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**COLLECTIVE BARGAINING AND PAY EQUITY:
A STUDY OF PAY EQUITY BARGAINING
IN TWO CANADIAN PROVINCES**

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Summary

The aim of this study was to explore the interrelationship between collective bargaining and pay equity. A qualitative case study methodology was used. Eighty-six interviews were conducted with union and management pay equity negotiators, labour lawyers, Pay Equity Commission Review Officers, and other informants. A collection of documentary evidence supplemented these interviews.

The empirical work focused on explaining issues of structure, style and power in pay equity bargaining and the complex intertwinings of the structural properties of gender and class were considered crucial to an explanation of these. The key structural dynamic in the negotiation of pay equity was found to be the degree and effectiveness of a labour-feminist politic combined with employer/state commitment, which are themselves interconnected and represent the transformative face of gender and class power relations.

The thesis, in providing a theoretically informed discussion of detailed case study material, contributes towards the debate on the effectiveness of collective bargaining as a vehicle for implementing equal pay policy. It also informs the debate on labour-management cooperation in labour relations, especially in public sector collective bargaining. Because legislated pay equity is bargained within a new set of legal parameters, the study may also aid our understanding of the relationship between collective bargaining and the law. Finally, the thesis attempts to unravel the interwoven complexities of gender and class power relations in the collective bargaining process.

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CHAPTER I

Collective Bargaining and Pay Equity:

Introduction and Methodology

The gendered differential in pay is a matter of public policy concern and academic interest in a number of countries, and there have been attempts in many of these countries to close the wage gap. Work on pay equity in Canada has focused upon the practical application of pay equity legislation and the implications for human resource management (for example, Conklin and Bergman, 1990; Kelly, 1988; Weiner and Gunderson, 1990), alongside a sociological and/or feminist critique of its concept and implementation (for example, Cornish, 1986; Cuneo, 1990; Fudge and McDermott, 1991; Warskett, 1990). All Canadian pay equity initiatives, whether legislated or not, require the joint negotiation of pay equity with unions in organised workplaces. The aim of this study is to further our understanding of the interrelationship between collective bargaining and pay equity.

McDermott and Cornish provided some useful observations on the potential clash between pay equity and traditional labour relations law and practices, but, in spite of some consultative stage predictions that pay equity was incompatible with collective bargaining (Davies, 1988; Gandz, 1987; MacKenzie, 1988; Robb, 1988; Shamie, 1986), any thoroughgoing analysis of the interrelationship between pay equity and collective bargaining has not yet

been conducted. Case studies of comparable worth in the United States (Acker, 1989; Blum, 1990; Evans and Nelson, 1989) did not focus on this important interrelationship either, although Acker's analysis did consider the role of the labour relations system in the process and outcome of implementation.

Canadian pay equity policy is the latest in a series of attempts to tackle the gender wage gap, which has persisted in spite of a dramatic increase in women's participation in the workforce since World War II (Ehrenberg, 1989; Gunderson, 1989). Canada is not the only country to have introduced policies to redress wage discrimination against women. Most of the OECD countries had passed anti-discrimination laws by 1980 (Whitehouse, 1992), and equal pay for men and women doing equal work is embodied in Article 119 of the Treaty of Rome, the basis for the European Community (Docksey, 1987). However, equal pay legislation was largely restricted to the same or similar work, and thus did not address the effects of sexual segregation. Despite the strong arguments that labour market structure underpinned gender differences in wages, policies were based on an assumption that wage discrimination was at an individual rather than a structural level. Thus, policy thinking was still characterised by the individualism of the neo-classical model, which was reflected in the complaints mechanism incorporated in most countries' legislation.

The persistence of the wage gap even after equal pay legislation led to some of the countries in the Whitehouse study introducing amendments or new legislation in the 1970's and 1980's to extend equal pay to work of equal value. Equal value had been codified into the International Labour Convention 100 in 1951 (McDermott, 1991), but was not implemented in most countries for many years.

The policy of equal value recognised that the wage gap could only be tackled by building in the comparison of female-dominated with male-dominated work. The underlying premise of equal value is that wage discrimination is the result of the historical undervaluation of women's work, which led to the sexual segregation of jobs and low pay. In order to calculate a non-discriminatory wage, equal value is measured in terms of the demands made on the employee, regardless of the similarity of the jobs, using a gender-neutral job evaluation scheme. However, most of the equal value legislation introduced at this stage was still based on the assumption of wage discrimination being an aberration, rather than systemic, because legal redress could only be triggered by individual complaints and offer individual remedies.

In certain countries, continued evidence of a significant wage gap despite anti-discrimination legislation resulted in political lobbying from women's groups, often in alliance with the labour movement, to reform equal pay policies so that they were proactive. In contrast to the complaint-driven model, proactive equal value is based on the assumption that wage discrimination is structural

and systemic. Proactive legislation shifts the emphasis from the individual victim of discrimination to those with more power in the workplace to do something about it: the employers.

The first country to move in a proactive direction was the United States.

Here, the wage policy of proactively implementing equal value was often termed "comparable worth," an emphasis upon the technical method involved, whereas in Canada it was always called "pay equity," a name that encapsulated its primary aim of equitable pay. As early as 1973, the American Federation of State, County and Municipal Employees (AFSCME) requested a job evaluation study to compare wages of female- and male-dominated jobs.

However, implementation was delayed until 1986, after much political debate and a controversial court case.

In the meantime, the comparable worth movement developed steadily in America, forming the National Committee on Pay Equity (NCPE) in 1979 (Blum, 1991). The NCPE was a labour-feminist alliance made up of organisations and individuals such as the Coalition of Labour Union Workers, women's and minority groups, lawyers, researchers, and state and local agencies (Portman, Grune and Johnson, 1984). From an original strategy of pursuing comparable worth through the legal system, the movement shifted to a strategy of legislation combined with collective bargaining. According to the NCPE, all but five states had taken action on comparable worth by 1989, and 1,739 localities (for example, cities, counties, school districts) had undertaken

initiatives, too, although the majority of these had been in Minnesota, the first state to require implementation at local level (Blum, 1991).

In Britain, the Equal Pay Act, 1970, was aimed at wage discrimination but it failed to address sexual segregation, focusing only on same or broadly similar work. The European Equal Pay Directive, 1975, was designed to implement the principle of equal pay laid down in Article 119 and introduced the concept of equal pay for work of equal value. UK legislation did not provide for this and, after pressure from the European Court of Justice, it was amended in 1983 to incorporate equal pay for work of equal value. But, like other complaints-driven legislation, despite some notable successes in a few individual court cases, effectiveness has been limited (National Pay Equity Campaign [NPEC], 1991).

In the face of a continued gender wage differential of 26% (Dickens, 1989) despite existing equal pay legislation, the National Pay Equity Campaign was established in 1991. This is a broad based coalition of working women, trade unionists, academics and other supporters working for effective and accessible pay equity legislation (NPEC, 1991). Also, the British Equal Opportunities Commission, a statutory body charged with keeping legislation under review, has called for extensive changes to strengthen the equal pay legislation (Equal Opportunities Commission, 1990).

The Northern Ireland Equal Opportunities Commission has developed a proactive strand in its strategy to achieve equal pay for women. The Commission combines litigation with negotiation, supporting unions through training and advice, putting pressure on employers to carry out pay audits and job evaluation exercises, in addition to recommending legislative changes and developing a strategy for formal investigations (Jones, 1991).

The European Community Action Programme, agreed in October 1990, linked social and equality issues to the economic context of the Single Market. Action on equal pay is a vital part of this strategy, in addition to the Treaty of Rome provisions on the principle of equal pay. Guidance on discriminatory pay systems has been provided in a series of important decisions by the European Court of Justice. All member states have adopted measures to comply with the equal pay principle embodied in the Treaty of Rome, but there are variations in the scope of comparisons and the definition of equal value (Collins, 1991).

A proactive initiative was undertaken in Australia, when the New South Wales public sector was the focus for a job evaluation exercise as part of wider changes in industrial relations and work organisation in the country. The Director of the Office of Equal Opportunity in Public Employment was a consultant to the project and was instrumental in the design of a non-discriminatory job comparison system which would allow the capture of

women's work and therefore provide a route to equal value for women civil servants (Burton, 1991).

In the proactive initiatives described so far, unions had little or no role to play in their implementation. There were a few exceptions, for example, the state of Oregon in the US established a joint task force to implement the comparable worth legislation. Overall, however, the most important role the labour movement played in American comparable worth developments was the lobbying for the legislation, in alliance with women's groups. Conversely, not only was most of the Canadian proactive legislation successfully lobbied for by strong labour-feminist alliances, but also implementation became a joint responsibility, with employers legally required to negotiate pay equity with any unions present in their organisations.

In the mid 1980's a persistent wage gap despite existing anti-discrimination laws gave Canadian lobbyists ammunition in their campaign for proactive pay equity legislation. Equal pay laws had been passed in all provinces since 1971, either in labour standards or human rights legislation. In 1977, equal pay for work of equal value legislation was passed in the federally controlled sector. Two provinces also introduced equal value laws: Quebec (1975) and the Yukon (1987).

A good indication of the ineffectiveness of this legislation is the record of the Canadian Human Rights Commission, the government agency responsible for

the enforcement of human rights legislation covering the federal sector. From its establishment in 1978 to 1983, only 60 formal equal value complaints were received, and of these, 22 were either dismissed or withdrawn (Cadieux, 1984). The relatively few successful complaints were virtually all from the public sector unions, implying that unorganised and organised private sector women remained unaffected by the Act's equal value provision (Warskett, 1991). Furthermore, very few employers had reviewed their job evaluation and compensation systems to comply with the Canadian Human Rights Act, 1978 (Cadieux).

In response to this apparent failure of the existing legislation, in 1985 the province of Manitoba pioneered a proactive approach to equal value. Public sector employers were statutorily required to implement equal value by reviewing wage structures using a gender-neutral job comparison scheme. In 1987, Ontario introduced pay equity legislation covering the private sector as well as the public sector, the most comprehensive and ambitious initiative so far. After Manitoba and Ontario had introduced statutory pay equity, the Canadian Human Rights Commission published a policy document. In it, the Commission endorsed the proactive programmes and commented: "[the] complaint-driven model, requiring the filing of a complaint with the Commission to trigger compliance, is seriously flawed" (1987, p. 6).

This view, expressed by the statutory agency responsible for enforcing a complaint-driven model of equal value, echoes the criticism made of the

current British law by the Equal Opportunities Commission. The Canadian response to the evident inadequacies of the previous equal value legislation was different from the British partly because the provinces have jurisdiction over 90% of labour relations and therefore have the political power to pursue legislative initiatives of their own, and because some of the provinces had the political will to tackle equal pay for women with a policy that recognised the systemic nature of discrimination.

Three of the Atlantic provinces - Prince Edward Island, Nova Scotia, and New Brunswick - passed pay equity laws to cover the public sector in 1988, 1988 and 1989, respectively. The fourth - Newfoundland - introduced pay equity in the public sector in 1988, as a matter of political policy rather than statutory requirement.

Given that all these Canadian programmes require joint labour-management implementation of pay equity, it is crucial to understand the interrelationship between collective bargaining and pay equity. One school of thought, expressed during the consultative phase of the Ontario legislation, was that pay equity was incompatible with collective bargaining. Extreme levels of conflict would affect union-management, intraunion and interunion relationships (Davies, 1988; Gandz, 1987; MacKenzie, 1988; Robb, 1988; Shamie, 1986).

This was based on the understanding that pay equity was an administrative, technical, mechanism superimposed upon collective bargaining, a power-driven process.

An opposite assumption underlay governments' policy of joint implementation, largely based upon Manitoba's experience where a multi-union, multi-employer process had apparently worked relatively smoothly, with a new level of cooperation reached between the parties (Ellis-Grunfield, 1987; Ouimet, 1988; Roome, 1989). Governments of both provinces studied in this research wanted and expected pay equity bargaining to be more cooperative than conventional wage bargaining.

Another view of pay equity bargaining emerged during the early stages of implementation which envisaged negotiations working much as they had before, in principle, except that the parties would bargain within newly defined parameters. From this perspective pay equity and collective bargaining were seen as compatible, even if there were difficult times ahead (Cornish and Trachuk, 1988; Lennon-Shilton, 1989).

Given these different opinions of what would happen in Canadian pay equity negotiations, this research set out to investigate the impact of pay equity implementation on bargaining structures, styles and power relationships. The other dimension of the relationship between collective bargaining and pay equity centres upon the effectiveness of collective bargaining as a vehicle for implementing equal pay for women.

Both Canadian and British studies concluded that changes towards women's equality through the collective bargaining mechanism have not worked (Burkart, 1990; Cadieux, 1984; Chaykowski, 1990; Colling and Dickens, 1989; Cornish, 1986; Dickens and Colling, 1990; Dickens, Townley and Winchester, 1988; MacKenzie, 1988; Robb, 1987; Sarra, 1986). Feminist

critique of the labour movement's historical role in women's discriminatory wages, linked with unions' uneven record on internal and external equality, indicated the possible barriers to women's equality in the collective bargaining process (Barrett, 1980; Briskin and Yanz, 1983; Cockburn, 1981 and 1983; Frager, 1983; Gaskell, 1986; Hartmann, 1976; Milkman, 1980; Phillips and Taylor, 1980; Rubery, 1978; White, 1983).

Two American studies of comparable worth implementation raised the issue of interwoven gender and class power relations underlying the process (Acker, 1989; Blum, 1991). Acker argued that in the state of Oregon, union-management and interunion conflict marginalised women's interests, distorting the original objective of comparable worth policy. In their study, Evans and Nelson (1989) concluded that the implementation process, and the role of collective bargaining, varied according to the degree of centralisation together with economic and political factors. All of these studies established the importance of gender relations in understanding how the parties' frames of reference and practices affected the process and outcome.

This research builds on the previous studies by examining the gender and class dynamic as a means to an end; namely, to further our understanding of the complex interrelationship between pay equity and collective bargaining, thus shifting the focus clearly to a labour relations perspective.

The aim when developing a methodology for this project was the need to account for both agency and structure in a complex and dynamic process.

Hyman argued that industrial relations could not be understood without

exploring the subjective dimension, but cautioned against a neglect of structural influences "of which the actors themselves may be unconscious" (1972, p. 76). He proposed a dialectical analysis of consciousness and structure.

Integrating Agency and Structure

Nearly twenty years later Hyman suggested that many of the problems which beset the development of industrial relations theory were still the difficulty of integrating different levels of generality. As an illustration of this problem, he identified two opposing forms of one-sidedness in writing on trade unionism: "The one approach effectively denies the potential or significance of conscious human...practice in the face of the structural determinations...; while in the other, the scope for working-class creativity is treated as unlimited regardless of the [structural] context" (1989, p. 137). These opposite views of social reality reflect an historical tension in the social sciences between micro and macro levels of analysis, between agency and structure, and in turn between voluntarism and determinism.

Giddens (1976 and 1984) attempted a resolution of the agency/structure dilemma. He defined structural properties as institutionalised features of social systems. For Giddens, social systems are "the patterning of social relations" (1984, p. 377). We should note that the degree of "systemness" (Giddens' term) is very variable in his theory, and does not denote clusters of social relations whose boundaries are clearly set from others. The institutionalised

features evident in structural properties are "...rules and resources, recursively implicated in the reproduction of social systems." Most important, he envisaged structural properties as not only constraining but enabling, because of the inherent relation between structure and agency.

Giddens' term 'structuration' refers to the constitution of social structures as they are reproduced and transformed by the active doing of subjects. Because social structures are produced by human agency, they may be transformed deliberately or without intention, gradually or rapidly, radically or not (Manicas, 1980). This is why they are both constraining and enabling. The concept of 'duality of structure' highlights the dynamic nature of structuration: "...social structures are both constituted by human agency, and yet at the same time are the very medium of this constitution" (Giddens, 1976, p. 121). In other words, social structures are both the medium and the outcome of human interaction. Ollman captured the idea well: "...structure is but a stage in process" (1971, p. 18).

Power is an essential part of structuration theory: "Every interaction is also a moral and power relation" (Giddens, 1976, p. 118). Giddens noted that power relations, based on rules and resources, are characteristically imbalanced: "What passes for social reality stands in immediate relation to the distribution of power, not only on the most mundane levels of everyday interaction, but also on the level of global cultures and ideologies..." (1976, p. 113). Yet, given the relationship between structure and agency, he saw power as two-

way, as the capacity of the agent to mobilise resources. His term "dialectic of control" (1984, p. 374) described how the less powerful managed resources in such a way as to exert control over the more powerful in established power relations.

In this study, it is argued that the process of pay equity bargaining cannot fully be understood without taking account of structural properties, especially gender and class relations, and their enabling as well as constraining characteristics. For the purposes of this discussion, the term gender is used to differentiate it from sex and to indicate its social construction rather than biological origin. It may be defined as "a network of beliefs, personality traits, attitudes, feelings, values, behaviours and activities differentiating men and women through a process of social construction that has a number of distinctive features" (Beneria and Roldan, 1987). Gender has to be understood as historical, operating at all levels of society, and involving a ranking of all activities whereby those associated with men are ranked higher than those associated with women. Both the outcome and the means of this social construction is the asymmetrical and structured access to resources generating male privilege and domination and female subordination (Beneria and Roldan, 1987; Gilligan, 1982). Despite this asymmetrical access to resources, according to Giddens' "dialectic of control," change is possible through action, and feminist politics should be understood in this context.

There is little consensus in the literature on the definition of class, but it is possible to identify a difference, in broad terms, between the view that class should be located in the economic ownership and possession of the means of

production, and the view that emphasises the cultural and historical dimensions of class formation (Beneria and Roldan, 1987). For this project, neither of these definitions is sufficient, rather a combination of both, following Beneria and Roldan, who studied women and economic development in Mexico City. Consequently, the concept of class in this thesis will include a number of dimensions.

The criteria of ownership and possession of the means of production, including control over the labour process and the state's role as public employer, economic manager and legislator, are important. But so are human agency, social perceptions and values, beliefs and forms of consciousness, and an extension of the social construction of class beyond the workplace. Added to this is the inclusion of factors that call into question an assumed "common" relationship to the means of production and forms of class consciousness - relations of gender, race and ethnicity. In research exploring the structural dynamic of equality bargaining, the gender dimension requires the acknowledgement of the sexual division of labour and other hierarchies in the workplace and the household. It should also be pointed out that gender is not envisaged as a sub-category of class. The emphasis is upon structural properties as unequal power relationships of class, gender, race, and ethnicity (see Adams, Briskin and McPhail, 1988), which are open to modification, according to Giddens.

Race and ethnicity are clearly important structural properties, yet limited time and space in this project precluded a comprehensive analysis of these factors as well as the intertwinings of gender and class. In the Newfoundland case study, race and ethnicity did not emerge as crucial aspects of interaction and structure, possibly because of the low rates of immigration compared to other Canadian provinces. In Ontario, it would be expected to emerge as more significant, given the higher rates of immigration in the province. However, based on the information collected, which was qualitative and only partially structured, race and ethnicity did not come through as crucial in the understanding of the sets of negotiations studied and presented in the thesis. This may be partly because both of them took place at a centralised level. In the supplementary information collected (but not presented in detail) on decentralised hospital bargaining, a muted theme touching upon race and ethnicity did emerge, adding to the complexity of the gender and class dynamic.

It should be emphasised here that the aim is to use insights from Giddens' structuration theory in order to more clearly understand pay equity bargaining, and not, therefore, to apply the theory in its entirety. Since the production and reproduction of structural properties are achieved at the level of everyday interaction, and even though these properties are not always visible to the participants, it is possible to explore the workings of social relations of power from interviews as accounts of interaction (Silverman, 1985). One way of doing this is to understand that there are mediations of interaction and structure

in processes of social reproduction, analytically separate but in practice operating simultaneously (Giddens, 1976). Identification of these mediations in the empirical data can indicate how gender and class interact and saturate the pay equity bargaining process.

Research Design

The general research question is: What is the nature of the interrelationship between pay equity and collective bargaining?

For analytical purposes, this general question can be broken down into the following questions:

1. How and why does bargaining pay equity change the nature of the bargaining process - does it tend to centralise or decentralise the bargaining structure, and how far can it be negotiated separately from conventional wage bargaining; does bargaining style become more cooperative or more adversarial; and do unions enjoy more or less power when bargaining pay equity?
2. How does the collective bargaining process affect the implementation of pay equity - how far does the interplay of the structural properties of gender and class act as a constraint upon achieving equal pay for women, and how far do these same properties enable change?

The case study method is suitable when 'how and why' questions are being asked about a contemporary set of events in a real-life context, when the

boundaries between phenomenon and context is not clearly evident, and when multiple sources of evidence are used (Yin, 1989). The research questions of this project matched these characteristics well. Gardner (1991), in her paper on research design for industrial relations, pointed out that if we are interested in processes, then case studies are the best choice.

Analysis was qualitative because the dynamic nature of pay equity bargaining, involving complex relationships and structural properties, would more effectively be revealed qualitatively than in quantitative analysis. Attempts to construct models based on statistical analysis no matter how sophisticated can sometimes result in "... overly simplified representations of a more complex, dynamic and multidimensional reality" (Godard, 1989, p. 36).

Using quantitative methodology, it is very difficult to account for agency and the meanings that people bring to their world and their behaviour in it. As Schutz remarked: "...social reality has a specific meaning and relevance structure for the beings living, acting and thinking within it..." (1962, p. 59).

A major strength of qualitative analysis is that it provides the tools for a researcher to more effectively reveal agency and the significance of individual behaviour, allied with an ability to locate this interaction within a framework of structural constraints and opportunities.

Moreover, in order to understand the present, it is important to trace the historical development of gender relations of power, for example, the

development of patriarchy. Qualitative methodology allows the researcher to more easily do this, whereas quantitative methods present a 'snapshot view' (Kessler-Harris, 1988). Thus, although research was primarily qualitative, descriptive statistics were included where they helped to clarify the degree of internal and external equality currently achieved in the unions discussed.

In the context of this research, qualitative methodology seems more appropriate, despite some weaknesses critics have identified in the approach. One criticism is that the perceived absence of a rigorous scientific method leaves the qualitative researcher more easily affected by values, compromising the validity of the research. This position is opposite to Giddens' (1976) view of the research process. He captured the complexity of the relationship between the researcher and the social world she is studying by referring to the "double hermeneutic circle," the system of meanings that the participants in social practice are part of, which the researcher has to analyse and understand, which in turn is (has been) influenced by and influences the system of meanings that the researcher herself uses to analyse and understand. In other words, "...not only **how** we know, but that which we know **about**, is determined at least partially by the concepts of every day life" (Isaacs, 1987, p. 66).

A complementary view is that natural science knowledge is socially and politically organised in much the same way as our knowledge of the social world (Feyerabend, 1970; Kuhn, 1970; Lakatos, 1970). Thus, we could argue that values are integral to the research process when observing the natural

world, even when using what critics would term a (value-free) scientific method. Continuing the argument which perceives similarities between the natural and social world, and thus the inevitability of values being part of any research process (to some degree at least), Heisenberg's uncertainty principle introduced in the natural sciences, too, the notion that what we observe is influenced by how we observe it. In the measurement of minute particles: "The very fact of observing the electron disturbs it. The moment we illuminate the electron, it recoils....If we don't illuminate the electron, however, we don't see (detect) it." Therefore, "there is always an undetermined interaction between observer and observed..." (Eisberg and Resnick, 1974, p. 74).

Nevertheless, a qualitative researcher should be aware of the criticism related to this debate on values: the possible lack of reliability in terms of research findings. In this research, considerable care was taken to organise the tapes, transcripts, and analysis sheets (for each interview) in a systematic way so that another researcher could follow the chain of thought. Each direct quote from an interview was referenced with the page number of the verbatim transcript (or notebook if not taped).

Although internal validity is occasionally raised as more of an issue for qualitative than quantitative research, the internal consistency of this thesis was made explicit in the structure and content of the text. External validity is perhaps the strongest criticism of qualitative research, and is less effectively

countered, in spite of the argument that case studies are chosen using the principle of conceptualisation, and not statistical generalisation. In this research design, the richness of the empirical data generated qualitatively, and its potential insight into the complexities of pay equity bargaining, outweighed this last consideration.

Selection of Research Sites and Employee Groups

Since 1985, when the province of Manitoba introduced proactive pay equity legislation, five other provinces in Canada have introduced pay equity initiatives. The provinces of Ontario and Newfoundland were chosen as case studies for investigation of pay equity bargaining in the public sector.

Ontario was selected as a 'typical' case (Bryman's term, 1988). Pay equity implementation in that province was required by proactive legislation, as in four other provinces. Also, implementation was to be joint union-employer in unionised workplaces, as in all the other provinces with pay equity initiatives, including Newfoundland, whose pay equity programme was the result of political policy rather than statutory requirement. In addition, Ontario's legislation covered the public sector, as did all other pay equity initiatives. All these characteristics made Ontario 'typical' of the other provinces with pay equity programmes. However, Ontario was also different from other provincial initiatives since its legislation also covered private sector employers with over ten employees. Also, amongst its exemptions once pay equity had been achieved was bargaining strength, an unusual 'loophole' affecting

maintenance of pay equity. These two last factors made the study more interesting, but, overall, the province's pay equity programme was 'typical' of other provinces.

Newfoundland's pay equity implementation is 'unique' (Bryman's term, 1988), or 'deviant' (Yin's term, 1989) because it is not legislated, but introduced as a political policy. This political rather than legal framework makes it a significant contrast to Ontario's legislated programme. In addition, Newfoundland was chosen as my home province because ease of access was an important criterion; research was to be carried out while working full-time, so at least one site had to be local.

The pay equity programme in Newfoundland was centralised, so investigation was conducted only at provincial level. Ontario's pay equity legislation was negotiated at different levels in the province: some pay equity bargaining was done entirely at provincial level (the civil service), whereas some (the health care sector) included provincial combined with local level bargaining, with some bargaining units bargaining the whole process locally. The level of analysis therefore changed according to the nature of the bargaining structure. Because of this complexity in pay equity bargaining in Ontario, and limitations on time and space, it was decided to present in detail the two sets of centralised pay equity negotiations (see Chapters V and VI), using information collected at six Toronto hospitals for comparison with the main findings.

Public sector employees were the subject of investigation because they were the ones whose wages were assessed in both provinces during the period the research took place. Public sector employees were originally of interest to the researcher because their employers are also governments, generating interesting political and economic tensions resulting from the liberal democratic concept of government sovereignty, especially in an era of economic restructuring and recession. Governments have traditionally been envisaged as model employers (Beaumont, 1987) and it was of interest to assess the effectiveness of their pay equity policies. Also the public sector experienced the most dramatic growth in Canadian unionism since the late 60's. Given that public sector unions have large women memberships, these unions could be expected to have stronger policies and practices for women than most private sector unions, implying a stronger commitment to issues like pay equity.

The actual groups of employees studied were determined by the pay equity schedule in each of the provinces. In Ontario, pay equity implementation was carried out in the civil service first, followed by the health care sector. In contrast, the health care employees in Newfoundland were covered first, followed, in theory, by the civil servants. In practice, political and economic factors caused the stalling of pay equity implementation in the Newfoundland civil service.

Data Collection

Ontario data was collected during two visits to Toronto, for three weeks in early summer 1991 and for one week in winter 1991. Subsequently, a number

of telephone interviews were carried out. Toronto was where centralised pay equity bargaining for the civil service took place. Research in Newfoundland was spread out over a longer period of time because it was the researcher's home and place of work. The data in Newfoundland was mainly collected during the summer of 1992. Pay equity bargaining was centralised so most data was collected in St. John's, Newfoundland, with some telephone interviews of negotiators living in other parts of the province.

In the early stages of data collection, key informants from management and unions set up the trail of investigation (see Yin, 1989, for his analogy of case study research with a criminal investigation). In Ontario, networking was strong between women involved in pay equity in unions, government, academia and interest groups. This enhanced data collection generally, and led to a better understanding of the political processes involved. Update telephone interviews were conducted in both provinces with key informants at about six to twelve month intervals from the initial collection of data.

Interviews were the main method of data collection, together with documentary analysis of interest group, union and government papers, including notes of meetings. Notes were made of informal conversations before and after the 'formal' interviews. Comments made at the end of the taped interviews were often quite revealing. Decisions by interviewees on whether to be taped or not were recorded as significant.

The interviews were designed to be responsive and flexible, to take advantage of their interactive nature. This format provided for the establishment of rapport, encouraging the emergence of issues the interviewee felt were important, and to allow the interviewee some influence over where the interview was going. As Oakley has pointed out, the interviewee should not be perceived merely as an "objective instrument of data production" (1981, p. 58), but as a subject in her own right.

Nevertheless, it was decided that interviews had to be partially structured as there were specific topics of interest, so these factors were monitored by the researcher during the interview.

For example, it was apparent from an earlier analysis of Ontario provincial government papers that the government wanted and expected a more cooperative bargaining process than had been experienced in conventional wage bargaining, although there was some evidence (Gibb-Clark, 1990) that this had not happened in Ontario. Early pay equity bargaining in Newfoundland had also pointed towards a more cooperative mode of bargaining (Roome, 1989).

A synthesis of Walton and McKersie's (1965), Lewicki and Litterer's (1985), and Peterson and Tracey's (1976) conceptualization of distributive and integrative bargaining, led to a differentiation between 'adversarial' and 'cooperative' bargaining. For interviews with pay equity negotiators, indicators of cooperative bargaining were recorded on the interview schedule, to be ticked off as they were covered during the interview. Indicators of cooperative bargaining were listed as mutual goals, the open exchange of information, trust, and problem solving.

It should be emphasised that these points were not the subject of direct questions to the interviewee. Information on them was gained through the use of a general, open-ended question near the beginning of the interview, once basic facts were established, like the interviewee's negotiating experience and the existing structure for wage negotiations. The question used was: 'How did your experience with pay equity bargaining compare with your experience in conventional wage bargaining?' Mostly, the specific information needed was gained as a result of this format. If not, any residual points were addressed at the end of the interview.

Overall, forty-five people were interviewed in Ontario, including union and management pay equity negotiators, Review Officers and relevant staff at the Pay Equity Commission, a Vice-Chair at the Pay Equity Hearings Tribunal, Chairs of unions' women's committees, labour lawyers, and informants on the political processes leading to the legislation of pay equity. In Newfoundland, forty-one people were interviewed, including all the members of the joint Pay Equity Steering Committee, most of the members of the rating committees, and Chairs of the unions' women's committees, and other relevant informants. A few of the people were interviewed together. The Director of Review Services and five Review Officers were interviewed together at the Pay Equity Commission in Ontario.

Most of the interviews were taped; only a very few refused to be taped. The transcripts (or notes) were analysed to locate evidence for the complex

intertwining of structural properties as an integral part of the pay equity bargaining process. Interview transcripts were not assumed to be simply reports of actual events, but were treated as displays of different perspectives. To cite Massey and Meegan (1985, p. 127): "The job of the researcher is...to structure together what are often fundamentally different understandings of what is going on."

Main Argument, Contribution and Structure of Thesis

The underlying premise of this thesis is that the interrelationship between pay equity and collective bargaining has to be explained in terms of the complex intertwining of the structural properties of gender and class, which articulate as both constraints and opportunities for change.

The main argument of the thesis is that the key structural dynamic in pay equity bargaining is the degree and effectiveness of a labour-feminist politic combined with employer/state commitment, which are themselves interconnected and represent the transformative face of gender and class power relations. This transformative element is in constant articulation with the combined pressures of the reinforcing elements of gender and class, the most powerful of which is hierarchy. The transformative dynamic is agency-driven, which builds in the possibility of a varied shifting between the enabling and constraining characteristics of the mediations of the structural properties. The overall permutation of enabling and constraining factors is therefore variable and explains the specificity of different pay equity negotiations. In strategic

terms, this structural dynamic means that the success of the unions in encapsulating an effective labour-feminist politic is essential if any effective change is going to be made to the established hierarchy at the heart of inequitable wages.

The structural dynamic summarised above addresses both research questions noted earlier in this chapter. As well as increasing our understanding of the constraints and opportunities located in the interplay of gender and class in pay equity bargaining, the overall permutation of the enabling and constraining factors largely explains the patterns identifiable in bargaining structure, style and power. According to the effectiveness of the labour-feminist politic in combination with the degree of employer/state commitment, attempts were made (with varying degrees of success) to manipulate bargaining structures to gain advantage. Also, although the negotiations studied were conducted separately on a formal level, there were considerable pressures in all negotiations (eventually) to integrate pay equity and conventional wage bargaining in practice.

Patterns in bargaining style also varied according to the permutation of enabling and constraining factors; nevertheless, in general, negotiations tended to be more cooperative. Variations of this generally more cooperative style within and between sets of negotiations can be explained as pressure points, where the transformative aspect of gender and class most clearly challenged the status quo: the gender-class based established hierarchy of wages. The

bargaining power dynamic depended largely on unions' ability to recognise, access and effectively use the (unequal) resources available to them. In the negotiations studied, the unions' power increased in general because of the legislation itself, but the specificity in power relations was due to variations in the commitment and/or ability of different unions to control the direction of the negotiations. In an extremely technical process, potentially mystifying, the only way to achieve a high level of control was through the absorption and effective utilisation of the labour-feminist politic already referred to.

To analyse the structural dynamic of negotiations in this way represents a new way of thinking about and understanding collective bargaining. The thesis contributes towards the debate on equal pay for women, how best to achieve it, and in particular whether collective bargaining is a suitable vehicle to implement policies designed to redress discriminatory wages. In the course of investigating these questions, the work also explores women's disadvantaged pay position and the alternative explanations offered for it, and addresses the role of job evaluation in establishing pay equity, as well as the question of whether pay equity is negotiable. In addition, the research feeds into the debate on labour-management cooperation, joint decision-making and whether consensus decision making works in a labour relations context. It is a contribution towards our knowledge and understanding of public sector collective bargaining. Because legislated pay equity bargaining is conducted within new legal parameters, the study contributes to our understanding of the relationship between collective bargaining and the law. Finally, at a theoretical level, the analysis of structural properties in pay equity bargaining attempts to unravel the interwoven complexities of gender and class power

relations as both constraints and opportunities in the collective bargaining process.

The structure of the thesis is as follows. After Chapter I introduces the topic and explains the methodology used in the research, Chapter II examines alternative explanations for the gender wage gap, leading to a feminist analysis of the development of the sexually segregated labour market. Given the historical contribution of the labour movement towards women's inequality, described in Chapter II, the main section of the next chapter assesses Canadian unions' equality bargaining achievements in a review of women's internal and external equality. A short final section in Chapter III deals with current trends in public sector collective bargaining to place the rest of the chapter in context and to set the scene for the following chapter. Chapter IV explores the issues and debates which have emerged so far concerning the interrelationship between pay equity and collective bargaining.

The Newfoundland case study is presented in Chapter V and the Ontario case study is presented in Chapter VI. Each of these chapters examines the bargaining structure, style and power in pay equity bargaining for the respective provinces, before considering gender and class dimensions. Chapter VII integrates the case study and previous material by identifying the structural dynamic of pay equity bargaining, and places pay equity in the context of an overall strategy of equality for women.

CHAPTER II

The Gender Wage Gap

Pay equity policies were introduced in response to a persistent wage gap. The nature and success of policy varies according to the explanation accepted for gender differentiated wages. This chapter assesses two different types of explanations of the gender wage gap: labour market and feminist/historical. After a discussion of the explanations incorporated in the labour market theories, the chapter moves on to examine the explanations derived from a feminist/historical perspective, including debates surrounding the relative contributions of organised labour, employers and the state to the shaping of a sexually segregated labour market.

According to Statistics Canada (1990b), women earned 60% of men's earnings (full-year full-time) in 1971, and this had increased to 65% in 1985, and 68% in 1990. However, for all earners the percentage was lower - 47% in 1971, 56% in 1985, and 60% in 1990 - pointing to the contribution of part-time earnings and differential bonus programmes to the overall wage gap. Allowing for the methodological problems in calculating the extent of the gap, empirical research has consistently concluded that it amounts to an overall differential of approximately 40% (Robb, 1987).

As mentioned above, explanations for the wage gap fall broadly into two categories. In the next section, labour market explanations for the wage gap

will be considered. Both the neo-classical theories and the segmented labour market theories fall into this category. The human capital explanation of the wage gap is based upon the neo-classical premise that individuals behave rationally in a single competitive market. According to this theory, women choose low skilled, low pressured, easy entry-exit, non-career jobs, because of their household responsibilities (Becker, 1964; Kuch and Haessle, 1979; Mincer, 1974). As Ornstein commented, "human capital treats individuals as petty capitalists investing in tiny enterprises - themselves" (1982, p. 35). Women, then, do not generally 'invest' in themselves in terms of human capital - education, experience, and occupational skills - and therefore command low wages in the labour market. The inference we draw from this approach to the wage gap is that low wages are a direct result of personal, individual, failings.

Empirically, subsequent investigators have tried to identify which human capital components are most strongly correlated with earnings. For example, Ornstein found that, although an analysis of earnings revealed that education and experience did have important effects, gender and its interactions explained "about as much variance in wages as the human capital measures!" (1982, p. 34). Gunderson, Muszynski and Keck conclude that empirical work on wage discrimination in Canada has revealed an unexplained residual, "reflecting wage differences between men and women that cannot be accounted for on the basis of human capital attributes" (1990, p. 44). Indeed, in an attempt to

identify (within the human capital model) a rationale for individual differences in the amount of human capital people choose to invest in, Ornstein found that, even when an ability variable was held constant, social background, race, and gender strongly influenced on human capital levels.

At a theoretical level, the strong influence of certain non-human capital variables signals the failure of the human capital theory to take account of the structure of the economy and other institutions; reflecting its neo-classical roots, the human capital theory displays the flaws of methodological individualism. Also, the neo-classical assumption of a single, homogeneous, perfectly competitive labour market is undermined by Ornstein's data, which shows that men and women with equal abilities obtain different returns on their human capital, pointing clearly to the existence of two segregated labour markets.

Human capital theory focuses on individual choices and abilities, largely ignoring social structural influences and is thus an inadequate explanation of wage differentials of men and women in the same jobs and of the occupational segregation of women into low-paying jobs.

Other neo-classical economists acknowledged the imperfections of the market and proposed theories of discrimination, originally to explain racial discrimination, and later applied to sexual discrimination. Bergmann's (1971) theory of 'crowding' is helpful in understanding women's position in the

labour market. Although in her model the oversupply of women and minorities into menial jobs causes the lowering of wages, it is the discriminatory demand of employers that restricts particular groups' access to certain jobs, thus highlighting the employers' role in shaping occupational segregation in the market place.

Another group of neo-classical economists identified different shaped supply curves based upon the bargaining power of the parties (Bronfenbrenner, 1956; Madden, 1973; Marshall, 1976; Robinson, 1934). The bases of bargaining power varied in these theories from male trade unions, employers' requirements for applicants, family constraints of women, discrimination, to government agencies. Madden included a number of environmental features influencing racial employment patterns, which could be used in an analysis of women in the labour market. They included economic and labour market conditions, distribution of power in the larger community, industry structure and growth potential, labour market skills and education of the employees, labour requirements of various companies and industries, and operation of labour market institutions.

Madden's theory, by incorporating institutional factors and building in the bargaining process between employers and workers, moved a long way from the original neo-classical economists' assumptions, but it still envisaged employers as one undifferentiated class. The most fundamental challenge to neo-classical economics turns upon this point; segmented labour market

theories locate the source of wage discrimination in the structure of the economy (Ornstein, 1982).

The labour market segmentation theorists concentrated on jobs rather than individual workers or employers. One segmentation theory, the dual labour market theory of the economy, proposed two job markets. The characteristics of the workers in each of these two markets were of secondary importance, envisaged as a kind of self-fulfilling prophecy, given the type of work carried out in a particular sector and the expectations made of the workforce in it.

The assumption of a homogeneous, perfectly competing labour market was cast aside as the dual market model proposed a primary (or core) labour market complemented by a non-competing secondary (or peripheral) labour market.

The primary sector consisted of stable, secure, higher paid, clearly differentiated jobs; a career path within an internal labour market; institutionalised procedures for dealing with conflict; in a technologically developing industry, very often unionised. In contrast, the secondary sector consisted of unstable, insecure, lower paid, undifferentiated jobs; no career development; arbitrary, personalised discipline; in a technologically stagnant industry, usually unorganised (Gunderson, Muszynski and Keck, 1990; Ornstein, 1982; Rubery, 1978).

Labour market segmentation theorists (Averitt, 1968; Galbraith, 1973; Poire, 1970) identified all positive developments in the primary market, the stability of which depended upon the flexibility of the secondary sector, for

subcontracting or temporary employment. Some economists in this school proposed a third sector, for example, O'Connor (1973) designated government, and Bluestone (1970) identified an 'irregular' sector, consisting of marginal and illegal activities. All, however, linked labour market behaviour with the wider economic structure and the development of technology.

As women and minorities are usually in the secondary sector, the dual labour market theory does introduce a structural explanation for women's low wages. But it does not fully explain why women are in the secondary job market.

The radical labour market segmentation economists modified the dual market model from a political economy perspective. Whereas the central notion of the segmentation theories is technology, the central notion for radical theorists is control, a theme prominent in the labour process debate. Gordon (1972) viewed his model as complementary to the other segmentation approaches. Technological developments are still seen as necessitating a stable workforce, but the capitalist need for control develops as factory production becomes more and more homogeneous and therefore more of a threat, in terms of solidarity and class action. The capitalists as a class are motivated to a 'divide and rule' strategy, achieved by imposing an artificial hierarchy on a fundamentally homogeneous workforce. Segmentation serves two purposes: the lower strata increases the status and status orientation of those in the higher strata; and workers in the higher strata are unlikely to identify with interests of those

lower down in the hierarchy, therefore lower wages can be paid to them without fear of class opposition (Rubery, 1978).

This theory has a certain appeal since it fits well with the continuing development of human resource management and its concern with classification and pay systems, most of which are hierarchical and managerialist in their conception. But there are two main criticisms. The first is that there is a reification of the category 'capitalist,' which prevents us from recognising the different strategies owners and managers of monopoly capital firms have adopted. For example, the increasing use of employee participation, whether inspired by quality of working life or total quality management ideas, even if for managerial purposes, does relinquish some control to the employees. It is debateable as to how much power is transferred or whether hierarchical wage structures are dismantled to any significant degree; nevertheless, management strategy is not always to strive for more control, and it is very doubtful if owners or managers are motivated by a desire to avoid class action. It may well be, at the highest level of abstraction, that a hierarchical workforce does prevent class opposition, but this functionalist view of segmentation is insufficient as an explanation of a sexually segmented labour force.

The second main criticism (Rubery, 1978) is concerning the one-sidedness of the radical theorists' explanation of segregation in the labour market. The labour market structure is envisaged as the result of capitalist action, giving no room for working class agency. If capitalists have had to sacrifice

technological efficiency (Cockburn, 1983) or worker cooperation and motivation (Bowles and Gintis, 1975), "it is the limitations on capitalists rather than their ability to control that becomes the interesting question" (Rubery, 1978, p. 23).

Organised labour played a significant role in the structuring of labour markets, by unions' control of the supply of labour through the establishment of a family wage (Humphries, 1977), the ten-hour day campaign, restriction of immigrant labour, and, especially at the micro level - occupation, firm, or industry - where trade union development has been linked to the demarcation of skill (Rubery, 1978). As Rubery argued; "...the radicals have overstressed the control offered by the bureaucratic division of the labour force, and at the same time underestimated or ignored the benefits for the working class of a sheltered, secure, albeit stratified, labour market" (1978, p. 33).

Moreover, these gains for organised labour as a whole were in turn losses for those excluded from union protection: women and minorities.

Rubery's paper should not be seen as a refutation of the dual labour market and radical theories but as building upon them.

She proposed a more complex explanation of stratification in the labour market by including organised labour in the historical process, leading to a more dynamic view of labour market structure and how it relates to the overall economy. Economic restructuring will lead to fewer higher paid jobs, and the

growth in the service sector has coincided with an expansion of 'women's work' in the secondary labour market. As Rubery pointed out, the effect of these trends will depend partly on the extension of unionised protection, to enhance workers' bargaining power.

The expansion of the services sector, and subsequent retraction of government in an increasingly free market, recessionary economy, forms the background of a variant of the radical segmentation theory. Marchak (1987) argued that women have always been a reserve pool of labour, a theme which formed part of the domestic labour debate, and that this explains their segregation in the labour market. Their role in this flexible reserve of labour points to the rationality of the sexual segregation of labour, from the capitalists' perspective. As such, like the radical labour market segmentation theorists, she emphasised the advantages to capitalism of cheap, flexible, labour in a segregated workforce. However, her argument can be criticised along the same lines as the labour market segmentation approach: it rests upon functionalist explanations, and it does not account for gender specificity.

The labour market theories help to understand part of the reason for the wage gap. Whether for reasons of control or flexibility, the employers in a capitalist economy clearly enjoy the advantages of divisions in the labour market, whether on the basis of gender, race, ethnicity or other differentiation..

Segmentation and radical theories in particular are useful to explain segregation, both industrial and occupational. But none of these theories fully

explain why it is that women, as opposed to men, are at the bottom of the job hierarchy. The only explanations are exogenous to the labour market - socialisation, stereotypical attitudes, discrimination, or the biological argument. The feminist/ historical theories focus upon the labour market as a gendered construction, integrating supply side with demand side factors, reproduction with production. The remainder of this chapter will examine feminist/historical explanations of the wage gap.

Two recent papers written from a feminist perspective (Du Plessis Novitz and Jaber, 1990; Kessler-Harris, 1988) tackled the resurgence of neo-classical economists and their opposition to pay equity as interfering with 'free' market forces. Du Plessis Novitz and Jaber wrote in the context of the threatened repeal of pay equity legislation in New Zealand. Their argument for pay equity was based upon international empirical evidence which shows that the gender wage gap is smaller in countries where there is some government intervention in the labour market and a high proportion of women are members of nationally and regionally organised unions. Conversely, the wage gap is highest in those countries where there is minimal government intervention, showing clearly that market forces are not neutral and, left unregulated, will result in inequities in the labour market.

Kessler-Harris provided a more theoretical argument which complements the empirical data in the Du Plessis Novitz and Jaber paper. She used the concept of the 'just wage,' incorporated into wage determination since medieval

times, a variant of which was the concept of the 'family wage,' to show that market forces have never been neutral. The just wage rested upon medieval conceptions of social hierarchy, just as the family wage rested upon the hierarchical, patriarchal relationships in society. Indeed, "the market, as it functions in the daily lives of people, is not independent of the values and customs of those who participate in it. Justice, equity and fairness have not been its natural outcomes" (Kessler-Harris, 1988, p. 239). For Kessler-Harris, the labour market is infused with traditional gender roles, and, because of this, comparable worth undermines the accepted view of equity. It challenges the status quo with a new idea of equity, "rooted, not in the moral economy of the male, but in the traditions, customs, and practices of women..." (1988, p. 244).

MacEwen Scott (1986) paralleled Kessler-Harris' view of the economy as gender-embedded, because of the links between the economy and other institutions that sustain gender inequality, and "because gender relations are interwoven with production relations at the level of the labour process itself." As MacEwen Scott pointed out, the mechanism for segregation is the market, and although assumed to be neutral in its workings, it is a vehicle for social values and political pressure, which are normally invisible since they are incorporated into the market's pricing system and institutions.

Human capital theorists, imbued with neo-classical assumptions, can also be criticised from a feminist perspective. The human capital variables are very

often disaggregated in an attempt to identify correlations with earnings levels. The category labelled 'gender' or 'discrimination' is usually calculated as residual, thus enabling arguments to be made that gender discrimination is such a small part of the wage gap that policies like equal value are not worth the expense (for example, Weiler, 1986). However, the other variables are gendered constructions, too, for example, education (Barrett, 1980; Crompton and Sanderson, 1990; Russell, 1987) and experience (this variable is linked closely with domestic ideology and the family wage). Weiler's erroneous assumption that these human capital variables are non-gendered undermines his argument that comparable worth initiatives in the U.S. should be abandoned in favour of voluntary affirmative action.

