

SUBMISSION TO THE

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON

LEGAL AND CONSTITUTIONAL AFFAIRS

INQUIRY INTO EQUAL OPPORTUNITY AND

EQUAL STATUS FOR AUSTRALIAN WOMEN

NATIONAL PAY EQUITY COALITION

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SUBMISSION OUTLINE

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SUBMISSION BY THE NATIONAL PAY EQUITY COALITION TO THE HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS INQUIRY INTO EQUAL OPPORTUNITY AND EQUAL STATUS FOR AUSTRALIAN WOMEN.

Introduction

Over the last 15 years a number of organisations representing Australian women have made submissions to the (now) Australian Industrial Relations Commission in the context of National Wage Cases. In the 1983 National Wage Case the Women's Electoral Lobby, the National Council of Women of Australia, and the Union of Australian Women made submissions. The Council of Action for Equal Pay intervened in the 1985 ACT Nurses Case.

Most recently the National Pay Equity Coalition made submissions to the 1988 National Wage Case. The Council of Action for Equal Pay, amongst other organisations, is associated with the National Pay Equity Coalition. The Coalition is an organisation of women whose members include trade union officials and activists, academics and teachers, and women from both the public and private sectors.

The National Pay Equity Coalition believe it is timely for the Government to assess progress in Equal Opportunity and Equal Status for Australian women including progress towards real equal pay for women workers in Australia. For this reason we have prepared this submission and recommendations to the House of Representatives Standing Committee on Legal and Constitutional Affairs.

This submission addresses points 2 and 3 of the inquiry by the House of Representatives Standing Committee on legal and constitutional affairs into Equal Opportunity and Equal Status for Australian Women. These are:

- (2) the extent to which women receive appropriate recognition for their contribution to society, and
- (3) participation by women in the labour force including the efficiency of equal employment opportunity schemes.

Specifically, this submission goes to the question of unequal pay between the sexes.

The National Pay Equity Coalition (NPEC) contends that, in the absence of full implementation of the 1972 Equal Pay decision, many women do not have equal pay for work of equal value. NPEC further contends that there are significant structural barriers

to the equal participation of women in society and in the labour market, particularly the continuing expectation that the work of parenting is primarily the responsibility of mothers. That expectation, and the related deficiency in childcare, gives rise to many of the labour market disadvantages of women, including choices regarding education and training, lower participation in the paid workforce (less hours (ordinary hours and overtime), less weeks per year, and less years of working life), and less industrial bargaining power.

Studies indicate that the lack of appropriate and affordable childcare is the largest single factor contributing to women's availability for full time work, low labour force participation rates and lower wage rates. Equal Employment Opportunity programmes cannot work until this issue is resolved. The lack of childcare is a critical obstacle to equal pay and failure to address the continuing need for childcare will frustrate any efforts to achieve equal pay.

Women are still under represented in decision-making positions in employment and training, which sustains provision of inappropriate/irrelevant services and structures. The NPEC sees the disparity in male and female earnings as the outcome of the unequal position of women in the workforce. Some women experience multiple disadvantage in the workforce because of additional discrimination on the grounds of race, disability and non-English speaking background. The following analysis of the wage differential illustrates the relationship between male and female earnings and how it arises.

Part 1 MALE/FEMALE WAGE DISPARITY COMPOSITION OF THE GAP

The following table identifies the contribution of various labour market disadvantages to women's lower wages. Although data used are from different sources, and hence are not strictly comparable, those differences do not invalidate the description the table provides of the composition of the earnings gap or the order of magnitude of the factors involved.

Table 1: Factors in Male/Female Wages Disparity

	Female Proport- -ion of male Earnings	Female .. /Male Earnings Gap %	.. % Contribution of factor to the Earnings Gap
1. Average weekly earnings less part-time, juniors	65	35	14 yields
2. F/T adults average weekly earnings less overtime	79	21	4 yields
3. F/T adults ordinary time less managerial jobs	83	17	6 yields
4. F/T adults ordinary time, non-managerial less over-awards and bonuses (women get 56% of the over-award payments men get, and 19% of the bonuses, etc)	89	11	2 yields
5. Award rates of pay (reflects job values and discrimination)	91	9	

Source:

1. ABS, Average Weekly Earnings, Australia, May 1989, - Preliminary (6301.0)
2. ABS, Distribution and Composition of Employee Earnings, Australia, May 1987, 6306

Note: All figures rounded to nearest whole number.

Sex Segregation in the Workforce

Sex segregation of the Australian workforce is so well known as to require little further comment. According to the 1986 Census, in NSW half women's employment was in eight occupations compared with 14 for men. Over 1/3 of working women are in clerical jobs and one in five in sales and personal service, less than one in ten trades workers are women and less than one in four managers. There appears to be little chance of rapid change, in view of the expansion of female dominated industries. Women's employment often requires less training and qualifications, is concentrated in more recently developed occupations in service industries, and characterised by narrow and fragmented tasks. Concentration in these jobs has produced a pattern of occupational injury for women in which long running diseases like occupation over use syndrome make up a greater proportion of women's injuries than for men. Although some part of this gap could be attributed to failure to recognise the informal training of women and the skills women have, much is due to the way jobs have been designed. The persistence of extreme occupational segregation, while skills shortages continue and the need for a trained and flexible workforce has never been greater, is a significant and costly structural rigidity in Australia's economy.

Discrimination in award rates

The part of the wages gap related to discrimination in award rates has been addressed on many occasions by women's groups in submissions to the (now) Australian Industrial Relations Commission, since it is the only factor in the earnings gap which is directly addressable in the wages system. A history of those submissions is provided in Part 2 of this submission.

The gap due to award rates of pay is 9%. But not all of that gap is due to discrimination - it also reflects differences in qualifications, experience and other real differences in male and female jobs, reflecting the strongly sex-segregated workforce in Australia. So the gap due to award rate discrimination is somewhere between 0% and 9%. The discrimination gap can be estimated as 3.5%, based largely on Chapman and Mulvey's paper "An Analysis of the Origins of Sex Differences in Australian Wages" in the Journal of Industrial Relations (1986) in which they calculated contribution of various factors to the earnings gap, and arrived at a residue of 3.5% for which there is no explanation other than discrimination.

Discrimination in Legislation and Awards

Discrimination in awards and legislation contributes to occupational segregation. Although much progress has been made on removing discriminatory provisions from legislation, discrimination still exists in most states in relation to women working with lead, and manual handling. Limitations are placed on weights which can be lifted by women, which do not apply to men. This endangers male workers (most of whom suffer back injuries because of it) and restricts women's employment

opportunities. Najdovska v. Australian Iron & Steel (1985) EOC 92-140 found that the use of the legislation relating to the lifting of weights resulted in discrimination in employment for women, especially in higher paid areas, access to which may be through a job requiring manual handling. It is important to note that the case did not invalidate manual handling provisions in legislation, which operate under exemption from anti-discrimination legislation. Gender is not a proxy for work capacity, and employment discrimination is not a safe or fair alternative to addressing occupational hazards.

Discrimination in awards is still widespread since awards are exempt from State and Federal anti-discrimination legislation. Discrimination occurs in male or female only job classifications, allowances, leave, hours provisions, restrictions on working on particular machines, substances and locations, weights, and pervasively by the use of gender biased language which signals that particular kinds of work are seen as appropriate only for men or only for women.

These forms of discrimination are quite inappropriate for a workforce which is already 40% female and likely to become more so. Despite the inclusion of eliminating discrimination from awards progress has been slow since the passage of the Anti-Discrimination Act 1977 and the Sex Discrimination Act 1984. A sufficient period of time has elapsed for the parties to take the necessary action to remove discriminatory provisions. The Sex Discrimination Act should therefore be amended to remove existing exemptions for awards.

The Structural Efficiency Principle of the current National Wage Case Principles still requires that cases where award provisions discriminate against sections of the workforce be addressed.

Summary

The difference in male/female award rates reflects two things.

- discrimination in wage-fixing, arising from gender bias in assessing work value - say 3.5%
- occupational and industrial gender segregation - say 5.5%.

Those factors together account for a difference of 9% in male/female wages.

Other components of the gap shown in Table One are:

- more women work part-time;
- a higher proportion of the female workforce are juniors whose low wages reduce the overall level of women's wages;
- women have a lower share of management jobs;
- women have a lower share of overtime; and
- women have a lower share of over award and bonus payments.

The factors have been separated to facilitate examination of each, but it is important to recognise that they are inextricably inter-related. For example, the fact that women work fewer (ordinary and overtime) hours contributes to their lower share of management jobs and to occupational concentration in jobs with less over award and bonus payments.

