

Women Workers, Employment Policy and the State: The Establishment of the Ontario Women's Bureau, 1963-1970

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WHEN ONTARIO TORIES went to the polls in 1963 to try and sustain their majority government, the party had already mapped out a strategy to appeal to women voters: on one hand, women were promised yellow margarine to replace the unappetizing white margarine supported by the dairy lobby, and on the other hand, they were promised the establishment of a Women's Bureau within the Department of Labour. These two distinct promises were attempts to induce homemakers and women working outside the home to vote Tory; in fact, though, these two groups of women were increasingly one and the same, as more and more married women and women with children combined both productive and reproductive labour in the 1950s and 1960s.

The Conservative government had already made a decision to set up a Women's Bureau earlier in the year, but saved the announcement for the election, validating the newspapers' rather cynical prediction that the Bureau announcement was a quick play for the woman's vote. Though this very short-term consideration may have influenced the Conservatives, a Women's Bureau was an astute, political and economic strategy at the time. For one thing, the government could claim responsiveness to women's organizations like the Business and Professional Women's Clubs and to some unions, which had been lobbying for such a government office for some time, and often pointed to the federal Women's Bureau established by the Liberals as a success. The government was also cognizant of women's increasing participation in the labour force, and in the context of an expanding economy, wanted to assess training needs and encourage 'efficient' use of female labour in areas where there were perceived shortages. Moreover, the government was well aware of the potential to use the Bureau, both to gauge public

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views on policy issues, and to publicize its own political initiatives in employment policy.

Initially established to fulfill a research, education and public relations role, the Bureau increasingly became linked to policy development by the late 1960s. Within seven years of its founding, the Bureau provided important impetus for the development of anti-discrimination and maternity leave legislation in the form of the Women's Equal Opportunity Act. While by no means revolutionary, this legislation did set out new rights for some women workers in the province, and its provision of legal (unpaid) maternity leave and the prohibition on firing women upon marriage suggested that the post-war public debate about the 'morality' of working mothers was essentially over: women with families were in the workforce to stay. Moreover, unlike previous legislation, this act combined the principles of both women's 'equality and difference,'¹ reflecting the Women's Bureau's preliminary efforts to shift the dichotomized 'protection or equality' thinking on women's employment rights in new directions.

Because employment policy has been absolutely crucial to government claims to be promoting gender equality, a critical examination of the Women Bureau's early work in Canada's largest province is extremely useful. As Alena Heitlinger argues 'state feminism' — an interventionist approach with an array of policy machinery set up by governments to aid women — has been one of the primary responses of western liberal democracies to second-wave feminism; moreover, the majority of state feminist initiatives have focused on efforts to encourage women's equal participation in the labour force.²

This article will examine the early years of the Bureau, from 1963 to 1970, looking at its successes as well as its limitations, with special attention to the passage of the Bureau's first major legislative initiative, the Act to Prevent Discrimination Against Married Women Workers, popularly called the Women's Equal Employment Opportunity Act (WEEO Act).³ The Ontario Bureau's first years are particularly interesting because of its movement from research and counselling to more active endorsement of policies to promote gender equality in the workforce;

¹For discussion of the equality versus difference debate see Joan Scott, "Deconstructing Equality-Versus-Difference, Or, the Uses of Post-structuralist Theory for Feminism," *Feminist Studies*, 14/1 (Spring 1988); Gisela Bock and Susan James, "Contextualizing equality versus difference," in Gisela Bock and Susan James, eds., *Beyond Equality and Difference* (London 1992). On the debate in a Canadian historical context, Margaret Hobbs, "Equality and Difference: Feminism and the Defence of Women Workers in the Great Depression," *Labour/Le Travail*, 32 (Fall 1993) 201-23.

²Alena Heitlinger, *Women's Equality, Demography and Public Policies: A Comparative Perspective* (MacMillan 1993).

³The actual title of the legislation presented to the Legislature was An Act to Prevent Discrimination in Employment Because of Sex and Marital Status. It was more popularly known in the government as the Women's Equal Opportunity Act, the name I will use throughout the article.

moreover, this took place in the 1960s just before the proliferation of radical and liberal feminist organizations in the early 1970s, and governments' subsequent attempts to appease women with new advisory groups and funded women's programs.

In light of recent theoretical debates about the state, including the view that it is inherently anti-feminist and 'masculinist,' we also need to ask whether trade-union women and feminists were able to use the Bureau to positive effect, or whether they became, as the more pessimistic analysts of the state claim, simply "disciplined subjects" of the state.⁴ Whose interests did the Bureau represent? Was it successful in enhancing women's equality in the workforce? Can state policy alter gender inequality apparently entrenched in an advanced capitalist economy, and how should those in the labour movement struggling for social justice relate to those within the state creating employment policy?

Assessing the State and Employment Policy

FEW HISTORIANS or sociologists would argue that the state offers an uncomplicated, or neutral ground upon which to contest and alter women's historically unequal and exploited role in the labour market. At the same time, North American and Australian writers (and the latter have been especially active in federal and state bureaucracies since the 1970s) differ sharply on the possibilities and limitations of women's attempts to "play the state," and how much women bureaucrats (later nicknamed 'femocrats'), whatever their good intentions, can effect meaningful change through reformist channels.⁵

Some studies have suggested that the state, reflecting the dominant economic interests of capital, inevitably controls, and indeed limits, labour policy initiatives designed to aid women workers.⁶ However much the state may appear to mediate or manoeuvre between economic interests, it is "still constrained to act in the interests of capital."⁷ Like this neo-marxist writing, feminist approaches have also been wary of the state, fearing that it has incorporated, defused, distorted or cleverly mollified feminist demands for equality; even if reforms began as responses to grass-roots pressures, it is argued, they may ultimately accommodate and reproduce, rather than challenge, race and patriarchal privilege, as well as capitalist interests.⁸

⁴Wendy Brown, "Finding the Man in the State," *Feminist Studies*, 18, 1 (Spring 1992), 11.

⁵Sophie Watson, *Playing the State: Australian Feminist Interventions* (North Sydney 1990).

⁶For example, Carl Cuneo, *Pay Equity: The Labour-Feminist Challenge* (Toronto 1990).

⁷See Leslie Pal, *Interests of State: The Politics of Language, Multiculturalism and Feminism in Canada* (Montréal 1993), 23-30 for a review of neo-Marxist analyses of the state.

⁸See for example, some of the articles in the special issue of *Resources for Feminist Research* on "Feminist Perspectives on the Canadian State," (September 1988).

Indeed, some radical feminist writing goes further, portraying the state as a patriarchy⁹ or even suggesting we do not need a theory of the state as it is simply one part of a larger phallogocentric culture.¹⁰ Citing equal employment policies in particular, Australians Ann Game and Rosemary Pringle suggest that reform measures designed to enhance equality can be absorbed into the overall 'structure of masculine power' of the state, while Anna Yeatman has argued that, despite the political sympathies of femocrats, they operate within very circumscribed power relations. Indeed, the reforms they achieve may benefit the better educated, while the more desperate conditions of the vast majority of women, are left unchanged.¹¹

A more optimistic view has suggested the possibilities of feminist engagement with the state, in terms of altering policy *and* ideology; this view hints at a potential 'radicalism' inherent in a liberal feminist approach.¹² Similarly, some socialist-feminists argue that the welfare state, though it reproduces class and gender inequality on one level, may simultaneously encourage women's radicalized consciousness and bring together coalitions of women who "as active political subjects" make new and more far-reaching demands on the state.¹³ Historical analyses of the trade-union movement's engagement with many governments also reminds us that the labour movement has often looked to the state for relief from oppressive conditions — both in an optimistic social-democratic sense, and as an educational means to the end of creating a more revolutionary working-class movement. Even if the outcome of legal reform is disappointing, the process of working women trying to effect change through the state may illuminate 'tensions and openings' for future struggles of working women. Such reformist activity, as Hester Eisenstein suggests, may provide political "moments of possibility" to women workers trying to alter their profoundly exploitative working conditions and wages.¹⁴

More recent feminist-materialist expositions of the state¹⁵ may also provide useful insights on this question. While indicating the role of state policy in

⁹Catharine McKinnon, "Feminism, Marxism, Method and the State: Toward a Feminist Jurisprudence," *Signs*, 8/4 (1983) 635-58. For a more sophisticated, but still radical feminist analysis see Carole Pateman, *The Disorder of Women* (Cambridge 1989), ch. 2.

