

# Women of Steel

**Gender, Jobs & Justice at BHP**

**Carla Gorton & Pat Brewer**

## **Dedication**

This book is dedicated to all of those women who struggled for so long and so hard, and won.

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## About the authors



### **Carla Gorton**

In 1989 Carla was a 22-year-old sociology student who travelled to Wollongong to research the Jobs for Women campaign. She would like to thank Robynne Murphy and the many campaign members who welcomed her into their homes and lives to share the story of their struggle.

Carla currently works in a public health role in Cairns, far north Queensland, and is active in community grassroots, feminist, trade union, human rights and socialist politics.



### **Pat Brewer**

Pat Brewer has been an active feminist since the rise of the second wave of feminism in the late 1960s in Australia and internationally. She has also been active in the struggles for Indigenous rights and workers' rights, international solidarity, the anti-war movement and for civil liberties.

Pat has published many articles and reports on these issues, and is the author of *The Dispossession of Women: A Marxist examination of new evidence on the origins of women's oppression*. She taught in higher education in Australia and abroad, and now lives in Wollongong.

# Introduction

This is an inspiring story of a landmark struggle by 34 women in what became known as the Jobs for Women campaign. The campaign group was made up mainly of women from migrant backgrounds whose first language was not English, as well as some Australian-born experienced political activists. It was a David-and-Goliath struggle against the biggest Australian company at the time, Broken Hill Propriety (BHP). It began in 1980 and, in 1989, after nine years of hard struggle, these women won a sex discrimination case against Australian Iron and Steel (AIS), a subsidiary of BHP, at the Port Kembla steelworks in Wollongong, New South Wales. Their victory led first to women being able to access jobs at the steelworks and later, after a series of legal battles, to a payout of \$1.4 million to the women in compensation for direct and indirect discrimination. By 1994, a further 709 women who had experienced similar employment discrimination at the hands of BHP received smaller compensation amounts, taking the total estimated costs to BHP to \$4-\$9 million.

On August 1989, Judge Geoff Graham of the New South Wales Equal Opportunity Tribunal said the finding against AIS was a landmark in Australian industrial history, as significant as the 1907 Harvester basic wage case and the equal pay cases of the 1960s and 1970s.

This book documents how the women carried out a very effective political campaign, reaching out to build strong alliances with various organisations and communities in Wollongong and beyond. Their allies included the women's movement, migrant communities and trade unions. Such broad support was essential to sustain the women's 14-year-long struggle for jobs and justice.

The book is based on the research of Carla Gorton for her University of Queensland BA Honours thesis in 1990. Gorton's method was to listen to and record the women involved talking about their struggle: the problems they faced, their shared goals and collective decision making, and their persistence in the face of BHP's intransigence following the court decisions in the women's favour. BHP not only mobilised huge resources in its efforts to delay and overturn the women's legal victories, but also attempted to undermine the women's confidence and resolution to continue their campaign.

In this book, the women's voices speak directly to the reader about why and how they struggled so hard and against such large odds to win justice. The significance of what they have to say for all those campaigning for women's and workers' rights, and against corporate greed and exploitation today, cannot be overestimated.

## Sex segregation at work

The women involved in the Jobs for Women (JFW) campaign desperately needed jobs, but the major industries in the region employed predominantly male workers, creating what was then known as sex-segregated industries and occupations. Sex-segregated occupations were (and remain) very typical in Australia, and internationally, but at the time of this struggle, in the 1980s, this segregation in Wollongong was extremely marked.

Today, the segregated nature of industries and occupations by gender is well documented.<sup>1</sup> Male-dominated industries where little has changed since the 1980s include construction, postal, warehousing, electricity, gas, water and waste. Women's presence in mining and safety industries has increased slightly. Strongly female-dominated industries include healthcare, social assistance, education and training. The proportion of women employed in these industries has remained stable or increased, but the work involved continues to be undervalued and the pay remains relatively low.

Women's participation in some occupational categories has varied over time, increasing in managerial, technical and professional jobs. However, in the highly gender segregated industries of construction, automotive and electro-technology trades, women have actually gone backwards since 1971.

Australia has one of the highest ratios of part-time to full-time work among the Organisation for Economic Co-operation and Development (OECD) countries, with women holding 69.7% of part-time jobs. Between 1966 and 1986, while full-time employment in Australia increased by less than 50%, part-time employment more than doubled, mostly in occupations where women predominated.

The Workplace Gender Equality Agency (WGEA) 2013-2014 data put the labour force participation of women at 58.7% and men at 71.4%. Women comprise 48.5% of all employees, of whom 54.1% work full-time and 45.9% work part-time. Just over 55% of all casual jobs are held by women.

On average, women working full-time earn nearly 20% less on base rates than men working full-time. This gap rises to almost 25% for total remuneration. This gender pay gap has widened since May 2008 and is now the worst it has been in nearly two decades. When you include the 69.7% of women workers employed part-time, the

gap widens to more than 36%.

The WGEA 2017-18 data shows some positive and negative changes on wages yet little change on gender segregation overall. Wages for fulltime weekly work show a gap of 14.1% where women earn \$1455.80 to men's \$1695.60. The overall gender pay gap has reduced over the past year to 21.3% yet men take home \$25,717 a year more than women. But these gaps vary by industry so in construction, a male-dominated industry, the pay gap increased to 29.4% whilst in health care and social assistance, a female-dominated industry, for men it went up to 16.1%. At the same time the number of women in management and leadership roles increased but only marginally at the highest levels CEO or board levels.<sup>2</sup>

It is useful to note that the WGEA only gathers data from registered higher education providers who are employers and from a natural person, body or association being employer of 100 or more employees in Australia. It does not include data from the Commonwealth, a state or territory or an authority so it essentially draws on private sector employment. Nor does it deal with small business sector of less than 100 employees. So without such inclusions the overall data on wage increases are better reflected by the assessment of the Governor of the Reserve Bank, Philip Lowe, who notes that wages for the past five to six years are weak after adjusting for inflation. He supports a lift in overall wages wage levels.<sup>3</sup>

In the context of the enduring gender segregation of the Australian workforce — in terms of both the work women do and the pay they receive — the JFW campaign's success in breaking open the male-dominated BHP steelworks, the main source of jobs in their town, to employment opportunities for women was unprecedented and remains a vitally important part of both feminist and working-class history in Australia.

The JFW campaign was also important in demonstrating the gaps between the adoption of formal legal measures to address social inequality, and how and when the social change intended by those who fought for the legal measures is actually achieved.

## **The 'family wage' versus equal pay**

In his 1989 assessment of the importance of the gains made by the JFW campaign, Justice Graham referred to the 1907 Harvester decision on the minimum or basic wage, and the equal pay decisions of 1960s and 1970s. The Harvester decision was made just after federation in the Commonwealth Court of Conciliation and Arbitration. It set the minimum wage, deciding that the male wage should be based on the cost of living for a worker and all members of his family (this applied to men regardless of whether or not they were head of a family).

How this was to be applied to women's wages was clarified in 1912 with the "Rural

Workers” case. This case set the minimum wage for women at 54% of the male/“family wage”. This applied even if the woman was the sole breadwinner for a family, or working alongside men doing the same job, or working in a predominantly female industry.

This “family wage” legal framework had major impacts that carry through to today. Women’s primary role was legally located in the family, producing and raising children and providing domestic support for her husband, the primary breadwinner. The costs of reproducing the next generation were privatised into each individual family unit.

After World War II, in 1949-50, the national wage case increased women’s wages to 75% of the male rate. It reflected that, while women could work before marriage (at a lesser wage), this was still seen as temporary employment. In fact, married women could be banned from taking waged work in times of economic recession or depression and were barred from permanent employment in the federal public service. Being able to work only in temporary positions kept women in the lowest paid jobs in the public service and limited their ability to progress their careers because promotion was based on length of time in the permanent workforce. The ban was lifted only in 1966.

In 1972, equal pay for work of equal value was adopted, but proved problematic in defining exactly what equal value meant and how it was to be determined in practice. In 1974, after decades of struggle by women workers and their trade unions, the minimum wage was at last set on the basis of equal pay, putting an end to the legal notion of the “family wage”.

This was the context of gender inequality in employment in which the JFW campaign arose and won its demands. Throughout their campaign, the women had to struggle against enduring backward views among employers, government bureaucrats and other workers about women’s ‘proper’ role and place in the workforce, a legacy of the “family wage” idea. But in undertaking that struggle they built a vibrant and innovative political campaign that not only won their demands, but also changed many working people’s attitudes and lives. Further, in the process of making use of the new anti-discrimination legislation in New South Wales, they tested out many elements of the new laws in practice, exposing weaknesses, omissions and contradictions in them that provided a basis for later amendments to state and Commonwealth legislation.



This is the second edition of the book which includes some additional information not available at the time of writing the first edition. It corrects some errors drawn to our attention and updates some of the relevant statistics. ■



# 1. Jobs for women in ‘a man’s town’

Between 1980 and 1989, 34 women struggled against the then largest company in Australia, Broken Hill Propriety (BHP), to end its direct and indirect discrimination that excluded women from jobs in its steelworks in Wollongong, New South Wales. The women eventually won both jobs for themselves and access to future jobs in the steelworks for other women. They also won compensation payouts from BHP for its discrimination. Five years later, in 1994, the final aspect of this historic struggle came to an end with the settling of the cases of more than 700 women who had filed sex discrimination cases against BHP.

During those 14 years, the Jobs for Women (JFW) campaign waged a two-pronged battle against BHP’s subsidiary, Australian Iron and Steel (AIS), encompassing both a political campaign and legal action through the Anti-Discrimination Board of New South Wales. The women’s victories along the way had immediate implications for BHP’s operations in Wollongong and Newcastle, as well as for all industries and businesses in Australia.

## **Wollongong: An industrial town**

To fully understand this struggle, a snapshot of Australia and Wollongong is necessary. Australia is highly urbanised with some 66% of the population living in the states’ capital cities and regional cities along the coast. Historically, most movement of local and imported goods has been by ship through the major river systems and natural or constructed harbours on the coast.

The state of New South Wales on the east coast is lodged between Queensland to the north and Victoria to the south. Sydney, the capital of New South Wales, is the largest city in Australia with a population of approximately 5 million in the 1980s. Two large industrial cities lie in close proximity to Sydney: Newcastle 120 kilometres to the north and Wollongong 85 kilometres to the south. Both these cities grew originally as farming centres, but the discovery of coal in the 1840s shifted them into major mining

hubs. During the 20th century, with the further development of steel and bronze manufacturing, Wollongong and Newcastle developed into major industrial centres and shipping ports for the import and export of ores like copper and iron.<sup>1</sup>

Wollongong had always been “a man’s town”. Big steel and mining companies are large employers of men and so-called female jobs, such as cleaning, sales or sewing, were few and far between, and poorly paid.

It was the domination of the local economy by the steel and coal industries, coupled with entrenched discriminatory attitudes and practices by employers like BHP, which greatly magnified sexual divisions in Wollongong’s workforce and severely limited women’s options for employment in the region. As one woman involved in the JFW campaign described it:

It had been long recognised that there was nothing here, a few clothing factories, hospitals and shops, but nothing where women were involved in production, just things that reinforced a bad situation, serving jobs ... They reinforced women’s feelings of insecurity as second-class citizens. [Woman trade unionist]

A number of studies conducted in the 1970s had shown that Wollongong had an unusually small proportion of jobs available for women.<sup>2</sup> The industries in which Wollongong is most markedly deficient — commerce, finance, community services and public authorities — usually have a high female labour component.

Elsewhere in Australia, just under three-quarters of the workforce was employed in service industries: offices, shops, restaurants and schools. In Wollongong, the proportion of the workforce in these industries was just over half.<sup>3</sup> In addition, the main industries in Wollongong — manufacturing, mining and quarrying — had a much lower female employee component than the same industries in Sydney or all of New South Wales.

In the early 1970s, Wollongong had a female workforce participation rate of only 30.8%, compared to 37.5% for all of New South Wales and 41.4% for Sydney.<sup>4</sup> But this comparison actually understates the disparity: because Wollongong had an unusually high proportion of migrants in the female population and a high proportion of the adult female population in the prime age groups, it could be expected to have had an unusually high female workforce participation rate.

In 1974, surveys of 10% of households in Wollongong showed an estimated 3452 women to be actively seeking work, while another 5931 were available for and desired work but were not actively seeking it, primarily because they believed no work was available.<sup>5</sup> Thus, 14.5% of Wollongong’s female workforce was unemployed; 31.3% if the hidden unemployed is included. Women’s unemployment is often hidden because married women are not entitled to unemployment benefits paid by the government

so there is little incentive for them to register as unemployed.

## **BHP's history of employing women**

The high rates of female unemployment were clearly a consequence of a highly sex-segregated workforce in combination with a narrowly focused local economy. Although the employment situation for women in Wollongong had been critical for many decades, it had not been static. As the major employer, BHP had a large amount of control over work opportunities for women and, despite their virtual exclusion from the steelworks until the early 1970s, local women had worked in heavy industry during World War II, when BHP needed women to work in John Lysaght (Australia) Pty Ltd making munitions. Lysaght became a BHP subsidiary in 1979.

It was obvious from the comments of some of the JFW campaigners interviewed that they gained enormous confidence from the knowledge that women in the past had performed the duties demanded of workers at the steelworks:

My sister worked in heavy industry during the war at Lysaght where they made guns, and she worked there for years and loved every minute of it because before that the only other jobs available for her was housework, other people's housework. They only got 72% of the male wage and that was a victory to get that, then the men came home from the war and all the women were put off. They had crane drivers and everything out there then. [Woman trade unionist]

We know that women had been involved in, for example, Lysaght during the war ... there had been that sort of history with women doing those sorts of jobs. It was just that it was all covered up and denied, and men were always given preference. [Woman steelworker]

It wasn't many years after World War II that BHP again employed women at the Wollongong steelworks. The nationwide economic boom from the mid-1960s to the early 1970s produced a scarcity of labour. At this time the feminist movement was also developing and in 1973 Wollongong feminists protested against the lack of equal work opportunities for women, and BHP was compelled to employ women. The jobs given to the women were, however, mainly repetitive ones, such as in the tin plate section where pieces of tin had to be constantly sorted. Further, the sex segregation of the BHP workforce was symbolically maintained by the requirement for this select group to wear blue dresses.<sup>6</sup> Then, in 1975, BHP started cutting back again the number of women it employed by the simple method of not replacing women employees who left.