It is important to realise that prejudices, judgements and bias about gender reinforce and reproduce sex discrimination in the workplace. Assumptions concerning the value of certain skills and work are detrimental to women who traditionally have their work and skills undervalued compared to male workers. Assumptions concerning women's likelihood of taking maternity leave deny women access to training and career paths. Assumptions concerning the role of part time work and the primary role of women as mothers, deny women who choose to work part time access to training and opportunity. Stereotyped assumptions about what is suitable work for women and women's career aspirations serve to entrench the factors addressed below.

LABOUR MARKET CHARACTERISTICS RELATING TO MALE/FEMALE DISPARITY

Part-time Workers

Many women work part-time because they choose and can afford to. Many others don't have a choice. They have to work part-time because they can't afford or can't find childcare, and women are still expected to be responsible for childcare. Nearly 4 in ten working women work part-time and most part-time workers are women. The absence of parental leave reinforces this expectation. Until women can increase their availability for employment for more hours, and longer and less interrupted careers - this part of the earnings gap will persist. It sustains associated problems of missed opportunities for training and promotion, which in turn keep women at lower job-levels. Perhaps women's concentration in part-time work would fall if a broader range of awards covering male-dominated jobs provided for permanent part-time work.

Junior Women

Young women are employed in a very restricted range of jobs, and at very low rates of pay - even more than young men. They also face more restrictive award provisions than any other group in the labour market. This is demonstrated in Philippa Hall's study of award provisions affecting juniors "Juniors: New South Wales Award Provisions" (DIRE, 1989). Limited occupational access depresses female earnings overall. If this is to change, young women have to undertake more and broader training so they can enter a wider range of more skilled and better paid jobs. School retention rates for young women have improved and now nearly half the young women in NSW stay on until year 12, compared with 35% in 1972, but girls are still under-represented in the higher level maths and science subjects necessary for entry to many jobs and courses. Young women make up only 1/3 of upper level maths and science students.

Sex Segregation and Training

As Barbara Pocock has thoroughly demonstrated in her 1989 and 1987 publications, traditionally women have received less education and training than men and the education and training they have received have been in a narrower range of subjects and skills.

Womens share of vocational education hovers arounds 50% in most OECD countries. The problem for women is not participation but relevance. Girls tend to be evenly or over represented in general educational institutions but are under represented in the vocational areas.

Mainstreaming cannot be used as means of evading the need specifically to address women's education and training requirements, but neither can these requirements be adequately addressed through minimally-funded marginal programs. In the long term, improvements for women should be integrated rather than treated as special and separate and must involve a re-examination of occupational definitions. Methods likely to be successful for embedding womens training within an existing system, rather than in separate courses, would include targets on women's participation in mainstream training, requirements on employers to improve women's share of vocational training, especially in newly emerging areas of training such as computer technology, and course curriculum including course structure, location, content, selection methods and so on to assist womens participation.

One way to redress the difference between men and women's wages is to encourage women to enter occupations that have been previously male dominated. There are, however, problems with this approach. One is that mandatory requirements are often inappropriate for the job required and all that may be needed to encourage women to enter these occupations is the removal of unnecessary mandatory requirements. The second is that there will need to be a massive influx of women into these occupations for any significant lessening of the gap between men's and women's wages. The third problem, however, is the assumption that women should be in men's occupations in order to earn higher wages. Women have traditionally chosen to enter person-centred occupations such as nursing, childcare, secretarial work, etc. This work is both socially valuable and socially necessary. As we argue elsewhere in this submission, the skills employed in these areas have been undervalued because they have traditionally been done by women. Instead of criticising women's decisions to work in person-centred industries, we should examine whether correct compensation for the work they are now doing is a more efficient way to redress discrimination against women rather than to push them into male-dominated occupations.

Women's Low Share of Management Jobs

This is the largest factor in the earnings gap for full-time women workers. Women are under-represented in management jobs, having only a 25% share, many of them in the public sector in

health and education as school principals and Directors of nursing. And this share actually fell between 1981 and 1986, according to Census figures. Some success in improving women's job level - which is what this problem is about - may be expected as affirmative action/equal employment opportunity plans are implemented. We need to recognise that broken careers because of childcare responsibilities and part-time work make it more difficult for women to reach management level. Other forces include discrimination on the basis of sex especially in relation to on the job training and development opportunities.

Childcare

Australian women at present have a labour force participation rate of 52.7%. 43% of women with children under twelve are in the labour force. Particularly since the mid-seventies the impact of inflation and rising living costs (especially housing loan interest rates) has made it increasingly important for families to have two incomes. The dramatic increase in the number of single parent families in Australia, at present 15 per cent, also increases the need for expanded childcare facilities. Employment is often the only way such families can escape poverty, yet 30 per cent of single parents see lack of childcare as a barrier to work-force entry. Parental leave and childcare provision are essential issues for unions wishing to expand membership among women and to enhance the welfare of workers.

Women and men can never compete equally in the labour market as long as it is the former who take the main role in caring for society's children and the aged. The access of women to economic and political equality with men depends centrally on the equal participation of men in domestic work, the removal of discriminatory practices in the labour market, and the provision of childcare services and parental leave. To move in this direction is in the interest of national productivity as well as equity. Equality between men and women in the workforce would mean making full use of women's talent, through education and off-and on-the-job training. The expansion of low-cost childcare would also mean the reduction of the need for supporting parents' benefits as more women would find it possible to enter the workforce. Australia lags in the provision of adequate parental leave and childcare, though the US is even further behind.

Overtime

Unless women work more overtime, this part of the wages gap will persist. But it is unrealistic to suggest that people who already work two jobs - one paid and one not - work more overtime. It may make more sense to consider how parenting and domestic work are shared and how choice can be provided perhaps through extended availability of long day childcare, parental leave, increased availability of permanent part-time work etc.

Further, it would seem neither to be efficient nor productive for some workers to work overtime and others to work part-time while others are unemployed. A more equitable approach to sharing work, income and family responsibilities would be to move towards a shorter working week for all workers, rather than ghettoising part-time and unemployed workers.

Over Awards and Bonuses

Women only get 56% of the over award payments men get, and only 19% of the bonuses men get. The figure for over awards has improved in the last four years, while women's share of bonuses etc., has fallen. These two kinds of payments reflect various things, including job level, job type, and possibly, some discrimination. This part of the earnings gap may be addressable by the same strategies as those to address job level and occupational concentration. Movement towards minimum rates awards is likely to exacerbate this problem, as an increasing proportion of wages is contributed by overaward and bonus payments for those in relatively advantaged positions in the labour market.

Superannuation

In 1982-83, 1,302,682 workers, most of them women, were restricted from joining schemes in which membership was open only to permanent and full time workers. Since that time the number of part-time workers has grown by 16.5%, and 79.2% of those workers are women.

In August 1987, 2 million workers, or 40 per cent of employed persons were covered by occupational superannuation arrangements. Coverage is significantly higher among men than women, with 26 per cent of women employees being covered compared with nearly 50 per cent of men. However, 75 per cent of all people with superannuation coverage are men.

Women's participation in superannuation has been restricted by direct and indirect discrimination in the schemes themselves. Women have been directly discriminated against in superannuation schemes in relation to conditions of eligibility, retirement age, and differential contribution or benefit provisions. Eligibility requirements may discriminate indirectly against women when they favour groups which are largely male, such as managerial or high salaried workers, or eliminate groups which are largely female, such as part-time workers and non-permanent workers.

Small amounts held for such workers in schemes as a result of 3 per cent productivity superannuation agreements may, if not substantially increased, be of little benefit to workers.

Recent changes to the Sex Discrimination Act have limited the ways in which superannuation discrimination is legally permissible, notably in relation to part-time workers. However, discrimination is still permissible in vesting, preservation and portability, in actuarial data, and in allocation of benefits to dependants, while existing members may continue in existing

discriminatory schemes. Most responsible funds have addressed the issue of discrimination in superannuation, there is no justification for the continued exemption of superannuation discrimination from the Sex Discrimination Act.

Industrial Bargaining Power

Women have not had the same industrial bargaining power as men to protect the breadth of work which has counted as value, or to defend demarcations of skills and work established by recognised formal training and job definition. Women are 40% of the workforce and a third of union members. Some of the bargaining disparity is due to the following characteristics of women's work:

- more part-time and casual work, and more intermittent workforce participation;
- younger workforce;
- smaller workplaces; and
- lower levels of unionisation, with associated less decision-making power in unions.

These employment characteristics of course arise from the expectations that only women are responsible for childrearing.

Women are under-represented in industrial relations in general. 27% of personnel and industrial relations managers are women. But women are more concentrated in the personnel area (as is indicated by around half of all personnel clerks, and of personnel specialists, being women). One in 12 judges in the NSW Industrial Commission is a woman, and none of the 12 commissioners are women.

