

## Chapter 3

# Impact of Women's Political Leadership on Democracy and Development in New Zealand

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*Margaret Wilson*

### Abstract

On 19 September 1893, New Zealand became the first self-governing country in the world in which all women had the right to vote in parliamentary elections, following the landmark Electoral Act. As a result, New Zealand's world leadership in women's suffrage became a central part and image of a 'social laboratory' for other democracies. This was achieved after many years of effort by suffrage campaigners, led by Kate Sheppard, through a series of massive petitions calling on parliament to grant the vote to women.

The 1990s was an outstanding period for women's appointment to new positions, particularly with the change of the electoral system to Mixed Member Proportionality (MMP), which opened up the political space for women. In modern New Zealand, the idea that women could not or should not vote is completely foreign to New Zealanders. In 2012, 32 per cent of Members of Parliament were female, compared with 13 per cent in 1984. In the early twenty-first century women have held each of the country's key constitutional positions: prime minister, governor-general, speaker of the House of Representatives, attorney-general and chief justice.

The chapter will therefore interrogate how the MMP system has impacted women's participation in politics. It will further examine the contribution, status and role of women after a period of extensive social and political change in New Zealand, and how this has translated into women's voting and representation, women's role in conflict and co-operation, participation and protest, equal access to power, institutional culture and feminism.

### 3.1 Introduction

In the early 2000s, New Zealand women occupied five of the country's top constitutional positions – that is, the offices of governor-general, prime minister, speaker of the parliament, chief justice and attorney-general – as a result of electoral reform from First-Past-the-Post to Mixed Member Proportionality (a combination of the simple majority and party list electoral systems) championed by the New Zealand Labour Party.

New Zealand women have worked for inclusion within public decision-making institutions since the 1880s, when the suffrage campaign led to women

in New Zealand, both Māori (indigenous people) and Pakeha (European), getting the right to vote in 1893. Although the level of women's political activism has peaked and ebbed since 1893, women have continued in a variety of ways to work within their communities and politically for recognition of the equality of women and their right to fully contribute to all aspects of the society in which they live. The key factors that provide women with agency to advance their interests in modern day New Zealand are: (1) the high level of education for women, (2) changes in the electoral laws, and (3) the political activism of women through community organisations and political parties. The main barriers to women's political leadership have been comparatively a lack of access to political institutions (the political parties and the parliament); limited legal rights; and economic dependence. The underlying commitment to the values of enlightenment brought to New Zealand by many colonists in the nineteenth century included a commitment to equality, the rule of law and democratic decision-making through an electoral process. The advancement of women's rights, in particular, has relied on the concept of equality to support women's claim to full inclusion and participation within political institutions.

This chapter will examine the historical, constitutional and cultural context within which women in New Zealand have struggled to achieve inclusion in and engagement with public decision-making through participation in political and public policy-making. The analysis will identify the factors that have been enabling or disabling of women fully participating in the decision-making processes that affected their lives. The emphasis in the case study is on political institutions and the struggle of women to gain access to those institutions and work within them for the development of women's political inclusion. The study will focus on the last 40 years of women's engagement with the political process, with an emphasis on how women created and took advantage of opportunities to participate in public decision-making institutions. The primary objective of political women activists during this 40-year period has been inclusion within political decision-making institutions in order to affect law reform that recognised the rights of women and influenced the allocation of resources to address the needs of women.

Although changes in the law do not automatically translate to change in practice, the law provides legitimacy to the claims of women and was seen as a necessary first step for women to achieve equality. The study will track the successes and failures of various strategies and tactics during this period, and the impact women's political leadership has had on New Zealand's democracy and development. This period covers the rise of the second wave of feminism in New Zealand in the 1970s and 1980s; the transformation of women's political activism from outside to inside the political process and institutions; the decline of feminist activism during the height of neo-liberalism in the 1990s; and finally the emergence of women in political leadership roles in the 2000 to 2008 period.

## 3.2 Ideological and historical propellants of women's political advancement

The political thinking that informed New Zealand's early constitutional development owed much to the political theory and ideologies that were actively debated in Britain and the United States in the nineteenth century. The ideas of Enlightenment political philosophers such as Hobbs, Locke, Hume, Rousseau and Mills, together with the nineteenth century social and political activists in Britain, were all, in their different ways, exported with the early colonists to New Zealand. One of these ideas was equalitarianism, which has come to be identified as characteristic of New Zealand's constitutional norms. For example, Palmer (2007) identifies the key norms of New Zealand's constitutional arrangements as, '...authoritarianism, equalitarianism, and pragmatism' and the key constitutional institutions as, '... representative democracy; parliamentary sovereignty; and the constitution as unwritten and evolving'. These norms reflect the British constitutional heritage and the early settlers' aspirations and colonial experience. They also reflect the contradictions that lie within our constitutional arrangements. The people want certainty, but retain the right to change. They want their views represented in political decision-making, but accept the authority of the majority decision arrived at in parliament.

It was within this conceptual framework that the early feminists began to campaign for women's rights. They relied on the notion of equality to legitimise their claim for inclusion in political decision-making. Mary Ann Muller, who published under the nom de plume 'Femina', in 1869 expressed the views of many colonist women when she wrote:

... the most perfect popular government was that 'where an injury done to the meanest subject is an insult upon the whole constitution'. What, therefore, can be said for a Government that deliberately inflicts upon a great mass of its intelligent and respectable subjects; that virtually ignores their existence in all that can contribute to their happiness as subjects; ...How long are women to remain a wholly unrepresented body of the people? ...Why has a women no power to vote, no right to vote when she happens to possess all the requisites which legally qualify a man for that right?