A few of the women involved in the 1980 JFW campaign had worked at the steelworks previously, but lost their jobs when they had children. This was despite initial assurances

by supervisors that they could come back to work after the birth of their child. No maternity leave provisions existed at that time.

I raise my new family, two beautiful boys. I was happy but always we were poor for money ... one wage is not enough ... my husband had poor wages ... so I was thinking I go back to my job, put my name back on, and they didn't give me my job back, and they said, 'No, we haven't got any jobs for women.' [Macedonian woman steelworker]

One woman who worked at the steelworks from 1974 to 1976 took three weeks' leave to visit Yugoslavia because one of her parents there had died, then had to wait for two years before she was re-employed:

After three weeks I go and see the boss ... and he says to me ... "I'm very sorry, but for women there is no jobs anymore." I got a shock! First he tell me before I go, "You come back I give you job." I go back, "Sorry, no job."

Another way that BHP encouraged women to leave their jobs was described by a woman steelworker interviewed:

Of course later on when things got bad, around 1976, they [BHP] started to cut the workforce and they transferred a lot of those women to what we call the choke ovens — or coke ovens. It's where people develop — well, there is carcinogenic fumes there and people don't last long there and the shift system's pretty bad and it's the best way to get rid of someone — you transfer them to the coke ovens and they leave.

From 1976, with the onset of recession, BHP virtually closed its doors to women. In addition, by 1980, the few traditionally "female workplaces" in Wollongong "clothing and textile factories" were closing down.<sup>7</sup> Small-scale clothing and retail industries were among the first casualties of the recession and the women interviewed spoke of queues of hundreds of applicants for the rare, part-time shop assistant vacancies.

At the time when we started up the [Jobs for Women] campaign there was practically zilch for women unless you still were able to keep a job in a sewing factory, like Berlei, King Gee or Crystals, because most of those companies were badly hurt by the recession and were in fact laying off women and not employing anybody. [JFW campaigner]

The few industries where women have worked in Wollongong were very clustered industries, like King Gee who made overalls for the men working in the male-dominated industries, and there were factories like Berlei, a women's undergarment factory, and they closed down and that wasn't a result of the women's movement in Wollongong burning their bras. [Woman steelworker]

For most non-English speaking background women in Wollongong at the time the

only work was in the sewing factories or as outworkers. The clothing industry had always been an important area of employment for married women in Australia and, particularly in the post-war period, for married migrant women,<sup>8</sup> so many of the migrant women who joined the JFW campaign had previously been employed in it. They described the work as hard, tedious and stressful. The production process was typically highly regimented and strictly supervised, with women working under constant and heavy pressure to produce quickly. Often this pressure was reinforced by a piece-rate or bonus payment system. According to the Australian Bureau of Statistics, the industry paid the lowest wages in Australia.<sup>9</sup>

Bonds [clothing factory] is working on the old system. It is very difficult. You have to work all day, eight hours and no stop, only you can stop five, 10 minutes for the coffee break in the morning, half an hour for lunch. You have to work very hard. [Yugoslav woman steelworker]

I working for Crystals sewing factory for two or three years, just sewing ... bonus system, must work very, very fast or get sacked. [Yugoslav woman steelworker]

Adding to the pressures created by the “payment by result” systems and the regimented production process was the supervision, which was described as heavy handed and constant. The pressure to maximise production meant constant surveillance, in some cases including the timing of visits to the toilet and the abuse of women who stayed longer than a few minutes.

I was happy to have my own machine and work, but the rules, the pressure, pressure, the supervisor, inspectors, bosses and the time, you got to fight the time, seven minutes for break off until 12 o'clock. We had a 20-minute break for big lunch and then you can't go to the toilet ... it was like prison there. [Macedonian woman steelworker]

The migrant women interviewed expressed a strong feeling of dissatisfaction with their work environment in the clothing factories, saying they were treated like “second-class citizens”, “numbers” and “animals”, and subjected to undignified and dehumanising routines.

I think they suck your blood in this factory ... I thought if I work here I will go crazy, lose health ... It was Christmas time when I had holiday for Christmas time, one year after. I didn't want to go back, I didn't go back anymore, I was sick at heart to go in those doors. I was still looking out for other factories. I find another sewing factory which was probably worse. Private employer in small two rooms employ one lady and I didn't stay long there either. [Yugoslav woman steelworker]

For women from non-English speaking backgrounds in Wollongong, the alternative

to this type of highly exploitative and abusive work was unemployment. But women in migrant families were often responsible for holding the family together and many families depended on the woman's wage for survival. For these women, lengthy periods of unemployment created intense financial strain and psychological stress.

In a lot of the cases the migrant women ... were supporting their husbands who had either been injured at the steelworks and couldn't get any other work, or had worked in another place where the factory closed down, or something like that. So in a lot of cases our women were supporting individuals and their families. [Australian-born former steelworker]

Dad only worked for six months because he couldn't because of a bad back and the language was very difficult ... He didn't know how to speak, how to express himself, how to tell them he had a back ache and give light duty work, so he left the job altogether. So the pressure was on Mum, which meant she had to work and this is what she found very hard, the responsibility of more or less taking care of the family, bringing the money in. [Daughter of Turkish woman steelworker]

Feelings of hopelessness and despair were common because there were no job opportunities. Paid work was extremely important to the women and they suffered from depression, isolation and loss of confidence when unable to obtain work.

I was very, very worried. I lost my job, can't find job. Buy this house, too much money for bank. Two children going to school, my husband after five days work, not enough money. Very upset, cry. Cry too much. Too much worry, but I can do nothing. [Greek woman steelworker]

With no job how are you going to live? And I got two kids, it was frightening life, uncomfortable life. [Macedonian woman steelworker]

The high level of unemployment for migrant women drove many to try to find a job in Sydney, often in food processing factories. This meant getting up at 5am every day to catch a bus to either go to work or look for work in Sydney, and return at 6 or 7pm to do the household chores.

The company bus would pick them up at a certain point at 5.15 am to take them from Wollongong to Sydney to the factory and there she would work all day and come home about 6 o'clock. This was every day, Monday to Friday. Saturday and Sunday she was home, which meant she worked at home with shopping, cleaning and she didn't have much time to do anything else ... She said it was very difficult travelling on a bus, it was a very old bus ... You couldn't even just sit there and doze off, it was noisy, uncomfortable. [Daughter of Turkish woman steelworker]

## Unemployment & sexual harassment

Unemployment and the intense competition for jobs in Wollongong also paved the way for widespread sexual harassment of women. As Schultz explains in her study of Wollongong titled *Steel City Blues*:

Sexual harassment has always been a problem, although it has only recently been named. The particularly high unemployment among young women who, in many cases, were vulnerable anyway, led to increased harassment. Those offering employment often sought sexual favours.<sup>10</sup>

Due to the efforts of women trade unionists and local feminist activists to highlight the issue, women in Wollongong were aware of the high level of sexual harassment. One particular case was mentioned by many of the women interviewed because it had been well publicised and occurred just before the JFW campaign commenced. It involved the owner of a local chicken shop who had a flat above the shop. If his young female employees didn't provide him with sexual favours upstairs they were immediately sacked.<sup>11</sup>

That particular case involved some very young girls ... who were frightened to speak out, who were frightened to say anything ... And the story just went on and on and in fact it was quite horrific. I didn't envisage it was as serious, nor as prevalent as it was in this case ... And of course it's a situation here in Wollongong where unemployment for women has always been critical, very critical for women and women will just take any job, and in fact have been known to put up with any sorts of conditions because they are just desperate to work. [Woman trade unionist]

The widespread sexual harassment not only reflected the blatant discrimination faced by women and the conditions they were forced to accept if they wanted employment, it also demonstrated the inadequacy of legislative provisions to protect women in the face of structurally entrenched unemployment.

## Why women wanted to work in the steelworks

Women in the region needed jobs, but they wanted jobs at BHP's steelworks in particular for a variety of reasons. Some women actively rejected the stereotyped nature of the 'women's work' available in Wollongong:

The steelworks was the only place to work unless you wanted to go to Myers or the metal manufacturers or tube makers. Basically it was the steelworks or nothing ... I'm not the type to dress up in a tizzy skirt and serve people at Grace Brothers ... I'd rather do something a bit more out and about, get out in the air, gardening or something. [Woman steelworker]

But for most of the women, the wage rates and working conditions at the steelworks were the major considerations. The pay and conditions at BHP reflected the gains for employees of the strong unionisation of steelworkers, something that was not the case in the garment industry. Compared to the work many of the women had been doing, employment at the steelworks promised greater freedom, improved wages and less social isolation.

The steelworks was ... the only place in Wollongong where women and men doing the same job could get the equal pay, which was very important, 'cause we'd also been following all the equal pay cases, and the fact that most of us, well certainly in my case and I'm sure for most of the other women, it was the best paying job we had ever had at that point. [Woman steelworker]

The work at the steelworks was organised into three, weekly rotating shifts: day, afternoon and night. The latter two shifts earned extra payments on top of the normal wages, known as shift loadings, but the changes to the weekly sleep cycle could be very disorienting. The work itself was mainly unskilled labouring and often extremely dirty, but that did not deter the women; they were accustomed to hard work and many looked forward to the physical labour.

I had put my name down in the steelwork. I was pleased to go in the steelworks, I knew I was frightened but my brother was explaining me how the job was dirty, because I didn't know the language, I haven't got any school in machinery or that. I haven't been working in the steel industry before, but then I knew if I was going to try the steelwork, I look for a really physical job ... I was prefer to do anything physical for a job than to be locked behind a sewing machine. [Macedonian woman steelworker]

This widespread desire and need among women in Wollongong to obtain a job at BHP was the context in which the JFW campaign became so important. ■



## 2. United we stand, divided we fall: Building alliances

Two distinguishing features of the Jobs for Women (JFW) campaign were its initiation, involvement in and leadership by working-class and migrant women, and its success in building alliances between different oppressed groups. To understand why the campaign succeeded, it is necessary to examine the roles played in the campaign by the women's rights movement, the trade union movement and the local migrant communities.

### **BHP: 'No jobs for women'**

In 1980, BHP was the major regional employer with a workforce of about 20,000, including a high proportion of unskilled jobs. Yet between 1977 and 1980 only 58 women were employed as steelworkers. Women had been applying for available jobs at the BHP steelworks for a number of years, however, while men were being employed, women faced continual rejection. Employment officers at the company had actually told women there were "no jobs for women".

In fact, AIS kept two separate lists of job applicants based on gender. Between June 1977, when the NSW Anti-Discrimination Act and Anti-Discrimination Board were established, and September 1981 there were approximately 2000 names added to the list of women seeking jobs at the steelworks. The majority of these were never employed and those who were had to wait for approximately two years for the job. In the same period there were only 47 men on the males' waiting list and they were usually employed within two to three weeks of applying. One woman applicant dated back to 1972, whereas the longest wait for employment by a man during those years was 10 weeks.

Some of the women interviewed spoke about their experience of applying and waiting for a job at the steelworks before 1980:

First time I go to steelworks in 1974, no good and after say come next time again. Have to push all the time. They give job to my husband straight away.

[Greek woman]

My husband in 1975, he put his name in the steelworks, he get the job one week after, one week after he put the name on ... I put my name in '76, that means four years before I started work. [Chilean woman steelworker]

The women described visiting the BHP employment office every week for years and how at each visit they were told there were “no jobs for women” while they saw men being employed. The women knew that there were jobs available and that they could do the work, and they recognised their rejection as discrimination. Many of the migrant women applicants had worked in similar industries in their countries of origin, but their work experience was not recognised.

I accept job in the steelworks because in Yugoslavia we have steel factory too and lots of women work in steel factory ... I wasn't embarrassed or ashamed to ask to do. In 1974 I ask the first time, but they said to me it is not jobs for women here ... In 1975 I go back to the company and ask again for any job, general job, shift job, but I wasn't successful, like other women say it not jobs for women. And you feel terrible because you know yourself because there are jobs for anybody there. [Yugoslav woman steelworker]

My husband gets the job straight away and I just wait for so many years ... You feel discriminated, you feel something is not right and if you are a woman but you are also a human being and you can work. [Macedonian woman steelworker]

## Not the first battle: A history of activism

Despite the limited number of jobs and poor working conditions available to women in Wollongong historically, they refused to passively accept their disadvantaged position. Julianne Schultz takes this up in her book *Steel City Blues*:

Wollongong was and still is a proudly activist city. Some of the most significant industrial disputes in Australia's history have been fought out on the South Coast ... It would be wrong to suggest that the women of Wollongong were all victims. Over the years, and despite the odds, women fought with determination for jobs and their rights ... Their activism is a legacy of the city's history.<sup>1</sup>

The 1980 campaign for jobs for women at the BHP steelworks did not commence without the activists involved considering and building upon previous actions by women to obtain work at Australian Iron and Steel (AIS). In 1973, influenced by the rise of the second wave of the women's movement, a group of women had protested the lack of job opportunities by chaining themselves to the gates of the steelworks. Some of the women trade unionists interviewed about the JFW campaign were involved in that earlier protest.

One of the interesting things that happened was when the [Federal] Labor government was first elected in about 1972, it kind of put a dampener on the migration program and BHP protested and said we want more labour and the women said, "Well, here we are" and they went out and chained themselves to the gates for an afternoon shift. A paddy wagon was brought down, but nobody was touched. It got tremendous publicity. [Woman trade unionist]

We were decoys, we all went for the main gate, this group of women with all these pamphlets and leaflets. At another gate a couple of women dressed in overalls and tin hats went in and had a look around and pretended to be workers. They looked around to see if there were jobs that women could not do ... They were filthy when they came out, but loving every minute of it and they got on television and [in] the paper. [Woman trade unionist]

Although this earlier action was successful in putting pressure on AIS to employ women, there were a number of factors that differentiated it from the 1980s JFW campaign. The action was organised by the local women's movement to highlight the fact that there were jobs available, rather than being organised by women who themselves wanted to work at the steelworks. These women, some of whom were active unionists, knew that BHP had an unwritten policy of blacklisting any person involved in political or industrial action against the company making them unemployable.<sup>2</sup> This meant that when a few mainly migrant women were employed by AIS after the protest, the company was able to implement a divide-and-rule tactic by transferring men out of the jobs to give them to the women, leaving the newly employed women with little support from male workers and isolated from the union.