¹⁰Judith Allen, "Does Feminism Need a Theory of 'the State'?" in Watson, *Playing the State*.

¹¹Ann Game and Rosemary Pringle "Introduction," to A. Game and R. Pringle, eds., *Gender at Work* (Sydney 1983); Anna Yeatman, *Bureaucrats, Technocrats, Femocrats: Essays on the Contemporary Australian State* (Sydney 1990).

¹²Marian Sawyer, *Sisters in Suits: Women and Public Policy in Australia* (Sydney 1990), Hester Eisenstein, *Gender Shock* (Boston 1991). For a theoretical discussion of this see Zillah Eisenstein, *The Radical Future of Liberal Feminism* (New York 1981).

¹³Barbara Ehrenreich and Frances Fox Piven, "Women and the Welfare State," in Irving Howe, ed., *Alternatives: Proposals for America from the Democratic Left* (New York 1983).

¹⁴Eisenstein, *Gender Shock*.

¹⁵For two earlier analyses which are still useful see Mary McIntosh, "The State and the Oppression of Women," in A. Kuhn and A.M. Wolpe, eds., *Feminism and Materialism*

reproducing inequality in paid employment or in welfare systems, they have also suggested that we must examine the actual historical workings of women's engagement with the state, remembering that the state is not a monolithic and cohesive entity bent on 'tricking' women; it may also be terrain for struggle between various dominant and opposing interests.¹⁶ Empirical studies of the many forms of state regulation also underscore the danger of theorizing too rigidly and schematically about a process of policy formation which varies from one legal area — criminal, employment, health — to another.

The most recent debates on women and the state, often influenced by post-structuralist thinking, are increasingly stressing the contradictory and 'multifaceted' nature of the state and the manner in which it is shaped by fluctuating political, economic and social forces. Many of these feminist writers are also distrustful — indeed overly so — of materialist assumptions that the actions of the state and its adversaries are shaped, in a crucial way, by structural and economic location and interests. While arguing that the state functions as the centralized arbiter of "masculine power" through regulation of economic, sexual and discursive power, for instance, Wendy Brown also claims that this power is becoming decentralized, diffuse, and potentially "deconstructable" as masculine power operates in a contradictory manner, "through a disavowal of potency, repudiation of responsibility, diffusion of sites and operations of control."¹⁷

Although we should be wary of some post-structuralist analyses which tend to de-politicize the state, by portraying it as a "plurality of discursive forms,"¹⁸ and which ignore very real economic and structural constraints shaping the state and its bureaucracy, we may benefit from the post-structuralist method of analysis which probes the state apparatus in motion, examines the processes of shifting power relations among many groups, and looks at the way in which women's 'interests' are constituted, re-constituted and expressed by both the state and by

(London 1978) and Michele Barrett, *Women's Oppression Today* (London 1980). Jane Jenson's, "Gender and Reproduction, or Babies and the State," *Studies in Political Economy*, 20 (Summer 1986) 9-46, reminds us that the British model suggested by these influential theorists may not apply to other time periods and countries, where the state's role in sustaining women's oppression might be quite different. See also her "The Limits of 'and the' Discourse: French Women as Marginal Workers," in Jane Jenson, E. Hagen and C. Ready, eds., *Feminization of the Labor Force: Paradoxes and Promises* (New York 1988). Many of the recent feminist-materialist analyses deal with the welfare state; for example, see Linda Gordon, ed., *Women, the State and Welfare* (Madison 1990).

¹⁶See Gordon, *ibid.*, and Melanie Randall, "Feminism and the State: Questions for Theory and Practice," in *Resources for Feminist Research: Feminist Perspectives on the Canadian State*, 17/3 (September 1988) 10-16.

¹⁷Brown, "Finding the Man in the State," 29.

¹⁸Rosemary Pringle and Sophie Watson, "'Women's Interests' and the Post-structuralist State," in Michele Barrett and Anne Phillips, eds., *Destabilizing Theory: Contemporary Feminist Debates* (London 1992), 63.

women themselves.¹⁹ It is useful to examine the political process whereby "social groups lay claim to and represent their needs and rights to the state,"²⁰ and then the state's response; these ideological struggles may reveal both the limitations women encounter in trying to play the state, as well as the 'tensions and openings' which can be utilized to secure labour reform or shift the ideological suppositions underlying these struggles.

The Early Women's Bureau in Political Context

IN 1963, when Ontario Premier John Robarts announced the establishment of a Women's Bureau, to be housed within the Department of Labour, similar policy initiatives were already a pattern inside, as well as outside Canada.²¹ In 1953, the federal Liberals had set up a Women's Bureau, with a research and advisory role, within its Department of Labour. Though the federal Bureau, headed initially by Marion Royce, was somewhat marginalized administratively, it was one of the only channels for organized women's groups and trade unions to make their views on women's employment needs known to the federal government, and by the 1960s it did exert significant internal pressure on the government for reforms such as maternity leave.²²

Women's organizations, like the Business and Professional Women Clubs (BPWC), which drew in many white-collar as well as professional women, trade unions and the CCF had called for the establishment of a federal Women's Bureau since the end of the Second World War. Citing the U.S. Bureau as an appropriate model to follow, they maintained that a Women's Bureau could do research on women's employment and act as an advocate within government for positive policy initiatives relating to women workers. A Women's Bureau, it was assumed, would at the very least provide useful research on the female workforce, and at best, would raise government's awareness of issues such as equal pay.

The union movement was supportive, if not overly enthusiastic about the idea of a federal Women's Bureau. The Canadian Labour Congress reported positively on the founding of the Bureau, though in more left-wing unions, like the United Electrical Radio and Machine Workers of America (UE), the male leadership was concerned that such gender-specific government initiatives were little more than window dressing and potentially threatened the class unity needed in the movement. However, women trade unionists, including UE women, almost always saw

¹⁹*Ibid.* See also Rosemary Pringle and Sophie Watson, "Fathers, Brothers, Mates: The Fraternal State in Australia," in Watson and Pringle, *Playing the State*.

²⁰Pringle and Watson, "Women's Interests," 63.

²¹In Australia, a federal Women's Bureau was set up after 1963. Sawyer, *Sisters in Suits*, 40.

²²Sandra Burt, "Organized Women's Groups and the State," in William Coleman and Grace Skogstad, eds., *Policy Communities and Public Policy in Canada* (Toronto 1990).

the Women's Bureau as a potentially sympathetic ally, with valuable research and educational resources that unions could use.²³

Given the provincial legislative and regulatory responsibility for employment standards and wages, it made sense to lobby for similar provincial bodies with a research and policy mandate. In Ontario, the BPWC, and to a lesser extent, the local Councils of Women, made this request for a Provincial Women's Bureau most regularly. The Ontario BPWC had been one of the most vocal proponents of an equal-pay bill in the early 1950s; after the passage of the Fair Employment Remuneration Act, despite its clear flaws, the BPWC turned its lobbying efforts to other issues, such as new laws preventing employment discrimination based on sex.²⁴

Post-war Ontario Tories were notoriously astute at securing their own position by responding fairly quickly to emerging political criticism and trends, and this may be one reason why, with an election in the offing in 1963, Premier John Robarts responded to some of the most vocal women's lobby groups of the period with the announcement of an Ontario Women's Bureau.²⁵ However, BPWC lobbying, remembers the Bureau's first Director Ethel McLellan, was not the decisive reason that the Bureau was established; rather, the government was interested in gauging public attitudes on women's employment, examining training issues, and especially providing a platform for its own political initiatives in this area.²⁶

The Bureau's official mandate was to do research on women's employment; to provide business, government and the public with information on employment trends and existing legislation; to provide counselling to women, especially those re-entering the workforce after family absences; and to advise the government on policy issues. It was perceived as a rational means of managing, and in fact enhancing, women's growing participation in the expanding economy. As others have noted, in the 1950s and 1960s married women were pushed into the workforce for economic reasons; but in this boom period, they were also pulled in by employers intent on utilizing what they saw as a flexible, lower-paid and malleable source of labour. A later Director noted that the government, as a large employer, was also thinking of its own shortage of qualified white-collar workers when it set out the Bureau's mandate: "the Deputy Minister pointed out to me that he might

²³See *Canadian Unionist* (issued by the Canadian Labour Congress), vol. 29 (January 1955) coverage of the Bureau. On the UE, see Julie Guard, "The 'Woman Question' in Canadian Unionism: Women in the UE, 1930's to 1960's," PhD Thesis, University of Toronto, 1994, 335.