Without an appreciation of history, it is possible for the neo-classical assumptions about the free market to take hold, making it possible for policy-makers, legislators, New Right groups and ordinary women to propose that women's problems in the labour force are to do with personal 'choices,' rather than social issues (Kessler-Harris, 1988).

The feminist critique offers us the concept of patriarchy, with its interwoven material and ideological manifestations, monitored through an historical framework. The economy, like every other institution in society, has been, and is, infused with hierarchical patriarchal relationships, so it should be no surprise to find that organised labour, especially the early craft unions, played a significant role in the shaping of the sexual division of labour, at home and

at work. Men's historical ability to restrict competition by defining the scope of the labour market, increasing their bargaining power, thus gaining higher wages, and relegating women to lower skilled, lower wage occupations, is identified as a causal factor in the shaping of sexual segregation in a number of papers (Cockburn, 1983; Hartmann, 1976; Malveaux, 1984; Phillips and Taylor, 1980; Rubery, 1978; and Warskett, 1990).

The discussion continues with a brief description of the development of women's work and domestic ideology in Canadian society generally, followed by a review of the historical evidence of organised labour's role, in conjunction with the state, in shaping the sexual division of labour, segregation of the labour market and concomitant low wages for women. Wherever possible, Canadian information will be used, but in some areas, for example, the debate over protective legislation for women, there is very little available and British and American material will be examined for their relevance to the Canadian situation.

The Impact of Industrialisation Upon Women's Work

Hartmann (1976) and the Armstrongs (1986) described a family industry system which eventually disappeared due to increasing competition in an expanding market, leading to technological development and factory production. Both Hartmann's and the Armstrongs' model of transition from pre-industrialism to capitalism assumes that capitalist relations of production

caused a separation between the private domestic role of women's work and the public domain of work for the market, now wage-labour outside the home, monopolised by men earning a breadwinner wage. This private/public split exacerbated the sexual division of labour, and the value of women's work declined.

Cohen (1988), a Canadian historian of women's work in nineteenth century Ontario, challenged this taken-for-granted assumption that capitalism brought about domesticity as a result of a separation between the private and the public, arguing that it is based upon European, mainly British, evidence. On the contrary, she asserted, Canada was originally a subsistence-oriented, colonialist, staple-exporting economy which already featured patriarchal relations of production and a gendered division of labour. Unlike the British economy, Canada did not experience a large scale family industry phase. Rather than a withdrawal from market activities, Ontario women increased their participation as local markets expanded.

Middleton (1979) also counterargued the proposal that women's oppression was the result of domesticity brought about by capitalist relations of production. He criticised a romanticism about women's roles in pre-capitalist societies. In reality, women in the classical feudal mode of production (ie. payment of rent in kind, usually labour on the lord's property) were likely to experience a **higher degree of sexual division of labour, and hence more of a 'housewifely'**

role, than those whose peasant households were required to pay the landlord rent in cash, a practice closer to the newer capitalist social relations.

Both Cohen's and Middleton's historical evidence undermined the premise of the 'domestic labour debate': that the economic workings of capitalism causes women's confinement to the home, and that unpaid domestic labour is necessary for the reproduction of the working classes and is therefore integral to capitalist relations of production. Criticisms of this latter approach to women's work included its economism, its functionalism, and the fact that it ignored women's wage labour (Hamilton, 1986; Kaluzynska, 1980; Molyneux, 1979).

Domestic Ideology and the Family Wage

If we accept that the sexual division of labour, and domesticity, were not caused by industrialisation as such, an attempt should be made, at least at a theoretical level, to understand the relationship between capitalism and an evidently pre-existing gender, or domestic, ideology. It is in the context of this larger debate - capitalism/patriarchy or class/gender - that most of the evidence of a domestic ideology in Canadian society during industrialisation is to be found. In particular, the role of the trade unions became the subject of controversy, seen as vehicles for predominantly patriarchal or capitalist relations. The strength of domestic ideology was such that its effects upon the workplace were inevitable. Up until the 1950's, the female workforce was

made up of predominantly young single women. For most of these women, marriage meant an exit from the labour force; those few women who did continue working frequently moved in and out of paid work during early childbearing years, and usually finished as soon as children were old enough to supplement the family income (Frager, 1983).

At the onset of industrialisation young women from slowly depopulating rural areas moved to the fast growing towns and cities, and were recruited into the labour force. They, along with large numbers of women immigrants, entered waged work in one of a few female occupations: domestic work, factory work (mostly in the textiles and garment industries) and, at the turn of the century, clerical work, teaching and nursing (Sangster, 1985). Yet it is important to realize that at the turn of the century women comprised only about 13 to 15 percent of the paid workforce. Even while achieving a certain measure of independence, their working lives were dominated by the prevailing ideals of marriage and motherhood - and their role in the home. The following interpretation of women's position at that time highlights the link between gender ideology and women's work:

the role of the working class homemaker, which has some recognized material importance, some social respect, and at least a measure of autonomy and self-regulation, was more attractive than the petty discipline and low status of women's jobs. Thus, a woman's desire to marry, a reaffirmation of dominant social

values, was reinforced by her experience of work. (Tentler, cited in Sangster, 1985, p. 65)

Domestic ideology was especially strong in Quebec where the dominance of the clergy played a prominent part in erecting barriers to women's entry into the paid labour force, "fearing that such changes would undermine masculine authority and wreak havoc on the traditional family" (Frager, 1983, p. 48).

The 'ideal' of the family wage was constantly promoted in Canada, reinforcing inequalities in the labour force (Kealey, 1986). Those few married women who ignored these pressures were commonly thought to be working for 'pin money', so their wages were always low, and they gained little sympathy in any attempts to raise their wages.

The degree of wage discrimination during this period is illustrated by a Toronto newspaper report in 1897 quoting a manufacturer of ready-made clothing:

I don't treat the men bad, but I even up by taking advantage of the women. I have a girl who can do as much work, and as good work as a man; she gets \$5 a week. The man who is standing next to her gets \$11. The girls, however, average \$3.50 a week, and some are as low as \$2. (cited in Frager, 1983, p. 4)

Agitation for higher wages was comparatively rare for women workers.

Organisers in the trade unions recognized the power of the domestic ideology.

A male labour organiser in 1885 explained women's lack of militancy in this way:

...in too many cases [women workers] look to marriage as the door through which they will escape from toil, and not expecting to be permanently in the labour market, they do not insist on keeping it up to a high standard. (Frager, 1983, p. 49)

Domestic ideology was interwoven with and was thereby reinforced by material factors during the mid to late 1800's. Employers very often hired women as cheap labour in highly competitive industries such as the garment industry, and were particularly intransigent with women workers. In addition, employers often used 'divide and rule' tactics by buying off male workers at the expense of the women. Employers thus gained from domestic ideology during the late 1800's because of the docility of the female workforce, the family wage, exploitation of 'supplementary' earnings, and competition between men and women (Kessler-Harris, 1975). Add to these disadvantages women's transiency in jobs, lack of skill, lack of experience in the workplace, the extra demands of household responsibilities, and isolation of work, and we have enormous barriers to union participation during this period (Frager, 1983).

The ideology of 'a woman's place' was evident in male trade unionists in the United States, as described by Milkman (1980) and Hartmann (1976), and in the British labour movement by Barrett (1980). All comment on the link between the family wage as a component of the familial ideology, and its consequences for women's pay.

Sometimes referred to as a 'living wage,' the family wage is a male breadwinner wage sufficient to support a dependant wife and children. The concept of the family wage seriously undermines the union route to equal pay for women. As Campbell cautioned: "The labour movement has managed to combine a commitment to equal pay with a commitment to the family wage. You can't have them both" (1982, p. 19). Clearly, privileged male wages parallel underpaid female wages, and union bargaining practices have traditionally been centred upon using the family wage as a bargaining tactic, to the disadvantage of women (McFarland, 1979), despite its largely mythical existence (Barrett and McIntosh, 1980; Land, 1980).

Many male wage-earners do not have dependants and many of the unwaged do not have breadwinners. Many 'conventional' families have had increasingly to rely on two incomes. Between 1945 and 1970, women's participation in the Canadian work-force almost doubled (Sangster, 1985) and the highest participation rates were among women whose husbands earn the least (Parr, 1985). In a study of a Nova Scotia fishing community, Connelly and MacDonald (1986) concluded that the family wage had never been a reality,

but that the ideal of the male breadwinner ideology survived despite the necessity of a complementary wage. This persistence of a traditional family model as an ideal, despite all pointers to the contrary, still survives in Canada, as a survey conducted in 1994 demonstrated (Most polled wanted traditional family).

However, without a second income there would be a significant increase in the number of two-parent families below the poverty line in Canada. Estimates of this increase in poor families have risen from just over 50% about a decade ago (National Council on Welfare, 1979; Armstrong and Armstrong, 1984) to a level of 78% in 1990 (Gunderson, Muszynski and Keck, 1990). Westwood quoted one woman worker's view of the family wage in a study of a British hosiery factory; "Pin money, rubbish. I work for money and so do all the women. This nonsense about pin money, it's all rubbish, women have to work to keep the family going and that's been going on for years" (1984, p. 62).

Thus, a family wage was not and is not a reality for most working class women. Families today are more complex than the male breadwinner concept model. Not accounting for class differences, whereas in 1961 65% of Canadian families fitted this traditional image, only 13% did in 1991 (Ontario Women's Directorate, undated). Pay equity policy represents a challenge to the traditional family wage concept, seeking to extend it to women breadwinners (Blum, 1991).

Exclusionary Policies of Craft Unions

The family wage, dominant in Canadian society during industrialisation and onward, shaped and buttressed systematic exclusion of women from the trade union movement. The Trades and Labour Congress (TLC) was the first viable Canadian central labour federation. It was dominated by international craft unions, whose headquarters were in the United States. Founded in 1886, in 1956 it merged with the industrial union dominated federation, the Canadian Congress of Labour (CCL), to form the presently existing Canadian Labour Congress (CLC). The domination of the international craft unions held until the late 1940's, when the development of industrial unionism from the United States established a stronghold with the universalisation of factory production in Canada towards the end of the second world war. Bearing in mind the dominance of the TLC on the labour scene, it was not until 1914 that it changed its platform of principles which had previously called for the abolition of female labour (Sangster, 1985). And then the new policy only came about as the result of a labour shortage as men went off to war.

The TLC was greatly influenced throughout its existence by its powerful counterpart in the United States, the American Federation of Labour (AFL), which was craft dominated and conservative. Since the AFL could exert enough power over the TLC to force the expulsion from the TLC of industrially based unions on three separate occasions (in 1902, 1921, and 1939), even despite initial resistance from the TLC, it is probable that AFL

policies and attitudes would prevail in the Canadian branch of the labour movement. Indeed, Frager makes a similar observation in her historical account of Canadian women workers' relationship with their unions: "...it is likely that the international unions pursued similar policies with respect to women on both sides of the border. After all, these unions tended to be quite centralized" (1983, p. 53). [Please note here that the Canadian usage of the term "quite" is roughly equivalent to the English qualifier "very"]

Consequently, we can assume that historical evidence from the United States would be applicable to the Canadian case when attempting to illustrate ways in which the TLC's exclusionary platform was carried out in practice.

Many male craft unionists in Canada sought to exclude women from the paid labour force in general and from their own trades in particular. Canadian printers, like their British counterparts, preserved their craft by restricting entry and vigorously defending apprenticeships (Kealey, 1980). In some cases, men unionists actually led strikes to force employers to dismiss women workers (Frager, 1983).

Referring to the United States, Milkman (1980) described some direct methods of exclusion of women. Theoretically, women could become affiliated with craft unions in their trade, but there were some unions whose constitutions specifically barred women from membership, for example, the Barbers, the Engravers, the Switchmen, and the Molders. Moreover, the Molders imposed a fine on members of their union who taught women workers any aspect of the

molding trade, with the aim of reducing "the further employment of women labour in union core rooms and foundries, and eventually the elimination of such labour in all foundries" (cited in Milkman, p. 116). Often, even when the national policies of the unions allowed the organising of women, the local officials disregarded these guidelines and prevented women from joining.

Sometimes when women overcame many obstacles and succeeded in organising themselves upon being refused entry to the local craft union, they would apply to be chartered as an AFL union, only to be refused admission on the grounds of dual unionism.

Less obvious ways of keeping women out were indirect mechanisms like high initiation fees and dues which women workers could not afford because on average they earned half of the men's rate. If a few unions did offer a cheaper fee structure for women, then in practice this exacerbated their unequal status within the work force and the union. Long apprenticeship requirements effectively excluded many women from the skilled trades. In some cases women had to pass special exams before they could become an apprentice.

The National Women's Trade Union League, an American organisation operating in the early 20th century, lobbied the AFL to appoint more women organisers, and came into considerable conflict with the labour federation as a result. Turning to Canadian evidence for the same period, it appears that the few women leaders in existence were systematically excluded from policy discussions, even when the issue was of major concern to women. For

example, when the Vancouver Trades and Labour Council were discussing the eight-hour day, a minimum wage for women, and mother's pensions, they rejected a woman leader's proposal that women from various unions be included in the discussions (Frager, 1983).

Systematic exclusion from craft unions in the early and middle stages of industrialization resulted in exclusion from the skilled trades, thus relegating women workers to the unskilled occupations. Unskilled work, whether in domestic service, the factories, or, later, in the clerical jobs, was poorly rewarded, both extrinsically and intrinsically. Low wages and monotonous work in often harsh working conditions already referred to in connection with the 'Prince Charming' syndrome set up a self-fulfilling prophecy. Her expected economic dependence/domestic responsibility shaped, and was shaped by, her denied opportunities at work and in the union.

Trade union exclusionary policies clearly had a dramatic effect upon women's positions in the labour market. Explanations for these discriminatory actions fall broadly into two categories: those emphasising patriarchal ideology and those proposing material factors. Hartmann made a forceful argument for understanding the historical origins of the present sexual segregation of the workforce in terms of the role that the male worker "...ordinary men, men as men, men as workers..." (1976, p. 139) have played in shaping structural inequalities. She accounted for the exclusion of women by referring to the patriarchal relations between men and women: "men wanted to assure that

women would continue to perform the appropriate tasks at home" (1976, p. 155).

Hartmann advocated a 'dual systems theory' where she envisaged patriarchy and capitalism as two interlocking systems, each modifying and accommodating to the other in various ways at differing phases in history. Even though her theory could help us to understand why the unions excluded women rather than organised them, her analysis of the process took little account of the logic of craft unionism.

Although gender ideology undoubtedly played a large part in the exclusion of women from craft unions, Milkman (1980) recognised that the practice was also explained by the threat of wage competition from women. In the early stages of capitalism technological progress was rapid and the artisan experienced continual deskilling and job insecurity. Women were considered to be in direct competition with men for jobs, and their exclusion was part of an overall strategy to maintain the craft unions' strict control over the supply of skilled jobs, thus increasing the bargaining power of the male unionists. Hence, an Ontario labour organization in 1910 explained that "we think that women should not be allowed to work in the foundries, as it has a tendency to degrade them, to lower the wages of the men and to keep a number of young men out of work" (cited in Frager, 1983). Here, the economic justification is reinforced by an ideological one. Parr (1985), Kealey (1980) and Frager (1983) commented on the Canadian unions' fear of competition from women,

and described the intensification of this fear during World War I. In 1917 the **TLC's Pronouncement of Organized Labour in Canada on War Problems** protested "the unnecessary dilution of labour by the introduction of female labour before proper steps had been taken to utilize available skilled mechanics" (cited in Frager, 1983, p. 53).

At the close of the war labour representatives once again called upon government to employ women only as a last resort, and suggested steps to ensure that female employment was restricted to occupations safe for women, considering their future role as mothers. At the same time, labour promoted equal pay for women. This could have been a genuine concern for the lower paid women in the workforce, but at least one commentator (Frager, 1983) has interpreted this move as an indirectly exclusionary one, since it is known that in a number of cases where a union had achieved equal pay the women had ended up losing their jobs because there was no longer any advantage to the employer. In fact, an English feminist had come to the same conclusion earlier on in the century, when she said that male union leaders will support equal pay as "an effective way of maintaining the exclusion of women while appearing as the champions of equality between the sexes" (Rathbone, 1904, cited in Hartmann, 1976, p. 157).

In Britain, as in Canada and the US, the labour movement had adopted exclusionary policies against women when the craft unions were in their ascendancy. Interpretation of the historical evidence again seems to either

emphasise the ideological or economic. The British equivalent of the Hartmann\Milkman difference in interpretation is the 'sex and class' debate between Barrett (1980), co-authors Brenner and Ramas (1984) and Lewis (1985). In this debate aimed at clarifying the causes of women's oppression, organised labour is judged according to a predominantly patriarchal (ideological) explanation or predominantly capitalist (economic). Barrett's explanation for organized labour's exclusion of women builds on Hartmann's dual systems theory within a stronger Marxist framework, but ultimately rests upon the power of a pre-existing gender ideology. The trade unions' role in fighting for protective legislation is a controversial one in this particular debate.

While Barrett argued that the legislation was evidence of a gender ideology, Brenner and Ramas proposed that the legislation was part of a genuine attempt by the working class to reduce capitalist exploitation. They maintained that the demands originally included men but, whereas the capitalist class resisted restrictions for working class males, Victorian moral outrage at women working in a mixed workforce, particularly in the mines, fuelled a political opportunity for the unions to push successfully for protective legislation covering women, which they knew would in effect reduce the hours for men because most tasks were interdependent. Not surprisingly, whereas for Barrett exclusionary policies were explained ideologically, for Brenner and Ramas they were logical working class responses to women undercutting craftsmen's

wages, and therefore explicable at an economic level. Although not generally perceived as part of the 'sex and class' debate, Humphries (1977) defended the family wage, and therefore the exclusion of women which the notion justified, along the same lines as Brenner and Ramas: the working class was strengthened through their control over the (female) labour supply and through the nurturing of class consciousness in the working class family.

In my view, Brenner and Ramas exaggerated the idealism of Barrett in their critique, and their work could be interpreted as developing the material dimensions of the gender ideology that Barrett saw as so powerful. Brenner and Ramas rejected Barrett's focus upon gender ideology, instead of perceiving their material analysis as complementary to her theory. Cheap competition from women was not only an economic aspect of social relations, but also an aspect of gender ideology: the reason women's wages were so low is that they were paid for women's work, undervalued because of domestic ideology and because of their unskilled status. Rather than theorising women's subordination, or the role of trade unions in the sexual division of labour, in terms of either an ideological or material level, these dimensions are so interwoven that explanation needs to integrate ideology and material factors at the level of institution, practice and interaction. Indeed, Lewis attempted a bridging of the two 'sides' of the debate by developing what she called a 'materialist theory of ideology,' although in the end she built mainly upon Barrett's work.

Skill as a Gendered Construction

The most compelling reason to analyse gender ideology as well as the economic rationality of the labour movement is that we can only understand the concept of skill by infusing it with an ideological construction. Women's labour was cheap, and it was cheap largely because of the impact of gender ideology upon their perceived worth as unskilled workers. Moreover, to complete the vicious circle, they could never break out of their unskilled status because of their systematic exclusion from the skilled trades. A nineteenth century feminist commented perceptively on union campaigns for equal pay when she argued that equal pay for equal work was a fraud for women, since having been prevented from developing equal skills their work was, in fact, not equal (Fawcett, 1892, cited in Hartmann, 1976, p. 157).

Unskilled women workers, then, were excluded as a threat to skilled men's jobs in an era of technological change and uncertainty. Deskilling of craft union jobs was usually accompanied by displacement; often women took over deskilled work. Furthermore, women were often used as strikebreakers in Canada (Gaskell, 1986; Kealey, cited in Sangster, 1985). Evidence from the United States also points to women strikebreakers being used when skilled workers protested the introduction of new machinery (Milkman, 1980). Part of employers' 'divide and rule' strategy, these tactics served to reinforce union hostility towards working women.

That unskilled women workers were hired as strikebreakers to do skilled work is a cogent argument for a social, gendered construction of skill. A Canadian writer noted that this casual training on the job for skilled work undermined the notion of a formal apprenticeship, "the apprenticeship served to control the supply of labour and to mystify the skills involved as much as it served to teach skills" (Gaskell, 1986, p. 370). Skill designation was the result of a continual struggle by workers to retain existing power and recognition as skilled in the face of work reorganisation brought about by technological change. Gaskell concluded:

This analysis suggests that 'skill' should not be seen as an independent variable, a fixed attribute of a job or a worker which will explain higher wages or unemployment....The 'skilled' label instead stands for a political process in which some workers have more economic power than others.

(1986, p. 379)

Warskett (1990) also referred to the political struggle between Canadian employers and organized labour whereby male workers were able to use their considerable bargaining power to retain skilled status and high wages even if the objective basis for their skill was disappearing. Phillips and Taylor (1980) pointed to the fight by men to preserve their skilled status in their paper on sex and class in the British clothing industry. Here, the men had been successful in a struggle to define machining done by men as skilled, whereas machining

done by women was classified as semi-skilled. Phillips and Taylor concluded from their research that "skill has become saturated with sex...it is the sex of those who do the work, rather than its content, which leads to its identification as skilled or unskilled" (1980, p. 85).

Cockburn's study of the British printers (1981) corroborated this historical explanation of the identification of skilled work with men's work and unskilled work with women's work. In the face of new technology, the printers managed to retain control over their craft through their bargaining power, resulting in their preserved position in the skill hierarchy. Cockburn described the printers' anxiety at the changes in their work, which now became similar to 'women's work' and therefore unskilled, objectively, even though they retained their 'skilled' status and pay differentials.

She interpreted this discomfort of the printers as indicating the deeply rooted association of masculinity with 'men's work,' that is 'skilled' work, which equates physical superiority with skill superiority. The corollary of men's work thus defined is women's work as unskilled, equated with dexterity. Not only is skill a gendered construction, but so is technology, since at each stage of new developments, the technology is monopolised by men by the exclusion of women, as unskilled workers, from the compositors' room. The printers were only able to achieve this control because of political power gained through a strong union, denied to unskilled women. Thus, Cockburn's explanation for women's unskilled status integrates a 'sex-gender' system with

employer-male unionists conflict, focusing upon not only the effect of gender ideology in the home but also upon a gender ideology which permeates definitions of skill and technology in the workplace.

A similar association between male skilled workers and notions of manliness occurred in the Canadian labour movement (Frager, 1983; Kealey, 1980).

Hence, in 1904 in Southern Ontario, skilled male workers denounced strikebreakers as those who "were prevailed upon to betray their manhood" (Heron and Palmer, 1977, cited in Frager, 1983). This gender identity extended to the union culture where the very notions of 'fraternity' and 'brotherhood' acted to place women as outsiders.

Much of the feminist writing on skill is built on the labour process material, based upon and in dialogue with Braverman's deskilling thesis (1974).

Braverman asserted that the history of capitalism was one of continual deskilling of the traditional craftsmen for reasons of capitalist control over the working classes, and he suggested that skill was not just an objective notion, but that the skilled definition sometimes survived the deskilling process. In her critique of Braverman's work, Beechey (1982) identified three aspects of skill. First, the concept can refer to objective competencies: skilled labour can be objectively defined as labour which combines conception and execution and involves the possession of particular techniques. Second, skill can refer to control over the labour process. Third, the concept can refer to conventional definitions of occupational status.

Feminist development of the labour process material has focused on Beechey's second and third aspects of skill, with a tendency to gloss over or ignore the first aspect - the objective competencies. This reflects the emphasis in feminist literature upon gender ideology, but whereas in the earlier debate on sex and class the relationship of this ideology to the material level was contested, in the feminist analysis of skill, the objective dimension of skill seems largely left out of the discussion. Although the gendered construction of skill is a very powerful explanation of women's positions in the sexual segregation of labour, it seems as though we have 'thrown the baby out with the bath water.' Most of the early work on the sexual segregation of labour identified women's work as being objectively less skilled, less fulfilling, and dead end in career terms.

This is not to say that skilled status is only objective; indeed, as we have seen from Phillip's and Taylor's, Gaskell's, and Cockburn's work, the definition of skill is also derived from a long historical\political process. But it is also important to recognize that women have been systematically excluded from skilled work, some of which has an objective element. More (1982) defended the technological rationality of apprenticeship as providing training for skills actually needed in the engineering industry. Although recognizing the power of the trade unions in defining skill, Warskett (1990) acknowledged that on average women's skills are objectively lower than men's, because of their systematic exclusion from the training and membership provided by the craft unions. In the context of pay equity, she argued that because many women's

jobs are actually less skilled than men's, then comparing their jobs with men's will only serve to reinforce and ossify the existing job hierarchy.

It is useful to conceptualize skill as made up of both objective and subjective elements. For example, it would be difficult to deny that a surgeon is more objectively skilled than an office cleaner. On the other hand, we know that the surgeon's skilled status is suffused with gender, especially when we consider the male monopoly of what were the traditional female pursuits of healing, and we examine the social construction of 'taken for granted' knowledge about women and their bodies. In any event, if we believe that skill is mainly a social construction, then equal value as a strategy is a meaningful and effective one, provided we can 'peel away' the layers and make visible the true nature and value of women's skills. However, we also have to admit that some women's work is going to be objectively less skilled than the men with whom she is compared; in this case equal value will be of no use in improving her pay and affirmative action and wage solidarity strategies will be more appropriate.

Exclusionary Practices in Industrial Unionism

Given the gendered construction of skill combined with exclusionary policies during the ascendancy of craft unionism, it is useful to discover whether women fared any better when the American Congress of Industrial Organizations (CIO) began to organize Canadian workers in the 1930's. In

theory, the CIO stood for organizing all workers along industrial lines, whether skilled or unskilled, so it did not operate upon the basis of exclusion. Rather, its aim was strength and solidarity through as large a membership as possible. Once the wartime regulations were lifted, in the late 1940's and early 1950's the CIO were successful in gaining union recognition in some large industries, winning some significant disputes to achieve real gains for unskilled workers. However, despite the increase of women's union membership, their unequal position in the labour market did not change significantly.

According to Milkman, the founders of CIO were in many ways "akin to the 'pure and simple' unionism of the craft-dominated AFL" (1980, p. 126), and sex discrimination still existed within the ranks of the labour movement. One American picket banner in the 1930's read: 'Restore our Manhood: We Receive Girls' Wages' (Milkman, 1980). Although by the late 1930's in Canada more women were organized, even in CIO contracts unequal wages persisted and the division of the workplace into 'men's jobs' and 'women's jobs' were not challenged by male trade unionists (Sangster, 1985).

More women were employed in non-traditional work during the second world war but this did not bring any dramatic advances towards equality in the workplace in the long term, even though it did provide new job opportunities, higher wages, and more economic independence. These advantages were

short-lived because at the war's end, women were channelled back into the home or pre-existing job ghettos.

While craft exclusionism had contributed towards the sex-typing of occupations in the late nineteenth and the early twentieth century, industrial unions' failure to protect women's seniority consolidated the pre-existing sexual segregation of labour. It is reasonable to assume that American CIO policies and practices existed in international unions in Canada in the postwar years. Milkman (1980) described the seniority practices in CIO unions at this time, especially at a local level where often negotiated anti-discriminatory provisions were ignored, and there was collusion with management over job classifications favouring men.

Milkman maintained that the industrial unions' exclusion of women was not a result of their organizing logic, but should be understood in its economic, political and ideological context: the massive economic upheaval after the war, high unemployment causing job insecurity; the gender ideological assumption that women's war work was just temporary; the attack upon organized labour following postwar militancy; and the internal political problems besetting the labour movement. However, she argued that the "the most basic reason" for the unions' failure to stand by women was that the bond between women and the unions had never been very strong, despite the dramatic increase in female membership during the war.

The State

Patriarchal ideology and practices led to the systematic exclusion of women from skilled work, both objectively and socially constructed. This exclusion occurred through the medium and outcome of structural properties, manifested in interactions in all areas of life, including the economy, the family, and the state.

The state provided (and still provides) the framework for patriarchal ideologies and practices. The role of the state has to be built in to any explanation of women's discriminatory wages.

Historically, family laws constrained women's economic role (Kenrick, 1981). Property laws ensured that women could only be their husband's agent, even though they played a vital role in the family economy. The state's legal controls within the family encouraged the economic dependence of women, whatever their status. Kenrick also referred to the consistent reference in state policy to women as a separate group - apart from nobles, clergy and peasants - which would provide ideological justification of segregation and low wages.

Moving forward to the beginning of the industrial revolution, women and children worked in the new factories. Overwork and hazardous conditions eventually posed a threat to the future working population, and this generated pressures upon the state to alleviate the excessive exploitation. Protective legislation was one consequence (evident in the UK, USA and Canada). This,

in combination with the family wage, channelled women back into the home and reinforced the domestic ideology, pervading the workplace to affect those few who remained at work. State policy at the end of both wars was to once again push women back into the home, or into the unskilled, low paid 'women's jobs,' In all three countries mentioned above, day care provision was dismantled, and, in Britain the state was instrumental in the development of an ideology after the second world war which made individual mothers responsible for their children (Crompton and Sanderson, 1990). Indeed, the welfare state in Britain was designed on the basis of women being based in the home, looking after the family, as shown by this extract from the Beveridge report:

The attitude of the housewife to gainful employment outside the home is not and should not be the same as that of the single woman. She has other duties....In the next thirty years housewives as mothers have vital work to do in ensuring the adequate continuance of the British Race and of British Ideals in the world. (cited in Crompton and Sanderson, 1990, p. 50)

These social policies, initiated fifty years ago, are still one of the major ways in which gender inequalities are sustained (Land, 1983, cited in Crompton and Sanderson). The Canadian welfare state, like the British, encouraged women to continue to stay at home and raise healthy workers for the rapidly expanding economy (Burt, 1991). Current Canadian state policies regarding daycare,

pensions and income tax, particularly, are based on the male breadwinner family type (Kealey, 1986), to the detriment of women's income and opportunity to access the labour force. Thus, historically the state's policies reinforced and still perpetuates the domestic ideology, ultimately affecting the kind of work women do, definitions of their skill compared to men, the wages they are paid, and designating them to the bottom of the occupational and wage hierarchy.

In conclusion, patriarchal ideology and practice should not be seen as exogenous to the workplace. Definitions of women's and men's work, and their skill, are gendered constructions (Cockburn, 1983; Phillips and Taylor 1980; Westwood, 1984) and relations of production have to be analytically interwoven with relations of reproduction (Beechey, 1977 and 1983; Humphries and Rubery, 1984). As Beechey argued, occupational segregation has to be explained in terms of familial ideology and the construction of gender within the labour process itself, for example, union exclusion and the social construction of skill.

Indeed, so pervasive is the effect of this powerful combination of domestic ideology/labour process that the more female-dominated an occupation is, the lower the wage levels (Shepela and Viviano, 1984; Treiman and Hartmann, 1981). Moreover, all women's work, even if in a neutral or male-dominated occupation, tends to be undervalued (Shepela and Viviano, 1984), which underpins much vertical segregation (Crompton and Sanderson, 1990). And

even when individual women do make the same money as a comparable man, their power and control are not the same (Shepela and Viviano, 1984).

Given the role played by organised labour in the historical development of a sexually segregated labour market, the next chapter considers the current and recent past effectiveness of Canadian unions in representing women's interests. Chapter III also provides a short overview of some current trends in Canadian public sector collective bargaining, and partnership as public policy, before moving on to a discussion of pay equity bargaining in Chapter IV.

CHAPTER III

Women, Unions and Collective Bargaining in Canada

The Canadian pay equity initiatives require joint implementation in unionised workplaces, and therefore rely heavily on the process of collective bargaining in these organisations. Since we know from the discussion in the last chapter that organised labour played a role in the development of the present structural inequalities in the labour market, it is instructive to examine the unions' more recent record in representing women's interests. This chapter aims to assess the effectiveness of Canadian unions so far in gaining equality for women through collective bargaining. After a brief review of women in the workforce and female union membership, the main section of the chapter will consider both the internal and external equality of unionised women. To place this discussion in context, and before moving on in Chapter IV to the debates and issues concerning pay equity bargaining, the final section of the chapter will examine public sector collective bargaining and partnership as public policy in Canada.

The changing workforce in the post-war era brought a dramatic increase in the participation of Canadian women in the labour force: in 1941 less than 1 million women were in the workforce (less than 19%), but by 1991 that figure had jumped to 6 million (over 45%) (White, 1993; all statistics in this section on women in Canadian unions are from her book, unless stated otherwise).

Women working outside the home are now no longer predominantly single, but continue working outside the home whatever their married status or the ages of their children.

Sexual segregation of the workforce has persisted despite this increase in women's employment (McDermott, 1991; Gunderson, Muszynski and Keck, 1990). In 1981 over one third of all employed women were in clerical jobs, while another quarter worked in administrative and professional positions. As clerical and administrative work for women has increased, their employment in personal service and manufacturing have declined significantly since 1941.

The percentage of women unionised grew dramatically between 1962 and 1989 from about 16% to 39%. In this period, whereas the number of men belonging to unions grew by 86%, the number of women joining unions grew by 510%. This pattern developed because of public sector unionisation between 1965 and 1975, which resulted in large numbers of women joining unions. The increase in women members was accompanied by a shift away from the predominance of international unions (with headquarters in the U.S.) towards the increasing influence of the national unions (private sector unions with headquarters in Canada) and public sector unions (who have their headquarters in Canada as well). No longer is the typical union the craft or industrial, blue collar, male, international organisation of earlier decades. The third wave of unionisation in Canada has resulted in a labour movement comprised of more women, more public sector and service workers, and more

national unions. In 1989, the highest female membership was in the public sector unions (48%), in contrast with the international unions (25%).

Potentially, then, women are members of the most influential unions in the Canadian labour movement, and of the unions which tend to be the most political.

Given the increase in female union membership, once women are inside unions it becomes important to discover how well their interests are represented, both internally (governance) and externally (workplace bargaining). It would be reasonable to expect an improvement in unions' actions towards women's equality, once women members become more than just a "...small, powerless group..." (Baker and Robeson, 1981).

Internal Equality

To assess whether a number of women proportional to their percentage union membership are moving into leadership positions, we have to examine their representation on executive boards, as delegates, on staff, committees and collective bargaining teams.

Canada-wide, although 39% of all union members were women in 1989, only 25% of the executive positions for all unions were held by women. This information can be broken down into 1% women executive members compared to 25% female membership in international unions; 25% women executive members compared to 46% female membership in national unions; and 13%

women executive members compared to 48% female membership in public sector unions. According to White's study (1993) women hold 28% of the executive seats at the labour centrals (national and provincial federations of labour, which cover the majority of union members in Canada), compared with the national female membership figure of 39%. 41% of these labour centrals' executive seats are affirmative action positions.

In her study, White collected further information about thirteen unions: four international, three national and six public sector unions. Her results showed that only one union out of the thirteen had elected a woman to the top position; this was a nurses' union with 98% female membership. However, it should be noted that shortly after her data was collected, the Canadian Union of Public Employees (CUPE), the largest union in Canada, elected women to their two top positions, and that they had elected the first woman national president a decade before. Women were close to proportionally represented (within a margin of 10% difference) on only four union executives. Three of the four were public sector - United Nurses of Alberta [UNA] (3% difference), CUPE (8% difference), and Newfoundland Association of Public Employees [NAPE] (10% difference); the other was the Canadian Auto Workers [CAW] (6% difference). The information above about women executive members in Canadian unions applies only to head office union executives.

Moving to the local level, the number of unions with a proportional representation of women as presidents was low: only four of the thirteen

unions studied were close. The UNA, not surprisingly, were the closest with only 2% difference, and CUPE were reasonably close with a difference of 7%; the other two unions were private sector national unions: CAW and the United Steelworkers of America (USW). NAPE, a key player in the Newfoundland case study, showed a gap of 24% in local women presidents. There was some indication overall that women were presidents of smaller than usual locals. Regarding other executive posts, women were more likely to hold secretarial than other more influential positions. Corroborating this conclusion was a survey carried out in 1989 by the federation of provincial government unions, the National Union of Provincial Government Employees (NUPGE, cited in White, 1993), two of whose unions bargained pay equity for public sector employees covered in this study. This survey showed that while the overall female membership was 56%, only one-third of the local presidents were women, but two-thirds of the secretaries were women.

If we are interested in women having a proportional influence in their unions, we also have to look at the number of women delegates. Conference delegates elect executive officers, establish general policy and make constitutional and financial changes. A minority of labour centrals and unions sent a representative number of women to their most recent delegation. The closest representation was in a national union - CAW (2% difference). Another national union, the Communication Workers of Canada (CWC) was next (3%) with the Ontario Secondary School Teachers Federation (OSSTF); then UNA

with 4% difference. The two unions who were key players in pay equity bargaining studied in this project had gaps in representation of 11% (CUPE) and 15% (NAPE).

It would also be reasonable to expect that women on staff would increase the likelihood of women's equality issues being at the forefront of union activities; a staff representative gives advice in negotiations, helps with grievances, forms education and research programmes and acts as a general liaison with membership. However, women were under-represented on the staff of the majority of labour centrals and unions, particularly in the positions outside of head office. Only four unions had approached representation of women: two of these were unions with low percentages of women membership (CAW and USA), therefore few women staff were needed to achieve representation, but they had done this. The other two unions more or less achieving representation were public sector unions - the B.C. Government Employees Union (BCGEU) and OSSTF. CUPE and NAPE revealed a gap of 25% and 27%, respectively.

Membership of committees (especially as Chair) is often preparation for future advancement within the union and is recognised by the federation of provincial government unions (NUPGE) as an important step in developing future women leaders. In this organisation's survey (1989), of its ten component unions, while the joint female membership was 56%, women formed 33% of committee members and 30% of committee chairs. In line with the survey,

White's study suggested that in most cases women were under-represented on advisory committees, and most importantly, on the negotiation committees.

It was a constant theme during White's research that the bargaining committees were a key route to upward movement in unions, both for higher elected positions and many of the staff positions, as negotiating experience is often considered essential. Barriers against women participating in collective bargaining committees are first of all the reasons given for women's lack of involvement in union activism generally. Chaison and Andiappan (1989) surveyed male and female officers of local unions in Canada and concluded that the most important barriers to women participating in union leadership were that women hold two jobs (at home and at work) and have no time for union activities; child care responsibilities prevent more participation in unions; and women underestimate their abilities and believe that male employees are better suited to union official positions.

In connection with the last finding, it is rather discouraging to note that women's self confidence as potential leaders did not improve much over fourteen years. According to an earlier investigation in New York, U.S. (Wertheimer and Nelson, 1975) the women surveyed saw themselves as helpers rather than as union leaders, and lacked confidence in their own abilities.

If the barriers listed above exist against participation in general, it is even more true for collective bargaining in its present form which involves long,

intensive hours of work, clashing with domestic responsibilities, often combined with extensive periods of travel away from home. Moreover, the confrontational process is difficult for some women to accept and some in White's study envisaged an alternative model, more rational and less aggressive. Related to this was the male culture of negotiation referred to by many women unionists during White's research, which was difficult to break into, even if women wanted to (see also Dickens and Colling, 1990). As White remarked, the culture "...suggests that you have to be tough and strong to handle negotiations, and that men are more likely to fulfil these requirements" (1993, p. 114).

Internal equality initiatives can be one or a combination of the following: increasing the number of women in executive positions by affirmative action measures; and encouraging leadership development together with attention to equality issues by establishing women's committees, along with women's conferences.

Between 1983 and 1987 all but three of the labour centrals introduced affirmative action in their executive bodies. The most extensive measure was in the British Columbia Federation of Labour, where there are thirteen seats designated within the existing executive board structure, rather than expanding the number of seats to accommodate the affirmative action seats. This is unusual (the federation in Manitoba is the only other central to designate existing seats) and addresses the concern that created seats may be

marginalised as "extras," because the men's positions on the executive remain unaffected.

Immediately equalising women's representation in union power structures would require the erosion of male privilege (Maroney, 1987). Indeed, Bail criticised the superficial nature of the affirmative action initiative in the Canadian Labour Congress (CLC) along these lines. She alleged that when the women were "given" the chance to hold leadership positions, the men immediately reassumed control, closing rank along the lines of their "club." Moreover, the seats were created in addition to the existing national executive seats, hence the existing group maintained their power, and "not one of the old boys' club relinquished their throne to a sister..." (1985, p. 9).

Indeed, Nancy Riche (Executive Vice-President of the CLC) alluded to this male dominated culture and apparent, rather than actual, power when she warned that: "one of the problems with the extra seats approach is that we don't think beyond the extra seats..." (cited in Balkan, 1985, p. 51). Briskin (1990) listed the barriers women in affirmative action positions face: a fight for credibility; systematic exclusion from formal and informal decision-making processes; and ghettoisation in "women's issues" narrowly defined.

Echoing Bail, Briskin pointed out that the achievement of affirmative action seats tends to divert attention from the really important political action:

to challenge the deeply-rooted male domination of union structures, strategies and ideologies....Women in leadership positions are, more often than not, excluded from access to the power that should accrue to them by virtue of their position; they are marginalised and isolated by the structures and ideologies of male domination. They are caught between the reality of their power relative to the rank and file, and the absence of their power relative to male leaders. (1990, p. 39)

Briskin stressed the importance of a feminist politic and process as an integral part of this challenge to the male hierarchy, and cautioned against the assumption behind affirmative action that all women will be committed to women's equality and pursue a feminist politic.

We should note at this juncture that the majority of unions in White's study (in contrast to the labour federations) had not taken even this limited step of affirmative action towards women's equality. NAPE, who initiated pay equity in Newfoundland, was the union who had undertaken the most affirmative action steps, increasing its Executive Board by six affirmative action seats, including one woman vice-president. NAPE had also established an affirmative action system in their committees so that each of them, including the bargaining committees, has equal men and women representation; also, of the staff members who service the committees, half must be women.

Women's committees also represent an internal mechanism for increasing the power and status of women in unions, and they should ultimately lead to improvements in women's external equality. They existed in every one of the twelve labour centrals and unions in White's study. All the public sector unions in the survey had established a women's committee by the end of 1981. As one unionist commented in White's study: "Everything that has evolved on women's issues has come from the women's committee, including internal union policies and contract negotiation suggestions" (1993, p. 124).

Apart from being the focus of developing alliances with the women's movement, encouraging a feminist analysis of the position of women in the union, the workplace and society in general, women's committees have also experimented with feminist process (Bail, 1988; Briskin, 1990; Edelson, 1987). This has tended to focus on developing decision-making practices that rely on consensus, building skills, and sharing knowledge and responsibility. Feminist process encourages more responsive, hospitable, democratic, participatory and inclusive practices (Briskin, 1990). This collective leadership model is recognised as both a strength and weakness in the face of the typical individualistic, competitive, and exclusive male mode of leadership. But whatever the pressures experienced by women leaders following this process, Briskin (1990) argued that by increasing rank and file participation in unions and enhancing social unionism, it strengthens the Canadian labour movement by revitalising it (see also Milkman, 1985).

The emphasis on participation and consensus has extended in some unions to a feminist critique of the male-dominated bargaining style, as aggressive, competitive and elitist, and therefore alienating to women, apart from not always being effective in the union-management relationship. In some cases, collective leadership has meant consensus on strategy and tactics, and the rotation of the chief negotiator's position so that adversarial skills can be learned by everyone on the bargaining team (Little, 1989b).

In other cases the push for feminist reform came from the grassroots, enhancing union democracy. There was also an insistence on more cooperative organising and negotiating. Women members of locals situated in small feminist-informed, collectively-oriented workplaces have, with the cooperation of their employers, reshaped the process of contract negotiations to mesh with a feminist setting (Pennell, 1990). What emerged was a new style of consensual bargaining which was incorporated into the collectives' preferred consensual decision making process. It is significant that these small workplaces - battered-women shelters -were organised in Canada and the United States by unions we know to be fairly progressive in women's equality, and have a sound history of equality structures. The Canadian women were organised by the provincial government unions (the record of these unions has been relatively good on women's equality - as described below). The American shelters were members of the United Auto Workers, a union the

Coalition of Labor Union Women rated as relatively progressive on women's issues (Martin, 1985).

Structurally, most women's committees in White's study were advisory to the general union executive, often lobbying for controversial issues like funding or affirmative action. The outcome of such battles depends upon the political climate, including the influence of the committee. In some unions a backlash had developed so that it was becoming harder to obtain support for women's concerns.

Like women's committees, women's conferences have become a regular part of union activity, organised by the majority of labour centrals and unions. Their role is usually educational and networking, rather than to recommend policy, although informal recommendations often arise as support and guidelines to women's committees.

In the Public Service Alliance of Canada (PSAC), women's committees and the women's conference are not just advisory but contribute more directly to policy. Their regional women's committees are autonomous committees with a direct formal relationship with national head office and to the women's conference. The conference can send resolutions direct to the floor of the union's Triennial Convention. Formal structural links to decision-making bodies is important if women's equality structures are to make a real difference. White's study did not examine the links between these equality

structures and the negotiating structures, which is disappointing since it is argued here that an institutional link is also a crucial aspect of equality bargaining, particularly equal pay.

However, she did consider the progress of three issues pursued by women's committees: child care and family responsibilities, sexual and personal harassment, and union education. The majority of centrals and unions in White's study did have some kind of child care policy. Most provided on-site child care for conventions and conferences. A number of problems had emerged with this solution, and on-site child care was mostly described as unpopular, used by few delegates, if any. Reimbursement was the more popular arrangement, but rarely covered the full cost of child care, and was rarely available at local level.

Provision of child care does not deal with a more important barrier to women participating more - time and workload. The extensive demands on union activists' time makes it extremely difficult for a woman with family commitments. This is particularly a problem for visible minority women (Little, 1989a). In 1989 the Confederation des Syndicats Nationaux conducted a survey of women who were local presidents or higher union officials. These women often sat on women's committees, which were additional responsibilities. The conclusion was that their triple burden amounted to between 72 and 90 hours a week. In response to this problem, some unions have initiated studies to tackle high workloads and stress on union activists, but

as yet, White concluded that the commitment and creative thinking necessary to make changes does not exist in most unions. Crisis management does not lend itself to innovative thinking. There was also evidence that the male-dominated culture was a barrier to the development of this type of discourse.

Based on White's findings, we can say that the labour movement has certainly taken up the problem of sexual harassment within the last decade. Union education has been extensive on the subject and unions are making a real attempt to tackle the problem both internally and in the workplace. However, the issue is complex and there is difficulty in finding a policy that deals with all sides of it. Also, not all unions are committed to the issue, and there is often a gap between central policies and local/membership commitment.

Progress in increasing women's participation in union education is encouraging, according to White's research. Overall, there is proportional representation on union courses, and new courses have been designed specifically for women, although there needs to be more women in certain areas, for example health and safety and collective bargaining. Bearing in mind the importance of developing negotiating skills in order to move on up to the top leadership positions, and the crucial need for more women negotiators to press for and participate in equality bargaining, it is particularly important to improve women's participation in collective bargaining courses.

External Equality

Central policies on women's equality in the workplace are fairly common in Canadian unions. The CLC's "Policy Paper on Women and Affirmative Action" (1984) gives a good indication of the Canadian labour movement's policy on women. 59% of unions are still affiliated with the CLC (Craig and Solomon, 1993). On the other hand, the CLC is loosely structured, not a powerful central organisation, and its influence over its provincial equivalents and affiliates is limited. However, as the main central labour federation in Canada, its policies will have some effect upon the affiliates, if only because power within the CLC is now in the hands of the public sector unions, among which are the three biggest unions in Canada, with large female memberships. Even bearing in mind the difficulty of predicting union action based on policy documents, and the lack of control the CLC has over its affiliates, a CLC policy on women is better than no policy at all. The 1984 policy paper defined affirmative action as a comprehensive program designed to overcome past and present discrimination, to include: non discriminatory hiring and promotion practices, equal pay for work of equal value, training opportunities, paid education leave, child care, parental leave, policies against sexual harassment, and accumulation of seniority during leaves.

This was a comprehensive policy which went on to recommend both affirmative action and equal value legislation, making it mandatory for employers to negotiate with the union or employee representatives where there

was no union. Government agencies with the power to monitor, enforce and adjudicate disputes arising from the legislatively required programs were seen as essential. The policy document continued by listing some equality bargaining strategies, ideas for union education and structural reform.

