

Tracing the Similarities, Identifying the Differences: Women and the Employment Contracts Act

Linda Hill and Rosemary Du Plessis*

Introduction

The world of trade union organisation has been a male dominated world. Men have headed the Federation of Labour and the Council of Trade Unions, and male secretaries have often represented unions with predominantly female members. The dominance of men was significantly challenged in the 1970s and 1980s by a number of women unionists, especially those representing occupational groups with a large female membership. The predominantly female unions which provided them with an organisational base have not until recently received much attention by researchers. As Janet Sayers has indicated, it is now time that the analysis of these unions "should be a priority in labour relations research" (Sayers, 1993: 219).

This paper draws on research into unions organising occupations in which women are typically employed (NACEW, 1990: 61-77; Department of Statistics and Ministry of Women's Affairs, 1990: 61-65). The focus of this research has been the key unions responsible for organizing three occupations - nursing, clerical work and cleaning. Over a two year period interviews were conducted with union secretaries, presidents, organisers, union executive members and some delegates. Written material produced by unions about their situation and their strategies were also analysed. This research, begun in 1990 before the passage of the Employment Contracts Act, gives some indication of the variety of ways in which this legislation has impacted on unions covering predominantly female occupational groups.

Can we generalise about the effects of this piece of legislation on women workers? What different consequences does it have for nurses, cleaners and clerical workers? How are the effects of the Act shaped by factors such as attempts by employers to stabilise or destabilise labour costs, and the New Zealand Council of Trade Unions' commitment to industry unionism? How has the Act precipitated the demise of the New Zealand Clerical Workers' Union, but provided a context in which two multi-employer contracts could be negotiated for cleaners?

The empirical research for this study was concluded in late 1992, as each union completed its first round of negotiations under the Employment Contracts Act, and is now being analysed. It will take several years before we will have a clear grasp of the new patterns of negotiation and union organisation which are developing in response to the Act. Our

* Linda Hill is a doctoral student in Sociology, University of Canterbury. Rosemary Du Plessis is a senior lecturer in Sociology, University of Canterbury.

discussion is therefore suggestive of issues to be pursued rather than a definitive statement of the differential impact of the Employment Contracts Act on these unions and this set of predominantly female workers. We begin with a focus on the generalities and move to a consideration of differences.

Setting the context: old contradictions, new rhetoric

From 1936 until 1991 New Zealand's industrial relations system was predominantly built around occupational unions and national awards with blanket coverage which set basic minimum wages and conditions of employment. This was buttressed by compulsory union membership in the private sector and, until 1984, by arbitration (Walsh, 1993; Harbridge, 1993a). While providing many women with vital union protection and the security of basic rates of pay for the job they were doing, the national award structure also had some negative aspects for women in paid work.

The setting of wage relativities between occupations on the basis of historical precedent tended to institutionalise inequalities in pay between work done by women and work done by men. On the other hand, some unions representing large numbers of women workers at times used the wage relativity principle to their advantage. For example, relativity between occupational awards and parity between the public and private sectors was argued successfully before the Arbitration Court through the 1970s to bring rates and conditions in several private sector nurses' awards closer to the level of public sector nurses. In 1986, relativity arguments were used to improve the rate of pay of private sector cleaners relative to the higher wage rates paid to public sector cleaners.

Award minima for certain jobs in which women predominated were also important in securing rates of pay for some women which they were unlikely to negotiate individually with their employers. This contributed to the relatively high ratio of female to male earnings in New Zealand (currently 81.3% of male average ordinary time hourly earnings) compared to countries which did not have a national award system (Hyman, 1987; Du Plessis Novitz and Jaber, 1990; Department of Statistics, 1992).

The old system, therefore, had costs and benefits. Since compulsory unionism, from 1936, helped make unions financially viable without having to engage in active recruitment, nor give priority to contact with members (Harbridge, 1993a), the national award structure made possible the unionisation of many female workers on scattered worksites. They not only gained the protection of national minima, but also had access to union advice on workplace difficulties.