The level of unionisation among women is lower (at 39%) than among men (at 46%) and women are considerably under-represented in decision-making positions in unions. (Progressively more so at each higher level of union structure). Women are much less likely to hold paid positions in unions, and are concentrated in relatively less influential appointed positions rather than in elected positions. Before the creation of three affirmative action positions, on the ACTU executive, in 1987 there were only two women on the ACTU executive.. There are some indications that the affirmative action positions have undermined women's claims for representation, through industry groups, and currently there are still only five women on ACTU executive, the highest number ever, and none of the senior ACTU officers are women.

The labour market in industrial relations then share the characteristics of many labour markets, including management; women are less numerous than men, they are concentrated in the lower levels of organisations, and they hold fewer decision-making positions.

Sex based harassment and sex discrimination

The doctrine of 'freedom of contract' conceals and ignores the operation of difference in social and economic power between the parties in specific transactions within the employment contract which makes a mockery of any notion that males and females meet on equal terms. The differences in social and economic power represent social division based upon gender and race etc., which provide the structural underpinning to the inequalities which occur in the specific transactions.

Legislation does not wholly remove these underpinnings, but may provide redress for their particular manifestations in discriminatory behaviour and practices. Sex based harassment is a form of sex discrimination which may include sexual harassment of a verbal or physical nature, sexist harassment and harassment on the basis of sexual preference. Most victims of sex based harassment are women.

High unemployment, significant differences between male and female salaries and limited job opportunities combine to place women in a vulnerable position in the workplace and contribute to the continuation of sex based harassment in the workplace. Women's status and position in the labour force must be upgraded before the problem of sex based harassment can be eliminated. The pursuit of pay equity and removal of structural discrimination directly influences the more routine systematic practices of individuals and organisations in so far as they constitute sex based harassment and discrimination.

Recent Trends in the earnings gap

It is necessary to look briefly at trends in the earnings gap over time in order to understand why this issue will not solve itself and disappear.

There was a significant increase in female/male relativities after the equal pay cases, but this had petered out by about 1977, when the differential was 21% for full time workers. In the four years to 1988, the gap in average weekly earnings actually increased, reflecting the increase from 37% to 38.2% of the female workforce in part-time work. Women's share of bonuses fell by 4.4% reflecting the increasing proportion of remuneration outside the award system.

However, over the four years there was a slight improvement (0.8%) in the average weekly earnings for full-time adults figure and a bigger (2%) increase in average weekly ordinary time earnings for full-time adults while the award rates gap closed by 2.5%. Factors contributing to the slight improvements include supplementary payments. The rate of improvement is painfully slow, and some of the current economic and labour market trends make it likely that it may not even continue. They include:

- increasing proportion of part-time employment for women;
- expansion of low-wage female dominated industries (retail and services);

- decline of public sector employment, in which women had gained a greater share of professional and managerial employment than in the private sector;
- higher levels of unemployment, as projected by the OECD, and higher levels of under-employment, and discouraged workers.

Part 2 EQUAL PAY - THE LONG STRUGGLE

Proceedings in the (now) Australian Industrial Relations Commission.

The first Council of Action for Equal Pay worked for equal pay from 1937 to 1948. The ACTU adopted an equal pay platform in 1941, but didn't pursue the issue. In 1958, the ACTU endorsed ILO Convention 100 Equal Remuneration for men and women workers but it was not until 1969 that the ACTU brought an Equal Pay Case, and it continued to defend the family wage as late as the 1973 Congress. In the Basic Wage and Standard Hours Inquiry in 1952-3, women's groups argued for a reassessment of the basic wage differential between the sexes, but the court judged the material presented as of an 'opinionated nature' requiring no particular reply, and maintained the 25% differential. In the 1960 Equal Pay Case, the Australian Federation of Business and Professional Women's Clubs, the Union of Australian Women, the Australian National Council of Women, and the Australian Federation of Women Voters intervened, and were vigorously opposed, especially by employers who thought the invading suffragettes would be better off at home looking after families.

It is important to recognise what the Equal Pay Cases did not do. They did not find that sex was an unjust basis for wage determination and act to remove it. Stackpool Moore and Moore, in their 1987 paper, have pointed out that the Equal Pay Cases were not argued in terms of 'overwhelming industrial justice', as the Aboriginal Stockmen's Case had been in 1966. In that case, it was found that race could not be a basis for wage differentials, irrespective of relative work value considerations.

The Equal Pay Cases did not find that the value of women's work was equal to the value of men's, and act to have that reflected in wage rates. They merely established principles under which claims could be pursued that women's work was similar to men's, and to that extent therefore of similar value, as a basis for changing relativities. The 1972 decision states that the question of work value is decided in terms of the value of the work as work value had been recognised in arbitration, and not in terms of its value to the employer. The decision meant that work in female dominated occupations could only be re-evaluated to the extent that it was similar to work in occupations already recognised as having value (mainly male dominated jobs). Since comparators were to be sought with male jobs only if there were no other possibilities, comparisons were sometimes made between (devalued) female dominated jobs. Almost by definition, the jobs in the female dominated occupations are differently structured, and often require different skills from those required in the male dominated occupations which had provided the benchmarks for work value.

Significant improvements in female/male earnings did occur 1972-5, and in 1978, women earned 94% of the minimum hourly award rates of men. There has been little further improvement, although cases were still being brought in the late 1970's, and half the equal pay cases were taken after the commission's 1975 deadline. Consent agreements incorporating women's jobs in the lowest award classification resulted in cosmetic changes to job titles without improvements in the rates in many cases. There were only two arbitrated equal work value investigations, and only 35 awards were changed to allow for equal pay for work of equal value, according to Short, in her article "Equal Pay - What Happened?" in the Journal of Industrial Relations 1986.

The reasons for the 1969 and 1972 decisions need to be remembered. They included:

- four States already had equal pay legislation;
- the Federal Government supported equal pay, and improving the position of women;
- the ACTU put an equal pay claim in the 1972 National Wage Case;
- Australian's economic position was buoyant, after the long boom of the 1950's and 1960's;
- unemployment was low, and there were labour shortages, both in general, and in specific skills;
- the position of women was receiving increased attention, with the resurgence of the women's movement;
- international thinking embodied in ILO Conventions and UN decrees supported equal pay.

Equal Pay for Work of Equal Value

Equal pay cases, work value and gender bias

The following discussion of equal pay cases brought before the Commission provides the background to these propositions:

- a) The application of the 1972 equal pay principle has been applied more narrowly and less flexibly than has to be the case, given the Commission's commitment to the exercise of broad judgement in work value assessments, and given the Commission's acknowledgement that the 1969 ruling was too narrow in today's world.
- b) The focus of any system designed to achieve pay equity for women workers needs to be on a comparison of female-dominated classifications with male-dominated classifications. This is the only way to ensure that the pay for work is not going to be set at a lower level because it is performed by women.

- c) Jobs in female-dominated classifications frequently require skills and qualities not found in jobs in male-dominated classifications. These need to be acknowledged and remunerated.

Equal Pay for Work of Equal Value 1972-81

In 1972 the Arbitration Commission extended the 1969 equal pay for equal work decision by determining that:

the concept of equal pay for equal work is too narrow in today's world and we think the time has come to enlarge the concept to equal pay for work of equal value. This means that award rates for all work should be considered without regard to the sex of the employee.

The equal pay decisions did not apply automatically. Instead, unions had to take up claims under the principle and come back to the Commission for ratification of consent agreements, or to have the claim arbitrated. If the latter, Paragraph 4 of the Principle required that work value inquiries were to be conducted. And although the Commission stipulated that equal pay for work of equal value be phased in by three equal instalments by June 1975, evidence is that cases were still filtering into the Commission in 1978 and there was even one in 1981.

Work value inquiries were rarely conducted. Inspections and assessment of work in terms of training, skill, working conditions and responsibility are the hallmarks of work value cases. When they did occur, in regard to women's occupations, jobs were not compared for relative levels of skill, effort and responsibility. Rather, attempts were made to assess where the formerly female classifications would fit into male classifications according to similarity of work content or task.

As a result, it could be said that, before 1972 male and female work was compared to see if it was exactly the same or very nearly; after 1972 work was compared to see if it was similar, looking at work content or work tasks rather than making any real attempt at valuing female work on more general criteria.

There appears to have been no attempt, in equal pay cases, to compare dissimilar jobs or classifications in work value terms. The dissimilar components of similar, or closely related jobs were not investigated in comparative work value terms and neither was the possibility that similarity in work value existed in dissimilar jobs.

Further, there has been no attempt to re-assess (or assess, for that matter) the value of traditionally female work in relation to the work traditionally performed by males.