In 1985, the CLC's 5th Biennial National Women's Conference focused on affirmative action; as part of this campaign their Making Affirmative Action Work conference document was aimed ultimately at the affiliated unions. It was an educational and practical communication with guidelines on setting up union committees specifically responsible for developing, implementing and monitoring affirmative action programs; building up statistical descriptions of the status of men and women in the workplace; analysing existing collective agreements; and negotiating permanent and remedial measures for equality. Larkin and Pollark (1985) commented just before the Women's Conference that the affirmative action campaign would be weakened by its neglect of the central issue in the labour movement at that time: unemployment, including that caused by the displacement of many women's jobs by microtechnological development. They proposed that a broader strategy fighting for new jobs, reduced working time, and equality would be more winnable than affirmative action on its own. This observation points to a recurring theme in labour-feminist literature: the reconciliation of women's issues with the wider labour movement, the relationship between gender and class.

Turning to the policies of Canadian provincial federations and affiliated unions, Larkin and Pollock (1985) described the Ontario Federation of Labour's (OFL) Women's Committee as being notable for the initiation of affirmative action campaigns which recognised the need to reach the rank and file membership. At their 1982 Convention, the OFL adopted a policy statement of affirmative action. To seek support for its programme of legislated affirmative action, it arranged a series of public forums throughout the province. The end result was a lobbying document submitted to the provincial government (OFL, 1984), which recommended a long list of legislative initiatives, including equal pay for equal value. In 1988, the OFL Women's Committee published a small, concise and very effective handbook on pay equity. The short introduction included an explanation of the legislation's limitations by reference to the strong business lobbying against equal value in Ontario.

One of OFL's affiliated unions, the Ontario Public Service Employees union (OPSEU) was the first union in Canada to appoint an Equal Opportunities Coordinator in 1978 (Field, 1983). OPSEU was a key player in the negotiations studied in this research.

Both OPSEU and NAPE belong to the national federation NUPGE, which is the second largest union affiliated to the CLC. NUPGE published a booklet in 1982 called Bargaining for Equality designed to assist unions in the "fight for equality by promoting discussion and action" (Attenborough, 1982). In this document, NUPGE provided sample contract clauses for a variety of purposes

ranging from seniority, parental leave, sexual harassment, affirmative action, to personal duties and part-time employees. It also gave guidance on contract language and strategies; overall it was an excellent practical tool, and well presented for interest and comprehension. In fact, CUPE recommended it to their members in their May 1982 newsletter as "a useful handbook to prepare for negotiations" (Stinson, 1982, p. 15).

NUPGE also published in the same series Sexual Harassment at Work and Equal Value, Equal Pay: A Pay Equity Handbook for Unionists. The latter was written in 1987 and was an effective educational tool, including explanations for the wage gap, information on policies to close it, guidelines on negotiating equal pay and gender neutral job evaluation systems, and refutation of arguments against equal pay.

More women in the workforce, and an increasing rate of female unionisation compared to a decrease in male unionisation, has, at least at the central federation level and the central level of some large national and public sector unions, led to a stronger interest in issues concerning equality for women together with the encouragement of women's participation through a variety of equality structures. Moreover, in Canada there is pay equity legislation in half of the provinces and employment equity legislation in Ontario, both of which place legal obligations on unions as well as employers to participate in equality bargaining. Strong lobbying by labour in alliance with women groups was instrumental in gaining the legislation itself. In particular, the women's

committees in the provincial federations of labour and the public sector unions have been active in these labour-feminist alliances.

All these factors have led to a progressive stance towards women's equality in the labour federations, large public sector unions and some national private sector unions. However, an assessment has to be made on the actual gains for women at the bargaining table. In her previous book on women and unions, White cautioned against placing too much faith in central policies, for they can be; "regulated, diluted or compromised by a myriad of factors, including the motivation of elected and paid staff, the wishes of union members, and conflicts between them, the strength of the employer and the type of industry and workplace..." (1993, p. 61).

Indeed, the nature of collective bargaining has been argued as a major factor in Canadian unions' continued resistance to women's policies in the years leading up to 1981, and intraorganisational bargaining was recognised as the critical stage (Baker and Robeson, 1981). It is unfortunate that the OFL, in their paper Taking Stock and Moving Forward: Union Women in the 1990's, thought the problem was still such that "...in many workplaces, women's issues are still the first to be dropped at the bargaining table" (1990, p. 28).

Despite the existence of equality structures and policies, the relationship between collective bargaining and the practical implementation of equality for women is still problematic (Acker, 1989; Collings and Dickens, 1989; Dickens

and Colling, 1990). Indeed, it may well be the crucial link between espoused policy and actual rank and file achievement of equality.

In terms of collective bargaining achievements, the effect of unionisation on women's pay is advantageous, but is also beneficial for men. Several Canadian studies have concluded that being in a union means an increase in wages of between 10% and 25% (for a summary of the results of nine studies between 1972 and 1985, see Gunderson and Riddell, 1988). In terms of gendered pay differentials, both Gunderson (1975) and White (1980) concluded that unionisation reduced the wage gap by as much half. In 1989, Canadian unionised women workers earned 84% of men's wages (full-time and full-year), while non-unionised women workers earned only 70% of men's wages (White, 1993). For women, this worked out as an average of \$13.98 per hour for unionised workers, compared to \$10.89 for non-unionised workers.

However, as White pointed out, the disadvantage of this aggregate data is that it does not take into account factors other than unionisation which may affect wages, especially the impact of different occupations and industries.

In a comparative review of union impact in Canada, Britain and the United States, Jain and Sloane (1981) concluded that unions had improved the position of Canadian women compared with men, although this was not the case in the United States, where there was a positive impact for blacks but not for women.

A comparative study in nineteen industrialised countries concluded that women have made more progress towards wage equality in those countries

with strong union traditions. Interestingly, even in countries like the United States where union density is relatively low, this study found that relative earnings for unionised women were higher than for non-unionised women (Folbre, Bergmann, Agarwal and Floro, 1992; see also Du Plessis Novitz and Jaber, 1990; and Whitehouse, 1990, for more evidence that unionisation has a positive impact on the gender wage gap). Other studies have shown that unions reduce wage inequality in general (Gunderson and Riddell, 1985; Swidinsky and Kuperschmidt, 1991), so this in itself would have a positive impact on women since their jobs usually fall in the lower paid end of the pay scale, together with disproportionate numbers of racial minority groups.

Apart from a general access to improved wages and benefits resulting from unionisation, there are negotiated items of particular interest to women. We need to be able to assess to what extent these issues have been negotiated by unions for women.

Judging from Balkan's article (1985), most collective agreements at that time included, at the very minimum, a "no discrimination" clause. Balkan also pointed to inclusions of maternity leave in most collective agreements; child-care, sexual harassment, emergency leave, and health and safety hazards specifically affecting women (for example, radiation from video-display terminals) were other issues that had "...been dealt with at the bargaining table with considerable success" (1985, p. 50).

In 1986 Labour Canada began collecting information on provisions in major collective agreements, covering over 200 workers in the federal jurisdiction, and over 500 workers elsewhere. In 1992, this comprised 1,235 collective agreements covering almost two and a half million workers. Based on this data set, as compiled by White (1993), Table 1 shows the percentage of workers covered by contract provisions on parental responsibility, and Table 2 shows the percentage of workers covered by selected contract provisions of interest to women, both in January 1992.

Table 1: Percentage of Workers Covered by Contract Provisions on Parental Responsibilities, January 1992.

Maternity Leave - Duration	78.5
17 weeks or less	20.8
18-25 weeks	24.0
Over 25 weeks	26.7
Extended Parental Leave	31.9
Extended Paternity Leave	35.4
Adoption Leave	63.9
17 weeks or less	33.3
18-26 weeks	22.2
Over 26 weeks	4.6
Paid Maternity Leave	49.1
76-100% salary for 17 weeks	21.4
Income beyond 17 weeks	16.4
Paid Adoption Leave	22.9
76-100% salary for 17 weeks	20.2
Income beyond 17 weeks	0.1
Family Illness Leave	39.8
Paid Family Illness leave	29.4
Personal Reasons Leave	58.0
Paid Personal Reasons Leave	5.3
Day Care Facilities	3.0

Source: White, J. (1993). *Sisters in Solidarity* (compiled from Labour Canada, Bureau of Labour Agreement Data Base, January 1992. This data includes 2,434,055 workers in total, covered by 1,235 major collective agreements.)

Table 2: Percentage of Workers Covered by Selected Contract Provisions of Interest to Women, January 1992.

Anti-Discrimination	63.1
Sexual Harassment	42.7
Health and Safety - Video Display Terminals	
Additional Rest Period	6.1
Special Eye Examination	6.1
Reassignment (e.g., for pregnancy)	27.3
Varying Hours	
Flextime	11.6
Compressed Work Week	20.3
Job Sharing	6.7
Part-time Workers	
Vacation	40.3
Holidays	39.0
Sick Leave	39.4
Seniority	36.8
Health and Welfare	34.4
Severance Pay	21.5
Pensions	8.0
Ratio of Part-time to Full-time	2.3
Workers with Disabilities	
Right to Transfer/Training	3.4
Employer Willingness to Transfer/Training	34.7
Other (Includes Hiring Disabled Workers)	1.3

Source: White, J. (1993). *Sisters in Solidarity* (compiled from Labour Canada, Bureau of Labour Information collective agreement data base, January 1992. This data includes 2,434,055 workers in total, covered by 1,235 major collective agreements.)

From Table 1 we can see that although there has been some successful moves towards establishing parental and adoption leave, and maternity leave is provided in the majority of agreements, less than a quarter provide paid maternity leave of between 76-100% salary for 17 weeks. Under federal legislation, women are entitled to 15 weeks of benefit that cannot exceed 60% of her usual wages; there is also a waiting period of two weeks without benefit. Of course, it is harder to bargain paid leave than leave itself because of the direct cost to employers. It is suggested also that in some provinces, for example, Newfoundland, there is a strong strand of patriarchal ideology in the overall resistance to paid maternity leave, which is virtually unseen in any collective agreement in that province, even ones which would be considered progressive in other areas. Only 3% of the agreements in the table include child care clauses. This may reflect the controversy over the advantages and disadvantages of workplace child care, although several unions (mainly public sector unions) have been involved in establishing workplace child care programmes (White, 1993).

Moving to Table 2, almost two-thirds of the contracts included an anti-discrimination clause. Most clauses included race and sex; the inclusion of sexual orientation as a prohibited ground is being increasingly lobbied for. There has been some movement on video display terminal protection and flexible working arrangements, although only a minority of workers are covered. Part-time workers are less often protected by seniority, health and

welfare arrangements or severance pay, and only 8% of agreements included part-time workers in pension plans. The provisions for the disabled are weak, with only 3% of agreements stipulating the right of the employee, as opposed to the willingness of the employer, to be considered for transfer of employment.

Overall, it is clear that unions have taken some action in areas of specific interest to women, including racial minority women, disabled women and lesbians, and that there has been progress over time (White, 1993). However, some important provisions are not extensive, and need improvement. One trend that White identified in the Labour Canada data was that in each of the provisions covered in the Tables 1 and 2, the public sector unions had negotiated more of them for their membership than had the private sector unions. For example, whereas only 11% of women in the private sector had paid maternity leave, 72% of public sector women had this benefit. 56% of public sector workers were covered by a sexual harassment clause, compared to only 20% in the private sector. 43% women in the public sector enjoyed the benefit of paid family illness leave, as opposed to only 7% of private sector workers. Of course, the percentage of women is higher in the public sector, therefore their unions would theoretically be more likely to bargain these provisions, but it may also be that the employers in this sector are less likely to oppose these proposals.

Central policies on affirmative action and equal pay are not easily translated into successes at the bargaining table (Balkan, 1985). In Ontario, Ministry of Labour data analysed by Chaykowski (1990) showed that between 1982 and 1988 - before pay equity legislation -equal pay provisions (either equal work or equal value) were infrequent in the private sector and the public sector.

Interestingly, CUPE, a key player in both provinces studied, was the union in the public sector most associated with contractual coverage of job classification, job evaluation, and equal pay for equal work. Labour Canada data covering employees in bargaining units of more than 500 for the same period showed that in all provinces very few collective agreements in any given year (in the order of 1 to 5) included equal pay for equal work provisions and typically even fewer included equal value provisions.

In general, it is clear that more women in unions per se does not necessarily equate with internal or external equality, although more women members may well make it more likely that there will be action in these areas. Women need to be represented in governance structures in order to make a difference.

Usually equality structures have to release the potential for women's influence to work through to leadership levels, allowing the reform of union practices and equality policies. Several writers in the field of women and unions have identified the essential nature of the link between internal and external equality (Adams and Griffin, 1983; Balkan, 1985; Briskin, 1990; Chaison and Andiappan, 1987 and 1989; Colling and Dickens, 1989; Dickens and Colling,

1990; Edelson, 1987; Heery and Kelly, 1988; Larkin and Pollock, 1985; Wierzbicki, 1988). There needs to be effective articulation between any equality structures established and negotiating structures if successful equality bargaining is to take place (Dickens and Colling, 1990). This is particularly so if central equality policies are to reach the local levels and actually achieve gains at the bargaining table, given the fragmented system of collective bargaining in Canada.

Most importantly, affirmative action has to be combined with feminist analysis and feminist politics. But, a focus on labour-feminist politics and associated alliances should not ignore the vital nature of the mechanism that converts central policy to reality for women in the workplace - collective bargaining. If representation of women combined with a labour-feminist politics does not extend to the bargaining table, then, however progressive a union's policies are, patriarchal forces in the union will tend to subvert any change towards equality for women.

Moreover, even if the bargaining agenda and team are informed with a labour-feminist politics, the union-management power relationship has to be examined. The role of the employer is important. In a political and economic climate of stringent cost containment, then however committed and determined the union is, equality will be elusive. As White remarked; "...if the employer is resisting the union at every step and feels that profits are threatened, the

negotiating team may be hard pressed to obtain even the most basic pay and benefits package" (1993, p. 97).

Public Sector Collective Bargaining

As illustrated by the above quotation, it is important to place pay equity bargaining in the context of current Canadian collective bargaining relationships, and, in terms of this research, public sector collective bargaining. What follows is a brief introduction to the Canadian system, before moving on to a discussion of current trends in public sector collective bargaining. For political and historical reasons, Canada's industrial relations system is extremely decentralised (Craig and Solomon, 1993). The country is a federal state with the central government exercising jurisdiction over only 10% of the labour force and the provinces covering the remaining 90%. The role of government is crucial in the regulation of Canadian industrial relations. Both federal and provincial labour relations legislation covering the private sector date from the mid 1940's and are based on the US National Labour Relations Act (Wagner Act), but go further than the US in regulating collective bargaining (Blyton and Goodman, 1990). Although there are minor differences, common features of Canadian private sector legislation are the prohibition of unfair labour practices; the creation of labour relations boards to approve certification and decertification, and the appropriateness of bargaining units; compulsory conciliation before a strike is legal; the prohibition of strikes

during a collective agreement; and the requirement of a minimum one year collective agreement.

Reflecting the federalist state and the propensity of labour relations boards to adopt the "common interests" criterion for the designation of bargaining units, the Canadian collective bargaining structure is largely fragmented, especially in the private sector. The most common collective bargaining structure is single establishment and single union (Blyton and Goodman, 1990). In the private sector, multi-employer bargaining is unusual, although the construction industry has featured employer associations more than any other industry, and their role in general is more visible in Quebec and British Columbia than other provinces. Fragmentation in the public sector is lessened in some provinces (for example, Newfoundland) where a certain degree of province-wide bargaining has evolved.

In Canada, the public sector is usually defined to include the federal civil service, the provincial civil services, municipalities, health care, education, and government enterprises. Public sector unionism has contributed greatly to the general growth of unionism in Canada. Three of the five largest unions are made up of government employees. The level of collective bargaining in the public sector is much higher than in the private sector; it is estimated that well over 40% of all union members work in the public sector (Ponak and Thompson, 1989).

Public sector collective bargaining operates within a legislative framework established in the late 60's and early 70's. At this time, provincial governments extended bargaining rights to public sector employees after the federal government had set the precedent in 1967. In contrast to private sector legislation, public sector legislation is extremely diverse in Canada with regard to how specialised the legislative coverage is and the scope of collective bargaining allowed. For example, in Quebec one statute covers all employees, whether public or private, whereas at the other extreme, in Ontario virtually every public sector group is covered by a separate piece of legislation. Also, half the provinces permit their public sector workers to strike; the others do not (Ponak and Thompson, 1989).

As employers, governments are subject to political as well as economic considerations. This gives rise to a different collective bargaining dynamic from the private sector. To begin with, there is a diffusion of management responsibility and authority resulting from funding arrangements, inbuilt checks and balances and political competition. This leads generally to difficult intraorganisational bargaining and "phantom" bargaining, where either decision-making power is not available at the table, or government policy is known by all parties and thus influences the bargaining taking place (Ponak and Thompson, 1989).

Furthermore, democratically elected governments have sovereign powers to legislate, which tips the balance of power heavily in favour of the employer.

Indicators of the dominant power of the Canadian state are laws prohibiting public sector occupational groups from striking, or essential services regulations that erode the formal power to strike (Panitch and Swartz, 1988; McBride, 1987; Riddell, 1986), or when strikes are ended by legislative intervention (Russell, 1990). The issue of essential services has been a recurring subject of tension in public sector union-management relations over the last decade, with the federal and provincial governments being challenged by the unions over their use of essential services laws. According to Panitch and Swartz (1988), the federal civil servants' legal right to strike exists mainly on paper. A further use of legislation in union-management relations has been the cancelling out of previously negotiated clauses in signed collective agreements (Fryer, 1988). It has been argued by the President of the National Union of Provincial Government Employees (NUPGE) that governments' reliance upon legislative power constitutes the breakdown of public sector collective bargaining (Fryer, 1988; see also Carter, 1992, 3, for the view that wage controls have "effectively crippled collective bargaining for [affected] public employees").

In Canada, a large part of the impetus behind this attack upon union rights and benefits has been an ideological move to the right. Post-war posterity and Keynesian economics with its minimum standard of economic welfare for everyone shifted during the late 1970's and during the 1980's to recession and free market economics - deregulation, privatisation and free trade. The notion

of government as interfering with market forces brought with it an ideological commitment to the retraction of the role of government. Jenson (et al, 1988) identified this retrenchment as part of a common capital reaction to the internationalisation of capital and competition in all of the seven countries studied in their project, and as part of the economic restructuring experienced in those countries (Britain, Canada, France, the Federal Republic of Germany, Italy, Sweden and the United States).

Retrenchment in the Canadian public sector emerged during the mid-eighties at both federal and provincial levels, leading to public sector cuts in jobs, wages and social programmes. In line with the trend identified by Jenson (et al), the Mulroney government elected in 1984 pursued spending cuts paralleled with a rejection of state intervention in the interests of developing the private market economy (Savage, 1992).

An indicator of the new political economy at the federal level under the Mulroney government (in power until 1993) was the power shift represented by the Department of Finance taking over the making of social policy from Health and Welfare. From a position of influence under the direction of strong ministers, Health and Welfare became "increasingly isolated and ineffectual ...[and]...social policy has become simply an instrument of economic policy." (Moscovitch, cited in York, A5, 1992). In what has been described as a "social revolution" (York, 1992), the emphasis upon deficit control led to an abandonment of universality and long-awaited social initiatives, such as a

national day-care programme; the erosion by inflation of major social programmes; and the transfer of traditional federal responsibilities to the provinces, through drastic cuts in the federal transfer payments for medicare (equivalent to the national health system in the UK) and post-secondary education. Since the Conservatives' election, social spending has dropped to 8.4% of gross domestic product from 10.4% (York, 1992).

In this hostile political and economic environment it was not long before public sector unions were fighting to resist concessions demanded by their employers and/or facing restriction of bargaining rights, either through legislative wage freezes or cancellation of previously negotiated increases. During the latter half of the eighties to the present, contracting out or privatisation has been a common point of dispute in public sector union-management relations, and programme cuts have resulted in extensive loss of jobs. Governments' deficit budgeting has been consistently at the cost of public sector unions' membership - layoffs, cuts and rollbacks. Public service unions have combined to campaign against the cuts in public services across the country; for example, the national campaign "The Coalition to Keep Medicare Healthy" (Galt, 1992b). The executive board report to the delegates of the Ontario Public Service Employees Union (OPSEU) remarked: "Ontario's public services are on the edge of collapse. The depression, free trade with the United States...and the privatisation strategies of the Mulroney government have all

combined to make inevitable the disintegration of services across Canada" (Galt, 1992a, p. A8).

In terms of this research, it is noteworthy that the major expense under scrutiny has been health care, with frequent media coverage focusing on the crisis in the health care system, whether we can still afford universal medicare, inefficiency and waste in the system, abuse of the system, and so on. A common strand in much of this literature is the high cost of medical services - despite Canadian expenditure on health care being about the same as other wealthy nations. In 1989, Canada spent 8.7% of GDP, compared to 8.7%, 8.8%, 8.2%, and 8.3% in France, Sweden, Germany and the Netherlands, respectively (Rachlis and Kushner, 1992). However, health care represents one-third of provincial total spending. And costs have risen faster than the provinces' ability to pay, especially in the face of plummeting transfer payments. According to Rachlis and Kushner (1992), the recent erosion of funding to provinces (in the federal budgets since 1991) means that within a decade federal transfer payments for health care will have dried up. In this climate of crisis, severe provincial retrenchment, even in the absence of ideological imperatives, has been the order of the day in Canadian health care.

Partnership as Public Policy

As part of a general strategy of increased cooperation with labour in the face of economic decline and increasing levels of labour relations conflict, public

policy in the 80's and early 90's has emphasised a new partnership between government, labour and business to jointly tackle economic development. This partnership has been attempted through the establishment of national, provincial and sectoral initiatives. Ad hoc bipartite sectoral Task Forces were established by the federal government for a consultative exercise as early as 1978, and in the early 1990's the Department of Trade, Science and Technology set up permanent sectoral committees to provide business and labour input into policy (Canadian Labour Market Productivity Centre, 1992).

In 1984 the federal government established at a national level the bipartite Canadian Labour Market and Productivity Centre, with a mandate to:

"promote dialogue between Canada's economic stake-holders on issues of broad social and economic concern. It also promotes the development of joint business/labour recommendations on approaches to improving the operation of the labour market and Canada's productivity performance" (1992, p. B2).

As an offshoot of this body, the Canadian Labour Force Development Board was established in 1991. This latter body's executive included representatives of government and equity groups as well as business and labour in the development of a newly skilled labour force, and recommended the formation of provincial Labour Force Development Boards. The first provincial Labour Force Development Board was set up in Newfoundland in 1992, where the unemployment rate has been consistently much higher than the national

average, and where the fisheries crisis has meant that training is seen by the partners as a priority.

Moreover, the federal government has encouraged the establishment of sectoral initiatives. In 1985, the Canadian Steel Trade and Employment Congress was established, with equal participation by the major steel companies and the United Steelworkers of America (USWA). Although the impetus for this first sectoral initiative was from the parties and the federal government's role was financial support, the government has played a more active role in bringing labour and business together in further bipartite sectoral bodies in the electrical/electronics industry and in the automotive services and repair industry.

At a provincial level, some governments have coordinated with the federal government and sectoral partners to establish tripartite bodies for the development of human resources through specialised training, for example, the establishment in 1983 of the Centre for Aerospace Manpower Adjustment In Quebec (Labour Market Productivity Centre, 1992). Not only social democratic governments are incorporating the notion of labour-business partnership in their economic development policies. There have recently been some indications of a more cooperative relationship with public sector unions in response to the impact of economic restructuring, moving beyond the traditional adversarial collective bargaining relationships (Casselton, 1993).

Labour Canada, a federal government department, has complemented this national, provincial and sectoral policy with a strategy aimed at workplace developments in labour-management cooperation. In 1991 a Labour-Management Partnerships Program offered funding for joint labour-management initiatives. Funding priorities for 1992 were the promotion of productive, innovative workplaces; fair and equitable workplaces; and improved labour-management-government relations and understanding (Labour Canada, 1992). According to these priorities, although the third element would include any level of initiative, it is clear that the first two are aimed at improving labour-management relations at the organisational level.

Underlying this overall policy of partnership is a hope that the different levels of institutionalised consensus-building in economic development will resonate throughout the system, and indirectly cause a generally more cooperative climate for union-management relations in the workplace. In the past, two main methods have been used in a direct attempt to increase workplace cooperation, the first more than the second: the human resources management approach with its emphasis on employee involvement, team-work, joint decision-making, and quality of working life; and the move away from the traditional adversarial bargaining towards a more cooperative model.

The labour movement has often seen the first method as a subtle form of 'union busting,' undermining its exclusive representation of employees and therefore eroding its power (Carter, 1992; Coates, 1992). Since this research

is focused on the interrelationship between collective bargaining and pay equity, the discussion will move straight on to an examination of the prominent literature dealing with the possibility of more cooperative bargaining. The classic work in this area was Walton and McKersie (1965), who differentiated between distributive and integrative bargaining. Integrative bargaining is joint decision making through problem solving: the identification of a problem, and the generation and evaluation of alternative solutions to find a solution with equal benefits for both parties.

According to Walton and McKersie, it is possible where the parties' objectives can to some degree be integrated, where the objectives are not in fundamental conflict. This can happen when the task is centred upon a problem whose solution will allow gains for both parties, or at least where gains made by one party will not represent an equal sacrifice by the other. Distributive bargaining is in effect the traditional adversarial style of negotiating over an issue related to the direct allocation of economic (fixed) resources, where one party's gain is an equivalent loss for the other.

Walton and McKersie acknowledged that what may seem an issue to the parties, generating distributive bargaining, may equally be defined as a problem open to integrative bargaining or it may contain some elements of a problem, enabling some integrative bargaining alongside distributive bargaining. The perception of the parties is dependent on the nature of the existing union-management relationship. Indeed, another subprocess of

collective bargaining is what the authors called "attitudinal structuring," consisting of efforts the parties will make to influence their relationship with each other. A further subprocess which Walton and McKersie identified as enhancing or hindering the possibilities of integrative bargaining was "intraorganisational bargaining," internal negotiations with the teams' constituents to reach consensus. The authors conceptualised these four subprocesses of collective bargaining as ongoing and simultaneous, recognising the dilemma of reconciling the distributive and integrative types of decision making processes. They later recommended differentiating the subprocesses by role, agenda and phase of negotiations (1991).

Peterson and Tracy (1976) expanded on the link between integrative bargaining and the attitudinal structuring between the parties. They proposed that longstanding personal contact and mutual acknowledgement of equal status, knowledge and skills tend the parties towards a more cooperative bargaining strategy. Conversely, discrimination against the other party, unfair behaviour and lack of personal contact would tend to lead to adversarial bargaining. Based on their overview of American initiatives in cooperative bargaining (1985), they concluded that, in practice, negotiators found it very difficult to differentiate between "issues" (resulting in distributive bargaining) and "problems" (resulting in integrative bargaining). For Peterson and Tracy, a key insight gained from their own and others' research was the vital importance of trust if problem solving is to be successful.

Building on Walton and McKersie, Lewicki and Litterer (1985) identified a number of preconditions of integrative bargaining, including shared goals; motivation and a commitment to work together; trust in the opposing negotiator; open and accurate information; and a belief in the validity and importance of the other's position. For Lewicki and Litterer, following Walton and McKersie, it was the goal structures which were the key to successful integrative bargaining. A common goal could be one that the parties could not possibly attain unless they worked together, but it would have to include the goal to search for solutions which both parties will gain from. The most common cause of failure to use integrative strategies is the lack of recognition of (or search for) the integrative potential in a negotiating task.

One example given in Walton and McKersie of a varying-sum problem with equal benefits to both parties that is amenable to integrative bargaining is the resolution of inequity through job evaluation. Lewicki and Litterer expanded the definition of common goal to include a situation where neither party can achieve a task on its own. Given this strand of thinking on a common goal as a precondition of integrative decision making and the overall push for a new and more cooperative industrial relations in the 80's, it is no surprise that government policy on pay equity (requiring union-management comparison of jobs) included an expectation that the process could (and should) be bargained in a more cooperative manner than conventional wage negotiations.

However, despite the usefulness of positing the two polar yet interdependent types of bargaining, the difficulty with the work inspired by Walton and McKersie on cooperative collective bargaining (Fisher and Ury, 1981; Pruitt, 1981; Lewicki and Litterer, 1985; Lax and Sebenius, 1986; Cohen-Rosenthal and Burton, 1987) is that it is derived from a social action perspective, explaining collective bargaining dynamics by reference only to the interactions of the individuals involved, ignoring structural influences (Schienstock, 1981). In particular, this micro focus did not take account of gender, race and class which shape and are generally reinforced by interaction of the parties during the collective bargaining process. In pay equity bargaining the structural effect of gender is especially important.

The next chapter discusses the major issues and debates in the literature dealing with pay equity bargaining, attempting to extend the early debates on the compatibility of pay equity with collective bargaining to include a consideration of the structural properties characterising the interrelationship between collective bargaining and pay equity.

CHAPTER IV

Collective Bargaining and Pay Equity:

Debates and Issues

In this chapter, the current debates and issues relevant to the interrelationship between collective bargaining and pay equity are discussed. After a brief introduction referring to the positions taken by the parties on the role of collective bargaining in pay equity implementation in Canada, the chapter continues with a review of the debates over bargaining structure, style and power. The last section focuses on the importance of gender and class relations in explaining the processes and outcomes of pay equity bargaining, ending with a discussion of previous pay equity studies.

All Canadian pay equity initiatives created a crucial role for collective bargaining in unionised workplaces, whether the policy was legislated or implemented proactively through collective bargaining. Pay equity legislation legally required employers to negotiate the whole implementation process with any bargaining agents present in an establishment (Coates, 1989). According to Todres (1987), the strength of the Ontario pay equity model is flexibility, and she cited the predominant role of collective bargaining in the development of a pay equity plan as the prime example of this principle. The reliance on the collective bargaining process for the achievement of pay equity raises a number of issues surrounding the interrelationship of collective bargaining and

pay equity. Perhaps it is worth noting here that the term "collective bargaining" is used in its widest sense in this discussion, not just the negotiation of the terms and conditions of a contract, but the general realm of union-management relationships, including intraorganisational bargaining.

During the consultation phase of the pay equity legislation in Ontario, the kernel of the employers' position was that the proposed legislation was based upon an incorrect analysis of the problem, given that the wage gap was caused by occupational segregation, and pay equity would not address this. However, since the government had announced that it would introduce legislation, the employers' argued that coverage should be restricted to the public sector, and to employees not covered by collective agreements. If the government were going to include organised workplaces, then it should leave the parties to negotiate pay equity, without any bureaucratic intervention at all, without cross bargaining unit comparison, but with several exemptions (labour market shortages, bargaining power, merit, seniority, red circling, training assignments, and regional differentials), and with provision for the decrease as well the increase of wages (Gandz, 1987).

Essentially, the employers were arguing for the status quo; pay equity would disrupt the existing collective bargaining process and this disruption would be minimised by leaving the parties free to negotiate equity, without regulation.

Gandz summarised the unions' position by referring to the Ontario Federation of Labour (OFL) brief, which he saw as a consensus document. The list of

recommendations by the OFL was very similar to the demands of the Equal Pay Coalition, of which the OFL was a key member.

Interestingly, the unions also argued for the negotiation of pay equity to be left to the parties in unionised workplaces. However, in contrast to the restricted coverage wanted by the employers, the OFL recommended comprehensive coverage of all employees, whether public or private sector, irrespective of size of enterprise. The only exemption should be seniority, cross bargaining unit comparisons should be allowed, there should be prohibition of wage reduction to achieve pay equity, separate pay equity negotiations together with a separate fund to avoid any trade offs with general wage monies, and compulsory information disclosure. Also, the unions wanted legislative back up in the form of an independent research\education and enforcement agency, together with an independent tribunal for dispute resolution (Gandz, 1987).

Union presentations to the consultation panel emphasised how previous attempts to negotiate equal pay had been obstructed by the employer (Sarra, 1986). For example, despite the Canadian Union of Public Employees' (CUPE) attempts to equalise the wages of male and female jobs, for example male cleaners and matrons, including strike action by male-dominated locals, there was still a significant wage gap. The union highlighted the urgency of introducing pay equity legislation. This point was echoed by CUPE locals throughout the province. Cornish (1986), a founder member of the Equal Pay Coalition and a labour lawyer, made the same point. Unions had attempted to

use collective bargaining to increase women's wages in provinces without equal value legislation: "[however] most employers in these provinces resist[ed] attempts to deal with the issue at the bargaining table when not compelled by law" (Cornish, 1986, p. 17).

In analysing the reasons for the evident consensus position put forward by the OFL, Gandz pointed to the structural shift in the labour movement so that it was becoming increasingly influenced by the large public sector unions, which had large proportions of women members. This is so, but from my personal conversations with members of the labour-feminist alliance instrumental in obtaining the legislation in Ontario, one particular private sector union is particularly influential in the provincial labour movement, and the OFL: the United Steelworkers of America. In my view, that this male-dominated union (13% women) has had a long standing practice of joint job evaluation incorporated into its general collective bargaining relationships made it easier to lobby the private sector unions and gain an agreement to a position which would not be on the face of it politically advantageous to unions with smaller proportions of women members. Moreover, the Canadian Auto Workers union, with only 20% female membership, and a prominent private sector union in Ontario and Canada generally (its charismatic ex-president is now president of the Canadian Labour Congress), received an affirmative action award from the Ontario Women's Directorate in 1987 (White, 1993). These trends in large influential male-dominated private sector unions would make it

more likely that there would be consensus over the need for legal intervention in the collective bargaining process to achieve equity.

Bargaining Structure

The two main areas of discussion over structure have been whether pay equity should be negotiated separately from or integrated with conventional wage bargaining; and whether pay equity bargaining should be single-table or multi-table. Although neither the Manitoba nor the Ontario legislation required separate bargaining, Kelly (1988) pointed out that pay equity negotiation was "clearly designated as a separate process existing outside the parameters of conventional collective bargaining under labour relations statutes" (Kelly, 1988, p. 35). The Manitoba Civil Service Commission published a report in 1988 on Pay Equity Implementation in the Manitoba Civil Service. It is clear from this report that the joint committee set up to implement pay equity wanted pay equity negotiations to be "distinguished from general bargaining. The process was to be contained and focused. Issues which were not pay equity issues would not be permitted to impinge on or obstruct the process" (Manitoba Civil Service Commission, 1988, p. 12).

In the early debate over the proposed pay equity legislation in Ontario the unions recognised that there were potential difficulties arising from both union-management and interunion tensions. To make the process viable, the OFL recommended that pay equity bargaining be separate from conventional

contractual negotiations (OFL, 1988; see also Cornish and Trachuk, 1988) and that a separate fund be put aside for pay equity adjustments. Both separate bargaining structures and separate monies would lower the possibility (and temptation) of trading off women's interests, especially if the reduction of wages in general were prohibited.

Following its declared principle of flexibility, the Ontario government did not specify that pay equity be bargained separately, although other jurisdictions have done so. For example, the Atlantic provinces (Prince Edward Island, Nova Scotia, and New Brunswick) who introduced legislation after Ontario required the separate negotiation of pay equity (Coates, 1989). The Newfoundland and Labrador government set up a separate Joint Steering Committee, and separate joint Job Evaluation Committees in their collective bargaining initiative (Pay Equity Agreement, 1988). In Ontario, although the parties are not legally required to form a separate structure for pay equity, the Pay Equity Commission have issued guidelines on the effective development of separate pay equity committees (1988). In addition, the Pay Equity Commissioner recommended separate bargaining when he spoke at a pay equity conference at the National Centre for Management Research and Development in 1988.

Separate bargaining not only lessens the likelihood of pay equity being used as a negotiable item in the general package to be settled, it also avoids some of the potential overlap between the two systems of labour legislation. In the pay

equity conference previously mentioned, the then Pay Equity Commissioner clarified that if negotiations were separate then a dispute would be referred to the Pay Equity Commission, with no recourse to strike/lockout. On the other hand, if pay equity negotiations were combined with contractual bargaining then if an impasse occurred, the situation would not be so clear, and there would be the possibility of strike action, with regulation by the traditional labour relations legislation in the province. This possibility of jurisdictional overlap between the Pay Equity Commission and existing labour relations law, especially with regard to the decisions of interest arbitrators in the public sector, has been identified by a number of commentators (Cornish and Trachuk, 1988; Gandz, 1987; McDermott, 1991; McKenzie, 1988; and Robb, 1988).

The wording of the legislation (Section 9[1]), and the guidelines issued by the Pay Equity Commission, 1988 (Implementation Series No. 14), make it clear that an employer is prohibited from reducing the compensation of any employee or of any job class in order to achieve pay equity. This, combined with the interpretation offered by the Pay Equity Commission, where they refer to the minimum amount of 1% "to be set aside" (Implementation Series No. 14, 14.4), leads to an interpretation that there was an intention on the part of the legislators that pay equity monies should be kept in a separate fund.

With regard to the composition of the negotiating unit, there is some evidence in Manitoba of a move towards a more centralised form of bargaining.

Although the Manitoba Pay Equity Act did not require that all bargaining agents and employee representatives negotiate simultaneously with the employer, the process evolved that way (Pay Equity Bureau, 1988b). For the first time in Canada, many unions were brought together at one table to negotiate an issue (Ellis-Grunfeld, 1987). For example, in the pay equity negotiations for the four universities, 16 different unions or associations were involved, with as many as eight at one institution, and single-table bargaining was used at each university. The health care facilities decided on industry-wide negotiations for 23 employers, nine unions and two non-unionized employee representatives (Coates, 1989). The pattern for provincial bargaining was already present in the health care facilities, but the parties decided to bargain centrally for pay equity as well.

Ontario's legislation allows centralized bargaining if the parties agree. Given the fragmented collective bargaining structures in Canada, in many cases women will not find male comparators in their own bargaining units and cross-bargaining unit comparison will be necessary. If bargaining units negotiate separately, then it is probable that different job evaluation schemes will be used, in which case comparisons will be very difficult, since the job collection instruments, sub-factors, evaluations and weightings will vary. For this reason, it would be less complicated and more consistent if a standardised job evaluation scheme were used throughout an establishment. A standardised job evaluation scheme would only be possible in an establishment with more than

one bargaining agent if the unions involved cooperated in a single-table set of negotiations. If recognised by the parties as important this would act as a pressure towards single-table bargaining.

When the previous Pay Equity Commissioner was answering questions at a recent conference on pay equity, he suggested centralized bargaining as less complicated and less costly in the long term. In a discussion paper on pay equity in Manitoba (Pay Equity Bureau, 1988b), some advantages of centralized bargaining were mentioned: it is more efficient, especially in establishments with many bargaining units; it helps to share opinions on pay equity; and it should result in a sense of collective ownership for the implementation and the results. Lawyers Cornish and Truchak (1988) advised labour to pursue interunion cooperation to enhance their power at the bargaining table. Single-table bargaining would not only allow male comparators to be identified, but also provide the best protection for the male-dominated classes.

However, both the Manitoba discussion paper and Coates (1989) pointed to the possibilities of one party holding out against agreement amongst all the parties, leading to strains and considerable delays, particularly if there is a history-of conflictual union-management relations, and if there is a need for unanimity in decision making.

Bargaining Style

The main point of disagreement in this debate has been over whether pay equity bargaining will be conflictual, if not actually incompatible with collective bargaining; or cooperative and therefore compatible with collective bargaining. A fairly influential view (in industrial relations circles) of the impact of pay equity on collective bargaining was published by an industrial relations university professor. In his report commissioned by the Ontario Women's Directorate, Gandz (1987) concluded that legislated pay equity would cause extreme conflict within and between unions, and between union and employer. The reasons for this were the technical difficulty of the required negotiations, cross bargaining unit and union\non-union comparisons, and the injection of uncertainty into well developed, constructive union-management relationships (see also Shamie, 1986, p. 18, who refers to "insurmountable difficulties" presented by pay equity regulations; and Robb, 1988, who foresaw extreme intraorganisational tensions arising from cross bargaining unit comparisons).

Furthermore, Gandz argued that pay equity and collective bargaining are fundamentally incompatible, the former being the result of a purely administrative mechanism (job evaluation) whereas the basis of the latter is economic power. He was particularly concerned that a male-dominated bargaining unit, having gained high wages through their willingness to take militant action, would be linked as male comparator to a female-dominated

bargaining unit whose past inaction had resulted in lower wages. Robb (1988) also expressed concern at this shift in the valuation of jobs from a function of power and strength to an administrative mechanism. However, Gandz was explicit in his recommendation of the settlement of wages through the interaction of power; it is significant that he recommended bargaining power as an exemption. He cautioned that if this exemption were not allowed the "...the fundamental basis of the distributive, power-based component of the collective bargaining process will be undermined" (Gandz, 1987, p. 39).

Overall, Gandz' report illustrates the problems in a systems approach with an overriding concern with stability: pay equity is unacceptable because of the instability it causes, its threat to the status quo. Moreover, his prediction of extreme conflict rests upon a conflation of collective bargaining with a distributive mode of bargaining. This unidimensional concept of collective bargaining ignores the considerable literature on integrative, or mutual gains bargaining (Cohen-Rosenthal and Burton, 1987; Lewicki and Litterer, 1985; Walton and McKersie, 1965).

MacKenzie (1988) built on Gandz' work. Although acknowledging that collective bargaining, left to itself, had resulted in inequitable wages, the main theme in her paper was still the problem of instability as a consequence of pay equity. One conference presentation at about the same time concluded with a statement of the dire consequences for free collective bargaining of introducing pay equity legislation: "In my view we have taken a very large step toward

legislated compensation, perhaps the most significant step yet taken toward the phasing out of traditional collective bargaining processes" (Davies, 1988, p. D-23).

However, at about the same time, Potts (1987, pp. 55 & 524) presented a more balanced view of the impact of pay equity on collective bargaining. He concluded: "Ontario's new Pay Equity Act introduces a number of formidable obstacles between employers and trade unions. As in normal collective bargaining, however, the two sides will have the opportunity to overcome their differences through negotiation." Prominent labour lawyers who had been active in the labour-feminist alliance crucial to the introduction of the legislation added their comments to the debate. Their view confirmed that pay equity bargaining would involve much more latitude than most commentators had foreseen, and that the room for negotiation was considerable, even within the basic parameters of the Act.

In 1988, a founding member of the Equal Pay Coalition, and her lawyer colleague described the Act as a minimum standard (Cornish and Trachuk), thus leaving open the possibility of enrichment if the parties agreed. On the other hand, they recognised that the legal requirements represented a restriction of a union's scope of bargaining, especially since the legislation made it unlawful to bargain for or agree to discriminatory compensation practices. In contract bargaining, it was part of accepted practice to trade off the interests of some employees for others. But in pay equity bargaining, the union is: "...no

longer free to trade off the interests of a certain group of employees for the collective good, but must in fact obtain pay equity for those lacking it" (Cornish and Trachuk, 1988, p. 30).

Despite the establishment of a much needed minimum standard, Cornish and Trachuk proposed that there was a lot of room for argument in negotiating pay equity. In their opinion, the three most hotly contested areas were going to be the designation of gender predominant classes, the type of comparison scheme used, and the interpretation of exemptions. In parallel with the critical literature on job evaluation in general (Fudge and McDermott [ed], 1991; Remick [ed], 1984), the authors identified these apparently technical decisions as political with important consequences for the level of pay adjustments at the end of the process.

Another feminist labour lawyer, legal advisor to the Ontario Public Service Union (OPSEU), commented that she saw the implementation of pay equity not as an objective, administrative mechanism in fundamental opposition to the collective bargaining process, but as an inherently political process. Section 6 of the Act does establish a specific, precisely delineated target for the achievement of pay equity, and "...there is an aura of objectivity about both the goal and the process that suggests that the achievement of pay equity is simply an exercise in statutory interpretation and mathematics" (Lennon-Shilton, 1989, p. G-1). However, this facade of objectivity quickly disappeared as soon as negotiations start:

It is clear that there are a wide variety of roads towards pay equity, and that the goal itself is not cut- and-dried. There are imaginative and complex approaches to pay equity and there are facile approaches. There are plans which will quickly and effectively close the wage gap between female and male employees, and plans that will maintain that gap through their definitions of job class, and their approaches to job evaluation. There are plans where the pay-out will be substantial and plans where the pay-out will be minimal. It is clear that bargaining agents and employers will have seriously conflicting interests about which approaches to pay equity should be taken in their workplace. (Lennon-Shilton 1989, p. G-2)

Once pay equity is seen in this light, it does not sound so very different from business-as-usual collective bargaining; the power relationship between the parties is still the main driving force and will influence the process and outcome of the bargain. These publications by labour lawyers closely involved with pay equity bargaining have confirmed that the implementation of pay equity is not fundamentally incompatible with the power dynamic of conventional collective bargaining. On the contrary, it is a highly political process, an exercise of power and control over the form and content of pay equity negotiations (see also Fudge and McDermott [ed], 1991; Remick [ed], 1984).

Running parallel with predictions of extremely high levels of confusion and conflict, if not fundamental incompatibility, was a strand of writing which, in contrast, emphasised not only the compatibility of collective bargaining and pay equity, but also the level of cooperation that could be achieved during pay equity bargaining. This work was based upon other jurisdictions' experience with pay equity. For example, the Manitoba legislation incorporated a strong participatory role for unions, and the Director of Negotiation Services at the Manitoba Civil Service Commission explained: "[collective bargaining] will bring a shared identification of the specific problems, perceived fairness in the process, creativity in the development of solutions, and commitment to the results" (cited in Ellis-Grunfeld, 1987, p. 229).

This emphasis on bargaining was backed up in the Manitoba legislation by a stipulation that there was to be a disclosure of information relevant to the implementation of pay equity by the Civil Service Commission to the bargaining agent\employee representative. Ellis-Grunfeld, the then Pay Equity Commissioner for the Manitoba Civil Service, pointed out that the process advanced smoothly and successfully, and "while negotiations were lengthy, and sometimes complex, the parties endeavoured to find constructive solutions to any problems which arose" (1987, p. 231). Moreover, she concluded that: "the level of cooperation which evolved between labour and management...was extremely impressive and challenged the criticism that pay equity initiatives erode free collective bargaining" (Ellis-Grunfeld, 1987, p. 231).

An important factor in the evident compatibility of pay equity with collective bargaining in Manitoba was the rejection of a wholesale transfer of job evaluation to the wage-setting arena in favour of rating results used as a base-line for negotiations. According to a report describing the implementation of pay equity in the Manitoba civil service, neither labour nor management wanted to adopt "a mechanical formula." They preferred a methodology which "honoured the legislation and dealt fairly with the data but allowed negotiating room to minimize potential problems" (Manitoba Civil Service Commission, 1988, p. 13). As Ellis-Grunfield explained:

We had agreed that we were not involved in a mechanical or rigid "pay-for-points" exercise. There is no magic formula which can be fed into a computer to spit out solutions. Rather, we viewed the rating exercise as a means to give us the information on our gender-dominated classifications. That data then served as guidelines to the negotiating teams who bargained the adjustments. (Ellis-Grunfeld, 1987, cited in McDermott, 1991, p. 132)

There was also evidence of collective bargaining as a suitable vehicle for pursuing equal value from the Federal government's joint job evaluation study in the civil service, which started in 1985 in an effort to proactively comply with the federal jurisdiction's equal value legislation (incorporated into the Canadian Human Rights Act). Although the Act had been in place since 1978,

working on the basis of a complaints model, the federal government decided in 1985 that they would initiate a study in cooperation with their thirteen unions, in order to identify any disparities. This policy was called the "Proactive Measure." After two years meetings of joint, single-table meetings with all the unions involved, the parameters of the job evaluation study was established.

According to Ouimet (1988), a civil servant in the federal Treasury Board, this was the first time that all thirteen unions had dealt with an issue together. The study (which was still ongoing at the time of her paper) demonstrated that pay equity could be tackled within the normal range of union-management relationships. The selection and adaption of a common job evaluation plan, identification of male and female dominated classes, size of sample for the questionnaire, communication strategy, and evaluation were all conducted jointly. All of these stages were described as less adversarial than conventional wage bargaining.