The newly formed JFW Action Committee in 1980 learnt from that experience and a central tactic of their campaign was to build links with the Federated Ironworkers Association (FIA), the trade union that covered most of the workers at the steelworks, while keeping control of the campaign firmly in the hands of the women who were seeking jobs at the steelworks.

## Building the links

The capacity and determination of the JFW campaigners to reach out to and involve the trade union movement, the women's movement and the local migrant communities significantly strengthened the blow it dealt to BHP in the political arena.

Recent social movements in Australia have tended to be single-issue campaigns that have not drawn the links between class, ethnicity and gender-based oppression as they are experienced in a capitalist system. The JFW campaign is an example of how a divided working class can, by consciously working to overcome historical and ideological

barriers, unite in struggle.

## The women's movement

Since its emergence in Australia in the late 1960s during the anti-Vietnam War protests, the women's liberation movement has inspired large mobilisations and campaigns around jobs, equal pay, abortion rights and childcare. Within a relatively short space of time, a number of gains were made by the movement, including the establishment of rape crisis centres, women's health centres, refuges, community controlled childcare centres and, eventually, anti-discrimination legislation. Women in Wollongong were part of this national movement.

Around about 1975 I went to Melbourne; I was one of the first women to be elected to the ACTU Women's Committee and I stayed with this woman who took me to the Women's Centre down there and I was very impressed with what they were doing and I thought, 'Oh gosh, we should start something like this in Wollongong'. So I came back ... and we talked the council into giving us a cheap house ... So we formed the Women's Centre. [Women's movement activist and trade unionist]

In the mid-1970s we decided to set up a women's collective at uni[versity], because a lot of the women activists were uni women, students and teachers with off-campus women invited to be on it. I was on that ... and they got a women's room on campus ... A lot of things came out of the times. [Woman trade unionist]

For many women, the movement sparked or strengthened their political consciousness. Some of the women who were involved in initiating the JFW campaign commenced their political training and experience within the struggles of the early women's movement. Indeed, the JFW campaign took place in a context of a high level of women's political activism in the Wollongong area.

The demographic and social/political context in Wollongong, in particular the high percentage of migrant women and the significant profile of women in the local trade union movement, made it difficult for the local women's movement to ignore issues of ethnicity and class and assume the "false universalism"<sup>3</sup> that typified much of the women's movement at that time. Hester Eisenstein explains:

In the early years feminists made extravagant claims about the universality and the identical character of the oppression of women at all times and in all places. More recently, there has been something of a retreat from universalism, and an acknowledgement of the diversity of women's experience and situation with respect to race, class, nationality, religion and other specificities.<sup>4</sup>

While these issues were at an early stage of discussion and debate amongst feminists at the time of the JFW campaign, for the women centrally involved in that campaign the immediate practical question was how to establish strong links amongst groups of women with often diverse experiences of oppression.

The women involved spoke at length in the interviews about how they overcame barriers that divided them to develop a strong sense of solidarity within the JFW group. One of the major contributing factors to their success was the fact that the campaign had a clear concrete goal: getting jobs in the steelworks. As feminist writer Lynne Segal states, greater numbers of women will join and continue to support a political struggle where objectives are clear and success seems possible.<sup>5</sup>

The thing is we just started out to get jobs, I mean it was a simple thing and that was what united all of us, whether we came from Turkey or Greece or whatever. We all needed jobs, we were all out of work and looking for work ... We'd all had our names put down on the list at the AIS employment office and we'd all been through the experience of being denied jobs continuously over a period of years. [Woman steelworker]

She feels that it is sort of because they were going through the same things, it made her feel closer to women and it made her realise that she is not the only one, that there are a lot of other people in the same situation. [Daughter of Turkish woman steelworker]

## The Working Women's Charter

The Working Women's Charter Campaign emerged first in Britain and then in Australia during the early 1970s. It was a result of pressure by the women's movement and women active in their trade unions to improve the relevance of unions for women. As the original Working Women's Charter Campaign pamphlet explained:

The Working Women's Charter Campaign has provided a vehicle for launching a campaign to break down sexism within the trade union movement, to force unions to take up problems confronting women and to prepare the way for male workers to understand that sexism only divides and weakens the working class.<sup>6</sup>

The role of the Working Women's Charter was seen as twofold, an informative log of claims outlining women's demands and a program for action. In 1975, the Australian Council of Trade Unions (ACTU) Congress, in the context of a series of legislative changes to the workforce participation and pay of women, decided to endorse the principle of a trade union charter for working women and set up a process for affiliated unions to prepare such a charter. The charter was drafted based on submissions received at an April 4, 1977 meeting of relevant unions before it was discussed and

amended by the ACTU executive in May 1977 and adopted by the ACTU Congress in September that year.

The Working Women's Charter covered a broad range of issues, including: the right to work for all who wish to work; equal pay for work of equal value; the provision of childcare facilities; maternity and paternity leave; equal access to education and job training; and increased participation of women in unions and education to encourage this. Within two years, the ACTU ran a test case that won the right of unpaid maternity leave for women in private industry with no loss of job continuity. As well, several childcare centres sponsored by trade union bodies were established in some capital cities.

The 1977 ACTU Congress also agreed to organise a "representatives' conference" of women from affiliated unions to plan ways to effectively implement the charter. That conference was held in Melbourne in March 1978 and led to charter groups being set up nationally, state-wide, in unions, on the job and in localities. The Working Women's Charter group in Wollongong soon became well known as an active campaigning body. As one of the trade union women interviewed recalled:

The ACTU had set up this Working Women's Charter Committee ... and so at this women's collective [Wollongong University Women's Collective] I moved that we should set up a branch of the Working Women's Charter here and because there was a good friendly labour council, that we would kind of work as closely as we could with it, so that was set up and a number of the women on the other committee came on to it.

Soon after the Working Women's Charter Committee was established in Wollongong, it hosted a seminar on sexual harassment and women's unemployment in the Wollongong region. The April 20, 1980, seminar was sparked by the much publicised local case of sexual harassment involving a large number of young women that was described in the previous chapter. It was at this seminar that the JFW Action Committee was formed.

## Launching the Jobs for Women campaign

On the day after the JFW Action Committee was formed, a group of women travelled to Sydney to lodge complaints with the Anti-Discrimination Board of New South Wales. The following day, the front page of the Wollongong newspaper, the *Illawarra Mercury* (April 22, 1980), described how women were making claims of discrimination against BHP and how other women who had been refused jobs at the steelworks could contact the campaign group.

As with other campaigns by the women's movement, the JFW campaign struck a

chord with the everyday experiences of women from many different backgrounds. Once these experiences were given expression through the mass media, other women realised that they were not alone in their experience of unemployment and discrimination.

Many women responded and within a few months 31 women had lodged complaints of discrimination by AIS with the Anti-Discrimination Board. All had experienced the isolation and frustration of regularly applying at the AIS employment office and regularly being refused work. They joined the JFW group because they saw it as their only chance to bring about change. Many women had little understanding of the anti-discrimination legislation and felt powerless to act as individuals, but they gained confidence and strength from the collectivity of the JFW group.

In the campaign we have Australian women, because migrant women don't know all the laws, we don't know lots of things, but together we've done well and I say all the time, people together can achieve a lot. [Macedonian woman steelworker]

She said she never been involved in anything like this and when she got there she only stayed around there to sort of see what was going to happen and to help out, the more women the stronger the group. [Daughter of Turkish woman steelworker]

I think better, stronger, because one person can do nothing for self, but group can do something, like with one finger you can do nothing, but with two fingers you can pick up, this like women can do everything, one or two women can do nothing, group strong. [Yugoslav woman steelworker]

For each woman who joined there was a gradual (or sometimes immediate) politicisation. Joining the campaign was often the first political step and as the women became more conscious of their disadvantaged position in society, they stopped blaming themselves for the situation and realised that they could achieve a great deal by taking action together with other women. A feminist awareness and a strong sense of solidarity were crucial components of the campaign and ensured the continuation of the women's collective struggle over a number of years.

Some of the Australian-born women who initiated the JFW campaign had a strong grounding in and experience of feminist as well as socialist politics. They were members of the then Socialist Workers Party (SWP, later renamed the Democratic Socialist Party, which merged into the Socialist Alliance in 2001). At that time, the SWP was encouraging its members to take jobs in heavy industry and carry out political work in the relevant trade unions.

An SWP branch had been established in Wollongong in 1979 and its male members

had little difficulty securing work at the Port Kembla steelworks. However, the women members, like all of the 2000 women on the AIS waiting list in Wollongong, had been told there were no jobs for women. The SWP heard about a similar campaign in the Steelco steelworks in Hamilton, Canada. On the basis of the Hamilton experience and its applicability to the steel industry in Wollongong and Newcastle, the SWP activists discussed ways to improve women's job access and overcome historic barriers to occupations and industries, and decided to throw their energies into the JFW campaign. But their work was not limited to the steel industry; at the time, the SWP was also instrumental in young women getting access to trade apprenticeships that had been exclusively male, and getting women into jobs as train drivers, bus drivers, tram conductors, etc.

### **The trade union movement & working-class solidarity**

Many feminist writers<sup>7</sup> have discussed the role of trade unions in women's disadvantaged labour market positions and in the early 1970s the women's movement generally viewed trade unions with suspicion.

When the 1980 JFW Action Committee approached the FIA management committee for support, however, the response was ultimately positive.

We went up to the FIA board of management and told them that we wanted to campaign for jobs and what did they think? Were they going to support us? ... They said, "Well, in 1973 BHP ... transferred men out of the jobs and put women in the men's jobs." Now ... I don't support the idea of disenfranchising anybody out of their right to work in a particular area because that sort of thing does cause divisions ... But we did explain to the union, "Look, we want our own jobs, we do not want men's jobs, we just want the jobs that are ours and there's lots of them there!" And because we went to the union before we even started a public campaign, we got that support ... because we had at the back of our mind ... if we got jobs and we got into trouble within the steelworks and we didn't have union backing we'd be isolated, it would not be a victory for women.  
[Woman steelworker]

The FIA was initially concerned with protecting the jobs and conditions of its membership, which was overwhelmingly male. However, a number of factors convinced the union that the interests of women workers must also be defended. These included: a growing awareness within trade unions of women's interests generated by an active women's movement and the formation of the Working Women's Charter; a realisation of the seriousness of the JFW campaign and the willingness of the women to join with the union in the battle against a common enemy (BHP); the



work and dedication contributed to the campaign by well-known and respected female trade unionists; and the support of more progressive male trade unionists within the South Coast Labour Council and the FIA itself.

Another factor that swung union support behind the women was their determination and the history of strong working-class solidarity in Wollongong. The political atmosphere was summed up by one of the women activists as follows:

You've got to understand a company town. Now BHP stands for a lot of things. You may think it stands for Broken Hill Propriety Limited. Well, there's a few other names that workers call BHP in Wollongong. "Bloody Hungry Profiteer", "Broken Homes Propriety Limited", because it's true. BHP runs on a 24-hour shift system. I'm a shift worker; a lot of families get broken up because of rotating shift work. So when someone has a go at BHP, dares to bite the toe of BHP, you can see this little rippling effect throughout the whole town. People responded. Of course a lot of people said, "Oh, I don't know about these women's libbers, but they're having a go and that's all right." But when we took a bite of the toe and then grabbed the whole bloody leg, everyone sat back and realised we were absolutely serious with this campaign. And we've won a lot of respect in Wollongong because of that, and it is particularly an atmosphere that exists in Wollongong. You have to understand the sort of company BHP is.  
[Woman steelworker]

Wollongong not only had a strong trade union and activist history, but women had been centrally involved in many struggles in the area.<sup>8</sup> Therefore, rather than links between the trade union movement and the women's movement needing to be built from scratch, work by women who were active in both movements provided a ready made foundation for united action.

There had been a tradition of women's involvement in trade unions and, for example, the Miners Women's Auxiliary played a very important part in the history of Wollongong. [Woman steelworker]

We built on the experience of women who were active in the union movement in the area ... There were three or four women who were in a group [the Working Women's Charter] who were union activists ... who were, for example, delegates to the labour council in Wollongong and they knew how to approach the male bureaucrats of the trade union movement. And these women had years of experience in the union movement and it was just really good to get that experience. [Woman steelworker]

The combination of assistance from experienced trade union women and support from the FIA was a central component of the JFW campaign. It was unprecedented

and remarkable that a major steelworkers' union was propelled into taking action on behalf of a group of unemployed women who were outside the union and whom it did not technically represent.

The Ironworkers [FIA] came out openly and supported the women, as did a lot of unions. They publically declared their position and offered financial and moral support at that stage. [Woman trade unionist]

The support we got from other groups, too, like from the unions, that was great support for our case ... We feel more powerful to pursue our case because people are interested. [Macedonian woman steelworker]

The FIA's support was crucial at two stages of the JFW campaign. The first was in the campaign to win jobs, in which FIA officials participated on behalf of the women in conciliation discussions with AIS. The second was when the women were fighting to retain their jobs during the massive retrenchments in 1982.

The women worked hard to maintain a strong, united front with the union. This was reflected in the leaflets they produced and resulted in the union mounting a strong defence of married women's right to work. This was a major step forward as previously many unions had sided with employers to allow married women to be sacked before other workers. As women involved in the JFW campaign explained, their close work with the FIA and their election as union delegates by their co-workers enabled them to demand that the union act to protect its women members, regardless of marital status.

By September 1982, the company was offering the "voluntary retirement scheme" ... There's nothing voluntary about it; it's a scheme to force workers out by putting pressure on them ... Rumours started, "Married women better go" ... As we heard this we were in to the union saying, "You must call a meeting and defend the rights of married women." Well, that's what happened and by the time when the retrenchments occurred ... we had the secretary of the union getting up at a mass meeting and defending the right of married women to work at the steelworks. Now that had never happened before. [Woman steelworker]

The success of the collaboration between the women's campaign and the FIA indicates the positive results that can be achieved when progressive union leaderships and social movements work together.