²⁴On the FEFRA see Shirley Tillotson, "Human Rights Law as a Prism: Women's Organizations, Unions, and Ontario's Female Employees Fair Remuneration Act, 1951," *Canadian Historical Review*, 72, 4 (December 1991) 532-57.

²⁵This was also shortly after President Kennedy in the US set up the President's Commission on the Status of Women in 1961.

²⁶Interview with Ethel McLellan, July 1984.

be able to replace someone like me, in a Director's role, but he could not easily find women to replace our secretaries."²⁷

As originally conceived, the Bureau was not to alter the existing sexual division of labour or restructure employment relations in the private and public sector: rather, the intent was to place women in the labour force as it existed. Women were working "below their capacity," a detriment to national productivity said McLellan. She urged counselling and "re-training for women in the home whose work had been interrupted by motherhood."²⁸

At its inception, the Bureau was rationalized repeatedly within this utilitarian discourse; its first Directors in the 1960s argued that the economy, especially the service sector, needed women's labour, just as women needed to work to support themselves, and that under-utilization of women was a detriment to a growing economy. That the Bureau was not seen as a direct and radical feminist challenge to the existing gender order may be surmised from the somewhat dismissive press coverage of Robart's announcement of its establishment. The First Director, Ethel McLellan, was described by many reporters, as "pretty, freckled and blue eyed" (ie. not threatening to men) and the fact that she was a 'normal' wife, having recently "redecorated her suburban home" was also mentioned positively. "How about training women to be wives?" the press chided McLellan, perhaps revealing an underlying nervousness with the thought of any instability in gender roles.²⁹

Press coverage did not emphasize McLellan's extensive work experience outside and within the provincial bureaucracy. A post-war Queens graduate with a fairly non-traditional degree in Economics and Politics, she realized when still a student that her dream of joining the diplomatic core was impossible, given her gender. Instead, she worked in the private sector in investment and marketing before becoming director of women's activities for the new Department of Transport, a position which took her across the province, making contact with unions, service and women's groups in her efforts to educate the public about safety issues. After a subsequent promotion to Executive Secretary of the Civil Service Commission in 1961, she was encouraged to apply for the Women's Bureau Directorship. Clearly identified as an ambitious and promising career civil servant, McLellan's public-speaking skills, knowledge of government procedures, and especially her existing contacts with many women's groups made her an ideal choice for the position. At the same time, as she critically notes now, it was unlikely she would have been considered as a Director in other areas of the government: women civil servants were still highly ghettoized and limited by a glass ceiling in the bureaucracy in the 1960s.³⁰

²⁷ Interview with Lita-Rose Betcherman, April 1991

²⁸ *Toronto Telegram* and *Toronto Star*, 12 September 1963

²⁹ *Toronto Star*, 12 September 1963.

³⁰ Interview with Ethel McLellan, July 1994.

Like McLellan, the second Bureau Director, Lita-Rose Betcherman, who took over in 1966 when McClellan took a new position in the Civil Service Commission, was well educated and had good public speaking skills. Betcherman had secured her PhD in History from the University of Toronto, but was told she would probably never secure a teaching job because of her marital status; she thus turned her considerable energies to her new job in the government.³¹ These two women were well aware of discrimination against women in the workforce, and like the early Directors of the federal Women's Bureau, they wanted to see the Bureau stimulate positive social change in favour of all working women.³²

Their understanding of reform, shaped by the liberal feminist analyses of the time, tended to stress strategies of public education and gradual change by 'boring from within' the government; ideologically, they embraced a liberal, equal rights approach, hoping to eliminate barriers to opportunity with legislative reform. Even the latter, however, was incomprehensible to some other bureaucrats, and unacceptable to some interest groups, such as employers, whom they were required to consult. These women's personal frustrations with such opposition — clearly exemplified in their private notes and textual comments, such as well-positioned exclamation marks on opponents correspondence — reflected the broader limitations on the Women's Bureau work described below.

Directors of the Ontario Bureau reported to both the Deputy Minister, and the Minister of Labour, but despite this direct channel to the top of the bureaucracy, the Bureau's resources remained quite limited. When the Bureau was set up, McLellan was able to hire a policy analyst, an educational and promotions person and a secretary for the office. Using this personnel, the Bureau created pamphlets explaining the legal rights of employers and women workers, sent out public speakers, and did substantial research on women's employment plans and needs, though the latter relied heavily on surveys drawn from urban centres, and from better educated women.

These surveys of women's plans and needs, such as ones taken at the Toronto CNE, indicated the ideological tenacity of the sexual division of labour, for the vast majority of women responding only imagined employment possibilities in white collar work, or in a few professions such as teaching. Few expressed an inclination or hope of moving into supervisory positions, and most women also communicated a desire to leave the workforce when they had young children, as working outside the home when children were young was perceived to be 'impossible.' Though many of these women saw their work as part of a shared family economic strategy, they came from secure enough backgrounds that they could imagine giving up wage work for some time when their children were young.

³¹Interview with Lita-Rose Betcherman.

³²Sylva Gelber, director of the federal bureau in the late 1960s wished to see the bureau become a tool for promoting gender equality in policy and legislation.

Yet, these surveys also indicated another clear trend: women increasingly saw wage work as a life long — if interrupted — obligation and many were interested in returning to work after their children were in school. The Bureau's second priority became counselling to assist "the relatively educated woman to return to work,"³³ with suggestions on the kind of skills, education, or retraining that women might need. Pamphlets were created with basic advice on how to look for a job, prepare a resume or manage an interview; Bureau staff visited large employers to talk about women's training needs; and women were offered some employment counselling from Bureau staff. The Bureau's job counselling abilities, however, were very limited, both geographically and institutionally, as the Bureau was centred in Toronto, and not directly connected to government employment offices or private placement agencies. Moreover, with a small staff, the Bureau at first focused on high school graduates with white collar or professional potential, as it was argued that "productivity was linked to educational level."³⁴

Though apparently due to its limited staff, this decision did reflect the way in which working women's 'interests' were being constituted in a class, ethnic and race specific mode: this policy marginalized many working women, including recent immigrants, who would not have qualified for counselling under these stringent rules. By focusing on white collar jobs, for instance, some European-born immigrants, and women of colour were ignored, as they were more likely to be limited to manufacturing and domestic service.³⁵ A further indication of this limitation, and indeed of the government's initial interest in appealing to the more middle-class-identified women's groups, was the early suggestion that the Bureau look into a scheme aiding the training of female domestic workers so that other (professional) women could be freed for work outside the home. This idea was followed through with a training course held at a local high school, but it was soon abandoned.³⁶ The Bureau's early priorities paralleled much of the public discussion about the rapidly increasing numbers of married women in the workforce in the 1960s. As Veronica Strong-Boag has argued, the public debate about working wives was both class biased and ethnocentric. Commentators assumed that most

³³Public Archives of Ontario (AO), RG 7, Women's Bureau, 7-1-0-1854, "Information for Minister in Case of Questions in the House."

³⁴AO, RG 7, WB, 7-1-0-1854, Lita Rose Betcherman to Minister of Labour. "Information in case of questions in the House", 23 October 1969. In its early years, the Bureau was clearly responding to a more professional/white collar/middle class women's lobby. In later years, the Bureau did change its class and ethnic/racial orientation in women's issues.

³⁵Franca Iacovetta, *Such Hard Working People: Italian Immigrants in Postwar Toronto* (Montréal 1992), 92-3; Dionne Brand, *No Burden To Carry: Oral Narratives of Black Working Women in Ontario* (Toronto 1991).

³⁶Calls were still being made by the BPWC for schemes to train women for household service in the 1960s. See AO, Business and Professional Women's Clubs of Ontario, F 207-55-5-3. Letter to John Robarts, January 1960; Employment Conditions Committee, newspaper clippings, 26 March 1963. See also *Toronto Star*, 12 September 1963.

married workers were middle-class women who were 'choosing' to work for 'extra' income, but ignored both the economic need which compelled most women to work and the long-standing high labour force participation rate of immigrant women.³⁷

Women were also surveyed by the Bureau on the barriers they perceived to continued wage work. Policies or lack of services which prevented them from working after marriage or after children, were repeatedly identified as problems. In some cases, women were routinely dismissed on marriage, and even when women said they "couldn't imagine"³⁸ how they could work when they had young children, the response combined acquiescence to the ideology of mothercare with a recognition that there were few resources, such as child care centres, they could make use of.

