One Hundred Years of Women’s Wage-Fixing

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What has the twentieth century meant for women’s paid work in Australasia? This article takes a broad historical perspective on this issue, in particular the implications of changing wage-fixing structures for women’s wages and conditions. It traces the changing perspective amongst feminist historians as the possibility of dismantling central wage-fixing became increasingly likely. The article explores the issues in an empirical context by drawing on the author’s collaborative/comparative research with Canadian historians. It argues that such comparative analysis adds weight to the argument that arbitration has indeed offered a level of protection to Australian women workers that was not enjoyed by their counterparts in societies without an arbitration system.

The history of arbitration has received considerable attention from feminist historians in Australia and is beginning to attract similar attention in New Zealand. This inquiry has had certain distinctive features, as Diane Kirkby has pointed out:

Rather than concern themselves with questions about causes and origins and who wanted arbitration most – (male) trade unionists, (male) politicians or (male) employers – feminist scholars have focussed more on what form the system took and how it has operated to affect the position of women (Kirkby 1989, 334).

The verdict of these scholars has been, until very recently, uniformly critical of the role of arbitration in reinforcing the subordinate position of women within Australian society. Edna Ryan and Ann Conlon, writing in 1975, set the tone for subsequent work, stating that women’s wages were adversely affected for over sixty years by the early decisions of the Commonwealth Arbitration Court:

The new era of industrial conciliation and arbitration had done little for working women. It had legalised what had been standard procedure, namely, that adult women should receive half the pay of men. No matter what her circumstances, responsibilities or abilities, it was fixed by law that a woman’s basic worth was 50 per cent of that of a male. Only when unions wished to safeguard their men from onslights of gentle invaders who, receiving less, might appear more attractive in the boss’s eye, were women permitted to receive equal pay. Moreover, the
restriction on and rejection of women in certain industries and occupations were now for the first time written into awards, legal documents with all the force of law (Ryan and Conlon 1975, 84—5, 89).

New Zealand historian, Stephen Robertson, draws a similar conclusion:

Any gains by women appear ... to be incidental to the key consequence of the Arbitration system for New Zealand women, a systematising, structuring and sustaining of the segmentation of the labour force which served variously the interests of male workers and employers (Robertson 1991, 41).

Writers such as Ryan and Conlon have shown how the ideology of the family wage, articulated by Justice Higgins in his famous Harvester Judgement, acted historically against wage justice for women because it assumed that only men were breadwinners. The corollary of this was that women were typically dependent on a male breadwinner, and as such had fewer economic needs than men. Consequently, they were entitled to only about half the male wage. This assumption was explicitly elaborated in Higgins’ judgement in the 1912 Fruitpickers’ case. Although the exact amount females were awarded varied with time, rising from 54 per cent in 1919 to 75 per cent in 1950, the principle remained that women’s needs were considered less than men’s and that therefore they should be paid accordingly.

Gail Reekie, whilst demonstrating the way in which arbitration significantly improved the wages of workers in the retail industry and curbed the “worst excesses of proprietary power”, also expresses reservations about the gains for women. While women gained more than men from the early award which more than doubled their wages, these gains were balanced against a system organised around the principle of the male breadwinner and family wage:

Women may have gained from the protection afforded them by the arbitration system, but were marginalized by an industrial relations structure which bonded male capital and male labour in a validation of men’s experiences. The individual, autocratic and patriarchal rule of the proprietor was replaced by an institutionalized and liberal but still masculine state arbiter (Reekie 1989, 286; 1987, 1—19).

Legal historian, Laura Bennett, has refined this analysis, showing how male trade unionists were able to have their work defined as skilled by having the characteristics of men’s work adopted by the arbitration court as the criteria for skill. In effect, the arbitration system reinforced existing market inequalities determined by the weaker industrial position of women workers. Women, she argues, were typically employed in industries which were labour intensive, demanding of cheap labour, not subject to major technological change and difficult to unionise, factors which undermined women’s political strength to have their work valued as skilled and paid accordingly. This had long-term
repercussions for women’s wages: even after the advent of supposedly “equal pay” women’s skills were not valued equally since the Commission continued to use the same work value criteria which had contributed historically to women’s inferior position. Women were left with anomalies such as an unskilled, predominantly male, occupation like garbage collecting being paid more than a skilled, but female, occupation like nursing (Bennett 1984a, 1984b, 1986).

My own research supports this general picture, showing how male trade unionists effectively used the arbitration system in their fight against the intrusions of female labour on traditional male jobs. Women, who were generally excluded from or under-represented in union hierarchies, had little say over the strategies adopted by their unions before the court, and once before the court, judges often endorsed the cases put to them by the male unionists (Frances 1986, 1991, 1993).

