrimination commissioner.[3] Both individual and group actions are possible under the Act. The role of the HREOC is to investigate complaints, and facilitate a process of conciliation. If attempts at conciliation are unsuccessful, a hearing may be held.

Enforcing the provisions of the Act has not been a straightforward process. Under the original Act, the findings of the HREOC were not binding. To have the decision of the HREOC enforced, the complainant or the HREOC were required to launch a separate action in the Federal Court (s82).

It is significant that the orders and awards of tribunals and courts fell outside the coverage of the Act (s40(1)(e)). As a result, individuals were able to bring a case of discrimination only if they were *not* covered by an award. A large proportion of women in the Australian labour force (approximately 43 percent) are, however, unionised (Thornton 1993:37). The exclusion was originally granted because of the numerous awards known to contain discriminatory sections (House of Representatives Standing Committee on Legal and Constitutional Affairs 1992). Since the passing of the 1984 Act, awards must be consistent in terms of the legislation (s109). O'Donnell and Hall (1988) note, however, that this

---

2 In the original Act, superannuation schemes were exempted from coverage, and thus were able to discriminate. The Sex Discrimination Act Amendment Act 1991 extended the coverage to superannuation funds, (repealing s41), and took effect on 26 June 1993 (Office of the Status of Women 1992; Human Rights and Equal Opportunity Commission 1992).

3 The Human Rights Commission was established in 1981 and was superseded in 1986 by the Human Rights and Equal Opportunity Commission (Human Rights and Equal Opportunity Commission Act 1986 (Cth)). The first sex discrimination commissioner was Pam O'Neil (1984-87), followed by Ms Quentin Bryce (December 1987-92). Currently the position is held by Sue Walpole, whose term ends in late 1996 (*The Weekend Australian*, July 30-31, 1994).

directive does not always seem to be followed. Although awards were to be consistent with the Sex Discrimination Act, there was no enforcement measure to ensure that this occurred, nor any provision for the review of awards.

For the most part, the HREOC has arrangements with each separate state so that complaints under the Sex Discrimination Act are handled by a state office dealing with both state and Commonwealth legislation. Although an action may be brought under either state or Commonwealth legislation, there is the possibility of recourse through state legislation, if the process is unsuccessful at a federal level (House of Representatives Standing Committee on Legal and Constitutional Affairs, 1992).

In early 1990, the House of Representatives Standing Committee on Legal and Constitutional Affairs began hearing submissions on the effectiveness of the Sex Discrimination Act 1984. The terms of reference in *Half Way to Equal: Report of the Inquiry into Equal Opportunity and Equal Status for Women in Australia* were based upon the 1988 National Agenda for Women. These terms included:

> (1) effective participation by women, including young women, in decision making processes;
> (2) the extent to which women receive appropriate recognition for their contribution to society;
> (3) participation by women in the labour force including the efficacy of equal employment opportunity schemes (House of Representatives Standing Committee on Legal and Constitutional Affairs 1992:xi).

Of the recommendations made by the Committee, one of the most far-reaching was that the exemption in place for the decisions of tribunals and courts (s40(1)(e)) should be investigated, with a view to it being removed (recommendation 74).

In addition, recommendation 67 proposed that:

> the HREOC determinations be registrable in the Federal Court and that in the absence of an appeal they automatically become

an enforceable order of the Court (House of Representatives Standing Committee on Legal and Constitutional Affairs 1992:263).

This was a significant recommendation, for it meant that complainants would no longer need to endure a second hearing in the Federal Court to have the HREOC's decision enforced. The Committee acknowledged that initiating a Federal Court hearing in addition to the HREOC process was a deterrent to most complainants (House of Representatives Standing Committee on Legal and Constitutional Affairs 1992).

These recommendations have since been implemented in the Sex Discrimination and other Legislation Amendment Act 1992. The provisions of this amended Act came into effect in January 1993. Awards are now subject to the provisions of the Sex Discrimination Act 1984, and may be reviewed by the federal industrial tribunal (Industrial Relations Commission (IRC) (s50A). Awards made by the then Australian Conciliation and Arbitration Commission (ACAC) before August 1984 are exempted from the Sex Discrimination Act. If such an award is varied in any way, however, it also becomes subject to the Act (s4 of 1992 Act). The HREOC, and unions, may intervene on behalf of an individual before the IRC pursuing a complaint regarding an award.

In addition, the cumbersome process of a second hearing in the Federal Court no longer applies. Under the 1992 Act, the HREOC's decisions must be registered in the Federal Court (s82A). These registered determinations are then binding (s82B).

In February 1995, this section of the Act was challenged by a High Court decision in which the enforcement of anti-discrimination legislation was found to be unconstitutional (*The Australian*, 24 February 1995). The Racial Discrimination Act 1975 and the Sex Discrimination Act 1984 both contain similar enforcement provisions. Consequently, although the case specifically dealt with the provisions of the Racial Discrimination Act, the same issues arise over enforcing the Sex Discrimination Act. The High Court determined that the HREOC could not enforce its findings as if they were High Court

orders. The Court's decision is presumably concerned with possible blurring between role of government and that of the judiciary. The Federal Government is currently seeking legal advice on this matter. This decision leaves a question over the position of complainants under the Sex Discrimination Act: determinations of the HREOC may have the same status as that prior to the 1992 amendments and, therefore, complainants may still be required to relitigate to make HREOC decisions binding.

State legislation generally excludes the decisions of wage-fixing tribunals from coverage under the Act. It would, nonetheless, be possible to lodge a complaint of wage discrimination under the legislation of certain states.[4] Burton (1991:127) notes that:

> despite the availability of procedures for the review of alleged discrimination in the terms and conditions of employment, there have been no wage discrimination claims brought under the Commonwealth *Sex Discrimination Act* 1984.

These issues highlight the centrality of the role and decisions of industrial tribunals in the Australian arena. Decisions of the federal tribunal are discussed later in this chapter.

Although complaints brought under the Sex Discrimination Act are usually supported by a trade union, O'Donnell (1988) argues that there is a sense of distrust on the part of unions towards anti-discrimination legislation and the impact that it might have upon hard-won industrial conditions. Similarly, Thornton (1993:35) states that,

> the fundamental commitment of unions to the classwide resolution of wages disputes through industrial forums conflicts with the philosophy underpinning the individual, complaint-based orientation of anti-discrimination forums...

Clearly, there are also other potential problems with a complaints-based measure, such as the onus of proof placed upon a complainant. In addition, by its very nature the Act is reactive. It does not prevent discrimination. Rather it responds to events which, allegedly, have

4 At time of writing, this included South Australia and Western Australia (Thornton 1993). Tasmania is the only state without sex discrimination legislation.

already happened. Not only does a complaints-based measure require an act of discrimination to occur, but it also demands a great deal of initiative on the part of the individual laying the complaint and, on occasions, may involve substantial sums of money. Despite this, a complaints-based system undoubtedly has a 'disincentive effect' which has flow-on benefits in terms of preventing future discrimination.

The Sex Discrimination Act currently excludes religious, sports and military combat bodies. Proposed amendments to the Sex Discrimination Act 1984, however, were recently announced by Prime Minister Paul Keating on the tenth anniversary of the passing of the Act. The changes are particularly aimed at toughening the provisions against indirect discrimination. Keating noted that:

> due to the complexity of the Act's test for indirect discrimination and the lack of public understanding on the issue, there have been only 11 such complaints in the Act's 10-year operation.

Employer groups have indicated some reservations about the changes, particularly regarding the issue of onus of proof (*The Weekend Australian*, 30-31 July 1994).[5]

6.2.2 Public Service Reform Act 1984

The second Commonwealth Act important to employment equity policy is the Public Service Reform Act 1984. The Act amended the provisions of the Public Service Act 1922, and legislated for the implementation of EEO programmes in the public sector. This change came into effect on 1 October 1984.

There had, however, been earlier initiatives regarding EEO in the public sector. In 1975, an EEO section was set up as part of the Public Service Board, with the role of 'developing and implementing EEO programs and investigating and conciliating cases of discrimination in employment' (Radford 1985:54). In 1978 the EEO section was upgraded to branch status and renamed the EEO Bureau. One of the tasks of

5 Proposed changes to the Sex Discrimination Act 1984 include: shifting the onus of proof to employers to justify situations of indirect discrimination, removing the 'reasonableness' defence for direct pregnancy discrimination, banning discrimination on the basis of the identity of one's spouse, and narrowing the exemptions that cover the Australian Defence Force to include solely combat duty.

the Bureau was to provide a consultative service on the preparation of EEO programmes. Departments reported to the Public Service Board on their progress (Poiner & Wills 1991).

No formal requirements for EEO programmes had been stipulated, however, and the discussion paper *Affirmative Action for Women* noted the unsatisfactory progress made by some departments. Poiner and Wills (1991:47) add that:

> lacking any formal requirement that the policies be adopted and programs implemented, and lacking negative sanctions in the event of dereliction, departments demonstrated varying degrees of commitment.

The Public Service Reform Act 1984 made discrimination on a range of grounds, including sexual preference, unlawful in federal employment. Four target groups were specified: male aboriginals, migrants, disabled, and women (s22(B)). The Act required departments to prepare and implement EEO programmes. They were to proceed through six steps, including consulting with unions, and assessing the effectiveness of programmes once in place. The Public Service Board evaluated the programmes and performance of the Departments.

More changes were pending for the public service by September 1986 when an Efficiency Scrutiny Unit, headed by merchant banker David Block, was established to assess possible reforms to the public sector. The Labor Party, headed by Prime Minister Bob Hawke, was re-elected in July of 1987, and on 14 July 1987 the *Block report* was released. The reforms aimed to create a leaner public sector - thereby making it more efficient and responsive - and to 'revitalise its management' (Wanna 1994:61).

Part of the focus of the *Block report* was on changing the perceived rigid organisational structure of the public service by devolving responsibility (Jaensch 1992). This had implications for EEO because of plans both to close down the regional offices of the Public Service Board, and to abolish the Board itself (which was to be succeeded by the Public Service Commission). Jaensch (1992:186) states that:

> The central authority was strictly limited in a Public Service Commission, essentially on issues of *policy* on recruitment, promotion, mobility and the like, and even these roles were shared with another new authority, the Public Service Management Board.

Responsibility for EEO was to be devolved to the departmental level, and the reporting of EEO to take place solely through annual reports. Although the newly formed Public Service Commission was to continue monitoring the progress of EEO, the reporting requirements were now absent, as were the specialist EEO units. As Sawer (1987:95) argues, 'the impetus for their [EEO programmes] development and implementation had been the external reporting requirements' (Burton 1991).

In addition, these moves signified a lower profile and status for EEO within the public sector, and implied that the goals of EEO were inherently incompatible with the efficiency aims of free-market management. Ellis points to a similar situation in New Zealand:

> In that kind of environment, attempting to introduce EEO for reasons of social justice, equity and discrimination was almost impossible... the only way to get anyone to listen to the message of EEO was to put it in managerial language - that is all that they were able to hear then (interview in Sayers 1994:289).

In 1987, the EEO provisions contained within section 22B of the Public Service Reform Act were extended to statutory authorities and government organisations through a new piece of legislation: the Equal Employment Opportunity (Commonwealth Authorities) Act 1987 (Cth). This Act included organisations such as Telecom, Australia Post, and the Australian Federal Police. In addition, in 1986, legislation had been passed requiring private sector employers to develop EEO programmes. I will now discuss the process leading to the development of this statute.

6.2.3 Policy Discussion Paper

A policy discussion paper on *Affirmative Action for Women* (Green Paper)

was issued by the Department of Prime Minister and Cabinet in May 1984 (Department of Prime Minister and Cabinet, Office of the Status of Women 1985:2). The definition of affirmative action outlined in the Discussion Paper was:

> a systematic means, determined by the employer in consultation with senior management, employees and unions, of achieving equal employment opportunity (EEO) for women. Affirmative Action is compatible with appointment and promotion on the basis of the principle of merit, skills and qualifications.

As a result of the Discussion Paper, a twelve month pilot programme running from 2 July 1984, was initiated by the Hawke Government. The Pilot Programme involved 28 companies and three higher education institutions setting up affirmative action programmes. Each participating organisation was required to have at least 100 employees. An Affirmative Action Resource Unit was also established within the Office of the Status of Women, to assist the organisations in the pilot programme by liaising and providing resource material. In addition, a Working Party on Affirmative Action Legislation was established to monitor the success of the Pilot Programme and to recommend appropriate legislative measures (Department of Prime Minister and Cabinet, Office of the Status of Women 1985:2-3; Ronalds 1990; Poiner & Wills 1991). This report, in September 1985, was to form the basis of the 1986 Affirmative Action (Equal Employment Opportunity for Women) Act, as is discussed in the following section. Ronalds (1990) notes that some of the submissions received by the Working Party voiced considerable opposition to the proposals. Poiner and Wills (1991:50) point out the nature of this opposition.

> Opposition was frequently given a religious flavour and certainly drew support from arguments of the New Right. Other opposition came from organisations in the business sector, including a number of participants in the pilot program. In broad terms they supported the concept of equal employment opportunity but were against legislation requiring prescribed affirmative action programs. Not all these groups, however, were ill-disposed towards facilitative legislation which would enhance progress undertaken voluntarily by individual organisations.

To this end, the Business Council of Australia, and the Confederation of Australian Industry (now part of the Australian Chamber of Commerce and Industry), established a Council for Equal Employment Opportunity in 1985, to promote EEO in the private sector on a voluntary basis (Ronalds 1990). The Council was set up in reaction to the proposals contained in the Working Party report, and instead sought a continuation and expansion of the Pilot Programme. EEO is promoted by the Council on the grounds of its benefits for competitiveness and profitability. Burgmann (1993:104) comments that in its EEO policies, the Council differentiates between skilled and unskilled female employees. These are:

> the small number of highly skilled [workers], who should be offered maternity leave provisions and work-based child care as 'cost effective ways of achieving a higher return rate'; and the more numerous part-time or casual workers, whose urgent need for flexible working arrangements can be used to cut labour costs in the less skilled areas of employment.

The EEO Trust, set up in New Zealand after the repeal of the Employment Equity Act, and detailed in chapter 5, resembles the general function of the Council for Equal Employment Opportunity to the extent that it also emphasises the role of EEO in successful business. This is discussed further in chapter 7.

