Women's Rights at Work

Women's Rights at Work

**Campaigns and Policy in Britain and the
United States**

Elizabeth M. Meehan

Macmillan Education

ISBN 978-0-333-36126-9 ISBN 978-1-349-17735-6 (eBook)
DOI 10.1007/978-1-349-17735-6

© Elizabeth Meehan 1985

Softcover reprint of the hardcover 1st edition 1985

All rights reserved. For information, write:

St. Martin's Press, Inc., 175 Fifth Avenue, New York, NY 10010

Published in the United Kingdom by Macmillan Publishers Ltd

First published in the United States of America in 1985

ISBN 978-0-312-88793-3

Library of Congress Cataloging in Publication Data

Meehan, Elizabeth M.

Women's rights at work.

Bibliography: p.

Includes index.

1. Sex discrimination in employment—Great Britain.
2. Sex discrimination in employment—United States.
3. Women—Employment—Great Britain. 4. Women—Employment—United States. I. Title.

AD6060.M44 1985 331.4'133'0941 84-15997

ISBN 978-0-312-88793-3

This book is dedicated to my parents for their unflagging support through the several changes of career that led me to the one in which I feel at home. It is also dedicated to Mrs Thatcher, whose jest that I abandon the thesis from which it is derived was an incentive to finishing it.

Contents

<i>List of Tables</i>	xiii
-----------------------	------

<i>Acknowledgements</i>	xiv
-------------------------	-----

Introduction	xv
---------------------	----

PART ONE THE BACKGROUND

1 Why Study Equality Policies?	3
Women's Rights, Civil Rights and Welfare	3
The Benefits of Comparing Policies	5
The Economics of Women's Work	6
Pay	7
Occupational Distribution	10
Economic Explanations for Employment Patterns	14
Supply side analyses; education and training	15
Interaction of supply and demand factors	18
Dual or segmented labour markets	19
Aptitudes and Dispositions	20
Women and Trade Unions	22
Policy Implications of the Preceding Analyses	24

PART TWO POLICY INITIATION

2 The Politics of Pressure for Reform	29
The Nineteenth and Early Twentieth Centuries	30
America	30
Britain	33

Post-war Renewal of Feminism	35
Pressure for Reform in Britain	36
Trade unions and reform in Britain	37
Feminist groups in Britain	41
Campaigns in Britain: <i>The first round of equal pay; Broader issues of women's rights; Signs of cohesion on equal pay and equal opportunities; Support for private members' bills; Responses to preliminary governmental proposals</i>	43
Linkages Among Groups and Between Them and MPs	53
Summary of Contrasts and Mutual Influences Between British and American Feminism	56
3 The Politics of Public Responses	59
The History of Changing Public Attitudes	59
Early moves on equal pay and opportunities in the United States	59
President Kennedy's Commission on the Status of Women	60
The inclusion of women in the Civil Rights Act	62
Affirmative action	63
Early attitudes to equal pay in Britain	63
Governmental attitudes to the extension of equal pay in Britain	64
Governmental views on other forms of discrimination	65
American Equal Pay and Opportunity Laws	67
Equal pay	67
Discrimination	68
Affirmative action by Government contractors	70
The British Legislation	72
The contractual elements of employment: equal pay	72
The non-contractual elements of employment	73
A Comparison of the Two Sets of Legislation	74
The Reasons for Capitulation	78
Liberal democracy and public opinion	78
Connections among women's rights, race relations, class and welfare issues in both countries	79

Political and economic factors encouraging the British Labour Party to adopt group rather than class-based solutions for inequality	82
The effects of Britain's membership of the EEC	85