Background to the Comparable Worth Test Case 1983-86

At the ACTU Congress in 1983 a statement was produced indicating an intention to act on the pay equity issue:

Recognising that the value of jobs may have been set on the basis that they have historically been performed by women (the ACTU will) seek to ensure that the comparable worth of all jobs be established on a non-sexist basis.

At the same Congress, the 1977 ACTU Women's Charter was amended to include the statement that:

The principle of equal pay for work of equal value should be pursued using objective criteria to ensure that predominantly or exclusively female classifications or occupations are properly valued.

Three women's organisations - the National Council of Women of Australia, the Union of Australian Women and the Women's Electoral Lobby (WEL) - intervened in the 1983 National Wage Case and submitted that the implementation of the 1972 ruling had not been accompanied by proper work value exercises. WEL asked that a re-introduced central wage fixing system make provision for a new evaluation of this work.

In September 1984 the ACTU adopted an Action Programme for Women Workers, based on the policy developments of the previous year and in it set out strategies for the next two years to improve the position of females in the labour market. The strategies included the intention to pursue a comparable worth claim before the Arbitration Commission. It was intended to examine the feasibility of applying the comparable worth principle by first testing it with an occupation such as nursing and, if necessary, seeking changes in the wage fixing principles.

Comparable worth was defined as:

an employee's earnings should be based on knowledge, skill, effort, responsibility and so on that his/her work requires relative to other work, regardless of whether the work is undertaken by males or females;

comparable worth or pay equity has not been fully applied in Australia which may mean there is still sex bias in the earnings of some traditionally female occupations, resulting in those traditionally female occupations being under-valued.

In 1985, the ACTU lodged a test case on the issue of equal pay for work of equal value which it equated with comparable worth. The Award being dealt with was the Private Hospitals and Doctors Nurses (A.C.T.) Award, 1972. The ACTU sought a reaffirmation of the 1972 equal pay decision and a ruling that it was still available to be implemented. On establishing the Commission's

view through an in-principle determination, the ACTU was then planning to introduce the concept into a review of the wage-fixing principles, due later in the year.

The ACTU proposed to compare the knowledge, skill, effort, responsibility and working conditions experienced by nurses with the work requirements and conditions of the male dominated occupations of ambulance officers, firemen, aircraft ground engineers, and metal trades fitters. It proposed an objective points score assessment of the comparative value of the work done in the different occupations as a means of determining the appropriate wage increases for nurses.

The Commission's ruling of 18 February, 1986 was not sympathetic to the concept of comparable worth. Indeed, it criticised the doctrine as being quite contrary to what the Full Bench of the Commission envisaged in the 1972 Equal Pay Principle.

The Principle requires equal pay for work of equal value to be implemented by work value enquiries carried out in the normal manner in which such enquiries are conducted in our wage fixing environment. This is clear from the methods of comparison laid down in paragraph 5 of the Principle. In addition subparagraph 9 (c) of Paragraph 5 specifically rejects the assessment of the work on the basis of its value to the employer.....

The Commission also said that the comparable worth approach would strike at the heart of long accepted methods of wage fixation in this country and would be particularly destructive of the present Wage Fixing principles. One of the reasons for the assertion is made clear in another statement of the Full Bench:

At its widest, comparable worth is capable of being applied to any classification regarded as having been improperly valued, without limitation on the kind of classification to which it is applied, with no requirement that the work performed is related or similar. It is capable of being applied to work which is essentially or usually performed by males as well as to work which is essentially or usually performed by females.

The Commission dealt with the dilemma - of rejecting the comparable worth concept on the one hand yet upholding the principle of equal pay for work of equal value on the other - through its ruling that the implementation of the 1972 decision was subject to the constraints of the Anomalies provision of the wage-fixing principles.

Paragraph (a) (i) of Principle 6, Anomalies and Inequities as set out in the National Wage Case Principle of 1983 stated:

In the resolution of anomalies, the overriding concept is that 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.

In summary, the Commission ruled that the 1972 decision is still available to be implemented, the assessment of equal value would be made through the customary methods applied to determine work value, and cases could be brought under the Anomalies and Inequities Principle.

Whether this is only the case for awards where it has not yet been implemented remains to be tested. In an equal pay case brought for arbitration by the Municipal Officers Association in Tasmania. Deputy President Isaac said:

The equal pay concept underlying the 1972 principles was a landmark in the history of arbitration in Australia and its proper application should be supported by the Commission. The implementation of equal pay by consent and in good faith is not immutable, even after a substantial time lapse, if it can be shown that the implementation was not in accordance with the principles (Arb. Comm. Print E7900 1981:19).

Pay cases relating to female-dominated occupational groups brought before the Conciliation and Arbitration Commission 1985-88.

1. The Nurses Case

The Commission determined, in its decision of 18th February, 1986 on the nurses claim for salary increases, that:

From the material that was put to us it appears that all parties acknowledge that a number of special factors may be relevant to a review of nurses salaries. It is our view that the pursuit of this claim through the Anomalies Conference should involve the raising of all those issues. (Arb. Comm. Print G2250 1986:7-8).

The Anomalies Conference dealing with the nurses' case was held in March 1986 and the ACTU presented a detailed argument in relation to a range of special factors relevant to the nurses' situation and wages. It was not just an equal pay case. The case was brought during a time of nurse shortage, the training of nurses was moving from hospitals to Colleges of Advanced Education, there was a concern to establish a proper career structure, and there were claims for significant changes in work value.

But in relation to the application of the 1972 Equal Pay decision, the ACTU

tabled an exhaustive history of the A.C.T. Public Sector nurses' wage movements, and a comparison of the separate and cumulative percentage wage movements of nurses and a traditionally male occupation, metal tradesmen, in the A.C.T. public sector over the period 1/1/71 to 15/5/75 to demonstrate that nurses had not received an equal pay for work of equal value wage adjustment.

The decision of the Full Bench has handed down on the 7th May 1987 and dealt among other things, with the claim that the 1972 Equal Pay Principle had not been applied in the Awards being considered. It was stated that all of the indications point to a situation of no positive application of the 1972 decision in any of the consent settlements in the Commonwealth area..... the original sex bias caused by assessment on the basis of a predominantly female rate remains... This situation, as it applies to nurses, in our view is a special and isolated factor and we think it unlikely that there are many occupations, in which, in 1987, wages are still depressed because of the non-application of the 1972 decision (Arb. Comm. Print G7200 1987:12).

2. The Therapists' Case

At the same time that the ACTU was preparing its Comparable Worth Test Case, another case was being prepared by the Professional Officers Association (POA), Australian Public Service, on behalf of therapists. The case for equal pay with other similarly qualified science professionals was argued under the Anomalies provision of the prevailing (1983) Wage Fixing Principles. It did not receive the same attention as the nurses case, not being set up to test the comparable worth principle.

The case was brought on behalf of Physiotherapists, Occupational Therapists and Speech Pathologists in the Australian Public Service (APS).

The non-application of the 1969 and 1972 Equal Pay decisions was acknowledged by agreement between the parties in documentation submitted to the Anomalies Full Bench.

It was claimed by the POA in submissions that the three occupations should be paid the same rates of pay as those applying to the science group which is a broad category encompassing all occupations requiring a minimum qualification of a three year degree in Science. It was submitted that the Therapist occupations met the criteria for inclusion in the science group in relation to the nature of work performed and qualification requirements, but that the National Wage Principles precluded the employer from incorporating the Therapist occupations into the group. The Public Service Board submitted that the alignment sought by the POA had been satisfied in the circumstances existing at the time, that justification existed to include them in the science category. The POA submitted that it was anomalous that the Therapists had been refused entry to the

science group in the past because they were unable to meet the criteria, yet when the criteria were able to be met the employer was unable to act because of constraints imposed by the National Wage Principles.

The Full Bench decision on the matter indicated that it was satisfied that the position of Therapists was anomalous and that there is no longer any justification for excluding them from the science group of employees in the Australian Public Service (Arb. Comm. Print G1499 1985:2).

3. The Social Workers' Case

A third case involves social workers employed by the Australian Public Service. The case taken to the Commission by the Professional Officers Association once more, was dealt with before the Anomalies Conference under the Inequities provision of the 1987 Wage Fixing Principles. This provision states, among other things, that the only claims that can be made under it are claims relating to classes of work that are truly alike with rates of pay (National Wage Decision, Print G6800 1987:40).

The case involved a claim that there was an inequity in the salary rates applying to social workers on the one hand, and counsellors on the other, on the basis of objective classification criteria which have regard to the nature of the work, skill and responsibility required and the conditions under which the work is performed. The counsellor classification was introduced into the APS in 1977 and its rates were determined by the Public Service Board to equate with the rates for Psychologists at Classes 1-3.