While Laura Bennett has downplayed the significance of ideology in influencing the courts’ decisions, emphasising instead the continuities in the court’s ruling with traditional custom and practice, I would argue that the reluctance of judges to award women more for their skills owed more to ideology than Bennett allows: racist, sexist and class ideologies dovetailed to provide a rationale for lower wages for women. Thus, in refusing to award a higher margin for skill for women in the printing industry, even though their work appeared to satisfy the court’s normal criteria of skill, Judge Dethridge explained that to reward women’s skills on the same basis as men’s would lead to a rush of claims from other women workers who would want comparable increases. This in turn would raise the price of female labour generally and result in consumer price rises and, more importantly, increase the price of domestic servants (Frances 1991). There are evident class implications in this analysis. But it does not stop there. Adjudicating in another printing trade case, William Jethro Brown explained that higher wages for female workers were a threat to the white race in Australia because this would make domestic service even less attractive to female workers. The ultimate consequence of this would be fewer children born to white mothers, who could not continue to bear so many children without domestic help. As Brown put it:

A scheme of wages which involved the abolition of the domestic help must involve the ultimate failure of the white races and their gradual disappearance before the less sensitive, less educated and less developed races of the tropical or semi-tropical areas (cited in Dabscheck 1986, 150).

In more recent years, however, some feminists have begun to reconsider the gender perspective on arbitration and have identified positive outcomes for women which balance this overwhelmingly negative view. Edna Ryan again was one of the leaders in this shift in emphasis. Writing in 1988, she argued that the industrial arbitration system:

reduced considerably the ruthless victimisation that had been
rampant against workers who made attempts to organise for improved pay and conditions. Workers did not have to feel so threatened when, by means of an arbitration court, they had access to the law, if not equality before the law (Ryan 1988, 9).

This reassessment was prompted by 1980s calls for deregulation of the labour market. Faced with the prospect of no awards and no protection for unionists, feminists began to realise that the arbitration system was the lesser of several evils and was to be preferred to both individual and enterprise bargaining. Whilst not denying that in general the system has tended to “perpetuate and justify wage inequality between women and men,” it has also ensured a “floor of protection” and prevented differentials from widening further (O’Donnell and Golder 1986, 76—7).

Recent work in this area also offers a more complex reading of the strategies employed in regard to women’s wages in the past. Melanie Nolan has taken issue with the “male compact” version of feminist labour history, which shows male unionists, male employers and male arbitrators in patriarchal collusion against female workers. As her study of the failure of the Victorian Clerks Union’s claim for equal pay for both sexes before the Victorian Wages Board in 1913 shows, the equal pay issue was far more complex than might be explained by reference to simple economic justice for women, the sexism of judges or male unionists’ sexist strategies of excluding women from the workforce. Equal pay was used by employers as a weapon to divide and defeat the union (Nolan 1991). Feminist union activists such as Carol O’Donnell and Philippa Hall (1988) also argue for the importance of class issues to be considered alongside gender analysis and for more attention to underlying structural factors which prevented (and still prevent) women from competing equally with men, such as women’s unequal share of domestic work and childcare. They explicitly argued against the use of feminist demands being used to deregulate the labour market, maintaining that women would be the losers in any move which heightened individual competition and eroded unionism. O’Donnell and Golder (1986) had earlier pointed out that the gender wage gap in Australia was much lower than in countries such as the USA which did not have a centralised wage-fixing system nor a highly unionised culture. Whereas Australian women in full-time work in the early 1980s were earning on average 80 cents for every dollar earned by men, US women were only earning 66 cents. This difference is attributed to the effects of the equal pay decisions in the Federal Court in 1969 and 1972 and the minimum wage decision of 1974 (O’Donnell and Golder 1986).

This comparative analysis is a very fruitful approach because instead of focussing on the discriminatory processes of the court it highlights the question of what the alternatives were and are. What feminist scholars have shown in looking at the court is how sexist ideologies and practices in wider Australian society were expressed and institutionalised within the court. This is, I think, indisputable and important and something feminists need to contend with so
long as we have an arbitration system. However, in the current political climate we need to move beyond this level of analysis, to look at whether or not we would be better without a central wage-fixing system. Australia has been compared with Sweden, USA and Britain and the findings in this case support the argument that women do better under central wage-fixing than under more laissez-faire economies. However, objections can be made that the Australian economy is not really comparable to the economies in these countries and that therefore gender differences cannot simply be attributed to different methods of wage fixation (Johnson and Wajcman 1986).

