

# **Gender equality and social justice - progress, paradox and promise.**

Professor Judy McGregor

Head of School of Social Sciences and Public Policy, AUT

Lincoln Efford Memorial Lecture, November 7, 2013

Workers' Educational Association, Christchurch

## *Introduction*

There is a hardware chain in New Zealand whose advertising plays on our national identity. It suggests that DIY is in our DNA. Just to get things started this evening I wondered if you could think of what you would say if you were asked by someone with no knowledge of us what summed up being a New Zealander (apart from DIY). In other words what characteristics and values would be we say constitute the Kiwi DNA?

Has anyone got a suggestion?

A "fair go", the inherent sense of fairness that underpins social justice and egalitarianism that we hold dear, is absolutely central to the way New Zealanders see themselves. In his international history of human rights Paul Lauren writes that in 1948 after the horrors of the Second World War international leaders met to discuss the formation of the Universal Declaration of Human Rights. New Zealand politicians Peter Fraser and Walter Nash were pivotal figures in the development of this universal charter that today underpins the modern global human rights movement. They were described as good international citizens "far out of proportion to the size of the country." In addition to the notion of a "fair go" New Zealanders have a self-regard of pushing above their weight in terms of human rights and social justice. For example, the most recent human rights convention, The Convention on the Rights of Persons with Disabilities, which New Zealand ratified several years ago was finally agreed to and adopted in the United Nations partly because of the quietly brilliant efforts of a New Zealand diplomat and because of the persistent involvement of New Zealand disabled civil society representatives in drafting and re-drafting.

So for 65 years New Zealanders have had a certain view of themselves as fair-minded, egalitarian and with a small nation's concern about social justice. Other contemporary indicators of this national self-regard for social justice as a small nation include New Zealand's traditional anti-nuclear stance, its significant involvement against apartheid, and the relatively positive acceptance by New Zealanders of Treaty of Waitangi settlements to redress historic injustice.

Tonight I want to explore this self-regard and suggest that while it is based in part on undeniable historical realities that we should be proud of and we are proud of, it is also partly a myth. I am going to suggest that progressing gender equality in New Zealand has in fact stalled and that we are now slipping in some important areas, particularly equal pay. This may be a surprise to some here, although I suspect not to many women. Nor do I think you have to be particularly interested in feminism to be angry as woman if you are not receiving equal pay in 2013.

As an aside when Labour leader contender Shane Jones during the leadership campaign said he didn't really care what feminists thought about him, I rang him up rang him up as a friend to tell him

how silly his comment was. I told him he would make a mistake if he thought he could isolate a particular minority group of women as feminists. Every woman with a Harpic bottle in her hand, every woman picking up wet towels off the bathroom floor, and every woman doing the dishes in the kitchen against the background hum of Sky sport is a feminist, even if only for the moment. After this my partner John, who is now the house husband, conscientiously rings me at work every Thursday to say “feminist” duties have been completed and it is safe to come home. Almost an argument against retirement in itself!

The idea that New Zealand is a great place for women to live, to work, have families and to participate at all levels is fixed in national consciousness. It is sustained by at least two powerful and recurring symbols. The first is graphically demonstrated on the \$10 note. We learn early as youngsters that New Zealand was the first nation state to grant women the vote, something men as well as women were responsible for. It is a fitting source of great national pride. On September 16 each year New Zealand women as the white camellias bloom, celebrate and nurture the Kate Sheppard effect with breakfasts, speeches, and civil society activity.

The second piece of symbolism that allows us to think we’re leaders in gender equality is the great female quartet. The fact that at a certain point in New Zealand’s modern political and constitutional history we had four women occupying the top leadership positions; Governor General Dame Sylvia Cartwright, Prime Minister Helen Clark, the Chief Justice Dame Sian Elias and the Attorney General Hon. Margaret Wilson, has led to the view that New Zealand has cracked it, women rule, what are we worrying about? It took one of the quartet herself, Dame Silvia Cartwright in 2004 to warn us of the perils of our own conceit. She said:

*“The perceived predominance of women across some of the country’s key leadership positions during recent years....carries the risk of a double-edged sword. It is all too convenient to assume that this profile accurately represents the status of all professional women”.*

It has become abundantly apparent in the years since, that the quartet represented a blip and not necessarily the beginning of a trend. For example, New Zealand only makes it to 12<sup>th</sup> of 136 countries in the Global Gender Gap Report for 2013 in terms of political empowerment. We are 25<sup>th</sup> in the world for the proportion of women in Parliament, 28<sup>th</sup> in the world in terms of women in ministerial positions and we rank 9<sup>th</sup> in the world in terms of years in the past half century of women as head of state. We’re only 20<sup>th</sup> in the world in terms of the proportion of women to men as legislators, senior officials and managers.