Thus the campaign for political inclusion in the nineteenth century was firmly rooted in the right of women to equality. It also demonstrated the capacity to organise politically. The National Council of Women, the peak women's non-governmental organisation (NGO), was formed out of the suffrage campaign in the 1890s and it is noted in its official history:

The character of the early council was determined by the nature of the women's movement and the influences upon it. The movement was concerned with equal rights for women as citizens and with moral reform

of society. The equal rights element had its origins in the European Enlightenment of the eighteenth century, when radical thinkers challenged the all-encompassing powers of the church and monarchy, to argue the innate equality of all men and thus their right to participate in government.  
(Page 1996: 2)

It was not surprising that the second feminist movements of the 1970s embraced the concept of equality building on the history of the first feminist movement. Political feminists continued to advocate that equality was a societal value that included women. The aspirational importance of the concept and the use to which it was employed during the 1970s and early 1980s is best described by Sandra Coney, a noted feminist and activist of the time, who was editor of the influential feminist journal *Broadsheet*. She described the women's movement of the time as follows:

The dominant ideology in the early years was for equality for women to be reached through equalizing women's opportunities and pay in the marketplace (towards which the provision of free child care was a platform), control of fertility (safe contraception and free, safe abortion), reform of the structure of the family and marriage, an end to sex stereotyping of children (freeing women from the exclusive burden of household work, and men from the breadwinning role), and an end to the depiction of women as sex objects. Women for Equality also demanded the right to work, alternatives to monogamy, and children's liberation. The key words were 'liberation' – a positive and relatively joyful word denoting freedom – and the articulation of 'demands' which would lead to 'the improvement of the position of women in our society'.

(Coney 1993: 51, 68)

It may be argued that New Zealand has made considerable progress towards formal equality, but the assertion of equalitarianism has not enabled equality. In reality there has been growing social and economic inequality of an underclass since the 1970s, which gave rise to the second feminist movement. It could be argued that New Zealand would benefit from adopting the approach of Amartya Sen in recognising the importance of including the capabilities and capacity of individuals in policy advice and delivery. While theory or ideology may provide a lodestar to guide political action, it is essential not to lose sight of the reality faced by women in their daily lives. For women to continue to make a contribution to New Zealand's development, they need to be present and represented where the decisions are made.

### 3.3 Emergence of constitutional context of women's inclusion in politics

The development of women's inclusion in the political life of the country has taken place within the constitutional institutions, processes and values that were established soon after the signing of the Treaty of Waitangi in 1840 by

Captain Hobson as Queen Victoria's representative and 500 Māori chiefs, including five Māori women. In brief, the treaty, which in 1987 was recognised by the New Zealand Court of Appeal as a foundation constitutional document,<sup>1</sup> gave the British settlers the right to settle and govern in New Zealand, the Māori people the right 'to unqualified exercise of their chieftainship over their lands, villages and all their treasures', and their equality with British subjects (Kawharu 1989). While the treaty is an important constitutional document, it does not represent the constitution of New Zealand. New Zealand, like the United Kingdom, has no constitution in the sense of one written document containing the processes and institutions for democratic decision-making and the relationship between those institutions and the individual citizen. There is also no fundamental document recognising the rights, responsibilities and values of individuals, although there is the New Zealand Bill of Rights Act 1990, which recognises civil and political rights but not as rights superior to other laws (Keith 2008: 1–6).

### 3.3.1 Flexibility of laws advantages women's entry into political process

New Zealand, then, has no written constitution but a series of statutory enactments, constitutional conventions and practices that combine to form what is more accurately termed 'constitutional arrangements' than a constitution. The term 'constitutional arrangements' better conveys the notion of flexibility, pragmatism and informality, which are defining characteristics of New Zealand's constitution (Constitutional Arrangements Committee 2005). The nature of New Zealand's constitutional arrangements has meant the vote for women was a fundamental entry point for inclusion in the political process.

General elections are held every three years,<sup>2</sup> in which all citizens and permanent residents who have lived in New Zealand for one year and who are 18 years of age or over are eligible to vote.<sup>3</sup> In the 1940s more than 90 per cent took advantage of this right; in the four elections held between 1999 and 2011 the percentage of voters has fallen to around 74 per cent. Between elections, New Zealand citizens exercise their democratic right to participate in government decision-making formally through select committee hearings, or informally through direct contact with their Member of Parliament, organised interest groups and/or through direct action such as demonstrations. Membership of a political party also enables access to power. However, voting remains the primary means for most women's political participation and the exercise of their rights.

The voting preferences of women were not accessible until the 1984 election, when polling companies began including women's voting preferences in their surveys. It was in that election that the women's vote was acknowledged. It was also in that election that the Labour Party included a comprehensive women's equality policy agenda (see Catt and McLeay 1993).

Voting is a first step to having an impact on political decision-making. Women need to be where the decisions are made, and that requires an understanding of the constitutional and political processes, and how political power is exercised both formally and informally. New Zealand has a fragile constitutional legal architecture. The Constitution Act 1986 describes the roles and function of the central constitutional institutions – the Head of State (the Queen of New Zealand and her representative, the governor-general); the House of Representatives; the executive, which must be appointed from elected Members of Parliament; the parliament, which comprises the House of Representatives and the Sovereign; and the judiciary. There is no upper chamber, with the Legislative Council voting for its own demise in 1950 after the government of the day perceived that it offered little value to the governance of New Zealand. The Constitution Act is not entrenched and can be amended or repealed by a simple majority in the House of Representatives.<sup>4</sup>