Once the Bureau became better known, individual women also began to write citing cases of discrimination they had encountered and sometimes asking for help. One bank employee, denied a promotion because of her sex, despite the fact she had given years of service to the bank, pointed out that her family status meant she couldn't even retire on a bank pension because, as a married woman, she was ineligible for this benefit. On occasion, these women would also go to the Human Rights Commission, only to find that the existing mandate of the Commission did not protect women from discrimination in employment based on their sex. Being fired on marriage was a common complaint. "There are no laws which prevent you from being fired when you are married" responded commission head Dan Hill to a North Bay woman, "it is an amazing form of discrimination in this period, with so many married women in the workforce."³⁹

By 1969, in response to criticisms about its limited jurisdiction, the Bureau moved beyond its Toronto focus, and it began to provide employment counselling to all women, no matter what their educational background. By the early 1970s it was also investigating programs specifically for immigrant women and more non-traditional jobs for women. Finally, within the bureaucracy, the Bureau began to promote discussion of new policy initiatives. One of the Bureau's concerns was the negative effects of protective legislation on women workers; the second, and more important problem they targeted was discrimination against married women in the workforce. In 1968, under Betcherman's Directorship, the Bureau drew together an internal advisory committee to study sex and marital discrimination in women's employment: this committee then began to work out a proposal for the WEO Act.

³⁷Veronica Strong-Boag, "Women with a Choice: Canada's Wage-Earning Wives and the Construction of a Middle Class," paper presented at Canadian Historical Association, Charlottetown, 1992.

³⁸AO, RG 7, Women's Bureau, 7-1-0-1371, "What Do Working Women Think About?"

³⁹AO, RG 7, Woman Bureau, Sex Discrimination File, Box 1, D. Hill correspondence, 22 February 1968. The Bureau was quite distinct from the Human Rights Commission, though the relationship was a friendly one, and information was sometimes shared between the two offices.

In trying to establish such new policy initiatives, the Bureau's ability to effect change was limited for structural, political and ideological reasons. First, Bureau women were clearly contained within a bureaucratic structure which demanded their loyalty, not open opposition and criticism. Even if they disliked certain government policies, they had to remain silent. Even if a cabinet minister was abrasive or implicitly hostile to them, they had to remain polite.⁴⁰ As Australian Anne Summers points out, 'femocrats' within the civil service are often caught in a potentially contradictory role of acting both as efficient mandarins, and as feminist missionaries advocating for social change from within the bureaucracy.⁴¹

Secondly, women within the Bureau were limited by its placement within an ideological agenda already established by their political masters, often developed with minimal room for political flexibility. This agenda was characterized by an unquestioning acceptance of the existing domestic and productive sexual division of labour; moreover, politically, the government was disinclined to interfere too strongly with management prerogative in the workplace. Often these ideological priorities were relayed to the Bureau not simply through politicians, but through other bureaucrats whom had absorbed these goals as their own. It was another Department of Labour bureaucrat, for example, who objected to the Women's Bureau's suggestions about maternity leave: blithely rejecting the ILO guidelines on maternity leave, he claimed that "matters of leave and re-employment rights ... are more appropriately left to the policy of employers."⁴²

Women's honest efforts to change social policy were circumscribed by what Jane Jenson calls "the universe of political discourse" within which they operated: this set limits on who were considered legitimate actors in the policy making process, what alternatives were considered realistic, and what policies were perceived to be politically possible, with all of these factors shaped by the existing social formation at the time.⁴³ The very definition of — and therefore solutions to — employment inequality was the product of an ideological contest which was asymmetrically biased in favour of the economic and social power relations of capitalism and patriarchy.

Historically, both Ontario's employment and welfare policy relating to women had reflected and reproduced these deeply-entrenched biases.⁴⁴ The general con-

⁴⁰AO, RG 7, 1964 correspondence McLellan to Rountree re Jury Duty.

⁴¹Anne Summers, "Mandarins or Missionaries: Women in the Federal Bureaucracy," in Norma Grieve and A. Burns, eds., *Australian Women: New Feminist Perspectives* (Melbourne 1986).

⁴²AO, RG 7, Series VIII, Box 1, Meltzer to Mainwearing, 4 November 1964.

⁴³Jane Jenson, "Gender and Reproduction, or Babies and the State," and "The Limits of 'and the' Discourse: French Women as Marginal Workers."

⁴⁴Both welfare and employment policy have been important means through which the state can regulate economic production and the reproduction of family life, though admittedly, government intentions do not always translate into social control; attempts to 'regulate' gender roles can have unintended, self-defeating and even subversive results. For an overview

tours of Ontario's protective labour legislation and welfare programs like Mothers Allowances gave material and ideological shape to the dominant vision of the 'appropriate' blend of women's motherwork and wage work; in this vision, women were seen primarily as single, temporary workers or as dependent mothers, who might deserve some state protection.⁴⁵ Even in the post-World War II period, after the adoption of legislation like the 1952 equal pay law, a dichotomous understanding of women (occasional workers) and men (permanent workers) persisted. The 'family ethic'⁴⁶ — an ideology supporting a 'normal' and 'desirable' family form with a husband/father primarily responsible for economic support of family, and the wife/mother primarily responsible for personal care of family — remained one recurring theme in policy outlook.⁴⁷ An ideology of "mothercare,"⁴⁸ which presupposed women's superior and necessary primary care for young children in the home, suffused policy discussion on issues such as women's employment and the provision (or more often non-provision) of daycare in the 1950s and 1960s, even as married women were increasing their labour force participation. As Mary McIntosh theorized in the case of Britain, state policy can play a role in reproducing a particular family household system — in this case, attempting to prop up an ideal of wage labour for adult males and the unpaid domestic labour of married women.⁴⁹

of the historiography on social welfare policy see Linda Gordon, "The New Feminist Scholarship on the Welfare State," in Gordon, *Women, the State and Welfare*. See also Mimi Abramovitz, *Regulating the Lives of Women: Social Welfare Policy from Colonial Times to the Present* (Boston 1988). One Canadian overview of approaches is Caroline Andrew, "Women and the Welfare State," *Canadian Journal of Political Science*, December 1984. ⁴⁵Veronica Strong-Boag, "Wages for Housework: Mothers Allowances and the Beginning of Social Security in Canada," *Journal of Canadian Studies*, 14, 1 (1979); Margaret Little, "Regulating Ontario's Mothers During the Great Depression," paper presented at the Canadian Historical Association, Charlottetown, 1992 and James Struthers, *The Limits of Affluence: Welfare in Ontario, 1920-1970*, (Toronto 1994) Chap. 1; Margaret Hobbs, "'Dead Horses' and 'Muffled Voices': Protective Legislation, Education and The Minimum Wage for Women in Ontario," MA Thesis, University of Toronto, 1985. Other research has concentrated on the issue of protective legislation, such as minimum wage laws. One recent overview of social policy relating to the family in Ontario is Jane Ursel, *Private Lives, Public Policy: 100 Years of State Intervention in the Family* (Toronto 1992). Ursel is sympathetic to the argument that policy has moved from sustaining a private patriarchy to a state patriarchy, a view which has been critiqued by other scholars.

⁴⁶This term is used by Abramovitz in *Regulating the Lives of Women*. See also Jane Haddad and Steve Milton, "The Construction of Gender Roles in Social Policy," *Canadian Women's Studies*, 7, 4 (Winter 1986) 68-70.

⁴⁷Susan Prentice, "Workers, Mothers, Reds: Toronto's Postwar Daycare Fight," *Studies in Political Economy*, 30 (Autumn 1989) 115-41.

⁴⁸Heitlinger, *Women's Equality*, 222.

⁴⁹Similarly, as Ruth Pierson has also shown, social policy at the federal level was important in reproducing gender inequalities in this period. Post war labour retraining reinforced a return to female domesticity and the occupational segregation of women, while the federal

Whether this goal was achieved through ideological justifications for a family wage combined with protective legislation, as in Canada, or through judicial wage arbitrations as in Australia, or even later, through the tax/transfer system,⁵⁰ the potential influence of the state should not be underestimated.