As voluntary unionism became an issue in the late 1970s and the 1980s, and as unions lost their right of access to arbitration on negotiations in the mid-1980s, more active strategies were required by officials to ensure membership numbers. Greater priority was given to workplace visits. For example, the clerical workers' unions started to schedule visits to service all workplaces with more than four members in the 1980s. However, with two and a half members per employer covered by the main NZ Clerical Workers' Award, the logistical

demands of covering so many worksites meant that both delegate organisation and industrial action had limited effectiveness as union strategies.

Given the historical association of women's paid work with unpaid domestic labour, women's concentration in traditionally female jobs has had the effect of depressing women's average earnings. However, this concentration in a narrow range of jobs, occupational unionism, and the emergence of contemporary feminism provided a context in which some unions with predominantly female members could focus on issues of concern to women in paid work which cut across particular occupations and industries. The Clerical Workers' Association, together with other female dominated unions in the public and private sectors, spearheaded the struggle for pay equity or comparable worth - which challenged established pay relativities between gendered jobs. The Coalition for Equal Value, Equal Pay, which brought together women inside and outside the trade union movement, argued that those in traditionally "female" jobs should receive similar rewards for their labour if their work involved the same skill, effort and responsibility as occupations in which men predominated (NACEW, 1990: 135-144; Wilson, 1992).

The Employment Equity Act was directed at weaving into the industrial relations system some mechanisms for paying attention to differences in pay between predominantly male and female jobs (NACEW, 1990: 135-144; Wilson, 1992). It provided a way in which national award negotiations could address systematic gender inequality in access to earnings using pay equity assessments provided by the Employment Equity Commission.

In the wake of the repeal of this Act, the Employment Contracts Act undid the system of wage fixing on which the Employment Equity Act had depended. Some advocates of the Employment Contracts Act argued that it would strip away the institutional forms which, in a variety of ways, perpetuated women's unequal access to earnings. It was presented as offering women just what they wanted, "flexibility" and the "freedom" to determine their own wages and conditions of employment in direct negotiations with their employers (Brook, 1990). In theory, women could find new ways of negotiating their own terms of employment independent of the restrictions of the old system.

However, this potential "flexibility" and the "freedom" was based on the assumption that employment contracts are negotiated between equal and gender neutral partners, each of whom could enter into a contract with some other individual if they chose (Hyman, 1992: 254-256; Harbridge, 1993b). The discourse of the equality of parties to a free contract obscures the unequal power that employers and employees bring to their negotiations. This inequality is most pronounced in situations in which employees are located in the secondary labour market - in low paid jobs using readily available and transferable skills, requiring few formal qualifications and offering no career path (Baron and Norris, 1976).

The Employment Contracts Act was implemented against the background of high visible and hidden unemployment and benefit cuts which affected women both directly and through other members of their households. The Act itself has gender specific effects because the employment of women, especially Maori women and Pacific Island women, is concentrated in a limited number of gender specific occupations, most in the secondary labour market (NACEW, 1990: 61-94; Ministry of Women's Affairs, 1991).

Large numbers of women in the lowest paid of these occupations are dispersed over a very large number of small firms, particularly in private sector service or clerical work. On small worksites, women doing shop work, food preparation or office work are involved in face-to-face interpersonal relationships with their employers. These are not work situations which encourage successful workplace bargaining on wages and conditions of employment, either on an individual or collective basis. The "freedom" to take strike action to back negotiations may merely increase their vulnerability. However, national awards, backed by arbitration, bridged problems of logistics, personal vulnerability and consequent industrial weakness by enabling unions to negotiate rates for scattered workers across the whole labour market for their particular kind of work.