## The migrant community

Wollongong, and BHP in particular, was central to the massive immigration programs that were a feature of Australia's post-war development.<sup>9</sup> These programs were led by governments on behalf of large companies in industries facing labour shortages

and opportunities for substantial expansion.

BHP's constant drive to reduce labour costs meant it became a major "employer seeking cheap dispensable unskilled migrant labour".<sup>10</sup> The Port Kembla steelworks became the destination for tens of thousands of migrants from dozens of countries. First came the refugees from Eastern Europe, followed by Italians and Greeks, then later Yugoslavs, Lebanese and Turks. South Americans came in the 1970s, and South-East Asians at the end of the decade. By the 1980s, half the population of Wollongong was born outside Australia or had parents born overseas.<sup>11</sup> More than 70 languages were spoken in the steelworks.

The difficulties this diversity raised was recognised by the federal government following the completion in 1978 of the report by Frank Galbally on migrant services that it commissioned. The report recommendations led to the establishment of migrant resource centres around Australia to provide support services and programs to help build greater self-reliance in migrant communities.<sup>12</sup> Not surprisingly, the first migrant resource centre in NSW was located in Wollongong. It opened in August 1980 and became a source of support for the JFW campaign.

The large proportion of non-English speaking background workers in Wollongong added another dimension of discrimination into a workforce already segregated by gender. This meant that for non-English speaking migrant women, job opportunities were limited to even less skilled and lower paid areas of the workforce, in particular in the industrial manufacturing sector producing commodities such as garment and food products.

It was evident to the JFW Action Committee from an early stage that they would need to win the confidence and support of migrant women, and build the campaign amongst the local migrant communities.

Initially it was only, sort of more or less politicised Australian-born women who formed the Jobs for Women Action Committee and then we went out of our way to encourage other women because we quickly found out, once we'd made a complaint to the Anti-Discrimination Board, Carmel Niland then did some investigation, she got hold of the waiting lists with all these names on it and it was absolutely clear that most of them were from non-English speaking backgrounds, so we realised that we had to involve migrant women in a big way. [Woman steelworker]

Wollongong's population is 50% migrant, so no campaign you have in Wollongong will ever be successful if it doesn't reach out to migrant women. I mean the more we went into this campaign the more we found out about the poor working conditions for migrant women, such as the clothing factories and

outwork. We had to address these problems because if we didn't involve these women it wasn't a genuine campaign around the right to work. [Woman steelworker]

The interviews revealed the major barriers to migrant women's participation in the campaign. The main obstacle was language, but other barriers included lack of transport, cultural differences, and family pressures and responsibilities. The JFW Action Committee recognised that language was a problem, not only in encouraging migrant women to join the campaign, but also in ensuring their involvement in the direction and decision-making of the group.

Now, joining migrant women, okay it's easy to say, but how do you involve migrant women in the campaign so they have absolute say in the future of the campaign? You've got to have interpreters. [Woman steelworker]

Despite efforts to always have interpreters at the campaign meetings, some of the women relied on their husbands or children to attend with them to interpret, while others struggled on with little initial understanding because they so desperately wanted a job at the steelworks.

[I] attend meetings all the time because they give me some reason to fight. Not understand exactly 100%, but fight. [Greek woman]

I think these girls going to give me job in the steelworks. Why I come here? Why I left my kids home, they still was baby. I didn't have any clue what they was talking about. But I never give up, I say I don't care, I'm going to wherever they are going, I'm going, I'll learn more, I'm going out. [Macedonian woman]

Another hurdle in involving migrant women was the need to secure the support of their family and community. Helping women to do this required recognising the different cultural realities, and many visits to women's homes and discussions with their family members.

You can't just talk with the women, you have to talk with family. If she has got in-laws at home, you have to talk and make them to give reasons to the woman to come to the campaign, and the husband too ... I think the migrant community in general, they understood very clear now what we really wanted with our campaign, they were supportive. [Macedonian woman]

The involvement of migrant women and their families in the campaign was generally a process of networking, particularly for the Macedonian women, who made up the largest ethnic group in the campaign. The women continuously spoke to their neighbours, friends and relatives to encourage them to be involved in and support the JFW campaign, and it quickly became evident that the attitudes of husbands (the majority of migrant women were married) was often a deciding factor in women's

participation.

Some of the husbands of the Macedonian women, they are against the campaign ... I have the full support from my husband to be involved. It depends from which area they come from, their education and also the family. [Macedonian woman]

My friend, she had to fight against the household, they believe she was crazy ... Her husband, he works at the steelworks, a lot of men afraid they will have trouble on the job ... She very upset, she doesn't listen to him, she did join [the campaign]. [Chilean woman]

The husbands' underlying fear of their wives' involvement in the campaign was due to language barriers as much as to traditional values and beliefs about women's roles in family and work. As one of the women in the campaign, and who is now a community health worker, explained:

Most of the migrant women, they don't understand the campaign because they understand only that we can sue the company. That is not enough information, that is not clear and that is dangerous. Every woman can say, "Gee, if I'm going to sue the company and my husband can go out to the job, the company can sack my husband." If they have more clear information like they have now, probably we can have maybe more than 500 women that time. But this time was very difficult because we go house to house to tell the women what is going on, to fight for our rights.

Despite multilingual leaflets and interpreters at most meetings, it wasn't until the campaign received more widespread publicity and the women won their legal battle that more migrant women (more than 700) came forward to lodge complaints of discrimination. ■



Collecting signatures on petition at tent embassy, July 1980.



Tent embassy outside BHP steelworks, July 1980.



At the tent embassy





Celebrating at Illawarra Migrant Resource Centre in late 1980 after BHP's decision to hire the women complainants.



JFW campaigners with banner, February 20, 1981.



Jobs for Women campaigner gains employment as welder at BHP.



FIA meeting of women members to discuss looming retrenchments, late 1982, Port Kembla.



Four of the founding members of Jobs for Women campaign outside BHP fence.

## 3. Dare to struggle, dare to win

In addition to building links with other progressive movements in the Wollongong area, the Jobs for Women (JFW) campaign's efforts to establish the broadest possible support nationwide, and among all those who had suffered similar discrimination, was also vital to the success of the campaign.

Soon after the first complaints were lodged with the Anti-Discrimination Board, the JFW Action Committee produced its first leaflet explaining what had happened and why they were formally complaining against Australian Iron and Steel (AIS). The committee also wrote to all Women's Liberation groups around Australia appealing for support. By June 20, 1980 an article in the New South Wales newspaper the *Daily Telegraph* listed the supporters already gathered by the JFW campaign as including the South Coast Labour Council, the Australian Workers Union (AWU), the Federated Ironworkers Association (FIA), the Amalgamated Metal and Shipwrights Union, the New South Wales Labor Women's Committee and some Australian Labor Party (ALP) branches.

### Tent embassy protest

The women knew that, although the media coverage had begun to give their campaign more public profile, they needed an action to launch and build more awareness and support of the campaign. Inspired by the direct action style of earlier women's movement activities, they therefore planned a "tent embassy" protest to be held on July 3 outside BHP's employment office, and issued a media release about it. The aim of the tent protest was to gain the support of the male steelworkers at BHP, raise money for the campaign and make contact with more women. It was successful in all respects.

They had chosen their protest site well. The tents were set up on the side of a major road, outside a main entrance to the steelworks, and next to the train and bus access for workers arriving to and leaving from the three rotating shifts at the steelworks. The women had prepared banners demanding "Open the gates AIS" and "Jobs for women!" to hang from the over-bridge spanning the main road. They also prepared

an explanatory leaflet in nine languages (Vietnamese, Italian, Serbo-Croatian, Macedonian, Greek, Spanish, Turkish, Arabic and English) to hand out to workers. A petition for steelworkers to sign stated, “We support the right of women to work in the steel industry and condemn BHP/Australian Iron and Steel’s discriminatory hiring policy against women”.

The support was overwhelming: 2000 signatures in 24 hours and no hostility or animosity expressed as the women spoke with workers about the campaign. The women had originally intended to camp for one night only, but extended their stay to two nights despite severe winter conditions.

They decided, the women, that they would camp. I think they were great, it was a bitterly cold night, wind was howling, but it was the best way to do it, how it was done, by demonstrating, by sitting down at the steelworks and letting people know what you were there for ... That was pretty heroic that night, it was the coldest two days of the year. [Woman trade unionist]

On the second day, the local newspaper, the *Illawarra Mercury* (July 4, 1980), published a story about the tent protest. The next day, women, most of them migrants, started arriving at the AIS employment office in large numbers. After once again being denied jobs, many of the women visited the tents to find out more about the campaign.

But it wasn’t just the media coverage that spread the word. Many of the steelworkers told their wives about the tent embassy when they arrived home from work.

It wasn’t as if the men didn’t want us there, we got the petition going, it was outside each main gate at the steelworks shift change ... I think that we got 3000 signatures, I know a hell of a lot. There were pages and pages of them. [Woman from the tent embassy]

Lots and lots of workers wandered from the job those two days to come across and wish us well ... it was a really electric atmosphere. [Woman steelworker]

Union officials and delegates from the FIA turned up to support the women. Representatives from other unions sent telegrams of support (there weren’t mobile phones then). Miners sent some coal for the women to burn to keep warm in the middle of winter. Latin American solidarity groups visited the tents to show their support, and other migrant women prepared hot food for the protesters. The tent embassy protest collected more than \$600 in donations from workers.

The tent embassy action really launched the JFW campaign and showed clearly the breadth of support that could be mobilised for it. Later, some of the campaigners appeared on John Singleton’s late night TV program on Channel 10. The media interest helped to build support for the campaign within the women’s and labour movements

across Australia. One of the campaigners who helped to organise the tent protest emphasised the importance of this collective political action by the women.

We knew we would not rest our hopes on a legal campaign by itself. That is why we had a tent embassy. That is why we had a number of pickets, a number of public meetings. We mobilised and we mobilised ... With BHP, the biggest thing that they dislike is bad publicity ... in other words, make them the focal point on a particular issue ... I believe that the only way to embarrass BHP and bring it to the media's attention was to in fact pitch tents and camp there ... In other words, it had to be highlighted, to let the people of Australia know what was going on. [Woman trade unionist]

## Reaching out to Newcastle

The women returned to the steelworks on July 10 to hand out more leaflets and gather signatures. This was followed by a public meeting in Wollongong on July 17 with speakers from the FIA, AWU, South Coast Labour Council, ALP and the JFW campaign. This meeting endorsed “the campaign of Jobs for Women Action Committee to fight for the right of women to be hired on an equal basis” and “the setting up of a Jobs for Women campaign in Newcastle to support the Wollongong campaign and investigate work areas where women are disadvantaged, and to initiate moves to have such unequal and discriminatory practices ended, as is required by law.” Newcastle was the location of another major BHP workplace.

Within a week, on July 23, a similar public meeting was held in Newcastle with speakers including representatives of the Wollongong JFW campaign and the secretary of the Newcastle Trades and Labour Council. This was preceded by an article about the campaign in the local *Newcastle Sun*. From that meeting a support group for the campaign was established to circulate information and gather signatures on the petition. While there was grassroots support for the Wollongong campaign in Newcastle, the favourable trade union and women's movement organisations were more dispersed and the campaign didn't really get off the ground there.

It's interesting to note in relation to the BHP steelworks in Newcastle that at around the same time, according to an article in the *Newcastle Herald*, BHP's Newcastle management was happy to inform the journalist in October that over the preceding three months it had hired an equal proportion “33%” of all male and female job applicants. Numerically that meant 11 out of 33 female applicants for unskilled jobs and 784 out of 2100 male applicants. When the reporter examined the overall proportions of employment by gender in the Newcastle steelworks, she found that in fact the 158 women out of 11,000 employees at the plant equated to 3.67% of workforce,



a very similar proportion to the 3% women employed at AIS in Wollongong.<sup>1</sup>

## **BHP bows to pressure**

At the end of June 1980, Carmel Niland, Councillor for Equal Opportunity, had sent a letter to BHP notifying it of the requirements of the Anti-Discrimination Act 1977 and that an investigation was underway around the complaints against the company lodged with the Anti-Discrimination Board.

On August 18, 1980, a formal conciliation meeting was held involving Niland, an AIS representative, JFW campaign representatives and the FIA. The FIA was present on the side of the women. While the negotiations were taking place behind closed doors, the women kept up their public campaigning with a picket outside AIS that day. They issued a media release announcing that AIS had employed only 64 women, compared to 280 men, since the beginning of July.

AIS had started to employ more women, but refused to budge on the hiring of the women complainants, so the negotiations stalled. It seemed that BHP was continuing with their unwritten blacklisting practice and didn't believe that the Anti-Discrimination Act 1977 could enforce compliance with hiring the complainants. Therefore, in September 1980, the JFW campaign organised a successful fundraising dinner, followed in November by a street march in Wollongong's city centre.

Soon after, BHP agreed to employ the women complainants. The hiring began in November and continued through to February 1981, at which point all 31 complainants had been employed. More than 300 women gained jobs as a result of the campaign, before AIS "closed its books" (stopped accepting applications for jobs) in September 1981.

## **Retrenchments, seniority & sex discrimination**

In June 1982, BHP management was talking up "voluntary retirement" and suggesting that, should retrenchments be carried out, married women employees should be sacked before other workers. The company had implemented this policy in the past, including in 1976 when hundreds of women were forced out of the industry, despite the fact that the notion of a "family wage" had become obsolete with the 1974 equal pay for minimum rates decision.

The steelworkers' union responded promptly, organising internal meetings with the union management committee to seek ways to encourage the women to participate in a united campaign against the retrenchments. The union also organised meetings of its women members to discuss and clarify the union's positions, including that all members are equal and seniority is the only fair way to determine transfer, which

means the last hired would be the first fired, and opposing any forced retrenchments. The FIA then held a mass meeting at which it publicly stated that it was fighting for recognition of the fact that all workers must be treated equally, including married women. At the time, this was a very radical position for a trade union to take and did much to cement women workers' support for the union.