The claim was initiated under the Anomalies provision, and the POA sought application of the 1972 Equal Pay Principle for this predominantly female profession. It used as part of its evidence of non-application, the fact that the social workers' five-class professional structure was the lowest paid in Commonwealth employment, and it furnished evidence of the identical nature of the skills, knowledge and work of social workers' employed under two different Awards (covering social workers on the one hand and counsellors on the other, and the category of counsellor covering both psychologists and social workers performing identical work) where different rates of pay applied.

The claim was resolved by consent under the Inequities and not the Anomalies provision and the Anomalies Conference confirmed that the functions and duties performed by social workers are truly alike in all relevant respects to those performed by counsellors (National Wage Case Conference of Anomalies, Transcript of Proceedings, 14 April 1988, P.2).

Work Value and Gender Bias

Laura Bennett in her article, "Comparable Worth - What Happened?" Journal of Industrial Relations, December 1988 explains the decision in the Nurses' case in terms of the CAEP's failure to recognise how wage fixing within the Commission reproduce exogenously generated gender inequalities (e.g. access to training), and failure to recognise how the commission's practices and doctrines are shaped by its environment, perceptions, and objectives. Central to this explanation is the recognition that the looseness and vagueness of work value principles is functional for the Commission, in permitting it to consider a wide range of economic, political and industrial factors. Work value cases are commonly settled outside the Commission, which then rubber-stamps consent agreements. This process, however obfuscated by complex rhetoric, ritual and procedure, assists the Commission in adjudicating the tensions in its roles in relation to industrial harmony, economic policy, equity and industrial justice. The Commission's need for room to move has left unclear what is actually being measured in a work value inquiry, and how that is translated into money wages. The doctrine of comparable worth was developed for law courts operating differently from industrial tribunals, and the commission historically has not set absolute principles.

Bennett sees the crucial factor in the failure of the submission as not recognising that the Commission cannot and does not, carry out systematic case-by-case reviews of awards. The usual processes for gaining access to the Commission inhibit women taking cases. Leaving the settlement of work value to the parties to come to consent agreements meant that it was likely that the coincidence of interest between employers and male dominated unions would limit consideration of work value and increases for women workers. Thus, the Commission could articulate support for non-discriminatory wage fixing while at the same time providing discriminatory processes as the remedy. The processes provided were discriminatory in principle, in terms of their reliance on the established work value criteria, which had under-valued women's work. Focus on similarity of job content rather than work value perpetuated that under-recognition.

The three cases dealt with above, as important as they have been in contributing towards pay equity, we submit, provide limited usefulness for the overall situation of women in predominantly female classifications. The bulk of women workers need to have the specific qualities and skills demanded by the jobs they perform first acknowledged as elements to be considered in work value assessments, and then, of course, remunerated equitably.

As the Commission has stated many times, the determination of work value involves the exercise of judgement, that there is no objective method of determining it. Indeed, the research evidence is of subjectively and systematic gender bias in all conventional job classification and evaluation systems.

For example, it has already been pointed out that formal qualifications and training requirements are frequently used as important elements in determining the value of work, in cases where there are no comparable jobs for determining relative work requirements. Yet many of the skills and qualities women bring to their jobs have developed outside of formal training and educational courses and institutions (e.g. sewing-machining, cooking, child caring, personal service work, manual dexterity and social skills).

In line with the Commission's statement on the determination of work value, that different criteria will continue to apply from case to case and may vary from one class of work to another. It would appear that, in some cases of women's work, emphasis needs to be placed on job demands and on-the-job training rather than on formal educational qualifications so that the qualities and skills women bring to jobs and accumulate there have attention drawn to them.

This approach was clearly taken in the Metal Trades Award Work Value Inquiry (Arb. Comm. Print. B2916 1967), where it was stated in the decision in relation to female process workers:

They have no trade qualifications and in general they handle machines the operation of which calls for manual dexterity, rather than technical skill. Let it not be thought, however, that their value as employees is to be depreciated. They keep up with fast producing machines, their work requires close concentration, they are production minded, their productivity is high.

As a generalisation it may be said that a period of two months elapsed before full efficiency is attained... an indication of manual dexterity may be sought before an employee is engaged (Justice Gallagher, P. 743).

Process workers.... work constantly, often at a pace set for them and are required to complete complex and pernickety jobs which require some degree of attention. The work done by some is on components so small that a microscope has to be used. The process worker must be manually dextrous and in many cases must be able to perform more than one function. They must accept some responsibility for their work and in some instances make the final check of a product (Justice Moore, p. 754).

There was some ground for considering..... that with regard to the process workers working in the domain of the miniature in electronic and electrical component processing, the female was more valuable than the male in certain classifications (Commissioner Winter, p. 796).

In this domain it is not too much to say that the reality is that the female process worker usually warrants a higher wage than her male counterpart (Commissioner Winter, p. 888).

Our knowledge of the efforts of job demands on job occupants is developing in ways that bring greater recognition to those facing women workers. For example, knowledge has accumulated on the physical stress and fatigue involved in many women's jobs. A hand and eye co-ordination job often requires more energy, more effort, more concentration, and is more taxing than work involving lifting something that weighs 16 kilos every ten minutes. Similarly, men's jobs frequently receive payment for the strength required in occasionally lifting heavy weights in comparison with women who may repeatedly lift light weights. Different results might follow if this was measured by total weights lifted per work day or according to total calorific output expended.

Qualities and skills demanded of predominantly female positions have been detailed extensively in the literature. But clear illustrations of qualities and skills which are frequently overlooked in the assessment of women's work can be readily presented. When employers establish pay rates for jobs, they may overlook certain aspects of the work typically done by women, but not the aspects of work typically done by men. For example:

- they may overlook the communication skills of receptionists - but not the manual skills of machinery repairmen;
- they may overlook the effort of lifting heavy patients - but not the lifting of heavy objects;
- they may overlook the amount of responsibility involved in the education of children - but not the responsibility for finances and equipment;
- they may overlook the stressful working conditions of looking after people with serious mental health problems - but not the noise of machinery.

Similarly, job descriptions - and even titles - can lead to assumptions about the value of a job. A male who describes his job as managing for example, may sound more important than an administrative assistant who describes her job as 'co-ordinating'. While the title of 'manager' may sound superior, the administrative assistant may have significant responsibility.

But to what classification or occupation are women's positions to be compared? Other female classifications are likely to have job demands that have gone unacknowledged as well. To compare them with similar or dissimilar male classifications will do nothing to remedy the situation unless particular attention is drawn to

the previously unacknowledged job demands or the fact of their under-valuation. Then they are able to be recognised as additional to, or different from but of some relative value to, the job demands within the male classifications used for comparative purposes.

The phrasing of Paragraph 5 (b) of the 1972 Equal Pay decision is designed, as far as possible, to restrict the range of jobs which can be drawn on for comparative purposes to those which are closely related or similar.

This is a restriction which goes beyond the actual practice of the Commission, since in some cases before it, comparisons were made of predominantly male classifications with predominantly male classifications in other awards in other industries.

The exercise of broad judgement and the choice of comparable jobs for the determination of relative work value requirements appears to have been more flexible in some decisions not involving equal pay claims than Paragraph 5 (b) of the 1972 Equal Pay Principle would allow. It would appear that there have been different applications of the equal pay for work of equal value principle and that the application of it has applied to the advantage of predominantly male classifications. We submit that the 1972 Equal Pay Principle has been applied more narrowly and less flexibly with respect to predominantly female classifications.

The Journalists' case (1967) provides an example of where comparison of dissimilar work was acknowledged in setting pay levels. The Commission, in this case, compared journalists with public servants and teachers, finding the former suitable for comparative purposes:

It cannot be disputed that journalism differs from other professions or avocations. Nevertheless we do not think we should attempt to consider salaries for journalists in an industrial or social vacuum. We think it proper in this professional area to look both at present salaries and past movements in salaries of employees with comparable educational qualifications who are called upon to display similar qualities in their work even though the work itself is dissimilar (Arb. Comm. Print B3900 1967:4).

In a Commission hearing regarding pay for Bank Officers (Arb. Comm. Print C4578 1975), which was heard after the 1972 Equal Pay decision, the submission of the Australian Bank Officials' Association drew comparisons between the 21 year-old bank officer and the base grade clerk in the APS. It also compared officers at higher levels with Class 8 Administrative/Clerical officers in the APS, while acknowledging the difficulties in comparison, given the special nature of banking work. In his decision, Deputy President Isaac accepted the validity of such comparisons, when he said that he was:

satisfied that on-the-job descriptions, initial qualifications and on-the-job training requirements put to me..... the pay increases would not over-value the work of bank officers, certainly at the lower levels of the work hierarchy. At the higher levels, from my knowledge of work performed in the Australian Public Service, I would not regard the proposed pay of the top level manager, as excessive.