The Employment Contracts Act makes the enterprise rather than the occupation or industry the basis of bargaining (Harbridge, 1993a: 45). The Act offers both employer and employee the choice of bargaining either individually or collectively, but this means something quite different for employers and employees. The employee has the right to choose an individual contract, or a collective contract with other workers in that enterprise. They are free to back their collective bargaining position with industrial action, but the Act expressly excludes strike action related to any employer other than their own (Harbridge, 1993b: 70). The employer has the choice of individual or collective bargaining at the level of the enterprise. She or he may decide to enter into a multi-employer contract with other employers who choose, but may not be forced, to do so. In this context multi-employer contracts are only likely when they suit the interests of specific employers in particular industries. As we shall see, the different bargaining forms engaged in by those representing clerical workers, cleaners and nurses on scattered worksites are significantly shaped by their employers' interests in multi-employer contracts.

Overall, women's concentration in a narrow range of low-paid traditionally female occupations, dispersed over a large number of worksites with few opportunities to collectively exercise industrial muscle, contributes to their general vulnerability in the labour market (Sayers, 1993: 221). Indeed, their workforce fragmentation and difficulties of organising are a factor constructing their secondary labour market status. The new industrial relations regime based on enterprise bargaining intensifies that vulnerability, but the outcomes so far are not the same for all occupational groups (Sayers, 1992: 229).

Clerical and cleaners' unions: scattered worksites, different outcomes

The complexity of the implications of the Employment Contracts Act can be illustrated by comparing the situations of private sector clerical workers, private sector cleaners and school cleaners. The unions involved represent low paid workers in a gendered labour market in which there is a ready supply of people to do the jobs.

A key problem for unions representing these workers is the difficulty of servicing, organising or mobilising a highly fragmented workforce. Half of all those under the NZ Clerical Award (which covered 60% of the membership) were on small worksites with no other unionised workers. Some of the cost of servicing these members was in the past born by the larger, more economically organised union worksites like the savings banks, the airports, the TAB

and the South Island local authorities (Hill, 1992b: 5-6). The Employment Contracts Act intensified the likelihood that workers on scattered worksites would not be members of a union.

When the Employment Contracts Act came into effect, the cleaners unions lost about 20% of their membership and clerical unions lost about 45% - more in some regions. Some clerical union memberships were formally resigned, some direct monthly or six monthly bills went unpaid, and many memberships lapsed when employers ceased deducting union fees from wage packets. Most cleaners union losses were due to some employers ceasing deductions and high employment turnover, rather than to explicit resignation by existing members. Drops in membership were, of course, not confined to these unions. Both the Distribution and General Workers' Union and the Service Workers' Union lost about one third of their members overall (Hill, 1992b: 6-7).

The fundamental changes to bargaining structures under the Act mean that clerical union membership losses are not simply due to voluntary unionism; nor could they simply be correlated with worksites where there was no union negotiated collective contract. Many, but certainly not all, membership losses involved those on small worksites. In the experience of clerical union officials, decisions about union membership seemed to arise from a variety of different factors. Some members retained their membership because they felt the need for it as "insurance" in the uncertain environment of the new Act. Others might have resigned or allowed their memberships to lapse because they had "good" employers and therefore saw no need for a union, or because their problematic relationship with their employer was likely to be exacerbated by union membership. Officials reported a tendency for clerical workers on a worksite to act as a group, either all dropping their membership, or all retaining it, quite often with the addition of higher paid clerical workers formerly excluded from the award. Union officials did not know just why and how such individual, or possibly group, decisions were being made.

The financial consequences of rapid membership losses, NZCTU pressures for clerical workers to be incorporated into industry-based unions, and internal management divisions over a staff disciplinary issue, all provided a context for the decision to dissolve the NZ Clerical Workers' Union which had regional coverage from Wanganui to Dunedin. Under the NZCTU (1989) plan for sector unionism, some clerical workers covered by the NZ Clerical Workers' Union have been picked up by other unions like FinSec and the Service Workers' Union, but these are mainly members employed on large, already well organised worksites, previously covered by industry or enterprise clerical agreements. It is arguable that in the context of a different strategy direction by the union movement, a different solution to the clerical unions' problems of financial viability might have been found.