The same voting formula is used with the Bill of Rights Act, the Human Rights Act, and the Electoral Act, with the exception of specific provisions relating to elections that require a 75 per cent majority in parliament or a majority in a national referendum.<sup>5</sup> In theory the legal framework can be changed at any time, and the convention of parliaments not being bound by the decisions of previous parliaments provides the potential for instability. In practice, New Zealanders are reluctant to approve radical constitutional change, but are more accepting of radical swings in policy. A recent public values survey confirms the conservative approach to change, with two-thirds supporting a gradual approach to reform.<sup>6</sup>

### 3.3.2 Opportunities to effect change through constitutional arrangements and electoral reform

The above description of New Zealand's constitutional arrangements explains the context within which women had to work for change. The lack of formality provided opportunities and the space for change, but it also meant effecting change through the political process. If women were to have an impact on the political system, they needed to participate within the political parties that controlled the political process. Two main political parties since the mid-1930s, namely the Labour Party and the National Party, had managed New Zealand's political system between themselves. The Labour Party represented the interests of trade unions and working people, and what may be termed 'the intellectual left'. The National Party represented the farming and business communities, and conservative elements in the community – many of whom were women up until the mid-1980s. Elections were contested within the First-Past-the-Post (FPTP) electoral system. This system made it very difficult for other political parties to be represented in parliament.

For women to achieve political representation they needed to join one of the main political parties, and then work within that party to gain selection to stand in an electoral seat in which their party was likely to win. The difficulties

faced by women in achieving representation through this system is illustrated by the fact the most seats won by women was achieved in the 1993 election with 21 (21%) seats. Under a new Mixed Member Proportional (MMP) electoral system, 41 (34%) women were elected to parliament in the 2008 election. The electoral system has always been a major determinant of representation in parliament, and this fact was noted by women who realised that to achieve political representation there had to be a change in the electoral system.

Support for electoral reform came from third parties, women's organisations, community groups and the opposition Labour Party, which included in its election manifestos at the 1981 and 1984 elections a promise to 'establish a Royal Commission...to inquire into and report on (amongst other things) whether proportional representation or some other variant from the existing, First-Past-the-Post system should be introduced'.<sup>7</sup> Much of the activism of this period was driven by a post-war generation that challenged the traditional social and political institutions, which no longer reflected their needs and interests. The feminists of the 1970s and 1980s were among those groups campaigning for change. It was also during this time that feminists were increasing in number and influence within the Labour Party.

When elected in 1984, the Labour government established a Royal Commission on Electoral Reform with comprehensive terms of reference to review all aspects of the electoral system. When the Commission reported in 1986, it found that the electoral system was unfair in many respects, in particular to minor parties, women and Māori (pp 239–40), and included among its recommendations the adoption of a MMP electoral system similar to that used in Germany (pp 295–302). In 1992, an indicative referendum was held to determine if New Zealanders wanted to change the electoral system. This resulted in 84 per cent of those who voted voting to change the system to MMP. A binding referendum was held in 1993, with 53.9 per cent voting in support of a change to MMP; this decision was confirmed by another referendum in 2011, when 58 per cent voted to retain the MMP system.

For women this has proved to be an advantage to their parliamentary representation. The reasons for this include a realisation by political parties that there is a women's vote that they need to attract, both through a policy programme and positioning women in winnable electorates or high among the list members. Under MMP the elector has two votes: one for the constituency Member of Parliament and one for the party. The party determines the individuals who stand both in the constituency seats and on the list, and the order of names on the list. Therefore, for women to gain party preference they need to be represented within political party decision-making.

### 3.4 A case study of women's influence within a political party

The role of women within the New Zealand Labour Party (NZLP) provides some insight into the nature of the obstacles faced by party political women (Gordon 1989, Purdue 1975, Davies 1984). It has been during Labour

**Table 3.1 Female Members of Parliament (MPs) compared with the total number of MPs from 1931 to 2012**

Year	Female MPs	Total no. of MPs	% of women
1931–35	1	80	1.25
1935–38	0	80	0
1938–43	3	80	3.75
1943–46	2	80	2.5
1946–49	2	80	2.5
1949–51	3	80	3.75
1951–54	4	80	5
1954–57	4	80	5
1957–60	4	80	5
1960–63	4	80	5
1963–66	5	80	6.25
1966–69	6	80	7.5
1969–72	4	84	4.76
1972–75	4	87	4.59
1975–78	4	87	4.59
1978–81	4	92	4.34
1981–84	8	92	8.69
1984–87	12	95	12.63
1987–90	14	97	14.43
1990–93	16	97	16.49
1993–96	21	99	21.21
1996–99	35	120	29.16
1999–2002	37	120	30.83
2002–05	35	120	29.16
2005–08	39	121	32.23
2008–11	41	122	33.60
2012	39	121	32.23

**Source:** New Zealand History online, available at: <http://www.nzhistory.net.nz/media/photo/women-mps-in-parliament> (accessed 25 July 2013)

governments that much of the legislation and policy relating to the equality of women has been enacted. Women were present at the formation of the NZLP in 1916, with two women being elected to the executive. It was not until 1933, however, that the first woman was elected to parliament. Elizabeth McCombs had been a member of the first Labour Party executive and was elected to a parliamentary seat left vacant by the death of her husband. Only four other Labour women were elected to parliament during the period 1938 to 1967 (Table 3.1).

### 3.4.1 Ruling Labour Party champions the inclusion of women in politics

There was an obvious reluctance by the NZLP to promote women for parliamentary seats. This reflected the role of women in New Zealand at the time, and the control exercised over the party by its male leadership. It did



not mean that women were not politically active within the party, but their participation was confined to organisational tasks such as branch secretaries and fundraisers. These roles were frequently undervalued, even though without the support of women the organisation of the party would not have been sustained. Their role then mirrored the traditional subordinate role of women in the society.