So while the great quartet was a trail blazing blip, it is my contention against evidence that I have assembled when I was Equal Employment Opportunities Commissioner with the New Zealand Human Rights Commission writing a Census of Women’s Participation every two years and now as an AUT academic researching gender and human rights, that complacency about gender equality is inhibiting progress. Revisionism is also a concern.

The promise of gender equality has been tantalising during my lifetime, since I was born the year the UDHR was promulgated. But it is 120 years since Suffragette Kate Sheppard wrote, “we are tired of having a “sphere doled out to us and of being told that anything outside that sphere is unwomanly”. I want to talk about one of those spheres tonight to demonstrate the paradox of New Zealand’s

International commitment to women's human rights and gender equality and its domestic record in relation to equal pay.

First, I want you to meet Tracy Botha. She is one of the unsung heroines of post-earthquake Christchurch. She is a carer for Nurse Maude, and in this photo you see her in the back of her Polo car with her emergency earthquake kit. In February 2011 earthquake Tracy's house in the eastern suburbs was severely affected but after checking that her own family was safe she drove back through liquefaction to help her disabled and aged clients. The biggest demands on her were emotional. "My clients were in shock, very scared and stunned. They needed someone making contact, showing empathy and listening". Her disabled clients lost power for wheelchairs and hoists.

She is one of the 35,000 care workers in the aged care industry who are earning between \$14-\$15 an hour, about a dollar above the minimum wage for unseen, heroic women's work (92% of age carers are women). In an email last week Tracy tells me she has had a year from hell. Her Polo car died, her family had to evacuate from their home, and she couldn't work until she had a new car. The mileage allowance for carers driving between vulnerable and older clients is another outrage but let me stick to equal pay. Tracy is one of the invisible thousands who are fighting for equal pay. I met her during my inquiry into equal employment opportunities in the aged care sector. You might remember there was a bit of a media splash because I went undercover as a HRC working as a novice carer and wrote about my experience of the work. Aged care work is emotionally, physically and mentally demanding. It is absolutely essential in a rapidly ageing society but shockingly under-valued both in terms of hourly paid rates and in terms of valuing the skills required and the contribution made.

This under-valuation of the skills, experiences and competencies required to be an aged care worker is traditionally indexed to the gendered nature of work. Until recently age care workers have lacked any sense of their own agency and have not mobilised about pay. Globally aged care is casualised, precarious work that has been traditionally regarded as "emotional labour" and therefore not monetised in terms of worth. This last stereotype, that emotional work is not highly regarded, persists today. In the recent Employment Court equal pay case successfully taken by a lower Hutt carer Kristine Bartlett against her employer, the employer's lawyer tried to argue that a valid comparator group of male workers to female aged carer workers would be gardeners. Luckily the Court noted the irony that the male gardeners who tended berms, deadheaded flowers, mowed lawns and pulled weeds, important work in itself, earned between \$3 an hour more than the women who bathed, clothed, fed, nurtured some of New Zealand's most vulnerable human beings- older people in aged residential care. The Court also said, "it is unclear to us how a gardener can be said to have the same or substantially similar skills, responsibility, and service" as female aged care givers.

The equal pay issue in the aged care sector arises because carers employed by the 21 DHBs in New Zealand are paid between \$3 to \$5 an hour more than aged care workers in home-based care or in residential facilities, even though the same DHBs are contracting out and paying for these services.

Equal pay is a fundamental human right outlined in Article 23(2) of the Universal Declaration.

*Everyone, without any discrimination or distinction of any kind, has the right to equal pay for equal work. In particular women must be guaranteed the right to equal remuneration, including benefits,*

*and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of quality of work.*

The Convention on the Elimination of all Forms of Discrimination Against Women which NZ ratified in 1982 adds in:

*The right to the same employment opportunities, including the application of the same criteria for selection; the right to promotion, job security and all benefits and conditions of service and the right to vocational training including apprenticeships, advanced vocational training and recurrent training.*

So what progress has been made in equal pay and where is the paradox? Currently I am undertaking research with Professor Margaret Wilson of Waikato University (yes, one of the great quartet) and Sylvia Bell, chief legal and policy analyst at the New Zealand Human Rights Commission. The research is funded by the New Zealand Law Foundation. It is looking at the impact and effectiveness of New Zealand's ratification of international human rights treaties such as CEDAW.