The remaining Clerical Workers' Unions, COMPASS (previously the Northern Clerical Workers' Union) and the Southland Clerical Union amalgamated with the Service Workers' Union in July 1992 and became an "industrial" division within the union. While COMPASS and the Southland Clerical Union will survive as a division in the larger Service Workers' Union, this marks a significant loss of autonomy by a female dominated union group which pioneered the struggle for pay equity and for protection against sexual harassment at work, as well as highlighting office health and safety issues of concern to women.

The clerical unions were never able to adequately organise their membership on small worksites. In the COMPASS region, for example, the main clerical award covered 3,442 employers employing three members or fewer (Hill, 1992b: 10). These workers rarely saw a union organiser; and in the personalised employment relations of small offices, some vulnerable members did not always welcome overt union presence. However, the national award system allowed the union to organise the labour market for these members, through the national award with its bottom line protections of minimum rates and conditions. These national awards were negotiated centrally by union officials, and, until legislative changes in 1984 and 1987, backed by arbitration, rather than collective industrial action by members. Clerical workers did take national industrial action in 1985 after the wage freeze, but were unable to settle their award in 1989 when employers were able to walk away from negotiations.

Clerical workers on small scattered worksites probably comprise some of the estimated 300,000 workers, previously covered by awards, who are now not covered by collective contracts (Harbridge and Moulder, 1992). Only a survey of small workplaces will reveal their present earnings and conditions of employment. Many of them are likely to be on "assumed" contracts which, under the provisions of the Employment Contracts Act, continue on an individual basis the terms of employment they had under the New Zealand Clerical Award. Will they receive similar rates of pay and conditions of employment when they move to new jobs? Will new workers taken on at the same workplaces be offered the same contracts of employment? How does the situation of other unions representing predominantly female workers compare with the situation of the clerical workers' unions?

Clerical workers' unions and cleaners' unions differ both with respect to their current negotiating workload and with regard to levels of membership loss. These differences can largely be explained by variation between their situation with regard to employers and by the strategies those employers have decided to pursue under the Employment Contracts Act.

Like clerical workers, cleaners are dispersed over a large number of worksites. Together with the difficulties posed by scattered worksites, unions organising cleaners encounter difficulties arising out of short, unsocial hours, casual employment and high membership turnover. However, the two main groups of cleaners covered by the Cleaners' and Caretakers' Union are concentrated for the purposes of negotiation, not by worksites, but by their employers. School cleaners and caretakers have historically had a single employer, the state, while commercial cleaning has been dominated since the early 1980s by a handful of multi-national contracting companies. In addition, these employers have shown greater willingness than employers of clerical workers to exercise their prerogative under the Act to enter into multi-employer contracts. Although the Cleaners' and Caretakers' Union (now two divisions of the Service Workers Union) sustained a 20% loss of membership, officials were able to negotiate multi-employer contracts covering 2,700 schools as well as two other multi-employer contracts in the private sector, one for commercial contract cleaning and one for the security industry (Hill, 1992: 8-9).

The public sector multi-employer document for school cleaners is the outcome of a coincidence of interests between the union and School Boards of Trustees (Hill, 1992c: 10). As part of the devolution to full school self-management under the 1988 Tomorrow's Schools policy, the State Services Commission (SSC) attempted to pass negotiating responsibility for

"enterprise" based contracts with school auxiliary staff on to the Boards.

Since 1989, the Boards have assumed responsibility for the hiring, firing and hours of work of cleaners and caretakers, whose wage costs were bulkfunded as part of each school's operation grant. However, in 1992 the Boards resisted the devolution to them of the negotiation of contracts. They felt this should continue to be the responsibility of the SSC. For their part, cleaners and caretakers voted in August 1992 to take industrial action against the fragmentation of their award. As a result, a multi-employer collective contract was negotiated between the State Services Commission and the Service Workers' Union, which the great majority of schools have opted to sign.