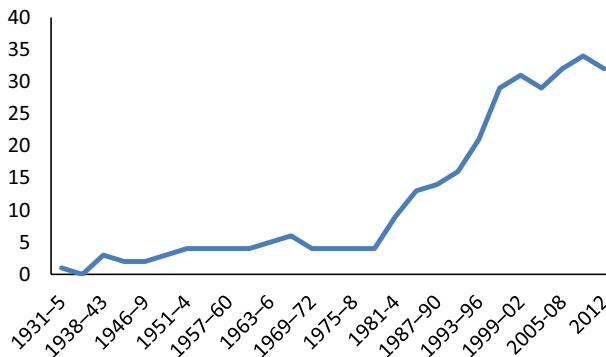
The aspirations of women to develop policy, political strategy and hold leadership roles were not realised until the impact of feminism in the 1970s and 1980s. A new generation of feminists combined with an elder generation of political women and challenged the NZLP to provide a space within the party for women to develop their own policy and promote their own candidates for office. Labour women had long sought to hold their own conferences and to develop their own policy. The party leadership, on the grounds of the need for unity, resisted this. However, the real reason may have been that the leadership needed to control votes at conferences and electoral selections.

The women's movement in the 1970s reignited the need for women to have a space of their own for political activity within the NZLP. The debate on modes of organisation had been vigorous among feminists, with the merits of separate or integrated models being advocated. While Labour women understood the merits of separate organisations, they also understood this was unlikely to lead to electoral success (Figure 3.1).

### 3.4.2 The feminist agenda in advancing women's political participation

The solution for Labour feminists was to challenge the NZLP leadership for the right to form their own representative organisation within the NZLP. The establishment of a Labour Women's Council was endorsed by the party conference in 1974 and formed in 1975. Its mandate included the promotion of women's representation within the party hierarchy and parliament, and to develop an equality policy for women that would be adopted by the party as a whole and included in the election manifestos. The 1975 election manifesto

**Figure 3.1 Female Members of Parliament in New Zealand**



included a specific women's policy for the first time. The policy reflected the recommendations of the *Select Committee Report on the Role of Women in New Zealand Society* (1975). National Party women also exerted their influence on their party, and the National Party also developed a women's policy for its 1975 election manifesto.<sup>8</sup> Both these initiatives took place in response to the growing strength of the women's movement in the community, as well as within the political parties.

Labour feminists had argued that if the party developed a policy relevant to women, then it would attract their votes. The common mythology of the time was that women voted conservatively, but it was not until the opinion polls started to develop and include women's voting preferences that an accurate assessment could be made of women's voting preferences. The 1984 election opinion polls noted a shift in more women voting for Labour. Labour's election manifesto included a coherent equality policy for women that covered economic, social, cultural, legal and political equality, as well as the commitment to establish a Ministry of Women's Affairs to ensure bureaucratic support for the implementation of the policy. This election also saw the election of 10 Labour women to parliament. This was a greater number than ever before, and was followed by two women being elected to the cabinet by the caucus. For the first time women had a foothold within parliament and the governing party to launch their policy. Labour women saw these events as a vindication of their strategy to take control of their own political organisation within the NZLP.

The organisational strategy of 'diversity within unity' was hard fought by women within the NZLP. Yet the power of working together proved effective in electing women to positions on the executive and policy council of the NZLP. The question of allocating resources to promote the women's activities was a difficult one, but eventually a women's organiser was appointed after the women's section of the party pledged its support for Jim Anderton as President. Women began to use their political leverage within the organisation to advance their policy issues, and also to ensure a fairer selection process that enabled women to be selected to stand for parliament. The ability to organise separate policy conferences and training sessions for prospective parliamentary candidates improved the capacity of women to argue their case in various party forums. The election of the first women as party president in 1984<sup>9</sup> was an opportunity to ensure that the influence of women would be felt at all levels of political activity.

There was an irony that women had just obtained some influence with the NZLP at the time the Labour government embraced the policies of neo-liberalism, which undermined the whole basis of the equality agenda for women. The fact that women were politically better positioned than ever before to influence policy meant that the policy struggles now took place within the caucus and the party forum. The ideological divisions within the fourth Labour government were soon apparent, and the women of the party

provided one of the centres of opposition to the withdrawal of the state in favour of the market as the primary allocator of resources.

### 3.4.3 Adoption of MMP increases women's representation in parliament

The most recent 2012 Census Report noted that 32 per cent of the Members of Parliament were women. This figure had remained the same following the 2011 election. As at 2013 there are 20 cabinet ministers, of whom 5 are women. However, women ministers do not hold any of the key economic portfolios, though the minister of justice is a woman and ranked at number five within the cabinet. A Māori woman is minister of education and ranked number seven.

The number of women Members of Parliament has increased over the period of time since women became politically active in the 1970s. In 1981 there were only eight women in parliament, which increased to 12 in 1984, 14 in 1987, 16 in 1990 and 21 in 1993. This number jumped to 35 in 1996, which was the first election under the new Mixed Member Proportionality (MMP) electoral system. It is this electoral system that has continued to increase women's political representation, with a peak in 2008 when 41 women were elected to parliament. For the last two elections, however, the number has declined to 39 (32%) and the question is being raised whether a new ceiling has been reached. While it may be too early to draw this conclusion, if the number does not increase after the next election, further measures may be required to ensure women are proportionately represented in parliament.