Despite the promise of a major financial assistance package to BHP by the newly elected federal Labor government in early March 1983, mass retrenchments were carried out between November 1982 and March 1983. Some 2300 workers lost their jobs. Among these were many of the women who had been recently hired, including most of the women from the JFW campaign. According to Schultz, the retrenched workers received an average of \$1700 each.<sup>2</sup> The 3403 workers who chose to resign under the "voluntary resignation" scheme were awarded one week's pay for each year of service under the age of 45, one and quarter weeks' pay for those aged between 45 and 54, and one and a half weeks' pay for those over 55 years old. This averaged \$5260 each, not much to cover likely extended unemployment given that BHP was a major employer in the region.

When the retrenchments began, the apparently neutral seniority principle — "last on, first off" — actually operated to reinforce the sex discrimination at BHP. The company's delay in hiring women meant that, as women were amongst the last to be hired, they were also amongst the first to be fired under the seniority rule. Most of the women employed as a result of the JFW campaign lost their jobs.

It was necessary to explain the fairness of the seniority rule to workers generally, and to the women workers in particular. The "last on, first off" principle had been fought for by unions to ensure that employers could not "cherry-pick" their workforce by deciding which employees to arbitrarily get rid of. It meant that discrimination against union activists, or older or injured workers, or workers who a boss didn't like for personal reasons could be picked out for the sack. When retrenchments were planned by management, this became extremely important.

## Direct & indirect discrimination

Given the situation they now faced, the JFW campaigners decided to test the anti-discrimination legislation for redress. They alleged sex discrimination under both the direct and indirect provisions of the Anti-Discrimination Act (NSW) 1977 and 1982.

The women wanted compensation for the wages they had lost as a result of not being hired, "being treated differently from men", when they first applied for jobs at AIS. The amount would be based on the wages that each woman would have been paid from the point of applying for a job at BHP to the point when they were actually

hired, and would be calculated from when the New South Wales Anti-Discrimination Act was passed in June 1977. They argued that under the Act this was direct discrimination.

The women also thought it was important to demand recognition of retrospective seniority in the form of compensation for lost wages, status and future employment prospects, so they requested seniority be backdated to the time of their job applications. This was regarded as indirect discrimination under the Act.

Finally, in the event that they won their compensation demands, the women wanted to establish that this ruling applied to *all* women in Wollongong who had applied for jobs at AIS and been rejected during the relevant time period, and this would form the basis for a representative case that would establish a legal precedent for women who had gained entry to jobs in other non-traditional industries.

So, in early 1983, 34 of the women lodged 55 complaints with the Anti-Discrimination Board and, following the failure of conciliation, the focus shifted to formal court proceedings in the Equal Opportunity Tribunal.

This shift into a court battle had huge implications for the women. BHP was an international heavyweight and at the time, in the Illawarra alone, it owned 12 of the mines, had absorbed virtually all the major metal manufacturing companies operating there and was the dominant employer with knock-on influence over the jobs of their suppliers and distributors. In the “level playing field” of the courts, the resources imbalance was huge and daunting for the women, who came from a position of unemployment or low-income work, and predominantly from non-English speaking backgrounds.

## The battle for legal aid

In early 1983 the women applied for a Legal Aid grant, which was the only way they would be able to finance the legal battle with BHP. Their application was knocked back four times by the New South Wales Legal Services Commission and the Legal Aid Review Committee. These bodies had been established by the New South Wales Labor government of Premier Neville Wran to enable disadvantaged people to pursue legal action. Yet the reasons given for the rejection of the women’s application for legal aid ranged from “means”, because some of the women had working husbands, to “merit”, apparently based on some bureaucratic logic that a legal precedent was needed even if this case was the first to test the relevant law. It was later revealed that legal aid was refused because a senior counsel did not believe that the terminology of the law concerning indirect discrimination could be upheld.<sup>3</sup> Fortunately, the courts did not agree with this interpretation.

For the women, the refusals of aid were further examples of structural sex discrimination. While they continued to challenge the refusals of legal aid, they mounted a major campaign to explain the new situation they faced and raise funds. During their 14-month campaign, the women pointed out that anti-discrimination laws which unemployed, non-English speaking women could not afford to access were not worth the paper they were written on. During 1983, the women issued media releases, organised protest meetings, did newspaper, radio and TV interviews, gave workshops at national conferences such as the Women and Labour conference and the Australian Union of Students Women and Unemployment conference, and lobbied the Australian Council of Trade Unions Congress. They held a screening of the film *Rosie the Riveter* accompanied by a talk on the JFW campaign, and they organised a major fundraising dinner.

Legal aid was not granted to the women until September 1984, a week after the hearing had already begun and the women had incurred barristers' costs of around \$2000. On July 5 that year, the women had met with New South Wales Premier Neville Wran to explain the legal aid obstacles they faced. The next day they received a widely publicised once-off grant of \$10,000 from the New South Wales Women's Advisory Council which had been established from a range of women's organisations by Premier Wran given the lack of women in Cabinet, small representation as elected members, and no women in decision-making positions in the bureaucracy. They also were encouraged to lodge yet another application for legal aid which finally gained approval on September 20.<sup>4</sup>

While conducting the battle to obtain legal aid and carrying out the campaign to build public support for their case, the women met with the solicitor and barrister at the Public Interest Advocacy Centre (PIAC) to clarify what exactly they wanted to achieve from the case and the processes involved.

The women's demands had wide legal ramifications for employers in New South Wales and across Australia. During 1983, the new federal Labor government of Prime Minister Bob Hawke introduced federal sex discrimination legislation that covered all states and territories. It encompassed essential issues of job training and apprenticeships, access to housing and finance for women, as well as the range of issues covered by state anti-discrimination legislation, where it had been adopted. The federal legislation also included a section on affirmative action to open up job opportunities in sex-segregated industries and occupations. This was deferred pending a broader consultation, and a green paper was released for discussion in 1984. In July 1984, the government set up a voluntary pilot program of 28 companies to test affirmative action and BHP was included as one of the companies. At that time, BHP

managing director Brian Loton sent a message to all employees on the issue of its affirmative action program, to be implemented in Whyalla in South Australia and Moura in Queensland.

In late 1984, the Australian Council of Trade Unions convened a special women's conference to discuss the green paper. Louise Casson from the JFW campaign attended the conference as an endorsed observer from the South Coast Labour Council. A motion from the Australian Teachers Federation supporting the JFW campaign was passed unanimously by the conference. In speaking about the campaign, Louise was able to point out the hypocrisy of BHP having recently been chosen as one of the 28 companies to participate in the pilot program on affirmative action while the JFW campaign was in the midst of an Equal Opportunity Tribunal case against BHP for sex discrimination in Wollongong.

Taking on such a powerful company in such a socially important legal case meant that it was vital for the JFW campaigners to rapidly build their own confidence and understanding of the relevant laws. This was especially so for the non-English speaking background women. The anti-discrimination legislation meant that the women's compensation case, while lodged with the Equal Opportunity Tribunal as a group of 34 women under the name of Najdovska & Ors, had to be handled on the basis of the individual claims of each woman's experience of discrimination, which totalled 55 claims. The women involved therefore had to be very clear about the law, and be able to argue her own claim clearly and withstand questioning by BHP's legal representatives.

Whilst the Equal Opportunity Tribunal did not operate in the same adversarial manner permitted in other courts, the women faced an intimidating situation once the hearing started. Even if they spoke in their native language and used interpreters, they had to understand the law to ensure that the interpreters expressed their situations and views accurately. This meant that many of the campaign meetings at this time were focussed on preparing for the hearing, keeping everyone up to date and building the women's confidence. Fortunately, the local Migrant Resource Centre provided the venue for these numerous meetings free of charge.

Just how necessary these clarity and confidence-building sessions were was evident in November 1984 when Judge Richard Barbour cautioned the AIS barrister, James Spigelman, after four hours of questioning claimant Diana Covell, that he (Spigelman) was creating a "psychological ascendancy" over the witness that would not be tolerated. Barbour stated that he would not permit the proceedings to be "turned into a circus by counsel breaking all rules of cross-examination" through the use of repetitive and often irrelevant questions.<sup>5</sup>

Throughout 1984 the interest in and support for the campaign grew as the promotion

and fundraising activities continued. A screening of the film *For Love not Money*, which contains footage of the JFW campaign, was held in January. In June a benefit concert was held featuring women performers such as Margret RoadKnight. In August, two members of the Federation of Cuban Women were toured by the New South Wales Labor Women's Committee and attended a number of events around Australia, including dinners in the major cities and the ALP National Conference. The Cubans visited Wollongong to speak with activists from the JFW campaign. They explained that there was no sex segregation by industry or occupation in Cuba and that if a manager had discriminated against women in hiring like BHP had, they would be expelled from the factory by the factory committee. They said they fully supported the aims of the JFW campaign and would take back the news of it to the Federation of Cuban Women.

The full hearing of the tribunal commenced on September 12, 1984. The broad support for the women's struggle continued, with observers from many trade unions, women's organisations and the South Coast Labor Council attending the hearing. Messages of support were received from the Western Australia Trades and Labor Council and many trade unions.

The hearing continued over 23 sitting days during 1984 and 1985. By September 1985, the campaign was still receiving a lot of public support, including the endorsement of the National Women's Occupational Health and Safety Conference held in Adelaide on September 4-7.<sup>6</sup>

One of AIS's principle legal arguments during the hearing was that a protective clause in the New South Wales Factories, Shops and Industries Act, No. 43, 1962 was the obstacle to employing women at the steelworks. Section 5, clause 36 of the Act contained a 16-kilogram limit on the lifting of weights by women over 18 years of age. It contained no statutory limit on the weight that could be lifted by men over 18 years old. The weight lifting restriction had never been given to the women job applicants as the reason for not employing them.

## A huge victory

On September 30, 1985, the tribunal concluded that AIS had discriminated on the basis of sex since June 1, 1977, and all 55 complaints were substantiated. This announcement was immediately challenged by the NSW Chamber of Commerce as "sheer nonsense" and they demanded the disbandment of the NSW Equal Opportunity Tribunal. Harry Hurrell, FIA national secretary, raised issues concerning last on, first off seniority but Nando Lelli from the Port Kembla branch stated that it was clear BHP had not taken the Anti-Discrimination Act provisions seriously and stated it was

a question of social justice. After examining the judgement in detail BHP decided to appeal to the NSW Court of Appeal basically to deny the validity of the Tribunal to hear such a case.<sup>7</sup>

The right-wing leaders of the NSW Labor Council supported the Tribunal's inappropriateness to deal with such industrially significant issues and said that the proper forum was the NSW Industrial Commission and the state government should be approached to execute this proposal. This position was adopted as policy by the executive of the Labor Council. Those opposing this proposal argued that only unions, not individuals, could initiate action in the Industrial Commission and this would eliminate discrimination cases entirely and thus gut the Anti-Discrimination Act.<sup>8</sup>

This motion was taken to the ALP's National Conference June 7-8, 1986 and apparently passed. On June 7 Premier Neville Wran in a surprise announcement stated he was resigning from politics both as premier and as a local MP. He was replaced as premier by Barrie Unsworth. After a brief campaign by feminist unionists and activists Unsworth abandoned any such action. The ALP lost government in March 1988.

In the meantime, the tribunal considered the question of damages and, in October 1986, it awarded approximately \$1.4 million to the women, broken down roughly into \$760,000 for delay in hiring, \$250,000 for retrenchment and \$10,000 for suffering the threat of losing their jobs. Four women were awarded the maximum amount possible under the legislation of \$40,000 for the delay in hiring. In summing up this decision, Justice Barbour said BHP's discrimination was not due to the company applying the 1962 weight handling legislation, but rather to sexist attitudes. This was clearly evident in a list of criteria that had been in place since 1976 for the selection of women employees for BHP's tin mill department, which included: single women of 20 years old or more; having strong wrists; being 157 cm or more in height; having no travel problems; being healthy so need stiffer medical tests; having no (English) language difficulties and no family problems; and precluded heavy, wide women since they are not agile enough.<sup>9</sup>

On May 18, 1988, it took only one minute for the New South Wales Court of Appeal to dismiss BHP's appeal and from September 1988 the compensation payments began to roll out to the women. The associated publicity made much of the women's success after years of hard struggle against such a large and powerful corporation.

In May 1989, BHP appealed in the High Court against the awarding of maximum damages to eight of the 34 women. In December that year the High Court ruled against the appeal, stating that BHP had discriminated against the eight women employees when it retrenched them on the "last on, first off" basis.

## The representative cases

In addition to the individual complaints, the women from the JFW committee continued to pursue representative action. Unlike some countries (including Britain and the United States), Australian law at the time had no “class action” provisions, which made it very difficult for less powerful groups to bring legal action against large and powerful corporations or government agencies. Class action legislation enables a group of persons with similar interests to bring legal proceedings jointly and to recover damages separately. However, all that was available in most Australian states at the time was “representative action”, in which persons represented by the plaintiff in a case had to have the same interests as the plaintiff and could not recover damages from the defendant.

The JFW campaign’s representative action used Robynne Murphy, one of the women from the original JFW group, as the complainant in the case, which began in the Equal Opportunity Tribunal on August 18, 1989, after the New South Wales Court of Appeal decision against BHP in May 1988. The tribunal found that Robynne Murphy, as a representative of others similarly treated, had been illegally discriminated against by BHP’s Port Kembla steelworks, as had all women who had applied for jobs between June 1977 and September 1981. BHP lodged no appeal against this decision.

What developed around the representative action was a second group of some 238 women who lodged complaints of discrimination by BHP on the basis of their gender between 1977 and 1981, but who were not part of the original group of complainants. By the time the tribunal decision in this case was announced, the number of complainants had increased to nearly 300.

In this case, the tribunal decided that AIS had discriminated against all women who had applied for or had applications pending for jobs as ironworkers from mid-1977 to the end of 1981. However, because representative case law at the time did not empower the tribunal to award damages, even though the tribunal had established BHP’s liability, the women had to apply individually to the Anti-Discrimination Board in order to obtain compensation, and there could only be out-of-court settlements.

BHP argued that the anti-discrimination law required a complaint to be lodged within six months of the alleged act of discrimination occurring. The reasoning was that the later a complaint was lodged, the less likely it was to have been successful if the case had gone to court. This argument was used to reduce the amount of compensation BHP offered the women in the out-of-court settlements.