Dominant assumptions about the family ethic, as the Women's Bureau found, were difficult to transform, thus inhibiting the "complete structural changes in the workforce" that Betcherman pointed to as the sine qua non needed to alter women's lives.⁵¹ Not only did the Bureau have to work within the limitations of the existing universe of political discourse, but in terms of their daily working lives, these civil servants were often the ones on the direct receiving end of complaints and hostility from those who disagreed with even a liberal, equal rights approach to women's employment. This became apparent as the Bureau moved from research and counselling to suggest the necessity of legislative reform to aid employment opportunity for women.

From Employment Counselling to Employment Opportunity: the WEEO Act

BY THE LATE 1960s, Director Lita-Rose Betcherman and her staff were ardently committed to legislation which would disallow hiring, training, promotion and firing based on sex, marital status or pregnancy. As insiders who had to give advice to Ministers on potentially embarrassing questions which might be raised in the Legislature, these civil servants did have some leeway to shape politicians' agendas. In preparation for a new session in 1969, the Bureau prepared a list of possible contentious issues for the minister, and pointed out that the opposition may "repeatedly ask for [anti-discrimination] legislation ... there may be a private member's bill on this." Betcherman reminded the minister that if the government moved ahead with its own legislation, this would be "a sufficient answer" to nip the criticisms of their political opponents in the bud.⁵²

The government's decision to explore anti-discrimination legislation, of course, was a timely political as well as bureaucratic response. Again, the govern-

unemployment insurance debates revealed a concerted effort to buttress a male-breadwinner/wife-dependent family form and discourage women's wage work through their child-bearing and rearing years. Ruth Roach Pierson and Marjorie Cohen in *They're Still Women After All: The Second World War and Canadian Womanhood* (Toronto 1986), ch. 2 and Ruth Roach Pierson, "Gender and the Unemployment Insurance Debates in Canada," in *Labour/Le Travail*, 25 (1990) 77-103.

⁵⁰As Bettina Cass suggests, in Australia the family wage policy, while challenged in the arbitration system, reasserted itself through the tax/transfer system. Bettina Cass, "Rewards for Women's Work," in Carole Pateman and J. Goodnow, eds., *Women, Social Science and Public Policy* (Sydney 1990).

⁵¹AO, Dept. of Labour, RG 7, Women's Bureau (WB), vol. 1, Betcherman notes for Topical article, 30 September 1970.

⁵²AO, RG 7-92-0-137, "Contentious Issues."

ment astutely offered leadership which made it appear progressive, rather than reactionary, for a key constituency of voters. When women's groups urged the Ontario government in 1968 to set up a provincial Royal Commission on the Status of Women, modelled on the federal one, the Tories pointed to the Women's Bureau as an existing mechanism already able to deal with the same issues. The government's willingness to consider equal rights reform in 1969-70 must be seen in this broader political context: the federal Royal Commission, set up in 1967, had examined job discrimination in some detail, and it was clear that the federal government would likely recommend the kind of legislation the Ontario Bureau was studying. Indeed, discussion of imminent federal maternity leave provisions under unemployment insurance came while the WEBO Act was being debated in the Legislature. Moreover, at the same time, the BPWC continued to lobby the Robarts government on the need for amendments to the Human Rights Code to include sex and marital status, and women in the union movement were also beginning to push very concertedly for similar changes. Much like the case of the 1952 FERA (equal pay) bill, the major Ontario precedent in terms of this kind of legislation, the government responded to feminist lobbying by creating its own cautious and narrow solution to women's demands.

Once it began its research and consultations on the Act, the Bureau encountered both support for, and hostility to anti-discrimination legislation. Feminist civil servants had to seek out allies while also dealing with opponents. Trade unionists were one obvious constituency to look to for backing, but Bureau staff found when it polled the labour movement that unions had their own internal contradictions. Officially, the broader labour movement supported the idea of anti-discrimination legislation, but internally and unofficially, some unions were less than sympathetic to equal rights for married women workers. Some union contracts allowed clauses sanctioning the termination of employment on a woman's marriage; indeed, one such complaint to the Human Rights commission in 1968 came from a female Hiram Walker employee whose union contract accepted this practice, and whose union offered her little sympathy.⁵³ The Bureau found another large union which provided maternity benefits for wives of workers, but not for women workers themselves; while one United Auto Workers (UAW) staffer who was interviewed dismissed the issue as an area for "management policy."⁵⁴ There were also some union leaders, even women, who were cool to the concept of maternity leave. One woman working for the Office Employees International Union fulminated against the idea, claiming her members were against maternity leave as "it would lead to discrimination against women. We prefer to follow the employer's policy."⁵⁵

Her hostile comments, however, were the exception rather than the rule, especially for female-dominated unions. While it is difficult to make generaliza-

⁵³AO, RG 7, WB, 3-0-1391.

⁵⁴AO, RG 7, Women's Bureau, Vol. 1, Sex Discrimination File, 1969.

⁵⁵AO, RG 7, Vol.1, Maternity Leave File.

tions, it appears that unions with very large male memberships were far less sympathetic to the idea of anti-discrimination legislation, unless they had a tradition of progressive politics, or had their own women's committees which spoke out in favour of gender equality. The left-wing UE, for instance, strongly supported legislated maternity leave, while a woman from the newly-formed UAW Women's Committee at the Oshawa plant heartily endorsed the idea of a law to ban discrimination: "half the battle would be won if there was no sex discrimination. The CLC now has this platform, but companies refuse to recognize the seniority of women."⁵⁶

It is clear from the Bureau's private discussions with union representatives that a core of women within unions — especially ones with large female membership or with women's committees — welcomed, indeed demanded, legislation banning discrimination and disallowing job advertisement by sex. Many women staffers who corresponded with the Bureau indicated their wish to build support for these aims within their unions and lobby the government to secure anti-discrimination legislation. They also relayed astute analyses of the structural and ideological barriers to equality that women faced within the workplace, and even within their own unions. In many unions, wrote a female Steelworker, "the idea of man as a provider is a problem ... even women accept it."⁵⁷ "There is persisting discrimination partly due to the fact that women are so busy combining home and work that they don't have the time to think about discrimination ... many women's first concern is the home ... their attitude is 'don't bother me with union things'"⁵⁸ sighed an organizer with a textile union. "Jobs are still posted as male," complained a woman from CUPE, but at the same time, she lamented the fact that women are not yet taking on "responsible positions in the union."⁵⁹

These women, representing what Dorothy Sue Cobble has called 'working class feminism' in the so-called feminist doldrums after the Second World War,⁶⁰ understood the impediments facing the politicization of rank and file women in unions — the appeal of a family wage, the reality of a double day, the weight of male power in many unions — but they also looked for means of countering these barriers, overcoming their isolation, and building alliances within their unions. While not all were overly optimistic about the radical effects of legislation banning

⁵⁶AO, RG 7, Women's Bureau, Sex Discrimination File, 1969. As Pam Sugiman suggests, the Canadian UAW had its own internal struggles over gender equality. See Pam Sugiman, "Unionism and Feminism in the Canadian Auto Workers Union, 1961-1992," in Linda Briskin and Patricia McDermott, eds., *Women Challenging Unions: Feminism, Democracy and Militancy* (Toronto 1993).

⁵⁷AO, RG 7, Sex Discrimination File.

⁵⁸*Ibid.*

⁵⁹*Ibid.*

⁶⁰Dorothy Sue Cobble, "Re-thinking the Doldrum Years: Working Class Feminism in the 1950s," paper presented at the 8th Berkshire Conference, Rutgers, 1990.

discrimination, one noted its potential: "the law would be of educational value ... it [might] encourage union women to fight."⁶¹

Union women often used a discourse of equal rights, as well as a language of economic need, to support the idea of legislative reforms like the WEEO Act.⁶² Before the federal Royal Commission on the Status of Women, for instance, the Canadian Union of Public Employees, and the Ontario Federation of Labour implied that the elimination of all forms of sex discrimination in job hiring and promotion was a question of fairness and justice, while at the same time they reminded the commissioners that married women's employment was the inevitable consequence of women's need to support themselves and their families — often, they said, because the male wage in the household was inadequate. While they sometimes referred to women, on the one hand, as breadwinners, they were also described as secondary earners, working to "supplement" the family purse.⁶³ Clearly, it was difficult for unions to abandon all vestiges of the family wage ideology. Still, the combination of these two justifications for married women's wage work, based on both need and a right to work, indicated a shifting discourse by labour activists, who increasingly stressed married women's *right* to work, as much the older ideal of a family wage.