In the private sector, a multi-employer contract was negotiated between the Service Workers' Union and the Master Cleaners' Association which covers 80% of the contract cleaning industry. In this case as well the option preferred by the union coincided with the interests of employers, in this case multi-national cleaning companies. In a highly competitive industry based on tendering for cleaning contracts, they sought to avoid a downward spiral of labour costs, cleaning standards and profit margins which, on the basis of experience outside New Zealand, could destabilize the industry. This is consistent with John Deeks' observation that in the 1930s:

It was employers who wished to see ... a national award structure ... (partly) to prevent individual employers gaining a competitive advantage by the payment of low wages (Deeks, 1990: 107).

However, few collective contracts have been negotiated by the union in the 20% of the industry which has remained outside the multi-employer document. These small employers may try to undercut the tenders of the multi-nationals, using lower wage costs as a competitive advantage.

In the cleaners' unions' other area of coverage, security, a similar multi-employer contract has also been negotiated, but it already seems likely that unity between these employers will break down in next year's negotiations. These two situations are illustrative of the benefit to employers of the old forms of blanket coverage, especially in a depressed market and for services with low capital costs.

Effective collective negotiation and high unionisation of cleaners has therefore depended on the interests some private sector employers have in using multi-employer contracts to stabilise labour costs and protect their market share. For cleaners and caretakers working in schools, multi-employer contracts have rested on the way the issue of contracts for school cleaners became linked to broader issues about which management functions were to be devolved to school boards and how much schools should be expected to act as autonomous business enterprises.

The choice by these employers of multi-employer contracts was therefore influenced by management strategy on issues which extend beyond industrial relations. If employers had not exercised the option under the Employment Contracts Act of a multi-employer contract, these cleaners and their union organisers would have been in a similar situation to clerical workers.

Comparison of the situation of clerical workers and cleaners illustrates differences in the impact of the Employment Contracts Act on two sets of workers, both of whom lack industrial strength. It suggests that the Act does not inevitably mean dependence on individual contracts and deunionisation for predominantly female workers on scattered worksites. However, it also highlights the way workers in this situation are more reliant than others on some form of multi-employer negotiations if they are to negotiate collectively in meaningful ways. Whether this is an option for them now depends on the interests of their employers in both industrial relations and other areas of management strategy.

The Employment Contracts Act significantly shifts the balance of bargaining power further towards employers (Harbridge, 1993b). At the same time, absence of blanket coverage means that the new system cannot ensure the success of the multi-employer contract option even when it is chosen by employers.

What are the specifically gendered implications of this discussion? Since large numbers of women workers are concentrated in low paid occupations in which they are working in ones and twos on small worksites, the logistics and cost effectiveness of union organisation - whether occupation or industry based - means that the most isolated are least likely to be actively recruited by organisers. It is also unlikely under the current system that union officials will be able to act as bargaining agents for them in negotiations - although union enforcement of individual or self-negotiated worksite collective contracts can be provided. Whether this actually translates into decollectivisation and deunionisation is heavily dependent on whether their employers have an interest in acting collectively with other employers in the same industry.

Nursing and the nurses' unions: how different is their situation?

What are the differences and similarities in the situations of nurses, cleaners and clerical workers and how do these affect the impact of the Employment Contracts Act on these predominantly female employees?

At first glance there are striking differences in the situation of nurses. They are usually categorised in the primary labour market - even if this is low paid professional work historically dominated by the medical profession. They are much less likely than the occupations we have already considered to experience fragmentation across worksites or employers. They have industrial strength and have demonstrated that they will use it. While nurses work in both the public and private sectors, the majority are public sector workers, until recently concentrated for negotiation purposes under one employer - the state.

This labour market situation has an impact on the unions which cover these workers. The Public Service Association, which represents public health nurses and, until recently, all psychiatric nurses, the New Zealand Nurses' Association, which represents public sector general and obstetric nurses, and the New Zealand Nurses' Union, which covers those in the private sector, do not encounter the severe logistical problems faced by organisers of clerical workers and cleaners. They organise people connected by their professional interests as well as their interest in terms of employment. The interest of the community in quality health care

means that nurses' work carries social value. This helps to attract women into nursing and into positions of responsibility in the profession. It can also be used to gain public support for action directed at maintaining the status and rewards of that work.