By 1992, the whole process was dragged out by BHP’s delaying tactics and the women weren’t getting paid out. Furthermore, due to a gap in the legislation, there was no provision for interest to be paid on any damages that had been awarded, so the delay was not costing BHP a cent. In desperation, the women held a picket of BHP’s



1992 Annual General Meeting, where they explained to shareholders the tactics being used by the company to avoid their legal liability and thwart the women's efforts to obtain justice. The women increased the number of demonstrations and pickets in Port Kembla and sent out media releases to raise their profile and publically pressure BHP. The JFW campaign had now begun to be known under the broader title of Justice and Jobs for Women.

This situation dragged on until May 1993, while still more complaints were being lodged with the Anti-Discrimination Board. At that point AIS signed a mediation agreement with PIAC to settle all outstanding and potential complaints of sex discrimination between the dates of June 1, 1977, and September 30, 1981. The agreement included the provision that AIS advertise for other women who had been affected to come forward and lodge complaints. This boosted the number of women being represented to 709. It was not until February 1994, 14 years after the JFW campaign began, that this case came to an end.

Unfortunately, many of the representative case applicants received only a small amount when compared to the damages awarded by the tribunal to the original 34 complainants. Because all of these later applications were settled on a confidential basis out of court, the total amount BHP had to pay is not publicly known.<sup>10</sup>

## **Government-subsidised job cuts**

Throughout this period, BHP received massive subsidies and preferential treatment from the Australian government. Between 1981 and 1983, BHP had cut its nationwide workforce from 46,000 to 30,000. In the process it had raised its productivity from 130 tonnes per employee to 230 tonnes per employee, massively increasing its profits.

During the election campaign, ALP leader Bob Hawke promised subsidies to BHP in order to save workers' jobs and promised to deliver a plan to save the steel industry and jobs within 100 days of winning government in early March. However it took far longer to achieve this outcome. On August 11 Commerce Minister John Button announced the details of the funding package which were to take effect from January 1, 1984. On the very same day BHP announced it would further cut its workforce to between 24,000 and 26,000 by the end of 1983. The sackings were necessary, the company said, to achieve the same productivity as the Japanese steel mills of 280 tonnes per employee.

Far from being used to maintain jobs, the government subsidies were clearly being used by BHP to pay for its retooling, upgrading and purchasing of new technology. ■

## 4. Women's rights, legislative reform & political action

Anti-discrimination legislation and equal opportunity programs are arguably the most politically visible product of feminism's interaction with the state,<sup>1</sup> but they are also one of the most debated in terms of their possibilities for facilitating real advances for women. Feminist author Jocelyn Scutt explained a key aspect of the "legislative reform" debate when she described how sex discrimination laws "hold out for women the hope that, at last women's rights are recognized; yet in operation too frequently they deny women's rights". For, if a woman loses at a tribunal or in a court, "or if the abrogation of her rights is simply not recognized through the operation of the law", the implication is that the unacceptable actions to which she was subjected were necessarily lawful.<sup>2</sup>

While recognizing the limitations of legal reform as a strategy for progressive social change in capitalist Australia, very few feminists would see campaigns for legal reform and other forms of political activity as mutually exclusive. As Randall argues, reform and more fundamental social change are not necessarily incompatible strategies for the current women's movement, so long as reforms are the basis for further demands.<sup>3</sup> In the Jobs for Women (JFW) campaign, being reluctant to rely on legal channels only, the women campaigned broadly on a local and national level to win public support for their demands.

This chapter examines the effectiveness and accessibility of legislation aimed at redressing discrimination, reviews the role of protective legislation in the context of the JFW campaign, and considers the importance of combined political and legal action.

### The women's movement & legislative reform

Since 1788, Australian women's attempts to obtain gender equality and social justice have often been made through legal processes, reflecting the preoccupation of early feminist theorists with liberal notions of equal/formal rights.<sup>4</sup> The early campaigns for

equality through legal channels included women's struggles against laws that prevented them from studying at universities or joining particular professions and trades, as well as against unequal divorce laws and for the right to own property.

The battle for legal reform continued into the 1970s, when women's organisations, in particular the Women's Electoral Lobby, raised the issue of blanket legislation to "cover the field"<sup>5</sup> of sex discrimination. It seems that a broad spectrum of feminist women were, by the mid-1970s, convinced that anti-discrimination legislation was essential and that they had developed the political power to force the state to act.<sup>6</sup>

Anti-discrimination legislation was achieved relatively quickly in South Australia (1975), New South Wales (1977) and Victoria (1977). Commonwealth legislation was achieved somewhat later with the passing of the Sex Discrimination Act 1984 and the Affirmative Action (Equal Opportunity for Women) Act 1986. However, this legislation's application to employment practices is based on self-regulation. That is, Australian law (unlike in the United States) does not require companies to meet set quotas for the percentage of women employed at different levels and in specific occupations, but rather allows the employers to set their own (if any) gender equity goals. Companies with more than 100 employees must report annually to government on the gender composition of their workforce, but there is no legal provision for this monitoring to lead to enforceable affirmative action for women.

Anti-discrimination legislation usually aims at providing redress for individuals or groups who can show in court that they have been discriminated against. Equal opportunity is a broader term covering strategies to improve women's position in the labour market. It includes the implementation of pro-active measures (affirmative action) to open up a greater range of jobs to women as a group, and to ensure that women can compete on equal terms with men for promotion.

There are three major issues that have restricted working-class and migrant women's access to redress via anti-discrimination laws. These are the individualistic orientation of the legislation, a lack of funds to pursue cases, and language barriers. All three issues had to be overcome in order for the JFW campaign to succeed.

## Collective action

O'Donnell and Hall<sup>7</sup> draw attention to the fact that anti-discrimination legislation is "probably most commonly discussed as a means of providing redress for individuals who experience (direct) discrimination". The JFW campaign was the first political and legal campaign to challenge dominant beliefs that the legislation existed for individual women to seek redress, rather than as an avenue (albeit not the only or major avenue) for women to seek justice in the form of equal employment and work opportunities.

Our case is very different from earlier anti-discrimination cases such as the Debra Wardley case. She was a pilot and in her case it was proving that she could do better than the boys, she had the qualifications, she was a better pilot. I mean ours was basically about non-skilled, working-class women who were fighting for jobs. [Woman steelworker and founding member of the JFW Action Committee]

Those involved in the JFW campaign recognised that they were facing discrimination as a group. The discriminatory practices they encountered when applying for work at Australian Iron and Steel (AIS) did not consist of a simple case of direct discrimination, but demonstrated how systemic discrimination is built into a total social system through its institutions and organisations.

The women therefore pursued their case as a group. Even when following their legal advice to pursue individual complaints first and the representative case later, they were determined to continue their fight collectively, at all times endeavouring to involve as many women as possible in the political and legal components of the campaign. The women interviewed spoke about why they favoured a representative action:

We wanted a representative case. We wanted a class action against BHP. We didn't just want to see what has eventuated, which is 34 women have won a case against BHP. We wanted all women in the area to be compensated for gross discrimination by the "Big Australian" ... We are not going to let companies like that get away with that sort of policy ... It wasn't just a question of jobs for complainants, for only those women who were game enough, or had enough of the English language to understand, or had the family back-up and support to lodge those complaints. It was for all women in exactly the same situation as ourselves. [Woman steelworker]

But can you imagine if those 2000 women on that waiting list ... are part of this representative case, what BHP is going to have to look at? Now, I don't know. All I know is that both the union, myself, most of the activists in the campaign have been inundated with calls from a whole lot of different women, because it wasn't just the 34 women who were discriminated against. [Woman steelworker]

The women successfully pursued their representative case and involved a significant number of women. The support and solidarity generated by the ongoing campaign provided the women from working-class and non-English speaking backgrounds with the confidence to take a major corporation to court and win.

## Financial resources

The second major barrier to women pursuing cases of anti-discrimination was financial constraints. Whereas BHP was able to write off its legal costs as a business expense in

its tax, the women complainants had to fully fund any legal expenses themselves. The high costs involved in legal action meant that financial assistance was essential for the JFW campaign to pursue the case, yet they had to overcome significant government bureaucracy intransigence to obtain a Legal Aid grant. As one JFW campaigner described it:

Now I don't know if you know much about the finances of BHP, but they probably have the top lawyers, solicitors and barristers of Australia, and there were 34 retrenched, unemployed, mainly migrant women who wanted to take them to court. None of us with any money, and we applied for legal aid. We applied five times and we were denied each time ... We were denied legal aid first on the basis of our collective income being said to be too much. Now we didn't know what they meant by that. Did they mean the 34 of us, our collective income was enough to pay for a barrister out of our own pockets, or was it our husbands' finances that they were talking about, or what? ... So we wrote back and said, "What in the hell are you talking about?", and then they came back and said, "Well, now you're denied." — they forgot about that one — "Well, now you're denied legal aid because these are laws that have never been tested before and there are no precedents" ... This went on for 14 months. We had to have a campaign on the right to have legal aid. [Woman steelworker]

The women overcame this additional instance of institutional discrimination by once again combining a political campaign with the pursuit of legal redress. The campaign for legal aid involved a combination of extensive lobbying and direct action tactics.

Well, we did some pretty funny things to get that legal aid ... I think it was the Women's Advisory Council of New South Wales had a seminar in Wollongong and we heard that Neville Wran was going to be there. The Labour Council was organizing a delegation on behalf of the teachers because there had been again cuts to education, and so we approached the Labour Council and said, "Look, we've got to go and see Neville", and because they were familiar with our campaign they said, "Right, we'll try and squeeze you in with the teachers." So we got up there with these placards and we were running around this helicopter. Oh, we made idiots of ourselves, but we got to see Neville Wran and about a month later we got legal aid. [Woman steelworker]

The JFW campaign experience demonstrated not only that a Legal Aid grant was necessary to enable the women to access the anti-discrimination laws, but also that obtaining legal aid often required undertaking political action to convince the state of the validity of a case. It would be rare for an individual woman, particularly one from a working-class or non-English speaking background, to be able to exert the same degree of political pressure that the group action achieved.

## Language barriers

Language difficulties were the third major barrier to women's access to the anti-discrimination legislation. For many of the migrant women in the JFW campaign there were initial problems in understanding the legislation itself and the complaints they were making against AIS, but the main difficulty was actually with court room interpreters. The following quotes reflect some the ways in which the women experienced the legal proceedings.

When we went to court, I'll never forget it, there was two of the Turkish women got up on the stand to talk about their lives, a very personal thing for anyone to get up and talk about, and the interpreter was a Cypriot man, and historically there has been a lot of friction between Cyprus and Turkey ... but this interpreter grabbed a woman and said, "Speak up", you know, I mean I got really angry when, I'm not kidding, in the middle of a court and she was talking about how her husband refused to get a job. So, we had trouble with the interpreters. [Woman steelworker]

My interpreter was terrible, he didn't understand anything I said to him. Even our solicitor, he didn't speak Spanish, he understood he [the interpreter] was wrong. He stop him in English. [Chilean woman]

Yes, a lot of trouble with interpreters, especially in the court, some interpreters in the court, they don't really understand what we are doing and instead of interpreting they ask, "Why you doing this?" A couple of interpreters, they just said that from the middle of the court. [Yugoslav woman]

The legal campaign pursued by the JFW group thus revealed the cultural bias in the Australian legal system. Problems experienced by the women, such as inadequate explanation of the legal proceedings and a lack of appropriate interpretation, are examples of this bias. The women overcame these barriers with persistence and collective action. Organising as a group enabled them to discuss and learn from their experiences, gain support from each other and avoid, to some extent, the individually intimidating aspects of court room appearances.

## Protective legislation

Another important issue arising from the legal campaign pursued by the JFW group was the corporate misuse of so-called protective legislation. The term protective legislation generally refers to legislation or awards that "prohibit or limit women's entry to a particular kind of work on the grounds that such work is held to be dangerous for women, but less harmful or not at all harmful for men to undertake".<sup>8</sup> The protective legislation most pertinent to the JFW campaign was section 5, clause 36 of the New

South Wales Factories, Shops and Industries Act 1962, which provided no weight lifting limits for adult men, but limited the weight adult females could lift to 16 kilograms.

When AIS first argued in negotiations with the Equal Opportunity Tribunal that this protective legislation was an obstacle to employing women at the steelworks, Carmel Niland commissioned Chloe Refshauge (later Chloe Mason) to study the effects of the weight limit on employment practices at the Wollongong steelworks. The study examined how the limit was interpreted in practice at AIS, whether women were effectively excluded from entire jobs or certain tasks, whether promotional opportunities were affected and whether the weight limit afforded women protection from hazardous work. The findings of the study were published by the Anti-Discrimination Board in 1984 in a report titled *Protective Legislation at Work: A Case Study of the "weight limit" on manual handling*.

The report revealed that BHP employed many women in jobs that were legally weight barred. It also disclosed a certain level of ignorance among company officers about which jobs were actually weight barred, as well as confusion about the meaning and implications of the clause 36 in the Act. Further, Refshauge found that AIS was unable to produce any document indicating a job that men under 18 years of age were restricted from doing based on its lifting requirements, even though this was prescribed in the same clause.

When the women's application for compensation was heard by the Equal Opportunity Tribunal in 1984-85, the findings of Refshauge's study proved to be crucial to the women's win.

The philosophies underlying equal employment opportunity legislation and protective measures are distinctly at odds with each other, and in confronting the issue of weight lifting limits and protective legislation, the JFW campaign questioned the relevance of such sex-specific employment laws in an age that purports to be committed to equality of opportunity. Such legislation does not genuinely protect women, but instead operates paternalistically to reinforce women's conditions of inequality. This is demonstrated by the fact that protective legislation has only covered industries in which women rarely work, not the industries in which women commonly work, such as nursing and childcare, where the weights lifted on a daily basis can and do often exceed those proscribed by the legislation.