6.2.4 Affirmative Action (Equal Employment Opportunity for Women) Act 1986

The final report of the Working Party on Affirmative Action Legislation in September 1985, led to the introduction of the Affirmative Action Act, as mentioned earlier. From 1 October 1986 the Affirmative Action Act required all private sector organisations with 100 or more employees to prepare EEO programmes. The Act also includes higher education institutions. Initially, statutory authorities were not covered by this legislation, but legislation in 1987 removed this exception (Poiner & Wills 1991). The Act specifies an eight step process for developing a programme, and requires employers to consult with women and unions, but does not specify the content of programmes

(Affirmative Action Agency 1993; Thornton 1993).

It is unclear why the Act focuses exclusively on EEO for women and does not include any other group. Conceivably this is a pragmatic move to introduce a concept to which the private sector has not historically been receptive. Indeed, as mentioned previously, there was vocal opposition to the Act in any form, and it seems likely that the inclusion of other specified groups would have strengthened this opposition, thereby hindering the progress and implementation of the Act.

Among other things, the Act established the Affirmative Action Agency to implement the legislation. The Affirmative Action Agency refers to EEO in its annual report, outlining the goal that

> women have fair and equal access to employment opportunities and benefits, and are not inhibited or prevented from taking up those opportunities and benefits through the operation of barriers (Affirmative Action Agency 1990:83 in Kramer 1991:5).[6]

Employers must report annually to the Agency. Implementation was gradual, according to the size of the enterprise, and 1990 was the first year that all organisations were required to submit a report to the Director of the Agency. Employers who do not meet these requirements may be named in a report tabled in parliament. In addition,

> from 1 January 1993 the Government will not conduct business with organisations which fail to comply with the Act and the organisations will not be eligible for specified forms of industry assistance (Affirmative Action Agency 1993:36).

In the year 1992-93, 11 companies did not meet the Act's requirements, despite repeated efforts by the Agency (such as sending letters by registered mail) which it is required to make under the Act.

The Act has been criticised on the grounds that the sanctions brought against non-compliant companies are not strong enough. In addition, the provisions of the Act do not set specific levels or goals for female representation. Referring to the Act, Graycar and Morgan (1990:109)

[6] In addition, an Equal Pay Unit was established in the federal Department of Industrial Relations, and has been in operation since March 1991 (Office of the Status of Women 1992).

point out that:

> despite the beliefs of its many critics, the Commonwealth legislation has turned its face firmly against imposing quotas for the employment of women, and against the use of severe sanctions for a failure to comply with its provisions.

The issue of quotas is thorny, and provokes the criticism that as a prescriptive measure it engineers, in this case, the gender-balance of the workplace. A recent example of the debate surrounding quotas in Australia is evident in the decision by the Australian Labor Party's national conference, on 27 September 1994, to introduce a new rule to preselect women in 35 percent of all winnable seats by the year 2002. In addition, the rule allows the national executive to overturn male preselections in States that are not meeting the target. In the current federal parliament there are 15 women out of a total of 147 seats - forming a little over ten percent (*The Australian*, 28 September 1994). This decision has provoked criticism from some commentators, including a number of prominent women, who claim that quotas imply 'tokenism' and may mean that inappropriate appointments are made. Rather, adjustable 'targets' have been suggested as a more favourable alternative (*The Australian*, 6 October 1994; *The Australian* 18 October 1994).

The Affirmative Action legislation, however, appears consciously to avoid quotas by name, while making reference to setting future objectives and 'forward estimates', by which they mean:

> a quantitative measure or aim, which may be expressed in numerical terms, designed to achieve equality of opportunity for women in employment matters, being a measure or aim that can reasonably be implemented by the relevant employer within a specified time (s(8)(3)) (Thornton 1990:229).

Rather, the concept of 'merit' is applied and is seen to fit with established management practices. To this end, the Merit Protection (Australian Government Employees) Act 1984 was passed. This legislation established the Commonwealth Merit Protection and Review Agency (Merit Protection and Review Agency 1994; *The Australian*, 18

October 1994). The agency's role is to ensure fairness and equity in personnel practices within the public sector. Nevertheless, the Act does not define 'merit'. Thornton (1985:32) points out that the Act 'consciously avoids any attempt to define that which it purports to be protecting'.

The ambivalence on the part of many feminists regarding the application of the merit principle in the workplace is well grounded. Reference to 'merit' circumvents the issues entwined with evaluating worth, and instead implies neutrality. One of the underlying assumptions behind the application of the merit principle is that judgments of skill, value and worth are straightforward - based upon readily apparent, objective criteria. Use of the merit principle does not necessarily require a reassessment of the appropriateness of the evaluative criteria. The concept of merit was discussed in fuller detail in Chapter 2.

6.2.5 Moves to Reform the Labour Market: The Industrial Relations Reform Act 1993

In recent years, the Australian wage determination system has been modified to be more responsive to market pressures. These changes are briefly outlined.

Two-tier wage bargaining was introduced to Australia in March 1987, to replace full wage indexation. Formulated during a period of economic downturn, two-tier bargaining was aimed at providing an element of flexibility in wage-setting processes. The supplementary tier, or 'over-award' payment, is negotiated with employers.

The negotiation of over-award payments is an area in which male dominated unions have fared better than predominantly female unions (HREOC 1992; Thornton 1993). In 1992, the HREOC report (1992:6) investigating the occurrence of sex discrimination in over-award payments, cited 'confidentiality between employers and employees [as] a major limitation to discovering possible discrimination in overaward payments'. The issues that arise in Australian over-award pay debates

have similarities to the issues faced by women in New Zealand negotiating individual contracts.

The report cites a number of other reasons for the lower over-award payments given to women. For instance, part-time and casual workers, of whom women form a large proportion, not only have less access to over-award payments but also lack industrial strength. This highlights the difficulty of occupational segregation for women, located in less-unionised, lower-status occupational sectors, with little bargaining power. Statistical data confirm that women predominate in these areas of the labour market. For instance, in 1992, 54.2 percent of women were employed as Clerks or Salespeople and Personal Service Workers (Australian Bureau of Statistics 1993b:125).

There has been recent pressure from business groups in Australia to further liberalise the labour market and to decentralise the industrial relations system. The Industrial Relations Reform Act 1993, as discussed below, is an example of this shift in focus.

The Labor Government reformed the Industrial Relations Act 1988 with the aim of moving towards a more market-based industrial relations system, involving less centralised wage fixing and a new role for the Industrial Relations Commission. The new Industrial Relations Reform Act 1993 came into force on 30 March 1994 (*The Australian*, 5 October 1994). Changes to the Act, in particular, included removing obstacles to the negotiation of enterprise level agreements (Quinlan 1994).

Despite the expectations of employer groups that the 21 September 1994 national wage decision would allow for more enterprise bargaining and wage flexibility, the IRC's decision provided up to a $24 per week pay increase for some lower paid workers. As a result, the amended Act has been criticised for not going far enough by various employer groups (*The Australian*, 22 September 1994). The dissatisfaction voiced by employers has since led the five main employer organisations to apply

to have the Act overhauled.[7] The employers argue that the Act should be amended to allow awards to be pruned to core conditions, so that 'flexible' enterprise bargaining will be encouraged (*Sydney Morning Herald*, 16 November 1994).

The president of the IRC, Justice O'Connor, clarified the current standing of awards in the Australian industrial relations environment when she said that 'the role of the award system is to provide a safety net underpinning enterprise bargaining' (*The Australian*, 19 October 1994). The prospect of enterprise bargaining in Australia - once little more than a distant spectre - has clearly taken on a material form.

The Industrial Relations Reform Act 1993, however, may also offer some degree of encouragement for pay equity. Justice O'Connor pointed out that under the Act, the Commission must now follow the International Labour Organisation (ILO) Conventions when reviewing awards, rather than the 1972 Equal Pay Principles, indicating that the Commission will interpret equal remuneration broadly (s170BA, s170BC). The meaning given to 'equal pay for work of equal value' is to be the same meaning as that given in ILO Convention Nº100 (Equal Remuneration). Specifically, Article 1 of the Convention provides that:

> the term 'equal remuneration for men and women workers for work of equal value' refers to rates of remuneration established without discrimination based on sex.

The Commission may make an order, providing for increases in rates of remuneration, to ensure equal pay for work of equal value for those employees covered by the order. There are a number of conditions, however, that must first be met. The Commission must be satisfied that equal pay for work of equal value does not already exist for those employees, and that the order would give effect to one or more of the Anti-Discrimination Conventions or their related Recommendations

---

[7] The five main employers' organisations in Australia are: (i) the Australian Chamber of Commerce and Industry (ACCI), (which formed from a 1992 merger of the Australian Chamber of Commerce and the Confederation of Australian Industry); (ii) the Business Council of Australia (BCA), (which formed in 1983 from a combination of the former Business Roundtable and the Australian Industries Development Association); and industry specific groups, such as, (iii) the Australian Chamber of Manufactures; (iv) the Metal Trades Industry Association; and (v) the National Farmers' Federation (Head 1994:285; *Sydney Morning Herald*, 16 November 1994).

(№90 and №111). Orders can only be made upon application from either an employee, a trade union, or the Sex Discrimination Commissioner. In addition, the Commission cannot consider or decide upon an order if an alternative remedy for equal pay for work of equal value already exists under State or Commonwealth law.

It is apparent that the success of this measure is dependent upon the generosity of the interpretation given by the Commission. Despite this reservation, the Act is an example of the way in which principles of equity, justice, and international obligations can be incorporated into - to a certain degree at least - domestic legislation. Australia is party to a number of international obligations pertaining to employment equity which will be detailed later in the chapter.

The efficacy and application of the new equal pay for work of equal value provisions in the Industrial Relations Reform Act will shortly be tried. The Australian Confederation of Trade Unions (ACTU) recently released their plans to mount pay equity test cases under the Act within the next six months. The test cases will target discrimination against women in over-award payments and bonuses. They will focus on particular industries, including the manufacturing, local government, and health sectors (*The Australian*, 8 March 1995).

6.3 Industrial Tribunal Decisions

Progress toward pay equity in Australia has come about through the decisions of industrial tribunals, rather than through legislation (Burton 1991). The industrial tribunals control wage-setting at both state and federal levels. The wage setting involves a conciliation process and compulsory arbitration (Thornton 1993).

The federal arbitration tribunal was initially named the Commonwealth Conciliation and Arbitration Court until 1956, when it changed to the Australian Conciliation and Arbitration Commission (ACAC). Since 1988 it has been referred to as the Australian Industrial Relations Commission (IRC) (O'Donnell & Golder 1986; Jamrozik 1994).

The Harvester decision of 1907 was crucial for women in Australia, because it introduced the concept of a 'family wage'[8] to the wage-setting process. Female wages were to be set at various proportions of the male wage. This concept prevailed until 1969.

A male minimum wage was established in the 1966 National Wage Case, but it was not until 1974 that an adult minimum wage was set. In that year, Australia also ratified the International Labour Organisation (ILO) 'Equal Remuneration' Convention 1951 (Nº100), which is concerned with equal pay for work of equal value.

The Harvester decision was finally challenged by the Equal Pay Cases decision of 1969 brought by unions seeking a flat-rate increase of $AU8.20 for all female workers. Although the aim of a flat-rate increase was not successful, the Commission acknowledged that the concept of 'equal pay for equal work' was 'a socially proper one' (in Thornton 1993:25). The decision was implemented over three years. Nevertheless, it has been estimated that the decision affected only 18 percent of women in the female labour force (Burton 1991:146; Thornton 1993:35). One reason for this was the narrow concept of equal work endorsed by the Commission that specifically excluded work carried out solely by women. The ruling made no provision for male/female comparisons.

As a result, the Australian Council of Trade Unions (ACTU) brought the National Wages and Equal Pay Case in December 1972, seeking a ruling on the concept of 'equal pay for work of equal value'. This time the Commission acknowledged that the application of 'equal pay for equal work' was too narrow. Consequently, the Commission decided that 'equal pay for work of *equal value*' would be gradually introduced, leading to full implementation by 1975. The determination of the value of a job was to be based upon generally applicable wage rates, rather than worth to a particular employer.

---

8 As detailed in the previous chapter, the term 'family wage' refers to a wage that is sufficient to support a male breadwinner and his family. The 'family wage' is premised on the existence of a nuclear family in which the male is the sole earner, and the female carries out unpaid work in the home. The family wage model has had the effect of raising male wages in relation to female wages, because of its assumption that women do not have to support families, and therefore do not require equal pay (O'Donnell & Hall 1988; Ginsberg 1992).

> The value of the work refers to worth in terms of award wage or salary fixation, not worth to the employer (National Wage and Equal Pay Cases 1972 147 CAR 180).

The issue of how value should be determined was to arise again for the Commission, in relation to the concept of 'comparable worth' in 1985.

Commentators have noted that the implementation of minimum wage legislation, at around the same time, made it difficult to judge the effectiveness of each measure. The effect of the minimum wage decision, however, was particularly beneficial to women receiving low-pay, and therefore contributed to pay equity (Thornton 1993).

The 1983 National Wage Fixing Principles decision potentially inhibited any attempts at male/female wage parity. The ACAC ruled that there would be no adjustments to wages, other than to correct 'anomalies' or to reward increased productivity. As Burton (1991:134) points out, 'the implementation of the 1972 decision [recommending equal pay for work of equal value] is subject to the constraints of the anomalies provision of the wage-fixing principles'.

It was partially to clarify their position under the 'anomalies and inequities' principle that the ACTU brought the Nurses' Comparable Worth Test Case in October 1985. The union was acting on behalf of the Royal Australian Nursing Federation and the Hospital Employees Federation - seeking to vary the Private Hospitals' and Doctors' Nurses (ACT) Award 1972 (O'Donnell & Golder 1986).

The case was unsuccessful: on 18 February 1986, the ACAC rejected the concept of 'comparable worth' and instead restated their commitment to the concept of 'equal pay for work of equal value' (Burton 1991). The Commission, however, agreed that any applications concerning the 'equal pay for work of equal value' principle could be processed under the 'anomalies' clause. The Commission had already stated in 1983,

with regard to the 'Accord'[9] that existed between the ACTU and the Government, that:

> in the resolution of anomalies... the Commission must be satisfied that any claim under this Principle will not be a vehicle for general improvements in pay and conditions and that the circumstances warranting the improvement are of a special and isolated nature (National Wage Case Decision 1983 [Print F2900], provision 6, paragraph (a)(i), in Burton 1991:134-5).