Paragraph 5 (b) of the 1972 Equal Pay Principle needs to be interpreted to become more in line with the commitment of the Commission to the 'broad judgement which has characterised work value enquiries'. It needs to be brought in line with the Commission's practice, as illustrated in the above cases. If the 1972 Principle is to achieve what it intended to achieve - pay equity for women workers - then such practice needs to be regarded as reasonable in the choice of comparative jobs for the determination of relative work value of women's jobs.

We submit that pay equity for women workers, a concept with a wider meaning than that given to 'comparable worth', requires an application of the 'equal pay for work of equal value' principle which would allow for a comparison of the work value of jobs performed within predominantly female occupations and classifications with that of jobs performed within predominantly male occupations and classifications. The focus of any system or strategy that is devised needs to be on such comparisons, within awards, across awards within the same enterprise, across awards within the same industry, across industries for similar kinds of work (as in the two cases cited above).

Whatever other considerations then come to be applied, the male/female comparative focus would remain the basis for the application of the 1972 Equal Pay Principle, since it is what pay equity strategies for women imply, based as they are on the evidence of the lower relative value placed on work that is performed predominantly by women.

None of the wage-fixing principles devised over the last 15 or so years has facilitated the implementation of the 1972 Equal Pay Principle.

For the 1972 Principle to contribute to pay equity for women, its application to date would need to be reviewed. Paragraph 5 (a) of the Principle has not, on the whole, been applied. In those cases where 'consideration of the work performed' has not occurred, and in those cases where it has, but improperly, a further inquiry into work value should be conducted. It would be appropriate that, in such inquiries, the accumulated knowledge of how sex bias might intrude in the analysis, description and evaluation of predominantly women's jobs be taken into account.

1988

The National Pay Equity Coalition (NPEC), put forward a submission on pay equity in the 1988 National Wage Case, arguing that there was a need for systematic re-evaluation of women's jobs in order for the 1972 Equal Pay Principle to be applied effectively. The NPEC requested the Commission, among other things, to require award restructuring to include an assessment of the equal opportunity impact of restructuring. The assessment was to include skills auditing consistent with the Sex Discrimination Act, and recognising the knowledge, skills and experience required by the job.

The Commission was not convinced that male/female wage disparities in award rates exist; or that if they do, they arise from discrimination. The Commission suggested that if there are wage disparities, and if they arise from the history of wage fixing, the direction of disparities may be as likely to favour females as males, and more probably the differences arise from differences in male/female occupational distribution. The Commission indicated that action on those matters was the business of other parties, not the Commission. One Commission member gave the example that a secretary might be paid more than a skilled tradesman under some of the commission's awards.

The NPEC replied that:

- occupational distribution is a factor in wage differentials, and that it may be addressed by equal employment opportunity measures, but that;
- wages for women are on average and in general lower for women than for men, and that;
- the Commission's processes for assessing work value are essentially gender biased, in assumptions and in application.

Although the Commission included removal of discriminatory provisions in awards as part of the Structural Efficiency Principle, the substantive issue of the processes by which work value is ascertained and attached to money wages has not yet been addressed.

The whole issue of the Commission's approach to work value has been raised many times. The Commission has been reluctant to utilise systematic job evaluation schemes for fear of upsetting traditional relativities. Short points out that on the only occasion the Commission has had to resort to systematic assessment, the Metal Trades Work Value Inquiry 1966-7, attaching money values to the job assessment was still seen as essentially a matter of judgement.

1989

The August 1989 National Wage Case was disappointing for the Trade Union Movement particularly in the area of low paid workers and relativities generally. The Decision provides for pay increases related to Structural Efficiency adjustment, minimum rates adjustment and special cases.

The Structural Efficiency Principle generally involves a detailed review of the structure of the award itself, in particular its classifications and their definitions. Skills exercised in the performance of tasks within classifications need to be identified so that the relationship between classifications can be reviewed. Appropriate wage rates applicable to the new classifications should then be applied and the training needs of industry and employees reviewed.

A simplified and modern award structure will involve the removal of obsolete classifications and an overall reduction in the number of classifications. Jobs will be broadbanded under appropriate single classifications, and career paths provided for all workers within the award. Thus an essential part of the strategy is the creation of links between training, classification and wages. In addition, there is an overriding responsibility as part of the structural efficiency principle, to address "any cases, where award provisions discriminate against sections of the workforce".

This submission will shortly discuss the possibilities, and the dangers, of award restructuring. For the moment it is important to note the contradictions in the 1989 decision which mitigate realising the full potential of the Structural Efficiency Principle in addressing and removing structural and pay discrimination in the workplace.

Firstly, as discussed earlier the movement towards minimum rates awards is likely to exacerbate the problem of women only getting 56% of the over award payments men get, and only 19% of the bonuses men get. The ACTU national minimum rates strategy and associated proposed specific wage relativities, was intended to improve the position of low paid workers, and as such address long standing discrimination in female rates of pay related to occupational segregation. However, the Full Bench rejected the specific wage relativities proposed stating that;

"Minimum classification rates and supplementary payments for other classifications throughout awards should be set in individual cases in relation to these rates on the basis of relative skill, responsibility and the conditions under which the particular work is normally performed. The Commission will only approve relativities in a particular award when satisfied that they are consistent with the rates and relativities fixed for comparable classifications in other awards. Before that requirement can be satisfied clear definitions will have to be established".

Further, all structural efficiency exercises should incorporate all past work value considerations. This submission has considered the difficulties of that at some length.

While the Commission argues against proposals for change being approached in any negative cost cutting manner, the decision also provides the employers with a list of measures appropriate for consideration many of which can only be used by employers as productivity trade-offs. This includes averaging penalty rates and expressing them as flat amounts, compensating overtime with time off and flexibility in the arrangement of hours of work including, wider daily span of ordinary hours of work, 12 hour shifts ordinary hours to be worked any day of the week and job sharing. Further suggestions include review of the incidence of and terms and conditions for part-time employment and casual work and strengthening "managers right to manage".

As well as containing quite serious implications for women workers, these proposals serve to encourage restructuring based on productivity, and further to entrench in certain areas, structural discrimination.

The Structural Efficiency Principle certainly provides the scope for long term improvement of women's position in the workforce, but in the light of the National Wage Case decision, it would be fair to say that these aims are not as easily realised as might first appear. The Submission will now look at Women and award restructuring in detail.

Part 3 WOMEN AND AWARD RESTRUCTURING

The increasing interest in skills formation within Australian industry is of great importance to wage-earning women. Decisions made about how people acquire skills, how they use them and what are the future skilling needs for a workforce, all hinge on one important factor - what is defined as a 'skill' in the first place. This is the point of intersection between the skills formation, and if you like, the pay equity debates.

How skill is defined in this debate will determine which groups of workers benefit from any award restructuring, and which groups of workers don't.

To put this argument in terms more commonplace in the Australian Industrial Relations Commission, the new wage fixation guidelines must allow for a full and comprehensive reassessment of the work value of work traditionally performed by women in order to ensure that award restructures do not merely replicate existing skills hierarchies, entrench existing relativities between male and female-held jobs, and therefore perpetuate the need for equal pay cases indefinitely.

How women workers fare in the restructure of awards lies fairly and squarely with a satisfactory resolution of the skills definition issue.

As has been pointed out in this submission, women are most likely to be found in low-paid operator level work, in jobs which have insecure tenure, which are often part-time or casual, and which are generally regarded as unskilled or at best semi-skilled.

It is important to note that support for the restructuring of awards and industries is very much predicated on provision of training and retraining to enable the workforce to adapt to new methods of work organisation and new technologies. Unions for their part envisage complex training infrastructures running parallel to, and supporting the restructuring and the insertion of training clauses in awards. What does this trend mean for women? Training for these women concentrated in operator level jobs, has been the last priority of employers and government. A range of justifications has been given for this neglect, ranging from the belief that such training is not required for the adequate performance of 'menial' tasks, to prejudiced assertion that investment in training women is a high risk, supposedly because women will leave their jobs to raise children.

The National Pay Equity Coalition supports the view that enhancement of the Australian workforce's skills is an important task. We do not believe however, that this task can be accomplished without consideration of the training requirements of all workers, including those employed at operator level.

Research conducted overseas supports this view. In matched studies of British and West German manufacturing firms, (REF) it was found that the single most important factor in higher productivity within the West German enterprises was the higher level of training afforded employees. Particular mention was made of the attention given to training at the operator level in West Germany, an approach which was notably absent in the British firms.

As technologies, production processes and the requirements of service industries become more demanding, skill requirements at operator and entry level will increase.