As many of you know New Zealand has to periodically report to the UN CEDAW committee on what progress has been made by the State Party implementing the convention. In terms of social economic and cultural rights all nations who have signed up should be "progressively realising" human rights such as equal pay. The Committee receives a written report from the Government and shadow reports from civil society groups and a parallel report from the NZHRC. It looks at all this material and then questions all governments regularly. The Minister of Women's Affairs traditionally goes to NY and is examined by the UN CEDAW committee on what we've said we've achieved. They then write concluding observations and recommendations which are sent back to the Government. Next time around these are referred to again.

My analysis shows that New Zealand has reported seven times under CEDAW to the UN and equal pay has been central to the process on each occasion. In each of these reports the Government has basically told the UN that equal pay is a problem and outlined issues such as where women work, occupational and horizontal segregation, and listed the available mechanisms, agencies and actions that have taken place to try to remedy the gender pay gap. It has generally promised each time that it will give the issue more attention.

Analysis of this progress shows that the UN Committee has noted retrogression relating to equal pay and pay equity in the second, sixth and seventh reports. In the second report in 1992, it noted the repeal of the short-lived Employment Equity Act 1990 that lasted only three weeks before being repealed by an incoming National Government. In the sixth report it was concerned about the abolition of mechanisms, namely the Pay and Employment Equity Unit and two pay review investigations in the public sector, one involving education support workers. The latest report last year explicitly urged New Zealand to introduce legislation relating to equal pay for work of equal value. It also wanted effective enforcement of the principle, specific measures and indicators, time frames to redress pay inequality in different sectors. It also wanted the accountabilities of public service chief executives for pay policies. For example, we found in the Census work that I undertook as EEO Commissioner, that to improve public service departments had gender pay gaps ranging between 2% and 35 %.

In this latest report the UN was extraordinarily specific in its recommendations and concluding observations, reflecting impatience with New Zealand.

Before this research was undertaken, feminist economist Prue Hyman had usefully chronicled the painful and slow history of equal pay in New Zealand. Looking at developments from 2008-2010 she concluded that New Zealand's move from a relatively equal society to one of its most unequal, made labour market protections including equal employment opportunities of even more importance than in the early days of awareness and policy-making. "There is still much to be done...with complacency, backlash and slippage too often impeding equal opportunity for all groups in the labour market," she said.

Successive New Zealand governments have failed New Zealand women on equal pay. We've now slipped to 20<sup>th</sup> place in the world on the indicator of economic participation in the Global Gender Gap Report. Over all the indicators, health, education, political representation as well as economic participation NZ is 7<sup>th</sup> in the world we've in fact fallen two places behind Ireland and the Philippines since 2010 when we were 5<sup>th</sup> in the world and New Zealand is now back to where it was in 2006. We wouldn't be content with 7<sup>th</sup> in other areas of life and it is clear that the Nordic countries are in fact now the world leaders in gender equality.

Governments on behalf of themselves and employers state that equal pay will have crippling fiscal impacts, even though HRC analysis in the Caring Counts report said to fix up equal pay in the aged care sector in New Zealand would cost only 1% of the health budget, \$140 million. Kristine Bartlett is a modern day Kate Sheppard fighting for over 35,000 other low paid New Zealand women, many Māori, Pacific or migrant nurses and carers. In response to the argument that we can't afford equal pay, the full bench of the Employment Court that recently heard Kristine Bartlett's case said:

*History is redolent with examples of strongly voiced concerns about the implementation of anti-discrimination initiatives on the basis that they will spell financial and social ruin, but which provide to be misplaced or have been acceptable as the short term price of the longer term social good. The abolition of slavery is an old example, and the prohibition on discrimination in employment based on sex is both a recent and particularly apposite example. [Inglis J, in *Service and Food workers Union Nga Ringa Tota Inc v Terranova Homes and Care Ltd, 2013 at 110.**

In my view there is every evidence both in my own research and that of others of a paradox in New Zealand's attitude towards the implementation of equal pay, such a basic human right.