In an effort to counter this objection, Canadian historians Joan Sangster and Linda Keeley and I (1996) have undertaken comparative analysis of the situation of women in these two more comparable “settler” economies. If we take a series of indicators, i.e. labour market segmentation, workforce participation, wages and conditions, we find that Australian women in general have been no worse off under arbitration than they would have been under a free labour market such as that in Canada. Indeed, because of the support arbitration gave to unions and legally enforceable minimum standards, Australian women were probably subject to less gross exploitation and victimisation than their Canadian sisters. Australian women on average enjoyed better wages and conditions than women in Canada. This is nowhere more clearly illustrated than in the contrast between the situation in Canada in 1930s where unions were fighting for the right to organise whereas women unionists in Australian clothing trades were given preference in employment by the Commonwealth Arbitration Court (Frances, Kealey and Sangster 1996; Ellem 1989, 177—8).

Another way to approach the question of evaluating the role of arbitration in gender inequalities is to compare specific Australian industries where arbitration was used to those in which it was resorted to only occasionally. My research on the clothing and boot trades provides uncompromising support for the view that while women may not have done terribly well out of arbitration they were certainly better off with the Court than without it. Judges might have reflected many of the sexist ideologies prevalent in the wider community, but they could also provide some kind of independent advocacy for the rights of women workers. Working women tended to be neglected or sacrificed in the normal collective bargaining processes whereby male unionists sat down to negotiate with male employers.

The Australian boot trade provides an excellent example of this process. When the Victorian and NSW unions organised to bring a case before the Commonwealth Court in 1910, they did not even bother making a claim for women’s wages on the grounds that women were not organised, despite the fact that women were members of the union in both states. Disillusioned with the expense of the first case, both employers and male unionists resolved to sort out their differences in annual round table conferences rather than resorting to arbitration. This process worked smoothly enough until the pressures of the
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1930’s depression forced a reassessment. In the meantime, women’s wages relative to men’s had slipped well behind those paid to clothing trade workers, whose skills could be seen as comparable. Where women in the clothing trades received 54 per cent of the male rate from the Federal Court in 1919, boot trade machinists were all paid a flat, unskilled rate which amounted to about 48 per cent of the male rate. Judge Curlewis of the NSW Court was moved in 1920 to protest at the paltry amount agreed to by the union and employers as the female minimum and brought to him for ratification: “I am not going to have women with four years’ experience on skilled work kept on the living wage. It is ridiculous.” Unfortunately for the women, the union representative pointed out to him that he could not award them any more than the amount specified as this was what had been agreed to between the union and the employers (Frances 1993, 160). The interstate conferences which set these rates continued to fix women’s rates at less than 50 per cent of those paid to men. A report of conference proceedings in 1921 shows clearly how much attention the men gave to the women’s case: “At the Friday session of the conference, the pay of females was dealt with, and numerous minor matters, all business being disposed of in time for lunch” (Frances 1993, 160). When a case was finally brought before the Court in 1938 the judge remarked on the appalling rates being paid to what he regarded as highly skilled female upper machinists and awarded them considerably more than they had received in the past (Frances 1993, 166—7).

The disadvantages of workers, both male and female, outside arbitration are also illustrated by comparing hours and conditions in these two industries between the wars. In every instance, improvements for workers in the boot trade lagged behind those in the clothing industry. The clothing trade won the 44-hour week in 1919; the boot trade in 1921. Overtime payments, including meal money, won by clothing workers in 1919, were not brought into the boot trade until 1932. There was no allowance for a higher rate for casual work in the boot trade in this period, although clothing workers had casual loadings from 1919. While workers in other industries had secured weekly hiring in the 1920s, the boot trade had to wait until the 1938 federal award for some improvement on the moment’s notice they were used to. Rest periods, granted to clothing workers in 1919, were not granted at all under interstate agreements in the boot industry. The agreements were likewise silent regarding factory conditions such as heating, dining facilities and seating accommodation and whereas clothing awards were careful to restrict the proportions of untrained to trained labour allowed in factories, the boot trade union made special concessions to employers to allow so-called “green” adult female labour into the trade at lower rates of pay. Whilst not a problem during the peak wartime production years, this concession had serious repercussions for women during the depressed 1930s (Frances 1993, chs 7 and 8).