Though it knew it could count on advice and support from some trade union feminists, as well as the BPWC, the Bureau still had an uphill battle, for it also had to face opponents of anti-discrimination legislation. Some opposition actually came from working women themselves (usually single women in white collar or semi-professional positions) whose ideological investment in the family ethic secured their hostility to women with families competing with them in the workforce. Their most vociferous criticism was usually for any concept of maternity leave; one white collar woman, for example, argued that women should choose

⁶¹ AO, RG 7, Sex Discrimination File.

⁶² In the Australian case, Ann Curthoys argues that middle-class feminists tended to support equal pay while trade unionists embraced the ideal of the family wage in the post-war years, though by the 1960s these ideological differences were closing. In Canada, middle class feminists and trade unionists also used different rationales to argue for equal pay, but the differences were less rigidly defined, and by the 1960s both groups were stressing women's equal right to work, as well as pointing to modifications in the family wage ideology (married women now *need* to work). The legal court-dominated wage arbitration system in Australia made flexible, shifting alliances more difficult to fashion. See Ann Curthoys, "Equal Pay, Family Wage, or Both?: Women Workers, Feminists and Unionists in Australia from 1945," in Barbara Caine, *et al.*, eds., *Crossing Boundaries: Feminisms and the critique of knowledges* (Sydney 1988), 138-9.

⁶³ NAC, RG 27, Women's Bureau, vol. 4171, Briefs to the Royal Commission on the Status of Women, OFL Submission; "generally, women work because of economic necessity, rather than choice ... the reasons for the wife, whose husband is the primary breadwinner, may not be obvious, but are important the husband's income may not be adequate for the high cost of living."

between a career and children: "no matter how level headed, newly born children would interfere with [a woman's] thoughts while at business."⁶⁴

More important was business antipathy. The Bureau polled a cross section of large Ontario employers, examining their existing policies in regard to women workers, and asking how they would react to maternity leave and anti-discrimination legislation. The response was lukewarm to hostile. The employers, usually in the industrial and service sectors, did not necessarily rail against the dubious moral prospect of employing married women (understandably, since many were already using their labour), but they did voice their opposition to the idea of anti-discrimination legislation.

Some business respondents implied that women did not have the same social right to a job as men; many claimed they did not produce 'equal output' to men. Presumably, this meant they did not deserve equal claim to a job. Women were portrayed, for instance, as less competent, less ambitious and less reliable than men: "women are not a good risk in training ... their absenteeism is atrocious, they cannot think like a man ... women must demonstrate their value rather than complain."⁶⁵ Interestingly, some female personnel managers echoed the fear that "anti-discrimination legislation would work against women, discouraging businesses from hiring them." Many had clearly absorbed the dominant ethos of management, despite their gender, claiming that in business, opportunity existed, if only the ambitious woman would seize it: "women are their own worst enemies. They are afraid to take a chance."⁶⁶

Eliminating job posting by sex and providing maternity leave seemed most worrisome to employers. Nevertheless in the federal realm, legislated maternity leave was an approaching reality.⁶⁷ When investigating employers' leave policies the Bureau had found some un-unionized companies which dismissively claimed they "had given it no concrete thought,"⁶⁸ but in actual fact, many large companies surveyed already *had* some unstated, or written policy on maternity leave.

What worried employers was the potential loss of their right to shape, decide or change maternity policies as they pleased. To the Bureau inquiries, for example, they emphasized that "maternity leave here is seen as a privilege rather than a right." Except for the fortunate few covered by union contracts, women were subject to the employer's discretion in terms of when and if they could obtain leave. "Maternity leave is only usually given with 5 or more years service" replied Simpsons,

⁶⁴ AO, RG 7, WB, Vol. 2, File "Letters against WEEA."

⁶⁵ AO, RG 7, WB, Vol. 1, Sex Discrimination File, 1969.

⁶⁶ *Ibid.*

⁶⁷ The federal Women's Bureau had studied maternity leave earlier in the decade, and had strongly recommended that it be established in the federal labour code. The Royal Commission was clearly sympathetic to this too, and by 1970, the federal government was studying how to integrate it into the Unemployment Insurance system.

⁶⁸ AO, RG 7, WB, Box 1, Maternity Leave Files.

while Bell Telephone noted that it gave leaves of absence, but retained the right to decide on re-employment.⁶⁹

Employers were also concerned that maternity leave might become the thin edge of the wedge, and that paid benefits, with employer contributions, would follow in the future. Such paid leaves, they fretted, would be “a reward for pregnancy.”⁷⁰ Employers were anxious to draw a strict line between what they claimed was a woman’s private life (family, children etc) and her public working life. Their approach, of course, was hypocritical: while they adamantly denied responsibility for women’s private lives, they had long used women’s marital and family status as a means of prohibiting their equal employment rights.

Banning job posting by sex was also troubling to employers, apparently because it too threatened management rights long taken for granted. This practice had historically given employers considerable power to shape the contours of their workforces; it had been used to sustain a sexual division of labour and cheaper female wages that were important to profitability and management control of the labour process. For some employers and workers, it may have also conjured up images of women and men intruding into previously gendered — and simultaneously sexualized — spaces. The Deputy Minister of Labour, trying to downplay the radical effects of the bill, joked that there were some jobs only women could do: “you have to be a woman to be a bunny girl.”⁷¹ Some industries were quite open about the dangers of bans on job advertising by sex, and they looked hopefully to the government for future exemptions, which were possible under the Act. Even the Minister of Labour who introduced the Bill to the Legislature agreed that it would be unacceptable to have women in some male spaces; he reassured the construction industry that “in my view — and I think this is the view of many people — women should not be employed, for example, in heavy construction. this [exemption] is designed for women’s protection.” Reading this in private, a federal femocrat red circled his comments with amused exclamation marks, and noted that women in Germany already operated heavy machinery; perhaps she hoped the minister would soon be proven wrong.⁷²

Business commentators seldom mentioned the excessive economic cost of the new legislation; their opposition seemed to focus more on the perceived and potential curtailment of management rights. Indeed, once the bill was introduced, public business antagonism seemed to dissipate quickly,⁷³ in marked contrast to employers’ more forceful opposition to the concept of pay equity two decades later. This lends some credence to the argument that gender equity initiatives promoted

⁶⁹*Ibid.*

⁷⁰*Ibid.*

⁷¹*Toronto Star*, 15 May 1970

⁷²PAC, RG 27 Women’s Bureau, vol. 4150, “Correspondence with Ontario,” file 720-0-1-6.

⁷³For example, businesses did not make use of the press to oppose the legislation to any great extent, nor did they pressure for extended hearings to examine the bill.

by the state are ultimately ones which do not fundamentally challenge gender, or labour/capital relations. Given the political climate, this anti-discrimination bill may have been viewed by many employers as inevitable and acceptable; moreover, it also took a moderate form which was palatable to many influential economic concerns in the province.

Still, this is only part of the story. While the emphasis on much sociological inquiry has been on the ability of capital to 'accommodate' reform, an examination of policy formation reminds us that employers did see even these limited reforms as a threat, and they pressured the government accordingly. As Betcherman remembers, the Bureau had to take a lot of heat from opponents to such legislation. When she went to employers organizations to try and explain the WEEO Act, "it was like entering the lion's den."⁷⁴ The distaste by business for this legislation should not be easily dismissed. Why then did businesses fear such apparently mild legislation?

First, from businesses' point of view, the act seemed to represent a new check on their rights which might have a dangerous domino effect. Secondly, the bill did direct the bureau to a more 'missionary' approach, promoting gender equality, away from a purely 'mandarin' role of documenting policy and counselling prospective women employees: this kind of government intervention may have been troubling to some employers. Especially disturbing to the *Globe and Mail*, as a defender of business interests, was the image of the Woman's Bureau as a female inquisition with untold powers, prodding on a hapless government, marching to the women's tune. The Bureau, the *Globe* claimed, would have extraordinarily dangerous powers: it "would haul accused people before it to see if a settlement could be worked out, and if it could not be, recommend to the minister a board of inquiry ... The board could summon anyone ... apply to the Supreme court to cite for contempt anyone who refused ... counsel for witnesses could participate only with the Board's consent."⁷⁵

The *Globe's* image of unchecked feminist power within the bureaucracy must have been amusing to the Women's Bureau staff who knew only too well the limitations of their own power. According to the *Globe and Mail*, one of the most "odious" aspects of the bill was the arbitrary right of cabinet to exempt employers or employees; ironically, this was probably put in for the benefit of employers (like the construction industry) who were looking for a way to *avoid* the act. And the inquisitorial boards of inquiry that the paper so feared, never materialized: there was only one in the first two years of the Act's existence!