I want to conclude in two parts. The first is to talk about the role of younger women in progressing gender equality. The second is to outline what I think we can all do as men and women, as citizens and as New Zealanders with a view of ourselves as fair-minded to address the pay gap.

### *The role of younger women*

Older feminists are sometimes heard to express impatience and bewilderment about the stance of some younger women towards progressing gender equality. Younger women, they say, are relatively ungrateful for, and seemingly unknowing about, the legacy of their mother's and grandmother's generations. Younger women, though, are frustrated by the somewhat old-fashioned bureaucracy of

organised women's groups that have AGMs, remits, points of order, hierarchies, and annual conferences. Instead they may be engaging with women's issues, or expressing aspects of feminism, in less formally organised ways through Facebook and social media, as well as casual, informal gatherings. Malala Yousafzai shot by the Taliban for advocating education for girls, a startlingly precocious global symbol of girl power, started at the age of 11 by blogging for the BBC about life in Pakistan under the Taliban.

Look at young NZ female sports role models. Mainstream male sports journalists appear to be miffed that after asking her every day for months when she would turn pro, golfer Lydia Koh chose a social media clip to do it her way, with All Black Israel Dagg kidding around on a golf course. Disabled swimmer Sophie Pascoe gives new meaning to poise when interviewed about success in the pool. Then in arts there is Eleanor Catton's stunning success winning the Man Booker Prize this year. New Zealand is not short of youthful female role models. And while I personally wish the teen sensation Lorde would finish school, her lyrics, once you have had them explained to you by a teenager, critique wealth.

Ilana Nash, associate professor at West Michigan University in the gender and women's studies department, states that teenage girlhood today has followed a parallel motion to the women's movement of the 1960s and 1970s. Just as it was a result of second wave feminism for women to become political icons, so it is now possible for teenage girls to be admired and publicised as political agents. She says that girlhood may follow the same trajectory that adult womanhood has in the last generation. Those of us worrying about succession in women's activism, probably shouldn't. It will definitely be different, but probably not less effective.

To conclude, what can we do as individuals around equal pay and closing the gender pay gap.

In our everyday lives we have opportunities and can make choices that impact on New Zealand's progress in implementing gender equality.

- Many of us in this room care for our parents or have older family dependants. At some stage we have to make choices about which residential facility, or which home-based services might be suitable for our loved ones. Please choose a residential aged care facility that is committed to a decent work for their committed female care workers like Tracy Botha. Ask about carers' wages, their hours of work, their training opportunities and professionalization. Talk to carers before you choose. After all there is a human rights nexus between the dignity of older people in care and the value we place on the care they receive. The Ministry of Health's Audit system and Consumer's checklist approach are also helpful starting points in this process.
- Support the Living Wage campaign. This is identifying employers who are committed to raising the wages of lower paid to \$18.40 per hour, about \$5 more than the minimum wage today of \$13.50 per hour.
- In 2014 we can choose to vote for political parties that have well thought out and progressive policies for women's rights. If equal pay and pay equity are not among the promises dangled before us, we can make a choice as voters. I believe women's groups need to be letting political parties know formally that in 2014 they will be ranked on guarantees to address equal pay and pay equity, starting with aged care. New Zealand needs an action plan

for women with measurable targets and effective accountabilities. It hasn't got one at the moment.

- Those belonging to civil society groups can contribute to the treaty body shadow reporting process. Given the centrality of women's rights we don't have to wait to the next round of CEDAW, we can submit to all the human rights treaty body reports in which New Zealand is examined or monitored by the UN. In Auckland a coalition of over 20 women's groups is working together on this, following CEDAW last year. On its behalf I travel to Geneva at the end of this month to ask the diplomatic missions of other countries to bring up equal pay with New Zealand when it is examined under the Universal Periodic Review, an audit of New Zealand's overall progress, in February.
- Last of all, those of us at work need to explore whether we personally are getting equal pay and take action if we are not. If you are employers, are you paying equally not only for the same work but for work of similar value? In other words, why are carers not getting the \$3 extra per hour paid to gardeners? Across the board in New Zealand women earn in general 10% less than men for doing the same job and considerably more in terms of work of similar value. 10% over a lifetime of work adds up to considerable disadvantage. We need effective equal pay legislation to remedy women in New Zealand being short-changed. It is a simple matter of social justice and we've been waiting 67 years, since the Second World War, for equal pay for equal work of equal value. It is a matter of national shame....
- Thank you so much for coming tonight and I want to thank the WEA for the opportunity to address you.