However, while there are significant differences between nurses as an occupational group and the other groups of workers we have considered, filling in the details of this general picture suggests a more complex situation. Not all the workers represented by the Nurses' Association and Nurses' Union, have equivalent qualifications and professional status. For example, nurse aides - 40% of the members of the Nurses' Union - are part of the secondary, not primary labour market. They are low paid, part-time workers, with no career path in nursing. In Auckland and Wellington many of them are Pacific Island women.

Not all nurses are concentrated on large worksites, nor are all employed by large employers. Those working in small rest-homes and private sector geriatric facilities, and particularly practice nurses, are often in a similar situation to clerical workers. They must negotiate with employers with whom they are in close personal contact.

The Employment Contracts Act fragmented national awards in the private sector, increasing the number of employers with whom nurses had to negotiate. The restructuring of public health care delivery means that this fragmentation in the private sector is being matched by fragmentation in the public sector. In the past the Nurses' Association negotiated with only one employer for all general and obstetric nurses. In 1992 they had to negotiate with 14 separate Area Health Boards, despite their own belief that maintaining one national document for nurses underpinned nationally consistent standards of care.

Separate negotiations with each Area Health Board is consistent with the logic of the Employment Contracts Act, and the logic of public health sector restructuring, but the Act did not preclude a national multi-employer contract. However, the Minister of State Services and Labour instructed Area Health Boards that there would be no national multi-employer contracts and that progress was to be made on greater flexibility in working hours and on removing penal rates. Again this illustrates the way women's experience under the Employment Contracts Act is shaped by factors other than their own situation or the Act itself - in this case politicians' attempts to cope with the fiscal deficit and the efforts of Area Health Board managers to meet tighter budgets.

The pressure on Area Health Boards to remove penal payments for unsocial hours of work carried the agenda of private sector employers' organisations into public sector employment. Most public hospital nurses work outside the normal "business hours" framework; for example only 14% of nurses at Auckland Hospital work 9-5, Monday to Friday.

Penal payments have therefore been an important component of most nurses' weekly earnings, making changes to penal rates a key industrial issue. However, ward and hospital closures, day surgery, more outpatient care and lower staffing levels have already reduced the amount of penal time worked, as well as nurses' overall job opportunities in public health. For this reason, Nurses' Association officials could see longer term benefits to nurses in a shift from penal rates for unsociable hours to a professional salary for a professional qualification.

Although the Nurses' Association entered negotiations in all regions with a single position, each Area Health Board proposed different claims and a different formula to reduce penal rates. The Nurses' Association was able to resist attempts by the Boards to cut their nursing labour costs by three percent. Negotiations resulted in a regionally varied, but "cost neutral" conversion of penal rates into an improved base rate for nurses, plus flat shift availability allowances. This meant losses for some nurses and gains for others.

These negotiations with 14 employers took eight months to conclude and involved strike action and threatened strike action throughout the country. Because of their key role in the provision of hospital care, strikes by nurses are disruptive of health services and therefore effective as a tactic. However, nurses' potential industrial strength is constrained by moral dilemmas about leaving dependent patients, and by the service ideals of nurses who approach their work as a profession and a vocation, rather than just a job. Their most recent industrial action was taken to defend themselves against a cut in earnings and against the background of previous award rounds which had not maintained their earnings against inflation.

Fragmentation of nurses' negotiations with employers will intensify when the Crown Health Enterprises (CHEs) become their new employers. As the CHEs and private sector providers start to compete for contracts from the Regional Health Authorities, it is likely that the Employment Contracts Act will be used increasingly by both public and private sector employers to reduce the earnings of nurses in order to tender as low as possible to provide various health services.