Special measures are required to ensure women get equal access to enterprise training schemes, and to external, accredited, formal education.

Workers in low-paid jobs may have had few educational opportunities. They are more likely to have experienced educational disadvantages, such as early school exit (prompted by an inability to forgo income while studying), little support from family and friends for further study, and a disjuncture between the culture of the school and of the home. These disadvantages are exacerbated for people of non-English speaking background whose facility in a second language not only is refused value but also may be defined as a handicap both within the workforce and the educational system.

Workers with experiences such as these will need more than short-term narrowly-based training if they are to improve the quality of their working lives and if they are to contribute their skills to increased productivity.

Adult basic education and English language education will be essential for a large number of the so-called 'unskilled' and 'semi-skilled' workforce.

When industry parties put forward their case for remuneration tied to skill upgrading it must be recognised that unless low-paid workers, particularly women, have access to adult basic education, they may experience accelerated income disadvantages.

Selection of participants into company training schemes must also be monitored on equity grounds. It will be all too easy for employers to select workers who conform to their perhaps biased expectations, rather than to institute fair and equitable selection procedures.

Such procedures should not rely on the principle that if all workers are treated in the same manner, equal performance will result. Women workers (along with workers from non-English speaking background and perhaps older workers) will require specific assessment of the skills and capability they will bring to a training programme. This is not a plea for reduced expectations of the female workforce, but a broadening of employer's understanding of the capacities present, and the skills required.

Our final point in the area of skills formation relates to the particular circumstances of small companies and factories. Workers in these sites, many of whom are low-paid women, will have reduced access to in-house training. They will also be more likely to work within a 'flat' skill hierarchy, where a large proportion of employees are defined as 'unskilled' and where these employees are supervised under a lean management structure.

If pay rates are related to skills development, but there are few if any opportunities for workers in small factories to have their existing skills recognised or upgraded, significant wage differentials may occur on the basis of the size of the workplace. Group training schemes and study leave are essential for skill upgrading in small firms, and therefore for the viability of a large section of Australian industry.

Likewise we would submit it is essential that information on skills development, especially on the availability of government training subsidies and services offered by public training systems such as TAFE, reaches the isolated and small firms.

It has been claimed that award restructuring can improve career opportunities and wages for women. However, this outcome will only be achieved if equal opportunity is a key focus at every stage of the restructuring process. Since the service industries in which women's employment is concentrated have different work organisation, employment conditions and economic prospects from the industries from which models of the restructuring process were produced, new approaches to maximising equality of opportunity through restructuring have to be developed. Since the processes are unfamiliar, and the dangers that restructuring will further disadvantage women are real, monitoring of the equity impact of restructuring proposals is critical.

Specific Difficulties and Approaches to Them

1. Training

Realising the full benefits of restructuring relies heavily on the provision of training to support the development of co-operative and participatory work structures. Changed work organisation, in which more responsibility is devolved to operator level, teamwork is promoted, supervisory roles become more co-ordinating and resource/support oriented, and management structures become flatter, requires a more skilled workforce. Part-time workers, especially those employed on a casual basis, are likely to experience difficulties in access to the training

required for employment at higher levels. Changed work organisation needs to take into account the experience, competence and potential of these workers, allowing for their participation in all aspect of work organisation. Productivity benefits can be realised through improvements in quality, which permit reduction of work in progress and of inventory. However, there are some difficulties:

- small enterprises, in which, disproportionately, women are employed, may find it difficult to provide training to support the multi-skilling required by broadbanded job classifications;
- part-time workers, especially those employed on a casual basis, are likely to experience discrimination in access to the training required for employment at higher levels;
- prejudices regarding the likelihood of women remaining in the workforce may disadvantage women in their access to training (whereas in fact quit rates are similar for men and women when account is taken of occupational distribution);
- if preference in access to training is based on being already employed in an industry or on length of experience in an industry, women are likely to be disadvantaged by their more intermittent workforce participation. The requirement to be employed in an occupation for access to training has disadvantaged women in their access to trade employment, compared with technical employment in which such a requirement is not necessarily imposed;
- although on-the-job training would be more accessible than external training for women with family responsibilities, if on-the-job training is not accredited, women are likely to experience difficulties in finding employment, or employment in particular kinds of work, after periods of absence from the workforce for family responsibilities.

2. Classifications, Skills and Job Design

- Broadbanding poses particular difficulties for the already broad job classifications in which many women work - in many of them one person already does much of the main task, and carries considerable responsibility, with few opportunities for progression (e.g. computer operators, geriatric nurses, tour guides). Many of the jobs in community service and in recreation and personal services already have 'flat' career structures and broad duties, they often are isolated and/or dead-end jobs, in which multi-skilling does not entail career opportunities. These jobs often have developed more recently than, for example, trades jobs.
- Broadbanding also poses difficulties where women are employed in few classifications, and are concentrated at the lowest levels of occupational hierarchies (e.g. textiles, clothing and footwear machinists, clerical and sales workers, child

careers). Since the skills employed are acquired informally, either on-the-job, or from domestic experience, they have not been recognised in job classifications.

- Requirements for formal qualifications for entry to particular classifications disadvantage women, who have less post-school qualifications than do men.
- The scope of career path planning and job structures needs to be as broad as possible and reflect both industry needs and those of the whole labour market into the future. For women, in particular part-time workers, further modification of existing arrangements is likely to endorse the existing position of many women workers at the bottom of hierarchies segregated into a narrow range of industries and occupations with little opportunity for mobility.
- The 'flat' organisational structures envisaged in broadbanded classifications may mean that promotion into supervisory jobs, previously available on the basis of experience rather than additional qualifications, no longer is available.
- The development of the core/periphery workforce structure within enterprise (in which the core workforce has access to training for multi-skilling and thus to career structures and better paid jobs, while the periphery workforce do not) is likely cumulatively to disadvantage women in their access to employment, job security, and better paid jobs, as increasingly they are confined to the part time and casual jobs in which training is not required or accessible.

Approaches

Many of the difficulties outlined above can be mitigated by close integration of equal employment opportunity strategies with award restructuring. Industry restructuring is, of course, broader than award restructuring. It may be that attention has to be given to including matters in awards which previously were not included to provide an agreed basis for industry restructuring. In some industries, high turnover, absenteeism, pilfering, sabotage, strikes, work quality, and workers' compensation costs, rather than job demarcations, are the impediments to productivity. Award restructuring offers the opportunity to increase retention by providing career paths, to upgrade services and products by upgrading skills, reduce absenteeism by enhancing job satisfaction, promote industrial harmony through greater participation, reduce workers' compensation costs by reorganising work and incorporating occupational health and safety agreements into restructured awards. Opportunities also exist for addressing the remaining obstacles to women's access to and progress in employment and training. The full contribution of award restructuring to a more skilled and flexible workforce can only be realised if discriminatory barriers to employment and training are removed.

An obvious but fundamental strategy is to review existing practices, policies and value systems in recruitment, wage and salary setting, promotion, transfer, and training. Many organisations have conducted such reviews as part of the equal employment opportunity programmes, but some of those reviews have not included the full range of employment policies and practices. Such reviews provide an opportunity for systematic review of awards and removal of discriminatory provision (including gender specific language).

Some common sexist assumptions include those about who cares for children and/or the elderly, the value of the passive self-discipline and fine motor skills required by many repetitive tasks, and the value accorded supervision. Training managers and trainees in equal employment opportunity strategies would contribute to these concerns being addressed as a matter of course in job design and work organisation.

Some suggested approaches include:

1. Training

Women are likeliest to be able to participate in training when:

- it is provided through courses organised in short term modules;
- and/or on the job;
- trainees have flexible hours;
- childcare is accessible during training;
- travelling allowances are provided;
- training allowances/paid study leave are available (since expenditure of family funds on women's education may not be seen as a high priority);
- job rotation, and transfer/secondment systems can provide on the job training, and the competencies acquired then can be assessed and accredited;
- training opportunities in English language, literacy, and numeracy, is available for those who need them;
- piecework systems of payment are eliminated, since the loss of speed (and consequently of money) involved in training and/or job rotation impose barriers to participation in training;
- women's access to non-traditional trade and technical training is promoted by pre-vocational and bridging courses;
- wage rates are set for adult apprentices/trainees. In view of the narrowness of initial vocational choices by women, they are more likely to need/wish to retrain as adults.
- part-time employees must have access to training.

There are some difficult issues in the area of wage rates including some recognition for experience. Service increments sometimes have been seen as inconsistent with a wage structure based on training and skills. However, many low paid and semi-skilled workers have little opportunity to improve their earning capacity through training, although their additional experience may contribute to higher productivity.