In April 1988, the premier of Newfoundland and Labrador announced a proactive pay equity policy, to be implemented through a joint union-management process:

...we intend to consult and work cooperatively with representatives of employee groups to achieve equal pay for work of equal value. We will be establishing joint management\union committees, which will agree upon the details

of and carry out the job evaluation process, and identify required pay adjustments. (Roome, 1989, p. 8)

It was clear that the Newfoundland and Labrador provincial government believed in the compatibility of pay equity and collective bargaining, and furthermore, that the policy could be implemented with the cooperation of the labour movement.

Likewise, there is evidence that the Ontario government anticipated a more cooperative style of bargaining in the implementation of pay equity. In its guidelines on Effective pay equity committees (1988), published by the Pay Equity Commission, it is evident that there was an expectation that pay equity (and particularly the job evaluation component) would be handled in a different, less adversarial mode than conventional wage bargaining. The booklet draws upon literature in organisational behaviour on effective group decision making and teamwork, and upon industrial relations material describing the preconditions of integrative bargaining.

For example, the recommendations included the importance of the committee members developing an atmosphere of trust and openness; the importance of continually monitoring process; consensus reaching techniques, as opposed to voting procedures or negotiating; problem solving through identifying the problem and evaluating alternative solutions; small group discussion; and the encouragement of active listening and equal participation.

Furthermore, the first Pay Equity Commissioner revealed a clear vision of cooperation during a presentation he made at a pay equity workshop at the National Centre for Management Research and Development, University of Western Ontario (1988), pointing to the Commission's statement of principles which included a strong commitment to the cooperation of those affected by the policy.

These contradictory strands of the debate about the compatibility of pay equity and collective bargaining are not identifiable along simply union-employer lines. Governments as employers were not in alignment with private sector employers, partly explained by their different economic and political circumstances. It was apparent that the governments of Manitoba, Ontario and Newfoundland were satisfied that pay equity could be implemented cooperatively through collective bargaining. Moreover, all the governments introducing pay equity legislation after Ontario (the Atlantic provinces of Nova Scotia, New Brunswick, and Prince Edward Island) required the joint implementation of pay equity in good faith, and to aid in the process obligated employers to disclose information relevant to the implementation of pay equity. It is important not to oversimplify this divide between public and private sector employers because, as mentioned above, one major industrial sector had been successfully pursuing wage setting through a joint classification and appeal process since the early 1970's. The United Steelworkers of America designed its own classification system, the Cooperative Wage Study Job Evaluation

System (CWS), which is applied jointly with the employer to assign wages to jobs (Chaykowski, 1990). The CWS plan is implemented through a joint evaluation committee which rates jobs according to the same four factors - skill, effort, working conditions and responsibility - as listed in all Canadian pay equity legislation. Over the years, rules of procedure have evolved for resolving impasses in the committee. For example, after jointly deciding the point scores for a number of subfactors (the CWS lists 12 specific criteria), weightings are negotiated, where trade-offs are allowed to reach a solution, including what Chaykowski called "sidebars." This is where one side agrees to accept their opposites' factor score evaluation for one job class if their opposite agrees to accept their own position on another job-class (Chaykowski).

This largely successful experience of wage-setting using joint job evaluation was seemingly ignored by the opponents of pay equity predicting dire consequences as a result of its intrusion into wage determination.

Bargaining Power

The issue of power centres upon a shift in union-management, intraorganisational and interunion power relations. As Acker (1989, p. 20) pointed out, "every time a wage is set...the fundamental relation of power between the worker and the employer is re-enacted," and pay equity is right at the centre of this wage-setting process. Pay equity will also upset established

hierarchies of power and status, as well as of income. Ellis-Grunfeld, a Pay Equity Commissioner for Manitoba, recognised that their legislation made the assumption that existing relationships would be altered: "Of course the collective bargaining process will be altered - and so it should be. Power bargaining has been part of the equity problem" (1987, p. 229).

Power relationships are changed both between the union and employer and intraorganisationally, especially within unions. Taking the union-employer relationship first, the positions taken in the debate during consultation is explained largely by both groups perceiving that pay equity legislation would change the power in existing arrangements, in favour of unions. Any apprehension in the Canadian labour movement about the emasculation of its role in wage-setting were allayed to a large degree by the legal requirement for union-management negotiation of the whole process. This obligatory input gives unions the opportunity to take some control over equality bargaining.

It also enhances their power to bargain specific items in order to address wage discrimination, despite previous employer resistance, and especially in the absence of the strike weapon. In addition, unions cannot have overlooked the opportunity for organising on the strength of bargaining effective pay equity plans, in comparison to non-unionised workplaces. Doubts as to the equity of unorganised employers' pay equity plans, without union input, have been expressed by Burkart, 1990. A presentation and subsequent discussion at a pay

equity conference (Abbott, 1990) by a major non-union private sector company adds to these doubts.

Unions' power is further increased because for the first time the bargaining agent has the legal right to information previously the prerogative of management. Job description, analysis and evaluation is taken out of management control; specialist knowledge is a strong power base. The Ontario legislation is the exception in not including an information disclosure clause but even in that province the Tribunal has ruled in favour of full and early information disclosure.

Turning to intraorganisational union relationships, pay equity will undoubtedly alter the power relationships of particular bargaining units within a union, or between particular occupational groups in the same bargaining unit. It should also be noted that the power and status of different unions in the same establishment may well be affected, possibly increasing interunion rivalry. Mostly, the flow of power will be from the male-dominated, traditionally strongest with the most bargaining power, to the female-dominated, traditionally the weakest with the least bargaining power (Gandz, 1987; MacKenzie, 1988; Robb, 1988).

While the latter authors saw this trend as causing instability and therefore basically undesirable, if pay equity is to redress wage discrimination it has to change these traditional power relationships, based as they are upon social

(gendered) constructions of women's work. Although the power dynamic within unions will change, causing tensions generally, in Ontario the maintenance phase is the fraught with problems in this regard. The Ontario Act is the only one with bargaining strength as an exemption after pay equity is achieved.

Interpretation of this clause is unclear, but it does mean that potentially traditional relationships of hierarchy and status could reassert themselves after pay equity adjustments have been paid out. As McDermott (1991, p. 129) remarked: "What is strange about this provision is that past bargaining strength is essentially ignored by the Act, whereas future bargaining strength is honoured." However, there is also a duty placed upon both parties to "establish and maintain" pay equity (section 8[2]) and, as Robb (1988) pointed out, unions should theoretically find it very difficult to justify wage increases subsequent to pay equity using these grounds since they work so clearly against the spirit of the Act. In any case, the bargaining strength exemption does seem at odds with the maintenance obligation.

The difficulties with the Ontario exclusion seem similar in principle to those in the British debate over the "genuine material factors" defence against equal value, where employers have justified differential wages because separate groups of workers had different collective bargaining arrangements (Lodge, 1987). In her criticism of British employers using collective bargaining arrangements to avoid equal value legislation, Gay (1989) argued that this

defence was unacceptable. Apart from the general point that the employer has agreed to do something which is unlawful - paid discriminatory wages - collective bargaining was based upon outdated ranking and differentials despite technological changes affecting the nature of jobs, and from a general unawareness of the importance of comparing jobs in any systematic or analytical way. Moreover, collective bargaining was based on a perception of job hierarchy derived from gendered concepts of skill and value of work in the enterprise (Gay, 1989). Indeed, a recent European Court of Justice decision declared the defence unacceptable, although it is still not certain that collective bargaining per se has been ruled out as an objective justification in all circumstances.

Gender and Class Dimensions

This section attempts to further the exploration of pay equity bargaining processes and outcomes by examining the gender and class power relations embedded in collective bargaining as well as job evaluation and pay determination. As proposed in Chapter I, a full explanation of the interrelationship between pay equity and collective bargaining cannot be attempted without taking into account the structural properties of gender and class, manifested primarily in the form of a job hierarchy which forms the basis of collective bargaining.

The argument rejecting pay equity as interfering with the status quo ignores or downplays the historical class and gender dimensions of the present arrangements, whether these preferred existing arrangements are taken to be the "neutral" workings of the market, or widened to include power bargaining for wages. It is interesting to note that private sector employers' arguments for the status quo fit in with an historical trend of resistance to any regulation which benefits employees but increases costs, either directly or indirectly (for example, general employment standards, minimum wage, family allowances). As such there is a recognisable class interest, and ideological character, in arguments about leaving the labour market to set wages, or (accepting some level of interference in market forces) through leaving the collective bargaining process to operate as it has before.

The gendered nature of collective bargaining is indicated partly by the historical role the parties played in the shaping of the sexually segregated labour market, as discussed in Chapter II. The resulting hierarchy of jobs and wages is reproduced and reinforced in the existing structure of collective bargaining relationships in Canada. Since bargaining takes place on an establishment basis and there is no industry-wide or national bargaining, bargaining structures are highly fragmented. As a result, wage differentials between both sectors and firms are firmly entrenched and reinforced by the bargaining structures (Fudge and McDermott, 1991).

Horizontal segregation is further reproduced in the bargaining unit structures within the establishments, which reinforces wage differentials. Determination of the appropriate bargaining unit during the certification process has been the primary influence in shaping the collective bargaining structure in Canada (Arthurs, 1981). Labour relations boards' criteria and jurisprudence focus upon a community of interests when drawing the boundaries of an appropriate bargaining unit. Historically, women in an enterprise have usually been part of a bargaining unit separate from men, defined upon largely occupational lines. The most common example would be a manufacturing concern where the office staff (women) are in one unit and the production workers (men) are in another unit. Each bargaining unit usually has separate pay structures. This emphasis upon homogeneous bargaining units has directly influenced job segregation and wage differentials (Robb, 1988).

Once it is recognised that bargaining structures and the organisational practices of parties to collective bargaining reinforce discrimination against women, it should come as no surprise that relying on the status quo has not led to any significant improvement of women's position in the labour market. Gaining equality in Canada without proactive measures been largely unsuccessful (Burkart, 1990; Cadieux, 1984; Chaykowski, 1990; Cornish, 1986; MacKenzie, 1988; Robb, 1987; Sarra, 1986).

Similarly, British studies have shown that, despite sexual discrimination legislation which put the onus on employers and unions to examine their

agreements together with their pay and organisational structures to ensure equality for women, most agreements studied did not contain any movement towards women's equality in the workplace (Colling and Dickens, 1989; Dickens and Colling, 1990; Dickens, Townley and Winchester, 1988).

This lack of progress was explained in terms of a general conservatism in collective bargaining, taking for granted existing pay structures or job evaluation schemes which perpetuated low wages and job segregation, leading to a typically narrow bargaining agenda. It was concluded that lack of awareness of discriminatory mechanisms was linked to gendered notions of work and skill. Barriers to any progress in this area included the predominance of negotiators drawn from male-dominated groups in both parties, who were apparently untouched by any equal opportunity policies that may have been introduced since these equality structures often operated in isolation from negotiating structures.

Unions' effectiveness in working towards women's equality in general and pay equity in particular turns upon two points. First, it is debateable whether unions are in practice capable of radical social change. As Hyman noted (1989), unions are unsuited to explicitly political activities of any kind; they do not usually challenge power and control in society.

The general economism in the labour movement is enhanced in North American unions. 'Business unionism' became entrenched in the labour

movement during the Gompers era and the ascendancy of the American Federation of Labour and its Canadian equivalent, the Trades and Labour Congress. However, Canadian unionism has always been less politically conservative than its United States counterpart. The historical and current tensions between national and international unions, and between craft and industrial\public sector unions in Canada is largely explained by power struggles over political direction.

Being slightly to the left of the American unions, Canadian unions have been more able to move from a purely economic stance, although any increased social and political awareness, especially on women's issues, has tended to be present in the public sector unions, which in the last decade have come to dominate Canadian unionism. One reason for the comparative success of the Canadian union movement compared to the American (union density had fallen to 16% in 1990 compared to the Canadian rate of 36%) is its strength derived from social and political strategies (Kumar, 1991).

The second point to be considered is how far patriarchal forces evident in the labour movement will impact on progress on women's equality, given unions' role of representing women's interests in pay equity implementation. Briskin argued that a socialist feminist politic has made significant inroads into the Canadian labour movement as a whole during the last decade, compared to its British and American counterparts. She described this emergence as: "...a strong, organised, and relatively successful movement of union women, deeply

influenced by a socialist feminist politic..." (1991, p. 14). Socialist feminists' independence from the left, combined with a relative integration within the women's movement, gives them a strength and an influence not possible for their counterparts in the UK or US. Canadian socialist feminists were able to take advantage of this political 'space' to develop a unique strategy of single issue coalition politics, through the recognition of the inter-connectedness of gender, class and race power relations. A central part of this strategy was to build alliances with the unions.

In addition, feminist organising within the unions was made easier by an ambivalent relationship between the New Democratic Party (NDP) and the unions, in contrast with the long-established integration of the British Labour Party and the trade unions. The distance between the social democratic party and the Canadian unions was exacerbated by the failure of the NDP at federal level. Partly because of this ambivalence, the Canadian Labour Congress (CLC) has increasingly adopted social movement strategies somewhat independent of the NDP, emphasising alliance with local community groups to strengthen their power in influencing Canadian public policy (Smith, referred to in Briskin; and Galt, 1990). This points to a convergence with feminist organisational methods and may have helped to legitimise feminist strategy in the labour movement. Potential fragmentation of feminism has undermined unity but, as Barrett and Hamilton (1986) commented, Canadian feminists do at least talk to each other "across barriers of theory, analysis and politics that

in Britain, for example, would long since have created an angry truce of silent pluralism" (cited in Briskin, 1991, p. 24). The National Action Committee on the Status of Women (NAC), an umbrella organisation of women's groups ranging from the Business and Professional Women's Clubs, to women's committees of unions and independent socialist feminist groups, is credited with holding the Canadian women's movement together over the last twenty years. Since the publication of the report of the Royal Commission on the Status of Women in Canada (1970), NAC's chosen strategy for equal pay has progressively been the equal value approach (Warskett, 1991), reinforcing the political momentum for pay equity policies.

Briskin's analysis suggests that Canadian unions, despite their history, have in the last decade been open to considerable changes in their policies and organisational strategies:

In Canada the link between union and party women developed in the context of a strong movement of socialist feminist women outside of party structures committed to coalitions as a strategic orientation. Indeed, the pull from the autonomous women's movement, through such coalition structures as the Equal Pay Coalition, has helped to strengthen the organising of women inside the unions and the party, to build links between NDP and trade union women, and to win gains on policy issues in both arenas. (1991, p. 16)

In tracing the rise of Canadian working class feminism, Maroney credited the expansionary strategy of the women's movement, but also explained how the development of organised labour "...facilitated the entity and expression of feminist consciousness" (1987, p. 88). Her analysis focused upon the dramatic increase in women's unionisation during the decade from 1966 to 1976, largely due to the legislated formation of public sector unions, which became female-dominated. Increased rationalisation of government led to proletarianised working conditions for female-dominated professionals, such as nurses and teachers, establishing fertile ground for militancy and openness to women's demands. In the private sector, pressures of a shrinking membership base have resulted in organising drives of clerical and service workers.

It is to be hoped that the increasing influence of a socialist feminist politic in Canadian unions will impact positively upon the pay equity process. Clearly, union commitment and expertise are needed for effective implementation.

Canadian unions' record on equality policies for women and their translation to collective bargaining achievements (see Chapter III) leads to the conclusion that there has been some movement towards women's equality in general, but with room for improvement, for some unions more than others.

Despite a proactive framework for the initial achievement of pay equity, the Ontario legislation relies on a voluntary model for maintenance of pay equity. Critics of the legislation are concerned that this method ignores the pressures

to reassert traditional and inequitable relativities, and the poor record of voluntary compliance (Burkart, 1990; McDermott, 1991; Skipton, 1991).

The ability of the parties to move beyond the status quo is all the more important when it is realised that the Ontario Act has largely upheld the integrity of collective bargaining in that province (Burkart, 1990). Each stage has to be negotiated by the parties with no provision of enforcement of standards unless a complaint is made. Thus, unless an agreed pay equity plan is challenged by an employee, it is deemed approved. There is no need to file the plan with the Pay Equity Commission, although the Commission does have the power to monitor the progress of the legislation. This power has been largely unutilized, however (Interview with Review Officers, 1991). Indeed, the Pay Equity Commission described the intention of the Act as being to cause the least amount of disruption possible within the establishment (Burkart, 1990). As Burkart noted: "There is an implicit assumption that these two parties can decide what is best for women without disrupting the existing labour management relationship" (1990, p. 34). It may well be that all the North American pay equity initiatives reflect a policy of the least possible disruption of existing collective bargaining relationships (Fudge and McDermott, 1991).

To compound the pressure of reinforcing gender and class properties in pay equity implementation, the instrument used to measure equal value in most pay equity initiatives may well solidify the very discrimination the policy is

designed to redress. All Canadian models of pay equity incorporate job evaluation as a methodology, largely following the United States comparable worth models (Quaid, 1993). Other countries, too, have largely used this methodology. However, among women's advocates in North America a debate has emerged about the wisdom of using job evaluation to obtain equal pay. It has been argued that job evaluation is a management tool and that it was originally designed to establish and reinforce hierarchy, differences in wages and management's place (Armstrong and Armstrong, 1991; Brenner, 1987; Haignere, 1990; Remick, 1984; Treiman and Hartmann, 1981). Traditionally, unions have opposed job evaluation for the same reasons and their acceptance, where obtained, has been limited largely to the classification component as a framework within which to bargain (McDermott, 1991).

The early job evaluation plans were designed for male-dominated workplaces, and so valued male-dominated work and rendered invisible, or undervalued, female-dominated work. Apart from being class-based, the hierarchy encapsulated in job evaluation is built upon a male standard. The job comparison required by equal value policies is a reflection of this male standard (Dickens, 1992). Traditional job evaluation inevitably reproduces patriarchal relations of power woven into the past and present logic and practices of the workplace (Acker, 1989; Blum, 1991; Evans and Nelson, 1989; Warskett, 1990). For example, the assumptions and ideology behind the

family wage were built into the development of job evaluations systems in the 1940's and 1950's (Steinberg, 1990).

Nevertheless, some critics of traditional job evaluation claimed that evaluation schemes can be redesigned to capture and value previously undervalued or invisible female dominated work (Cornish, 1986; Equal Pay Coalition, 1988; Remick and Steinberg, 1984; Steinberg and Haignere, 1985). However, even if an apparently gender neutral job evaluation scheme were applied, it could not value some women's jobs (at the bottom of the hierarchy) as equal to men's because their work is, objectively, "worth" less than men's (at the top of the hierarchy), given the historical exclusion of women from skilled work.

However, for some women's advocates, the political price of divisiveness caused by job evaluation - between men and women, and especially between women, is too high (Lewis, 1988; Warskett, 1990). Pay equity implemented through evaluation is seen as a strand of liberal discourse, as particularly dangerous because it masks value judgements in an apparently "scientific" and "objective" mathematical model. As Lewis argued: "...reducing wage discrimination to a technical problem essentially removes it from the realm of economic and political struggle" (1988, p. 87; see also Blum, 1991). In her case study of pay equity in a non-unionised environment, Quaid (1993) highlighted job evaluation as institutionalised "myth," disguising a social construction of value.

The fear is that after pay equity implementation is completed, whether the wage gap is closed or not, whether the hierarchy of jobs is really changed or not, politicians and managers (and some unions) will use the exercise to justify the status quo, making any further political action on women's wage equality virtually impossible. Consequently, some Canadian equal pay advocates warn against pay equity as the only policy to redress discriminatory wages and recommend a political as well as (or rather than) technical route to equal pay, emphasising wage solidarity (Lewis, 1988; McDermott, 1991; Warskett, 1988).

Never-the-less, as Warskett pointed out (1991), even the fiercest critic (for example, Lewis, 1988) has had to concede that women must learn to use job evaluation to their advantage when faced with legislation or a policy initiative offering equity adjustments based on this methodology. After some experience of implementation in the Ontario public sector, some of the original critics of the job evaluation methodology have changed from rejection to guarded acceptance, alleging that a rigorous feminist critique and redesign of existing schemes can offer potentially radical benefits to women workers covered by the legislation (Armstrong and Armstrong, 1991).

So far, the discussion has touched upon both constraining and enabling facets of gender and class structural properties. Collective bargaining itself is only understandable if we build in the complex intertwining of gender and class, and the reinforcement of discrimination against women encapsulated in this

relationship. Pay equity bargaining introduces a potential challenge to the status quo, although it is argued that the Ontario legislation was designed to minimise disruption to existing collective bargaining relationships. Another part of the equation which bears upon the effectiveness of that challenge is the emergence of a socialist-feminist politic in the Canadian labour movement, and its possibilities for enhancing women's power to achieve equal pay.

Studies of these complex relationships in pay equity bargaining are few, although the literature on pay equity is growing. The rest of this chapter will draw from the available studies of implementation of pay equity initiatives with the aim of further understanding the interrelationship between collective bargaining and pay equity.

Previous Pay Equity Studies

The one Canadian study of pay equity implementation was based upon research conducted into the federal government's proactive policy in the civil service (Warskett, 1991). Although not presented from a labour relations perspective, the analysis of the case focused upon the power and control functions of job evaluation systems in a liberal democracy, and in particular the Treasury Board's role in reasserting its power and control over the technical process. The Treasury Board did this by neutralising the Public Service Alliance of Canada's (PSAC) equal value complaints with an equal value study, and it used this study to contain costs and minimise change to the existing job hierarchy,

eventually acting unilaterally as employer to ensure its strategy was successful. This action by an influential wing of the bureaucracy acting on behalf of government as employer illustrates the potential power of the state in the implementation of pay equity.

Bearing in mind the earlier reference to the same federal government initiative as an example of movement towards more cooperative bargaining, the difference between Warskett's and Ouimet's account should be noted. Part of the explanation lies in the different time frame. Ouimet's paper only dealt with an early phase of the Proactive Measure, when the mode of bargaining was apparently different from and more cooperative than usual. Warskett had the benefit of a longer study of the implementation and was therefore able to identify more conflictual union-employer relations towards the end of the study, when the Treasury Board unilaterally changed the results. A second factor in the different account of the process is the different theoretical framework. An appreciation of the structural properties of class and gender, and the role of the state as employer in reinforcing those power relations, enabled a fuller understanding of the implementation of equal value in the civil service. The provision in this theoretical framework of a clear link between technical disputes and political conflict also enabled a more revealing analysis of interactions between different evaluators involved in the project.

Moving now to pay equity literature in the United States, there are three major studies of comparable worth, all based upon initiatives in the public sector.

None of these has labour relations as its theoretical perspective. Even so, some conclusions can be drawn about the interrelationship between collective bargaining and pay equity since it is clear upon reading the accounts and analyses of these case studies that the role of collective bargaining was important in understanding the process and outcomes.

Two of the studies discussed the role of the employer, especially women bureaucrats, in implementation of comparable worth/pay equity. In the Minnesota study (Evans and Nelson, 1989), the state saw itself as a winner in comparable worth reform. The authors of the case study highlighted the importance of committed feminist leadership to the policy's success. The female Commissioner of Employee Relations was backed up by a committed Department of Employee Relations, whose expertise eased the difficult technical process. An indicator of employer commitment to comparable worth was an early agreement to a male wage line as the standard for all wages and a separate allocation of monies. This employer commitment at the state level, together with crucial public sector union commitment, was in contrast to the employer resistance and general lack of expertise in the localities, contributing to the flawed implementation of comparable worth in the decentralised process. In Blum's case study (1991) of two Californian cities, she pursued this issue of "elite women" and their contribution to achieving equal pay for women. Previous commentators (Flammang, 1987; Meuller, 1987) had proposed that the comparable worth contract in the city of San Jose would never have

occurred were it not for a network of elite women in leadership positions.

Blum contested this conclusion based on her findings, noting that low-paid women questioned the feminist convictions of these officials upon realisation that elite women had their own conflicting agendas.

In her other case study, Contra Costa, the differences between elite and low paid women were not so important as the very conservative and "blatantly sexist" men in county government (1991, p. 164). Nevertheless, Blum identified some tensions between women as a result of their class-based positions. She identified the conflicting pressures of women public sector officials in her case studies as being similar to that in Steinberg's description (1987) of the New York State initiative: an ambivalence leading to a redefinition of comparable worth, a minimising of its objectives, and implementation of a "reasonable" reform more palatable to the business community, the taxpayers, and the male officials with whom elite women must work. Indeed, even though Evans and Nelson acknowledged the important role of elite women they also pointed to the tendency of women managers towards containment and cost control, as representatives of the employer.

The authors of both studies recognised the importance of union support for women's equal pay, but Evans and Nelson identified a paradox they called "redistributive justice in a declining economy." It referred to the dilemma of advocates of comparable worth in having to mobilise support for the reform in the labour movement for it to succeed, whereas downward pressures on the

traditional male wage are likely to generate defensive hostility from their potential allies who see comparable worth as eroding their own already decreasing wages. The erosion of the male wage in real terms also led to a generally lower standard with which to compare equally valued jobs.

The role of labour and the collective bargaining process in pay equity implementation is most interestingly analysed in Acker's study of comparable worth policy in the state of Oregon (1989). The author traced the gradual dilution of "true comparable worth" (a wage structure based upon evaluated points), to "poverty relief" (wage rises for the lowest paid classifications). This shift, a failure in comparable worth terms, was due to a complicated interweaving of class and gender properties, which she differentiated broadly into two categories: political processes and the embeddedness of gender/class properties in organisational and ideological processes.

Based upon her research, she listed practices which overall repelled any efforts to change, despite the comparable worth project, and reinforced gender and class properties. These practices upheld the integrity of organisation hierarchy: hidden skills in women's work (or the active production of invisibility); opposition to redistribution of the wage (or the active production of wage inequality); struggles over authority and control (or the active production of marginality). All of these practices together comprised an organisational logic with a gendered substructure.

Of particular interest in the context of the case studies to follow in the next two chapters is what Acker called the active production of invisibility. This practice was best illuminated by the interactions evident in the job evaluation process. As in the Evans and Nelson and Blum studies, Acker's account located the continuing reinforcement of hierarchy and the devaluation of women's work in it, in the design and application of the job evaluation system. The unmodified Hay system included operational definitions, double entry, organisational charts and relationship between factors which all served to reproduce hierarchy.

To compound this effect of the evaluation instrument itself, gender ideology incorporating gendered images of skill, work, technology and masculinity and femininity was discernible in the interactions of the committee members.

Acker recorded long heated discussions between the feminists representing the clerical workers and the male blue-collar representatives where technical know-how and human relations skills were contested, but: "The women were dedicated to the comparable worth goal and argued their points fiercely. The men were equally adamant and, indeed, never gave in. Their concern was that, in comparison with females jobs, the male jobs would be undervalued." (1989, p. 95)

Referring to Cockburn's study of British printers who fought to maintain the definition of skilled work despite technological deskilling which threatened their gender identities, she identified verbal strategies used by the men

evaluators to resist any devaluing at all of their skills, regardless of the impact on wages: "They were concerned with respect, getting their due. Admitting that certain female jobs might be worthy of a similar respect seemed to be demeaning to them" (1989, p. 102).

It should be noted here that in her study Blum identified the objection of men to comparable worth as evidence of a similar phenomenon. A group of engineering technicians had by-passed the union by applying directly to the city administration for raises. She suggested that these men were suffering from "status anxiety" as a result of comparable worth gains for women. In support of this contention she cited Acker (1989) and Steinberg (1986) and their work linking skill with masculinity (see also Cockburn, 1983; and Phillips and Taylor, 1986). Not only the men's dominant status in a patriarchal society was under attack but also their gender identity. Thus, their defensive reactions may well have occurred regardless of the actual economic threat involved.

Both the Acker and Blum studies showed the importance of gender identity derived from gendered notions of skill, work and value in understanding the pay equity bargaining process. But it is in Acker's consideration of the politics of conflicting interests and unequal power that she places the labour relations system squarely within the context of a political process which tends to reproduce gender and class relations even as attempts are made to change them. She identified such high levels of union-management conflict and

interunion rivalry that women's interests were marginalised, forming a barrier to the change process.

Union-management conflict in the comparable worth process, including management disbelief in the compatibility of collective bargaining with the achievement of pay equity, grew to such proportions that the project failed to meet its original objective (i.e.; "true comparable worth"). Combined with this and exacerbating the conflict was an inability of the unions to form a common front, so that the process was stalled, and the effort to raise women's wages was undercut: "Oregon labour could not get it together....The resulting failure to achieve a united approach by labour created difficulties for the Oregon project and marginalised the interests of the women workers" (Acker, 1989, p. 148).

The union-management and interunion conflicts evident in the Oregon comparable worth initiative represented a struggle over power and control. The disputes were often about wage setting, but it was also about other issues - management rights to define and decide; unions preserving their rights against management; and unions differing irreconcilably over strategies. As Acker pointed out perceptively:

These were class and bureaucratic issues, but they were not gender neutral. They were built upon a gendered organisation of what is most important, and, of course, the consequences were not gender neutral....Marginalisation is not simply a

pushing to the side, a failure to pay attention, or carelessness,
but an active process of creating what is most urgent,
interesting, or significant. (1989, p. 217)

Acker's insights extended to a location of the marginalisation of women's interests in the broader framework of the gendered nature of labour relations, including the notion of class-interests. The class and gender interests of men were so built into the very fabric of the labour relations system that:

practical proposals to legislate improvements in women's relative situation appeared to undermine general working-class interests, such as the principle that trade unions must not allow lowering of members' wages or restricting of the right to bargain.

Labour relations are structured in such a way that women's interests may appear as "only" gender interests, which are devalued and displaced. Men's interests, on the other hand, are often seen, and acted upon, as representing general class interests. (1989, p. 218)

She recognised the dilemma facing women workers and feminist advocates of comparable worth in putting their faith in the labour movement for support and action on equal pay:

The very strategy that seems to promise a solution to the historic undervaluing of women's work can be turned back on them to

become a way of undermining the strength and unity of unions that are necessary for the achievement of equity. (1989, p. 17)

Acker's analysis provides crucial insights into the complex relationship between collective bargaining and pay equity, but the bind she presents in the quote immediately above is perhaps not so tightly woven in the Canadian pay equity context. First, pay equity legislation in Canada provides a central role for collective bargaining, and unions are considered jointly liable for any discriminatory wage bargaining.

In Oregon, it was perhaps predictable that the unions' response was negative, triggering a defence of their hard-won rights to collectively bargain over wages. Although they were involved in the job evaluation process, advocates' proposals of "true comparable worth" did remove wage-setting from the arena of collective bargaining completely - wages were to be based purely on evaluation points, incorporated in legislation. From the perspective of one major union involved in the comparable worth effort, the Taskforce (the joint group responsible for the comparable worth project in Oregon) was:

"...coming close to attacking collective bargaining, rather than sexual discrimination..." (1989, p. 137). This is not to say that the problems Acker pointed to will not happen in Canada, but to caution against too pessimistic a prognosis, given that the whole process is to be negotiated with unions in organised workplaces (and this applies to political policy as well as legislated pay equity).

The second reason for limited optimism is that unions in Canada are more social and political than their American counterparts, as discussed earlier.

Finally, at a theoretical level, although Acker does acknowledge that marginalisation of women's interests is not irreversible, this is passed over very quickly. In my view, her account does not give enough attention to the positive role of a labour-feminist alliance in achieving some redress for low paid undervalued women in the workplace. It may well be that the alliance broke down too early and too seriously for her to build it in as a significant force for change. Be that as it may, at a theoretical level there is almost a deterministic gloom about her analysis - too much emphasis upon the constraints of gender and class and a glossing over of the positive facets of grasping the opportunities located in the same structural properties. In Ontario there has been a successful labour-feminist alliance which was prominent in obtaining, monitoring and amending the legislation. Moreover, indications are that there has been some movement beyond the limiting effects of the structural properties of gender and class in the labour relations system in certain pay equity negotiations.

The research reported in the next three chapters addresses the key debates indicated in this chapter, and attempts to further our understanding of pay equity bargaining by examining the complex intertwinings of gender and class, recognising that these structural properties incorporate both limitations and possibilities.

CHAPTER V

Pay Equity Bargaining in Newfoundland: Health Care

In this chapter, pay equity bargaining processes and structures in the Newfoundland health care sector are examined. The early part of the chapter places the province's pay equity bargaining in the economic, social and political context. After a brief review of Newfoundland's economy, information is provided on women in the labour force and equality policies, and public sector bargaining in the province. To aid analysis of complex processes and structures, the findings have been categorised into three separate stages. Functionally and structurally, these stages of negotiating pay equity are separate: the Pay Equity Agreement, the Pay Equity Steering Committee, and the Job Evaluation Committees. In reality, the Pay Equity Steering Committee and the Job Evaluation Committees ran concurrently for a period of time, and personnel overlapped between the Pay Equity Agreement and the Pay Equity Steering Committee stages. Finally, the gender and class dimensions of the structures and processes of pay equity bargaining in Newfoundland are examined.

Newfoundland has a small population of 568,000. The average income for Newfoundland 1986 census families, was considerably lower (\$28,000) than the Canadian (\$38,000) and Ontario (\$42,000) levels. This low income is largely explained by the pattern of total income in Newfoundland. The

province's employment income figure (73%) is lower than in Canada (79%), and in Ontario (80%). Moreover, the figure for government transfer payments (21%, and representing unemployment insurance benefits (UI), social assistance, family allowances, pensions and old age security payments) is nearly double the national level (11%) and over twice the Ontario figure (9%) (Statistics Canada, 1986). The extent of the province's dependence on the UI programme is illustrated by a comparison of UI payments as a proportion of total personal income in 1988: 10% in Newfoundland, contrasted with 1% in Ontario (Government of Newfoundland and Labrador, 1992).

An examination of the economic indicators for the province shows Newfoundland's disadvantaged position in comparison to national levels of prosperity. From 1980 to 1990 the province's average per capita Earned Income and per capita Gross Domestic Product (GDP), relative to the rest of Canada's, were low: only 60% and 61%, respectively. Moreover, during the same period, provincial unemployment levels averaged at 190% of Canada's rate of unemployment (calculated from Statistics Canada 13-213 and 71-201, 1992; and Newfoundland Statistics Agency, 1994). Provincial government economists point to economic structure as the main problem.

In 1990 the goods-producing sector accounted for only 29% of total GDP, while the services sector accounted for 71% (Government of Newfoundland and Labrador, 1992). Manufacturing in Newfoundland is vulnerable, selling a limited number of goods in a limited number of markets. Industries are mostly

resource-based (fishing, logging and mining) and seasonal, struggling in a declining market, and faced with increasing shortage of natural resources. The complete failure of the groundfish stocks in 1992, causing the sudden unemployment of 25,000 fisherpeople, is a dramatic example of how fragile the resource base is. The services sector, overall, does not provide many export opportunities, although there is limited growth in tourism, and ocean and offshore-related research and development.

Position of Women and Equality Policies in Newfoundland

Between 1966 and 1986, the province's female population increased by 18%, becoming slightly less than half of the total population. Family structure also changed. There were 47% more lone-parent families in 1986 than in 1976, and about 80% of these families in 1986 were headed by the mother. In 1986, these female headed lone-parent families accounted for 9% of all families in Newfoundland (1987, Women's Policy Office, Government of Newfoundland and Labrador).

There has also been a dramatic increase in the female participation in the provincial workforce, from 32% in 1976 to 44% in 1991 (1992, Women's Policy Office). Nationally, Statistics Canada called the number of women with children entering the workforce now "one of the most significant trends in the Canadian labour market in 20 years" (cited in MacDonald, 1993). Moreover, there has been a marked increase in the number of working women with young

children. Whereas in 1976, fewer than 32% of mothers with children under three years of age were in the workforce, by 1986, 66% were working full-time (Labour Canada, 1988).

Despite the growth in women's employment, and a legal requirement for equal pay for equal work in the provincial 1971 Human Rights Code, in 1990 there was still a substantial earnings gap between men and women working in Newfoundland (37%). Apart from the limited concept of equal pay and the inadequate complaints model incorporated into the human rights legislation, a significant reason for this discrepancy is the sexual segregation of the labour market in the province. In 1991, 58% of Newfoundland women were still employed in the clerical, sales and service areas. Although the number of women in the managerial\professional field had increased from 27% in 1989 to 33% of all women in the labour force, the clerical field alone employed almost 28% of the female labour force, compared to less than 5% of the male labour force. The largest earnings differential was apparent in the sales field, where women earned less than 40% of men's wages in 1990 (Women's Policy Office, 1992).

Placing this in a national context, the average earnings of Canadian women in all occupational categories were markedly less than those of men in 1986, 1987 and 1988. In 1988, the smallest differential was in the clerical group, where women earned on average 71% of men's average earnings, whereas the largest differentials were in transport equipment operation (46%), sales (49%) and

medicine and health (49%). In none of the ten highest paid occupations in 1985 did women's average full-year full-time employment income exceed men's. For example, women in the judges and magistrates category (the second highest-paid occupation) averaged an employment income of \$61,094 compared with men's \$78,402 (78%). The air pilots, navigators and flight engineers category had the greatest discrepancy between men's and women's average employment income - \$27,436 compared with \$57,337 for their male counterparts (Statistics Canada, 1991). This gap in occupational earnings can largely be explained by vertical segregation. Even in particular workforces dominated by women, they are under-represented in senior positions. For example, in 1989 women held about 72% of all full-time jobs in banking, but only 6% of upper-level management positions (Labour Force Development Board, 1994).

In a study of the top 500 Canadian companies in 1991, only 6 had female chairpersons, and 3 of these were crown corporations (Leighton, 1993).

According to the Conference of Canada, only 6% of Canada's corporate boards are women (Women at the Top, 1990; see also Lavigne, 1993, and Women not making corporate strides, 1992).

This lack of female representation at the top of the corporate and legal structures is paralleled by a dearth of women in the political arena.

Nationally, only 13% of political seats are occupied by women (Black, 1993; see also Lavigne, 1993). Although no Newfoundland figures were available

for previous years, in the 1994 provincial government House of Assembly, only 5% of the elected politicians were women, and only 7% of the cabinet. In the most senior civil service positions, 17% of the Deputy Ministers and 16% of the Assistant Deputy Ministers were women (Robbins, Interview, 1994).

The province's education system shows a clear pattern of vertical segregation. In 1990, although 52% of school board employees were women, there were no female school superintendents (the most senior management position), and only 9% of assistant superintendents were women. In the schools themselves, only 22% of the school principals, and 25% of vice-principals were women.

According to the Newfoundland Teachers Association, this province has the "worst Canadian record" (cited in Top-heavy male, 1990, p. 3).

Government recognition of this labour market inequality is reflected in the funding of policy advisory groups for women by both the federal and the provincial government. The federal government funds a national network of Status of Women's Councils and there are 7 regional Councils in the province. Affiliated to these bodies are regional Women's Centres (also funded federally), which provide a general service to women, including counselling, networking, and information. The provincial government funds a Provincial Advisory Council on the Status of Women. Despite strong commitment and leadership, in practice its influence is limited, given the inevitable tension between its mandate and its funding.

Other government-sponsored bodies in the province are those that aim to influence the labour market by encouraging women to enter non-traditional occupations (Women in Trades and Technology and Women in Science and Engineering), to support women entrepreneurs (Women's Enterprise Bureau), and to provide shelters for abused women and children. The Women's Institutes and Women's Network are volunteer organisations.

Although there have been personal links developed between the women's groups in the province and the labour movement, overall, this relationship has been haphazard and, at times, strained. Compensating for this somewhat distant relationship is a relatively strong national labour-feminist alliance. However, labour's record on equality policies and action varies according to type and composition of union, and feminist analysis and process has percolated through national union networks with variable effectiveness. As a positive example, the Newfoundland provincial CUPE body is clearly influenced by the policies and practices of the national Director of Equal Opportunities, a feminist who has well-established connections with Newfoundland and subsequently sat on the Joint Pay Equity Steering Committee.

Apart from funding external women's groups, a major plank of the provincial government's equality policy for women is the Women's Policy Office, established in 1985. It is an internal advisory body with monitoring, education, research, coordinating and networking responsibilities, and its goal

is to "achieve social and economic equality for all women in Newfoundland and Labrador" (Women's Policy Office, Undated). The unit has been subject to funding cuts and operates with an uncertain future, given the economic and political climate of the 1990's.

In 1988, the provincial Department of Employment and Labour Relations introduced the Occupational Integration for Women Program, aimed at lessening the barriers against women entering non-traditional employment. The department also initiated a "Job Bridges" program which provided wage subsidies for an employer who employs women in a non-traditional occupation.

In 1984 the Cabinet appointed a Task Force on Affirmative Action to review the systems in place within the public service and make specific recommendations to ensure equal opportunities for women, with a particular mandate to review the government's pay policies. A number of interest groups presented briefs to this Task Force, including various unions, the Newfoundland and Labrador Federation of Labour and the Provincial Advisory Council on the Status of Women. In 1985 all the recommendations made by the Task Force were accepted by the government, including the establishment of an Employment Equity Council, made up of representatives from the Treasury Board Secretariat, Public Service Commission, unions and women's groups. This Employment Equity Council has, however, been largely inactive, until very recently.

These provincial policies were complemented by a federal employment equity initiative. Legislation passed in 1986 required all organisations regulated by the federal government to implement employment equity. The following year the programme was extended to include federal contractors. Unfortunately, this initiative has proved to be limited in both its specific requirements, which amount to reports and plans rather than effective equitable employment, and its enforcement, which is weak.

One recommendation of the Affirmative Action Task Force, and accepted by the provincial government, was the systematic comparison of the male and female dominated job classifications with a view to achieving a more equitable pay structure. This was the first step towards pay equity, but it was a public sector union who acted as a catalyst in 1986 in the achievement of a concrete policy.

The pioneering pay equity legislation passed in Manitoba in 1985 set the scene for an increased sensitivity to the issue in the Canadian labour movement. In Newfoundland, the Newfoundland Association of Public Employees (NAPE) included pay equity as one of their demands during their hospital support workers' wage negotiations for 1986. They were particularly interested in equalising the wage rates for domestic and utility workers who did the same job. NAPE was unsuccessful in obtaining any pay equity adjustments at that time but served notice on the government that the union's participation in the

next round of negotiations would be conditional upon the government's commitment to pay equity.

Next round, pay equity was a precondition of negotiations for NAPE and when the government refused the union made pay equity a strike issue. The government responded by proposing a joint study of the whole issue and gained the support of four other public sector unions in the venture: the Canadian Union of Public Employees (CUPE), the Newfoundland and Labrador Nurses' Union (NLNU), the Association of Allied Health Professionals (AAHP), and the International Brotherhood of Electrical Workers (IBEW), who also happened to be negotiating their collective agreement with Newfoundland Hydro (the crown corporation producing electric power) at that time. NAPE did not want a joint study and proposed instead the joint negotiation of a pay equity agreement. The other unions agreed. All unions contributed towards a proposal submitted to the government, who accepted it and announced the implementation of pay equity through the collective bargaining process (Curtis, Interview, 1992).

The history of public sector collective bargaining up until that time had not been smooth. The Progressive Conservative government had been the employer in one of the most dramatic and confrontational strikes in the province since the 1950's: the illegal civil service strike in 1986, involving the arrests of many strikers and a four month prison sentence for NAPE's president. In 1988, a year away from an election, the Premier wanted

reconciliation with labour. Joint implementation of pay equity, which also enhanced the image of the administration as progressive on women's issues, met this political requirement.

Public Sector Collective Bargaining Climate

Pay equity bargaining in the province was affected by the general labour relations climate in the public sector, both leading up to the Pay Equity Agreement and afterwards. It is important therefore to briefly examine collective bargaining in the provincial public sector before focusing on the pay equity negotiations. The public sector represents the largest employer in Newfoundland, and the high unionisation rate in the province is partly a reflection of this. At a 53% level of unionisation, Newfoundland has the highest number of people unionised as a proportion of the non-agricultural working population in North America (Payne, 1993).

The Public Service Collective Bargaining Act, 1973, regulates public sector labour relations in the province, covering unfair labour practices, certification and decertification (including definition of the appropriate bargaining unit), notice to bargain on certification, conciliation, limitations on strikes and lock-outs, essential services, adjudication (interest disputes), grievances and arbitration (rights disputes).

Collective bargaining has tended to be conflictual, during both the previous Progressive Conservative government and the current Liberal administration,

elected in 1989 and again in 1993. There are two very strong public sector unions, one of them fairly radical by Canadian standards. These two unions are the nucleus of a Coalition of Unions representing public sector employees, working against the current Liberal government which has determinedly pursued free market economic policy, focusing on deficit reduction. Actual and threatened lay-offs combined with a wage freeze in the public sector, extending to cancellation of previously agreed wage increases, including a substantial arbitration award, have led to accusations by the provincial labour movement of government suspension of collective bargaining rights, and a failure to abide by its own labour legislation.

The height of union antagonism towards the Liberal government was after the wage freeze legislation (Bill 16) was passed in 1991; this Act also contained the cancellation of retroactive pay equity adjustments, which fuelled the anger of the already outraged public sector unionists. Concerted union action has included direct participation in the political arena. During the June 1993 election all the unions campaigned against the provincial government. The then head of NAPE stood as an NDP candidate for the provincial House of Assembly.

As a backcloth to this growing antagonism between public sector unions and the government, there has been an ongoing acrimonious dispute over essential services legislation which seemed resolved towards the end of the previous Progressive Conservative government, but has resurfaced in the current

administration. This continuing dispute has soured labour relations in the hospitals and nursing homes, whose employees' jobs were evaluated in the first phase of pay equity implementation. Parity between the same occupational groups in different bargaining units, and sensitivity to the concept of parity in general, is another important collective bargaining issue especially relevant to NAPE, since it was the main issue in their illegal strike of 1986. High levels of commitment to existing parity relationships has already had a negative impact on the settlement of pay equity adjustments in health care.

A strike which occurred in 1990, deemed illegal by the government because of the lack of an essential services agreement, was in the hospital support component of Newfoundland and Labrador Association of Public Employees (NAPE), whose president was the original Co-Chair of the Joint Pay Equity Steering Committee and whose representative was a key player in the first Job Evaluation Committee. This was a bitter strike, involving court injunctions, back to work legislation, picket line arrests and fines of the union, its officers and the strikers. The fines against the strikers were eventually quashed by the government but the binding arbitration, part of the back to work legislation, awarded a 22.9% wage increase. A subsequent court appeal brought by the government against this arbitrator's award failed. This was hailed as a victory by NAPE. It was a short-lived victory because the government legislated a wage freeze in its 1991 budget and cancelled the arbitrated award in the same Act (Bill 16). Legislating away interest arbitration awards was unheard of at

that time in labour relations circles and caused great bitterness in public sector labour relations, affecting long term labour relations in general and pay equity bargaining in particular.

The Pay Equity Agreement and The Parties

The jointly negotiated Pay Equity Agreement was settled in June 1988, and was incorporated into all the participating unions' collective agreements. After nearly three years' pay equity bargaining, one group of health care employees, hospital support workers, began receiving instalments of their pay equity adjustments in March 1991. Adjustments ranged from \$0.09 to \$1.94 an hour, and the average hourly adjustment was \$1.05. Based on a work week of 37.5 hours, annual pay equity adjustments ranged from \$175.50 to \$3783 for health care employees, and the average was \$2047.50 (The Pay Equity Newsletter, 1991). The other employees in health care covered by the Agreement, whose jobs were evaluated in a second committee, were still waiting for their wage adjustments at the time of writing this thesis.

The Agreement required the gender neutral evaluation of female-dominated classes (defined as five or more employees, at least 60% of whom are female) in health care, public service and the broader public sector (for example, crown corporations, community colleges, public libraries). Recognising that traditional job evaluation systems are gender biased, the parties had included

the requirement that the system used must be gender neutral and thus able to effectively capture women's work.

Comparison of the identified female-dominated jobs was with selected male-dominated classes (defined as five or more employees, at least 60% of whom are male). Evaluated male-dominated classes were calculated into a male wage line by plotting the value of the male-dominated jobs, as determined by the same gender neutral job evaluation system that was used to evaluate the female-dominated jobs, against the wages paid for that job class. In most workplaces, a female wage line appears below that of the male wage line, showing the wage gap between male- and female-dominated jobs of equal value, and in turn indicating the pay equity adjustments to be paid to close that gap. In the Newfoundland Agreement, women's jobs which were below the male wage line were to be brought up to the male wage line over a period of five years, with at least 1% of payroll paid out annually in wage adjustments.