Within the provincial Legislature and in the labour movement, the WEEO Act found both support and criticism. Tories, of course, generally supported the Bill, though some expressed concern, not for large employers, but for small businesses' ability to afford and accommodate the WEEO. In general, the New Democrat Party

⁷⁴ Interview with Lita-Rose Betcherman.

⁷⁵ *Globe and Mail*, 9 November 1970.

(NDP), and their union supporters applauded the intent of the Act. Indeed, part of the pressure to develop the legislation came from previous private members bills presented to the Legislature by the NDP, and from organized union pressure.

However, these two groups were also critical of the Act's limited scope. Some trade unionists pointed out that maternity leave was not very useful without some kind of maternity pay; they also noted that the seriousness of sex discrimination was demeaned because it was not placed under the Human Rights Code where it belonged, but instead ghettoized under the jurisdiction of the Women's Bureau. In the Legislature debates, NDP critics focused their ire on the exclusiveness of the act; they pointed out that it applied only to larger businesses (with more than 25 employees), and that the maternity leave provisions were restricted to workplaces of more than six employees, and to women with one year of employment. They also criticized the remnants of paternalism which were a part of the legislation: women, for instance, had to bring letters from the doctors to confirm their pregnancy and due date. This, they said, was akin to treating an employed women "like a little girl in grade 5."⁷⁶

The NDP opposition line hammered home in the legislation — "the bill itself was discriminatory"⁷⁷ — was in some ways accurate. Though the NDP was not then tuned into the later language of post-structuralists, their critique essentially indicated the way in which women's supposedly unitary interests were being constructed within a discourse of equal rights, presuming the inclusion of all women workers, but actually encouraging the exclusion of many.⁷⁸ The failure to include women in intermittent employment and smaller workplaces, who lacked job security, again underlined the hidden class and ethnic biases of the government's emerging concern with women workers, as well as their political desire not to alienate owners of small businesses. Women who had the highest labour force participation rate were recent immigrants or those from quite impoverished families; they were more likely to be engaged in seasonal or domestic work, or to work in smaller workplaces. Yet all these women were initially omitted from the Bill's jurisdiction.

The issue of bypassing the Human Rights Code, however, was probably more complex, and may have also had much to do with internal bureaucratic considerations. According to Betcherman, the Human Rights Commission was lukewarm about adding sex discrimination complaints to its duties, fearing it would be swamped with complaints overshadowing other important work, such as anti-racist

⁷⁶Province of Ontario, *Legislative Debates*, 1970, 4141, (This is Mr. T. Reid, actually quoting Doris Anderson's characterization of this provision).

⁷⁷Province of Ontario, *Legislative Debates*, 1970, see, for example, Pilkey 4135, Renwick 3783, Lewis 3779.

⁷⁸Pringle and Watson, "Women's Interests."

work. Other evidence supports her claim.⁷⁹ Rather than push this work onto reluctant civil servants, she saw the benefits of keeping investigations within the Bureau where there was trained and sympathetic staff. Within two years, of course, the Code was expanded to include sex and marital status, and the work did go to the Commission.

The long-term limitations of the bill were not simply restricted to its loopholes; they had much to do with the general ideological assumptions which shaped it. The bill was based on a concept of equal rights in employment which stressed equal opportunity rather than equal outcome; the intent was to ensure equal access to jobs without regard to sex, ensure better conditions for continued female work by providing legal maternity leave, and equalize opportunity by disallowing hiring based on marital status. This "absolute equality" approach, as Heitlinger suggests, rests on an optimistic, liberal view that looks to women's gradual assimilation into male areas of employment. Finding the wider structural barriers to women's employment equality far more complex and pervasive, this approach to equity was later supplanted, in liberal feminist thinking, by attempts to address systemic discrimination.

Moreover, as Game and Pringle do convincingly argue, institutions can swallow up reforms and spit them back as new forms of continued discrimination. Business opposition was short-lived; once the legislation was in effect, they often found it compatible with existing policies. Many women remember the response of some large employers to the disallowance of male and female job lists: they set up A and B job lists which essentially did the same thing. Moreover, it would take more than elimination of advertising by sex to open up jobs denied to women — as those who tried to move into non-traditional work soon found.

Indeed, the Bill did not begin to address questions of the social construction of skill, equal worth, and the material and ideological embeddedness of the sexual division of labour in work: these were the concerns of subsequent feminist and trade union initiatives to address equal pay for work of equal value. Finally, a much broader problem for women was that employment policies directed at the public labour force can not deal with some of the most difficult barriers to equal employment such as the devaluation of women's work in the home and women's continued responsibility for nurture and care in the family.

The limitations of this attempt to alter women's employment prospects, then, were shaped by economic realities and the universe of political discourse of the time, though this agenda was not simply imposed by the government upon women. It is important to remember that this 'equal rights' approach did reflect the thinking of many women's organizations and trade union feminists in this period; a powerful

⁷⁹AO, RG 76, Human Rights Commission Records, 3-0-494. For example, a report by the Commission in 1966 did not recommend immediately adding sex to its jurisdiction, and urged the government to consult 'other' women's groups besides the BPWC. Based on the US example, it also noted the potential for case loads to go up if sex was added.

feminist critique of systemic discrimination, and a more unified, organized lobby encompassing both unions and women's groups, had not yet developed — though over the next decade it would begin to.

Furthermore, the bill should be assessed from other viewpoints, including its long term, positive educational effects. The formal recognition of married and pregnant women's employment rights in the workforce provided a welcome message to many working women for whom the family ethic was an illusion more than a reality. The state had long been wedded to protective legislation as the only means of dealing with women workers. Only in the post-war period, in the face of a changing family economy, and under pressure from trade union women and feminists, was the provincial government forced to concede any legislative emphasis on equality as well as difference. By including both the right to maternity leave *and* to non-discrimination in employment, these themes were simultaneously enshrined in the 1970 act.

Since the mid 1950s more and more women with families had been entering the workforce; yet, they often had to acquiesce to the arbitrary rules set out by their employers regarding their job security. As letters to the Bureau indicated, married women who were already in the workforce often deeply resented the curtailment of their working life and discrimination faced simply because of their marital status. Other women who needed to continue working during and after a pregnancy had to face the arbitrary, discretionary and often punitive rules set by their employers: many were simply forced to resign. For these thousands of working women — in white and blue collar, as well as professional occupations — this recognition of their right to work was hailed as political advance.

Furthermore, the bill's very limitations may also have had a radicalizing potential, creating the basis for new possibilities in organization. What is especially interesting is the way in which it opened the floodgates of complaint, providing a political moment, and an opening for discontent and new critiques of employment inequality. Fortuitously, the bill came at precisely the time when a renewed feminist critique and movement, in and outside of the unions, was providing women with an ideology and language to challenge the very limitations of the bill.