(ii) Skills

Skills audits should be carried out in relation to future skill needs, and should take account of informally acquired and latent skills. Skills audits carried out prior to job redesign provide only a current snap-shot, and are likely to fail to identify relevant skills. Teamwork is a skill increasingly required by new forms of work organisation - e.g. in engineering, in child care - and often found in traditionally female occupations. If formally acquired skills are not recognised, it is unlikely that training will be provided in those skills, and opportunities to systematise and upgrade them will be lost.

3. Conditions

- Replacement of casual part time work with permanent part time work is likely to promote participation in training.
- Provision of workbased child care, flexible working hours, and of family leave would promote retention/return of trained and experienced women workers, and facilitate their access to further training.

Part 4 AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY

In the introduction to our submission we referred to assertions that the answer to the relativities issue lies with affirmative action programmes.

Affirmative Action Programs, or, as they are sometimes referred to, equal employment opportunity programs, are now required by legislation in Australian Government Departments and statutory authorities, in private sector organisations which employ 100 or more people, in higher education institutions and in state and local government employment in some states. In other words a sizeable slice of the Australian workforce is covered.

The common objective of these programmes is to identify and remove discrimination against women in employment and to promote equal opportunity for women in employment. Although the relevant Acts differ a little, the usual vehicle prescribed for achieving this objective is a multi-step programme involving structural and attitudinal change within organisations affected.

This legislation provides a framework in which patterns of discrimination can be dealt with within organisations and undoubtedly its presence across such a wide cross section of the workforce generates a climate in which increasingly it is not regarded as acceptable to lock women out of particular industries and jobs.

We would submit, however, that this sort of legislation does not address the fundamental issue of undervaluing of women's work and skills.

We have earlier rejected in this submission the idea that women should have to do men's jobs to get higher pay.

Further, the Coalition would submit that serious questions remain about how affirmative action can be applied in a number of industries in which women are employed. This is because affirmative action relates to a substantial degree to the removal of barriers to the vertical mobility up through the ranks. What does it mean then, to women who are employed in flat organisations where promotional positions, such as foreperson, supervisor, etc. are few and far between?

The Australian Industrial Relations Commission is obliged to take into account these issues. Affirmative action and equal employment opportunity legislation, while not directing the determinations of the Australian Industrial Relations Commission, creates a climate in the workforce of which the Commission should take account. The Commission is further informed in its deliberations by the operation of Section 26 of the Commonwealth Sex Discrimination Act 1984 which provides that no person performing any function, or exercising any power under Commonwealth law may discriminate on the grounds of sex.

The Industrial Relations Act, 1989, Clause 93, provides:

In the performance of its functions the Commission shall take account of the principles of the Sex Discrimination Act 1984.... relating to discrimination in relation to employment.

It also is clear that equal opportunity policies alone cannot remove the male/female wages gap, since they cannot address the residue of past discrimination embedded in wages, particularly in female dominated occupations, although they are necessary for reducing segregation in the long term.

Removing sex discrimination from employment requires addressing structural discrimination in the organisation of work. At present, the 9-5 day, 5 day week as the basic work format around which shopping, transport, education etc. are organised relies on gender division of labour.

To the extent that the organisation of work time impacts on equality of opportunities, employment contracts have to be redesigned for greater flexibility. Although the majority of working age women are in the workforce, and over 50% of households with children have two incomes, employment structures still are inappropriate for workers with family responsibilities. Conditions which would assist those workers include: permanent part-time work, flexible working hours, leave to care for dependants.

Pre-employment discrimination can be addressed by improving women's education and their access to training and to information about education and employment while equal opportunity programmes within organisations can reduce post employment discrimination in access to promotion and to further training.

The movement toward a wages system based on productivity and skill increasingly makes it economically important to promote retention of trained and experienced workers, and protect the organisation's investment in training. As investment in training increases, and skill requirements expand, the costs of labour turnover increase. As women make up an increasing proportion of new entrants to the workforce, the costs of not attracting and/or retaining skilled women workers will rise.

Part 5 COST ISSUES

The Cost of Discrimination

There are significant economic costs in persisting with pay discrimination:

- Economic independence for women is undermined by pay discrimination. Most women need a paid job - the majority of working age women are in the workforce, over 50% of households have two incomes, and most mothers are in paid work. Women who cannot be economically independent may well be forced into dependence on the welfare system, and economic dependence can force a woman to stay in a violent relationship;
- Low wage rates depress women's workforce participation, and can contribute to labour shortages. It is interesting to note that when wages for nurses increased, so did the supply of nurses. There are ongoing shortages in female dominated occupations, including shop assistants and word processing operators;
- Depressed wages impede retention and contribute to turnover costs. These costs will increase as investment in training increases and women make up an increasing proportion of new entrants to the workforce;
- Pay discrimination is a form of subsidy of some industries by others. Low wage rates in female dominated jobs can mean that the deficit in family income needed is made up by transfers through the tax and welfare systems, and by the level of wage claims in male-dominated industries;
- The absence of a rational approach to job evaluation and review obstructs change and adjustment to change and this incurs significant opportunity costs. Although job evaluation can't be objective, it can be rational, by specifying the criteria for assessments;
- Existing relativities distort the allocation of labour in the market. Existing pay rates provide incentives for men to enter higher-paid male dominated occupations, which in turn supports occupational segregation. That is, the wage system at present distorts occupational choices and excludes women from some jobs while producing crowding and over-supply in others, which depresses wages in those jobs;
- Equal Employment Opportunity and Affirmative Action Programs provide significant cost benefit, involving or impacting on industry development strategies, labour market programs, award restructuring, technological change etc. For example despite popular conception turnover rates are similar for men and women on an occupational basis. Higher quit rates for women are due to more women being employed in the lower status jobs with less prospects and career opportunities.

Thus there are substantial savings for employers in this area with the provision of equal employment opportunity. A significant cost benefit in employee retention results from investment in training. Similarly, absenteeism will be reduced, with the provision of appropriate childcare, parental and family leave. An environment free from sex-based harassment leads to lower costs in the form of damages. An environment free from discrimination and associated stress similarly reduces costs associated with workers' compensation. Increasing emphasis on risk management is promoting increased recognition of these potential savings;

- Moves to increasingly decentralise, and enterprise-focussed industrial relations, undermine the equitable base or level playing field, for women. Countries with decentralised wage fixing have found it necessary to attempt to redress this problem with equal pay legislation;
- The market can't fix the problem. Any single employer would find it hard to change pay relativities, for fear of flow-on demands and hostility to changing historically established relativities. In any case, single employers can't change the way the industrial system approaches work value, and the overall operation of the market in occupational allocation which is what is required.

The Cost of Implementing Pay Equity

It often is argued that it was mainly female dominated occupations in which the 1972 Equal Pay decision was not implemented, because there were not similar male jobs to compare them with, and investigations of the relative value of work that was dissimilar in nature were not carried out. If we define a female dominated occupation as one which is at least 80% female we come to a figure of 27% of the female workforce, or 11% of the workforce. This may be too stringent a definition since it would leave out occupations such as data processing operators and tellers, for which there may well be a need for wage adjustments. Other possible definitions could be set at 2/3 female, or anything higher than women's workforce participation rate. At the 80% mark, 11% of the workforce would have to get an increase of 3.5% of male wages to remedy that part of the wages gap due to discrimination in award rates. These calculations are intended only to be indicative of a way to estimate the order of magnitude of cost - actual calculations would be considerably more complex, as account would have to be taken of a wide range of factors, and adjustments made for differences in definitions in the various relevant statistics.

Wages and salaries account for 39.8% of Gross Domestic Product (1987-8 figures). 73.6% of wages and salaries go to men and 26.4% to women. This is because of women's lower work participation rate, so women are 40% of the workforce, and because overall women get about 2/3 of male wages. Increasing the wage bill by 3.5% for 11% of the workforce increases it by .28%.

- English language skills training provided in work time for people of non-English speaking background.
- Literacy and numeracy training provided in work time for employees whose formal education has been insufficient to meet changed work requirements.
- Job rotation schemes and transfer/secondment arrangements should be encouraged to enhance on-the-job training.
- Access to career paths and training opportunities for part-time employees of whom the majority are women.
- The special needs of older employees should be taken into account when developing training programs. Adult women, for instance, seeking to take advantage of structured training programs are less likely to have industry experience.
- Arrangements will need to be made in many circumstances to enable physical access to venues for people with disabilities.
- Limitations on access to training via residency requirements should be lifted.

6. Aboriginal Women

Participation of Aboriginal Women in the workforce is artificially depressed by attitudinal and discriminatory attitudes. Particular care should be taken to ensure that sensitivity to culturally and racially based barriers is applied, especially in areas of:

- training
- skills assessment
- wage rates
- equal employment opportunity and Affirmative Action Programs.

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