The picture in local government is not so good, however. New Zealand has yet to reach the Commonwealth target of 30 per cent representation, and has only 28.3 per cent representation. This represents a slight decline, from 29.4 per cent in the 2007 local body elections. In terms of leadership positions in local government, only 17.9 per cent of the mayors are women. This number may reflect the low voter turnout, which is less than 50 per cent (New Zealand Human Rights Commission 2012a). This in turn reflects the lack of importance attributed to local government in New Zealand. There is tendency to look to national government as the key decision-maker, which is understandable in a population of 4.24 million people. It may also reflect that women have focused on national political representation, because it is where the decisions are made.

### 3.4.4 Institutionalisation of a women's policy influences adoption of international laws

Although the fourth Labour government pursued a neo-liberal policy agenda from 1984 to 1990, it was strongly contested by women within the Labour Party and caucus – so some progress was made to implement the women's policy agenda. The presence of women in parliament and having an active, separate women's section in the Labour Party were essential in the maintenance of a focus on equality for women at a time when this concept stood in absolute contradiction to the emerging economic policy. The need to institutionalise a women's policy perspective was reinforced during this

period. The campaign to ratify the Convention to Eliminate of All Forms of Discrimination against Women (CEDAW) provided the impetus for the establishment of a Ministry of Women's Affairs. The process and outcome of ratification provides a case study of the influence of international conventions on national practice. The political women within the government also led the campaign for New Zealand to pursue a non-nuclear policy, and used their influence to get the government to deny United States ships entry to New Zealand because of its refusal to confirm or deny the ships were nuclear powered or had nuclear weapons.

Ratification of CEDAW was important in the long-term development of women's equality, because it required governments to report on progress implementing CEDAW obligations and therefore an opportunity was provided for formal accountability. In order to ensure the government reporting process incorporated a women's perspective, the establishment of the Ministry of Women's Affairs as a stand-alone ministry was seen as an essential element of government policy. It was also envisaged the ministry would give women a direct voice in government decision-making, especially within the bureaucracy during the formation of policy advice. Although attempts were made to incorporate the agency within the Prime Minister's Department, these were resisted as Labour feminists argued the ministry needed to be independent and accountable in its own right. The ministry was established in 1985 and was responsible to a Minister of Women's Affairs. One of the tasks of the ministry, apart from CEDAW reporting, was to develop a template for gender policy analysis. Both of these policies were designed to require transparency and accountability for policy relating to women (Wilson 1992: 35–49, Wilson 1989).

The NZLP women's organisation structure established in the 1970s survived the defeat of the Labour government in 1990. Two women were elected NZLP presidents in the 1990s, and Helen Clark was elected leader of the NZLP opposition. The re-election of a Labour-led government under the MMP system saw Helen Clark elected as the first woman Prime Minister of New Zealand in 1999; women also comprised a quarter of the cabinet.

The presence of feminists in the cabinet and caucus was influential in the resumption of the equality agenda, which was set out in the 1984 manifesto. The need for consistent and persistent political activism by women is demonstrated by the development of a legal equality framework over a 40-year period, a framework that is still incomplete.

### **3.5 Impact of women's political leadership on development and positions of authority**

One assessment of the impact of women's political leadership looks at the number of leadership positions held by women, and the changes to the legal system that have occurred since women became politically active in the 1970s.

The New Zealand Census of Women's Participation in Public Life<sup>10</sup> provides a statistical analysis of the number of women in leadership position in New Zealand public life. The census is the product of work undertaken by the Human Rights Equal Employment Opportunities Commissioner, who was appointed after an amendment to the Human Rights Act in 2001. The 2012 Census is the fifth in a series that is intended to provide a benchmarking tool to 'describe and debate the position of New Zealand women from a factual vantage at a time when complacency and negativity about women's progress pervades public and media debate' (New Zealand Human Rights Commission 2008: 5).

The census reports follow in the tradition of the Society for Research on Women, which was established in 1966 and whose research played an important role in framing the feminist equality campaigns of the 1970s and 1980s. The fact that a state-funded body, the Human Rights Commission, is undertaking the research is an example of a move from outside to inside the political system. Academic women had found it difficult to maintain research without funding, and had sought inclusion of women-centred research from public funding. While there is always a risk for independence in such research, the reality in New Zealand is that there is not sufficient private funding. Also women contribute to public funding through their taxes, and have sought a return on their taxes through women-centred, evidence-based policy.

### 3.5.1 Women's contribution to economic and social development in New Zealand

In terms of women's economic development, the picture for women in leadership positions is not so good. Although women represent 62.6 per cent of the paid labour force, they comprise only 14.75 per cent of directors of the top 10 companies by market capitalisation; this contrasts with 41.1 per cent of women on state sector boards. The government has recently focused on increasing the number of private sector women directors, through encouraging the private sector to take responsibility and increase the number of appointments of women. The Institute of Directors has endorsed a scheme to mentor women for future appointment. Whether these voluntary measures will increase the number of women is a matter for the future.

Voluntary methods were advocated in the government's *Report of the Working Group on Equity in Employment* in the 1990s (Government of New Zealand 1991), but have produced little progress in the business sector. There has been a similar experience in other professional employment sectors. For example, women have represented more than 50 per cent of legal graduates since the 1980s, yet only 19 per cent of top legal firms have women partners and women represent only 27.68 per cent of the judiciary in New Zealand. It is interesting to note that in an area of law associated with women, family law, women represent 41.18 per cent of the Family Court judges. (New Zealand Human Rights Commission 2010, 2012a) Judicial appointments in New

Zealand are political in that they are made by the Governor-General on the recommendation of the Attorney-General. There has been only one woman Attorney-General in New Zealand to date, between 1999 and 2005. Given that the first women to be admitted to the practice of law was in 1897, the inclusion of women in the legal system has been slow. The small number of women in legal leadership positions raises the question of whether women are rejecting the traditional modes of legal practice and creating their own legal practices, which give women financial independence with more control over their working environment. More research is required in this area.