The concept of comparable worth was problematic to the Commission. It was perceived to be an American idea from a highly decentralised labour market. The Commission's argument was that 'comparable worth' would necessarily interfere with the centralised system in Australia by upsetting established relativities. As mentioned previously, the assessment of work value in Australia had been based upon general award rates rather than worth to the employer. Justice Maddern explained the Commission's reasoning in his judgment.

> As explained to us by the Commonwealth, in the United States at least, the doctrine of comparable worth refers to the value of the work in terms of its worth to the employer... In our view the use of the term comparable worth in the Australian context would lead to confusion, and in particular, we believe that it would be inappropriate and confusing to equate the doctrine with the 1972 principle of equal pay for work of equal value. For all of these reasons we specifically reject the notion (1986 18 IR 461-62 [ACAC]).

Clearly the Commission did not see comparable worth as an appropriate standard to use in the Australian labour market system, and commented that it would 'strike at the heart of long accepted methods of wage fixation in this country' (18 IR 461). This seems a curious conclusion for the Commission to draw, because the implications of 'equal pay for work of equal value' can just as readily be

---

[9] The 'Accord' between the ACTU and the Labor Government was established in February 1983, as a result of the economic recession in Australia beginning in the early 1980s. This agreement was later extended to include business groups. Essentially the Accord is based on a trade-off between wage increases and job losses, and is an agreement that has continued - to varying degrees - for a number of years. Kelly (1994:63) describes the Accord as the basis of 'an economic philosophy to fight unemployment and inflation simultaneously' (Watts 1990; Brosnan, Burgess & Rea 1991; Kelly 1994).

equated with those of 'comparable worth'. It could well be argued that they are coterminous, and that the distinction identified by the Commission is semantic.

Hyman (1992:16) argues that there were other reasons for the decision.

> This judgment was intended to keep the comparisons narrow, to like work, rather than to keep market considerations totally removed from the work value process. The distinction between the "worth to the employer" and "work value" approaches to pay-fixing is not really clearcut, as market factors are inevitably part of both processes.

In the centralised wage-fixing system of Australia, the Commission's role is pivotal. Monitoring changes in wage relativities is an integral aspect of this system, and one which can be beneficial for pay equity. On the other hand, too rigid an adherence to established relativities may be an obstacle to greater parity between female and male wages. Indeed, part of the effect of equal pay for work of equal value assessments is to question the validity of certain occupational wage relativities. Unless there is a willingness on the part of the Commission to make work value comparisons *across awards and industries*, and thereby potentially upset the system of relativities, there seems limited scope for achieving pay equity for women. Because of the existence of occupational segregation, however, it is exactly this sort of comparison that must be made.

The international conventions to which Australia is party will now be discussed.

6.4 International Obligations

As outlined in chapter 5, signing an international convention indicates agreement with, and an intention to implement the provisions of that convention. Signing a convention does not carry international obligations - this only occurs when a convention is ratified. Australia follows the general practice of not ratifying international conventions until domestic legislation is already in place implementing the provisions of the document (Department of the Prime Minister and

Cabinet, Office of the Status of Women 1986). Australia signed CEDAW in 1980, and it was ratified in 1983. The Commonwealth Sex Discrimination Act 1984 was passed in response to Australia's obligations under this Convention.

International Labour Organisation (ILO) Convention №111 (Discrimination - Employment and Occupation) was ratified by Australia in 1983 and has been implemented into Australian law through the Human Rights and Equal Opportunity Commission Act 1986 (Burton 1991), and the Industrial Relation Reform Act 1993 (s170BA).

Australia ratified ILO Convention №100 (Equal Remuneration) in 1974 and, as discussed in section 6.2.5, has been recently implemented through the Industrial Relations Reform Act 1993 (s170BA).

6.5 Conclusion

The Australian path towards employment equity has been characterised by a relatively high level of government intervention in the labour market, and a centralised system of wage-fixation. Although these institutional features are not static, and indeed have been undergoing recent changes in focus, their current form continues to reflect an emphasis upon government intervention in the labour market.

Enterprise bargaining is encouraged under the Industrial Relations Reform Act 1993, with awards viewed by the IRC as providing a safety-net underpinning this. The Act provides for reviews of awards to be carried out by the IRC. In this situation, and when an award is altered or a new award made, the Commission must refer to the principles contained within relevant ILO Conventions, rather than the narrower 1972 Equal Pay principles. Consequently, potential for equal pay for work of equal value comparisons exists under this legislation. The utility of this Act for employment equity depends upon the success of test cases and the generosity of the IRC's interpretation.

Human Rights and Equal Opportunity Commission (HREOC)

administers the Sex Discrimination Act 1984. This Act made discrimination on the grounds of sex illegal, and complainants may bring a case of discrimination to the HREOC.

Australia has legislation covering the public sector - the Public Service Reform Act 1984 - requiring departments to develop and implement EEO programmes. Similar legislation covers statutory authorities (Equal Employment Opportunities (Statutory Authorities) Act 1987).

Similar requirements are in place for the Australian private sector through the Affirmative Action (Equal Employment Opportunity for Women) Act 1986. This legislation covers organisations employing over 100 employees. Facilitation and monitoring is carried out by the Affirmative Action Agency.

Prior to the establishment of the Affirmative Action Agency, business groups set up a Council for Equal Opportunity in Employment to encourage the development of EEO programmes in the private sector.

The next chapter will consist of a comparison of New Zealand and Australian women's labour market trends, and of the institutional framework of policies in each country that seek to improve that position.

Chapter 7

GOVERNMENT INTERVENTION IN THE LABOUR MARKET: A COMPARATIVE ANALYSIS

7.0 Introduction

In the preceding three chapters, I have outlined the labour market trends relating to employment equity, and the institutional framework in which both the patterns of male and female labour force participation, and the development of employment equity policies are situated. In this chapter I will identify similarities and differences between New Zealand and Australia, regarding labour market trends in participation and earnings, and the nature of the institutional frameworks.

In view of these similarities and differences, the research question needs to be revisited. The focus of the research is the extent to which the nature of government intervention in the labour market, in the form of employment equity policies, could influence outcomes. These outcomes are expressed as the general level of employment equity or, more specifically, the reduction in the earnings gap.

Brosnan and Rea (1992:219) outline the argument, developed in an earlier publication, (Brosnan, Burgess and Rea 1991), that:

> Whereas the two countries produced closely comparable measures on a range of variables until 1984, their experiences after that time changed dramatically. Equally relevant, Australia's unemployment has rocketed since the Accord has broken down and monetarist policies akin to the Rogernomics programme has [sic] been implemented.

New Zealand and Australia have, historically, exhibited a degree of similarity in the approach each country has taken to wage determination and issues of employment equity.

7.1 Labour Market Position of Women in New Zealand and Australia: Similarities and Differences

a) Similarities

It should be noted that slight differences between each country are more likely to reflect sampling errors in the household surveys, and variations in survey questions and techniques, rather than to signify labour market changes.

Unemployment Although general unemployment levels were higher in Australia in the early 1980s than those in New Zealand, it is worth noting that New Zealand unemployment rates rose more steeply than Australia's through the mid 1980s and early 1990s. In 1987, the unemployment rate for women in New Zealand was 4.6 percent, rising to 9.4 percent in 1993. Australian women faced an unemployment rate of 8.3 percent in 1987, but this rose by only one percent to 9.5 percent in 1992. Australian unemployment figures may, however, be expected to echo the recent downward trend in unemployment rates in New Zealand. In March 1995. the unemployment rate in New Zealand for both women and men was 6.9 percent (Statistics New Zealand 1995a: Table 1).

In both New Zealand and Australia, women dominate the group of people classed as 'marginally attached' to the labour force. In 1993, New Zealand women made up 64 percent of the marginally attached, representing a drop of 5 percent since 1986. The proportion of Australian women marginally attached to the labour force has also dropped, from 73.5 percent in 1988 to 70.9 percent in 1992. Some of the variation in levels between the countries may be attributed to the fact that the Australian survey of Persons Not in the Labour Force, is a subgroup of the Labour Force survey, and therefore uses a different sample size and group.

Industrial and Occupational Distribution A key point to emerge is the high level of occupational segregation in both Australian and New Zealand labour markets. In both countries, a third of women are employed as Clerical workers, compared to approximately 7 percent of

men. Although Australian women (6.7 percent) are better represented than New Zealand women (3.1 percent) in Administrative and Managerial work, in each country, just over twice the proportion of men are employed in those occupations than women. The reality of occupational segregation emphasises the need both for women to participate in a wider range of occupations and, importantly, for those occupations dominated by women, to be remunerated at a level properly reflecting the skills and experience necessary for the position.

In addition, because of the existence of vertical segregation, few women are currently employed in senior positions, and consequently do not have access to the salary and status that such positions confer. The proportion of women holding positions at a management level or equivalent is instructive in comparing the impact of vertical segregation in each country.

Vertical Segregation - Private Sector In the New Zealand private sector, seven women were on boards of directors of the top 20 companies in 1992. This proportion remains unchanged from the levels in 1990, meaning that women represent just three percent of all directors (Statistics New Zealand 1993a:179).

In the private sector in Australia, women also made up only three percent of board members in a study by management consultants Korn/Ferry. Professor Leonie Still of University of Western Sydney surveyed 1,392 corporations in 1984 and 1,100 in 1992, finding 10.9 percent of women in management in 1984 and 11.8 percent in 1992. The proportion of women employees who reach management levels, however, remained a constant 2.9 percent. In other words, the promotion rates had not improved, but the overall participation rates had shown a slight positive change (*The Independent Monthly*, February 1994:29).

Women holding private sector positions which are equivalent to SES level equal less than two percent (Helen Lynch in *The Australian*, 10 October 1994).

Hours of Paid Work The prevalence of part-time work has increased in New Zealand and Australia. In both countries, a greater proportion of women work part-time than men. One of the most obvious benefits of working full-time is a higher level of earnings. Benefits may also include an increased chance of promotion; a higher status; and access to childcare facilities. Although the average ordinary time week in each country has been increasing for women and men, women continue to work slightly shorter paid weeks than men.

Income and Earnings In both New Zealand and Australia women earn less than men on average, and the proportion of women's total earnings that comes from overtime is smaller than that of men. There are also, however, distinct patterns which are discussed below.

b) Differences

Labour Force Participation Levels of participation are somewhat similar in both countries, however, Australian participation has been increasing for women from 1987-94, whereas this has not been the case in New Zealand. In New Zealand in 1987, women's participation rate was 54.3 percent, dropping to 53.0 percent in 1990. In September 1994, this rate was 54.6 percent. Although lower to start with, the participation rate for women in Australia climbed from 48.3 percent in 1987, to 52.6 percent in October 1994.

For people *not* in the labour force, the Australian data show significantly higher proportions of women including their main work as 'home duties' or looking after children (70.6 percent), than women in New Zealand (26.6 percent). Unlike Australia, the New Zealand categories do not specify 'home duties' or equivalent. If given that option, however, some New Zealand women might choose to classify themselves as carrying out 'home duties' rather than as 'retired'.

Vertical Segregation - State Sector Female representation at management levels in New Zealand is highest in the public sector. Thirteen women were part of the Senior Executive Service (SES) in 1988, making up ten percent of the Service. In July 1993, 27 women

were in the SES, making up 21 percent of that group. Five of the 39 chief executives are women (Statistics New Zealand 1993a:178,182).

By comparison, in the public sector in Australia, women have fared less well, making up 15 percent of the SES, which is an increase from 8.2 percent in 1988 (Office of the Status of Women 1992:87; *The Independent Monthly*, February 1994:29).

Hours of Paid Work A higher proportion of Australian women work part-time (43.3 percent in 1992), than New Zealand women (35.7 percent in 1993) and, therefore, are potentially less able to access the benefits of full-time employment. Thus despite labour market deregulation, New Zealand women would appear to be in a better position in terms of accessing full-time employment.

Income and Earnings The gap in female/male earnings is smaller in Australia than it is in New Zealand. Although the pay gap closed somewhat after the Equal Pay Act 1972 was implemented in New Zealand, progress slowed down and the earnings gap was largely unchanged from the mid 1980s. New Zealand women's ordinary time weekly earnings in 1987 were 76.1 percent of men's. By 1993, in New Zealand, this proportion had increased to 77.2 percent. In Australia in 1987, women's ordinary time weekly earnings were 82.1 percent of men's, climbing to 84 percent by 1993. Recent figures from New Zealand show a slight widening in the earnings gap. Women's ordinary time weekly earnings were 76.4 percent of men's in New Zealand in August 1994. At the same time in Australia, women's ordinary time weekly earnings were maintained at 84.1 percent of men's.

New Zealand women's total weekly earnings, which include overtime payments, were 73.4 percent of men's in August 1994. By comparison, in Australia, the same measure showed women receiving 79.5 percent of men's earnings.

Possible influences upon the difference in female/male earnings will now be examined.

7.2 Anti-Discrimination Legislation

Both countries have anti-discrimination legislation currently in place. This was first implemented in New Zealand through the Human Rights Commission Act 1977, and latterly, through the amended Human Rights Act 1993. This is a complaints-driven measure. The Australian arrangement is similar, with the Human Rights and Equal Opportunity Commission (HREOC) administering the legislation. The Racial Discrimination Act was passed in 1975, followed by the Sex Discrimination Act 1984. These Acts also rely upon complaints being made to the Commission.

7.3 Equal Pay Legislation

New Zealand first implemented equal pay through the Government Service Equal Pay Act 1960, which introduced provision for equal pay between men and women into the public sector. Similar measures were introduced in Australia in the 1969 Equal Pay for Equal Work decision. New Zealand's intention to pass equal pay legislation covering the private sector - the Equal Pay Act 1972 - was cited by the Australia Conciliation and Arbitration Commission as influencing their 1972 decision on Equal Pay for Work of Equal Value (147 CAR 172). Both countries have minimum wage legislation which has, in the case of Australia's Minimum Wage Decision 1974, been cited as contributing towards equal pay between women and men.

The current labour market environment in New Zealand, under the Employment Contracts Act, is based upon an entirely different set of conditions and assumptions to those in place when the Equal Pay Act was passed. The transition to a deregulated labour market was most dramatically expressed through the Employment Contracts Act, but was also evident in the focus and provisions of the State Sector Act 1988 and the Labour Relations Act 1987.