The use of a male wage line as opposed to a combination of male and female wage line, or a job to job comparison (as in Ontario), worked to the advantage of women, as did the deadline for closure of the wage gap by the fifth year. Moreover, the Agreement provided for the identification of male wage line jobs outside the preliminary grouping of employees if those inside that grouping were not of sufficiently high evaluation level for some female classifications. This was the result of hard bargaining by the nurses' and professionals' unions, and their jobs were in fact evaluated at a second Job

Evaluation Committee. Also included was a retroactivity clause for the major membership groups of the unions present at the Agreement negotiations.

The Agreement set up a joint Pay Equity Steering Committee to monitor the implementation of pay equity. The Committee was to be at least 50% female with one female Co-Chair. It was to select a gender neutral job evaluation system; administer the components of the job evaluation system, including employee questionnaires to compile the job descriptions to be used in the evaluation stage; identify the female- and male-dominated classes; appoint members of the joint Job Evaluation Committees to evaluate both female- and male-dominated classes; calculate the male wage line and consequent pay equity adjustments; and be responsible for communication and training. All decisions in the Steering Committee and the Job Evaluation Committees were to be unanimous.

Parties to the Agreement were the same unions who had submitted the joint proposal, the Newfoundland Hospital and Nursing Home Association (NHNHA) and Newfoundland Hydro as employers, and the provincial government.

The NHNHA is the hospital employers's association, established in the 1970's to negotiate on behalf of the hospital boards. Newfoundland Hydro was the other employer in the Agreement negotiations. Their employees' union, the International Brotherhood of Electrical Workers (IBEW), had asked to bargain for pay equity with the other unions to increase their bargaining power.

Government representatives were from the Personnel Policy and Classification and Pay divisions of the Treasury Board. Originally, only the Classification and Pay officials had been negotiating for the government, but after a relatively short period of bargaining, the unions' requested that the government negotiating team include the technical experts in pay equity. Their request was acceded to and from then on the female experts (and advocates) from Personnel Policy were at the bargaining table.

Of the unions, NAPE and CUPE are the most powerful, and their alliance had been critical in obtaining government commitment to pay equity. NAPE is the largest union in the province, with a membership of 17,500. It is part of a federalist structure, made up of unions representing provincial government employees. While there are institutional links regarding policies and negotiating strategies, each provincial union is independent financially and in policy making. It is clear from speeches made in the 1991 Annual Convention that information and advice on pay equity was gained through this national structure because the sister unions in Manitoba and Ontario helped NAPE develop their negotiating positions on pay equity.

The union membership is 54% female. In health care, it represents hospital support and laboratory and X Ray staff. Of the component members relevant to this research, Hospital Support is 74% female, Laboratory and X Ray is 69% female, and Waterford (a separate hospital bargaining unit) is 51% female. Representation of women in leadership positions has improved

dramatically since an affirmative action resolution was passed at the 1991 biennial convention. Although the executive is 17% female, the percentage of women on the board overall is 42% because of the six affirmative action seats. This is double the representation of women before the governance reform.

Of the Employee Relations Officers on staff, 20% are women. However, female representation on the negotiating teams (1990 figures) was at least half: Hospital Support - 74% female membership and 50% female in negotiating team; Lab and X Ray - 69% female membership and 60% female in negotiating team; Waterford Hospital - 52% female membership and 60% female in negotiating team; and General Service - 54% membership and 57% female in negotiating team. At the local level (figures for June 1992) 35% of Presidents and Acting Presidents were women; 32% of Vice Presidents; 75% of secretaries; 66% of Treasurers; 46% of Secretary\Treasurers; and 38% shop stewards.

The union's affirmative action policy is considered progressive in the parent union. The successful governance resolution in the 1991 biennial convention was largely the result of effective educational and political work by NAPE's Women's Committee, helped by the active support of an ex Women's Committee Chair, now the Executive Vice-President of the Canadian Labour Congress (CLC). The union has sound policies on universal daycare, job-sharing and sexual harassment.

Converting equality policies to collective agreement clauses is aided by a Women's Committee member sitting on the national level negotiators' committee, which all NAPE's negotiators are members of. This national committee meets every few months to discuss new issues in the various provinces. The Chair of the NAPE Women's Committee is on the national women's committee, so issues overlap many times, ensuring dissemination through one route or another.

That there is an effective conduit to negotiators is largely demonstrated by the hospital component chief negotiator's championship of pay equity. We can reasonably presume that his commitment to the issue was reinforced by the Chair of the first Women's Committee (now a Vice President at the CLC). She is a contemporary of his and has been described as a critical force in spreading the word on women's issues in the union during the late seventies and early eighties.

Feminist influence over the pay equity bargaining progress was also enhanced by the selection of the NAPE representative on the first job evaluation committee. This active socialist feminist had been the President of her local for about ten years and a provincial executive board member, the Chair of NFL's Women's Committee, and President of the St. John's and District Labour Council. Although her strong personality caused some tensions with some of the conservative members of the committee, her determination ensured that women's work was in fact valued, in the face of bitter opposition at times.

CUPE, formed in 1963, is the largest union in Canada, with a national membership of 377,000 in 1990 (Craig and Solomon, 1993), ranging from those working in municipalities, school boards, health care, public utilities, public transit services, together with the airline industry. In health care, CUPE represents hospital support staff.

The provincial and national levels are coordinating bodies only; the locals are the certified bargaining agents and have complete autonomy. This loose structure means that different locals have different bylaws and central and provincial policies are recommendations only, leading to some variation in the uptake of progressive policies recommended by CUPE central.

The Newfoundland region has a membership of 6,500, with a female membership of 52%. 22% of the Executive Board are women. At national level, the board is more representative at 50% women members of the Executive Board. More importantly, both top elected positions - the President and the Vice President - are women. As the National Director of Equal Opportunities commented (Wishart, Interview, 1992): "No other union can match that in Canada."

There are no figures available for the Newfoundland locals. However, the Chair of CUPE Women's Committee estimated that the majority of the executives at local level were men. In 1992, most of the women were

secretaries, and most of the men were treasurers, although there were two women presidents, both of large, urban locals.

Negotiating teams, at a provincial level, are made up of 20% women.

Although the chief negotiator was male in 1993, for a number of years a woman was the chairperson of the team. This woman is now at the provincial office on staff and she was the CUPE delegate on the first health care job evaluation committee. This women's negotiating experience was complemented by the expertise of the then Chair of the Women's Committee, another member of the rating committee, and who was also a divisional representative on CUPE's National Women's Task Force, CUPE representative on the NFL Women's Committee, and CUPE representative on the provincial government joint Employment Equity Committee.

No locals have staff representatives. At the provincial level there is one staff representative who is a woman (20%), and she is also First Vice President of the NFL, an affirmative action position. This woman is now on the new Steering Committee eventually established after a long impasse to monitor pay equity implementation in the civil service.

CUPE is considered to be one of the most progressive unions in Canada on equality issues in general, and women's equality in particular (Briskin, Interview, 1991; Kumar, 1993). An indicator of CUPE's commitment to equality policies is the institutional structure established throughout Canada and

the relatively high level of resources provided to implement these policies through the work of the Department of Equal Opportunities together with the National Women's Task Force.

Indication of the work of the Department is the impressive array of CUPE central policies, many buttressed by effective educational and practical materials. The union pioneered sexual harassment policy, introduced in 1987, and published excellent resource materials which were commended in the provincial media and by the Chair of the Employment Equity Council.

Although there is some evidence that the progressive central policies do not always trickle down to the local level, this did not hinder CUPE's ability to negotiate a good Pay Equity Agreement in Newfoundland. This was because the pay equity negotiations were centralised within the province and the National Director of the Equal Opportunities Department sat on the Steering Committee as the CUPE representative and as a national advisor to the committee. She was therefore able to use her knowledge and expertise of pay equity, based on the union's experience throughout the country, and CUPE's long-standing expertise in job evaluation. Moreover, she was familiar with labour relations in the province, having been a CUPE health care coordinator for Newfoundland for a number of years previously, and as a further advantage was able to use the provincial feminist network which crossed union-management lines.

CUPE's policy on pay equity dates from 1985, before pay equity legislation in most provinces and when Manitoba legislation was at the proposal stage.

CUPE had been involved in lengthy strikes in BC in 1981 to gain the equalisation of male and female rates in particular bargaining units. Their policy was two pronged: lobbying government and mobilising public opinion, as they had successfully done in Manitoba; and negotiating equal pay for work of equal value.

Throughout Canada, CUPE locals were encouraged and assisted in their collective bargaining efforts for equal pay. Regional and local Women's Task Forces utilised a combination of education and mobilisation both within the union and outside, the latter in alliance with other groups in coalition politics to pressure government for effective equal value legislation where appropriate. The educational material on pay equity produced by CUPE is impressive, both in range and quality.

The Equal Opportunities Department coordinated a country-wide pay equity strategy, assessing the best possible route to achieve it in each province. In Newfoundland, it was decided that they could get a better deal for women if they bargained for pay equity rather than lobbied for legislation. Their reasoning was that if they lobbied, then first, they would create a hierarchy of jobs to do it, like the Pay Equity Commission in Ontario and in other provinces; second, the legislation would be weakened by the concerted lobbying efforts of business interests, together with a government who was not

"...the government traditionally of labour's choice..." (Wishart, Interview, 1992, p. 9); and third, it would take a long time to get pay equity (in Ontario it took 10-12 years of lobbying to get the legislation) whereas with bargaining it would take a few months to get a pay equity agreement.

Moreover, with a bargained pay equity process, first, they knew the government had committed to staffing the process, rather than set up a Pay Equity Commission equivalent; second, they knew that there was political support (the Premier and Minister of Labour) and management support in the form of the two feminist bureaucrats (from the Personnel Policy Division) who eventually negotiated pay equity; third, they knew that the Newfoundland Hospital and Nursing Home Association (NHNHA) would not obstruct pay equity implementation; fourth, they knew that the CUPE\NAPE alliance was strong enough in a bargaining situation to get a good settlement; and fifth, if a union (or union coalition) is strong then they can bargain above and beyond the minimum. To cite CUPE's National Director: "We went the bargaining route because we knew the players on the other side of the table, we knew what we needed in a small province like NF...we had a bargaining history and [would be] bargaining from a position of strength" (Wishart, Interview, 1992, p. 9).

The third union involved in the Pay Equity Agreement negotiations was the NLNU, formed in 1974 from the collective bargaining wing of the Association of Registered Nurses of Newfoundland. In health care, all registered nurses are represented by the NLNU. Women form 98% of the membership and the

executive board is 93% female; there is one male ex officio member, who is the Business Agent/Solicitor. In all locals, all the elected officials are women. The provincial negotiating team in 1990-1991 was 60% women.

They have been out on strike twice in the 1970's. For a decade the nurses have been focusing on promoting a more professional image, in order to give more weight to their claim of being acutely underpaid. In 1990 they demanded a 32% salary increase, pleading 'a special case' to the government, and using arguments that stressed the value of nurses' work and the problem of many nurses leaving the province because the salaries were so low. The government listened. They were awarded a 25% increase over two years.

The nurses' dramatic increase gained in 1990 triggered off a series of similar claims from other health care unions who said that they were 'a special case' too. NAPE went out on illegal strike that year to gain an equivalent increase, and eventually won a substantial arbitration award of 22.9% for its hospital support workers. As mentioned elsewhere, this arbitration award was wiped out by Bill 16. This, combined with the building of a new image for nurses by the NLNU as dramatically undervalued, a special case, increased interunion tensions in the health care sector, particularly between NAPE and NLNU.

The nurses' union is not affiliated to the NFL or CLC. It would not be described as a social or political union, its objectives focusing on the advancement of the "social, economic and general welfare of its members"

(NLNU pamphlet, Undated), together with an emphasis upon professional standards.

Given their commitment to enhancing the value of nurses' work, pay equity has become an important policy for the union. From the information available, the union has no specific equality policies, and no women's committee.

The fourth union is the AAHP, a small union of 385 health care professionals.

It was founded in 1975 when some physiotherapists and social workers in NAPE broke away to form an independent bargaining unit for representation and political reasons. The union now includes EEG technologists, pharmacists, occupational therapists, psychologists, and dieticians. With an emphasis on professional standards and ethics, and an aversion to strikes, the union is conservative. It is female dominated with 75% women members, reflected in a 75% representation at executive board level, with 80% of the executive officers being women. There are no locals. There are no equality policies for women, and no women's committee.

The fifth union is the IBEW, but as this union and the employer, Newfoundland Hydro, are not a direct part of this study, they will be mentioned as considered relevant but not discussed any further.

Pay Equity Bargaining

The following analysis is divided into three stages of implementation: negotiating the Pay Equity Agreement, the work of the Steering Committee, and the work of the Job Evaluation Committees. The collective bargaining issues of structure, style and power will be discussed for each of the three stages. Finally, the gender and class dimensions will be considered for the different stages. It is important to point out that the separation of collective bargaining and gender and class issues is used merely as a tool of analysis. In reality, the interrelationship between collective bargaining and pay equity can only be understood if we conceptualise the structural properties of gender and class as saturating every interaction in our society, including labour relations. The manifestations of these structural properties can be identified in all three stages of pay equity implementation.

Negotiating the pay equity agreement

The pay equity bargaining in Newfoundland was a clear departure in terms of bargaining structure. Although each of the health care unions had negotiated province wide with the NHNHA for over fifteen years, this was the first time all these public sector unions had sat at the same table. It is difficult to say whether the joint pay equity bargaining experience stimulated other joint initiatives, but one Steering Committee member noted that there had since been another successful multi union, multi employer set of negotiations in the public sector, and that was for the 1991 Labrador Benefits Agreement. A number of

the pay equity negotiators, employer\government and union, perceived the negotiations as different from anything that had gone on before, because it was single issue, multi-union and single table. Intraorganisational bargaining was more complicated than before, and developing a common union position was even more challenging, particularly when early on each union had its own proposal. They finally got to the point where a joint position was going across the table to the employer - "...that was new...that was the first time that had ever happened" (Andrews, Interview, 1992, p. 5).

An employer representative on the Steering Committee approved the all party approach because that way every party who contributed to the problem participated in its solution. For her this was much more preferable than legislated pay equity, which would be imposing a solution from above.

Although not dramatically different from contract bargaining, the fact that negotiations were joint gave the style of bargaining a kind of problem solving flavour from the beginning. Moreover, this was a single issue and there was, on the whole, commitment on all sides. From a reading of all the transcripts, it seemed that the Classification and Pay representative did not share this level of commitment, but the political mandate was so strong at that time that their objections were lost in the general impetus towards obtaining a good Agreement. This momentum was largely created by the large number of committed women in the group negotiating it.

CUPE's negotiator (and their National Director of Equal Opportunities) saw as a vital part of her union's national strategy a recognition that pay equity should be less adversarial, based on a mutual union-management goal:

CUPE took the position that when we came to dealing with the issue of pay equity whether it be under legislation or whether it be bargained at any particular bargaining table that there was a difference. That in traditional bargaining it tends to be at times adversarial, whereas with the issue of pay equity...there was a sense that we were on the same side. We had the same goals and objectives which were to close the gap between men's and women's wages. (Wishart, Interview, 1992, p. 3)

This view came across on the employer side, too. A negotiator for the Treasury Board thought the process was more cooperative "...because everyone was in agreement that the female dominated classes had been traditionally underpaid...in relation to some male classes. So everyone was of the same mind in wanting to address the problem" (Horlick, Interview, 1992, p. 2). He acknowledged that everyone had their own constituencies, and even at this stage both the unions and the employer had concerns over the money involved. Even so, he gave a very interesting description of how they (the employers\government) kept drafting proposals only to find that the unions' proposals would be the same, or very similar. And in the end "...we realised...this is not classical negotiations or difficult adversarial negotiations,

we're trying to achieve the same thing" (1992, p. 2). Clearly, the goals of the three parties were much closer together than in conventional contract bargaining.

It was apparent that the inclusion of known pay equity advocates on the government and employer side gave a loud signal to the unions that the government was serious about pay equity. This engendered a level of trust not normally present in other collective bargaining. The government's agreement to the unions' request that they be able to bargain with those behind the scenes instead of the conventional negotiators, who the unions thought were out of their depth, was also seen as symbolic of the government's commitment.

The unions' bargaining power increased during the Pay Equity Agreement negotiations because of the joint bargaining structure; both the NAPE and CUPE negotiators argued that this helped them obtain a good Agreement. According to the Classification and Pay negotiator, the Treasury Board had wanted the wage line to be calculated on the basis of the male and female wages. That the Agreement requires only the use of the male wages to draw the line represents a very significant concession by the government.

The political processes worked in the unions' favour too so that the government was taking a conciliatory approach. A union negotiator remarked twice in his interview that the government was "...desperate for an agreement" (Vivian, Interview, 1992, p. 5).

The Pay Equity Steering Committee

The bargaining structure was as defined in the Agreement, with one delegate and one alternate for each of the parties: the five public sector unions, the employers (Hydro and the NHNHA), and the government. As with the Pay Equity Agreement negotiations, the implementation was to be at a provincial level. The personnel, apart from one or two changes, were the same; certainly the key negotiators from the unions and the Treasury Board were now on the Steering Committee.

According to general accounts, obtained from both union and management members, the bargaining style of the early work of the Committee stood out as being clearly cooperative. The Agreement required that all decisions were to be unanimous. This method ensured that all unions, no matter what their size, had an input into the decision making. It also reflected the consensual decision making model in the feminist process which was important to a significant number of the women on the negotiating team and now on the Steering Committee.

Descriptions of the Steering Committee's work focused upon the lack of caucusing and the win\win atmosphere carried over from the Pay Equity Agreement negotiations. A union negotiator commented, "Any dysfunctional forces had been weeded out through the negotiated process" (Vivian, Interview, 1992, p. 14). And the President of the same union corroborated this view: "...we would sit around the table...we never broke out into union

and management. Everybody just stayed at the table and hammered it out" (Andrews, Interview, 1992, p. 14).

An employer representative saw the operations of the Committee as a new approach:

What happened with this committee...in about ninety percent of its work you couldn't tell who was management and who was union if you walked into the room. You really won't know because they worked towards a common end....Every had valuable input to it and everybody was listened to and it was a cooperative group of up to twenty people working on this.

(Janes, Interview, 1992, p. 2)

Another employer member of the Committee identified the consensual mode of decision making as a key factor in the cooperative relations in the Steering Committee as it encouraged people to step outside their union-management roles. He remarked:

It [consensus decision making] fostered a spirit of cooperation more so than you would have when you are regular bargaining....To me the spirit and intent of that Steering Committee and the way it has worked has been a good example as far as I'm concerned....I think the experience that has been gained from both sides has been beneficial to the process.

(Peddle, Interview, 1992, p. 10)

Assessing the indicators used in this research, the most important factor in explaining the cooperative bargaining, especially evident before political constraints constrained, it was the convergence of goals. The government Co-Chair explained: "Everybody understood very clearly that they had to work towards a common understanding and a common resolution" (Roome, Interview, 1992, p. 8).

A key union representative confirmed her belief in the possibility of the cooperative process of bargaining. She assessed that the Newfoundland experience would have been completely successful in this regard had it not been for the classification and pay specialist on the Steering Committee who she described as "...dragged kicking and screaming and who wanted to maintain the status quo..." (Wishart, Interview, 1992, p. 4).

More importantly, she also identified the Head of the Treasury Board as being unsympathetic to the concept of pay equity. This man was not directly involved in negotiating but it is reasonable to assume that he played a part in the withdrawing of political and bureaucratic support from the project since he was described by an ex Treasury Board negotiator as an extremely powerful man, in constant communication with Cabinet. Another ex Treasury Board official, who had negotiated the Agreement at a very early stage, commented that the government negotiators (i.e.; Personnel Policy) were more committed than their principals.

The CUPE national advisor believed that the goals of the two male Treasury Board representatives were to maintain the existing male dominated hierarchy in the face of the pay equity challenge. This role of the Newfoundland Treasury Board is similar to that described by Warskett (1991) in her study of pay equity implementation in the federal civil service. Federal Treasury Board officials strived to retain control throughout the process, reasserting ownership and subverting the process.

Moving on to another indicator of cooperation, information exchange was generally seen as no problem by Steering Committee members. From one union representative's perspective, any queries from the unions were dealt with and resolved satisfactorily. The management Co-Chair held a similar view, pointing out the requirement in the Pay Equity Agreement for necessary information to be given to the Steering Committee.

Interestingly enough, another union delegate reported two incidents where it had been difficult to obtain information requested by the unions. One case was where her union wanted to look at the questionnaires so that evaluation of their jobs would be more effective; this request was denied. The other incident concerned a union who had requested some documentation to verify exactly what 1% of payroll was. Apparently there was a lot of difficulty getting this and when it was eventually given to the Committee the information was presented in so complicated a way as to be virtually indecipherable.

The general view on all sides was that there was probably more trust than in conventional contract bargaining but that it would be naive to expect complete trust in a joint initiative. The management Co-Chair, however, felt that "...In many of the other meetings [apart from those just after Bill 16] I think there was a very high level of trust..." (Roome, Interview, 1992, p. 8). And it is noteworthy that all union representatives clearly respected the Co-Chair's strong commitment to pay equity. As the male CUPE representative (alternate) on the Committee remarked, the unions could always depend on the government Co-Chair and the female employer delegate, even when things got difficult.

There was a broad agreement on all sides that the Steering Committee, even after the height of cooperation had been adversely affected by the new government, was a good example of joint problem solving. An employer representative credited consensus decision making as enhancing the problem solving mode of this committee:

What it did basically was force everybody involved in the process to...be more cooperative or more inventive as to how to resolve problems....It sort of forced everybody to...rethink their traditional roles and say, well, this is the problem, how do we solve it? In many cases that is the sort of thinking and philosophy that existed on the Steering Committee, or exists

even still on the Steering Committee. (Peddle, Interview, 1992, p. 12)

However, he did not see this cooperation as just the result of pay equity as an issue but as part of a general trend in health care towards more cooperative bargaining. He referred specifically to some transition agreements he had been negotiating with some hospital unions recently that had moved a long way towards the problem solving approach.

On the union side, the national advisor on the Steering Committee identified problem solving in the Committee's process:

...we met a lot the first year...there were constant reminders from people on all sides of the table that we were there to work in a collective fashion. So, we saw that grow and actually just prior to Bill 16 we worked very well together, we made all of the decisions jointly. If there were problems we worked them out together. (Wishart, Interview, 1992, p. 5)

Overall, there was a measure of agreement on all sides that the Steering Committee had been an illustration of a new, cooperative, kind of bargaining. However, the positive effect of this new style of bargaining was outweighed by far in two of the unions' recall of what had happened in March 1991: NAPE and NLNU identified the legislation (Bill 16) cancelling retroactivity of pay equity adjustments as signifying the end of any cooperation occurring until

then, and indeed the end of any government commitment to the issue at all. If the CUPE interview revealed a greater interest and appreciation of the new style of bargaining, this was because consensual decision making model was a particular interest of the National Director of Equal Opportunities, but even her transcript shows a bitter disappointment at the retroactivity legislation brought in by the then new government.

It is apparent that the atmosphere leading up to the legislation was already showing signs of strain due to rumours of the budget to come and Bill 16. As one union member commented: "...when we started to get hints that this was going to be done, everything went to hell in a basket..." (Vivian, Interview, 1992, p. 15). If this remark makes him sound overly flippant, he was not; a significant part of the joint interview with him and the union president was about how pay equity started out with such promise but ended so bitterly.

Moreover, as soon as the new government had been elected, there had been a noticeable deterioration in general bureaucratic attitudes towards pay equity, and an accompanying reduction in available resources. Employer representatives on the Committee were understandably nervous about what might happen. When the legislation was passed, the CUPE national advisor explained:

Everybody felt cheated. But what happened was the people who were representing government on that steering committee basically had to put forward the government line even though

they did not agree with it because they were employees of the government....There had been a commitment from the previous government and it seemed like the Well's government was doing a complete turnaround. (Wishart, Interview, 1992, p. 5)

All parties (except for the Classification and Pay representative, who did not mention this at all) saw this legislation as causing a deterioration in the relationships developed in the Steering Committee. As described earlier, this legislation was part of a package which caused general bitterness and hostility in public sector labour relations in the province. According to the union Co-Chair, the average money lost per woman in cancelled retroactive payments was \$7,000; this translates into the total loss of \$29 million dollars to women whose wage discrimination had already been identified (Vivian, Interview, 1992, p. 16).

As the union Co-Chair was at the time President of the Federation of Labour his political position was such that he could not afford to be seen cooperating with the government, especially over pay equity. Hence what the management Co-Chair described as "grandstanding" at the first sessions of the Committee after the legislation had passed; behaviour which she completely understood, she commented. She felt the legislation had come at the worst possible time, just when the results from the first health care job evaluation committee had reached the Steering Committee. However, she believed that the consensus

model had forced people to continue working for a solution at that difficult time.

This view was echoed by the NHNHA representative, who thought that Bill 16 undermined the group but did not split it. The other NHNHA representative observed a deterioration in the cooperative dynamic but that the unions were able to differentiate between the employers and the government, so not blaming the employers as a group. This perception was perhaps a rationalisation. In his interview the union Co-Chair accused the NHNHA of complaining to the Treasury Board that pay equity was going to cost them too much money and he therefore laid part of the blame at the hospital employers' door.

It is significant that the management Co-Chair underplayed the effect of the legislation cancelling retroactivity, pointing out that nowhere else in Canada was retroactivity built into pay equity implementation. However, knowing that the model of bargaining incorporated into the Agreement largely relied upon having the time to implement a consensual process without the pressure of a deadline, my interpretation is that she was glossing over what to her must have been a very sensitive issue, particularly in view of the intraorganisational tensions present in the Treasury Board.

In terms of bargaining power, the events in the case study so far point to the essence of public sector bargaining. Government as employer has legislative

power which tips the balance in its favour as soon as it chooses to wield this weapon. The bargaining power achieved by the CUPE and NAPE alliance worked initially with a government whose political agenda included pay equity. When the government changed to one which did not want pay equity, this joint strength evaporated in the face of legislative power to cancel out previously agreed upon retroactive adjustments, and a government reluctant to implement pay equity at all.

Fortunately, hospital support workers' adjustments were settled in the Steering Committee not long after the legislation, and are now being paid out. Several unionists feared that the last adjustment, the lump sum closing whatever was left of the gap after the annual 1% payments, would not be paid out in year five (1995). Predictions are that the government will either legislate it away or spread out the payments for an indefinite period so that no-one will even realise that they had a pay equity adjustment.

Employees whose jobs were evaluated in the second committee have not received any adjustments yet because the Steering Committee have not been able to resolve the many disputed ratings referred to it by the job evaluation committee. Although everyone is reticent about this impasse because an arbitration is pending, the government appear to have succeeded in a divide and rule strategy, given the historical collective bargaining relationships of the unions concerned.

At the time of the main interviews (1992), the Steering Committee was in dispute over first, the second job evaluation committee's results (out in May 1992), which circled as unresolved many nursing and lab x ray jobs; second, maintenance of pay equity; and third, the status and composition of the Steering Committee (this dispute was linked with maintenance and the Committee's monitoring role). Apart from the first subject of dispute, which was still ongoing in at the time of writing and conjures up a vision of the government sitting back waiting for the unions to sort out a very difficult situation (and in the meantime delighted to be saving their money), the second and third reveal a government dragging its feet over pay equity.

With regard to the second dispute listed above, the government appeared uninterested in the maintenance of pay equity. The Agreement is somewhat ambiguous on this point, and the parties differ in their interpretation, the government apparently arguing that pay equity was just a one shot deal. The third dispute was largely the result of the government refusing to continue the existing Steering Committee to carry out the monitoring role as described by the Agreement. Maintenance was seen by the unions as a crucial part of this role, given that any closing of the gap had already been rewidened because of percentage wage increases before the wage freeze. Future widening of the gap is inevitable, too, given the trades Atlantic wage adjustment to come as soon as the freeze is over (Curtis, Interview, 1992).

Because of the dispute over status and composition, pay equity implementation which should have started in May 1992 in the civil service was considerably delayed. Only in November 1993 did the government advertise for a gender neutral job evaluation system.

According to a union staff representative, in December 1993 the second phase of pay equity had slowly moved ahead, and this was because CUPE had made it a condition of their concessions on pension contributions during the government's cutbacks earlier that year (Budgell, Interview, 1994).

Job Evaluation Committees

The Job Evaluation Committees were required to evaluate the male-dominated and female-dominated classes identified by the Steering Committee, applying the job evaluation system selected by the Steering Committee. Committee members received a short period of training in the use of this evaluation system before starting to evaluate the jobs. Their role was to agree on a score for each job evaluated, made up of the skill, effort, responsibility and working conditions factors, as indicated in the selected job evaluation scheme.

Officially, committee members did not know the weighting of these four factors. The final calculation of values incorporating weightings of the four factors was to be the task of the Steering Committee, who would then continue the process by calculating a male wage line and agree on the level and schedule of pay equity adjustments.

The two health care Job Evaluation Committees were referred to as health care 1 (HC1) and health care 2 (HC2). The first committee (HC1) evaluated all the health care jobs represented by NAPE, CUPE, NLNU and AAHP. The parties represented were the health care unions (NAPE, CUPE, NLNU, and AAHP), the government (Treasury Board), and the employers (NHNHA).

At the conclusion of HC1, with retroactivity still in place, NLNU, AAHP and NAPE (in their role as representative of laboratory and x ray employees) argued that their members' jobs had not been fairly evaluated because of the lack of highly paid comparable positions in health care, and because of difficulties experienced in the first evaluation committee, so they wanted a second evaluation committee struck. This option was in the Agreement and it was agreed in the Steering Committee that a new evaluation committee be made up (HC2) of representatives of these three unions, the government and employers. Comparable male jobs were to be from the provincial civil service.

The structure of the committees reflected the jobs to be evaluated, and broadly followed the province-wide multi-union and multi-employer pattern of the Steering Committee. As required by the Agreement, the composition of the evaluation committees was one delegate and alternate from each of the parties represented, with at least 50% women. Of the ten delegates selected for HC1, 90% were women, and the majority of alternates were women. HC2 was a smaller committee, with fewer unions represented and fewer jobs to evaluate.

Of the six delegates, 50% were women; and 66% of the six alternates were women.

After interviewing the Steering Committee members, both delegates and alternates, it was clear that the hostility in the job evaluation committees (especially HC1) was such that the examination of indicators of cooperation became almost irrelevant.

The important issue concerning bargaining style now was an examination of the extent, nature and causes of the conflict. People's experiences in the first committee (HC1) were very negative. The emotional responses that came over to me during the interviews revealed a hurtful experience for most of the participants. The NAPE delegate was evidently still very angry and resentful about what went on in the committee, over a year later: "I wouldn't want to go through it again for anything...the process, it was just so horrific" (Vanta, Interview, 1992, p. 10). Her alternate had difficulty even speaking about it because she said she had blocked it out of her mind; she had apparently started smoking again after fifteen years during her membership on the job evaluation committee.

An employer representative perceived very high levels of conflict; she even referred to being hit hard under the table at one point because of a comment she made in support of a nursing job (Interview, 1992, p. 7). A government representative also described a high level of conflict, so adversarial that she

perceived no difference in style from contract negotiations. She felt the job evaluation experience to be worse because at least in conventional bargaining everyone's agenda was upfront. Another employer representative of the committee commented: "There were times when we knew that there were outright lies being told about a particular job...you don't know where it happens again" (Interview, 1992, p. 10).

Conflict was both union-management and interunion. There was hostility between the hospital support unions bargaining together -NAPE and CUPE - and the government representative from Classification and Pay. There was also considerable acrimony between the NAPE and AAHP representatives. The committee soon divided into two camps: the government, employers and AAHP on one side; NAPE and CUPE on the other side, with the NLNU as more or less neutral. Each camp perceived the other as using negotiating tactics, which were not seen as consistent with pay equity; not understanding pay equity; stubborn and uncompromising; biased (and not open-minded); and as trying to use information in an unfair way.

One government representative felt that the system was too broad in many respects and that the questionnaires were not good enough. She and others, on the employer side, thought that the training was completely inadequate for the job they had to do. The employer representatives' complaint was linked to a feeling of disadvantage compared to the hospital support unions, who, it was felt, were better prepared for pay equity and had more information than they

did on the jobs. According to the employer members, the unions continued to use this extra information in spite of the consultants instructing the committee to only evaluate on the strength of the job descriptions in front of them.

A major source of conflict was the perception that the other faction were negotiating, rather than evaluating the jobs in an objective, rational way, as the committee had been instructed to do. Clearly, this use of negotiating strategy and tactics departed from the more problem solving style of bargaining expected by the consultants and most HRM participants in the evaluation process. For example an HC1 government representative described the process:

Let's say I spoke first and...my position was a five and this was a position that they wanted up. Then they would immediately move to...a seven...rather than going where the job should be.

You could see them putting numbers there to create what I considered to be a negotiating position.... (Interview, 1992, p.

2)

The representatives in the one camp accused NAPE and CUPE in the other camp of negotiating in alliance, and they blamed this behaviour of the hospital unions for the conflict. The employer and government representatives in particular saw this negotiating of the hospital unions to be a fundamental flaw in the process. However, the NAPE representative accused the male government representative of negotiating so that the value of the male

dominated jobs was inflated and the female dominated jobs were downgraded; he in turn accused her of hard negotiating to downgrade the male dominated jobs, while pushing up the female-dominated jobs.

The other government representative on HC1 commented:

I just don't think it can be negotiated. These people are pushing to get the money; they are not looking at what the job is. It is difficult for any group, if you are in the position where there is potential money on the table for your members...to sit back and to look at this in a totally objective rational manner without seeing the dollar signs. And it is very difficult from a management perspective to sit there knowing what potential payouts could be. (Interview, 1992, p. 9)

Even if negotiating between various parties both along traditional union-management lines and between unions in HC1 did occur, it nevertheless did not prevent the eventual resolution of the outstanding ratings.

The second committee (HC2) had received some group dynamics training and members were, in some cases, chosen more carefully. NAPE, however, stuck to the same strategy and put in a seasoned negotiator with a strong personality.

The AAHP representative was more experienced in union matters, having pursued her own grievance, and she did not identify with management as the other representative did in HC1. She was also a social worker and, she said,

could handle the conflict without becoming personally or emotionally involved. This time, there was nobody from Treasury Board, and of the two government representatives one was in the Adult Probation Division, a woman active in feminist organisations and familiar with the consensual decision making mode. The other government representative was an Employee Relations Officer in the Department of Works and Services. The employer's representative was much less conservative in terms of class and gender, and was sympathetic towards the political situation of the union representatives who were involved in the conflict.

Despite their extra training and better suited backgrounds and personalities, the level of conflict in HC2 was such that most committee members started talking about the divisions virtually as soon as the interviews began. However, relationships were not so acrimonious at such a personal and emotional level. People who had clashed in the morning went out to lunch together; this event cut across union-management lines. Both government representatives saw this as an indicator that conflict levels were not so high.

The main conflict was between NAPE and NLNU, with AAHP on the sidelines, forming shifting alliances. In the end, they were unable to resolve the impasse in the ratings of about half of the jobs they were evaluating. Moreover, the Steering Committee also found it impossible to resolve the disputed rankings, and pay equity for this phase has stalled.

As the then Vice President of NAPE (also union Co-Chair of the Steering Committee) remarked, the conflict over parity between the nurses (NLNU) and lab x ray workers (NAPE) caused "...nightmares..." (Curtis, Interview, 1992, p. 26). He pointed out that parity between the two groups has been long established through strikes, three different arbitration boards, and two conciliation boards, and is a very important issue for the membership. His prediction was that parity would be a major stumbling block for the next phase of pay equity, probably precipitating a strike if existing relationships were changed.

The hospital support unions in alliance enjoyed a degree of bargaining power sufficient to countervail the resistance of the other faction on the first committee. Supported by strong, well-informed unions, their representatives were able to use resources available to them which other unions did not have access to, and the employer evaluators did not look for. This effective use of information to control the direction of the committee was complemented by the negotiating skills of the hospital support evaluators, combined with an understanding of the pay equity concept and the importance of making visible previously undervalued or unvalued women's work.

The HC2 committee revealed a different power dynamic. NAPE was on its own, and became embroiled in a bitter interunion hostility that played into the hands of the government representatives, who may not have deliberately used a

divide and rule strategy at the committee level, but found themselves nevertheless able to take advantage of this erosion of union solidarity.

Bill 16 was passed just as this second committee was forming. The wage freeze meant that the stakes were higher, and the unions were under increased pressure from their membership to maintain or increase differentials, making any lasting interunion alliance difficult.

The expectation that the committee members would work together in a cooperative and objective way is to ignore the political nature of decisions which on the face of it are merely technical (Acker, 1989; Blum, 1991; Lewis, 1991; Warskett, 1991). The managerialist concept that pay equity can be implemented in an objective, joint problem solving manner between parties who have the same goal - to redress discriminatory wages - ignores the structural properties of class and gender embedded in the established wage and job hierarchies and informing the actions of negotiators. To a certain extent these structural properties can be revealed in the notion of goals, but it is a weak explanatory tool compared to an analysis of the dynamics of class and gender which underlay the conflict in both job evaluation committees. Indeed, the nature of the bargaining revealed in both the Pay Equity Agreement and the Steering Committee, although notably more cooperative, can be further understood by examining the complex gender and class dynamics.

Gender and Class Dimensions

In this section, gender and class dimensions of pay equity bargaining are examined, considering the Pay Equity Agreement, the Steering Committee and the Job Evaluation Committees in turn. A continuing theme in the following analysis is the development of a labour-feminist politic and its potential and limitations.

The Pay Equity Agreement: Labour-feminist alliance

The move towards increased cooperation during the Pay Equity Agreement negotiations and the progressive nature of the pay equity model contained in it was due not only to the increased power of the unions' joint position and the political will at the table. It was also derived from a union-management convergence of goals. What occurred was an alliance of feminists across traditional class lines. The concept of pay equity itself raises issues concerning the fair valuation of women's work, which touches upon women in both unions and management. Feminisation of the bargaining process in terms of participants brought a different style of bargaining, especially because the key women negotiators had adopted a feminist politic which included pay equity expertise and emphasised participation and consensus in the implementation of it.

This feminist politic was incorporated into the Agreement in terms of content and process. Significantly, the consensual model of decision making resonated

with a current interest of at least two male negotiators at the table, who were pursuing more cooperative models of collective bargaining in their own workplace, and this made it easier for acceptance by all parties.

As an illustration of the feminist alliance during the negotiations, it was all the women negotiators who argued for the committee structure being of least 50% female, including the chairing of the Steering Committee which was to be one each from the employer's and unions' teams, and one woman and one man. In addition, all the women argued against traditional industrial relations-style male dominated arbitration as the dispute resolution procedure:

We found that the male negotiators on both sides were opting for the traditional arbitration route because that was known in labour relations work. Whereas the women were saying...they are not trained on the issue of pay equity. So they don't have the expertise to deal with the issue. (Wishart, Interview, 1992, p. 3)

It is interesting to note that this latter argument was not won by the women, although the committee structure they advocated ended up in the Agreement.

But the most dramatic influence of the women in the negotiations of the Agreement was in the last few hours, when the CUPE negotiator arranged a women's caucus in the women's washroom to overcome the last obstacles to the settlement. As she says:

...so we agreed to work towards meeting both the unions' and the government and management goals. We did that in the washroom and that, in fact, was the settlement. And that is the first time that I've seen it done where women as feminists and committed to pay equity crossed over and united, and it is something that we talk about now and laugh about. But it was very important at that time. (Wishart, Interview, 1992, p. 3)

The Personnel Policy representative also referred to this event with some pride and she linked it with a feminisation of the bargaining process that made it different and better. Her colleague on the Steering Committee with her thought that informal discussions amongst the women in all parties "...lent a lot to getting the agreement finalised and recognising that this was an issue that had to be handled ultimately in some kind of different form" (Holden, 1992, p. 2).

Along with this feminist alliance during the pay equity negotiations was an increased number of women involved behind the scenes working on background issues for the negotiators, compared to normal collective bargaining. The CUPE negotiator, also the National Director of Equal Opportunities in her union, saw this opportunity as a chance to develop women for leadership positions. Seeing an issue crucial to women's economic equality moving to the forefront of the union agenda has encouraged these

newly participating women to become more concerned with other equality issues like sexual harassment and employment equity.

The Steering Committee: Success and limitations of the labour-feminist alliance

During the early work of the Steering committee, this feminist alliance continued, made up of the women who had been critical in obtaining the Pay Equity Agreement - the two Personnel Policy Analysts; CUPE's National Director of Equal Opportunities; and one of the employers' representatives, the Executive Director of St. Clare's Hospital in St. John's. The union Co-Chair, a man, was also very supportive of pay equity; the initiative itself was triggered from the hospital support negotiations he had conducted with the government in 1988. The male hospital employer representative who had endorsed the new cooperative mode stayed with the project, but the Hydro representative changed to a classification and pay specialist. As noted, the effectiveness of the Committee was undermined considerably upon the change of government and the withdrawal of political will. Faced with an ideological commitment to retrenchment and a withdrawal of support for pay equity, the alliance was fractured.

However, even before the government blatantly pursued cost containment, the union Co-Chair felt that the cooperative mode of the Committee was fragile. He strongly resisted a concept of joint interest, stressing that there was a

fundamental difference of interest. For him that difference was symbolised by money. NAPE's alternate on the Committee echoed this view: "The union is trying to get the most for workers and the employers are trying to save as much money as they can. And once you lose sight of that it's possible that you can end up, not meaning to, but you could end up selling out your workers" (Furlong, Interview, 1992, p. 2). Looking at the employer side, she remarked that even the people the most committed to pay equity on the government side had to change their position after Bill 16: "Now your feminist philosophy is great but it doesn't put bread on the table...you've got to be realistic about this" (Furlong, Interview, 1992, p. 3).

The professional unions - NLNU and AAHP - both referred to the tendency of monetary issues to reestablish the traditional union-management lines. The NLNU's president was very critical of what she saw as the bottom-line mentality of the Wells government:

But what we saw happening very clearly...was that pay equity from the government's perspective, we felt, was no longer the issue. What was the issue was money. If a woman was not paid the same as a man for doing the same job, they were more concerned about how much money it would cost them, and how long they could put off the process of paying us....I thought that the process became pitiful at the end and that it was clearly a monetary type of process; it wasn't anything to do with the

underlying principles of pay equity. (Aylward, Interview, 1992, p. 3)

The NLNU Business Agent, her alternate on the Committee, talked about the government in recognisably class terms, putting pay equity in a broader context: "Labour is very, very irrelevant. Today in this province we are being attacked on every front. In our case, when the government sanctifies breaking collective agreements because 'they have no choice,' the message passes on down the line" (Vivian, Interview, 1992, p. 12).

In effect, for him and other unionists in the province the government renegeing on a part of the Pay Equity Agreement was part of a more general attack on labour. Recent unilateral amendments to the labour relations legislation which will make it harder for unions to organise are seen as part of the same strategy. Ironically, a central plank of the government's economic development strategy is cooperation with organised labour.

Gendered commitment, gendered jobs and hierarchy

Although the resistance of the government could be characterised as just about money, a part of the cost containment of an ideologically driven government, the evidence indicates additional influences. Pay equity is a women's equality issue and as such it is not simply a question of budgeting and economic cost. It threatens gendered workplace relationships and challenges established classification and pay systems underpinning those relationships.

An important factor influencing early cooperation was the convergence of goals. However, upon closer analysis, this convergence revealed a gendered pattern. We know that all the women on the Committee were committed to pay equity, and a key male delegate, the union Co-Chair, was in a strong alliance with CUPE's representative. However, several unionists questioned the real commitment and understanding of certain male members of the Committee (interviews with Curtis, Furlong, Wishart, Holden, Vincent, King, 1992), and the union Co-Chair commented that political correctness was perhaps the reason for their acquiescence, rather than conviction.

There were two men on the Committee who were consistently described as not committed to pay equity. (Sometimes these individuals were not named but I was able to establish their identity through a process of elimination combined with my interview data, informal conversation with my informants, and a telling sexist comment to me just before an interview). These men were classification and pay specialists. Both of them seemed to be protecting the status quo, probably based on personal and professional ownership and justification of the systems already in place. Their interviews revealed a strong disapproval of how pay equity had changed the current pay relationships, and were focused on the illogicality of the new wage structure, particularly compression and inversion.

The perceived irrationality of new pay relationships resulting in more wages for women can also be explained by a gender ideology buttressing existing structures which appear 'natural', but which in fact reflect gendered notions of skill and work. If the nature of such concepts are not recognised as gendered, then the established pay differentials are seen as 'logical' and reflecting some 'objective' worth. Moreover, any challenges to this status quo, with the possibility that women will earn more than men, will be seen as 'irrational.'

Gender ideology apparently blinded the two classification and pay specialists to the possibility of women earning the money as merited by the pay equity job evaluation results. Interviews with them both confirmed the judgements of the unionist informants. This gender ideology was revealed in their comments.

For example, one question was asked at the very end of the pay equity process: "You mean to tell me that this type of clerk has to get this type of money?" One Personnel Policy representative placed it in the context of more training needed in gender stereotyping and in the general concept of pay equity: "It is critical. It can't be stressed enough. The people who look and sound like they understand gender bias and who look like and sound like they understand why traditional relationships cannot exist any longer in fact do not understand those issues..." (Holden, Interview, 1992, p. 22).

One classification and pay specialist who took over from the labour relations specialist in his organisation once the Steering Committee was set up still argued with the final results and asserted that the evaluation must have been

done wrongly. He just could not accept that the women in the office were as valuable as some of the men who worked outside.

It is no coincidence that the organisation this man represented (Hydro) started an overall reclassification not long after the pay equity adjustments were paid out to their office workers, using their own job evaluation system. The justification for this exercise was that it would redress inequities between women caused by pay equity. In other words it would reestablish the hierarchy of women's jobs. His big complaint about the women's jobs was compression - did he see a threat to his own position in the hierarchy by the flattening of it?

Here the class-based concern of management's that the compression of the workplace hierarchy will affect their own differential between management and non-management intertwines and overlaps with a gender-based concern with the relationships between the women's and men's pay structure. For example, he also maintained this reclassification would ensure a "...more appropriate relationship [than that caused by pay equity], not only to each other, but also to the operations group that they were originally compared with" (Janes, Interview, 1992, p. 9).

Feminist process

It is clear that part of the bitter disappointment at the cancellation of retroactivity was the realisation that the consensual decision making model so

carefully built into the implementation of pay equity by the feminist alliance would now be severely undermined. Not being under pressure to settle had meant that time could be taken to reach consensus throughout the process. Now that was impossible, the CUPE National Advisor made it clear that intentions had been focused upon process as well as the content of the Agreement:

I guess the frustrating thing was that [consensus building] had been on our agenda from day one, was to have that closer to a feminist approach, and when the government came and told us they were bringing in Bill 16, that with one swoop of the legislative plan they were going to eliminate retroactivity, we felt cheated. Everybody felt cheated. (Wishart, Interview, 1992, p. 5)

Unanimity was a CUPE proposal, reflecting a consensus bargaining strategy as part of a feminist process advocated by the Equal Opportunities Department, and encouraged by the two women leaders of CUPE national (Interviews with Wishart, 1992 and Harris, 1992).

The female NHNHA delegate's model of consensus decision making was consistent with a feminist view of process; she referred to the "naming" of problematic issues (like hard negotiating instead of joint problem solving) and taking up "space" and was a strong advocate of joint decision making as better practically and philosophically.

As it happens, unanimity enabled the unions on the Steering Committee to work together effectively since it forced everyone to consider the views of even the smallest union, according to the union Co-Chair. This opinion of consensus was consistent with the government and employer representatives. Overall, at the Steering Committee level at least, feminist process gelled with unions' class interests and management interests in a problem solving mode of bargaining wherever possible.

An indication of the complexity of the gender and class dynamic is that the feminist process which was an enabling factor in the pursuit of pay equity proved also to be a constraint working against its continued implementation. Part of the government's resistance to pay equity was the identification of the cooperative workings of the Steering Committee with "...that women's crowd...", to quote the government Co-Chair's discussion of this tension inside the Treasury Board.