In the context of women in leadership positions, it is important to note that women achieve academically and are well qualified to undertake leadership positions. The Census Report 2012 records that women hold only 24.38 per cent of senior academic positions at universities. This represents an increase of 1.93 per cent since 2010. Since 2007, universities have supported a 'Women in Leadership' programme that has assisted 160 women, both academic and administrative, in a programme to promote their career development. As the international equality measures have demonstrated, New Zealand women achieve equality in access and achievement in education. A lack of educational qualifications is not a major factor in the development of women into leadership positions, though as previously noted, Māori and Pacific women still face challenges. Similarly, this cannot explain why women still do not receive equal pay to men for the same or similar work.

In the government Census Report 2006 the medium income from all sources for people aged over 15 was 31,500 New Zealand dollars (NZ\$) for men and NZ\$19,100 for women, a gap of 39 per cent; Māori women received NZ\$17,800 and Pacific women NZ\$17,400. In 2012, the average hourly earnings for women was NZ\$24.91 compared with NZ\$28.66 for men, which makes a 13 per cent difference.<sup>11</sup> The 2012 Census Report notes, however, the variation is the gender pay gap according to type of work undertaken in the public sector. For example, the gap is 22.6 per cent in the Treasury and 35 per cent in Education Ministries and 10.7 per cent in Social Development and 12 per cent in Māori Development Ministries. In the context of this survey, the earnings of women are an important factor in the capacity of women to engage in political activity. The barriers to women receiving equal pay cannot include a lack of educational qualification. Although much research has been undertaken to explain the wage inequality gap, current policy relies on market forces to close the gap (Hyman 2010).<sup>12</sup> As the market is unlikely to revalue the work undertaken predominantly by women, it appears unlikely the market alone will be able to produce economic equality for women.

### 3.5.2 Analysing the status of Māori women in politics and society

While international data are important and relevant to identify the status of women in the national and international contexts, the data can mask inequalities within the general data. For example, in the New Zealand context

there is greater inequality among Māori, and Māori women in particular. Good data on the position of Māori and Pacific women are seldom collected, so it is difficult to accurately verify their position (New Zealand Human Rights Commission 2012a: 2). Although Māori women's overall participation rate in paid employment is only 61 per cent, compared with 63.9 per cent for European women, the gap is greater for Māori women under 25 years – being 15 per cent lower than for European women and 9 per cent lower in the aged group 25 to 44 years. Although Māori women's participation rate in education has been lower than for the overall population of women, Te Puni Kokiri (the Ministry of Māori Development) reports that there has been an increase in participation in tertiary education and that completions for Māori women increased 201 per cent between 1997 and 2003, compared with a 109 per cent increase for Māori men' (Te Puni Kōkiri 2006). The importance of educational qualifications is seen in the unemployment figures, with the rates being 18.9 per cent for Māori without qualifications and 11.8 per cent for Māori with post-school qualifications (New Zealand Human Rights Commission 2011: 12).

In terms of political participation, there are 21 Members of Parliament who have self-identified as being of Māori descent – 17 per cent of the total parliament. In the 2006 census, 18 per cent of the population identified as Māori. Of the 21 Māori Members of Parliament, six are Māori women. Although progress is being made in terms of Māori women's participation and development, the New Zealand Human Rights Commission in its report to the CEDAW Committee in 2011 noted that on almost all of the available indicators there was a gap between European and Māori and Pacific women. People of Pacific ethnicity comprise 7 per cent of the population. The closing of this gap is a major focus of current public policy that is pursued by governments.<sup>13</sup>

An understanding of the participation and development of women in New Zealand is a story of two peoples – Pakeha (European) and Māori. Increasingly, however, it is also a story of the growing diversity of New Zealand's population and the attempts recently to incorporate those different stories within a narrative. Since 2003, the Human Rights Commission has developed a strategy of inclusion of ethnic diversity under the leadership of the Human Rights Commissioner responsible for race relations. This chapter acknowledges that the dominant narrative reflects the experience of Pakeha women, because of their greater access to the political system. It will be noted, however, that the activism of feminists in the 1970s and 1980s contributed to growing awareness of the inequalities experienced by Māori women (Horsfield and Evans 1988). The social and political activism of this period included a renewal within Māoridom of their right to self-determination, which was guaranteed under the Treaty of Waitangi.

Māori women were an important part of the renaissance within Māori, and for many the position of Māori women was expressed as 'Justice for Māori women had to be understood in the context of the wider question of Māori

sovereignty' (Awatere 1984: 44). The reconstruction of the role of Māori men and women within Māori culture is a matter for Māori to determine, though Māori feminists have been contributing towards a partnership between Māori men and women that reflects the changing gender roles in the larger society but that are driven by and for Māori themselves. Māori women live within two worlds in which their role as women is seen differently.<sup>14</sup> The same is true for Pacific women and for women of the increasing number of different ethnic groups living in New Zealand. One of the major challenges for New Zealand as a whole is to accommodate and affirm cultural difference. The story of the struggle of Māori and Pacific women has yet to be fully recorded, but is likely to be an important part of the New Zealand narrative in the future.