Two major debates surrounding protective legislation were raised by the JFW campaign. The first involved whether to repeal the legislation or extend it to cover men. The demand for equal employment opportunity led to proposals to remove the weight limit, thereby equalizing the position of women and men. However, once it was recognized that the weight limit was a safety provision and that male workers are

subject to a very high risk of back injury,<sup>9</sup> it was instead proposed that the weight limit be extended to men. Consequently, in 1984 the Australian Council of Trade Unions adopted a policy demanding that men, as well as women, be covered by the 16-kilogram weight lifting limit.<sup>10</sup> The principle of equality was thus expanded to encompass not only women's right to share in industrial jobs, but also that these jobs be made as safe as possible for all workers. In fact, an important outcome of the JFW campaign was the resulting occupational health and safety legislation reforms that enabled safer work practices for all workers.<sup>11</sup>

The second debate was around the ideological role that protective legislation performs. In particular, the JFW campaign exposed the extent to which AIS hid behind discriminatory industrial legislation to cover their fundamental opposition to the employment of women in the steelworks.

The JFW campaign and Refshauge's research on protective legislation identified management attitudes regarding gender and work as a greater barrier to the employment of women than the enforcement of weight limit restrictions. Refshauge found:

From discussions with management in the production department, sex of the employee is specified because of a belief that certain types of work are better suited to men or women ... Management personnel frequently refer to jobs being "unsuited" to women on account of the arduousness, the grease and dirt, the bending and climbing involved and their ungainliness. In sum, the jobs were contrary to their stereotype of "women's work" and their notion of "femininity".<sup>12</sup>

Gender roles and distinctions are central to the organisation of work in capitalist society, and the generational reproduction of these distinctions accounts for the perceived "naturalness" of divisions between men's and women's work. These divisions assign women primary responsibility for the unpaid domestic work, provide the rationale for excluding them from skilled paid work. The JFW campaign highlighted the persistence of discriminatory attitudes concerning women and paid work and how legally erected barriers such as protective legislation serve to entrench the lines of demarcation between men's and women's work.

## **A landmark case**

In addition to challenging protective legislation, it was the use of anti-discrimination law as the major weapon in the legal campaign that led the JFW case to establish important precedents.

The case constitutes a landmark in Australian legal history for two reasons. It presented and won a representative action, and it tested untried provisions within



anti-discrimination legislation that refer to indirect discrimination. Because the JFW case represented the first ruling on indirect discrimination, the decision upholding the women's complaints forced all companies to re-examine their retrenchment, superannuation and other employment benefits policies that may have been skewed by previous discriminatory practices.

The [Jobs for Women] case had the broadest implications to employers, not only here in Australia, but I believe at the international level. Everyone knew about that case and it really stirred the employers up. In other words, it created a fear in employers to think the big BHP could be knocked over on the issue and it wouldn't matter where they went. I deal with companies like Unilever, Lever and Kitchen, Johnson and Johnson, Otis Elevators. I'm talking big companies, right, and when that campaign was finished, when the decision was handed down, every site you went on to they'd say, "Bloody women in Wollongong knocked BHP over, didn't they?" ... It created an awareness ... that a huge company like BHP could be taken on by a group of women and beaten. It made those employers realize that they had to start looking very seriously at equal employment opportunities for women. [Woman trade unionist]

The optimism for broader social change reflected in that quote is also expressed in the literature concerning anti-discrimination legislation in Australia. O'Donnell and Hall claim that Equal Opportunity Tribunal cases have a "great media and industrial impact", and that "a successful case with substantial damages awarded can have a strong effect, encouraging a rash of similar cases from women and men".<sup>13</sup> Although this may be true, in some respects it also reflects a certain naivety concerning the potential of legislation to facilitate real change for women and other disadvantaged groups. The experience of the JFW campaign provides some explanation for why there has not been a "rash of similar cases": The Wollongong women won, but not without a hard, protracted battle that relied as much on their continued collective political action as on the existence of anti-discrimination legislation.

Anti-discrimination legislation is a tool that can be used to gain compensation for discrimination, but it will not automatically lead to a major re-organisation or de-segregation of the workforce. Furthermore, a reliance on the equal opportunity legal strategy can limit the agenda of the movement for women's rights. Today, as progressive reforms are eroded<sup>14</sup> and laws leave intact inequalities they were intended to remove,<sup>15</sup> the significance of the JFW campaign undoubtedly resides in its ability to combine both political and legal action, reflecting a recognition that campaign objectives must extend beyond legislative action. ■

## 5. Some lessons for today's struggles for justice

The Jobs for Women (JFW) campaign was a landmark case in Australia, both for anti-discrimination law and for collective political action by working-class and migrant women. But the implications of such a claim need to be drawn: it is important to assess the gains and the limitations in order to learn from this experience to guide future action.

The campaign confirmed that group organisation empowers women and that women rapidly gain confidence from engaging in collectively controlled political struggles. In addition to gaining jobs, friendship and solidarity with women of various nationalities, the women asserted their right to make decisions concerning their own lives. They came to recognise not only their own strength but also, and most importantly, their strength as an organised group. Similarly, in relation to women's involvement in the British miners' strike, Lynne Segal notes the "extraordinary evidence of the effect of women's collective struggle on women's consciousness and sense of power".<sup>1</sup>

For many of the women from non-English speaking backgrounds, the JFW campaign was their first experience of political action, and this experience was very different from their knowledge and experience of the law in their countries of origin where the very notion of anti-discrimination for the most part didn't exist. They gained an increased awareness of their rights and this, in turn, had implications for their communities. Following the campaign, migrant workers in general expressed a greater willingness to voice their concerns and approach their trade unions to take action on their behalf.

I understand more today, life is own fighting, to reach something for life. If you stay home sleeping and don't open your eyes so it's going to be more miserable I think. [Macedonian woman steelworker]

The collective organisation of women can also begin to alter male workers' perceptions of women. This was demonstrated by the initial scepticism of the husbands of the migrant

women, male trade unionists and male steelworkers, which later changed to support, respect and encouragement. There was a greater awareness amongst male workers, and the question of women's right to work on an equal basis with men met with a more positive response than ever before. It demonstrated quite clearly that men are not the enemy and can be won to support women's struggles in a united front campaign.

## **A stronger feminist movement**

The campaign also had positive effects on the women's liberation movement. Through the 1980s, feminists increasingly recognised the importance of understanding how women's oppression intersects with oppression based on class, race and ethnicity. Particular strands of feminist theory were no longer so readily accepted as speaking for "all women" as lesbians, working-class women and black and ethnic minority women voiced their criticisms of a movement that had ignored the particular oppression(s) they suffered<sup>2</sup> and imposed a universal template of what it meant to be a woman and experience disadvantage and oppression.

Acknowledging that different women have different priorities, needs and goals does not mean that united action is impossible or undesirable. On the contrary, it is only through collective, united struggle that women's demands can be won.<sup>3</sup> The JFW campaign was led by working-class and migrant women and established strong links with the broader women's movement, trade unions, and working-class and migrant men. This united action was achieved by recognising differences between women and providing opportunities for women from non-English speaking backgrounds to lead the campaign through the use of interpreters and emphasizing collective decision making. In the legal action phase of the campaign it took considerable time to ensure that all legal options were clearly understood by everyone involved and, because time is money when dealing with lawyers, the Legal Aid funding was absolutely necessary to enable this process to take place.

The campaign also demonstrated that the ideas of the women's movement, while often distorted by class and ethnocentric bias, are relevant for working-class and migrant women when they are taken and expressed by these women within their own framework of experience. As Jean McCrindle explains,<sup>4</sup> it is not until there is a working-class women's movement that we will know what the women who are part of it want from it. McCrindle provides the example of women's involvement in the British miners' strike as an indication of the possibilities arising from the powerful combination of feminist and working-class politics. The JFW campaign also demonstrated these strengths in its broad-based use of feminism.

Ultimately, the success of the women's liberation movement depends heavily on its ability to

intersect with the lives and interests of working-class, migrant and Indigenous women.

## Legislative reform: Gains & limitations

The passage of state anti-discrimination laws and federal sex discrimination and affirmative action legislation in Australia in the 1970s and 1980s appears to have had no significant impact on many large companies like BHP,<sup>5</sup> which did not reconsider its employment procedures before the JFW campaign forced it to. Once it was made aware of the implications of the legislation, however, BHP moved quickly to examine any practice that could be used against it.

In Newcastle, for example, after the JFW campaign held the public meeting there in July 1980, BHP management publicly denied keeping separate job applicant waiting lists based on gender, as had occurred at AIS in Wollongong. Nevertheless, the selection of job applicants for hiring at Newcastle BHP was dubious. Journalist Cheryl McGregor outlines how BHP management explained hiring practices:

There was no waiting list for jobs. If a job applicant did not get a telegram within seven days, the application should be considered unsuccessful ... When applications are filed no distinction is made between males and females. They are filed alphabetically.<sup>6</sup>

Yet this statement was made in the context of another claim by BHP in Newcastle, that in October 1980 it had hired 33% of all male and female applicants over the preceding three months. Given that there had been more than 2100 applicants in that period and that computers were not yet widely used at the time, it is hardly credible that the company would know what percentage of male and female job applicants it employed unless it maintained gender-specific lists.

The introduction of anti-discrimination legislation was not in itself the crucial factor in bringing change for the women of Wollongong. The passage of the legislation reflected an increased public awareness and recognition of discrimination, but it was the Wollongong women's political activity to force the implementation of the legislation that was the critical component of social change. In this respect, the JFW campaign demonstrated in practice the effectiveness of the "combined approach" of legal and political action: the legislation was an essential precondition to the success of the campaign, but without sustained political action the women's ability to use the legislation would have been impaired. This is especially so given the legislation's orientation towards individual rather than group action, and hence its limited applicability to indirect or structural forms of discrimination.

Just how necessary the JFW campaign's public political activity was to its success can be seen in the treatment of the 709 women, almost all migrants, who applied for

compensation after the success of the first representative case of 34 women. Given the campaign's limited resources, this second group proved to be too large and ethnically diverse to engage in consistent, collective decision making. The battle therefore shifted almost totally into the legal arena and, as far as the awarding of compensation was concerned, into private negotiations between the women individually and BHP. The amounts offered by BHP to the 709 women were reduced on the grounds that their claims were "out of time" under the legislation, a consideration that had been waived in the earlier case of the 34 women, no doubt due to the major public support they had gathered for their case. In the representative case of the 709 women, the later the complaint was filed the more the compensation was discounted, such that some women were offered as little as \$1000. The women were caught in the legal trap of accepting what BHP offered or ending up with nothing, as Legal Aid funding was highly unlikely to continue for the out-of-court, confidential settlement procedure that had been agreed to through the Anti-Discrimination Board and the Public Interest Advocacy Centre (PIAC).<sup>7</sup>

In the light of this experience, the Justice and Jobs for Women campaign lobbied the New South Wales government to alter the anti-discrimination legislation to address the problems and barriers the women had faced, including to: raise the compensation ceiling; allow the Equal Opportunity Tribunal to make compensation decisions in representative cases; and extend the period within which claims could be made. Such changes would address some of the problems experienced by the migrant women in particular, including that many became aware they had been discriminated against by BHP only *after* the Equal Opportunity Tribunal had announced its decision, which had already been delayed by BHP's legal stalling tactics. It was only then that the applicability of the JFW victory to all women who had experienced similar discrimination filtered through to the various migrant communities. Thus, the majority of the 709 women in the later representative case did not even become aware of the possibility of lodging complaints until after 1993, when AIS was forced to agree in mediation to advertise for further women to come forward.<sup>8</sup> Consequently, these women received much less compensation than they would have had they applied earlier.

Changes have been made to state and federal anti-discrimination legislation as a result of the JFW campaign, in particular to clarify ambiguous interpretations of terminology in relation to indirect discrimination. The JFW campaign is still the leading Australian case on indirect discrimination and it gave impetus to the adoption in 1992 of federal representative legislation. The federal legislation established what is essentially the United States' "class action" law, a model promoted by the Australian consumer movement. That legislation was part of a package of federal law reforms that also

included amendments to the Trade Practices Act to remove the long-standing restrictions on lawyers' ability to advertise for clients, which is now widely used to pursue class actions.

The JFW campaign also prompted the New South Wales Law Reform Commission to prepare several discussion papers in 1993, which led to proposals for reform to the state legislation. Amendments to the New South Wales legislation since the campaign include that the powers of the Anti-Discrimination Board chairperson have been widened to enable them to address lags in time for claims to be lodged, the maximum compensation amount of \$40,000 has been increased to \$100,000, and the multilingual publication of official information has become standard practice.

The JFW campaign also had major implications for industrial relations law, because the "last on, first off" practice was judged to have indirectly discriminated against the women, who had lost seniority due to BHP's refusal to employ them earlier. That judgement required employers, trade unions and employers' associations to recognise the relevance of anti-discrimination law, something that had been strenuously resisted previously. In fact, both the Commonwealth and New South Wales anti-discrimination legislation exempted action taken to comply with employment awards and registered industrial agreements.

The JFW case established very clearly that industrial relations practices could and did discriminate. This led to the Commonwealth legislation being amended to limit this exemption and include provisions for particular practices to be addressed if discrimination is proven. New South Wales went further, amending the state legislation in 1994 (which came into effect in 1995) to remove the exemption for 'conduct done in compliance with award, industrial orders and agreements' entirely.<sup>9</sup>

The JFW campaign victory thus led to significant changes in employment practices and policies to underline the right to equal employment opportunity based on merit. These gains reveal the inefficiency of workforces chosen on the basis of gender, ethnicity or race, and, particularly in the area of occupational health and safety, remove discriminatory practices inherited from the past that are no longer, if they ever were, relevant.<sup>10</sup>

## **The importance of political & economic context**

Winnable demands for justice are shaped by the political and economic context in which campaigners are operating. While the alliances that the JFW campaigners built with the trade union and women's movements, and the migrant communities, were vital to their success, another factor shaping the campaign was the state of BHP itself. This included the company's growth plans and its political and economic relationship with government. It is useful to examine this briefly because of its relevance for today's struggles.

BHP was divided into product divisions (oil, gas, coal, steel, etc.), each of which was required to be independently profitable. Schultz outlines how, at the end of the 1970s, a growing concern about the economic viability of BHP's steel division resulted in rumours about the possible separation of the steel division from the rest of the company.<sup>11</sup> The poor state of the steel division had resulted from bad management and a long-term reliance on cheap manual labour rather than investing in technical updating and retooling to increase efficiency and therefore profitability.