The Employment Contracts Act 1991 (ECA) has been criticised on several counts, including its negative impact upon the relative wages of women and men. The pay gap in New Zealand has not made progress

in recent years. As noted above, data from August 1994 indicate a slight widening of the pay gap in every measure of earnings (these include average hourly, average weekly and total weekly earnings). In Australia the gap has continued to close, albeit at a slow rate.

7.4 Pay Equity

Currently, neither Australia nor New Zealand has an explicit policy regarding pay equity. In both countries, issues of pay equity are approached with some caution by government, and opposed by business and employer lobby groups. Unions are, generally speaking, supportive of pay equity arguments.

7.5 EEO Legislation: State Sector Reforms

In Australia, the Hawke Government introduced reforms to the state sector during the 1980s (Jaensch 1992). In both countries, extensive state and economic policy reforms were introduced by Labour governments, as Castles (1993:23) points out.

> the experience of Australia and New Zealand in the latter part of the 1980s shows that labour movements and Labour parties could be the agents of change to as great a degree as Conservative parties.

Certainly this is true to an extent. It was still the case, however, that when the National Party of New Zealand, as a centre-right party was elected in 1990, it began to implement a vigorous policy of reducing state provision and encouraging the role of the market. In practice, this included a major programme of health, education and social welfare cut-backs. The Employment Contracts Act 1991 was a central means to achieving the goal of liberalising the labour market.

This change in focus has affected employment equity policies. Yeatman (1990:16) points out that:

> Equal opportunity in this context comes to be reframed in terms of what it can do to improve management, not what it can do to develop the conditions of social justice and democratic citizenship in Australian society.

New Zealand and Australia have legislative requirements for the state sector to develop EEO programmes. In New Zealand these provisions occur in the State Sector Act 1988, and in Australia, within the Public Service Reform Act 1984. Both pieces of legislation were drafted as part of state sector restructuring, and reflect the prevalence of managerialism in their focus. While it can be argued that this has limited the effectiveness of the legislation, it is nevertheless the case that EEO has a foothold in the state sector, and some positive results can be seen. In addition, the State-Owned Enterprises (SOE) Act 1986 in New Zealand requires SOEs to develop EEO programmes. The standard and content of programmes are not sufficiently clear, however, and the legislation lacks effective monitoring. Australian statutory authorities are also covered by legislation: the Equal Employment Opportunities (Statutory Authorities) Act 1987.

EEO programmes are required of those organisations employing 100 or more in the Australian private sector. This represents 45 percent of the private sector (Bennett 1995:208). This policy is implemented through provisions of the Australian Affirmative Action (Equal Employment Opportunity for Women) Act 1986, and monitoring takes place through the Affirmative Action Agency.

New Zealand has no comparable policy. EEO in the private sector in New Zealand is currently supported by the EEO Trust. It is notable that the Trust was modelled on a similar organisation, established by the business community in Australia before the passing of the Affirmative Action Act in 1986. Like the EEO Trust, the Australian Council for Equal Employment Opportunity's role is to promote EEO in the business sector on a voluntary basis. The employers' representatives opposed the Act, with the Business Council of Australia claiming that 'enlightened self-regulation by the business sector' made the legislation quite unnecessary (Ronalds 1990:119). Similar arguments were raised by the New Zealand Business Roundtable and the New Zealand Employers' Federation in opposition to the passing of the Employment Equity Bill. Those same arguments have influenced the way in which the EEO Trust has been constructed.

The issues of EEO programme implementation for the private sector are numerous. They include the size of an organisation, as is noted by Ronalds (1990) and Kramer (1991). McNaughton (interview in Sayers (1994:309-10) points out that the adherence of small organisations or businesses to EEO programmes is low.

> I think that for the majority of small to medium employers, who employ the majority of New Zealanders, EEO is not an issue currently. The challenge is to tap into that employer community. That will require the provision of resources to enable those employers to assess their EEO performance. For small employers the fact that there are resources such as this book, or the information on our database, is irrelevant, because they don't see the need and they don't have the time and they don't have the specialist personnel in the organisation to focus on EEO issues. They are too small.

Implementing EEO programmes, then, will often be resource intensive. It is therefore particularly difficult for small businesses with a limited cash-flow and pool of labour. Kramer states that:

> The development and implementation of affirmative action programmes requires resources. It involves additional staff costs, and material costs associated with the establishment of the employment profile, the review of personnel policies and practices and the implementation of policies designed to promote eeo. Although the implementation of a programme could result in employment practices which promoted greater organisational efficiency by changing employee behaviour... and managerial behaviour..., the costs involved are often viewed as an impediment, particularly in difficult economic times (1991:8).

In addition, for small businesses, the incentive to initiate and comply with EEO programmes may not be as great as it is for large, well-known companies who promote themselves as 'model corporate citizens' Ronalds (1990:112). This is particularly relevant when considering penalties for non-compliance. While being named in parliament, (as the Australian Affirmative Action Act 1986 specifies), may be a

moderately effective sanction for prominent companies, it is arguable that other measures might be more useful for smaller organisations.

Under voluntarist policies, such as the EEO Trust in New Zealand, lack of participation will inevitably be an on-going issue. This issue is raised in an unexpected way in the membership of the EEO Trust. A number of the Trust's members are part of the extended state sector, some of whom are already required by legislation to implement EEO programmes. While it is undoubtedly admirable that such groups are participating over and above their legislative requirements, it is nevertheless the aim of the Trust to target the business sector. Although many publicly funded institutions are functioning more consciously as business enterprises and, therefore, the distinction between public and private sectors is becoming blurred, the existence of prescriptive legislation for the state sector marks the end of this similarity. The pattern of the Trust's membership underscores the need for a legislative imperative for EEO programmes and reporting in the private sector. It also suggests that, when such legislation is implemented, the effect will stimulate organisations to adopt additional voluntary responsibilities.

7.6 International Obligations

Both New Zealand and Australia have ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and International Labour Organisation (ILO) Conventions №100 (Equal Remuneration) and №111 (Discrimination - Employment and Occupation). Australia has recently incorporated the relevant ILO Conventions into their industrial relations legislation, as discussed in the following section. If not already implemented through domestic legislation as intended, however, Conventions may be used as a tool of statutory interpretation where there is ambiguity in the law.

In addition, CEDAW, which both Australia and New Zealand have ratified, incorporates the ILO Convention №100, stating in General Recommendation №13 that ratifying countries should ensure that the Convention is implemented, in addition to adopting a system of job

evaluation (Chen 1989).

7.7 Agencies

Australia has experienced pressure from employer groups to deregulate the wage-fixing process. While the scale of changes contained within Australia's Industrial Relations Reform Act 1993 are small in comparison with New Zealand's Employment Contracts Act 1991, such a step marks a shift in philosophy and policy direction.

Significantly, however, the Industrial Relations Commission (IRC) is required under the Act to refer to the International Labour Organisation (ILO) Conventions that Australia has ratified in the process of reviewing awards (s170BA). Specifically, these conventions are: Nº100 (Equal Remuneration) and Nº111 (Discrimination - Employment and Occupation). The Commission may no longer refer to the earlier 1969 Equal Pay, or to the 1972 Equal Pay for Work of Equal Value decisions when considering awards. Instead, the principles contained within the relevant international conventions are to be applied. By incorporating the principles of the conventions in domestic legislation in this way, Australia has both honoured its international obligations and provided an avenue for those principles to be enforced in Australian courts. This is the apparent intention when international conventions are signed by states. The general practice in New Zealand and Australia has been to ensure that appropriate legislation is in place before ratification takes place.

New Zealand is, in this regard, ignoring its international obligations. Further, until such international conventions are incorporated into domestic legislation, individuals are denied the opportunity to have those principles enforced in New Zealand courts. Clearly this latter fact is of most concern because, currently, the intentions and principles of the conventions, and the institutional arrangements in New Zealand are widely divergent.

Because the Australian legislation is relatively recent, and its application has yet to be tested, its impact upon the current level of

employment equity in Australia must be negligible.

Chapter 8 will discuss the issues raised in this chapter, in the context of the relevant literature, and draw summary conclusions.

Chapter 8

CONCLUSION

8.0 Introduction

The aim of this research has been to examine the impact of government intervention in the labour market on the achievement of employment equity. This has been done by examining the institutional framework in New Zealand and Australia to see if the different institutional arrangements (the former exhibiting significant intervention; the latter reflecting a decentralised/deregulated, voluntarist approach) have an impact on the degree of employment equity. Employment equity is measured as increasing convergence in the labour market trends of male and female labour force participation and earnings.

Empirical evidence presented earlier shows that the earnings gap in New Zealand is substantially wider than that in Australia, and that this gap has increased slightly in the period since deregulation in New Zealand. The data shows some inconsistencies: on certain measures, New Zealand women fare better than their Australian counterparts. For instance, a greater proportion of New Zealand women work full-time, and are thereby better able to access the benefits of paid employment. In addition, in the New Zealand state sector, a greater proportion of women reach management levels than is the case in Australia. In both countries, however, the proportion of women in senior state sector positions has increased. The labour force participation rates for Australian women have, historically, been lower than in New Zealand. The difference is now only minimal, because Australian women's participation has been steadily increasing, while the labour force participation of New Zealand women has plateaued. The measure of most significance for employment equity, however, is the earnings gap, and its variation between New Zealand and Australia.

In this chapter, I now consider the possible reasons for this, highlighting the impact of the institutional framework - as outlined in chapter 7. Despite the fact that both countries are party to various

international conventions relating to employment equity, there are certain key differences between New Zealand and Australia which arguably have an impact on the subsequent level of employment equity. In particular, the statutory approach to EEO, and the existence of a centralised wage-fixing system in Australia can be seen as possible factors influencing the greater level of employment equity in Australia. This cannot be confirmed without specifically testing the impact of these, and without eliminating other possible factors that might enhance employment equity, but that have not been explored in this study.

8.1 Institutional Factors

Attention here is given to the possible influence of institutional factors on the level of employment equity. Brosnan et al. (1991) note that the trend in wage-fixing in Australia was the opposite to that in New Zealand. New Zealand was moving away from two-tier bargaining while Australia was actively encouraging it. Brosnan et al. go on to argue that the similarity of outcomes suggests that institutional and policy arrangements are peripheral to other changes; for example, those relating to aggregate demand.

Hyman (1994:132) on the other hand, argues that institutional factors cannot be dismissed when considering employment equity issues:

> One obvious point, in comparing Australia and New Zealand with the United States (and also Japan), is that countries with lower levels of unionisation and decentralised wage fixing appear to exhibit wider pay gaps, overall and by gender. The impact of the equal value tribunal decisions and centralised pay systems in Australia contrasts with the deregulated market in the United States.

Gregory et al. (1989:237) suggest two possible reasons for the lack of progress in closing the pay gap in the United States.

> The gap between the United States and the other countries leads us to suggest, somewhat tentatively, that perhaps it is true that the Equal Pay Act in the United states was ineffective, not

because equal pay already existed before the act, but because the nature of the act and the institutional framework of the labor market in the United States prevented the equal pay initiative from being effective.

Recent data from New Zealand, including a widening of the pay gap, provides some evidence supporting the argument that equal pay initiatives are hampered by a deregulated labour market framework.

8.2 Centralised Wage-Fixing

The effects of a centralised wage-fixing system upon the wages of women will be varied. Whitehouse (1995) found that centralised wage-fixing was related to lower female labour force participation rates - possibly as a result of greater union activity and lower levels of casualisation. A comparison of Australia and New Zealand on this variable would appear to support Whitehouse's findings, in that female labour force participation in Australia is slightly lower than in New Zealand. In contrast, however, New Zealand women's labour force participation has remained static since 1987, while Australian women's participation has increased steadily.

It has been argued that the positive outcomes from a centralised wage-fixing system for women are *incidental* to the central goal of maintaining relativities (National Women's Consultative Council/Labour Research Council 1990).

While a centralised system may produce generally good outcomes for women's wages, it has as its focus, the maintenance of relativities which can themselves be flawed. This can be seen as one of the most obvious drawbacks to a highly centralised system. The unwillingness, for instance, of the Australian Industrial Relations Commission to consider the adoption of comparable worth measures demonstrates how wage-fixing decisions may not address the validity of historical wage relativities.

Although the aim of a centralised wage-fixing system is not to bring about pay equity, it is argued that in many cases it has that effect. By

focussing on relativities, the system exposes the relative earnings of women and men: the lowly paid and the highly paid. For example, the Australian national wage decisions of 1986, 1988, and 1989, where flat-rate wage increases were granted to low-paid workers, are cited as functional in bringing male and female rates closer together (Human Rights Equal Opportunities Commission 1992:171). Similar decisions were reached in the 21 September 1994 national wage decision, where up to $24 per week was awarded to workers (*The Australian* 22 September 1994).

The breakdown of New Zealand's national award system, by comparison, leads to an environment where wage rates are no longer public knowledge. The issue of privacy of contracts presents added difficulties when trying to assess relative salaries. Over-award payments in Australia are examples of this, as little information is available. The Human Rights and Equal Opportunity Commission (1992:6), in its investigation of the extent of sex discrimination in over-award payments, found that:

> Confidentiality between employers and employees is a major limitation to discovering possible discrimination in overaward payments.

Opinions vary as to the significance of the gap between male and female over-award payments in Australia. For instance, the Department of Industrial Relations, the Australian Council of Trade Unions (ACTU), and the National Pay Equity Coalition think that the differences are significant and should be addressed. One of the main employers' groups at the time - the Confederation of Australian Industry (CAI) - however, argues that the differences are small, and the result of market forces (Human Rights Equal Opportunity Commission 1992:171).

The implications of New Zealand's shift from a system of national awards to enterprise bargaining, and the movement towards a liberalised labour market in Australia is discussed below.

8.3 Labour Market Decentralisation and Enterprise Bargaining

There is a strong pro-market lobby in Australia among employer groups such as the Business Council of Australia (BCA). This pressure is restrained, however, by the current industrial relations system, and the extent to which it remains centralised. Neilson (1995), for example, argues that New Zealand's unicameral parliamentary system has meant that far-reaching changes can be introduced much more quickly than would be possible in Australia. Other factors may also be considered. According to Wiltshire, (1994:210), the implementation of decentralised wage fixing has been curbed in Australia because of the union movement.