This cooperative (feminist) process was not given any recognition by other divisions in the Treasury Board, according to the Personnel Policy representatives. On the contrary, the work of these two women was marginalised. Comments were made that categorised the pay equity bargaining as easy or made easy by the management Co-Chair never disagreeing with the unions.

The head of the Personnel Policy Division was particularly disappointed that this new model of collective bargaining was trivialised, as she saw cooperation as essential for the future success of organisations in the nineties. She identified this undermining of the validity of a new process as a "...significant error in judgement and a significant cost to both sides" (Holden, Interview, 1992, p. 7). Moreover, she was angry that the Co-Chair had not been given credit for the strategic and tactical skills to make consensus bargaining work: the informal meetings, careful preparation of agenda items, trying to avert future problems by frequent meetings with the union Co-Chair.

This downplaying of the achievement of a new process in the Steering Committee emanated from the Collective Bargaining Division who had their own way of doing things. But, a good number of the Committee were not experienced negotiators steeped in the old adversarial ways of bargaining. And this was highlighted as a strength of the Committee by the Personnel Policy representatives and the employer representative specialising in labour relations (and, interestingly, a long-time negotiator).

During the transition phase of the Steering Committee between the disputed results of the second job evaluation committee and the start up of the civil service pay equity implementation, the Personnel Policy representative was removed from the Co-Chair position and the Director of Collective Bargaining took her place. It was upon her arrival that the relationships on the Committee turned from strained (due to the disputed evaluations) to conflictual. Her style

was, apparently, immediately confrontational and she told the unions that "...you are not going to get away with now what you got away with before..." (Grimes, Interview, 1992, p. 2). She was seen as a major stumbling block by both NAPE and CUPE, both of whom were very critical of her open declaration against the idea of pay equity and her confrontational style of bargaining.

Pay equity implementation and the success of the Steering Committee were subsumed under the disparaging category of "that women's crowd." However, as one government representative pointed out:

...it is interesting that if it were severance pay policy or if it were a new group insurance plan...everybody would understand that it is government's policy. You bring in something like pay equity, all of a sudden it is that women's crowd....It is not.

People forget that this is part of a collective agreement. It is part of government's commitment, it is part of government's policy.... (Roome, Interview, 1992, p. 24)

This convergence of undermining cooperative process and women's equality is an interesting development. It may well be that it is partly explained by a marginalisation of anything that is female dominated. A number of studies show us that women's work is undervalued because it is work done by women (summarised in Shepela and Viviano, 1984). We could only speculate about a different reaction had the cooperative initiative been dominated by men, as

usual. Women moving into what is traditionally a male territory - labour relations - and, moreover, changing the process from a traditionally adversarial to a more cooperative mode of bargaining would naturally make this marginalisation (a form of resistance?) even more likely. Findlay (1991) used Mahon's notion of "unequal structure of representation" in her discussion of the limitations faced by women bureaucrats; the term "that women's crowd" would be a manifestation of this structural inequality.

The resistance to both the concept and process of pay equity can be understood as resistance to change of the male dominated status-quo, the male dominated job and wage hierarchy. When analysis moves to the health care job evaluation committees we can see that the established hierarchy was uppermost in the committee members' minds when evaluating jobs in health care.

**Job Evaluation Committees: Challenging hierarchy while
maintaining differentials and containing cost**

The conflict in these committees was not just about personalities, as some observers supposed, but it also derived from the interplay of structural properties, manifested in both union-management and interunion conflict.

In terms of union-management conflict, we know from union and management members of the first committee that the hospital unions were attempting to raise the value of women's jobs, while the government Classification and Pay evaluator was resisting this and pushing the scores down. The NAPE and

CUPE representatives also worked in alliance to keep down the value of men's jobs in the face of the government evaluator's determined efforts to upgrade them.

After an examination of how the wage line works in the Newfoundland model of pay equity, it became clear that this pattern of bargaining was directly linked to the level of the adjustments paid out at the end, and that the government representative was trying to control the cost. The higher the value of the men's jobs that make up the wage line, the more the wage line moves to the right of the graph used to calculate the adjustments, and the lower the actual adjustments are for any given female dominated job, point for point. The employer representative on the committee saw that the hospital support unions recognised this and were negotiating in response to the Classification and Pay representative's tactics, and thought that this explained their antagonism towards the government delegate.

During his interview, this government evaluator identified with the objective, joint problem solving model and accused the hospital support unions of going in with an agenda of raising the value of all women's jobs and lowering the value of all men's jobs. He particularly objected to their negotiating tactics to achieve this aim and accused the hospital support unions of "stacking" the committee with experienced negotiators (Osmond, Interview, 1992, p. 37). He was clearly annoyed that this had given the unions an unfair advantage since they were much better prepared and better skilled at establishing and

negotiating their position. In his list of recommended changes to the operations of job evaluation committees, most of them were a means to gain more power versus the unions, as he clearly felt they had too much influence over the proceedings, and this had resulted in flawed results. Not only did he want control over costs, but he also wanted to retain control over what happened in the committee, and was thwarted in his attempts.

Throughout the interview he revealed a prejudice against the hospital unions. After the interview ended he called the hospital support union representatives on the committee "...a bunch of yahoos..." (Osmond, informal conversation after Interview, 1992, p. 42). The vocabulary used in the employer representatives' accounts of HC1 also indicated how different unions were viewed. One kept referring to "the union people" in a rather disapproving way, and was shocked at the negotiating stance of NAPE and CUPE (who she meant by the term "union people"). Everyone apart from the NLNU representative seemed to lump both NAPE and CUPE together as one hospital support union. AAHP was not seen as a union, nor was the NLNU; in fact the title NLNU was rarely used -they were referred to as "the nurses." This use of terminology symbolising the status of certain groups in the workplace reflected a clear sense of hierarchy and differential status evident in hospital employee relations.

The female government representative and an employer representative pointed out that the public sector labour relations climate in the province was very

poor at the time the committee was struck. This would have enhanced any tensions present, and the likelihood of any anti-union sentiments coming through. Towards the end of the committee's work, strong rumours of wage freeze legislation and civil service lay-offs caused a further deterioration of labour relations.

However, to further understand this union-management hostility in the committee we have to note the gender implications of the interactions. The NLNU representative, described by both camps as mostly a neutral participant, indicated the male Classification and Pay representative was upgrading the men's jobs for more than just monetary reasons. The description of this man's behaviour in the committee fits well with conclusions drawn by Cockburn (1983) on men's responses to threats to their gendered identity, and was identified by Acker (1989) and Blum (1991) in their pay equity case studies.

Earlier in this discussion the gendered resistance of the male classification and pay specialists on the Steering Committee was pointed out, as was the resistance of the most senior Treasury Board bureaucrat. One of these Steering Committee representatives was in the Treasury Board Classification and Pay division and the HC1 government evaluator's superior. Attempts to retain control of the existing pay structure thus reached down to the job evaluation level, and extended upwards to the most senior position of the Treasury Board.

Turning to the union's role, the consistent raising of the value of the women's jobs by the NAPE representative, backed up by the CUPE representative, was not just a matter of getting more money for her union membership. (A fairly consistent criticism of unions heard during field work was that pay equity was not an important issue for them but that they were just using it to get more money for their members. The criticism was often used to place unionists' demands for maintenance in the context of whipsawing the employer).

The NAPE evaluator understood very well the underlying assumption of pay equity - that the skills in predominantly female jobs had historically been undervalued or ignored completely in the traditional male dominated job evaluation processes. Her determination to ensure that previously undervalued and invisible skills in women's work were fairly valued caused conflict in the committee because of resistance to her efforts.

In the context of this criticism of the hospital unions, and accusations of hard negotiating in the committee, she stated NAPE's objective as:

...We were sent in there to rectify the discrimination that was brought against women...[to] do it fairly, and we weren't sent in there to take as much as we can for our people and get out without considering this [fairness]. (Vanta, Interview, 1992, p.

2)

Indeed, it was her perception that when she resisted the government and/or employer representatives' position, they immediately accused NAPE of negotiating. She gave an example of the difficulty she had in convincing the committee of the value of women's work in her union:

And they call a nine which means that the team must then go, but the initial call would go into the switchboard operator, and the switchboard operator has to react, and react calmly and swiftly and make sure that everything, the information is relayed. You can't say the nine is on 3A when it is on 3D or somebody dies. But there is no way that these professionals, being allied health, and nurses, would credit any amount of stress. That was not stress, that was part of your job. But...no matter how you look at it there was an amount of stress.

(Vanta, Interview, 1992, p. 3)

As well as illustrating Newfoundland Association of Public Employees (NAPE's) efforts to make visible aspects of women's work and the resistance on the part of the committee, the above extract signals the shift in their delegate's account from union-management conflict to interunion conflict. Indeed, a large part of her interview revealed a strong resentment against the Association of Allied Health Professionals (AAHP).

There was a lot of hostility between these two union representatives on HC1, as identified by other informants on the committee, and on the Steering

Committee. One of the employer representatives highlighted this antagonism between NAPE (together with the Canadian Union of Public Employees [CUPE]) and AAHP: "Our hospital support unions, both NAPE and CUPE, seemed to have a lot of conflict with our AAHP and it was two unions that really battled it out..." (Interview, 1992, p. 3). Here, the "two unions" referred to in the "battle" are AAHP on the one side, and the hospital support unions in alliance on the other.

It is also clear from the transcripts that AAHP allied with the government and employer representatives. The Classification and Pay evaluator confirmed this: "...we had a very close working relationship with AAHP" (Osmond, Interview, 1992, p. 38). The AAHP representative revealed this in her interview, where she began by talking about the two sub-committees and finding herself in the "wrong" group i.e.; union rather than management (Butler, Interview, 1992, p. 1) We also know from AAHP's Business Agent (and Steering Committee alternate) that the union membership is conservative and tends to identify with management in the hospitals, to the extent that there is strong resistance to pursuing legitimate grievances.

Did this tension between NAPE, the militant hospital support union, and AAHP, the conservative "professional" union reflect a clash of working class and middle class union ideologies? The discourse used by the committee is significant in this respect. We have already noted that government and employer representatives, and the AAHP representative, consistently used the

term "union people" and sometimes "those union people" in a disapproving context. In addition, the term "professional" caused so much argument that it was eventually banned during sessions of this committee. Part of the NAPE and AAHP resentment of each other can probably be traced to the historical breakaway of the 'professionals' away from NAPE because it was seen as not representing the interests of professional staff and was too militant. Reading the transcripts, I was struck by a sense of a superior attitude, a condescension towards the hospital support unions, particularly on the part of at least one employer representative, the government representative and the AAHP representative.

The use of the word 'professional' in HC1 is a good example of the intertwining of class and gender properties. It was symbolic of certain, highly valued skills, which the hospital workers were seen by most people on the committee as not having. And it was used in an attempt to resist acknowledging the skills that were being brought to light by the hospital support unions for evaluation. That the word was banned signifies the strength and determination of the NAPE representative who found the word so offensive.

According to this NAPE evaluator, the concept of professionals versus support workers "...hindered the process terribly..." (Vanta, Interview, 1992, p. 4)

She elaborated:

...constantly throughout the whole process what you had was these 'professionals' and they kept calling themselves that...and we were non-professionals...this type of demeaning attitude towards women's jobs...and they were constantly belittling the jobs that were within the health care. There is no way that you could have any amount of authority or any amount of decision-making because you were simply not a professional....

(Interview, 1992, p. 4)

The AAHP representative saw a general fair and open-mindedness, and objectivity, on the part of herself and the employer and government representatives, while the hospital support unions were the cause of all the biases and problems. On the 'professionals' issue, she conceded that the use of the word may come over as a bit snobbish, but describes her understanding of the term: "[it] denotes a certain level of thinking and problem solving and problem identification, and that kind of abstract thinking whereas when I relate to a non-professional person...I relate less of that kind of thinking to their work" (Butler, Interview, 1992, p. 4).

This conflictual theme of 'professionals' was interwoven with secondary themes. One was the continued undervaluing of certain female dominated jobs, not in the actual rating of factors but in the validity of one person's contribution. According to the NAPE representative, a constant comment from

the AAHP representative was: "You're just a secretary, how could you know?" (Vanta, Interview, 1992, p. 15). Apart from gender biased assumptions about the work of a secretary, this remark ignored the union activism of the NAPE evaluator and her expertise.

Another secondary theme, linked with the former, was that of the difference between formal education requirements for professional jobs versus hospital support jobs. Apparently, the predominant feeling in the committee (apart from NAPE and CUPE) was that unless a job demanded a degree then it was not worth much. The hospital support unions accused the facilitator, a woman, of being biased in favour of the AAHP, government and employer camp over this issue (they explained this by her similar educational background). I was not sure that this was significant until the government evaluator admitted during his interview that the facilitator was reluctant to intervene but she "gave management some leeway" (Osmond, Interview, 1992, p. 38).

In the second job evaluation committee, interunion rivalry moved up through the hospital hierarchy and focused upon the highest levels of unionised employees, with NAPE this time representing female dominated laboratory and x ray technicians. The employer's representative described the interunion rivalry like this:

...there was a lot of friction at the table between unions but it wasn't between unions and management...[It was] between, say, nursing and lab x ray, these two unions would probably be at a

loggerhead...one didn't want the other one to get more than the other, and you had the Allied Health, who felt that they...maybe even should be above the other two. (White, Interview, 1992, p. 3)

A union member of the committee provided a more graphic account:

...union people fighting against union people. Everybody had their own agenda and their own preconceived notion of where certain groups should be and how certain jobs should stack up against other jobs. And war just about broke out over, you know, a point...it was almost as if every point that they gave away or let go or agreed on, to another group it was like someone was taking money out of their pocket. And they fought tooth and nail not to let it go. (Interview, 1992, p. 17)

It is evident from these and other descriptions that each union was jockeying determinedly for a particular position in the hospital hierarchy that is so ingrained in health care culture. This mindset was so strong that in the employer's representative's opinion, "...I think they found that management actually was probably fairer than their co-workers in the unions were..." (White, Interview, 1992, p. 6).

From an analysis of all the transcripts it is apparent that NAPE wanted to keep parity of lab and x ray with the nurses, although NLNU wanted to change this

long-standing relationship. Also, AAHP wanted to widen their differential with NLNU, and, although impossible to absolutely verify from the data, it is highly probable from reading both NAPE and AAHP transcripts that they cut a deal with NAPE along these lines with regard to the rating of a nursing job(s).

The NAPE representative was the only job evaluation committee member (from either committee) to analyse all the biases that people brought to the proceedings and include himself in that analysis. He made no secret of the fact that his agenda was to ensure parity with the nurses for the lab and x ray workers, from which component he came and for whom he had negotiated for many years. His objective when going into the committee was apparent from this extract:

[Because of the wage freeze]...the lab and x-ray people fell 5% behind nurses, and I was not prepared to sit down and have nurses being evaluated higher than a lab technologist....Because if I spent 25 years as a lab technologist, and you spent 25 years as a nurse, and we've been equal all through, and I see you as no better than me, no better or no worse, and someone turns around and says that you're entitled to be on the scales from one to ten, an eight, and I'm only a six, it is not going to wash.

(Hogan, Interview, 1992, p. 2)

This fierce defence of parity defies any managerialist concept of joint problem solving, especially when the collective bargaining relationship has been so hard

won: "...we spent hours and days and months on the street trying to win what we think is right" (Hogan, Interview, 1992, p. 3).

Although AAHP do not stand to gain much (they are not happy with the outcome for their members) the nurses do because according to the provisional results that are still in dispute, nurses do emerge as the top of the new hierarchy compared to NAPE's lab and x ray workers. Even more difficult for NAPE is that their internal parity relationships have been disrupted. The lab and x ray workers have traditionally been paid equally, and now pay equity has introduced a differential.

Given the strength of union alliance that enabled the Pay Equity Agreement, union solidarity was not much in evidence during the workings of either this committee or the previous one. Indeed one government representative on HC2 referred to "a divide and conquer affair..." (Interview, 1992, p. 45). The NLNU were particularly upset about what they perceived as an attack against the nurses by the other unions, a further illustration of how far removed the unions were from solidarity. The ex president of the nurses' union raised this issue as a specific item she wanted to cover just before we had to end our interview:

It has just been really disappointing to us, as nurses, that people, other unions, have fought so hard against our group....There were more times when we had management people arguing that

nurses' responsibilities were such and such than we did have workers.... (Interview, 1992, p. 18)

Although it could be observed that the existing job and wage hierarchy so clearly underlying the interaction of the HC2 committee members is not gendered because the conflict was over the relative position of female dominated jobs, we know that the very concept and structure of hierarchy is in fact gendered (Acker, 1989; Evans and Nelson, 1989; and Blum, 1991). Also, there were some gendered aspects of the process at a lower level of abstraction. The lab and x ray workers comprised a female dominated class, but there were a few small male dominated groups within it. In addition, the lab and x-ray job class was originally a male dominated class and had gradually changed to female dominated. That the lab and x ray job class was female dominated came as a surprise to me when I checked the gender dominance of this class because the kind of resistance to higher valuation of nursing jobs by the NAPE representative had a strong tone of gender ideology. During my interview with him, he caricatured nursing work, stereotyping nurses as Florence Nightingales, and trivialising the nursing model of holistic care. Given the jurisprudence emerging from the Ontario Pay Equity Hearings Tribunal about the importance of capturing previously invisible nursing skills, my impression is that the nursing jobs were not rated as highly as they should have been, and that prejudice against a traditionally female dominated job was largely to blame.

The evidence for gender identity being threatened in the behaviour of the HC2 evaluator is even stronger than in the case of the Classification and Pay evaluator in HC1. The appropriateness of this interpretation of these men's behaviour is substantiated by an interesting observation on gender bias made by a member of the Steering Committee (I think it is significant that it was the Business Agent\Solicitor for the NLNU). He sat on a job evaluation committee at the pilot testing of the instrument, and commented:

...if there was any male job being evaluated, every male in the room whether he had anything to do with the job or not, had some absurd connection with this job that warranted giving it this or giving it that. Not only would the females not argue against what was often very, very aggressive behaviour at the table, when it came to a female job, of course you would not see the same type of aggressive behaviour from them, in terms of fighting for those extra points. (Vivian, Interview, 1992, p. 21)

Breaking through the barriers of gender bias and identity was clearly a problem in this pilot committee and the other two job evaluation committees. The NLNU Steering Committee members raised serious concerns about the general undervaluing of nurses' work, drawing upon similar arguments to those contained in the Ontario Pay Equity Hearings Tribunal jurisprudence. They argued that job evaluation members especially undervalued the responsibility

and decision making skills of nurses but pointed out that this attitude was not so much in evidence in the leadership of the relevant unions.

Most participants in the pay equity exercise saw the acute conflict in HC2 as historical collective bargaining relationships "interfering" with the implementation of pay equity. But how can pay equity be implemented through collective bargaining if the importance of differentials is ignored?

Differentials encapsulated in a hierarchical pay structure are manifestations of the complex intertwining of class and gender. One employers' delegate on the Steering Committee, saw hierarchy as a formidable barrier to equity. She saw this organisational pattern as deeply ingrained in our society generally, and remarked that health care was the most hierarchical sector she had ever worked in.

Another member of the Steering Committee, the Director of Personnel Policy, also pointed to the problems of established job hierarchy. Indeed, she pointed out that most of the criticisms of pay equity have been about threats to this hierarchy - about compression and inversion. For example:

When push comes to shove in job evaluation situations
or...about putting money on the table, many people will say
'but we can't, we couldn't possibly have this. This will cause
the men in my bargaining unit to be terribly upset. This will
cause untold upheaval in the whole system if in fact, if this

group is now paid the same as or more than that group....

(Holden, Interview, 1992, p. 22)

But, as she argued, this effect of pay equity merely highlights the illogicality of the existing hierarchy, which is the real problem, and which pay equity set out to change.

In Chapter VI, pay equity bargaining in the Ontario civil service is examined with the intention of further understanding the complexities of the interrelationship of collective bargaining and pay equity.

CHAPTER VI

Pay Equity Bargaining in Ontario: The Public Service

In this chapter, pay equity bargaining within the legal parameters required by the Ontario legislation is examined. The case study focuses on the implementation of pay equity in the provincial government's civil service. The first part of the chapter places the civil service negotiations within economic, social and political context. Following a brief review of the province's economy, is a description of women's position in the labour force and equality policies for women, leading to a short account of public sector collective bargaining in Ontario. Then the information on pay equity bargaining in the civil service is presented, considering in turn bargaining structure, style and power, before moving on to an exploration of the gender and class dimensions of the negotiations.

Ontario has the highest population in Canada of 9,102,000. Historically, it has always been the richest province in Canada. A study of economic indicators from 1980 - 1990 reveal an economy with average per capita Earned Income and per capita GDP levels higher than Canada's: 112% and 105%, respectively. In contrast to Newfoundland, Ontario's unemployment levels over the last decade have averaged at a lower rate than national trends, at only 79% of the Canadian rate (calculated from Statistics Canada 13-213 and 71-201, 1992; and Newfoundland Statistics Agency, 1994).

However, although the Ontario economy has a larger, more diversified manufacturing base and larger, more accessible markets than Newfoundland, economic restructuring overlaid with recession caused a slowing down of economic growth during the period from 1989 to 1993. Indeed, in relative terms it has been argued that the province suffered the most of all provinces, accounting for almost three-quarters of all job losses in the country between 1990 and 1991 (Freeman, 1991).

Position of Women and Equality Policies in Ontario

In 1986 the Ontario population was made up of 51% women of 15 years and over. 13.7% of all families were lone-mother families with children under age 18, and 55% of these families headed by women lived in poverty. 4 in 10 lone-mother families were poor compared to only 1 in 10 led by men (Ontario Women's Directorate, 1990).

Participation in the provincial workforce has increased from 49% of women over 15 years of age in 1975 to 61% in 1991. Despite this increase, the earnings differential for men and women in 1989 was still on average 33%, for full-time, full-year work (Ontario Women's Directorate, 1991 - also the source for all the following information on women, unless otherwise stated).

As in Newfoundland, Ontario women work in a limited range of occupations compared to men; women are concentrated in half as many occupations as men are. Over 80% of women in 1989 were concentrated in the service sector,

which includes services and public administration, trade, finance and transportation and communications. Men, however, were more evenly distributed throughout industries, with only 58% in the service sector.

Vertical segregation within occupations characterises the Ontario workforce as in the Newfoundland profile, adding a further layer to wage discrimination, since women tend to be found in the lower-paid jobs within any occupational category. For example, according to 1986 Ontario statistics, in the management, administration and clerical category women predominated in the clerical jobs, making up 78% of that occupation, whereas men accounted for 67% of the management and administration jobs. Even in occupations where women predominated, like nursing or stenography and typing, men's average earnings were still higher than women's.

In the political sphere, women comprise 21% of the provincial legislature, 41% of the Cabinet, and 29% of the top civil servant positions at Deputy Minister level (Ontario Women's Directorate and Cabinet Office, Ontario Provincial Government, Interviews, 1994). These higher than (national) average representation figures are due to the mandate of the Ontario NDP leadership to include as many women as possible in its selected candidates and government. Figures were not available for previous governments, but it is generally acknowledged that the current number of women in top political positions is the highest so far. No figures were available for the education sector.

As in Newfoundland, the federal government sponsors a network of regional Status of Women's Councils, which are the provincial equivalents of the national Canadian Advisory Council on the Status of Women. The Ontario Advisory Council on Women's Issues was established as an arms-length body to advise the provincial government on policy and to promote women's equality in general. There is also an Association of Women's Centres funded by the provincial government, as are the ninety shelters in Ontario (Sule, Interview, 1994).

In the late 1970's and through the mid-eighties, the women's movement nationally were attempting to broaden their appeal from the predominantly middle-class membership. One of the primary routes to this objective was seen to be alliance with the trade union movement. A socialist-feminist group in Toronto, the International Women's Day Committee, formed strong alliances with the women's committees in various unions, the Ontario Federation of Labour, and the Ontario New Democratic Party, and Organized Working Women (OWW). This latter organisation was a group of women trade unionists founded in 1976 specifically to take feminism into the labour movement. One result of this labour-feminist alliance was the strong show of support by the feminist community in Ontario during a number of significant strikes during this period (Adamson, Briskin and McPhail, 1988).

It was during this period that the first Canadian Labour Congress Women's Conference was held in 1976 and the first full-time equal opportunity

coordinator was appointed (in the Ontario Public Service Employees Union [OPSEU]). The labour-feminist alliance was to become "one link in the chain that has increased active trade-union support for issues such as day-care, abortion and equal pay. Today we have come to take this alliance with the union movement for granted" (Adamson, Briskin and McPhail, 1988, p. 79). The existence of such a strong coalition in Ontario enhanced the probability of a joint effort to lobby for pay equity legislation, and explains the overall strength and success of the Equal Pay Coalition, together with the feminist-informed pay equity bargaining in certain public sector negotiations, most notably in the public service.

With regard to employment equality government policy, the Ontario Women's Directorate was established in 1983 with a mandate to achieve economic and social equality for women in the province. It is an internal advisory body to provincial government in developing equality policies for women. Its influence was enhanced by the requirement that every submission to Cabinet for policy and legislative change has to include a statement of impact on women. Part of its function is to liaise with other governments, the Ontario Advisory Council on Women's Issues, women's organisations, business, labour and community groups in order to promote equality for women. In 1985, in response to the UN monitoring of its Convention 100, the Directorate made narrowing the earnings gap between men and women a priority and subsequently pursued a number of initiatives.

These included an extension of the affirmative action program started in 1974 in the Ontario Public Service to the broader public sector; encouragement of the private sector to adopt employment equity, including Ontario Equal Opportunity Achievement Awards; research into and development of strategies on women and new technology; and promotion of women's entry into non-traditional occupations.

Ontario set the lead in provincial equal pay legislation, passing its Ontario Female Employees Fair Remuneration Act in 1951, which required equal pay for the same or similar work (Kovach and Millspaugh, 1990). The Ontario Employment Standards Act, 1981, prohibited gender-based wage discrimination, requiring equal pay for "substantially the same kind of work" but adding the qualifier "the performance of which requires substantially the same skill, effort and responsibility and which is performed under similar working conditions" (Part IX). However, the complaints model incorporated into both pieces of legislation led to very little change.

The proactive pay equity legislation passed in 1988 was the result of effective coalition politics, and an opportune political moment. In 1985, the election had resulted in a minority Liberal government who signed a political Accord with the New Democratic Party (NDP) so that between them they could achieve a majority in the provincial House of Assembly. The NDP's support of the Liberals in the House was conditional upon the Liberals introducing certain social reforms, one of which was pay equity legislation.

The coalition of interests focused on pay equity was a strong labour-feminist alliance with close connections to the NDP. This coalition had been lobbying for a decade to obtain pay equity through legislation. The key organisational players in this Equal Pay Coalition were the Ontario Federation of Labour (OFL)'s Women's Committee; individual unions, especially CUPE and OPSEU; and the New Democratic Party [NDP] (Beal, Interview, 1991).

The OFL Women's Committee influence derived from both its structural advantages and political hard work, and they had successfully built bridges with the women's groups in the province. The Committee was one of the founding members of both the Coalition for Better Day Care and the Equal Pay Coalition (Sceviour, Interview, 1991).

CUPE's progressive equality policies are nationally acknowledged in the labour-feminist community, including their expertise in job evaluation and pay equity. OPSEU was also of primary importance in the coalition. The first proposed pay equity legislation covered only the public service, which affected OPSEU more than any other union since its largest bargaining unit contained virtually all the civil servants.

It was during the legislative committee stage of the first pay equity Bill that OPSEU presented its brief "Meeting the Challenge," which rejected the job evaluation model of pay equity. This document was drawn up by a feminist inside OPSEU, subsequently the key pay equity negotiator for the public

service, with technical and legal input from leading members of the EPC. The model was rejected as heretical at the time, by the NDP and the Liberals. The latter criticised the proposal for "just throwing money at the problem."

OPSEU's response was "Yes, just give us the money...", which later became the title of a book published in British Columbia (Lewis, 1988) where the pay equity debate included a strong questioning of the use of job evaluation to achieve pay equity (Peters, Interview, 1991).

There were also some key, high profile individuals representing the various groups in the EPC which increased its influence - labour and human rights lawyers, business and professional women, unionists, feminists, and academics. For example, one influential feminist union leader was a senior negotiator with OPSEU, both for contractual negotiations and in the early days of pay equity bargaining. She was very active in the NDP, participated in consultative talks with the Liberal-Democratic Accord government in 1985 and later became the Minister of Health in the 1990 NDP government. Another member of the EPC was prominent in the OFL and later became the NDP leader's campaign strategist. And a number of prominent feminist labour lawyers were active members of the EPC (McDermott, Interview, 1991).

The wide range of political views represented in the EPC was both a strength and a weakness. It was because of this broad base that the EPC was such an effective lobbying vehicle. The extent of its power is indicated by the shift from lobbying to consultative status. By the time the Act was introduced, the

EPC had become recognised as the labour-feminist voice on pay equity and was seen as a "monitor" of government proposals for the new legislation. The Attorney-General briefed the EPC on the basic parameters of the Act before it was tabled the next day. Moreover, when the Commission was set up, the EPC was consulted over staffing; when the Chair of the Hearings Tribunal was appointed, they were consulted again on suitable individuals for the Tribunal panels.

On the other hand, the political diversity of the EPC led to tensions over the extent of public criticism of the second proposed pay equity law, which covered the private sector and broader public sector as well as the public service, replacing the first which had covered only the public service. OPSEU in particular had always had a fairly radical view of pay equity, advocating a non job evaluation model of pay equity, and rejecting the first pay equity bill as jeopardising their collective bargaining structure. When the second Bill came down most members of the EPC felt that they should not delay the legislative process because the Accord was coming to an end and it was feared that the Liberal government, released from the conditions of the Accord, would renege on its commitment to pay equity legislation (McDermott, Interview, 1991; Cuneo, 1990).

OPSEU and a minority of the EPC took the position that the second Bill should be strongly criticised as well for its non definition of gender neutrality (with no regulations to interpret this important concept to follow), the inadequate

methodology to establish equal value (job to job comparison and the limiting requirement to identify the lowest male comparator in a job class in order to calculate adjustments), and the exclusion of women in small workplaces. This dissenting view was that the EPC should strive to obtain a law that would give a true, or at least a better, model of equal value.

However, because of the extreme opposition in Ontario to any pay equity legislation at all it is perhaps understandable why the EPC chose to smooth over this disagreement over strategy. Moreover, this stage of the political process was very stressful for everybody concerned, particularly after two years of exhausting and complex critical work of the previous Bill and now the new one introduced with so little of the political window of opportunity left (Cuneo, 1990). These factors made unlikely that a strong stand would be taken against the second Bill, which was eventually passed in 1988.

Overall, the significance and strength of this Ontario labour-feminist alliance in achieving pay equity legislation was confirmed in a number of the interviews conducted (McDermott, 1991; Beal, 1991; Peters, 1991; Harris, 1991; and Cornish, 1991), and in Cuneo's book (1990). As in Newfoundland, the labour-feminist network reached into the bureaucracy. Although the civil servant concerned was not officially a member of the Equal Pay Coalition, she was a determined advocate of pay equity and her effectiveness in managing the legislative process was increased by the convergence of many voices into one labour-feminist position. OPSEU's pay equity expert and key negotiator

acknowledged the feat of this woman in managing the views of all the interest groups and steering the legislation through to the end despite strong opposition from conservative business and women's groups (Peters, Interview, 1991).

This senior bureaucrat was in the Ministry responsible for women, and later went on to head the division responsible for implementing pay equity in the public service. Her role in the lobbying and consultative stages of the legislation and the successful public service negotiations was crucial.

The Pay Equity Act 1988

The Ontario Pay Equity Act applied to all public sector employers, and all private sector employers with ten or more employees. Employers covered by the Act were required to identify systemic gender discrimination in compensation by "undertaking comparisons between each female job class in an establishment and the male job classes in the establishment in terms of compensation and in terms of the value of the work performed" (Section 4, No.2). Value was to be measured as a composite of skill, effort, responsibility, and working conditions, using a gender neutral job comparison scheme. Under the Act, pay equity is achieved "when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate for a male job class in the same establishment where the work performed in the two job classes is of equal or comparable value" (Section 6, No. 1).

This means that, unlike the Newfoundland pay equity model, the Ontario methodology requires a job to job comparison instead of a male wage line as

the basis for pay equity adjustments. Moreover, the legislation allows pay equity adjustments to be calculated based on the lowest waged male comparator job provided it falls in the equal and comparable male job class.

The Act allowed exemptions to the employers' liability for pay equity so that pay differences between male- and female-dominated jobs which are equal or comparable are permitted in certain circumstances. Allowable exceptions were listed as a formal seniority system, temporary employee training or assignment, a merit compensation plan (provided these practices were not discriminatory), red-circling (where the wages for a downgraded position are frozen), and skills shortage. A further exemption unique to Canadian pay equity legislation was the recognition of differences in bargaining strength once pay equity was achieved.

All public sector employers, and private sector employers with 100 or more employees, were required to produce and post "pay equity plans" for employees' approval, providing the following information: the job comparison system to be used; the results of the evaluation itself; identification of any exemptions, with reasons; description of how pay equity would be achieved; and a schedule for the adjustments and eventual achievement of pay equity.

Plans were to be negotiated with unions in unionised workplaces. The employer alone was responsible for implementing pay equity in non-unionized organizations, subject to the employees' agreement with the final pay equity plan.

Deadlines were according to sector and size (Table 3). The public sector (which includes the civil service, Crown corporations, health care facilities, universities and colleges, several external agencies, school boards and municipalities) had to post pay equity plans by January 1, 1990, begin wage adjustments on the same date, and complete pay equity adjustments five years' later.

Employers	Pay equity plans must be posted	Pay equity adjustments must begin	Pay equity adjustments must be complete
Public sector ¹	1 January 1990	1 January 1990	31 December 1995
Private sector ² with 500+ employees	1 January 1990	1 January 1991	No mandatory deadline; at least 1 per cent of the previous year's payroll must be used for pay equity adjustments each year, until pay equity is achieved.
Private sector with 100-499 employees	1 January 1991	1 January 1992	
Private sector with 50-99 employees who post plans	1 January 1992	1 January 1993	
Private sector with 10-49 employees who post plans	1 January 1993	1 January 1994	
Private sector ³ with 50-99 employees who <i>do not</i> post plans	-	1 January 1993	
Private sector with 10-49 employees who <i>do not</i> post plans	-	1 January 1994	1 January 1994
<p>1 Public sector employers must begin pay equity adjustments on their mandatory posting date — 1 January 1990. The adjustments must be completed no later than 31 December 1995.</p> <p>2 In the private sector, adjustments may take several years to bring the compensation of female job classes up to that of their male comparators using 1 per cent of the employer's previous year's payroll each year. Some employers may wish to complete their adjustments more rapidly, using <i>more</i> than 1 per cent of the previous year's payroll each year.</p> <p>3 Private sector employers with between ten and 99 employees <i>may</i> prepare and post pay equity plans. If they choose <i>not</i> to do so, they must be in compliance — that is, their compensation practices must provide for pay equity — on their mandatory adjustment date.</p>			
<p>Source: Compiled from Pay Equity Commission, <i>Pay Equity Affects You</i> and Pay Equity Commission, <i>Pay Equity Implementation Series</i>, No. 14, 1988.</p>			

The Act established a Pay Equity Commission consisting of a Pay Equity Office and a Pay Equity Hearings Tribunal. The Pay Equity Office is responsible for research and education, monitoring pay equity implementation and conflict resolution. The latter two roles were to be played by Review Officers, although emphasis proved to be on dispute resolution, rather than monitoring, or investigation. Under the Act, the Review Officers were given considerable powers of investigation, including the right to enter any place at any time to obtain documents and question persons about a complaint. The Review Officers can make orders of a wide ranging nature to bring about compliance with the Act. Parties dissatisfied with an order made by a Review Officer can appeal to the Pay Equity Hearings Tribunal, which can conduct a full and formal hearing and make its own decision.

The Pay Equity Hearings Tribunal has administrative and enforcement powers in its own right. It is entitled to make a number of orders concerning the implementation of the Act, including ordering the Review Officer to design a pay equity plan if an employer has failed to post one; ordering the reinstatement with compensation of an employee wrongfully dismissed because of pay equity matters; ordering pay adjustments to female employees who were not accorded pay equity; and ordering the revision of pay equity plans. It may make general remedial orders and the Act also includes penalties for those who fail to comply with these orders. Maximum penalties are \$2,000 for individuals and \$25,000 for organizations.

Since employers are legally required to negotiate pay equity with unions in organised workplaces, and this research concentrates on the highly unionised public sector, it is important to review public sector collective bargaining in Ontario before moving on to report on the public service negotiations themselves.

Public Sector Collective Bargaining Climate

Collective bargaining extended into the Ontario public sector in the late 1960's to the early 1970's. The province passed a variety of laws covering the labour relations of specific occupational groups in its public sector. It is the province with the highest number of statutes covering its public sector employees (1989, Ponak and Thompson); there are separate Acts regulating the municipalities, the police, the firefighters, the hospitals, the teachers, and the civil service together with government enterprises. The public service is covered by the Crown Employees Collective Bargaining Act (1972), which incorporates both general labour relations matters and dispute resolution procedures.

The Ontario law covering the public service has a broader application than any other statute in Canada regulating public sector labour relations. The civil servants have the right to a Grievance Settlement Board to hear disputes concerning classification of their positions and performance appraisals, as well as the usual provision for grievances arising from discipline and discharge without just cause (Craig and Solomon, 1993). Ironically, it is this right to

reclassification grievance procedure that undermined the maintenance of pay equity in the public service.

Compulsory arbitration is substituted for the right to strike. Only four other provinces do not give civil servants the right to strike: Alberta, Manitoba, Nova Scotia and Prince Edward Island (Craig and Solomon, 1993). There was resistance within the civil service at the passing of the Ontario legislation prohibiting strikes. One occupational group, the correctional officers, went on illegal strike in 1979, challenging the no-strike legislation. The president of the union concerned, the Ontario Public Service Employees' Union (OPSEU), was jailed because he advised these workers to strike, in contravention of the Ontario statute (Craig and Solomon, 1993). The effects of this strike were to prove very relevant to the development of the wage gap in the civil service and in the dynamics of the pay equity process in OPSEU.

At about this time, another major public sector union, CUPE, also went on strike illegally, this time over the interest arbitration process, which it saw as unable to obtain a high enough settlement for parity with other workers. A number of CUPE leaders were subsequently fined or imprisoned for encouraging workers to defy a court injunction. An arbitration panel was established by the government (CUPE had still refused to give an arbitrator's name) and after the ruling came down there was apparently some discontent within the workforce and union leadership that the award favoured management (Craig and Solomon, 1993).

There is growing disenchantment with the arbitration process in the Ontario health sector (Craig and Solomon, 1993), and this dislike of arbitration is compounded by the complications of pay equity, especially in the maintenance phase, when the overlap between the two processes - contractual collective bargaining and pay equity implementation - is the most acute. Hospital managers, the employers' association negotiator, and union negotiators felt that arbitrators did not always understand the pay equity implications of the interest awards they were making.

The general climate of labour relations within the public sector has dramatically deteriorated since a brief "honeymoon" period after the NDP won their first ever Ontario election in 1990. After a first year of continuing with election promises, building on their alliance with the labour movement, the social democratic government moved to the right with their second budget. In the face of tough criticism from its traditional allies, the labour movement, and many party activists, the NDP government fell in line with the rest of the country and implemented a cost-cutting programme to trim the high deficit. Among these cuts were lay-offs in the public service (Mackie, 1992) and a social contract designed to save money in the public and broader public sector in consultation with the unions. Eventually, the about-turn of the government and labour's accusations of the undermining of free collective bargaining during the social contract negotiations led to a rift in the labour-NDP alliance in Ontario. The public sector unions in the OFL have disaffiliated from the

Ontario NDP, while the private sector unions have continued their support for the provincial party.

Although the public service negotiations were almost completed when the NDP government came into power, the party's special relationship with the labour movement in the early days of office helped the maintenance phase of pay equity in the civil service. However, its subsequent stringent cutbacks undermined the pay equity bargaining process in the health care sector. The promised amendments to increase the coverage of pay equity came in the form of a new, weakened Act, passed in 1993. This legislation extended the pay out period in the public sector from five years to eight, and allowed the government to issue regulations defining, and limiting, maintenance in the civil service.

Pay Equity Implementation in the Civil Service

According to the schedule in the legislation, the deadline for the public sector to post their pay equity plans and begin wage adjustments was January 1990. The public service was the first part of the public sector to begin implementing pay equity. It took two years to negotiate a pay equity plan, which was posted shortly after the deadline. The first wage adjustments were paid out on this date, too. Pay equity adjustments ranged from \$0.02 to \$6.74 per hour, with an average adjustment of \$1.82 per hour, which is equivalent to an average annual increase of \$3,549. The equivalent annual increases ranged from \$39

to \$13,143 (figures calculated from the Ontario Public Service Pay Equity Plan, 1990). According to Coutts (1990), some of the pay increases were as high as 28%. The civil service pay equity settlement was notable for attempting to move beyond the legislative minimum, incorporating wage adjustments that were above the lowest male comparator level.

The parties to this set of negotiations were the provincial government of Ontario and OPSEU. We know from the Coordinator of Pay Equity in the Compensation Programs Branch of the Human Resources Secretariat that before negotiations started with the union, compensation specialists were studying the relevant literature from the US. They also had meetings in New York and Toronto with experts on designing job evaluation to capture women's work. The personnel administrators were concerned about having a truly gender neutral job evaluation system and were looking towards the policy capturing system pioneered in New York State.

Ministerial support was significant in the pay equity bargaining process. The Pay Equity Coordinator for the government was in the House when the Act was passed and she described the joy of the Deputy Minister of the Human Resources Secretariat and her colleagues. The Deputy Minister was present at the beginning of the negotiations. A health ministerial advisor who sat on the negotiating team suggested that a strong political presence - the chief negotiator was the Assistant Deputy Minister - signified a key difference between bargaining for pay equity and conventional contract negotiations.

Overall, she identified "...a very strong political agenda that ran through everything that went on and...we were going to be one of the first and largest employers to actually reach a pay equity agreement. It had to be a showcase" (Hall, Interview, 1991, p. 2). Later on in the interview, she referred to the "...enormous political pressure that was on the negotiators to wrap it up quickly, wrap it up within an acceptable financial framework, and do it without a lot of negative publicity" (Hall, Interview, 1991, p. 4). This view of pay equity implementation in the civil service was confirmed through analysis of both union and government interviews.

The other party to the negotiations, OPSEU, began in 1911 as a fuel cooperative, a professional civil servants' association which expanded to include community college staff, hospital laboratory groups, ambulance officers and other hospital workers. Its membership now stands at 110,000. OPSEU is affiliated to the same national coordinating union, NUPGE, as NAPE in Newfoundland. The largest group comprises the provincial civil servants (69,000).

The introductory membership leaflet points out that "despite [the] legislated denial of the right to strike....OPSEU members have never hesitated to use the strike weapon when all else failed" (OPSEU, 1992). The depiction of the correctional officers' illegal strike indicates the culture of support and solidarity around this historical event: "...the correctional officers took the first province-wide action in defiance of anti-strike legislation." The prestige and

power of this particular group within the union is relevant to an understanding of the gendered dynamics of the reaction to pay equity, and the position of women in OPSEU generally.

OPSEU is a social union, broadening its aim from the welfare of its members through collective bargaining to a concern with government cutbacks, labour legislation, employment standards, human rights and world peace (Peters, Interview, 1991; OPSEU, 1992). It is politically independent from any political party. Even so, with the support of its parent union, NUPGE, and the CLC, the union was successful in a six year battle for the right for it (and by extension other Canadian unions) to use its dues for political purposes.

This was the result of a challenge under the Freedom of Association section of the Charter of Rights and Freedoms and in 1991 it was finally settled in the Supreme Court of Canada. Social unionism in Canada would have received a severe blow had the union lost its case (OPSEU, 1992; Craig and Solomon, 1993).

In 1987, just before the pay equity legislation was passed and negotiations started in the public sector, 54% of the union membership were women.

Interestingly enough, at this time, when OPSEU was at its most active in the Equal Pay Coalition, there were the highest number of women on its executive board (30%) than at any other time shown in the statistics (up until 1993). By 1993 the percentage of women on the board had dropped to 21%, due to the

replacement of two retired women directors who were replaced with men (Wood, Interview, 1993).

At a local level, in 1987 31% of presidents were women (34% in 1993); and 38% of Vice presidents were women (39% in 1993). The number of women becoming treasurer increased from 32% in 1987 to 48% in 1993, but the percentage of women secretaries increased from 47% in 1987 to 70% in 1993. The Equal Opportunities Coordinator thought women "had come a long way" in the union but: "...the men [still] hold the power broker spots and the women are secretaries" (Wood, Interview, 1991, p. 6).

Historically, OPSEU have been one of the progressive and ground breaking public sector unions in women's equality (Briskin, Interview, 1991; see also Briskin and Yanz, 1985). Feminists inside OPSEU mobilised support in the 1970's to achieve the election of the first women's committee in Canada. The structure of the women's committee required the debate of issues in all regions, illustrating the convergence of feminism and democracy in unionism. OPSEU's women's committee is relatively powerful compared to its other committees, derived from an independent budget and a direct route to the resolutions committee and delegation to regional conventions, by-passing the usual route through the locals.

OPSEU was also the first Canadian union to discuss co-worker sexual harassment, and after a "big struggle" (Briskin, Interview, 1991, p. 4), the

committee won a sexual harassment policy in the constitution in 1978. In 1984 women's equality policy focused upon bargaining and legislative lobbying. A Board decision in 1988 announced the pursuit of employment equity, both externally and internally. The union also have progressive policies on child care, video display terminals protection, job sharing, abortion and human rights. Translation of these central policies to the bargaining table is achieved with varying effectiveness. The main barrier is a lack of women in the negotiating teams: "So, it may be a priority of the organisation, but the individuals take their own agendas to the table and men are often offended with employment equity. It's the woman's way of negotiating. They can't do it on their own, so now...they will be handed cake on a platter (Wood, Interview, 1991, p. 14).

Despite this general difficulty, in the specific case of pay equity the public service negotiating team for OPSEU was made up of 80% women - 90% if the President of the union is excluded (he was only present at the very beginning and end of the process). The Equal Opportunities coordinator was on the team, and another member of the women's committee. A committed and knowledgeable socialist feminist was the key strategist and negotiator in practice. The official chief negotiator was male. He explained that the selection of mostly women was a political decision. Indeed, this rationale underlay the selection of women to negotiate pay equity in other OPSEU

bargaining units, too, and he identified a new cadre of women leaders emerging from the pay equity experience (Todd, Interview, 1991).

Negotiating the Pay Equity Plan

The pay equity methodology used in the civil service negotiations was statistically driven, utilising a complicated policy capturing approach and sophisticated computer programming. The aim was to incorporate the evaluation process into the design of a questionnaire, which had to be gender neutral in order to fully capture the value of women's work. This questionnaire was to be completed by everyone in selected male- and female-dominated classes, identified by the parties. Accordingly, there were no job evaluation committees in the Ontario public service negotiations, and a major section of the pay equity bargaining was focused on the joint design, completion procedures, collation, and analysis of the questionnaire. The results of the questionnaire were used as a basis of negotiations when reaching the final decisions on matching male and female jobs and subsequent pay equity adjustments.

The conventional bargaining structure for the Ontario public service is centralised following a two-tiered pattern, with working conditions and benefits negotiated centrally complemented by separate wage settlements for each of eight bargaining categories, occupationally defined. This structure was suspended during pay equity bargaining in the civil service. Although OPSEU

had recognised that pay equity would not work using the existing structure because of the need for male comparators, the shift to a more centralised pattern was a difficult move. Traditionally, each of the eight categories had been autonomous, almost as if they were separate bargaining units, even though technically all the civil service employees were in one large bargaining unit. Category independence was important to the union, as they saw the ability to organize and bargain autonomously within occupational groups as powerful.

Indeed, by keeping the separate categories the union was able to use pattern bargaining, utilising the enhanced bargaining strength of certain categories.