PART THREE POLICY IMPLEMENTATION

4 Implementation and Enforcement	91
Post-legislative Patterns of Women's Pay and Em- ployment	91
Pay	91
Occupational distribution	93
Attitudes of employers, trade unionists and women workers	95
Institutions Responsible for Enforcement in the United States	97
Wage and Hour Division, Department of Labor	98
Equal Employment Opportunities Commission	98
Office of Federal Contract Compliance Programs, Department of Labor	101
Employment Section of Civil Rights Division of the Department of Justice	103
Coordination	104
Courts: <i>Comparable work; Equal value; Justifiable exceptions; Disparate impact; Rules, tests and stereo- typical assumptions; The courts and the EEOC – protective laws and job advertisements; Affirmative action and seniority systems; Procedural and evidential matters; The constitutional framework</i>	105
Institutions Responsible for Enforcement in Britain	112
Equal Opportunities Commission	112
Departments and agencies dealing with training and employment	116
Other bodies that enforce employment laws	117
Courts and tribunals: <i>Tribunals; Legal developments in courts and tribunals; Like work; Justifiable exceptions; Indirect discrimination; Less favourable treatment based on stereotypical generalisations; Procedural and eviden- tial matters; European Court of Justice</i>	118

Pressure Groups and Policy Implementation	124
American feminist campaigns: <i>Affirmative action for women; Job advertisements; Stereotyping and protective legislation; Institutional matters</i>	124
Concerns of British feminists: <i>Relations with enforcement institutions; Relations with Central Government; Policy issues; Proposed reforms</i>	129

PART FOUR THE PRODUCT OF COMPARISON

5 The Comparative Politics of Policy Implementation	135
Regulatory Agencies and non-departmental Bodies: the EEOC and EOC	136
Bureaucratic styles	137
Incorporation of interest groups into the formal structures of implementation	139
Regulatory agencies and systems of party and government	144
Judiciaries	146
Procedures	146
Division of British equal opportunity jurisdiction between courts and tribunals	148
Citizens' beliefs about the use of litigation to secure rights	149
The constitutional positions of judges	149
The Relative Importance of Groups and Parties in British and American Politics	153
6 Insights of Comparison	159
The Creation of 'Policy Networks'	160
Networks in America	161
An incomplete network in Britain	162
A comparison of factors affecting the representation of feminist interests in the two countries: <i>Political leadership; Representation of feminist interests in legislatures; Appointments to public bodies; Group-class alliances</i>	164
The European dimension in Britain	170
Political opportunism	172

Policy Development	173
Job segregation and low pay	174
Segregation and job opportunities	177
Dispelling myths	183
The Future	185
The relationship between paid employment and family	185
Unemployment and equality	188
Afterword	191
<i>Appendix I List of Groups Involved in Equality Campaigns</i>	196
Britain	196
America	199
<i>Appendix II List of Major Cases Cited</i>	202
Britain	202
United States	203
<i>End-notes</i>	204
<i>Sources and Bibliography</i>	227
<i>Index</i>	242

List of Tables

1.1 Women's average pay as per cent of men's, 1935-60; Britain	7
1.2 Women's median wages or salaries as per cent of men's, 1962-4; US	8
1.3 Median wages or salaries of year-round full-time workers by sex and race, 1939, 1960-3; US	9
1.4 Working women in Britain and the US, 1950-71	10
1.5 Occupational concentration, 1951-71, US	11
1.6 Women as per cent of each occupational category, 1951-66; Britain	13
1.7 Women as per cent of each occupational category, 1950 and 1960; US	14
1.8 Men and women on advanced industrially oriented courses, 1967; Britain	17

Acknowledgements

Shorter versions of a few of the ideas that are in this book have already appeared. I am grateful to the following for allowing me to incorporate them into this book:

Politics ('Importing Equal Opportunity Policies') vol. 2, no. 1, April 1982.

Political Quarterly ('The Priorities of the Equal Opportunities Commission') vol. 54, no. 1.

Women's Welfare/Women's Rights, J. Lewis (ed.) 1983. ('Equal Opportunity Policies, Some Contrasts Between Britain and US').

I also wish to thank the following who have kindly given permission for the use of copyright material:

Cambridge University Press for tables from *Occupation and Pay in Great Britain 1906–1960* by G. Routh (1965).

The Controller of Her Majesty's Stationery Office for extracts from published Crown copyright material.