> Consequently, even though the Australian Labor Party has clearly moved towards the centre of the ideological spectrum on many economic and social issues, the power of the trade union movement, combined with left factions, has been sufficient to block privatisation attempts which even Labor governments would dearly like to have pursued to rein in debt and generate revenue.

For instance, the 'reformed' Industrial Relations Act, although marking a change in emphasis and direction, does not alter the major industrial relations institutions. Nevertheless, the balance of power is shifting from government to the market, and inevitably, to employers. The Industrial Relations Commission's (IRC) position in wage settlement is, therefore, becoming more nebulous. Justice O'Connor (1995:66) has frequently remarked that the 'role of the award system is to provide a safety net underpinning enterprise bargaining'.

In a policy environment which stresses the contractual relationship between individual employees and their employers, the bargaining strength, skill and knowledge of employees in negotiating their conditions of employment is vital. Hammond and Harbridge (1993:12) gathered data for New Zealand which showed:

> that women workers have experienced not only lower wage movements than have men, but that their ability to attract overtime and penal rates has been severely restricted.

Australia too, reflects this tendency, to the extent that female workers

are covered by award rates of pay, but obtain far lower negotiated *over-award payments* than men (Human Rights and Equal Opportunity Commission 1992). New Zealand women, however, will be more reliant upon the strength of their bargaining skills within the current labour market environment than is the case for women in Australia. Although the Labour Select Committee found, when reviewing the ECA, that the Act had adequate remedies to deal with any issue of exploitation, other questions relating to the effect of the ECA upon women were not addressed. For instance, the Committee could have usefully commented upon the frequency of short-term contracts in certain sectors; the fluctuation in wage rates; or the impact of the ECA environment upon employment equity policies and legislation. Further, they might have considered the strength of women's bargaining power under the ECA.

Bennett (1994:210) argues that:

> Since women's poor position is the result of gender segmentation into low-paid, part-time work it cannot, despite some ill-informed comments, be overcome by teaching women negotiation skills or by encouraging them to have confidence in their abilities.

Despite this, enhanced negotiation skills will clearly benefit women on individual contracts, as Tremaine and McGregor (1995 forthcoming) argue in reference to women managers.

8.4 Institutional and Legislative Structures

Both New Zealand and Australia have comparable legislation covering the public sector, with provision for the formulation and monitoring of EEO programmes. There are provisions for EEO within New Zealand's State-Owned Enterprises Act 1986, however, these provisions lack effective accountability mechanisms. The sole method of monitoring EEO programmes currently depends upon the vigilance and perseverance of individual MPs on the State-Enterprises Committee. It would also appear that the 'good employer' and social responsibility requirements in the Act are interpreted narrowly by the Government. For instance, Wyatt Creech responded to debate on the good employer performance of ECNZ by saying that:

> ECNZ is clearly aware of its responsibilities. I want to make this point: the prime social responsibility of ECNZ is to ensure a reliable and affordable supply of electricity for New Zealand, and in that regard it performs very well. (*NZPD* vol. 540:1690).

The experience of the EEO Trust underlines the need for a legislative imperative for EEO development and reporting in the New Zealand private sector. The role of the EEO Trust is positive in encouraging businesses to undertake such development, but the Trust alone cannot realistically be expected to fulfil the place of a comprehensive EEO scheme that includes monitoring and reporting requirements. Further, it is argued that over time, such legislation stimulates organisations to take voluntary, additional actions.

Australia, by comparison, does require large private sector employers to implement EEO programmes, and monitors those programmes through the Affirmative Action Agency. While it is acknowledged that there is resistance to this by some employers, (evidenced by the minority who do not meet the requirements of the Act) the benefit of this legislation for employment equity cannot be disregarded. The Affirmative Action Act 1986 would appear to have some importance in influencing Australia's level of employment equity. The qualification that should be placed upon the possible significance of this Act regards its limited coverage. As mentioned in chapter 7, the Act covers approximately 45 percent of the private sector - all of the businesses covered employ over 100 employees (Bennett 1995:208). The significance of this legislation is obviously limited, since over half of the private sector is not covered. The potential effectiveness of this legislation is clearly limited by this targeting, and should - at least - be extended to medium sized employers.

In addition, progress towards EEO in the Australian private sector is aided by the Council for Equal Opportunity in Employment, performing a similar role to the EEO Trust, for which it was a model. It was acknowledged in the *Knowles report* that the Australian Affirmative Action Agency and the Council for Equal Opportunity in Employment, together, performed a complementary role. Some consideration was

given to the possibility of a similar approach in New Zealand, but was dismissed by the Working Party on Equity in Employment on the grounds that it would result in a duplication of resources. The option of a government monitoring body, like the Australian Affirmative Action Agency, was something that the Working Party would countenance only if the private sector failed to support the voluntary EEO agency. Although the Working Party recommended legislating for EEO programmes in the private sector, and placed a proviso on the establishment of a sole private sector agency, the final direction of government policy did not reflect this.

New Zealand and Australia are subject to the same international obligations with respect to employment equity policies. Both countries have ratified the International Labour Organisation (ILO) Conventions Nº100 Equal Remuneration, and Nº111 Discrimination (Employment and Occupation), as well as the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

By taking the step of incorporating the ILO Conventions into domestic legislation, Australia has, however, demonstrated a greater degree of commitment to promoting employment equity. Because this is a recent development, its impact cannot yet be assessed, but it would appear to be a progressive decision with positive implications for employment equity. Justice O'Connor (1995:71) comments on the impact of the incorporated principles in the legislation.

> Because they are now included in legislation rather than applied in practice only from time to time, an increased emphasis on these principles is created as they apply to the duties of the commission in carrying out its work. In my view, the amendments have the capacity to secure social justice in the Australian workplace as effectively as they secure greater emphasis on bargaining, productivity and efficiency.

8.5 Agencies

The size of organisations and the implications that size has for non-compliance penalties was discussed in chapter 7. When implementing

mandatory EEO policies, as in Australia, effective and appropriate disincentives for sluggish companies are essential. Milne (1995:9) confirms the need for adequate sanctions for non-compliance in relation to Canadian legislation.

> The federal legislation is notoriously lacking in compliance mechanisms. Even the relatively few employers it covers face no meaningful sanction for failure to comply... without the threat of sanctions, there is clearly not the moral commitment necessary to achieve employment equity.

While non-compliance is a problem within the private sector, it is also an issue for government. The monitoring provisions present in legislation covering the state sector in New Zealand and Australia will be an area of on-going interest. It is, however, the monitoring of the international obligations of government which are most in need of review. New Zealand's record in this regard is particularly lacklustre. Although New Zealand governments appear relatively quick to gain public approbation by signing and ratifying international conventions, they are slow to act. Currently, the only monitoring of each country's progress in implementing international conventions is through the system of reporting committees. These committees have no power to place sanctions upon countries failing to take appropriate action. This situation should be addressed.

8.6 Managerialism

The development of EEO in New Zealand and Australia has recently depended upon its compatibility with managerialist reforms. Arguably, the aims of managerialism and workplace reform are inadequate in achieving employment equity goals. By focussing on the workplace, managerialism overlooks the importance of understanding the links between other organisations, occupations and industries (Bennett 1994). In New Zealand, the emphasis in the State Sector Act 1988 reflects managerialist tendencies. Walsh (1991:73) comments on the nature of the changes from the State Sector Act.

> The State Sector Act is driven by managerialist concerns. It seeks to import private sector management practices into the public

> sector to improve its efficiency and effectiveness...

Tremaine (1991:364) comments on the contradiction apparent in the pursuit of EEO following state sector reform.

> At present, involvement in EEO requires a degree of informed altruism, whereas... the theoretical underpinnings of reform are premised on explanations which see human motivation in terms of self-interest.

Clearly criticism could equally be levelled at private sector initiatives in New Zealand, and highlights the potential difficulty in implementing employment equity policies in a liberalised labour market.

The focus of the EEO Trust is also an example of the tendency for EEO to be tied to managerialist practices. The EEO Trust promotes EEO to businesses as a measure in harmony with established management practice. I would argue that the pragmatic presentation of EEO as a business imperative significantly curtails the transformative power of EEO.

In Australia, similar criticisms could be raised over the focus of EEO in the state sector. In addition, Thornton maintains that the Affirmative Action Act 1986 opts out of the affirmative action debate, in favour of a managerialist approach.

> The self-regulatory basis of the legislation reveals an excessively deferential attitude adopted towards a privatised concept of managerial prerogative in which a not very subtle attempt to accommodate right-wing and market-oriented forces has been made. The message of efficiency and rationality, not distributive justice, lay at the heart of the Australian Government's campaign to sell AA to the business sector (1990:231).

Thornton (1990:231) notes that the two main employers groups, the Business Council of Australia and the Confederation of Australian Industry, threatened not to co-operate if the legislation was in any way 'coercive'.

Promoting EEO solely as good business practice does not appear to

improve the position of women in a tangible way. For example, the belief that an individual's skills and talents will bring success, (as hypothetically the 'cream will rise to the top'), has not been occurring for women in the private sector. The marked and chronic lack of women at management levels in the private sector has not improved. In 1992, the representation of women was exactly the same as it was in 1990 i.e. seven women on the boards of directors of the top 20 companies, representing just three percent of all directors (Statistics New Zealand 1993a:179).

A recent example of this struggle for female representation on boards of directors arose through Joanne Copland's unsuccessful candidacy for the Brierley Investments' (BIL) board on 17 November 1994. Copland would have been the first female director on the board. Her nomination, however, although submitted within the required 21 days before the annual meeting, was omitted from the meeting notices sent to shareholders (*The Dominion*, 31 October 1994). In addition, Brierley chairman Bob Matthew sent a letter to shareholders saying the board did not support Joanne Copland's nomination (*The Dominion*, 10 November 1994). After Copland's unsuccessful bid, former BIL director, Selwyn Cushing commented that BIL had a good equal employment opportunity policy: two of BIL's approximately thirty executives were women (*The Dominion*, 18 November 1994).[1]

8.7 Climates and Contexts

It would appear that 'economic flexibility' and, in particular, enterprise bargaining, have been introduced in Australia and New Zealand in periods of economic recession when, arguably, employees have little power, and employer groups hold most sway. Jamrozik (1994:169) argues that the time at which Australian employment policies changed was significant.

> Under conditions of full employment it may be feasible to contemplate the suitability of a system of wage deregulation, as in such times the workers have at least some power in wage bargaining with employers. However, the movement towards

[1] Since Joanne Copland's unsuccessful candidacy for BIL's board, the retiring Mayor of Wellington, Fran Wilde, has been appointed to the board by the directors.

> wage deregulation in Australia came at the time of growing unemployment, and, moreover, unemployment that was becoming more and more entrenched among the lower strata of the workforce.

By contrast, an economic recession, while not beneficial for business interests, provides a policy-making environment in which the wishes of the business sector are of primary importance. Deeks (1992:11) refers to New Zealand's experience in the mid 1980s, when he says that:

> big business in New Zealand, as represented by the Business Roundtable, developed, for a time at least, a very special relationship with government, a relationship based on a shared economic ideology and a shared vision as to how New Zealand businesses should compete in the international marketplace... The overall effect was implicitly to legitimate the place of major business interests and their agendas at the core of the community of policy-makers.

In each country, business groups have advocated greater labour market flexibility. The moves toward a decentralised and deregulated labour market in New Zealand and, to a lesser extent, in Australia, impact upon the type and scope of employment equity policies. O'Donnell and Hall (1988:83) point out that:

> While anti-discrimination case law in Australia has undoubtedly been a highly progressive force for social change, its continuing to be so depends significantly on the political context in which it operates. We have imported the idea of 'discrimination' from the US and we must now guard against it being used uncritically in favour of labour market deregulation.

Bennett (1994:209) argues that 'the move to replace social justice mechanisms with equal employment opportunity rights is part of a broader economic and political movement'. Bennett contends that social institutions are being replaced by legal rights, that lack the same capacity to promote equity. Sadly, the evidence indicates that New Zealand has neglected to establish even those basic legislative provisions in terms of employment equity.

Whitehouse (1995) also argues for careful consideration of the environment in which policies are being implemented. The market determination of inequality is limited, and Whitehouse argues that there must be recognition of a wider basis for social inequality. Moreover, as O'Donnell & Hall (1988:83) argue, effective strategies demand greater understanding of the varying impact of deregulated labour markets upon individuals and groups.

> Trade union strength is in turn related, as is shown in the Swedish historical context, to the concern of the union movement to protect its weaker members and to pursue full employment policies even if this means lower wages for some more powerful groups of workers than would be the case in a system of decentralised wage bargaining.

It is argued here that New Zealand's experience of decentralised wage bargaining supports O'Donnell and Hall's comment. Some individual women will undoubtedly benefit from enterprise bargaining. These women, however, would also thrive under a variety of other industrial relations arrangements. As Bryson (1994:188) argues, decentralised bargaining will perform for women who, for one reason or another, are industrially strong.

> In those countries which have decentralised systems of bargaining, such as the USA, women in strongly unionised areas or with highly valued skills do very well. Other women do badly...

Referring to the ECA, Deeks et al. (1994:510) also suggest that a decentralised wage determination system may accentuate divisions between those workers with skills and power, and those without.

> The fact that both good and exploitative employment practices are being used, potentially exacerbating the existence of a segmented labour market, is an issue which may raise equity considerations of a different kind.

There is no supporting evidence that freeing up wage-fixation in New Zealand has *reduced* wage discrimination. Moreover there are indications that it has aggravated the tenuous situation of some

women.

The issue is not whether some women flourish in a deregulated environment, but whether that environment is conducive to widespread, sustained and progressive development for the majority of women in the labour market. Hyman (1994:134) states that:

> Despite the conclusion that the climate is more important than the detail of the pay equity measures, some provisions have more widespread results than others.

The combination of policy and environment is crucial. While it is too simplistic, and moreover impossible, to determine that a certain policy will have a particular effect - for instance, that a liberalised labour market or centralised wage-fixing system will bring the best outcome - it is clear, nevertheless, that some policies will be more beneficial than others, and more favourable to the existence and development of employment equity. It is also apparent that such policies require careful implementation - where the outcomes are monitored and re-evaluated.

The National Advisory Council on the Employment of Women (NACEW) (1990:176), stresses the need for a balanced, integrated set of policies.