In private sector health care, the rates and conditions of nurses are inferior to those in the public sector, despite past arbitration on parity with state employees. Under the Employment Contracts Act awards for private hospitals and rest-homes have fragmented into a host of enterprise contracts and some large private hospitals have resisted attempts by nurses to negotiate collectively. Private sector nurses have also taken industrial action to defend rates of pay and protections they had under national awards. Some nurses and domestic workers responded to the moral dilemmas posed by strike action by mounting a hunger strike which spread through two chains of religious and welfare hospitals and rest-homes. The strategies of private sector health employers and the outcomes they secure increase the pressure on Area Health Board managers to cut their labour costs, as they prepare to compete with the private sector for public health care dollars.

At a time when job opportunities for nurses, particularly new graduates, are tightening, the levels of reward they have commanded are under attack. As a result, nurses are adopting stronger industrial rather than professional strategies to defend their position in the labour market. Their industrial strength, based on their concentration on large worksites and negotiating with a limited number of employers is being undermined by the shift to enterprise based bargaining and the redefinition of what constitutes an "enterprise" in a public sector context. This change parallels the situation of school cleaners and teachers who have so far been able to resist the fragmentation of their national awards.

Increased fragmentation of nurses' negotiations under the Crown Health Enterprises and private contractors will further weaken their position, but the proposal to implement the funder-provider split by means of subcontracting carries additional implications for nurses. At present it is proposed that contracts for service provision should have a one year term,

since the possibility of termination is seen as the key to efficiency through contract competition. Nurses employed by such contractors are likely to be employed on contracts with a similar term. This would place qualified, highly skilled nurses in a similar position to women working in commercial contract cleaning, whose industrial action often centres around the issue of job security when cleaning contracts change hands. National's health reforms are likely to control state expenditure on health at the cost of casualising one of the two main occupations in the primary labour market in which women are extensively involved.

Conclusions

Given that the labour market is systematically differentiated by gender and race, as well as class, it was to be expected that the Employment Contracts Act, together with related legislation such as the Social Security Amendment Act, would have different consequences for women and men, younger and older workers, Pakeha, Maori and Pacific Island workers. This paper has tried to generalize about the consequences of this act for women workers, and explore differences between some of the jobs in which women are concentrated.

As we have seen, the outcomes of negotiation under the Employment Contracts Act for clerical workers, cleaners and nurses are shaped not just by the Act, but by their employers' responses to actual or anticipated competition in their industries, their location in either the public or private sectors, and political pressures for certain types of negotiations. Outcomes based on differences in the negotiating strength of employees are being crosscut in some cases by employer strategies which run counter to the general direction of the Act. In these cases employers' own need for collective action as employers have determined their choice of bargaining form. In choosing to negotiate multi-employer contracts they have adopted the form of bargaining which most resembles a national award, and which best allows women workers on scattered worksites to negotiate collectively to protect rates and conditions in the labour market in which they work.

Women's position in the labour market and past industrial relations difficulties experienced by industrially weak groups of workers have made it likely that the Employment Contracts Act would have a particularly problematic impact on women workers. However, the actual outcomes for particular groups of women in the first round of negotiations under the Act were less immediately predictable. We have argued that the effects of the Act are intertwined with other aspects of the contexts in which workers negotiate with their employers.

These insights have been generated by a particular piece of qualitative research. Our discussion has done little to indicate the effects of race or region which also interact significantly with the overall provisions of the Employment Contracts Act. This analysis of the challenges faced by unions organising clerical workers, cleaners and nurses needs to be compared with the situation of other unions with large numbers of women members, such as the Distribution Workers' Union, the Post Primary Teachers' Association, the New Zealand Educational Institute and Finsec. This is necessary if we are to build on this very specific and preliminary analysis of the impact on women of the Employment Contracts Act.