### 3.6 Impact of women's political leadership on legal and public sector reform

Women have long been aware of the importance of the law and the legal system in determining their status, rights and responsibilities. The legal system encompasses not only the rules and principles, but also the institutions and people who make, enforce, interpret and administer the rules. If women were to have any influence within the legal system, they needed to not only be in parliament, or more specifically the government, but also appointed as judges to all levels of the court system, to act as lawyers, undertake employment as administrators and policy advisors within the legal bureaucracy, and work within the enforcement agencies, such as the police and prison service. New Zealand feminists in the nineteenth century recognised the need for women to have legal equality (Grimshaw 1972), and they campaigned not only for the right to vote but for legal recognition of their right to equality. Among other achievements, these campaigns resulted in women gaining access to primary education as of right in 1877, the right to attend and graduate from universities, with the first woman graduating in 1877, and the right to practise law, with the first women being admitted to practise law in 1897. Early feminists recognised it was the law that legitimised the values, behaviour and institutions of a society, and thus the role of women. It was essential, therefore, that women obtained recognition of their rights in law if they were to gain control over their lives.

On the surface there appeared to be few legal impediments for women to pursue whatever activity they wished, because the law did not specifically discriminate against women. *In reality, however, the apparent 'neutrality' of the law enabled discrimination against women who tried to step beyond the traditional role of women.* The lack of both a positive legal right to equality and a legal remedy to redress discriminatory behaviour reinforced the traditional role of women as wives and mothers dependent on a husband for economic and social status and support. It was the continuing lack of positive legal rights for women that dominated the feminist movement agenda during the 1970s and 1980s. Although it was acknowledged that law reform in itself would not



obtain the equality women sought, it was seen as a necessary step towards its achievement. The second wave of feminism, which demanded equal legal rights for women, addressed many of the same issues.

### 3.6.1 Women human rights-centred legal reforms in New Zealand

The rights for which women sought legal recognition during the 1970 to 1990 period are outlined below:

- They centred first on a woman's right to personal security and control over her own body, through legislation giving women greater protection from domestic violence. This resulted in the enactment of the Domestic Violence Act 1982 and greater protection to report rape and have the crime taken seriously by the police. The rape laws were changed, but women still risk character attacks if they bring prosecutions.
- Women also sought access to safe abortions and contraceptive advice. They were, however, unsuccessful in this campaign and the Contraception, Sterilization, and Abortion Act of 1977 that was enacted has remained an ambiguous piece of legislation, although it has been interpreted to enable most women access to safe abortions. Women now have access to contraceptives and receive advice on birth control.
- Women further sought the right to economic independence through such diverse legislation as: the Equal Pay Act 1972, which gave women the right to equal pay for equal work, but not work of equal value; the Human Rights Commission Act 1977, which provided a remedy for discrimination on the grounds of sex or marital status; the Matrimonial Property Act 1977, which recognised the financial contribution of women to marital property; the Maternity and Parental Leave Act 1980, which recognised that women had a right to unpaid leave after the birth of a child; the (now repealed) Employment Equity Act 1990, which gave legal recognition to the right to both equal pay for work of equal value and equal employment opportunities; and the Human Rights Act 1993, which extended the grounds of unlawful discrimination to include, among other grounds, family status.

While, with the exception of the Contraception, Sterilization, and Abortion Act, each of these acts were initiated and supported by women because they were intended to redress a wrong or create a right for women, they all failed in some respects to achieve the objectives of the women who campaigned for them. This does not mean that many women have not benefited from the provisions of these acts. However, there was still unfinished business for women to pursue in terms of this equality legal agenda when feminist women next achieved positions of political power between 1999 and 2008. The legal framework for women's equality of the 1980s was built on during the 1999 to 2008 period, not only with regard to specific policy issues, but also in an attempt to give better access to the legal system.

Other constitutional reforms championed by the woman-friendly government of New Zealand included the following:

- Constitutionally, the disestablishment of the Privy Council and *establishment of the Supreme Court in 2003* has enabled for the first time family and employment cases (which involve many women) to be determined by a final court of appeal in New Zealand.
- The *Human Rights Amendment Act 2001* restructured the Human Rights Commission to be more proactive in the advocacy of human rights. Importantly it has provided a more effective remedy against discrimination through a provision that requires a finding of discrimination to be reported to parliament, and a response from the minister responsible for the policy area.
- The *Paid Parental Leave Amendment Act 2002* built on the Maternity Leave and Employment Protection Act of 1980, with provision for 14 weeks paid parental leave.
- Similarly, the *Property Relationships Act of 2001* extended the *Matrimonial Property Act 1977* and provided for a 50 per cent division of property on the breakdown of a relationship, whether the relationship was in the nature of marriage or not. The act also applies to same-sex couples.

### 3.6.2 Women's leadership and public sector reform

Initiatives in the area of employment were also recommenced during the 1999 to 2008 period. They included pay equity audits of public sector jobs, which were subsequently disestablished after a change of government in 2008; work/like balance measures, including the right to request flexible working arrangements, which were continued after the change of government; and an Equal Employment Opportunities Commissioner (EEOC) appointed to the Human Rights Commission. This appointment enabled institutional support for equal employment opportunities to be pursued by a state institution.

A similar position had been disestablished in 1991, reflecting the public policy ideology of the time that the market was the primary vehicle for achieving equity. The value of the appointment of an EEOC has been seen through measures such as research on the appointment of women in public positions (New Zealand Human Rights Commission 2012a), a report on the position of care workers in rest homes (New Zealand Human Rights Commission 2012b) and a report on a conversation with 3,000 New Zealanders about their work experiences. This focus on measures to improve equal opportunities in the workplace included a draft *Pay Equality Bill* (New Zealand Human Rights Commission 2011). The Human Rights Commission has also sponsored a successful equal pay case to the Human Rights Tribunal.<sup>15</sup> Additionally, the commission has assumed greater responsibility in pursuing not only remedies against discrimination for women, but also through its research providing transparency on the position of women in society.