In the first two years of its existence, the bill spawned 433 complaints; the Bureau fielded over 4400 inquiries; and it gave assistance to over 100 companies and unions trying to solve disputes. There was an ever increasing number of complaints relating to sex typing in jobs, especially from white collar and professional women. This substantial response was a noticeable contrast to the few complaints filed under the equal pay law.⁸⁰

In some cases, the law provided women with the encouragement needed to organize within their workplaces. One woman in a Northern Ontario workplace, for instance, wrote with considerable passion about the separate wage schedules she had resented for 28 years. At union meetings when the issue was raised, she

⁸⁰AO, RG 7-0-92-137. Shilley Tillotson, "Human Rights Law as Prism," 544.

wrote, the "girls had to object with a show of hands" and any resistance was followed by "ostracism by male workers." As a result of the WEEO Act, she started a petition against separate job lists, declaring "the girls have subsidized the men long enough."⁸¹

Many working women, unless they were union activists, were not acutely aware of employment standards and equal pay laws; they were far more attuned to the immediate policies and rights of their own employers. Even so, reforms like this one, however limited, could provide an ideological opening for women to challenge employment structures which had long perpetuated gender inequality. As the female unionist had mused, they might help women learn to 'fight for their rights.' Indeed, one woman in a male-dominated workplace remembers that the translation of women's and men's rates into A and B lists did not dampen women's criticisms; on the contrary, it exposed the hypocrisy of the employer all the more pointedly to women workers.⁸²

Union activists discovered that they could invoke the WEEO Act as a device to challenge women's and men's relegation to separate workplace positions, and in some unionized workplaces, sex-based seniority lists were finally abandoned. After devoting intense political effort to persuading the government to pass the bill, the UAW Women's Committee was elated to find that General Motors was forced to amalgamate its seniority lists. In her interviews with these UAW women activists, Pam Sugiman has relayed both the importance they placed on the Bill, and their sense of victory once it was passed: "and then it dawned on me that we had really won ... that we could really go anywhere in General Motors. ... We thought we died and gone to heaven."⁸³

In the process of lobbying for the Bill, these union women had been radicalized and drawn together in new coalitions; at the same time, their voices were important support for women within the bureaucracy who supported anti-discrimination legislation. However much we could try to change "from the inside" remembers Ethel McLellan, "you have to wait for a crowd outside before things really happen."⁸⁴

Conclusion

THE EARLY YEARS of the Ontario Women's Bureau's and its initial attempt to promote equal opportunity legislation through the WEEO Act must be assessed with attention to the Bureau's place within the state's overall policy objectives, as well as its potential to be utilized by feminist and labour activists to alter women's

⁸¹AO, RG 7, Women's Bureau, Box 2, "Complaints."

⁸²Interview with J.J., 1991.

⁸³Quoted in Pam Sugiman, "That wall's comin' down': Gendered strategies of worker resistance in the UAW Canadian region (1963-70)," *Canadian Journal of Sociology*, 17, 1 (1992), 22.

⁸⁴Interview with Ethel McLellan.

employment rights or facilitate an ideological shift in thinking about women's wage work. In 1963, the Bureau's establishment reflected an emerging concern with 'new' married women workers in white collar and professional areas, and was a response, in part, to the interests of women as defined and constituted by the more vocal liberal feminist lobbies of the time, such as the BPWC. Initially conceived as an educational and promotional tool for the government, the Bureau was also seen as an efficient means of integrating women into the existing workforce, though by 1970, it had moved, however gingerly, into more active promotion of anti-discrimination initiatives based on equal rights concepts of employment equity.

Some writing has suggested that the more recent proliferation of women's lobby groups may fracture the possibilities of securing social change, in part by giving governments the excuse to play various feminist interests off one another, and thus ignore them altogether.⁸⁵ However, it may be more important to stress the economic, social and ideological context in which women's needs as workers are formulated; we need to examine the ongoing political contest to define the 'problem' of gender inequality in employment, looking at who shapes the meaning and constitution of women's interests, and how and why the state responds. Moreover, it is important to remember that the state apparatus is not fixed and monolithic, with legal, health, employment and social policy all subject to the same limitations and possibilities across all time periods. The language of 'fairness and justice' employed by trade union and feminist women to argue for anti-discrimination legislation in 1970, for example, may have been a politically effective tool then, but not one that was not subsequently useful, even in the 1990s.

The Bureau's attempt to encourage anti-discrimination legislation in 1970 does indicate some of the limitations of state-initiated reform. The WEEO Act was conceived within a paradigm of "equal opportunity not equality of outcome"; this emphasis on individual rights and the integration of women into the existing workforce did reinforce a liberal and limiting view of economic and social change. The government was not interested in fundamentally challenging the sexual division of labour in the workplace or the broader structural relations of wage labour; indeed, the bill contained significant loopholes to soften the negative economic implications for small, and to a lesser extent, large employers. In some ways, the bill simply reflected emerging political and economic realities: married women with families were increasingly working through their lives and employers needed to find ways to rationalize and standardize maternity leaves. At the same time, the federal government was about to initiate maternity leave and the provinces would soon be pressured to act accordingly.

Yet, the internal process of researching and creating the bill reveals another level to this story. Businesses were initially hostile to the idea, as it seemed to represent an infringement on their management prerogatives, and they did not

⁸⁵Sandra Burt, "Organized Women's Groups and the State," and Alena Heitlinger, *Women's Equality*.

hesitate to make their views known to the government. Feminist bureaucrats who had to deal with this opposition were not simply involved in a process of 'accommodation'; their daily work also involved battles to re-shape employment policy by prodding politicians to act, and by mustering arguments to defend the equal rights of any married woman to even *have* a job. In this process, they nourished alliances with potential allies outside the bureaucracy, for example trade unionists, who were mobilizing their own constituencies for gender equality.

Both the feminist civil servants and their allies on the outside were attempting to alter the definition of the 'problem' of the married woman worker, and most important, to push the meaning of women's employment rights in new directions. The WEEO Act, for instance, began to challenge the sex typing of jobs, and also the equality/difference polarization which had so long characterized state policy. Equality now meant the right to work irrespective of marital status, and this was *combined with* difference — women's right to protection from job loss during and after maternity. This altered the traditional emphasis on simply protecting women's morality and maternity by denying them employment. Such a shift is a cogent reminder of Alice Kessler-Harris' contention that notions of 'justice and fairness' in the workplace are not fixed over time, nor are they imposed only by market forces; they may also be re-defined in the process of ongoing struggles of workers and unions to alter the meanings of fairness in the workplace.⁸⁶ As Piven and Ehrenreich argue, women may engage with the state as active political subjects, and their collective efforts to extract reforms may in themselves have a radicalizing effect.

It may not be very useful, therefore, to uniformly condemn the strategy of articulating reformist and 'rights' oriented demands,⁸⁷ or secondly, to measure the work of femocrats in polarities of success or failure. As Ann Curthoys argues, it is not a question of pure feminist movements on the outside, and coopted feminism on the inside of the state. Rather, we need to focus our inquiry on shifting definitions of rights, and the power relations that shape those definitions: who *is* defined as potentially important or unimportant to state, and what can be secured, in both short and long term, in return?⁸⁸ The Bureau's work, an indication of a new post-war concern with the 'problem' of the married women worker, may be an example of the simultaneously constructive *and* constraining possibilities of state-initiated definitions of women's needs and interests: once this new 'problem' was seen as

⁸⁶ As she also points out, such shifts are also shaped by changing social and economic conditions. Alice Kessler-Harris, *A Woman's Wage: Historical Meanings and Social Consequences* (Lexington 1990).

⁸⁷ For the debate over whether 'rights' or 'needs' demands should be made on the state see Nancy Fraser, *Unruly Practices: Power, Discourse and Gender in Contemporary Social Theory* (Minneapolis 1989), ch. 8.

⁸⁸ Ann Curthoys, "Feminism, Citizenship and National Identity," *Feminist Review*, 44 (Summer 1993) 19-38.

a category for state concern, it could also be utilized by women as a means of redefining or resisting areas of their work lives.⁸⁹

There is no doubt that many women — Native women, women of colour, some immigrant women, women in insecure jobs — were left unaffected by reforms like the WEBO Act. These women's interests were not constituted within the definitions of liberal feminist discourses of the time. On the other hand, the work of the Bureau did allow new openings for the concerns of white collar and blue collar workers. One of the most compelling pieces of evidence that this bill 'made a difference' to some working women is simply its ideological role in nurturing working-class feminism, particularly for organized women. The large number of complaints which came after the bill, and the protests it inspired indicate the way in which even partial or inadequate reform, if it pushes the definition of 'rights' in new ways, can provide an opening, an ideological space to develop oppositional thinking. Women's daily encounters with the limits of institutional reform can expose the more profound underlying inequalities of their work lives, and this 'political opening' may have more radical potential if it aids grass roots protest from the bottom up, within workplaces and unions.

This is not to embrace a Whig view that all employment reforms will result in progress for women workers; but neither is a rigid theory of a monolithic state which sees all reform as accommodation very useful. The political struggle to define women's needs and rights, however, is a contest worth entering, even though the outcome may be limited by the economic and political context, as much as it is also shaped by our own organized lobbying strategies, protest and resistance. In the case of the WEBO Act, the formulation of women's rights and demands was partial and the outcome circumscribed, but this need not always be so.

⁸⁹I'm indebted to Barb Marshall for this sentence — and for her critical post-structuralist reading of this paper.