One category in particular, the male dominated correctional officers, had traditionally been recognised as militant, willing to go on illegal strike in 1979 to separate themselves as a group from the institutional care category, which was female dominated. Not surprisingly then, "...historically, [the] members have clung on to it and fought for category bargaining" (Peters, Interview, 1991, p. 13). Continued employer efforts to move to global bargaining was interpreted by the union as a strategy to dissipate the militancy of particular categories.

Pay equity bargaining broke with the tradition of category bargaining and the only way the union was able to countenance this was to ensure the separation of pay equity from conventional collective bargaining. Although the legislation did not require this separate structure, the Pay Equity Commission had issued

guidelines that recommended separate pay equity bargaining. Pay equity activists knew that to integrate pay equity with contract bargaining would be to increase the possibilities of women's pay equity adjustments being part of any trade-offs necessary to reach settlement. CUPE had seen this tendency in their efforts to bargain pay equity issues before the legislation, and OPSEU's chief pay equity negotiator admitted the temptation of a union to bargain away one group's increases to the detriment of the other when both types of bargaining are integrated (Todd, 1991, p. 9). Civil service negotiators in OPSEU also recognised that integrated bargaining would stall conventional negotiations as they became caught up in the long drawn out job evaluation process.

According to OPSEU's chief pay equity negotiator, employers in general were consistent in wanting to negotiate pay equity together with conventional negotiations. He saw this position as reflecting the knowledge that "...you can lose a lot in the shuffle..." this way, and that combined negotiations would be a clear advantage to the employer (Todd, Interview, 1991, p. 9). Certainly, the hospital employers' association did prefer integrated bargaining, because this would have meant less disruption of standardised wage rates (LeMay, Interview, 1991). However, given the 'showcase' pay equity implementation in the civil service, combined with the recommendation of the government's own agency, the Pay Equity Commission, to bargain pay equity separately, in addition to the commitment of certain female bureaucrats, it is understandable that both union and employer in the civil service were of one mind over this

issue at least. It is reasonable to infer that informal bureaucratic networking formed a role here, too. The first Pay Equity Commissioner had been the immediate superior of the civil servant who became the key pay equity negotiator.

Intraorganisational tensions over bargaining structure were thus contained by the union by keeping the pay equity negotiations separate. At the time of my interviews in early summer 1991, civil service pay equity adjustments had already been paid out (completed by December 1990) and one round of contract negotiations had been conducted in 1991. However, it was evident from opinions expressed on both union and government sides that there would be renewed pressures on the category bargaining system, as a direct result of pay equity.

One member of the union pay equity negotiating team predicted that the existing structure would have to change to meet the legislation's requirement to maintain pay equity. Maintenance of the relationship between the male comparator and the female dominated classes is virtually impossible with each category bargaining separately. As she remarked: "...already we're out of whack with a certain amount of special cases that have been going on and different groups that have gotten more money and have thrown the system out of place" (Holowka, 1991, p. 8). She considered the amalgamation of categories as the only way to maintain pay equity and recognised that the president of the union had a very difficult decision to make. Apparently, that

year (1991) had not been a big problem since all categories had received the same 5.8% increase, but this would not normally be the case.

The dilemma of the union is not to be underestimated. Apart from the need to ensure that their own bargaining structure does not undermine everything they have achieved in pay equity, there is another factor that has to be built into the decision on bargaining structure. The bargaining strength exemption in the legislation once pay equity has been achieved is still an unknown until there is a Tribunal case on this issue to legally define what is meant by bargaining strength. Most people interpreted this clause to mean bargaining strength of a bargaining unit, but no-one really knew exactly how it would affect the maintenance of pay equity, including the Review Officers at the Pay Equity Commission.

If bargaining strength is taken to mean that of a bargaining unit, then it will not be a tool that the employer could use to deny the maintenance of pay equity in the civil service because, despite the autonomous categories, all of OPSEU's civil servants make up one large bargaining unit. On the other hand, OPSEU's correctional officers' category certainly has more bargaining power than any other category in the civil service, so if bargaining strength were defined as applying to a particular group within a bargaining unit then this would result in even more pressure to combine the existing categories to prevent the employer using this clause.

Turning to the government, the impact of the maintenance of pay equity was just being realised by the negotiators in summer 1991. The Coordinator for Pay Equity explained that the government had decided to pay out everything rather than taking the full three years as they were entitled to under the Act because of the "...serious instability..." pay equity instalments would cause their pay policy practices (O'Donnell, Interview, 1991, p. 41). This continuing change in pay relationships, having to factor in contractual increases as well, would exacerbate (for them) the existing problematic consequences of pay equity: compression and inversion.

Since all of the adjustments had been paid out by December 1990, pay equity in the civil service was in the maintenance mode, which was described as "...a major headache..." (O'Donnell, 1991, p. 42). There were considerable pressures on the government side to merge the separate categories for future collective bargaining. From the government's perspective, they had already paid out another \$1.3 million for catch-up costs, to counter any changes in the relationship between the female dominated classes and the male comparator classes due to collective bargaining increases since the legislation was passed in 1988. They were now looking at a very complicated identification of job class linkages to pinpoint any adjustments payable under the maintenance requirement in the Act. The payment of these adjustments would be much easier and cheaper to administer if the bargaining structure were changed so that all categories were combined for contractual bargaining purposes.

A stronger pressure for change was the perception by the government bureaucrats interviewed, both women who were clearly advocates for pay equity, that the union were using pay equity to "whipsaw" the employer. In other words, settling one female dominated category at one level, and then when negotiating for a male dominated comparator category, negotiating a much higher increase, knowing that this larger increase will flow to the female dominated category. The Coordinator for Pay Equity conceded that in the 1991 round of contractual bargaining OPSEU opted for a 5.8% increase for all the categories. In her opinion, the willingness of OPSEU not to disrupt pay equity during this round had been largely due to the (then) special relationship with the NDP government.

On the other hand, from the employer's perspective she was pessimistic about a special adjustment OPSEU had applied for in one male dominated job class: the clerk supply position. This class was a male comparator for practically all institutional care classes. At the time of the interview (1991) the Coordinator had only just heard that at the conventional collective bargaining table, the employer had granted a special wage adjustment. She calculated that the 2% increase would cost the government \$1 million in adjustments to the tied female dominant classes. I was struck by her dismay and surprise that this adjustment had been granted at all; she wondered if the government negotiators had even realised the pay equity implications.

After consultation with the Director of Review of Services at the Pay Equity Commission, the compensation division had discovered that this practice of the union was legal and that, as employer, they have to pay the adjustment to both the male class and the tied female class. The more cooperative spirit engendered by the pay equity bargaining was apparently coming under severe strain by this development. There was a serious possibility that the government as employer could say that from now on they would only bargain the male dominated categories, or that they would only bargain one increase for all categories in the bargaining unit to maintain pay equity. Either government move towards changing the existing bargaining structure would limit OPSEU's bargaining, for both would decrease their flexibility and power in conventional negotiations.

Moving on now to a consideration of bargaining style, it is evident from all the interview data that the public service pay equity bargaining was more cooperative than conventional negotiations. A number of accounts of the negotiations (both union and management) refer to the union-management "buddy system" devised for completion of the questionnaire and the joint communications as very different from normal bargaining, clearly representing a more cooperative mode of interaction than usual (Robinson, O'Donnell, Todd, and Holowka, 1991). However, the image of cooperation and the reasons for it occurring differed between government and union negotiators, and to a certain extent within each party to the negotiations.

As recommended by Pay Equity Commission guidelines, and as revealed in Human Resources Secretariat accounts of the negotiations, for the Ontario government a concept of model employer in this case included an expectation of a different mode of bargaining.

From the government negotiators' perspective, the pay equity negotiations illustrated a new "partnership" with the civil service union. The word partnership was used by the Coordinator of Pay Equity a number of times and included the spillover effect of pay equity so that union-management relations generally were seen as better. The Assistant Deputy Minister (ADM) of the Human Resources Secretariat had also referred approvingly to the partnership with the unions and had claimed the joint negotiation of pay equity as a "...real coup..." (O'Donnell, Interview, 1991, p. 37). The Coordinator's superior in the Human Resources Secretariat at the time of the pay equity negotiations, the woman who did most of the actual negotiating, described pay equity bargaining as "...turning a new corner" (Robinson, 1991, p. 11). There were two major "firsts" in her view: the joint communication of pay equity policy and progress and the joint compilation and testing of the questionnaire. The bargaining of such a complex issue was to her a significant feat.

Significantly, these "firsts" came through as noteworthy in the union transcripts, too, and formed part of the union negotiators' view that pay equity bargaining was certainly different from and even more cooperative than conventional bargaining. However, perhaps not surprisingly, the discourse

was less managerialist in the sense of a new partnership or the achievement of a new cooperative form of bargaining. It was rather a straightforward assessment that the power of the union was considerably enhanced by legal and political pressures on the government negotiators, and that this therefore forced them to be more cooperative.

Nevertheless, the union chief negotiator described pay equity bargaining as "...a more collaborative project than regular [conventional] collective bargaining..." (Todd, Interview, 1991, p. 6). His female colleague, who was the key figure in the negotiations, differentiated between collaboration and cooptation and saw this important in any new kind of bargaining that may evolve: "...even though it was clear that we represented different interests from the government and we never let that go, we also recognised that to some extent it had to be a collaborative process in terms of getting to the end" (Peters, Interview, 1991, p. 23). It should be noted here that the government negotiators were also aware of the different interests of the parties, even while espousing the notion of a new partnership with the union: "...There was a lot more give and take....There was more of a sense of partnership, [but] not to the extent that we ever lost sight of who we were" (O'Donnell, Interview, 1991, p. 16). Her superior echoed this position: "There wasn't necessarily a singleness of purpose always between us....Very often, there just is an employer view on a union... (Robinson, Interview, 1991, p. 13).

The need for collaboration is implicit in the joint negotiation of the gender neutral comparison of jobs, as the Act requires in unionised workplaces. As was pointed out by a union negotiator, the government needed the union for the technical information-gathering stage and the union needed the government for money it wanted for pay equity. At this basic level goals were complementary, if not mutual.

A further indicator of cooperation is the flow of information exchange. Accounts of this set of pay equity negotiations made much of the joint communication process, but of information exchange there was little mention. Certainly no-one talked about information disclosure as a problem; after all, the main focus of bargaining was to design an instrument to generate information for both parties to work with. We know that the government representatives wanted a pay equity plan for the civil service very much and it is reasonable to assume that there would be little resistance to information disclosure by the government. As a "model employer" they would have known of the important Pay Equity Hearings Tribunal case in 1989 which early on had established the proposition that unions were entitled to virtually full information disclosure at very early stages of bargaining, differentiating pay equity from conventional bargaining in terms of the legal definition of good faith bargaining (Lennon-Shilton, Interview, 1991; Ontario Public Service Employees Union v. Cybermedix Health Services, 1990). One union negotiator estimated that there was a real long-term benefit gained from the

information given to them during pay equity bargaining; she said she was still using the statistics over a year later (Holowka, Interview, 1991).

The indicators of trust and openness were not prominent themes in the data. Indeed, an expectation of high levels of trust and openness would be somewhat inconsistent with the general tone of all the union negotiators, even if government negotiators' accounts were slightly more optimistic. For example, the key government negotiator commented: "...I think we were quite open with one another along the way" (Robinson, Interview, 1991, p. 13). However, OPSEU had taught their members involved in job evaluation committees never to forget who their constituents were, and to recognise the difference between collaboration and cooptation. The key negotiator particularly disliked the managerialist model of job evaluation which assumes that participants become individuals with an individual voice rather than representatives of a collective. However, she was careful to explain that this awareness of different interests did not preclude working collaboratively or cooperatively (Peters, Interview, 1991).

Despite this general principle, an attempt was made by key union individuals to bargain in a more open way than usual in the civil service negotiations:

So on an ongoing basis there were a few of us who really did work at building relationships with them. That's not to say that we changed our position...what we had to do was work to understand their position and then counter it...Our bargaining

was far straighter, I would say, in a sort of more up front.

(Peters, Interview, 1991, p. 23)

It is important to note that this negotiator was influential in setting the tone for the union's bargaining style since she and her technical advisor were the strategists even though the chief negotiator was officially someone else. She was also at the table all the time and bargained most of the technical issues.

The last indicator of cooperation, problem solving, was seen differently by union and management negotiators. The question on problem solving approaches apparently touched a sensitive spot with the union's chief negotiator. Although he described the pay equity negotiations as being more collaborative than usual, he saw the push towards problem solving as completely unrealistic and only advocated by academics and bureaucrats. In his opinion, the whole concept of designating a particular set of negotiations as win\win was flawed as it more or less ignored the political reality of both parties' negotiators, but especially the union representatives. Even a government negotiator who had agreed with the union negotiator that the last round of negotiations were win\win would change his or her perception if political expediency dictated otherwise, and this would put both parties in a conflictual situation next time round. He pointed out that the media also played an important role in the general view as to whether any deal was win\win. If the newspaper reported that the union lost (or the government),

that was how it was seen, it did not matter if the negotiators felt it to be win\win.

In contrast, the Coordinator of Pay Equity for the government identified two areas of difficulty that had in her opinion been resolved through problem solving methods. The first example was the disagreement over the scales and labels, settled with a compromise by both parties. The second example was what she called the "percent female" issue. This was an acutely difficult stage in the negotiations when the government (and we infer, the union) realised that by using the policy capturing approach they had measured the existing pay policy of the government, but could not easily fit their model into the methodology required by the legislation. The New York model they had followed provided for a wage line to be drawn rather than a job to job comparison, so they had to modify their own methodology considerably. Both negotiating teams would have preferred a wage line as a truer pay equity and viewed the lowest male comparator target as not generating fair wage adjustments, but the government negotiators had been told by senior bureaucrats that they could not establish a wage line.

After a long and difficult phase in bargaining, both parties agreed to a proposal of the union involving a "percent female factor" to achieve what they felt was a gender neutral comparison system, and thus allowing a more equitable calculation of the adjustment by moving beyond the lowest male comparator.

A careful analysis of the interviews, which included attempts to gain

clarification of this stage of the negotiations, did not reveal the precise nature of this methodology. It was, significantly, never spelt out in detail. The inference is that it was a technical device negotiated by the parties to enable settlement of the pay equity plan.

The "percent female factor" was, however, broadly similar in concept to a methodology proposed in the OPSEU brief submitted to government that had seemed so unacceptable during the consultation phase of the legislation. This proposal had aimed to avoid what were perceived as management biased job evaluation schemes by using linear regression to demonstrate that for every one percent increase of women in a job class, there was (in 1986) a decrease of \$1.15 in weekly wages. Thus, pay equity adjustments would be calculated using this standard rate of adjustment based on the percentage of women in particular job classes.

Whatever the precise nature of the agreed methodology, the Coordinator of Pay Equity considered the resolution of this difficult phase of bargaining as an example of problem solving since the issue seemed intractable at the time; initially neither party could say with certainty whether the proposed solution would work. This problem highlights just how different pay equity bargaining is from conventional bargaining: the technical complexity is always extremely demanding, if not mystifying. This can undermine control by one or both parties, which is particularly unfortunate because technical method has serious political consequences. In the Ontario public service both parties had the

knowledge and skills to calculate the consequences of each technical option before returning to negotiations.

In an overall consideration of how far this new type of bargaining extended into a cooperative mode, the civil service negotiations were more collaborative than their conventional negotiations. Whether they could be called integrative or problem solving in nature is debateable. Also, any movement along a continuum of conflict\cooperation was not unidirectional. Styles of bargaining changed according to the stage of the negotiations, and, to an extent, according to the negotiators involved. What was significant in this set of negotiations was that the stage which we know causes the most conflict in general, according to the Review Officers at the Pay Equity Commission, was handled collaboratively. It was also the stage which illustrated most effectively the political nature of the pay equity process, and therefore feeds into the debate on whether collective bargaining is compatible with pay equity.

The stage that the Review Officers called "equal and comparable" is that of deciding the match between the female dominated and male comparator jobs, which directly impacts on the wage adjustments to be paid out by the employer. It is essential at this stage that unions are familiar with the compensation practice of banding, because the width of the band determines the availability of male comparators. Although compensation experts tend to present their skills as objective, clearly the placement of the band is going to be controversial, given that the union understands the consequences.

In the public service negotiations OPSEU knew very well the crucial nature of this stage of implementation and it is evident from both union and management interviews that there were certain outcomes that just were not politically acceptable to OPSEU, whatever the numbers said. Moreover, both parties knew that there was a limit to the cost of pay equity, whatever the figures said. These constraints were clear to both parties. For example, the government's Coordinator of Pay Equity knew that the largest female dominated class (20,000), office administration, was the union's target group: "Even if they had come out to be demonstrated not to be undervalued, that would not have been acceptable. And that was quite clear" (1991, O'Donnell, Interview, p. 13).

A candid interpretation of the final stages of the negotiations was provided by the ministry of health advisor who sat on the government's bargaining team. For her, OPSEU's agenda was explicable in terms of political accountability of their largest membership group - office administration. Another group that she identified as a priority for OPSEU was the nurses, a group who she knew were attracted to an alternative union, the Ontario Nurses' Association (ONA). As the Manager of Compensation and Employee Relations in the Human Resources Branch of the Ministry of Health, she was especially interested in these groups because together they made up about half of her ministry's employees.

Her description of the final stages of the negotiations illustrate very well the relationship between the technical and the political:

[OPSEU] were determined that women in the office administration classes had to get a significant payout and again the technicians went into the back room and spun the numbers and produced a set of results, identified a male comparator that did in fact provide the administration group with quite a healthy payout - I think it was something like \$1.35 an hour....It was fascinating to see....So, while there was an incredibly sophisticated, exhaustive technical system behind it all, when it actually came to the negotiations it was a hot spot, it was a pressure point. It was the office administration group, it was the nurses.... (Hall, Interview, 1991, p. 3)

This member of the bargaining team confirmed that the monetary parameters were part of the formula acceptable to both sides, and explained that the "spinning of the numbers" had to take account of that:

OK, fine, we've got a hundred million and the office administration group is the group that has to be accommodated the most, well then how much can we give them and still have something left over to deal with these other groups without reaching that one hundred million threshold. (Hall, 1991, p. 3)

Confirmation of this version of what happened is provided by one of the union negotiators who was clearly concerned at the relationship between collective bargaining and pay equity, and wondered whether what they did should in fact be called partial pay equity. She first of all criticised the Act (as most unionists did in Ontario) because of its limited view of equity: primarily the lowest male comparator clause and the 1% limit over a predetermined number of years for the public sector. Then she moved on to what had been negotiated to fit in with these parameters and she particularly focused upon the limited pot of money. A crucial aspect of "spinning the numbers" was the financial package available. The first OPSEU run through the figures from the questionnaire apparently required a pay out of about 9% of payroll (union and management transcripts, 1991, plus informal communications), which the union knew it had to reduce to 1% per year for five years.

She referred to the separate technical analyses done by the parties and the need to "manipulate the bands" (1991, p. 13):

...because you know that you have a certain parameter as far as money. You know you want certain adjustments in certain classifications. At one point...it was probably a mistake, we showed a pay out that increased office work and gave no increase whatsoever to nurses...well...because we were doing adjustments as far as banding, you would have to do different adjustments in a different area because we would never go to the

table and say that our nurses would not be covered by pay equity. (1991, p. 14)

The evidence leads to a conclusion that the pay equity study results were massaged to suit political agendas, OPSEU recognising the problems which would arise if pay outs did not reflect certain expectations in the union, including wage differentials. For example, subsequently, a group of OPSEU nurses filed a complaint with the commission against both the union and the employer. And a management informant told me that ONA, the rival union, were paying these nurses' legal fees.

However, one member of the bargaining team raised the question:

If you want pay equity, can you negotiate? How do you negotiate a portion of equity and what portion do you really want? And who are you to decide that, and how can you make it on paper so that it's fair to everybody? When you have a price tag attached to it....So, we went through this whole exercise...but it wasn't the essence of what pay equity is, by any means. It's not parity. So it gets to be quite tricky. And you're the negotiating team and you have to justify what you did at the end. (Holowka, Interview, 1991, p. 15)

These concerns are similar to those expressed by a key union pay equity negotiator in Newfoundland, the co-chair of the Steering Committee, to whom

compromise was the essence of negotiation and was thus contradictory to the concept of pay equity as an objective process. He also focused on the final stages when the results of the pay equity study were being negotiated in order to reach a pay equity settlement. The question as to whether pay equity can be negotiated turns upon how we define pay equity; clearly if we equate it with an objective process involving the scientific application of a job evaluation system, then it is not. For one Ontario government representative, pay equity compatibility with collective bargaining did not hinge upon the very evident political processes involved but whether the participants, and especially the unions, could function effectively in this manner. For example, she viewed pay equity as compatible with collective bargaining in the public service because:

...both sides were so much creatures of the political process and understood the political pressures and both were under enormous pressure to achieve a win-win type solution....In the broader health sector there has been, unfortunately, some reason to argue that perhaps pay equity is very difficult to achieve through a negotiated process, depending on the union. (Hall, Interview, 1991, p. 7)

The findings presented on this case study so far makes it very clear that the process was highly political, and leads us to a closer examination of the power relationships behind that political process. The union negotiators saw

government's increased cooperation with them at the bargaining table as a direct result of the legal and political pressures upon the negotiators. Their concept of cooperation was inextricably linked with the government's decreased bargaining power: the negotiators were forced to cooperate with the union to get the job done on time. This gave the union more power and they used it to gain a good pay equity settlement.

The pressures of being seen as a model employer in the implementation of the government's own legislation impacted on the usual negotiating relationship between the government and OPSEU, whose bargaining power is normally eroded considerably because it cannot legally strike. This conclusion is confirmed in both government and union accounts.

For the union, cooperation not usually gained from the government in contractual negotiations was forthcoming because of the requirements of the legislation - as an employer the government had to implement pay equity, and to a deadline. Moreover, the showcase character of the negotiations gave them an advantage all through the negotiations. The chief negotiator assessed the effect of the deadline and concluded that the government were much more concerned about it than OPSEU not only because of their need to demonstrate that they were a model employer but because they needed to show other employers that, contrary to their criticisms, pay equity could be implemented in one of Ontario's biggest enterprises.

He explained how this affected bargaining power by referring to the proposition:

...always want what you're after but never want it too much. Because if you do, you pay more. So, given that the government wanted that deadline more than we did...we squeezed more money out of them because it's against this somewhat artificial time barrier which they had erected for themselves.... (Todd, Interview, 1991, p. 8)

Another member of the OPSEU pay equity negotiating team identified the legal requirement and political pressures as enhancing their bargaining power, compared with conventional negotiations. She referred to a sense of government desperation to meet the deadline: "...in the end, they were almost pleading with us to settle this..." (Holowka, Interview, 1991, p. 22). In her view, the separate bargaining structure had also increased their bargaining power because the government could not argue inability to pay as a reason for not settling.

The sense of desperation the union negotiators referred to certainly can be identified on the government side. The Coordinator of Pay Equity remarked more than once in her interview that they were afraid of the union walking out, especially near the end when the deadline was approaching. For example:

Our biggest fear was that they would walk out...our biggest fear was that we would break down...we did not want to tell that to them but.... (O'Donnell, Interview, 1991, p. 4)

Her colleague and senior, the woman who did most of the actual negotiating at the table, referred to her constant worry that they were not going to meet the deadline. She described working extremely long hours, with only a few hours sleep every night, for long stretches of time in the months of November and December 1989 (the deadline was January 1990) in order to be ready at 8 am every morning to start another day's negotiations. It is clear that the pressure was considerable to make the legislation work, and to make it look good.

The evidence indicated that concessions were the price the government was willing to pay for joint negotiation of pay equity with the union, in a way that would be acceptable politically, and allow them to reach the deadline. In addition, the union negotiators had the benefit of a substantial amount of technical expertise, both in-house and advisory, and this enhanced their power. Putting the gender and class implications to one side for the present, a large part of the public service pay equity bargaining was taken up with joint negotiation of an information-gathering questionnaire, reflecting the policy capturing approach. This phase loomed large in nearly all the interviews I did with the negotiators. As OPSEU's chief negotiator commented: "...we fought over every word, every letter, every comma, every period, the order of them,

the way in which they were stated...in order to arrive at the purest statistical instrument..." (Todd, Interview, 1991, p. 16).

From an analysis of both union and employer transcripts, there was strong disagreement over whether the questionnaire should have multiple choice questions, over the labelling and number of scale measurements, and (only from a government informant) whether the government should provide facilitator training for multi-language and deaf respondents. In all of these cases, the government negotiators conceded on an issue they thought very important, although resolution of the scales and labelling issue was a classic compromise, so that each party gained some of what it wanted. With regard to the first issue, the multiple choice questions, a key government negotiator referred to the "time lag...we had to get a decision....We were really, really loathe to give up our multiple choice....So, for us it was heart wrenching, technically, to give up on them....There was no way out..." (O'Donnell, Interview, 1991, p. 30). Her comments indicated that this concession was very important to the government and that it was made because of the time pressure. Overall, these concessions caused some intraorganisational tensions for the government side, including the eventual ignoring of advice from one technical advisor (who later withdrew from the assignment) in favour of hiring another statistical advisor, who was seen as less of a purist.

It is reasonable to conclude that the bargaining edge was with the union. The final settlement contained wage adjustments above and beyond the statutory

minimum. OPSEU is a big powerful union with the resources to pay for technical expertise. Moreover, it had the benefit of a feminist pay equity coordinator who was committed, astute, and very knowledgeable about the issue. In addition, the employer was a provincial government who was desperate to do the right thing within the legislated timeframe. Moreover, the key government negotiators were committed to pay equity and a collaborative settlement, and were willing to be creative in order to achieve a truer form of equity than that required in the Act.

As indicated in the Newfoundland case study, the concept of objectivity in job evaluation, and pay equity as an objective process, is a misunderstanding of how the policy actually works in practice. It ignores the political realities of the organisations involved and the collective bargaining process. The next section further explores those political realities by attempting to locate gender and class properties in the interaction of the parties involved.

Gender and Class Dimensions

In this section, gender and class dimensions of pay equity bargaining in the Ontario public service are examined. A major theme in the following analysis is a continuing tension between the pressures of an existing hierarchy and a strong labour-feminist politic.

Pressures of existing hierarchy

The union's key negotiator believed that pay equity through job evaluation cemented existing hierarchy, which she already saw as a problem, judging from conversations she had heard between co-workers concerned about their own place in this hierarchy and their differentials compared to other workers. She saw the effects of this model of pay equity as divisive amongst women and amongst workers in general. In her opinion, OPSEU, and unions in general, should be pursuing wage compression, partly through lobbying minimum wage increases.

Both union and management sources provided examples of where employees had strived to reestablish old hierarchical relationships after pay equity implementation, and this raises the question of maintenance of pay equity in the face of a strong impetus towards reestablishing the pre-existing hierarchy, even if undermined temporarily.

The gendered construction of this hierarchy is highlighted by one union negotiator's description of resistance to pay equity throughout the process, "...where different male groups within the organisation can't take it seriously..." (Holowka, Interview, 1991, p. 3). She particularly mentioned the male dominated correctional officers' group whose promotional "Guts and Glory" poster was brought out the year pay equity was being bargained. This group had been described to me by women unionists in OPSEU as "macho." These workers, along with the male dominated transportation group and (male)

psychiatric workers in Ontario's top security psychiatric prison had refused to complete the pay equity questionnaire (Interviews with Holowka, 1991,3; and O'Donnell, 1991, p. 5). Interestingly enough, the union negotiators wanted a much more authoritarian solution to this problem than the government negotiators would accept; perhaps a reflection of the strong intraorganisational tensions in the union along gender lines.

Another union negotiator, also a member of the Women's Committee, referred to a lot of resentment by the men that the women were getting a raise and they were not. Again, she identified the correctional officers as the main complainers:

Women can't stand on their own and negotiate, women have to have legislation to advance...this mostly comes from correctionals. They're the big guys, they know how to do job action, they know how do illegal strikes. They know how to get what they want...balls, is what they say, right. But women cry in the corner and wuzz and whine till they get legislation to give them what they need. (Wood, Interview, 1991, p. 18)

Other men in the union were willing to identify with the women who have been underpaid but "...they got a raise and you didn't; that hurts" (Wood, Interview, 1991, p. 18). The chief negotiator also remarked that the men who were dissatisfied were either those for whom pay equity had identified an inequity as well (with no provisions for redress under the pay equity

legislation), or those who thought that now the women had a raise they should have one, too.

He was very well aware of the erosion of pay equity should these men be granted an increase, and raised the difficulty of political accountability of the leadership in the case of members asking the union to pursue catch-up increases. He pointed to the same problem with male unionists' reactions to pay equity in two other jurisdictions: Manitoba, Canada; and Minnesota, US. We also know that there were some negative male reactions in Newfoundland unions where the skilled trades classes were the main group who managed to obtain special adjustments to offset pay equity. OPSEU's chief negotiator's solution, admittedly in hindsight, was for there to be much more education and communication internally to forestall these kind of negative responses.

It was encouraging to discover that the union leadership was committed to pay equity sufficiently to provide technical support the size of a "small army" (Holowka, Interview, 1991, p. 11), and that a high level political presence at the table initially symbolised the seriousness of that commitment.

Nevertheless, at the time of my interviews pay equity adjustments were finished and although the chief negotiator admitted that increases for men would erode gains made in pay equity, the government Pay Equity Coordinator commented that the union had negotiated special increases for some of the male classes. She assessed this as a response to the unhappiness that the employer was picking up, too, about pay equity:

And it's still the perception that there still are only women doing typing and secretarial work. You should hear the men when they talk about them....'This office adminnee is making more money than me. I mean I've got my degree and I've got my certificate. I'm a "techie" person. I'm a this, I'm a that.

There's no way....I do much more complex work than her and she's earning more than me.' And I'm sure the union is getting the same things. (O'Donnell, Interview, 1991, p. 51)

Up until that time (May 1991), these special increases had not really had much effect in the bigger picture but, as mentioned earlier under the bargaining structure, the special case increase for the clerk supply position was a different matter, involving the government in major costs. However, in terms of the wage gap, male comparator increases at least have the advantage of pulling the tied female dominated classes with them.

Reassertion of pre-existing differentials was also attempted through a route outside wage negotiations or pay equity: reclassification grievances. Under public service legislation employees have this right, including appeal to a tribunal if unresolved, and the government Pay Equity Coordinator estimated that OPSEU had made some considerable gains this way. A few isolated groups had been awarded increases of gains of 35%. She concluded: "And we are seeing groups trying to reestablish pre-existing value systems through the classification grievance process. We have received a number of classification

grievances from groups specifically because of pay equity" (O'Donnell, Interview, 1991, p. 11).

From the employer's perspective this seems an everlasting process of catch-up, and a trend that will, in my opinion, harden government and employer attitudes towards the introduction of pay equity. I think it significant that the government's Pay Equity Coordinator, so clearly an advocate of pay equity and, if not pro-union, certainly not anti-union, can so soon after pay equity implementation clearly articulate her dismay at the mounting cost by describing the process as "whipsawing" the government to get more money.

For example, the total for pay equity adjustments for the provincial government at the time of the interviews was \$120 million, plus \$1 million and \$2 million for catch-up for years 1 and 2 respectively (O'Donnell, Interview, 1991, p. 50). An increase for a male comparator tied to a large female dominated class, like office administration, would generate an enormous bill - pay equity for this latter class cost the government \$54 million. The threat of the government having to pay about \$53 million dollars for a proposed 20% classification raise for a male comparator job tied to the office administration class led to the government placing limitations on its liability to maintain pay equity. In the 1993 amendments to the original Pay Equity Act, classification arbitration awards paid to male comparator classes would not now be paid out to any tied female dominated classes; new male comparators would have to be found. As my government informant explained, the cost of the then pending

classification award alone would have cancelled any savings the government had made in its "social contract" agreements.

Nevertheless, the effect of these male comparator class classification awards (with pay equity links severed) and reclassification of other males is that considerable amounts of money will be paid out to men, undermining the new wage relationships established by pay equity. This is money that should be going to women, since the policy was to redress women's discriminatory wages. And, according to a government informant, the cost of these grievances is seen by some as "small bucks" but she has calculated the cumulative cost over a few years for her ministry alone, and although in this ministry budget the cost is small, as she pointed out, there are 27 ministries and then the cost does not look so insignificant.

Resistance to any changing of the status quo can be identified in both union and management constituencies. Not only have employees tried to change relationships through reclassification grievances but also managers in the ministries have attempted to reclassify certain groups of women to avoid paying out substantial pay equity adjustments. Apparently, these requests have come from "...fairly high level managers" (Interview, 1991, p. 47).

The constraints of hierarchy and the pay relationships bound up in it has been identified both in the Newfoundland and Ontario implementation of pay equity.

Next, let us look at some of the transformative properties of the gender and class dynamic in the civil service negotiations.

Labour-feminist politic

A major barrier to effectively implementing the job evaluation model of pay equity is the technical, potentially mystifying, nature of the job evaluation process. For long guarded as the sole terrain of management and management consultants, the union's knowledge and expertise in negotiating a gender neutral job evaluation system is crucial. OPSEU's commitment and expertise in the civil service negotiations were at least equal to the employers' negotiators, if not greater, and this meant that the union was able to maintain control of the policy capturing method suggested by the government and accepted by OPSEU. When the methodology threatened to go off track, the union were able to gain the government's agreement to their creative solution. This innovation allowed the process to continue so that a good final settlement was possible.

Negotiating the questionnaire was a long-drawn out phase of the bargaining. The hard bargaining over "every word, every letter, every comma, every period..." of the questionnaire can be further understood by locating a "sub-text" to these arguments which appeared on the "surface" to be conflict about mere technicalities (Todd, Interview, 1991, p. 16). The real subject of the conflict was about the capturing of women's work:

...it wasn't a semantic issue, we weren't parsing or analysing a sentence. We wanted to get at nursing attributes or qualities in this particular question in as strong a way as we could. The employer knew that if he put it this way, and a lot of people answered the way we thought they would answer, they would eventually...when you get to the end of the day, it translates into points and money. (Todd, Interview, 1991, p. 16)

The ability of the union to locate gendered notions of skill and work in the technicalities of questionnaire design was derived from a labour-feminist politic underlying the analysis and expertise brought to the table by the majority of the bargaining team. From interviews and informal communications, a major source of knowledge, commitment and strategy was the key female negotiator, who worked with the input of a female technical advisor, present throughout the bargaining. This key negotiator was a founder member of the Equal Pay Coalition and had honed her skills during her political work there.

Feminisation of Bargaining Teams and Feminist Process

The expertise crucial for negotiating was provided by the women in both parties, and the majority of negotiators were women, even if the chief negotiators were men. As one union negotiator commented: "So you have all these women and it's...you have two men talking to each other. So, it's still the figureheads..." (Holowka, Interview, 1991, p. 5). A government member

of the bargaining team (1991, p. 2) believed that neither of the chief negotiators fully understood pay equity: "...neither of the two chief negotiators felt comfortable with or in command of their material." A new pattern of bargaining emerged whereby the chief negotiators settled the broad principles (upon the advice of their female colleagues) and then the technical issues were settled through negotiation between the women members of the team. One member of the union team confirmed that it was in this latter forum, and in caucus, that the women had the influence (Holowka, Interview, 1991, p. 5). Likewise, we can infer from the transcripts that on the management side two key women took control of the technical side, rather than the chief negotiator. It is clear from union negotiators' accounts that feminist process underlay their attempt at a different style of bargaining during the Ontario public service pay equity implementation. The key union negotiator referred to a different model of collective bargaining in pay equity and explained she and her female colleagues on the team had tried to avoid the typical scenario where the two men settle the deal behind closed doors or on the telephone (she referred disparagingly to "gross male politics" at one point). She was pleased that the team "...didn't hand it over to the chief negotiator" (Peters, Interview, 1991, p. 23).

Her background was helping to found a small independent union run on feminist principles, encouraging membership participation and avoiding male dominance by allowing all members of the team to negotiate rather than rely

on an outside expert - usually male. This model allowed for more collaboration than confrontation, the latter a style she associated with traditional male negotiators. She deliberately sought a less adversarial process in pay equity bargaining, particularly appropriate in her view, given the technical complexity of the negotiating. As she explained:

...with pay equity it was more of a collaboration between groups of people and really groups of women. So on an ongoing basis there were a few of us who really did work at building relationships with them....So we changed the character of bargaining. (Peters, Interview, 1991, p. 23)

This attempt to change the nature of bargaining to a more collaborative, feminist process by the key women in the union team complemented the management team's desire to demonstrate a new partnership with the union during pay equity implementation. This apparent matching of a managerial and feminist aim did enable a less adversarial approach to bargaining than usual, even if the effect was less clear in the Ontario public service than the early Newfoundland experience, where the effect was enhanced by three women management negotiators who wanted to adopt a feminist process as well as the union women.

One member of the bargaining team, a member of the Women's Committee, explained that separate pay equity bargaining helped the feminist process to develop away from the more competitive climate of category bargaining (for

example, the men negotiators competing to finish first). Thus, the strengths of feminist process were allowed to emerge.

The emphasis upon a feminist process by key OPSEU women led to other positive consequences. In a number of union interviews, informants pointed to the advantage of women leaders emerging from the increased participation of women in pay equity implementation (Interviews with Holowka, Todd, and Wood, 1991). A female pay equity negotiator noted that there were not enough women in negotiating positions: "The quip out there is that men negotiate, women organise" (Wood, Interview, 1991, p. 17). However, she predicted more women moving into bargaining in order to ensure maintenance of their pay equity adjustments. The chief negotiator, and subsequently the pay equity coordinator for the province, pointed to new leadership amongst women in general as a result of pay equity: "...I think the pay equity experience and the explanation to your colleagues, to your union brothers in this case, done at its best, has produced some of the better, and newer, women leaders at the local level..." (Todd, Interview, 1991, p. 3).

Overall, the presence of an effective labour-feminist politic empowered OPSEU to maintain a high level of control over the content and process of the public service pay equity bargaining. This effectiveness was enhanced by the influence of employer negotiators, whose commitment to pay equity was limited by their position in the bureaucracy, but who were willing to cooperate in a creative version of pay equity for civil service women. However, only

time will tell how powerful the impetus towards pre-existing hierarchy will be in undermining pay equity implementation in the Ontario public service.

The next chapter draws together some common themes from both case studies, leading to conclusions concerning the interrelationship between pay equity and collective bargaining, and finally placing pay equity policy in the context of an overall policy for women's equality.

CHAPTER VII

Structural Properties of Pay Equity Bargaining:

Constraints and Opportunities

In this concluding chapter, some major themes emerging from the analysis of the case study material are discussed, with reference to the earlier chapters and the questions raised in Chapter I. The chapter also draws upon the experience of pay equity in the Ontario hospital sector. Although (as noted in Chapter I) not presented in this thesis as a third major case study, the findings of this research are drawn upon where they provide useful points of comparison or contrast with the experience of pay equity in the Ontario public service and Newfoundland hospitals.

After a brief summary of the constraints and opportunities identified in the case studies presented in Chapters V and VI, the discussion continues with an examination of the interrelationship between collective and pay equity through integrating the questions regarding bargaining structure, style and power with the identification and tracking of the relevant structural properties of gender and class. A major theme in the chapter is the ongoing tension between hierarchy and a labour-feminist politic. Finally, a discussion on the relationship between collective bargaining and the law leads to an examination of pay equity policies in the context of overall equality policies for Canadian women.

The case studies showed that the interrelationship between pay equity and collective bargaining varied in specific process and outcome. In Newfoundland, an effective labour-feminist alliance resulted in a progressive pay equity policy legalised in a collective agreement. There was a promising early stage of cooperative implementation featuring the consolidation of a labour-feminist alliance overlapping with a convergence of feminist process with employer preference for integrative bargaining. During this time a substantial number of low paid women's jobs were identified as being undervalued and some progress was made towards closing the wage gap.

However, a newly elected government heralded a change in employer commitment. This exacerbated tensions which had emerged during the job evaluation stages as a result of a struggle over the reproduction of hierarchy. During the second phase of evaluation, traditional differentials embedded in this hierarchy were considered more important than the achievement of pay equity for women. Consequently, a large group of women who worked in a traditionally undervalued job were not credited with their full value within the parameters of the job evaluation plan. Furthermore, the impasse reached during this phase of evaluation was impossible to resolve in a Steering Committee now undermined by government reluctance to pursue pay equity as a worthwhile policy.

In the Ontario public service, pay equity bargaining evolved as mostly a cooperative venture, featuring the influence of a strong labour-feminist alliance, a government very concerned with projecting a "model employer" image, and feminist process gelling with managerial objectives of partnership. Nevertheless, within the generally cooperative nature of pay equity bargaining, there were tensions generated from resistance to any change in the existing hierarchy of wages, and indications of reassertion of traditional differentials embedded in that hierarchy.

Although there was variation in the specific circumstances of the negotiations studied, a number of common themes emerged: the gendered construction of work and skill; the pressures of hierarchy; a labour-feminist politic challenging the status quo; cost containment in the context of retrenchment in the public sector; and the mutual reinforcement of feminist process and management notions of partnership or integrative bargaining. The specificity of particular sets of pay equity negotiations, and the variation in different phases of the same negotiations, can be explained by the shifting permutations of the enabling or constraining qualities of the structural properties.

In both case studies, the key facilitator affecting the degree to which structural properties emerged as constraints or opportunities was the labour-feminist politic. Varying in its effectiveness in the empirical data, a labour-feminist

politic, as referred to in this concluding chapter, means the infusion of feminist ideology, process, practices, structure, analysis and action into labour policies and practices. An effective labour-feminist politic includes a recognition that the technical is political, such that decisions that appear to be neutral or objective, merely "technical," are in reality political, saturated with the power relations of gender and class. Also, it incorporates an understanding of the link between internal and external equality, so that there is a recognition that central equality policies for women will only be implemented successfully if equality and negotiating structures articulate effectively. Thus, a labour-feminist politic in the context of pay equity bargaining is not just feminist, but captures the logic of collective bargaining and the labour relations system, both as constraints and as opportunities. In the negotiations studied, strategies deriving from a labour-feminist politic evolved as a result of feminists working within existing union structures and processes, or from coalition with outside women's groups.

The other facilitator affecting the pattern of structural properties in the pay equity bargaining studied was the level of employer commitment. Although not so empirically prominent in the data as the effect of a labour-feminist politic, employer commitment and political will were clearly forces affecting any shift from constraints to opportunities. Of course, favourable commitment

and political will were in certain situations the result of a strong labour-feminist politic. The positive effect of the latter is recognisable in the increased likelihood of proactive legislation being passed to redress women's discriminatory wages, or a proactive government policy being pursued. In terms of economic policy, however, freemarket responses to globalisation and economic restructuring make it less likely that state action will be favourable towards successful pay equity bargaining, and more likely that employers in general will resist implementation.

The strongest constraint evident in the negotiations studied was hierarchy. As the site of interlocking gender and class properties, hierarchy had a powerful effect on implementation of pay equity. The term hierarchy as used in this concluding discussion encapsulates a multi-layered pattern of constraints, the most clearly identifiable of which is the pre-existing hierarchy of job and wage structures embedded in the collective bargaining studied. However, this hierarchy of differential pay and status articulates in a mutually reinforcing way with a gender-class hierarchy in the constituent organisations, in the labour relations system in general and, at a higher level of abstraction, a patriarchal capitalist society.

The research illustrated the crucial nature of agency in the face of such a strong reinforcement of the status quo. From the evidence, it is clear the

unions in both case studies played a vital role in the achievement and implementation of pay equity policy in Newfoundland and Ontario, through the development of labour-feminist strategies. On the employers' side, the role of feminist women either as politicians or as bureaucrats has been shown to be important. We should therefore acknowledge the positive effect of committed employer negotiators in general, and women in particular, on the overall process and outcome of pay equity bargaining. This is in spite of the restraints arising from the "unequal structure of representation" (Mahon, cited in Findlay, 1991, p. 84) faced by women in bureaucracies.

Reflecting the questions asked in Chapter I, what follows is an examination of the bargaining structure, style and power relations in pay equity bargaining, attempting to understand the interrelationship between pay equity and collective bargaining through the identification and tracking of structural constraints and opportunities.

Bargaining Structure

In this section, we examine how far and why pay equity was negotiated separately from conventional wage bargaining and whether it changed bargaining to become more centralised or more decentralised. To answer this question appropriately, it is necessary to consider the structural constraints and opportunities embedded in bargaining structure.

The negotiations studied were conducted separately from conventional bargaining. This meant that, in theory, funding pay equity was distributive, so that pay equity costs were in addition to budgeting for general wage increases. In practice, whether the two pots of money can be kept separate is a moot point. In Newfoundland bargaining changed from being distributive to redistributive (shifting money from general wage increases to pay equity adjustments), following retrenchment. In the Ontario public service negotiations, the government had clearly set aside a separate fund of money for a pay equity settlement, so bargaining was distributive from the beginning. In contrast, Ontario hospital negotiations took place at a time when budgetary constraints were just beginning to bite, and were conducted in a redistributive context. Hospital managers balanced the financial obligations of pay equity adjustments and general wage increases on an annual basis, preferring to negotiate pay equity adjustments annually because of the uncertainty of future funding.

After pay equity was achieved in the civil service, separation of the monies began to be more difficult and social contract bargaining as part of public sector retrenchment undermined the maintenance of pay equity. Upgrading of male comparators gained through arbitral reclassification was eventually denied to the tied female-dominated classes because it was argued that the cost of this adjustment paid to the female-dominated classes would have equalled roughly the same amount as the money saved in social contract negotiations.

In both case studies pay equity was negotiated in a more centralised bargaining structure than usual, especially in Newfoundland, where the five public sector unions bargained jointly for the first time. In Ontario, after the public service adjustments had been completed, the return to the traditional category bargaining system in the 1991 round of collective bargaining led to a new wage gap. But since then, in 1992 and 1993, collective bargaining rounds have been single-table and any new wage gap created was insignificant, a matter of a few cents in a few classes (O'Donnell, Interview, 1994). The government pay equity coordinator thought that the single-table structure had been possible because of the NDP government's relationship with labour. Whether this arrangement will continue is questionable, given the dramatic deterioration in public sector union and government relations.

Traditional Canadian bargaining structures reinforce the sexual segregation of the labour market (Fudge and McDermott, 1991). Separate bargaining units representing female- and male-dominated occupations prevent any discrepancies in wages from emerging during conventional wage negotiations.

Fragmentation of bargaining units extends beyond union boundaries such that often in one workplace, for example, a hospital, there will be a number of unions representing different occupational groups of workers. These unions themselves form part of an overall hierarchy which is topped by highly paid

non-unionised occupational groups, like doctors and managers (both male-dominated). Centralisation of the bargaining structure during pay equity implementation allowed a previously taken-for-granted, but hidden, job and wage hierarchy to be highlighted and examined. Ramifications of this challenge to the established wage and power relations were intraorganisational, interunion and union-management.

Within OPSEU, abandonment of the category bargaining system during pay equity implementation in the civil service exacerbated internal tensions between highly paid powerful male-dominated classes and the lower paid less powerful female-dominated classes. In Newfoundland, disruption of NAPE's long-standing internal parity relations caused severe problems for the union in finalising any pay equity settlements. The interunion rivalry in the Newfoundland evaluation committees was largely derived from a struggle over changes to the established hospital hierarchy of wages and status. Also, it is evident that both unions and management used bargaining structures to enhance their power and control over the process and outcome of pay equity. In Newfoundland, single-table bargaining allowed a divide and rule strategy on the part of the government and employers. The manipulation of structure is also illustrated by the hospital bargaining in Ontario, where both OPSEU and the employers shifted between local and central levels of bargaining in their efforts to control the effects on financial outcomes and the established job and wage hierarchy.

The effect of structure on implementation of pay equity was identified by Evans and Nelson (1989). They argued that one explanation for more success at a state rather than a local level in Minnesota was the presence and actions of key people who were knowledgeable and committed to comparable worth, in contrast to local players who were not necessarily familiar with or who may even have been hostile to the issue. There were undoubtedly more committed and previously involved players in the Ontario Public Service negotiations than in the local hospital bargaining, where the employer, in general, was neither committed nor knowledgeable about pay equity. Although the structure of the Steering Committee in Newfoundland was similar to the evaluation committees, the membership of the latter tended to be drawn from within the government or hospital departments, many of whom were unfamiliar with the concept and practice of pay equity.