National Association of Teachers in Further and Higher Education (NATFHE) for an extract from 'Education, Training and the Employment of Women and Girls' (1970).

Introduction

The 1960s and 1970s were decades of renaissance for feminism in Britain and the United States. Women were angry about their continued inequality of treatment in social, economic and public life. But, in different ways at different times in the two countries, the expression of their anger was connected to the other large issues of the time: war, civil rights and poverty. Governments of the respective countries appeared in part to be taken by surprise by the discontent and then, suddenly, willing to respond. Equal pay laws were passed, followed by laws banning discrimination at work, in education and in the provision of goods and services. In the United States things went even further. Affirmative action was introduced for racial minorities and then women because it was thought insufficient simply to remove remaining barriers to equality; if lives were to be transformed, remedial steps were necessary to eliminate the long-term effects of past discrimination. In both countries, new institutions were created to ensure that the norms embodied in new laws would have practical as well as symbolic significance.

The new laws and institutions did not escape feminist criticism in their infancy; but it was also believed that they were an important step towards a more civilised society in which the discrepancy between women's formal political equality and their social and economic subordination would eventually come to an end. In the meantime, avenues of redress were provided against transgressions of socially unacceptable practices.

In the twenty or so years since the first American Federal

reforms and the ten years or so since the British, there have been some improvements in women's conditions of work. But, in both countries, there is widespread disappointment that gains have not been greater and that losses are now being experienced. Women's earnings as a proportion of men's grew rapidly after the British Equal Pay Act but have remained low in the United States, despite a similar law. In recent years British women's pay has begun to fall back. The low proportion of American women's pay is attributable in part to success of affirmative action in bringing women into new occupations at entry-level salaries or wages. Occupational segregation has indeed declined faster in the United States than in Britain but in both countries it remains a major barrier to equal pay and promotion prospects. Commitment to equal rights for women among political leaders and administrators came, after a disappointing start, to be a major factor in reinforcing general social values about the equality of women in the United States. But with the rise of the 'moral majority', the political climate is now closer there to that of Britain where there is relatively little political leadership on the subject. Some recent Commissioners on the EOC have stood up for feminist concerns in the way that American counterparts did in the last days of the liberal ascendancy. But they took up their duties at the onset of recession and at the triumph of a non-interventionist political philosophy, the combined effects of which are to accord state guarantees of women's socio-economic equality very low priority – if any at all.

The story of the struggle, the hopes and the setbacks deserve to be told and it is interesting to do so comparatively. This is because feminist ideas in the two countries have influenced each other in some respects and because government thinking in Britain about women's rights at work was sharpened by knowledge of civil rights policies in the United States. However, despite the transatlantic inspirations, and, although the conditions of working women were relatively similar in the two countries before the new laws, the stories are not exact parallels. The book discusses differences in the growth of organised pressure for legal recognition of women's rights at work and considers why politicians in the two countries chose 'to hear' demands for change at different times. It is argued that

capitulation was not necessarily related to beliefs that the demands were just. Other factors like business rationality, race relations, poverty and, in Britain, membership of the EEC all contributed to the timing of reforms. The book also deals with differences in implementation and enforcement, outlining the more complex set of institutions in the United States than in Britain and comparing the roles of judicial bodies. Variations in approach are explained by reference to more general differences in regulatory agencies, in attitudes to the use of the law for public purposes, in systems of accountability, in patterns of interest group representation and in ideas about groups and classes in democratic society. Taking account of different institutional emphases, it is argued, however, that in both countries it is necessary to combine use of existing or modified laws and voluntary initiatives in collective bargaining in order to decrease occupational segregation. The other main impediment to equality – unemployment – is also discussed. Resistance is called for to the use by political leaders and employers of unemployment as a reason for inaction on equality. Indeed, it is concluded that concern about unemployment must be made into an opportunity for a careful reassessment of what it means to hold a job and of the relationship between paid work and domestic responsibility – for men as well as for women.

The book could not have been written without the help of many people in public and private capacities. My thanks to them all are recorded in the Afterword.

ELIZABETH M. MEEHAN