> A complex set of factors influences women's access to jobs, the sort of work they do, their opportunities for career advancement and their rates of pay. An adequate response to that complexity by those interested in ending inequalities between women and men, and between Pakeha, Maori and Pacific Island women is a varied set of strategies which range from monetary policy to the details of childcare funding and the forms of job evaluation to be used in pay equity assessments.

Employment equity policy development cannot be approached or analysed separately from other areas of social policy - particularly labour market policy. The findings of this thesis have implications for the issue of women's citizenship. Because employment status is an important contributor to citizenship status, any policy decisions which have a favourable impact upon women's employment status and upon the level of employment equity, also improve the quality of women's

citizenship.

This thesis has underlined the need for adequate data to be available for the public and private sectors. Future research could focus upon the interaction between different labour market measures such as unemployment and occupational segregation. In addition, attention could be given to other possible influences upon the level of employment equity for women, such as childcare. With regard to childcare in New Zealand, Easting (1994:4) points out that:

> Although women's participation in paid work has increased markedly, the state in New Zealand has not moved significantly in the direction of relieving mothers of the responsibility for childcare. Childcare that is affordable and of good quality is seldom available for the full working day.

In Australia, under a centralised bargaining system - albeit undergoing modifications - the position of women in the labour market has remained stable and the earnings gap has continued to slowly improve. In contrast, women's position in the labour market, as shown in the comparative statistical analysis of this thesis, has slightly deteriorated in New Zealand over the period of deregulation and lack of employment equity policies.

BIBLIOGRAPHY

A. PRIMARY SOURCES

NEW ZEALAND

Legislation

Employment Contracts Act 1991
Employment Equity Act 1990
Equal Pay Act 1972
Human Rights Act 1993
State-Owned Enterprises Act 1986
State Sector Act 1988

Official Publications

Commission for Employment Equity, 1991. INTO THE '90's: Equal Employment Opportunities in New Zealand, Wellington: Industrial Relations Service, Department of Labour.

Commission of Inquiry on Equal Pay, 1971. EQUAL PAY IN NEW ZEALAND: Report of the Commission of Inquiry, Appendices to the Journal of the House of Representatives, H.54.

Department of Justice, 1993. DIRECTORY OF OFFICIAL INFORMATION 1993-1995, Wellington: Department of Justice.

Department of Statistics, 1982. NEW ZEALAND CENSUS OF POPULATION AND DWELLINGS, 1981: Bulletin 11, National Summary, Wellington: Department of Statistics.

Economic Development Commission (EDC)/Pask, J. 1988. SUBMISSION ON THE REPORT OF THE WORKING GROUP ON EQUAL EMPLOYMENT OPPORTUNITIES AND EQUAL PAY "TOWARDS EMPLOYMENT EQUITY", Wellington: EDC.

Equal Pay Steering Committee, 1987. EQUAL PAY STUDY PHASE TWO REPORT, Wellington: Department of Labour.

Government Employing Authorities, 1984. STATEMENT BY GOVERNMENT EMPLOYING AUTHORITIES ON EQUAL EMPLOYMENT OPPORTUNITIES, Wellington: State Services

Commission.

Human Rights Commission, 1984. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN: "What's It All About: A Review Paper", Wellington: Human Rights Commission.

Labour Committee, 1993. INQUIRY INTO THE EFFECTS OF THE EMPLOYMENT CONTRACTS ACT 1991 ON THE NEW ZEALAND LABOUR MARKET: Report of the Labour Committee, Appendices to the Journal of the House of Representatives, I.9D).

Ministry of Women's Affairs, 1985. THE 1984 WOMEN'S FORUMS: Policy Priorities, Wellington: Office of the Minister of Women's Affairs.

Ministry of Women's Affairs, 1987. FIRST TERM REPORT Women's Affairs, Wellington: Ministry of Women's Affairs.

Ministry of Women's Affairs, 1992. STATUS OF NEW ZEALAND WOMEN 1992: Second Periodic Report on the Convention on the Elimination of All Forms of Discrimination Against Women, Wellington: Ministry of Women's Affairs.

Ministry of Women's Affairs, 1993. REPORT OF THE MINISTRY OF WOMEN'S AFFAIRS: For the Year Ended 30 June 1993.

National Advisory Council on the Employment of Women (NACEW), 1990. BEYOND THE BARRIERS: The State, The Economy and Women's Employment 1984-1990, Wellington: NACEW.

New Zealand Parliamentary Debates (NZPD) (various).

Royal Commission on Social Policy (RCSP), 1988a. APRIL REPORT, vol. II, Future Directions, Wellington: RCSP.

Royal Commission on Social Policy (RCSP), 1988b. APRIL REPORT, vol. III, Part One, Future Directions: Associated Papers, Wellington: RCSP.

State Enterprises Committee, 1994. THE 1992/93 REVIEW OF THE ELECTRICITY CORPORATION OF NEW ZEALAND LIMITED (ECNZ): Report of the State Enterprises Committee, Appendices to the Journal of the House of Representatives.

State Services Commission (SSC), 1992. EQUAL Employment OPPORTUNITIES: Progress in the Public Service as at 30 June 1991, Wellington: SSC.

State Services Commission (SSC), 1993. ANNUAL REPORT: For the Year Ended 30 June 1993, Wellington: SSC.

State Service Commission (SSC), 1994. EQUAL EMPLOYMENT OPPORTUNITIES: Progress in the Public Service as at June 1993, Wellington: SSC.

Statistics New Zealand, 1993a. ALL ABOUT WOMEN IN NEW ZEALAND, Wellington: Statistics New Zealand.

Statistics New Zealand, 1993b. NEW ZEALAND SOCIAL TRENDS - WORK, Wellington: Statistics New Zealand.

Statistics New Zealand, 1993c. 'New Zealanders at Work', 1991 NEW ZEALAND CENSUS OF POPULATION AND DWELLINGS, Wellington: Statistics New Zealand.

Statistics New Zealand, 1994a. 'Household Labour Force Survey' (September 1994 Quarter), HOT OFF THE PRESS, Wellington: Statistics New Zealand.

Statistics New Zealand, 1994b. KEY STATISTICS (August), Wellington: Statistics New Zealand.

Statistics New Zealand, 1994c. LABOUR MARKET STATISTICS 1993, Wellington: Statistics New Zealand.

Statistics New Zealand, 1994d. 'Quarterly Employment Survey' (August 1994 Earnings and Hours), HOT OFF THE PRESS, Wellington: Statistics New Zealand.

Statistics New Zealand, 1995a. 'Household Labour Force Survey' (March 1995 Quarter), HOT OFF THE PRESS, Wellington: Statistics New Zealand.

Statistics New Zealand, 1995b. 'Quarterly Employment Survey' (February 1995 Provisional Earnings and Hours), HOT OFF THE PRESS, Wellington: Statistics New Zealand.

Steering Group, Review of State Sector Reforms, 1991. REVIEW OF STATE SECTOR REFORMS, Wellington: Steering Group, Review of State Sector Reforms/State Services Commission.

Treasury, 1984. ECONOMIC MANAGEMENT, Wellington: Government Printer.

Treasury, 1987. GOVERNMENT MANAGEMENT, Wellington: Government Printer.

Working Group on Equal Employment Opportunities and Equal Pay, 1988. TOWARDS EMPLOYMENT EQUITY (Wilson Report),

Wellington: Government Printer.

Working Party on Equity in Employment, 1991. REPORT OF THE WORKING PARTY ON EQUITY IN EMPLOYMENT (Knowles Report), Wellington: Government Printer.

Press Releases/Ministerial Speeches

8 May 1991 - Minister of Women's Affairs - Women's Suffrage Centenary Celebrations for 1993.

27 May 1991 - Minister of Women's Affairs - Ministry of Women's Affairs Will Stay.

18 July 1991 - Minister of Women's Affairs - Suffrage Year Centennial Trust.

18 July 1991 - Minister of Labour/Minister of Women's Affairs - Equal Employment Opportunity Trust.

5 September 1991 - Minister of Labour/Minister of Women's Affairs - Gender Neutral Job Evaluation.

22 May 1992 - Minister of Women's Affairs - Newsletter to 'Supporters of the Ministry'.

29 June 1992 - Assoc. Minister of Women's Affairs - Launch of EEO Trust.

13 April 1993 - Minister of Labour/Minister of Women's Affairs - Funding for More Equal Opportunity Programmes Announced.

7 September 1993 - Minister of Labour - EEO Practitioners' Association AGM.

17 September 1993 - Minister of Labour - Women Big Winners in Latest Statistics.

14 June 1994 - Labour Spokesperson on State Owned Enterprises - What's the Minister Done About It? (re: Report of the State Enterprises Committee on the 1992/93 Review of Electricity Corporation of New Zealand Limited).

3 August 1994 - Minister of Labour/Minister of Women's Affairs - EEO Contestable Fund Projects Approved.

Non-Official Publications

Coalition for Equal Value Equal Pay (CEVEP), 1990. EMPLOYMENT EQUITY A MATTER OF FAIRNESS: A Submission to the

Working Party on Employment Equity, CEVEP.

New Zealand Business Roundtable, 1990. THE PURSUIT OF FAIRNESS: A Critique of the Employment Equity Bill, New Zealand Business Roundtable.

New Zealand Employers' Federation/EEO Trust, 1993. A GUIDE FOR EMPLOYERS ON THE HUMAN RIGHTS ACT AND EQUAL EMPLOYMENT OPPORTUNITY, New Zealand Employers' Federation.

New Zealand Labour Party, 1987a. 1987 POLICY DOCUMENT, New Zealand Labour Party.

New Zealand Labour Party, 1987b. THE NEXT THREE YEARS: Labour's Plan for the Future, New Zealand Labour Party.

New Zealand National Party, 1987. POLICY RELEASES, New Zealand National Party.

New Zealand National Party, 1990. NATIONAL PARTY POLICIES FOR THE 1990s: Creating a Decent Society, New Zealand National Party.

EEO Trust

Annual Report 1993

EEO Self-Assessment Kit pamphlet

EEO Success Stories

EEO Trust pamphlet

Making the Most of a Diverse Workforce: an employer's guide to EEO

Membership List (May 1994)

Newsletters - *EEO Trust News*

Reference Database Service

Resource Catalogue

Seminar Programme (EEO self-assessment)

Trudie McNaughton - personal correspondence

Newspapers and other Media

10 February 1989 - National Business Review - 'Clerical Workers Applaud Lange View'.

22 November 1989 - Dominion - 'Pay Equity Would Cost Women Jobs - Nats'.

24 February 1992 - Dominion - 'New Horizons Launched for

Women/EEO Donations Boost Income'.

27 February 1992 - Evening Post - 'Benefit Cuts, Job Laws Erode Human Rights'.

4 March 1992 - Evening Post - 'Equal Employment Promotion Projects Receive $300,000'.

6 April 1992 - Listener TV Times - 'Trusting Equality ' (EEO Trust).

15 June 1992 - Morning Report, National Radio - Interview with Anne Knight, Tall Poppies Consultancy.

11 December 1992 - Dominion - 'So Chins Up Girls: Things have Never Been Better' (Alistair Morrison - Commentary on effectiveness of EEO provisions in State Sector Act 1988).

14 April 1993 - Dominion - '$100,000 Goes to Equality Programmes'.

27 April 1994 - Dominion - 'Breaking Down the Boardroom Door'.

5 May 1994 - Evening Post - 'Grilling for ECNZ Over Jobs Policy'.

19 September 1994 - Evening Post - 'Bill Seeks Job Equity'.

19 September 1994 - Evening Post - 'Women in Part-Time Work Get Raw Deal'.

29 September 1994 - City Voice - '12,000 Sign for Parental Leave'.

31 October 1994 - Dominion - 'Woman Aims at Brierley Directorship'.

10 November 1994 - Dominion - 'Woman Vows to Fight on Despite BIL Rejection'.

18 November 1994 - Dominion - 'Teacher Better than Douglas says Shareholder'.

9 January 1995 - Herald - 'Comments on Women's Pay Insulting'.

10 January 1995 - Herald - 'Govt has Helped Women: Shipley'.

10 January 1995 - Dominion - 'Shipley Stresses Employment Issue'.

1 February 1995 - Evening Post - 'Equal Pay Dream Slips Further Away'.

27 February 1995 - Dominion - 'Labour to Promote Raft of Private Members' Bills'.

14 June 1995 - Dominion - 'Pushing 'Family-Friendly' Workplaces'.

AUSTRALIA

Legislation

Affirmative Action (Equal Employment Opportunity for Women) Act 1986

Equal Employment Opportunity (Commonwealth Authorities) Act 1987
Industrial Relations Reform Act 1993
Public Service Act 1922
Public Service Reform Act 1984
Sex Discrimination Act 1984

Official Publications

Affirmative Action Agency, 1993. ANNUAL REPORT 1992-1993, Affirmative Action Agency.

Affirmative Action Agency, 1994. ANNUAL REPORT 1994-1995, Affirmative Action Agency.

Australian Bureau of Statistics (ABS) 1992a. LABOUR STATISTICS AUSTRALIA 1990, Canberra: ABS (Cat. Nº 6101.0).

Australian Bureau of Statistics (ABS) 1992b. SOCIAL INDICATORS Nº 5 1992: A National Social Report for Australia, Canberra: ABS (Cat Nº 4101.0).

Australian Bureau of Statistics (ABS) 1993a. LABOUR STATISTICS 1992, Canberra: ABS (Cat. Nº 6101.0).

Australian Bureau of Statistics (ABS) 1993b. WOMEN IN AUSTRALIA, Canberra: National Capital Printing (Cat Nº 4113.0).

Australian Bureau of Statistics (ABS) 1994. MONTHLY SUMMARY OF STATISTICS, AUSTRALIA (various), Canberra: Australian Government Publishing Service (Cat Nº 1304.0).

Department of the Prime Minister and Cabinet, Office of the Status of Women, 1985. EQUALITY FOR WOMEN AT WORK: A Survey of 10 OECD Countries, Canberra: Australian Government Publishing Service.

Department of the Prime Minister and Cabinet, Office of the Status of Women, 1986. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN: Report of Australia, Canberra: Australian Government Publishing Service.

House of Representatives Standing Committee on Legal and Constitutional Affairs, 1992. HALF WAY TO EQUAL: Report of the Inquiry into Equal Opportunity and Equal Status for Women in Australia, Canberra: Australian Government

Publishing Service.

Human Rights and Equal Opportunity Commission, 1992. JUST REWARDS: A Report of the Inquiry into Sex Discrimination in Overaward Payments, Canberra: Australian Government Publishing Service.