References

- Baron R. and Norris, A. (1976), *Sexual Divisions in the Dual Labour Market*. In B. Barker and S. Allen eds., *Dependence and Exploitation in Work and Marriage*, London: Longman.
- Brook, Penelope (1990), *The Inequity of Pay Equity*, Centre for Independent Studies, Wellington.
- Brosnan, Peter and Raymond Harbridge (1989), *Race, gender and wage flexibility in New Zealand 1984/85 -1987/88*. Working Paper 5/89. Industrial Relations Centre, Wellington: Victoria University.
- Deeks, John (1990), *New Tracks, Old Maps: Continuity and Change in New Zealand Labour Relations 1984-1990*, *New Zealand Journal of Industrial Relations*, 15(2).
- Department of Statistics and Ministry of Women's Affairs (1990), *Women in New Zealand*, Wellington: Ministry of Women's Affairs.
- Department of Statistics (1992), *Quarterly Survey of Employment*, August.
- Du Plessis Novitz, Rosemary and Nabila Jaber (1990), *Pay Equity, the "free" market and state intervention*, *New Zealand Journal of Industrial Relations*, 15: 241-62.
- Harbridge, Raymond and J. Moulder. (1992), *Collective Bargaining and the Employment Contracts Act 1991: one year on*. A paper presented to a public seminar at the Industrial Relations Centre, Victoria University, Wellington, 15 May 1992.
- Harbridge, Raymond (1993a), *Bargaining and the Employment Contracts Act*. In Raymond Harbridge ed., *Employment Contracts: New Zealand Experiences*, Wellington: Victoria University Press.
- Harbridge, Raymond (1993b), *Collective Employment Contracts: A content analysis*. In Raymond Harbridge ed., *Employment Contracts: New Zealand Experiences*, Wellington: Victoria University Press.
- Hill, Linda (1992a), *Back to the Future*, *Broadsheet*, Autumn 1992, 193: 21-24.
- Hill, Linda (1992b), *Women and the Employment Contracts Act*, Paper prepared for the Women's Studies Conference, Auckland Region, 29 September, 1992.
- Hill, Linda (1992c), *Labour Market Deregulation and the State Employer*, Paper presented to the "Changing Responsibilities Social Policy Conference, Victoria University, 4-6 December.

- Hyman, Prue (1987), *The fight for equal pay for work of equal value (comparable worth) in New Zealand: Lessons from past campaigns in New Zealand and elsewhere*, Paper presented to the Seventh Berkshire Conference on the History of Women, Wellesley College, Mass., 1987.
- Hyman, Prue (1992) *The Use of Economic Orthodoxy to Justify Inequality: A Feminist Critique*. In R. Du Plessis et al. (eds.), *Feminist Voices: Women's Studies Texts for Aotearoa/New Zealand*, Auckland: Oxford University Press.
- NACEW Research Advisory Group (1990), *Beyond the Barriers: The State, The Economy and Women's Employment 1984-1990*, Wellington: National Advisory Council on the Employment of Women, Department of Labour.
- New Zealand Council of Trade Unions Women's Committee (1989), *Union Re-structuring: A Women's Perspective*, Pamphlet, Wellington.
- New Zealand National Party (1990a), *Choice, Equity and Independence for Women: National's Women's Policy*, Wellington, 23 August.
- New Zealand National Party (1990b), *Breaking Down the Barriers: National's Policy on Employment Equity*, Wellington, 23 November.
- Sarr, P. (1992), *Out of the Chorus Line: The Progress of Women in New Zealand Unions*, Women's Officer, NZ Council of Trade Unions, Wellington, May 1992.
- Sayers, Janet (1992), *Women and the Trade Union Movement: Issues*, in Suzann Olsson ed., *The Gender Factor: Women in New Zealand Organisations*, Palmerston North: The Dunmore Press.
- Sayers, Janet (1993), *Women, the Employment Contracts Act and Labour Market Flexibility*, in Raymond Harbridge ed., *Employment Contracts: New Zealand Experiences*, Wellington: Victoria University Press.
- Walsh, Pat (1993), *The State and Industrial Relations in New Zealand*. In Brian Roper and Chris Rudd eds., *The State and the Economy*, Auckland: Oxford University Press.
- Wilson, M. (1992), *The Employment Equity Act 1990: a case study in women's political influence*. In J. Deeks and N. Perry (eds), *Controlling Interests: business, the state and society in New Zealand*, Auckland: Auckland University Press.
- Working Party on Equity in Employment (1991), *The Report of the Working Party on Equity in Employment*, Wellington.