Bargaining Style

In this section, we examine whether pay equity bargaining resulted in more cooperative or adversarial negotiating styles. To answer this question appropriately, it is necessary to consider the structural constraints and opportunities embedded in bargaining style.

Based on the indicators of cooperative bargaining, it is possible to conclude that in general the bargaining studied in this research moved along a continuum

from traditional, adversarial (conventional bargaining) to a more cooperative style (pay equity bargaining). The extent of the move varied, with the early stages of the Newfoundland Steering Committee representing the most cooperative in the short term. But the Ontario public service pay equity bargaining was the most cooperative in the long term, incorporating increased (but variable) levels of communication, trust, openness and problem solving which survived the whole process, even the final fraught stages of banding and selection of male comparators. Moreover, this more cooperative style was complemented by a sound equity content of bargaining, which achieved the joint design of an original gender neutral job comparison system and a pay equity plan which was creative in its achievement of pay equity above and beyond the legal minimum.

Conflict over hierarchy

However, the evidence also shows that there were phases in each case study where bargaining moved back along the continuum towards a conflictual mode, similar to conventional bargaining. Indeed, some degree of conflict is inevitable, given that pay equity challenges the gender-class based hierarchy underlying the workplace and the labour relations system itself. **It was conflict over hierarchy which emerged as the prominent theme in all negotiations studied.** What appeared to be technical decisions over, for

example, job class definitions, job evaluation system, job descriptions, rating jobs and banding, were actually political, affecting job and pay hierarchies in the final analysis. Methodologically, the identification of structural properties is indicated by these points of conflict. This is not to say that pay equity is incompatible with collective bargaining because of the inevitable disruption it will cause (for example, Gandz, 1987); but it is to recognise that there will be competing structural interests in pay equity bargaining.

Comparing the two case studies, the most conflictual bargaining occurred during the job evaluation committees in Newfoundland. It should be remembered that the methodology used in the Ontario Public Service did not require job evaluation committees, and it is significant that the most difficult stage of negotiations in the public service was deciding the bands and male comparators, based upon the results of the questionnaire. In both sets of negotiations, the most conflict occurred when the hierarchical relationships in the workplace were directly confronted by the parties. Hierarchy, combining as it does the constraining forces of both gender and class, was the biggest obstacle in the way of changes necessary for equal pay for women.

In the Newfoundland job evaluation committees, efforts by one hospital support union representative in particular to make visible previously unvalued women's work was resisted not only by government and employer evaluators but also by

other union representatives. The existence of such resistance, leading to conflict, points towards embedded power relations which are being challenged. Hierarchy is not simply gendered in terms of men and women, it also structures women's pay relationships with each other. As noted by Acker (1989) and Blum (1991) in their studies of job evaluations, the conflicts at this level were complicated, not just because they were interunion (within class) as well as union-management (between class), but because they were based upon gender as well, not just between men and women, but also between women.

To illustrate this complex intertwining of gender and class properties, the male government representative in the first health care job evaluation committee (HC1) was in constant conflict with one female hospital union representative. From the evidence in the case study, and relating it with previous studies of pay equity processes, his consistent downgrading of women's jobs and upgrading of men's jobs was multi-faceted. It was a combination of class based cost containment (as noted also by Evans and Nelson, 1989, and Steinberg, 1991); class based reaction to the compression of hierarchy, whereby traditional differentials between managers' and workers' jobs are compressed (as noted by Acker, 1989); gender based defence of his own gender identity in the face of the hospital support unions' continuing justification for valuing hitherto invisible women's work (as noted by Blum, 1991); and class based control of the classification system, as a member of the Treasury Board (as noted by Warskett, 1991).

This complexity underlying union-management conflict was compounded by the high levels of interunion conflict in both committees, especially the second. The struggle was centred on the place of women's jobs in relation to each other in the hierarchy, although in the second committee this was complicated by the presence of small male-dominated jobs within the overall female-dominated lab and x ray class. The hospital hierarchy was encapsulated in the differentials formalised by different unions representing different occupational groups in separate bargaining units (with the exception of the hospital support workers, whose membership was distributed between two unions).

We know that intraorganisational tensions in unions caused problems for unions negotiating pay equity, and the undermining of internal differentials needed a knowledgeable and committed union to be able to overcome the conflicts and still pursue equity. Combine this problem with the continuing challenge to traditional differentials **between** unions during the job evaluation stage, where members are confronted by and have to work with evidence contradicting their perception of a job's "right place", and it seems that the resistance to change is too much to overcome in some circumstances. The logic and persistence of the hierarchy underlying differentials within **and** between unions was being challenged, and this defeated the pursuit of pay equity in the second phase, and very nearly stalled it in the first phase.

Paradoxically, the Ontario hospital job evaluation committees were seen as more cooperative than the other stages of pay equity bargaining (interviews with McNama, Cullen, and Schecher, 1991). It is significant that these Ontario committees were single-union, single-employer committees. During the job evaluation phase in the Ontario hospital sector there was no direct challenge to the interunion hierarchy; it is as if the real nature of the hierarchy was "disguised" by the structure of the negotiating unit. So the larger hierarchy of which that particular bargaining unit was a part remained hidden from examination.

The revealing and challenging of a rigid and taken for granted hierarchy which reinforces women's segregation into low paid jobs is to be commended. It is only then that the radical potential of pay equity policy is released. However, if this has to involve multi-union processes, the participating unions need the commitment and expertise to manage the political fall-out: the strength of a labour-feminist politic. Even though the political (and gendered) reality of unionism makes the suspension of hierarchy difficult, it is essential if women's interests are not to be marginalised by interunion rivalries, in addition to any union-management barriers to implementation.

In Newfoundland, commitment and expertise were present at the Steering Committee level. However, it has to extend to individual evaluators who have

to be willing to put aside their taken-for-granted notions of hierarchy. Unfortunately, at the evaluation committee level this did not happen. The strong labour-feminist alliance at the Steering Committee level was very weakly represented in the committees. Thus, commitment to the concept and process of pay equity did not reach down to many of the members of the job evaluation committees, some of whom displayed an ignorance of systemic discrimination and consequently did not have an appreciation of the real purpose of the task. Only one woman representing hospital support workers in HC1 showed a determination based upon feminist expertise in capturing women's work, and the nurses' efforts in HC2 were railroaded. Moreover, there was no critical mass of women committed to feminist process.

In addition to the virtual absence of a countervailing pressure, the impact of hierarchy in the evaluation committees was stronger than in the Steering Committee, who were dealing with relatively abstract aspects of pay equity in the initial stages and the aggregate picture towards the end. Conversely, job evaluation committee members had to deal with concrete, detailed scoring decisions. This increased the likelihood of clashes between different representatives about the appropriate place in the hierarchy of their constituents' jobs in the face of a challenge to the traditional hierarchy. Furthermore, a wage freeze had already prevented the reestablishment of differentials through the conventional collective bargaining route.

This negative permutation of hierarchy and a weak labour-feminist politic was compounded by a shift in employer commitment to cost containment, in the general context of a poor labour relations climate. A further structural constraint was the strong attachment to the gendered construction of skill and work evident in the interactions of two key male evaluators. The influence of individual male members of the Steering Committee with similarly resistant ideologies was lost in the strength of the labour-feminist alliance at that level of bargaining.

Turning to a closer examination of the bargaining style in the Ontario civil service, the direct confrontation with traditional hierarchy came at a later stage in the negotiations. Although the mode of bargaining retained its more cooperative characteristic, it was at this point that it came under the most strain. We also know that in general this final stage of banding and deciding the male comparators causes the most difficulty and the most conflict in Ontario pay equity bargaining (Interview with Review Officers, 1991). By this time in the public service negotiations, however, the parties had developed a good working relationship. There was a mutual acknowledgement (even if unarticulated) of the political consequences of the technical decisions they made, and a clear understanding of both parties' need to shape the new hierarchy in a particular way.

Pressures on both parties, especially the union, to take into account existing differentials and constituents' expectations, derived from a clear sense of hierarchy, which in turn informed both parties' interactions during this final stage of bargaining. During the maintenance phase, resistance to changes in the traditional hierarchy threatened to undermine the new more equitable relationships. The favourable balance of constraints and opportunities led initially to an ability to manoeuvre around the pressures of hierarchy in the civil service negotiations. Whether the maintenance of pay equity will be viable remains to be seen, and depends once again upon the changing balance of the factors working towards reinforcement or transformation of traditional job and wage relations.

Apart from ongoing tension over hierarchy, three recurring patterns emerged from the data which impacted on the level of cooperation observed during the negotiations.

Feminist process gelling with management objectives of partnership

It was apparent from both the Newfoundland and the Ontario Public Service negotiations that a cooperative venture was enhanced by the existence of a strong commitment to feminist process, combined with managerial notions of partnership, or integrative bargaining. In Newfoundland, this combination was

particularly noteworthy because the feminist process crossed union-management lines, with at least three prominent management (i.e.; government\employer) women on the Steering Committee aiming to obtain pay equity utilising a feminist process. One of them was the management Co-Chair. On the union side, a very high profile woman from CUPE sat on the Steering Committee as official national advisor. Her experience and skill in pay equity and other equality issues, and strong interest in feminist process, enabled a strong alliance with the management women feminists.

Complementing this was a personal and professional interest in integrative bargaining on the part of two management male representatives.

In the Ontario Public service, commitment to feminist process was not across union-management lines. However, the key OPSEU negotiator was a leading feminist with a background in organising an independent feminist union employing feminist process and practices, including modified negotiating practices. Her expertise and skills set the tone for the union negotiating strategy and tactics. Nevertheless, she was careful to differentiate between cooptation and collaboration. The union's negotiating team's stance, under her influence, complemented the government's negotiating team's objectives, which were to achieve pay equity for the provincial civil service through partnership with the union. This goal, combined with the pressure of being seen as model employer, influenced government negotiators so that they were more conciliatory than in conventional negotiation.

Cooperation as Concession

For the civil service union, cooperation from the government was the direct result of the legislative requirement that the employer jointly implement pay equity, and in their view it overlapped considerably with increased union power. Cooperation meant the government making more concessions to the union than normal, and, from the chief negotiator's perspective at least, it was not necessarily a qualitatively different process. The key negotiator for OPSEU, however, did see pay equity bargaining as requiring a different approach and she tried to build a more collaborative relationship with the women in the government negotiating team. An analysis of the government transcripts leads to the conclusion that for the management team, being a model employer in partnership with the union meant making concessions on a number of issues that were important to them.

This conflation of cooperation with concession also occurred in the Ontario hospital pay equity bargaining. Hospital managers negotiating with a number of unions developed a kind of ranking of how "reasonable" unions had been over pay equity. Unions who insisted on their legal rights under the legislation concerning technical procedures, which they knew had serious political consequences, were excluded from description as "cooperative". For example, a manager praised one union for being cooperative over a deal that involved sacrificing legitimate retroactive maintenance adjustments in return for an assurance of no lay-offs (Noel, Interview, 1992).

An interesting angle of this conflation of cooperation with concession was detected in the internal criticism of the female government Co-Chair of the Steering Committee in Newfoundland, the early stages of which most members praised as an example of cooperative bargaining. At the start of the first meeting after the replacement of the original Co-Chair (a key founder of the labour-feminist alliance), the new Co-Chair (from the collective bargaining division of the Treasury Board) apparently told the unions: "...you are not going to get away with now what you got away with before..." (Grimes, Interview, 1992).

That this gloss is placed upon cooperation by employer negotiators in traditional labour relations circles is confirmed by one woman hospital manager in Ontario who specialised in compensation and who remarked, rather resentfully, that the Director of the Labour Relations Division sat in on her pay equity negotiations to make that she "didn't give away the store..." (Schecher, Interview, 1991). This negotiator was described by the local union representative as pursuing good, positive labour relations at that particular hospital. We are led to the conclusion that underlying this monitoring activity was a view that to develop good relations with the union she must be making too many concessions.

Cooperation and gender identity

The marginalisation and trivialisation of the Newfoundland femocrats' work in pay equity was shaped and reinforced by the identification of the new, cooperative process with women and feminism: "that women's crowd" (term described by Roome, Interview, 1992).

Labour relations is male-dominated, reflected in the culture and language of bargaining, with metaphors drawn from war and boxing (Dickens and Colling, 1990). Taking into account the writing on the connection between gender identity and notions of work and skill (Blum, 1991; Cockburn, 1983; Phillips and Taylor, 1986), perhaps cooperation, a departure from the traditional way of doing things, was seen in some way to threaten the masculinity of those men involved in the labour relations field. If this is the case, then not only is labour relations as a system gendered in the way that Acker (1989) discussed, in terms of what is seen as important to fight for and "gendering" class, it is also gendered in a much deeper way.

There was some evidence of gendered differentiation in style in hospital bargaining which resonated with gender identity. One hospital manager in Ontario revealed a "macho" bravado in his account of trouncing the union: "...brinkmanship - that's what it was...", and referred to participation in the pay equity process as interfering with good negotiations practice (Interview,

Hamil, 1992). Another (male) manager criticised the previous manager's round table approach and reined in a more participatory team of management negotiators, who were causing what he saw as problems in the pursuing of bargaining strategy and tactics. Participation is a central tenet of feminist process, both in general and in its application to collective bargaining. It is part and parcel of what is seen as a move away from what is seen as a male, elitist and adversarial style of negotiating (Interviews with Peters, 1991, and Youden, 1992).

However, it is also the case that women who are in a minority in the labour relations field are likely to accept male definitions of 'normal' or 'appropriate' behaviour and are pressured to behave like the majority of the men who have traditionally dominated the activity, otherwise their credibility as managers and negotiators may be undermined (Dickens and Colling, 1990). This pressure to conform to the male standard probably explains the behaviour and attitude of the new Co-Chair of the Pay Equity Steering Committee in Newfoundland, a woman who had long experience in negotiations and who was Director of the Collective Bargaining Division of the Treasury Board.

This research indicates a convergence of cooperative with feminist process. According to studies summarised by Shepela and Viviano (1984), any work that women do is undervalued. So if cooperation is associated with women, it

will tend to be undervalued. Not only will there also be a tendency to reject cooperation as concession (class based) but that tendency may well resonate with a tendency to reject cooperation as not masculine in some way, undermining the traditional male standard, even the gender identity of the men who predominate in the field (gender based).

Bargaining Power

In this section, we examine the question of whether unions have more or less power when bargaining pay equity. Giddens' notion of power as taking control of the direction of events by utilising available resources to enhance power, even by the less powerful in an established unequal relationship, is useful to understand the power dynamic in pay equity bargaining. In the public sector, this unequal power relationship is more pronounced because of the employer as sovereign government, economic manager and legislator (see Chapter III). With this in mind, the pay equity bargaining power dynamic depends largely upon the ability of the unions to recognise, access and effectively use the (unequal) resources available to them. This means taking advantage of the structural opportunities as well as recognising the structural constraints. A discussion of a number of recurring patterns which emerged in the case studies will follow.

Notion of "model employer" increased union power

In the civil service negotiations, an important basis of OPSEU's increase in power was because of the pressure on the government to be a model employer in implementing its own legislation. Fulfilling this political requirement involved finishing on time, demonstrating to other large (and critical) employers that pay equity could be bargained, that it could be bargained within the deadline, and in a collaborative fashion. All these aspects of being the "model employer" created an opportunity for OPSEU to enhance its bargaining position.

The importance of this factor is highlighted by the Ontario hospitals' experience, where it was absent. Instead there was cost containment, combined with a strong employer resistance to undermining the rigid hierarchy so central to hospital organisational culture and practices. However, a diluted form of the model employer factor came through in the Newfoundland negotiations for a Pay Equity Agreement, where unionists described the government desperate for an agreement, just as Ontario public services unions described the government there desperate for a pay equity plan settlement. The Newfoundland government's commitment to pay equity was originally founded in political expediency - in an election year the previous Premier needed labour on side after an especially acrimonious labour relations climate towards the end of his term of office. Consequently, in the early stages the unions also were able to take advantage of the government's need to be

recognised as a model employer in partnership with the public sector unions and as progressive on women's equality.

Information increased union power

An early Tribunal case in Ontario clarified that the employer was legally obliged to provide virtually full information disclosure at the beginning of negotiations in order to demonstrate good faith bargaining. Public service bargaining led to a degree of information disclosure satisfactory to both parties, and notable towards the end for its relative openness. One public service union negotiator pointed out that she was still using all the new information over a year later.

Conversely, in the Ontario hospital bargaining, information disclosure was resisted by the employer virtually throughout the sector. Unions had redress to a legal enforcement mechanism in the Review Services and the Pay Equity Hearings Tribunal, and in most cases information disclosure disputes were resolved in favour of the unions after the intervention of a Review Officer. Information on wages of non-union, especially management, employees was valuable information and the ability of the unions to exercise their rights to full information increased their power in pay equity bargaining in comparison with conventional negotiations. Union access to information so jealously guarded before granted symbolic power to the unions as well.

Despite the absence of legislation, Newfoundland pay equity bargaining generated adequate information for both sides, at least on the Steering Committee. But in the job evaluation committees it was a source of conflict, mainly because employer and government evaluators alleged that the unions had more information than they had access to, thus eroding management's power. This was due to differences in intraorganisational bargaining, with the hospital unions in particular having more experienced and informed representatives on the committees than their employer and government counterparts, and working with a better internal communications system.

Legislation increased union power

The Ontario negotiations were characterised by opportunities to utilise power derived from the legislation, itself obtained only after sustained and effective lobbying by an effective labour-feminist alliance. Unions varied to the extent to which they took advantage of their increased rights in the process and content of bargaining.

In Ontario, the Ontario Federation of Labour (OFL) and specific unions had pressured for legislation to increase their power to negotiate equal pay for women, after a decade of trying unsuccessfully to achieve this through collective bargaining. It is no surprise, then, that Ontario unions identified a

significant increase in their power, especially since all provincial civil servants and hospital workers are prohibited from striking, giving a bargaining advantage in pay equity negotiations compared to conventional negotiations. Union negotiators explained any increased cooperation levels by reference to the increase in their power: previously employers had been able to refuse to bargain equal pay, now employers were legally obliged to negotiate the whole process.

Moreover, unions had the benefit of third party intervention in the event of a dispute, and the eventual redress of the Pay Equity Hearings Tribunal.

Although the public service negotiations were conducted without reference to the dispute resolution services provided by the Pay Equity Commission, the Ontario hospital unions enhanced their bargaining power considerably by their use of the Review Services. A general employer resistance to pay equity, and a particular resistance to required information disclosure, was largely overcome by frequent referral to the Review Officers. Employer resistance to the principle and practices of gender neutrality in the negotiating of the gender neutral job comparison scheme was countered less successfully and to varying degrees by the unions appealing to the Commission for intervention. Only one union made a stand on gender neutrality, taking numerous employers to the Tribunal in an attempt to obtain a legal definition of gender neutrality.

Although not operating in a legislative framework, Newfoundland union representatives identified an increased level of power in pay equity bargaining deriving from the collective bargaining process itself. The union common front had enabled a stronger bargaining position than in conventional wage negotiations. This union power was combined with an influential labour-feminist alliance, in a generally advantageous permutation of gender and class properties. But, in the face of a disintegration of the transformative pattern, including a shift from a cooperative to resistant employer, legislation would have had a clear advantage over collectively bargained pay equity. In Ontario, hospital unions were able to use the legislation to obtain equity adjustments and a fairly successful degree of maintenance, despite retrenchment and employer resistance (Harris, Interview, 1992).

Labour-feminist politic crucial to fulfil the promise of power

As indicated in Chapter IV, previous studies of comparable worth implementation in the U.S. had revealed a strong tendency of collective bargaining to undermine women's interests (Acker, 1989; Evans and Nelson, 1989). Given the political nature of the process, Evans and Nelson stressed the importance of knowledgeable monitoring and control in their comparable worth case study. Practitioners and academics echoed this view (for example, bargaining studied in this project it is clear that a labour-feminist politic was crucial for effective control of the process. The power dynamic was dramatically affected by the development of such a politic.

Feminist analysis of organisational practices, including collective bargaining and the place of women in it, is essential for the recognition of apparently technical decisions as political and to generate the commitment to fight for change. It is particularly important that unions recognise the gendered nature of labour relations and strive to overcome it by introducing equality structures that articulate effectively with governance and negotiating structures.

Moreover, the nature and purpose of collective bargaining, including what is seen as important and "in the general (union/class) interest," has to be defined in a way that does not marginalise women's interests. Indeed, based on their pay equity studies, Evans and Nelson (1989) concluded that class was patriarchal in both concept and practice.

In this research, the public sector unions studied were characterised by varying degrees of labour-feminist politic. In Newfoundland, the two key public sector unions featured good equality policies with fairly representative governance.

Most important, there were clear links between equality and pay equity negotiating structures at the Steering Committee level, less formally in NAPE than CUPE, whose National Director of Equal Opportunities sat on the Committee and was a key figure in a labour-feminist alliance. The alliance was characterised by feminist analysis and strategy present in both unions, but more particularly in CUPE, complemented and strengthened by the feminists

negotiating for the employer. Overall, the resulting labour-feminist politic added up to a powerful force for change. Even allowing for the shift in political will, if this politic had penetrated to the evaluation committees, the process and outcome may well have been very different. Divide and rule strategies are less likely to be successful in the face of a united front.

The Ontario public service bargaining featured an extension of the powerful labour-feminist alliance which had successfully lobbied for the legislation into the negotiations themselves. The key union negotiator was a founder member of the Equal Pay Coalition (EPC). Her position of strength was shaped and enhanced by the impressive equality policies of OPSEU, and the long-standing influence of an effective women's committee, some of whose members were in the pay equity bargaining team. This set of negotiations exemplified the strength of a formal link between equality and negotiating structures in the context of a powerful and expert labour-feminist politic. Moreover, committed women in the bureaucracy, including one at Deputy Minister level, added to this favourable pattern of facilitating factors.

These findings from the two case studies were reinforced by examining hospital bargaining in Ontario. Although this was fragmented and complex it is possible to point to a pattern which links the power and success of the different unions involved in pay equity bargaining with the existence of a

labour-feminist politic, either stemming from feminist analysis and strategy within the union (the result of previous or ongoing infusion of feminism into the labour movement) or from a current alliance with outside groups. CUPE emerged in the forefront in terms of process and outcome of pay equity bargaining, with its built in feminist-informed pay equity structures and processes combined with hard bargaining to obtain money for their low paid women workers.

Compared to CUPE's labour-feminist politic, which featured a solid labour emphasis, the Ontario Nurses Association (ONA) pursued a labour-feminist politic characterised by a more feminist accentuated strategy - utilising feminist analysis to achieve full value of their jobs through "true" gender neutrality. ONA stands out as the one union whose strategy was to challenge the system up to the Tribunal level in order to stretch the legislation as far as possible to attempt a more radical interpretation than was possible in their existing collective bargaining relationships.

ONA tapped into the resources offered by key individuals in the Equal Pay Coalition (EPC) to bolster its legal battle with the hospital employers. It hired as legal counsel a founder member of the EPC. Evidence to buttress ONA's arguments was available through the labour-feminist network (which in this

case stretched across the border to feminist critics of traditional job evaluation schemes in the United States), and was used to great effect during the Tribunal hearings (interviews with Andrews, Hodder, and McDermott, 1991; analysis of Pay Equity Reports [P.E.R. Vols. 1-4, 1990-1993]).

In their systematic pursuit of procedural standards, ONA challenged the rigid hierarchy in the Ontario hospitals, despite strong resistance by hospital employers, and the Ontario Hospital Association (OHA), whose gender biased job comparison scheme was sold to the individual hospitals for pay equity implementation. There were a number of hearings based on ONA's two gender neutrality cases, which resulted in jurisprudence favourable to unions in the areas of choice of representative, content of proposals, information disclosure, recognition of the bargaining agent, full and informed discussion, good faith bargaining, as well as gender neutrality. It is possible from an analysis of the biographies of the Tribunal panellists in the annual reports of the Pay Equity Commission, combined with information gleaned during interviews in Toronto, to conclude that the labour-feminist network (especially in the shape of the EPC) extended into the Tribunal. This also enhanced the power of ONA in its dealings with the pay equity legislation, and, indirectly, the power of other unions wishing to use the law to exercise their full rights.

The labour-feminist politic behind the majority of the Tribunal's decisions have been challenged within the Tribunal itself by a more traditional labour relations interpretation of the pay equity legislation, evident in the inconsistency of some

key decisions, for example, the definition of the employer. Progressive decisions of the Tribunal have been challenged in the law courts by employers, too, based upon traditional labour relations jurisprudence. It is suggested here that this pattern of progressive decisions and subsequent challenge is indication, at a formal legalistic level, of the in-built resistance to changing the existing hierarchy in the workplace, and is representative of a similar kind of conflict in principle as in the pay equity negotiations themselves.

Earlier in this chapter it was suggested that the labour relations system was gendered in two senses: not just because collective bargaining is liable to marginalise women's interests, but also because traditional labour relations as a male-dominated practice is caught up in a gender identity resistance to change. This possibility adds to the likelihood that the tensions between the traditional and the new progressive pay equity jurisprudence are the manifestation of a tension between the powerful mediation of hierarchy and a labour-feminist politic which is challenging it.

Once again, we are drawn to the conclusion that the labour-feminist politic is crucial to fulfil the promise of pay equity. The unions that have managed to release the radical potential of the pay equity legislation have done it in spite of a law which has been criticised as incorporating a weak model of pay equity. So, even though the law was designed to contain change to an acceptable or

'manageable' level, and broadly reinforced existing collective bargaining structures (Fudge and McDermott, 1991; Burkart, 1990), unions were able to manipulate it to gain more benefit for their low paid women members than was perhaps intended.

This management of a resource - the law - by the less powerful to shift the balance of power with the more powerful, shows that structural constraints are not always insurmountable, and illustrates the creativity of unions in utilising the pay equity legislation in conjunction with their collective bargaining process. The opportunity provided by the law was seized by some Ontario unions in the face of strong resistance on the part of health care employers, and the CUPE Equal Opportunities representative was pleased with the general trend of Tribunal decisions, which she saw as strengthening a potentially weak maintenance clause in the Act. In contrast, Newfoundland unions could not take advantage of any legislation when the government changed its mind over pay equity as a policy. A supportive legislative framework can survive a withdrawal of political will (repealing a pay equity law would be very unpopular), whereas implementation through collective bargaining is vulnerable.

Thompson's concept of the rule of law (1975) elucidates this articulation between the law and collective bargaining at a theoretical level. He recognised

that the law mediates class relations and thus represents structural reinforcement of the status quo. However, he also argued that the law had its own logic and could be used by the ruled (the less powerful) to achieve change. If we understand the pay equity legislation as mediating gender-class relations, it is clearly a constraint, reinforcing an existing hierarchy, but within its own logic it is possible to locate an opportunity for change. This is what the feminist-informed unions achieved in Ontario by using the law, challenging the traditional labour relations jurisprudence to the advantage of women.

Unions in Ontario with a labour-feminist politic achieved, through the Tribunal, a largely progressive interpretation of the pay equity law that demanded changes in both the process and content of bargaining during pay equity negotiations. However, a Tribunal decision in late 1993 (*Group of employees v. Ontario Public Service Employees Union*) made it clear that there could be no absolute standards because of the very nature of collective bargaining. The ruling appeared in the context of a gender neutrality challenge from a small group of OPSEU nurses in the civil service who had filed a complaint that the union and the government had designed a gender biased job comparison system in their pay equity implementation, which had resulted in low level payouts for nurses in the bargaining unit.

The 1993 decision by the Tribunal clarified the role of collective bargaining within the parameters set by legislation:

...the comparison system and its gender neutrality are specifically subject to collective bargaining according to subsection 14(2)(a). Collective bargaining by its very nature involves give and take by both parties. While there are constraints on parties' bargaining under this Act, constraints imposed by standards in the Act itself, **we cannot see how gender neutrality can be an absolute standard.** Indeed, to find gender neutrality to be an absolute standard would be to undermine the explicit statutory direction to employers and bargaining agents found in section 14(2)(a). The legislature specifically directed employers and unions to bargain a gender neutral comparison system and a pay equity plan. **The statutory directive to negotiate implies a relative standard for gender neutrality. That is, while the Act provides room for some discretion to the negotiating parties, the Act also set some parameters to that discretion.** (Group of employees v. Ontario Public Service Employees, 1993, p. 64)

Following this guideline, the Tribunal decided that the parties had made "...a reasonable effort to accurately collect job information on the four criteria."

(Group of employees etc., 1993, p. 65). Knowing the strength of the OPSEU

labour-feminist expertise behind these negotiations, and the high level of government commitment, it would be surprising if the decision had been any other. Politically this was a key case, given the showcase nature of the negotiations themselves.

This Tribunal decision feeds into the debate of whether pay equity can be negotiated, a theme present in the early consultative phase and the case study data. The assumption behind the argument that pay equity cannot be negotiated is that pay equity is about an objective standard of equality, an objectively reached calculation based upon a sophisticated and 'scientific' job evaluation scheme. Managerialist notions of job evaluation committee members 'leaving their hats at the door' and objectively, rationally ranking jobs to the exclusion of any biases, rests upon this assumption. Even union pay equity negotiators seemed to take on board this assumption to some degree, although after some experience of implementation it became apparent to more union than management representatives that the standard of 'objectivity' was an artifact, ignoring the political nature of what may seem to be technical (and therefore apparently 'objective') decisions.

Once it is understood that job evaluation schemes themselves are not objective (see Chapter IV), and their implementation is not objective, then the objection that collective bargaining somehow contaminates the process is invalid, since

negotiating is merely an extension of the political nature of evaluation schemes and the gender-class properties that are embedded in them. Bearing this in mind, it becomes crucial indeed to ensure that employee representatives in this political process have the analysis and skills to recognise the technical as political in order to achieve any closing of the wage gap at all.

But it should be pointed out that even if a union has the advantage of a labour-feminist politic extending to its pay equity negotiators, it has to have the resources and the power to pursue its chosen strategy. For example, ONA spent \$1 million a year from 1989 to 1991 on legal costs only, not allowing for staff time and other expenses (Andrews and Hodder, Interview, 1991). This kind of financial commitment is not possible for many unions. The OFL Director of Human Rights (Women's Issues) explained the dilemma of many unions who knew they had a legitimate claim but could not afford to pursue it through the legal enforcement mechanisms:

So do you go to the Tribunal where you think you can get another 10 cents? You think you can get 15 women 10 cents more an hour, do you spend \$100,000 of your local money to get that and leave no money for arbitrations, no money for regular bargaining? No money for education? No. You cut the best deal you can. And also the Pay Equity Act is written in

that way. It's not an equal value. It's a narrowing, not elimination of the wage gap. So, ...this is where we talk about the difference in still taking that principled stand. (Sceviour, Interview, 1991, p. 18)

As a way of enhancing unions' power in pay equity bargaining, it seems as if the advantage of the Tribunal as an enforcement mechanism is theoretical rather than practical for most unions. It could be argued that ONA is an atypical union, with a cluster of characteristics favouring pursuit of its principles through the Tribunal, and that CUPE is a more realistic model of pay equity implementation for most unions. The push for an ultimate gender neutral plan was not a major issue for CUPE. It adopted a relatively low-key strategy of using the Review Services for obtaining the fullest information disclosure possible and hard bargaining at the evaluation stage to gain more money for its low paid women. A strong, effective labour-feminist politic has to take account of the practical limits to the possibility of power the Tribunal route offers.

It is also worth noting here the increasing importance of employer resistance to pay equity, presenting a major challenge to the most enlightened and determined negotiating team. This study of pay equity included the impact of retrenchment in the public sector and this constraint will probably be

exacerbated in the future and play a larger role than in the negotiations studied. In a hostile climate of general free-market economic policies and economic restructuring, equal pay for women will become even more elusive, particularly in the private sector. In mid 1991, after only a short period of pay equity implementation in the private sector, there was already a significant difference between the cost of pay equity in the private sector (an average of 0.3% of payroll per year) and the public sector (an average of 2%) (Sceviour, Interview, 1991).

Pressing for women's rights under the legislation in the private sector may cause some employers to move away from the province to avoid pay equity responsibilities (Hamil, Interview, 1991). The threat of this in a recession will be difficult to countervail when negotiating a pay equity plan. Since there is no intervention by the Pay Equity Commission until an employee complains, it is unlikely that situations like this will come to light at all. Some of the more political private sector unions (for example, the Canadian Auto Workers, and the United Steelworkers of America) have achieved good settlements (Review Officers, Interview, 1991). But since private sector unions in general tend not to be as social and political as their counterparts in the public sector, and female memberships are lower, it is doubtful that many will negotiate pay equity in a knowledgeable and determined way.

In addition, the public/private sector difference in pay equity settlements will be due to the lower unionisation rate in the private sector. Evidence collected in this project indicated that in the hospital sector the non-union employees have gained little from the pay equity process. We know, for example, that virtually all non-union personnel in the hospitals were evaluated using a job evaluation plan that was unable to capture and value women's work effectively, according to an important ONA case on gender neutrality. With no union to represent them, and no access to the labour-feminist network, women who are not in senior management positions have stayed largely in an undervalued, underpaid position in the job and wage hierarchy. And this will probably be the fate of many women in the private sector without union protection.

Judging from the evidence in these case studies, hierarchy was the predominant constraint in the implementation of pay equity, potentially undermining any attempts to change the status quo and threatening to reassert itself if any changes in traditional wage relationships were achieved. Even in the face of this powerful constraint, opportunities were seized to at least change the shape of wage structures to some degree, with variable success. However, it must be said that some women's jobs are just not going to be of equal value to men's jobs, even if a gender neutral job evaluation scheme were used consistently and fairly. This is the inevitable result of their systematic exclusion from skilled

jobs in the development of a sexually segregated labour market, involving organised labour, employers and the state, as discussed in Chapter II (see also Warskett, 1991). Given that this is the case, pay equity on its own will not achieve wage equality for women, and has to be placed in the context of an overall equality strategy.

Policy must be aimed at three interlocking spheres: the economy, the family and the state. Earlier (Chapter II) it was argued that the gender wage gap is caused by structural inequalities in the labour market. Consequently, equality policies have to be aimed at structural change. In the economy, they have to move beyond neo-classical attempts to counter supply side "deficiencies" (for example, education, training, mobility) and policies to reduce labour market segmentation (for example, anti-discrimination and wage-improvement policies) (Gunderson, Muszynski and Keck, 1990).

Pay equity goes some of the way as a proactive measure, tackling discriminatory wages as a structural, rather than individual problem. But in order to be effective it has to cover all women, provide for comparisons across the primary and secondary labour market barriers, and be implemented in an enlightened way. Otherwise pay equity will not have a dramatic effect on the wage gap, may reinforce inequality in the labour market in the long-run, causing divisiveness between men and women and between women. In view of

these inadequacies, some women's advocates have called for a complementary wage solidarity policy, focusing on increasing the minimum wage, increasing entry level wages, and reducing differentials by flat-rate wage increases rather than percentage increases.

Because of the interdependence of women's workplace and domestic equality, the state also has to implement complementary policies aimed at equality in the home. Government should aim for comprehensive subsidised day care, and legislative frameworks and education programmes to better balance work and family so as to encourage a more equitable sharing of housework, child and elder care. An abandonment of the male breadwinner family model underlying the state's policies affecting the economic, legal, social and personal lives of women is essential. Only by undermining the structural and ideological barriers to women's equality embedded in all our institutions and practices, can there be a real closing of the wage gap.

In the meantime, given that pay equity policy provides a route to gain money for low paid women, and will close some portion of the wage gap at least, it is essential for unions representing women to develop a labour-feminist politic to take advantage of this opportunity. Overall, the impact of pay equity on bargaining style, structure and power appears to be positive for women in their unions provided those unions develop effective equality bargaining strategies derived from a labour-feminist politic. Whatever the combination of constraints and opportunities and the eventual effect on women's wages, one

trend that was seen as very positive by many union pay equity negotiators was the development of a new cadre of women union activists and leaders. This bodes well for future equality bargaining, for we know that equality in the workplace is inextricably linked with equality in the unions, and that more women at the bargaining table will increase the likelihood of a labour-feminist politic informing negotiating policy and practice.

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APPENDIX 1**LIST OF ABBREVIATIONS**

AAHP	Association of Allied Health Professionals
AFL-CIO	American Federation of Labour-Congress of Industrial Organization
AFSCME	American Federation of State, County and Municipal Employees
CAW	Canadian Auto Workers
CFL	Canadian Federation of Labour
CLC	Canadian Congress of Labour
CUPE	Canadian Union of Public Employees
CWS	Cooperative Wage Study Job Evaluation System
EPC	Equal Pay Coalition
NAPE	Newfoundland Association of Public Employees
IBEW	International Brotherhood of Electrical Workers
NCPE	National Committee on Pay Equity
NDP	New Democratic Party
NFL	Newfoundland Federation of Labour
NHNHA	Newfoundland Hospital and Nursing Home Association
NLNU	Newfoundland and Labrador Nursing Union
NPEC	National Pay Equity Campaign
NUPGE	National Union of Provincial Government Employees
OECD	Organization for Economic Cooperation and Development

OFL	Ontario Federation of Labour
OHA	Ontario Hospital Association
ONA	Ontario Nurses Association
OPSEU	Ontario Public Service Employees Union
SEIU	Service Employees International Union
TLC	Trades and Labour Congress
UNA	United Nurses of Alberta

APPENDIX 2**THE NEWFOUNDLAND PAY EQUITY AGREEMENT, JUNE 1988**

The Newfoundland Pay Equity Agreement aims to achieve pay equity by redressing systemic gender discrimination in compensation for work performed by all employees in female-dominated classes within the bargaining units represented by the Association of Allied Health Professionals (AAHP), the International Brotherhood of Electrical Workers (IBEW), the Canadian Union of Public Employees (CUPE), the Newfoundland Association of Public Employees (NAPE) and the Newfoundland and Labrador Nurses' Union (NLNU), and whose members are employees covered by The Public Service (Collective Bargaining) Act, 1973.

According to the Agreement, pay equity:

...means a compensation practice which is based primarily on the relative value of the work performed, irrespective of the gender of the employees, and includes a requirement that no Employer shall establish or maintain a difference between wages paid to male and female employees, employed by that Employer, who are performing work of equal value. (1988, 2.1)

Deadlines for the achievement of pay equity are built into the Agreement, including originally a retroactive clause requiring the first pay equity wage adjustment for certain identified groupings of employees on April 1, 1998.

(This retroactivity was cancelled by an incoming government in March 1991).

Wage adjustments are to be up to a maximum of 1% per year of the relevant previous year's payroll, until pay equity is achieved or until the end of the fourth consecutive year, whichever is the sooner. If by then pay equity is not achieved, then the remaining adjustments are to be paid out in the fifth year.

The Agreement requires a joint committee structure to implement pay equity so that the unions and employers involved have equal representation. All committees are to be gender balanced and have to reach unanimous decisions throughout the process. The Steering Committee, with one male and one female Co-Chair, one each from union and employer groups, has an on-going responsibility to identify employee communication and education programs relating to pay equity. But, most important, it is responsible for monitoring the implementation of pay equity: "Its mandate is to ensure that the Pay Equity Agreement is met by the parties" (3.4).

In this role, the Steering Committee has to select a gender neutral job evaluation system for all female- and male-dominated classes for each grouping (one or more bargaining units combined for the purposes of pay equity implementation). This job evaluation system is to assess value using the criteria of skill, effort, responsibility and working conditions. Part of the Committee's task is to determine the weight of each factor within these criteria.

The Committee also has to identify which job classes are going to be compared using the selected job evaluation system. Job class is defined as those individual positions in a grouping that are sufficiently alike in duties, responsibilities and qualifications reasonably required for performance of work to warrant like treatment. In Newfoundland, a female-dominated class means a job class with five or more employees, 60% or more of whom are female. A male-dominated class means a job class with five or more employees, 60% or more of whom are male. The Agreement gives the Committee discretion to lower the minimum number/percentage if it is established that historically a certain class is dominated by males or females.

At this point in the process, the Steering Committee is responsible for the appointment of Job Evaluation Committees who are required to evaluate selected male- and female-dominated job classes through the application of the selected job evaluation system. In the Agreement, the Job Evaluation Committees (established for each grouping) are to jointly agree upon questionnaires/job description forms, interview/observation procedures and the employees involved in these processes, and train the evaluators. In practice, the Steering Committee undertook these tasks in the first two groupings evaluated, so that the Job Evaluation Committees started their work after job descriptions were completed and after training sessions organised by the Steering Committee. The Agreement simply mandates the Job Evaluation Committees to "evaluate classes" (4.3.3) and requires all decisions to be

unanimous. To carry out this task, the evaluators were in practice required to reach consensus on a numerical score for each job class, based upon the factors making up the four criteria mentioned above.

The next stage of the process involves the Steering Committee calculating the pay equity adjustments, based upon the results of the Job Evaluation Committees. Evaluated male-dominated classes are calculated into a male wage line by plotting the value of the male-dominated jobs classes against the wages paid for those classes. The same task is then undertaken for the female-dominated job classes. In most workplaces, a female wage line appears below that of the male wage line, showing the wage gap between male- and female-dominated jobs of equal value, and in turn indicating the pay equity adjustments to be paid to close that gap. In the Newfoundland Agreement, women's jobs which are below the male wage line are to be brought up to the male wage line. Exemptions for pay equity comparison purposes are: service, temporary training or development program or assignment, red-circling incumbent, and skill shortage.

A weak enforcement clause of the Agreement refers to the mandate of the Pay Equity Steering Committee to "establish procedures to monitor the progress of pay equity implementation; ensure compliance with the Pay Equity Agreement; and monitor consistency of implementation across various groupings" (3.5.4).

This clause echoes the earlier (3.4), already quoted, specifying that the Steering Committee's mandate is to ensure that the Pay Equity Agreement is

met by the parties. However, this role of the Steering Committee has been very difficult to put into practice.

Consequently, enforcement is largely limited to dispute resolution procedures, which are included at the end of the Agreement. Should the Job Evaluation Committees be unable to agree, then the Steering Committee has the power "to endeavour to resolve the dispute" (4.12). Failing settlement at this level, either party may refer the dispute to binding arbitration. At this stage, the procedures follow the route of the traditional route of labour relations dispute resolution.

APPENDIX 3**ONTARIO PAY EQUITY ACT, 1988**

The Ontario Pay Equity Act applies to all public sector employers, and all private sector employers with 10 or more employees. Employers covered by the Act have to identify systemic gender discrimination in compensation by "undertaking comparisons between each female job class in an establishment and the male job classes in the establishment in terms of compensation and in terms of the value of the work performed" (Section 4, No.2). Value is to be measured as a composite of skill, effort, responsibility, and working conditions. Under the Act, pay equity is achieved "when the job rate for the female job class that is the subject of the comparison is at least equal to the job rate for a male job class in the same establishment where the work performed in the two job classes is of equal or comparable value" (Section 6, No. 1).

In order to achieve pay equity, all public sector employers, and private sector employers with 100 or more employees, are required to produce and post pay equity plans for employees' approval. These plans must describe the job evaluation system to be used; provide the results of the evaluation itself; identify any exemptions, with reasons; describe how pay equity will be achieved; and provide a schedule for the adjustments and eventual achievement of pay equity.

Deadlines are provided according to sector and size. The public sector (which includes the civil service, Crown corporations, health care facilities, universities and colleges, several external agencies, school boards and municipalities) had to post pay equity plans by January 1, 1990, begin wage adjustments on the same date, and complete pay equity adjustments five years' later.

Private sector organizations of 100 or more employees also have to prepare pay equity plans according to a fixed schedule (See Table 3). Plans have to be posted by a deadline (500 or more employees: January 1, 1990; 100 to 499 employees: January 1, 1991), and wage adjustments have to begin one year later. There is no mandatory deadline for completion of equity adjustments, but adjustments are to be at least 1% of the previous year's payroll, until pay equity is achieved. Smaller organizations (10 to 99 employees) have a choice of whether to post pay equity plans. Those who do post plans have longer to prepare for pay equity than the larger organizations, have no mandatory deadline for completion of pay equity adjustments, and are only required to contribute 1% of payroll each year. Those who do not post plans lose their chance of a phased-in adjustment to equity, and their compensation practices must achieve pay equity by an early mandatory deadline.

Each stage of the pay equity plan is open to some degree of negotiation, within the broad framework of the legislation, and must be a joint process in a unionized workplace. However, the employer alone implements pay equity in

non-unionized organizations, subject to the employees' agreement with the final pay equity plan. If an employer exercises the option not to post a plan then an employee can complain to the employer if the equity implementation is not seen as complying with the Act. If the employee is not satisfied with the employer's response, then she can apply to the Pay Equity Commission, a government body set up to monitor pay equity implementation and settle disputes.

As noted, the pay equity legislation specifies that the selected job evaluation system must measure value based on a composite of skill, effort, responsibility and working conditions, and that it must be gender neutral. In a unionized workplace, union and management must jointly choose a scheme to evaluate the current pay structure. Next, the parties must bargain to determine gender predominance, so that predominantly female job classes can be compared with predominantly male job classes. According to the Act, a "female" job class has to include at least 60% female employees, and a "male" job class has to include at least 70% male employees. However, in addition to this quantitative criterion, there are two more factors which may be considered: historical incumbency and gender stereotyping. For example, where one out of three of a firm's engineers is female, because of a recent appointment, the historical gender pattern of recruitment and gender stereotyping of engineering work would indicate a male job class, despite the percentage indicator of only 66% male employees. Comparisons are initially to be within a bargaining unit, but

if no male comparator is available then comparisons can be made across bargaining units, or with non-union positions if there are no other bargaining units in the establishment.

The job analysis and evaluation process is the longest and most complicated bargaining phase. The Commission has issued booklets detailing how to conduct this and every other stage of the pay equity process; guidelines recommend a joint union-management committee, with female and major occupational group representatives. Once it has been decided which classes are of equal value, then any exemptions have to be negotiated. Allowable exceptions when determining pay equity adjustments are for seniority, merit or performance pay, temporary training or development positions (provided these processes do not operate in a discriminatory way), temporary skills shortages. An unusual exemption is allowable once pay equity is achieved: differential pay is then acceptable if it is due to differences in bargaining strengths. The parties then have to negotiate how equity is to be achieved. Given that only 1% of the previous year's payroll is statutorily required, a schedule of pay equity adjustments has to be agreed upon.

The Ontario model is proactive, but it also incorporates a complaints element. The Pay Equity Commission consists of a Pay Equity Office and a Pay Equity Hearings Tribunal. The Pay Equity Office is responsible for research and education, monitoring pay equity implementation, and general support services for the Pay Equity Hearings Tribunal, which is empowered to make final and

binding judgements on any complaints or disputes referred to the Pay Equity Commission.

Review Officers working in the Pay Equity Office are appointed to monitor pay equity plans, investigate pay equity complaints and can initiate the settlement of pay equity disputes. They have the power to decide if a complaint is not to be pursued because it is trivial, vexatious, or made in bad faith, or is beyond the jurisdiction of the Pay Equity Commission. They also have considerable powers of investigation, including the right to enter any place at any time to obtain documents and question persons about a complaint. The Review Officers can make orders of a wide ranging nature to bring about compliance with the Act. Parties dissatisfied with an order made by a Review Officer can appeal to the Pay Equity Hearings Tribunal, which can conduct a full and formal hearing on the dispute and make its own decision.

The Pay Equity Hearings Tribunal has administrative and enforcement powers in its own right. It is entitled to make a number of orders concerning the implementation of the Act, including ordering the Review Officer to design a pay equity plan if an employer has failed to post one; ordering the reinstatement with compensation of an employee wrongfully dismissed because of pay equity matters; ordering pay adjustments to female employees who were not accorded pay equity; and ordering the revision of pay equity plans. It may make general remedial orders and the Act also includes penalties for those who

fail to comply with these orders. Maximum penalties are \$2,000 for individuals and \$25,000 for organizations.

The Pay Equity Commission has to submit an annual report on its activities and affairs to the Minister of Labour. Also the Pay Equity Act requires a comprehensive review of the Act and its operation seven years after the effective date.