Merit Protection and Review Agency, 1994. ANNUAL REPORT 1993-94.

National Women's Consultative Council/Labour Research Centre, 1990. PAY EQUITY FOR WOMEN IN AUSTRALIA, Canberra: Australian Government Publishing Service.

Office of the Status of Women, 1992. WOMEN IN AUSTRALIA: Australia's Second Progress Report on Implementing the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, Canberra: Office of the Status of Women, Department of the Prime Minister and Cabinet.

Non-Official Publications

Newspapers and other Media

February 1994 - The Independent Monthly - 'Women on Top' (W. Jamrozik).

30-31 July 1994 - Weekend Australian - 'Sex Law to Target Bosses'.

30-31 July 1994 - Weekend Australian - 'Hit and Ms Debate Redefines the Sexes'.

30-31 July 1994 - Weekend Australian - 'Battle for Culture Change Must Go On'.

5 September 1994 - Australian - 'Female Quota Adds Up for Future MPs'.

6 September 1994 - Australian - 'Childcare Looks Out for Working Mums'.

22 September 1994 - Australian - 'Commission Extends Access to Safety Net'.

22 September 1994 - Australian - 'Business Criticises IRC for $24 Rise'.

22 September 1994 - Australian - 'Poke in the Eye for ALP'.

22 September 1994 - Australian - 'Employers Condemn Wage Decision'.

22 September 1994 - Australian - 'Flawed Reform Slows the IRC'.

28 September 1994 - Australian - 'Historic Win for ALP Women'.

28 September 1994 - Australian - 'Affirmative Action Rule Survives Last-Ditch Threats'.

28 September 1994 - Australian - 'Tailormade for Television as Keating Determines the Defining Moment'.

5 October 1994 - Australian - 'IRC Orders Review of Powers'.

10 October 1994 - Australian - 'Bid for Increase in Woman Directors'.

10 October 1994 - Australian - 'Sensitive New-Age Keating ?'.

18 October 1994 - Australian - 'Female High-Fliers Vote Against Quota'.

19 October 1994 - Australian - 'Employers Warned on Award Safeguards'.

22-23 October 1994 - Weekend Australian - 'Women Stuck on Low Rungs of Corporate Ladder'.

16 November 1994 - Sydney Morning Herald - 'Bosses Demand IR Overhaul'.

24 February 1995 - Australian - 'Court Ruling Throws Laws on Discrimination into Doubt'.

24 February 1995 - Australian - 'Decision Opens 'Can of Worms' '.

2 March 1995 - Australian - 'IRC Bench Deals Blow to Union Bargaining Power'.

8 March 1995 - Australian - 'ACTU to Champion Women's Pay Equity'.

B. SECONDARY SOURCES

Anderson, G. 1991. 'The Employment Contracts Act 1991: An Employers' Charter ?', NEW ZEALAND JOURNAL OF INDUSTRIAL RELATIONS, 16, pp 127-42.

Anderson, G., Banks, B., Harrison, R., Hughes, J. & Johnston, K. 1993. BUTTERWORTHS EMPLOYMENT LAW GUIDE, Wellington: Butterworths.

Anderson, G., Banks, B., Hughes, J. & Johnston, K. 1995. BUTTERWORTHS EMPLOYMENT LAW GUIDE, 2ed, Wellington: Butterworths.

Arber, S. & Ginn, J. 1995. 'The Mirage of Gender Equality: Occupational Success in the Labour Market and within Marriage', BRITISH JOURNAL OF SOCIOLOGY, 46:1, pp 21-43.

Bacchi, C.L. 1990. SAME DIFFERENCE: Feminism and Sexual Difference, St. Leonards: Allen & Unwin.

Bartley, A. 1993. 'Equal Employment Opportunities in the Public Sector', PUBLIC SECTOR, 16:2, pp 2-3.

Beaumont, C. 1993. 'Wage Determination Under the Employment Contracts Act in Historical Context', RESERVE BANK OF NEW ZEALAND DISCUSSION PAPER G93/5, Wellington: Reserve Bank of New Zealand.

Bennett, L. 1994. 'Women and Enterprise Bargaining: The Legal and Institutional Framework', JOURNAL OF INDUSTRIAL RELATIONS, 36:4, pp 191-212.

Bennett, L. 1995. 'Women and Enterprise Bargaining: The Legal and Institutional Framework', in Thornton, M. (ed), PUBLIC AND PRIVATE: Feminist Legal Debates, Melbourne: Oxford University Press, pp 112-143.

Berthoin Antal, A. 1987. 'Comparing Notes and Learning from Experience', in Dierkes, M., Weiler, H.N. & Berthoin Antal, A. (eds), COMPARATIVE POLICY RESEARCH: Learning from Experience, New York: St. Martin's Press, pp 498-515.

Boxall, P. 1991. 'Would the Good Employer Please Step Forward ? A Discussion of the "Good Employer" Concept in the State Sector Act 1988', NEW ZEALAND JOURNAL OF INDUSTRIAL

RELATIONS, 16, pp 211-31.

Briar, C. 1994. 'Tracing the Patterns: The Development of EEO Policies in New Zealand and Overseas', in Sayers, J. & Tremaine, M. (eds), THE VISION AND THE REALITY: Equal Employment Opportunities in the New Zealand Workplace, Palmerston North: Dunmore Press, pp 25-44.

Brook, P. 1990a. FREEDOM AT WORK: The Case for Reforming Labour Law in New Zealand, Auckland: Oxford University Press.

Brook, P. 1990b. THE INEQUITY OF 'PAY EQUITY': Comparable Worth Policy in New Zealand, Auckland: New Zealand Centre for Independent Studies.

Brosnan, P., Burgess, J. & Rea, D. 1991. 'Labour Institutions, Government Policy and Economic Change in Australia and New Zealand', INDUSTRIAL RELATIONS CENTRE WORKING PAPER 2/91, Victoria University of Wellington.

Brosnan, P. & Rea, D. 1992. 'Rogernomics and the Labour Market', NEW ZEALAND SOCIOLOGY, 7:2, pp 188-221.

Browne, M.N. & Giampetro-Meyer, A.M. 1989. 'The Overriding Importance of Market Characteristics for the Selection of Pay Equity Strategies: The Relative Efficacy of Collective Bargaining and Litigation in the Nursing Industry', INDUSTRIAL RELATIONS LAW JOURNAL, 11:3, pp 414-46.

Bryson, L. 1994. 'Women, Paid Work, and Social Policy', in Grieve, N. & Burns, A. (eds), AUSTRALIAN WOMEN: Contemporary Feminist Thought, Melbourne: Oxford University Press, pp 179-93.

Burgmann, V. 1993. POWER AND PROTEST: Movements for Change in Australian Society, St. Leonards: Allen & Unwin.

Burton, C., Hag, R. & Thompson, G. 1987. WOMEN'S WORTH: Pay Equity and Job Evaluation in Australia, Canberra: Australian Government Publishing Service.

Burton, C. 1991. THE PROMISE & THE PRICE: The Struggle for Equal Opportunity in Women's Employment, Sydney: Allen & Unwin.

Castles, F. 1989. 'Social Protection by Other Means: Australia's Strategy of Coping with External Vulnerability' in Castles, F.

(ed), THE COMPARATIVE HISTORY OF PUBLIC POLICY, Cambridge: Polity Press, pp 16-55.

Castles, F. 1993. 'Changing Course in Economic Policy: The English-Speaking Nations in the 1980s' in Castles, F. (ed), FAMILIES OF NATIONS: Patterns of Public Policy in Western Democracies, Aldershot: Dartmouth, pp 3-34.

Castles, F. 1994. 'The Wage Earners' Welfare State Revisited: Refurbishing the Established Model of Australian Social Protection, 1983-93', AUSTRALIAN JOURNAL OF SOCIAL ISSUES, 29:2, May, pp 120-45.

Chen, M. 1989. WOMEN AND DISCRIMINATION: New Zealand and the UN Convention, Wellington: Victoria University Press/ Institute of Policy Studies.

Cook, M. 1994. JUST WAGES: History of the Campaign for Pay Equity 1984-1993, Wellington: Coalition for Equal Value Equal Pay.

Craig, J. 1993. AUSTRALIAN POLITICS: A Source Book, 2ed, Sydney: Harcourt Brace.

Dann, C. 1985. UP FROM UNDER: Women and Liberation in New Zealand 1970-1985, Wellington: Allen & Unwin/Port Nicholson Press.

Davidson, C. & Bray, M. 1994. WOMEN AND PART TIME WORK IN NEW ZEALAND, Wellington: Institute for Social Research and Development.

Davies, L. & Jackson, N. 1993. WOMEN'S LABOUR FORCE PARTICIPATION IN NEW ZEALAND: The Past 100 Years, Wellington: Social Policy Agency.

Dawson, J. 1992. 'Sex Equality and the Law of Employment', NEW ZEALAND JOURNAL OF INDUSTRIAL RELATIONS, 17:2, pp 149-60.

Deeks, J., Parker, J. & Ryan, R. 1994. LABOUR AND EMPLOYMENT RELATIONS IN NEW ZEALAND, 2ed, Auckland: Longman Paul.

Du Plessis Novitz, R. & Jaber N. 1990. 'Pay Equity, the "Free" Market and State Intervention', NEW ZEALAND JOURNAL OF INDUSTRIAL RELATIONS, 15, pp 251-62.

Easting, S. 1994. WOMEN, CHILDCARE AND THE STATE, [unpublished M.Phil. Thesis], Massey University.

Else, A. 1992. 'To the Market and Home Again: Gender and the New Right', in Du Plessis, R. et al. (eds), FEMINIST VOICES: Women's Studies Texts for Aotearoa/New Zealand, pp 239-51.

England, P. 1993. 'The Separative Self: Androcentric Bias in Neoclassical Assumptions', in Ferber, M. & Nelson, J. (eds), BEYOND ECONOMIC MAN: Feminist Theory and Economics, Chicago: University of Chicago Press, pp 37-53.

Fargher, S.W. & Maani, S.A. 1992. 'The Gender Gap In New Zealand: Evidence of Income Differentials and Occupational Segregation', WORKING PAPERS IN ECONOMICS SERIES, 109, Department of Economics, University of Auckland.

Fryer, G. & Oldfield, Y. 1994. NEW ZEALAND EMPLOYMENT RELATIONS, Auckland: Longman Paul.

Ginsberg, N. 1992. DIVISIONS OF WELFARE: A Critical Introduction to Comparative Social Policy, London: Sage.

Graycar, R. & Morgan, J. 1990. THE HIDDEN GENDER OF LAW, Leichhardt: Federation Press.

Gregory, R.G., Anstie, R., Daly, A. & Ho, V. 1989. 'Women's Pay in Australia, Great Britain, and the United States: The Role of Laws, Regulations, and Human Capital', in Michael, R.T., Hartmann, H.I. & O'Farrell, B. (eds), PAY EQUITY: Empirical Inquiries, Washington D.C. : National Academy Press, pp 222-42.

Gwartney-Gibbs, P.A. 1988. 'Sex Segregation in the Paid Workforce: The New Zealand Case', AUSTRALIAN & NEW ZEALAND JOURNAL OF SOCIOLOGY, 24:2, July, pp 264-78.

Hammond, S. & Harbridge, R. 1993. 'The Impact of the Employment Contracts Act on Women At Work', Paper presented to the WOMEN AT WORK: Issues for the 1990s Seminar, Industrial Relations Centre, Victoria University of Wellington, 12 February 1993.

Harbridge, R. (ed) 1993. EMPLOYMENT CONTRACTS: New Zealand Experiences, Wellington: Victoria University Press.

Harbridge, R. & Hince, K. 1993. 'Bargaining and Worker Representation Under New Zealand's Employment Contracts Legislation: A Review After Two Years', INDUSTRIAL RELATIONS CENTRE WORKING PAPER 4/93, Victoria University of Wellington.

Head, B. 1994. 'Corporatist Analysis', in Parkin, A. et al. (eds), GOVERNMENT, POLITICS, POWER AND POLICY IN AUSTRALIA, 5ed, Melbourne: Longman Cheshire, pp 271-93.

Heidenheimer, A.J., Heclo, H. & Teich Adams, C. 1983. COMPARATIVE PUBLIC POLICY: The Politics of Social Choice in Europe and America, London: Macmillan.

Hill, L. 1993. '100 Years of the Vote: 80 Percent of the Pay: The Politics of Pay Equity', WOMEN'S STUDIES JOURNAL, 9:2, pp 87-113.

Hill, L. & Du Plessis, R. 1993. 'Tracing the Similarities, Identifying the Differences: Women and the Employment Contracts Act', NEW ZEALAND JOURNAL OF INDUSTRIAL RELATIONS, 18:1, pp 31-43.

Hince, K. 1993. 'From William Pember Reeves to William Francis Birch: from Conciliation to Contracts', in Harbridge, R. (ed), EMPLOYMENT CONTRACTS: New Zealand Experiences, Wellington: Victoria University Press, pp 7-12.

Hume, R. 1993. 'Paid in Full ? An Analysis of Pay Equity in New Zealand', AUCKLAND UNIVERSITY LAW REVIEW, 7, pp 471-81.

Humphries, M. & Grice, S. 1995. 'Equal Employment Opportunity and the Management of Diversity', in Boxall, P. (ed), THE CHALLENGE OF HUMAN RESOURCE MANAGEMENT: Directions and Debates in New Zealand, Auckland: Longman Paul, pp 205-30.

Hyman, P. & Clark, A./Urban Research Associates, 1987. EQUAL PAY STUDY PHASE ONE REPORT, Wellington: Department of Labour.

Hyman, P. 1992. 'Pay Equity Developments in Five Countries - What We Can Learn from the Different Approaches', VICTORIA ECONOMIC COMMENTARIES, 9:2, pp 15-26.

Hyman, P. 1993. 'Equal Pay for Women after the Employment Contracts Act: Legislation and Practice - the Emperor with No Clothes ?', NEW ZEALAND JOURNAL OF INDUSTRIAL RELATIONS, 18, pp 44-57.

Hyman, P. 1994. WOMEN AND ECONOMICS: A New Zealand Feminist Perspective, Wellington: Bridget Williams Books.

Jaensch, D. 1992. THE POLITICS OF AUSTRALIA, Melbourne: Macmillan Education.