The boot industry also throws a different light on the importance of the court in restricting women’s access to certain occupations within any given
industry. As we have seen, the standard feminist interpretation emphasises the way in which the court acted to create and reinforce labour market segmentation on gender lines. Whilst not denying that this occurred, it is instructive to see what could happen in the absence of arbitration. In 1911 a new skiving machine was introduced to Australian boot factories, mechanising an operation formerly done by male apprentices. Employers appealed to the NSW Arbitration Court and the Victorian Wages Board to have this work classified for female labour at female rates. They were successful, the judge in NSW arguing that this was light work, eminently suitable for females. The union was incensed, and this issue contributed to its resolution to return to direct bargaining. Under threat of strikes, the Victorian Wages Board reversed its decision, and the subsequent interstate conference with employers agreed to endorse the sexual division of labour established in Victoria. The subsequent history of collective bargaining under the interstate round table conferences is the history of the extension of male labour rather than the reverse. With the growth of slipper making and children’s shoe manufacturing, for instance, any disputes about which sex should perform certain new classes of work were always settled in the men’s favour, despite protests from women displaced by these decisions. This process was reversed when the industry returned to Federal Arbitration in 1938, with the Court extending the range of tasks which could be performed by women, albeit at women’s rates (Frances 1993, ch 8).

This case shows two interesting aspects of collective bargaining versus arbitration. Firstly, throughout the records of the round table proceedings there is no mention of any other factor in negotiations other than what the male workers wanted or needed compared to what the employers were prepared to or could afford to pay. There is no sense of broader social issues or national agendas. This is in stark contrast to the proceedings and findings of arbitration courts, where judges generally saw themselves as resolving disputes not just in the narrow interests of the parties directly concerned but also in relation to a broader conception of the good of the community or nation. While judges’ conceptions of the community or national good were often, as we have seen, formed by contemporary racial, class and gender ideologies which could act against women’s interests, this broader agenda could also work in their favour. Thus, Justice Higgins reduced the working week from 48 hours to 44 hours in the clothing trades in 1919 partly because of concern about the effects of excessive factory work on the reproductive capacities of white women workers. To Higgins, shorter working hours were good for the women but were also good for the nation which reaped the benefits in terms of better maternal and infant health and greater (white) population growth.

Secondly, where women held subordinate roles in union hierarchies, as usually occurred in mixed sex industries, men tended not to push the case of women workers as strongly as men’s. This resulted in lower valuation being placed on the skills of women. This occurred in both collective bargaining and arbitration systems, but under arbitration there was at least some possibility of
another party advocating women’s position. Arbitration judges, although operating within the constraints of the male breadwinner/female dependent model, could and did evaluate women’s skills against the same criteria they used to value men’s, or more usually, women’s skills in other industries. Thus, Judge Beeby took his daughter, who had a special interest in women’s work, with him on tours of boot factories in 1938. According to reports, she was especially impressed with the intricate stitching performed on the fashionable elaborate uppers of the day and this apparently influenced him in his determination to give the women upper machinists a significant pay increase (Frances 1993, 166—7).

The post-World War II Australian equal pay cases provide us with further examples of the way in which the Court could bring a broader conception of economic justice to bear on industrial relations to the advantage of women. The 1970s in particular saw a resurgence of feminism within the union movement, giving new force and direction to demands which women in the movement had been articulating for the entire century. Most importantly, the feminists lobbied the Australian Council of Trade Unions to reconsider its tenacious attachment to the concept of the male “breadwinner” family wage, demanding instead a minimum wage for women equal to that paid to men. Despite an extremely well organised campaign, the women failed to persuade the overwhelmingly male 1973 ACTU Congress to support their case. This decision convinced feminists that male unionists could not be trusted to represent women’s interests and a combination of feminist groups sent along their own representative to the 1974 National Wage Case before the Arbitration Commission, intervention which tipped the scales in favour of the principle of “the rate for the job” (Hargreaves 1982, 35—7). This case shows quite clearly how important the existence of Arbitration was to the feminist cause in Australia. While for 70 years its “family wage” concept had disadvantaged women, once it could be persuaded to abandon this notion the ramifications for Australian working women were enormous, as reflected in the rapid reduction in the gender wage gap after 1974. The male-dominated union movement generally clung to the idea of the family wage for much longer and women could have expected little improvement had their wages been left to collective bargaining. As Barbara Pocock’s recent work on the contemporary union movement shows, there is still a long way to go before Australian unions in general give women’s industrial concerns the priority necessary to ensure adequate protection for women workers (Pocock 1997, 1998, 1999). Collective bargaining is therefore just as unlikely as individual negotiation to achieve wage justice for women in the twenty-first century.

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WORKS CITED