By 1982, several options were being discussed in daily management meetings at Port Kembla: sell to another company, sell to the government (nationalisation) or threaten to close Australia's large steel producer to pressure the government to subsidize its profitability. The last strategy was adopted and in August 1983 the federal government announced a BHP bail-out package based on public funding. Due to commence on January 1, 1984, the plan consisted of three key aspects: government funding of \$71.6 million per year for five years for bounties to be paid to steel users to ensure that BHP's associated companies retained at least 80% of the market; the company investing \$800 million over the following four years and immediately ending job retrenchments; and the trade unions agreeing to specific dispute settling procedures and to not seek pay rises outside of the arbitration system.<sup>12</sup>

In addition to this bail-out, the government was to provide \$100 million per year for five years for employment and training in the steel producing regions of Wollongong and Newcastle in New South Wales, and Whyalla in South Australia. This was supposed to address the high rate of unemployment in those regions: 20,000 officially unemployed in Newcastle, 18,000 in Wollongong and 3000 in Whyalla at the beginning of 1983. However, before the bail-out was implemented in January 1984, BHP had already cut 16,000 jobs nationally and it planned to shed another 4000 to 6000 by the end of 1983. The government's capital works spending would create only 500 to 600 jobs annually, spread across the three regions, and job retraining would create around 1500 jobs per year.

While the federal government (that is, taxpayers) effectively funded BHP's technical upgrade and retooling, jobs continued to be cut in the steel division through the contracting out of a range of services (IT, staff canteen, etc.). In the end, BHP slashed 14,000 jobs at Port Kembla alone, reducing the workforce there from 20,305 in 1981 to 6000 in 1996.<sup>13</sup> In September 1999, BHP closed its Newcastle plant and the remaining 2241 workers were retrenched or took jobs in BHP's newly publically floated company, OneSteel Ltd.

In March 2001, BHP announced that it was merging with the Anglo-African mining giant Billiton and that BHP Steel would change into a separate publically listed company in Australia, which took place in July 2002. Still based at Port Kembla, its name was

changed to BlueScope Steel and, while it continued steel acquisitions nationally and internationally, it also cut around 2000 more jobs, mainly through redundancy offers, between 2009 and 2011.<sup>14</sup>

In this context — of a powerful corporation determined to reduce its workforce and restructure its operations at public expense in order to maximise profits — the magnitude of the JFW campaign victory becomes clearer.

## Relevance for today

What can we learn from the JFW campaign to assist the struggles for women's rights and workplace justice today?

This book tells the story, but in summary the JFW campaigners planned “both their strategy and tactics” each step of the way. They examined what had taken place in past struggles for jobs for women at BHP and assessed the gains that were made and the opportunities lost. They looked at the forces that could help them to achieve their goals and then built the necessary links to secure their ongoing support. At every barrier they encountered they fought back, worked out how to overcome it and move forward, and in the process built even broader support for their campaign.

You have to be prepared to really fight, put your shoulder to the wall and push and push, and that's exactly what we've had to do. Practically every minute of that nine years has been pushing. But it's been determination, it's been knowing that you're right, and knowing that you've got support and solidarity. [Woman steelworker]

After more than two decades of neoliberal attacks since the JFW campaign victory, activists today face a very different, more hostile political environment. There has been a sharply increased polarisation of wealth and under the rhetoric of “the market knows best” and “private is better than public”, many public assets have been sold off. Government funding to public health and education, women's and migrant services, Legal Aid and many other services have been cut. Rather than these services being seen as a human right, not a privilege — a catchcry of the movements in the 1970s and 1980s — the emphasis is now on private ownership, user pays, competitiveness and individual responsibility.

Over the same period an ideological war has been waged against collective action and interest groups that organise on that basis. Trade unions and the legal framework in which they operate have been attacked and constrained by neoliberal governments acting on behalf of big business. According to Australian Bureau of Statistics data, between 1992 and 2011, trade union membership in Australia declined from 43% to 18% for males and 35% to 18% for females. By 2013 it was down to 17% for both men



and women. The decline occurred more in the private sector than in the public sector.

The women's movement also declined, shifting from an activist base into more bureaucratised organisational forms, either as government departments or women's services that are dependent on government funding and therefore vulnerable to cuts or closure at any time. This has been accompanied by a shift from externally driven and directed social programs to improve gender equality in the workplace, such as equal employment and anti-discrimination laws and programs, to internally directed programs, usually managed by companies' human resource departments and linked to organisational objectives such as increasing productivity and profitability. The primary focus of the latter is not to achieve gender equity, but to stem the "wastage of talent" resulting from women leaving the workforce to care for children or the elderly.

Feminist theory, too, was impacted by the rise of neoliberalism and its ideology of individualism, with postmodernism flourishing within feminism in the 1990s and early 2000s. Postmodernist theory focuses on individual choice and de-emphasises or denies that choices are shaped and restricted by structural barriers based on gender, class, race, ethnicity, etc. It also rejects as invalid theories explaining these structural barriers and how they might be removed. This ideology is expressed in neoliberal politicians' propaganda about "lifters" and "leaners", which makes the individual responsible for their achievements and punishes those who are prevented access to opportunity.

This is not to say that there haven't been some advances for women in the last few decades. For example, the introduction of paid maternity leave and the 2012 equal pay decision for social and community service workers. But the absence today of a strong, inclusive women's movement in Australia sets a quite different context within which campaigns for gender equality and justice can be carried out, and makes the need to build alliances with other progressive, politically independent organisations of working people to achieve women's demands an even greater priority.

## **Insecure work**

The introductory chapter outlined the advances, but more often the failures, in reducing sex segregation by occupation and industry in Australia, especially in male-dominated industries such as mining, metal manufacturing and construction. While past feminist campaigning has resulted in more public awareness of "equal employment opportunity" today and companies' websites often proclaim a commitment to this principle, in practice the strategies to implement equality in the workplace are either missing or have not been framed in any practical way.

Indeed, Workplace Gender Equality Agency data released in November 2014 shows that only 7% of employers — out of a sample of 11,000 employers in 19 different

industries covering 3.9 million employees — even have a strategy to prevent sex-based discrimination in their workplaces, and only 18.1% of them have a pay equity strategy. The same study documents the under-representation of women (26.2%) in the top three layers of management. In the largest companies listed on the Australian Securities Exchange, this representation drops to 20%. At chief executive officer level, it falls to 17.3%. The study also revealed that women are under-represented amongst full-time employees (35.8%), and are underpaid by almost 25% in average, full-time pay compared to men. The introduction outlined 2017-18 data showing some pay improvements made for full time work as well as contradictory shifts in predominantly sex-segregated industries but also acknowledged real gaps at the highest levels of corporate business participation by women. Most companies affirm their commitment to gender equality, but refuse to even consider binding quotas on the grounds that they undermine merit.

However a different strategy has been promoted by Elizabeth Broderick who was the Sex Discrimination Commissioner for three terms from 2007 to 2015. It is known as the Male Champions of Change (MCC) oriented to business leaders to address gender inequality at the highest levels. It is a non-profit organisation where members pay fees, attend four meetings a year and take a ‘panel pledge’ of not speaking on all-male platforms or, if you find yourself on such a panel, making your company’s gender equality data transparent and relevant.

Mining is the most male dominated workforce in Australia yet evidence is mounting that diversity improves the range of business outcomes – lowering injuries, improved production targets, etc. The progress is slow across at all levels but recently at the highest levels such as board membership (South32, Fortescue Metals Group) and executive committee and board level (BHP and Rio Tinto) shifts have been made.<sup>15</sup>

In October 2016 BHP Billiton chief executive Andrew Mackenzie set an aspirational gender goal of 50:50 by 2025 to overcome the unconscious bias against women in the industry. Senior staff bonuses will be linked to achieving a 3% rise in female staff each year where the current female level sits on around 17%. By March 2019 a further major shift took place. The two executive female positions on the executive committee of 11 were expanded to five covering a diverse range of areas. This means the 10 reports to Mackenzie will be evenly split by gender. However the pace of change at lower levels is slower but is rising and issues of gender pay disparity are beginning to be addressed for like-for-like roles.<sup>16</sup>

While the impact of the “glass ceiling” on women’s careers in business is reasonably well documented, for the majority of women, the reduction in secure, ongoing, full-time employment and the continued increase in insecure work — casual, part-time,

contract-based and gig — exposes them, and a growing number of men, to discrimination at many levels. Already retailing and hospitality sector workers are under attack with reductions scheduled this past year and for the next two years in their Sunday penalty rates.

The Migrant Workers Taskforce report released on March 8, 2019 which outlines the worker exploitation in pay and benefits to workers across many different industries and serious breaches of the Fair Work Act is being threatened with criminal not just commercial penalties if this exploitation is deliberately carried out. How you prove the deliberateness of course is a legal minefield similar to the definition problems of 1972 equal pay for work of equal value. What equal value meant and how to measure it was outlined in the Introduction.<sup>17</sup>

But a week later on March 15 a year-long bipartisan parliamentary report into the franchising sector was released with damning criticisms of ‘entrenched cultural problems, an imbalance of power and systematic conflicts which have caused to thousands of gouged franchisees and tens of thousands of ripped off workers’. Franchising covers a broad range of industries including many food outlets, child care centres, health activity organisations, 7-Eleven stores, car dealerships, Ultra Tune to name just a few. It called for an overhaul of the franchising code, increased powers for the ACCC to deal with poor and failed regulation misconduct and exploitative behaviour.<sup>18</sup>

Insecure or part-time income undermines working-class women’s financial independence and with it their capacity to resist oppression and exercise control over other aspects of their lives. They are less likely to be unionised and thus more likely to receive lower pay, have no benefits or leave, or control over their working hours. Further, with the institutionalisation of unemployment and underemployment in the Australian economy, the problems of sexual harassment and discrimination experienced by the women in Wollongong have increased and been generalised.

The impacts of neoliberalism on the economy, work and industrial relations, social service provision and the social movements have created a more hostile environment within which to campaign for progressive change and build alliances with the trade unions, migrant and women’s movements like those activated by the JFW campaign. Nevertheless, the *need* to campaign for the rights of women and working people is now more urgent and necessary. In all those campaigns, the political methods used by the JFW campaign — learning the lessons from past struggles, involving all those affected by the injustice in carrying out the collectively decided strategy and tactics, building the broadest possible alliances with others to achieve shared goals, and never giving up, being prepared to “really fight” — will be essential if the campaign is to succeed. ■

# Notes

## Introduction

- 1 See Women in New South Wales 2013 Report; Workplace Gender Equality Agency 2013-14 data; Australian Bureau of Statistics 2014.
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## 1. Jobs for women in 'a man's town'

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- 4 Australian Bureau of Statistics 1971.
- 5 Australian Department of Labour 1974, 1970.
- 6 Covell & Refshauge 1986a and 1986b.
- 7 Schultz 1985; Hargreaves 1982.
- 8 O'Donnell 1984, p. 99.
- 9 O'Donnell 1984, p. 99.
- 10 Schultz 1985, p. 160.
- 11 *Illawarra Mercury*, January 30, 1980.

## 2. United we stand, divided we fall: Building alliances

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- 2 Schultz 1985, p. 17.
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- 6 Martin 1976, p. 6.
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- 9 Schultz 1985.
- 10 Lever-Tracey & Quinlan 1988, p. 233.
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- 4 Niland 2006, pp. 186-187.
- 5 JFW Action Committee media release, November 14, 1984.
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- 4 Rhode 1989.
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- 7 O'Donnell & Hall 1988, p. 79.
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- 9 Thornton 1982.
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- 11 PIAC 2013.
- 12 Refshauge 1984, p. 51.
- 13 O'Donnell & Hall 1988, p. 82.

- 14 Randall 1987.
- 15 Snell 1986.

### 5. Some lessons for today's struggles for justice

- 1 Segal 1987, p. 232.
- 2 Wilson & Weir 1986.
- 3 Curthoys 1988.
- 4 In Rowbotham 1986.
- 5 Refshauge 1984.
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- 8 Anderson 1994.

- 9 Anderson 1994, p. 109.
- 10 PIAC 2013.
- 11 Schultz 1985.
- 12 Schultz 1985, pp. 101-102.
- 13 Wilkinson 2011.
- 14 Binstead 2014.
- 15 *Sydney Morning Herald*, February 9-10, 2019.
- 16 *The Australian*, October 21, 2016; *Sydney Morning Herald*, March 1, 2019.
- 17 *Sydney Morning Herald*, March 9, 2019.
- 18 *Sydney Morning Herald*, March 15, 2019. ■

## Women of Steel

### The 34 women who won the Equal Opportunity Tribunal case

Marija Angeloska  
Jagica Banovic  
Lou-Anne Barker  
Zora Boskovska  
Louise Casson  
Elmas Celebi  
Diana Covell  
Emma Espinoza  
Koca Gorgievska  
Marika Ivankovic  
Slavejka Jankoska  
Doska Jankuloska

Carmen Jauregui  
Slobodenka Joncevska  
Rosa Kljucaricek  
Menka Kostovska  
Luba Martinoska  
Robynne Murphy  
Donka Najdovska  
Ilinka Najdovska  
Sundus Ozbal  
Doris Perez  
Frosina Ristevska  
Yasmin Rittau

Fatma Saglica  
Bozana Simonovska  
Dawn Spicer  
Cveta Srbinoska  
Venka Srbinoska  
Ristana Stojcevska  
Gloria Tahere  
Rozika Tot  
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**WOMEN OF STEEL** is the inspiring story of a landmark struggle in Australia's industrial and political history.

In the 1980s, 34 mostly migrant, unemployed women took on Australia's biggest corporation, Broken Hill Propriety (BHP) in a David and Goliath struggle known as the "Jobs for Women" campaign, and won.

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Former Sex Discrimination Commissioner Sue Walpole described the case as "the most important piece of discrimination litigation that has occurred in this country".

BHP mobilised huge resources to try to block and then overturn the women's victories every step of the way. In this book, women involved in the campaign speak about why and how they fought so hard, for so long and against such odds to win jobs and justice. Their words are an inspiration and full of lessons for all those campaigning for women's rights and against corporate greed today.

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