Jamrozik, A. 1994. 'From Harvester to De-Regulation: Wage Earners in the Australian Welfare State', AUSTRALIAN JOURNAL OF SOCIAL ISSUES, 29:2, May, pp 162-70.

Jewson, N. & Mason, D. 1986. 'The Theory and Practice of Equal Opportunities Policies: Liberal and Radical Approaches', SOCIOLOGICAL REVIEW, 34:2, pp 307-34.

Johnson, C. & Wajcman, J. 1986. 'Comment on: 'A Comparative Analysis of Equal Pay in the U.S., Britain and Australia' ', AUSTRALIAN FEMINIST STUDIES, 3, Summer, pp 91-5.

Jones, D. 1994. 'Talking About Equal Employment Opportunity', in Sayers, J. & Tremaine, M. (eds), THE VISION AND THE REALITY: Equal Employment Opportunity in the New Zealand Workplace, Palmerston North: Dunmore Press, pp 172-87.

Kellehear, A. 1993. THE UNOBTRUSIVE RESEARCHER: A Guide to Methods, St. Leonards: Allen & Unwin.

Kelly, P. 1994. THE END OF CERTAINTY: Power, Politics and Business in Australia, rev. ed., St. Leonards: Allen & Unwin.

Kelsey, J. 1993. ROLLING BACK THE STATE: Privatisation of Power in Aotearoa/New Zealand, Wellington: Bridget Williams Books.

Kessler-Harris, A. 1988. 'The Debate Over Equality for Women in the Work Place: Recognizing the Differences', in Larwood et al. (eds), WOMEN AND WORK: An Annual Review, volume 1, Newbury Park, CA: Sage Publications, pp 141-61.

Killingsworth, M.R. 1990. THE ECONOMICS OF COMPARABLE WORTH, Kalamazoo, Michigan: W.E. Upjohn Institute for Employment Research.

King, D.S. 1987. THE NEW RIGHT: Politics, Markets and Citizenship, Chicago: The Dorsey Press.

Kramer, R. 1991. 'Australian Developments in Equal Employment Opportunity and Affirmative Action', EQUAL OPPORTUNITIES INTERNATIONAL, 10:5, pp 5-13.

McGregor, J. 1994. 'Breaching the Convention: New Zealand's International Obligations', in Sayers, J. & Tremaine, M. (eds), THE VISION AND THE REALITY: Equal Employment

Opportunities in the New Zealand Workplace, Palmerston North: Dunmore Press, pp 99-112.

Martin, J. 1990. 'Remaking the State Services', in Holland, M. & Boston, J. (eds), THE FOURTH LABOUR GOVERNMENT: Politics and Policy in New Zealand, Auckland: Oxford University Press, pp 123-39.

Milne, P. 1995. 'Employment Equity: Good for Ontarians, Good for Ontario', WOMEN AND CAUT [Canadian Association of University Teachers] NEWS, 8:2, pp 8-10.

Neilson, D. 1995. 'Convergence and Divergence: Notes on Comparing Australia and New Zealand Experiences of Industrial Relations', in Morrison, P. (ed), LABOUR, EMPLOYMENT AND WORK IN NEW ZEALAND 1994: Proceedings of the Sixth Conference 24th & 25th November 1994 Victoria University of Wellington, Wellington: Victoria University of Wellington, pp 293-8.

O'Connor, D. 1995. 'Equity in the Workplace: The Implication of the Industrial Relations Reform Act 1993, JOURNAL OF INDUSTRIAL RELATIONS, 37:1, pp 63-71.

O'Donnell, C. 1989. 'Theories of Women and Employment', in Whitfield, K. (ed), CONTEMPORARY ISSUES IN LABOUR ECONOMICS, Sydney: Harper & Row, pp 125-41.

O'Donnell, C. & Golder, N. 1986. 'A Comparative Analysis of Equal Pay in the United States, Britain and Australia', AUSTRALIAN FEMINIST STUDIES, 3, Summer, pp 59-90.

O'Donnell, C. & Hall, P. 1988. GETTING EQUAL: Labour Market Regulation and Women's Work, Sydney: Allen & Unwin.

Offe, C. 1985. DISORGANIZED CAPITALISM: Contemporary Transformations of Work and Politics, Keane, J. (ed), Cambridge: Polity Press.

Parkin, A., & Summers, J. 1994. 'The Constitutional Framework' in Parkin, A. et al. (eds), GOVERNMENT, POLITICS, POWER AND POLICY IN AUSTRALIA, 5ed, Melbourne: Longman Cheshire, pp 5-25.

Pateman, C. 1988. THE SEXUAL CONTRACT, Stanford, CA: Stanford University Press.

Pateman, C. 1989. THE DISORDER OF WOMEN: Democracy,

Feminism and Political Theory, Stanford CA: Stanford University Press.

Plowman, D. 1986. 'Developments in Australian Wage Determination 1953-83: The Institutional Dimension', in Niland, J. (ed), WAGE FIXATION IN AUSTRALIA, North Sydney: Allen & Unwin, pp 15-48.

Quinlan, M. 1994. 'Industrial Relations Policy' in Parkin, A. et al. (eds), GOVERNMENT, POLITICS, POWER AND POLICY IN AUSTRALIA, 5ed, Melbourne: Longman Cheshire, pp 371-84.

Radford, G. 1985. 'Equal Opportunity Programs in the Australian Public Service' in Sawer, M. (ed), PROGRAM FOR CHANGE: Affirmative Action in Australia, Sydney: Allen & Unwin, pp 51-71.

Rafferty, F. 1994. 'Equal Pay: The Evolutionary Process 1984-1994', JOURNAL OF INDUSTRIAL RELATIONS, 36:4, pp 451-67.

Ronalds, C. 1990. 'Government Action Against Employment Discrimination', in Watson, S. (ed), PLAYING THE STATE: Australian Feminist Interventions, North Sydney: Allen & Unwin, pp 105-19.

Rose, H. 1981. 'Rereading Titmuss: The Sexual Division of Welfare', JOURNAL OF SOCIAL POLICY, 10:4, pp 477-502.

Ryan, E. 1988. 'Equal Pay, Comparable Worth and the Central Wage Fixing System', AUSTRALIAN FEMINIST STUDIES, 6, pp 7-15.

Ryan, R. 1994. 'Dangerous Opportunities ? Women and the Process of Workplace Reform', in Sayers, J. & Tremaine, M. (eds), THE VISION AND THE REALITY: Equal Employment Opportunities in the New Zealand Workplace, Palmerston North: Dunmore Press, pp 234-45.

Sarantakos, S. 1993. SOCIAL RESEARCH, Melbourne: Macmillan Education.

Sawer, M. 1987. 'Two Steps Backwards: Equal Opportunity Under Howard and Hawke', POLITICS, 22:2, pp 92-6.

Sayers, J. 1993. 'Women, the Employment Contracts Act, and Labour Flexibility' in Harbridge, R. (ed), EMPLOYMENT CONTRACTS: New Zealand Experiences, Wellington: Victoria University Press, pp 210-23.

Sayers, J. 1994. 'EEO in the Private Sector: Trudie McNaughton

Interview', in Sayers, J. & Tremaine, M. (eds), THE VISION AND THE REALITY: Equal Employment Opportunities in the New Zealand Workplace, Palmerston North: Dunmore Press, pp 300-10.

Sayers, J. 1994. 'Towards A More Equitable Society: Gill Ellis Interview', in Sayers, J. & Tremaine, M. (eds), THE VISION AND THE REALITY: Equal Employment Opportunities in the New Zealand Workplace, Palmerston North: Dunmore Press, pp 287-99.

Schmidt, M.G. 1993. 'Gendered Labour Force Participation' in Castles, F. (ed), FAMILIES OF NATIONS: Patterns of Public Policy in Western Democracies, Aldershot: Dartmouth, pp 179-237.

Scott, G. & Gorringe, P. 1989. 'Reform of the Core Public Sector: The New Zealand Experience', AUSTRALIAN JOURNAL OF PUBLIC ADMINISTRATION, 48:1, pp 81-92.

Scott, J. 1988. 'Deconstructing Equality - Versus - Difference: Or, the Uses of Poststructuralist Theory for Feminism', FEMINIST STUDIES, 14:1, pp 33-50.

Sharp, R. & Broomhill, R. 1988. SHORT CHANGED: Women and Economic Policies, Sydney: Allen & Unwin.

Shirley, I. 1990. 'New Zealand: The Advance of the New Right', in Taylor, I. (ed), THE SOCIAL EFFECTS OF FREE MARKET POLICIES: An International Text, Hemel Hempstead: Harvester Wheatsheaf, pp 351-90.

Short, C. 1989. 'Has Pay Equality been Achieved ?', in Whitfield, K. (ed), CONTEMPORARY ISSUES IN LABOUR ECONOMICS, Sydney: Harper & Row, pp 173-80.

Short, M. & Buchanan, J. 1995. 'Wages Policy and Wage Determination in 1994', JOURNAL OF INDUSTRIAL RELATIONS, 37:1, pp 119-31.

Spoonley, P. 1994. 'Ambivalence and Autonomy: The Tension Between Biculturalism and EEO', in Sayers, J. & Tremaine, M. (eds), THE VISION AND THE REALITY: Equal Employment Opportunities in the New Zealand Workplace, Palmerston North: Dunmore Press, pp 87-98.

Stewart, D.W. & Kamins, M.A. 1993. SECONDARY RESEARCH: Information Sources and Methods, 2ed, Newbury Park CA:

Sage Publications.

Summers, J. 1994. 'Federalism and Commonwealth-State Relations' in Parkin, A. et al. (eds), GOVERNMENT, POLITICS, POWER AND POLICY IN AUSTRALIA, 5ed, Melbourne: Longman Cheshire, pp 80-104.

Sutcliffe, P. & Kitay, J. 1994. 'Small Business and Government Relations: Three Case Studies' in Stewart, R.G. (ed), GOVERNMENT AND BUSINESS RELATIONS IN AUSTRALIA, St. Leonards: Allen & Unwin, pp 295-315.

Taylor, I. 1990. 'Introduction: The Concept of 'Social Cost' in Free Market Theory and the Social Effects of Free Market Policies', in Taylor, I. (ed), THE SOCIAL EFFECTS OF FREE MARKET POLICIES: An International Text, Hemel Hempstead: Harvester Wheatsheaf, pp 1-26.

Thornton, M. 1985. 'Affirmative Action, Merit and the Liberal State', AUSTRALIAN JOURNAL OF LAW & SOCIETY, 2:2, pp 28-40.

Thornton, M. 1990. THE LIBERAL PROMISE: Anti-Discrimination Legislation in Australia, Melbourne: Oxford University Press.

Thornton, M. 1993. 'Equal Pay in Australia' in Eyraud, F. et al. (eds), EQUAL PAY PROTECTION IN INDUSTRIALISED MARKET ECONOMIES: In Search of Greater Effectiveness', Geneva: International Labour Office, pp 23-42.

Thornton, M. 1994. 'The Seductive Allure of EEO' in Grieve, N. & Burns, A. (eds), AUSTRALIAN WOMEN: Contemporary Feminist Thought, Melbourne: Oxford University Press, pp 215-24.

Titmuss, R.M. 1960. THE SOCIAL DIVISION OF WELFARE, Liverpool: Liverpool University Press.

Tremaine, M. 1991. 'Equal Employment Opportunity and State Sector Reform' in Boston, J. et al. (eds), RESHAPING THE STATE: New Zealand's Bureaucratic Revolution, Auckland: Oxford University Press, pp 343-66.

Tremaine, M. & McGregor, J. 1995 forthcoming. 'Negotiating the Package: The Managerial Woman's Experience in New Zealand's Deregulated Labour Market'.

Voet, R. 1994. 'Women as Citizens: A Feminist Debate', AUSTRALIAN FEMINIST STUDIES, 19 (Autumn), pp 61-77.

Walsh, P. 1991. 'The State Sector Act 1988', in Boston, J. et al. (eds), RESHAPING THE STATE: New Zealand's Bureaucratic Revolution, Auckland: Oxford University Press, pp 52-80.

Walsh, P. & Dickson, J. 1993. 'The Emperor's New Clothes: The Uncertain Fate of Equal Employment Opportunities in the New Zealand Public Sector, 1988-92', INDUSTRIAL RELATIONS CENTRE WORKING PAPER 3/93, Victoria University of Wellington.

Wanna, J. 1994. 'Public Sector Management' in Parkin, A. et al. (eds), GOVERNMENT, POLITICS, POWER AND POLICY IN AUSTRALIA, 5ed, Melbourne: Longman Cheshire, pp 61-79.

Watts, R. 1990. 'Jam Every Other Day: Living Standards and the Hawke Government 1983-9', in Taylor, I. (ed), THE SOCIAL EFFECTS OF FREE MARKET POLICIES: An International Text, Hemel Hempstead: Harvester Wheatsheaf, pp 143-74.

Whitehouse, G. 1992. 'Legislation and Labour Market Gender Inequality: An Analysis of OECD Countries, WORK, EMPLOYMENT & SOCIETY, 6:1, pp 65-86.

Wilensky, H.L., Luebbert, G. M., Reed Hahn, S. & Jamieson, A. M. 1987. 'Comparative Social Policy: Theories, Methods, Findings' in Dierkes, M., Weiler, H.N. & Berthoin Antal, A. (eds), COMPARATIVE POLICY RESEARCH: Learning from Experience, New York: St. Martin's Press, pp 381-457.

Wilson, M.A. 1992. 'Employment Equity Act 1990: A Case Study in Women's Political Influence, 1984-90', in Deeks, J. & Perry, N. (eds), CONTROLLING INTERESTS: Business, the State and Society in New Zealand, Auckland: Auckland University Press, pp 113-31.

Wilson, M.A. 1993. 'The Making and Repeal of the Employment Equity Act: What Next ?', WOMEN'S STUDIES JOURNAL, 9:2, pp 68-85.

Wiltshire, K. 1994. 'Privatisation and Corporatisation' in Stewart, R.G. (ed), GOVERNMENT AND BUSINESS RELATIONS IN AUSTRALIA, St. Leonards: Allen & Unwin, pp 202-22.

Wood, G.A. 1992. STUDYING NEW ZEALAND HISTORY, 2ed. rev., Dunedin: University of Otago Press.

Young, I.M. 1989. JUSTICE AND THE POLITICS OF DIFFERENCE,

Princeton: Princeton University Press.