### 3.6.3 Strengthening policy for women's leadership positions

Apart from these specific statutory measures, the cabinet supported initiatives to institutionalise within the bureaucracy a more gender-equal approach to both policy advice and appointment to public positions. The cabinet supported a directive that required appointments to government boards to be diverse<sup>16</sup> and that all submissions to the Cabinet Social Equity Committee must include a gender analysis of the implications of the policy.<sup>17</sup> Although the Labour Party during this period had been elected on a platform that stated its commitment to the equality of women, the presence of women in cabinet, the government caucus and the party ensured that this policy was implemented. In addition, the fact that there was a clearly mandated women's policy agenda, which had appeared in some detail in every election manifesto since 1984, ensured the equality agenda could be pursued over a period of time whether or not the party was in government. The relative success of the agenda demonstrated the need for a long-term commitment and participation in the political process by feminist women.

### 3.6.4 Legal definition of equality to promote women

Although women have been actively involved in developing policies and reforming legislation to promote the equality of women, the reality has been that women still lack real equality. This fact was noted in the recent CEDAW report on New Zealand. The CEDAW Committee recommended:<sup>18</sup>

The state party is urged to establish a legal definition of discrimination on the basis of sex in line with article 1 of the convention, and to extend state responsibility for acts of discrimination by both public and private actors in accordance with article 2 of the convention, with a view to achieving formal and substantive equality between women and men.

Reasons for the lack of equality can be attributed to many factors:

- ***Lack of resources:*** The current global financial crisis (GFC) has contributed in reality and rhetoric to an argument that this is not the time to make changes, especially if they require an allocation of financial resources. It may be argued, however, that there is a more fundamental barrier to the legal and substantive equality of women. It is that policies and laws are designed to accommodate women within a system that was designed to protect and promote the male experience and their traditional role. While women may initiate the conditions for law reform, they do not have any control over that reform. This lack of control and even influence during the decision-making process is apparent when that process is analysed.
- ***The need for more women public servants as policy advisers:*** Cabinet officials have considerable influence on the development of policy – in particular the Treasury, which comments on all policy. It is for this reason that it is essential that women are part of the public service that provides advice on policy. Currently 24.1 per cent of chief executives in the public

sector are women.<sup>19</sup> Although all legislation must be enacted by parliament after normally being examined by a Select Committee of parliament, the reality is that the government has the majority in the parliament and normally its legislation is enacted. As noted previously, New Zealand's constitutional arrangements accord considerable power to the executive government.

- *Limited understanding of the political ideology to inform policy making:* All governments work within an ideological framework. Since the 1980s, neo-liberalism has provided the framework for policy making. This has meant all policy is assessed in terms of its financial cost and economic value. The primary mechanism for policy delivery is also assumed to be the market, whether social or economic policy is under consideration. This policy approach reflects existing relationships of power and reinforces those relationships. For women this approach presents a real barrier to gain recognition of policies to promote economic, social and political inclusion. The rationale for these policies is often grounded on notions of equality, and democratic process that are not always consistent with the ideology of neo-liberalism. This is why it is essential for women leaders to understand the ideas and ideologies that inform political decision-making.

### 3.7 International measures of women's current participation in public life

New Zealand has been considered by many, and considers itself to be, 'a leader in the field of gender equality'. This reputation is supported by several authoritative international measures. The Global Gender Gap Index (Hausmann et al. 2012), produced by the World Economic Forum, calculates gender equality in terms of economic participation and opportunity; educational attainment; health and survival; and political empowerment. New Zealand was placed sixth behind the Nordic countries and Ireland in 2011. It is interesting to note that women ranked first on the educational attainment measure, ninth on political empowerment and 15th on economic participation and opportunity.

The Human Development Reports from the United Nations Development Programme include two measures of gender equality. The Gender Empowerment Measure (GEM) combines indices such as: the participation of women in economic and political life; the representation of women in parliament, as senior officials and management, and as professional and technical workers; and the gender disparity in earned income. In 2009, New Zealand ranked tenth out of 109 countries (UNDP 2009). The Human Development Index (HDI) is a composite measure of three dimensions of human development: life expectancy; education; and standard of living. The Gender Development Index (GDI) captures inequalities between men and

women on these indicators. In terms of the ratio to the HDI, New Zealand ranks 69th out of 155 countries.

Although New Zealand scores well on the above indices, it is important to note that inequality is also increasing in New Zealand. The Organisation for Economic Co-operation and Development (OECD) report *Divided We Stand: Why Inequality Keeps Rising* (2011) notes that inequality in New Zealand has increased by more than 4 per cent using the Gini coefficient measure of inequality. In OECD comparative data for the period 2008–2009, New Zealand was ranked the 10th most unequal country in the OECD. This trend of growing inequality has been noted in many developed countries. Wilkinson and Pickett in their research published in *The Spirit Level* (2010) noted that New Zealand has one of the highest rates of income inequality among developed countries, ranking 17th out of 21 countries.

This research is important because it identifies the drivers of inequality, which enables an assessment to be made of the impact on women's development. For example, the OECD report identifies, among other factors driving inequality, regulatory and institutional changes that increased employment opportunities but increased wage inequality; at the same time these regulatory changes increased part-time work and atypical labour contracts that are associated with precarious work and a decline in working conditions. More women in New Zealand are employed in part-time employment, which affects their income and conditions of work (Dwyer and Ryan 2008). If their position is to be protected, it will require a regulatory framework that reflects the reality of women's working lives and economic position. The analysis of regulatory change in New Zealand over the past 40 years reflects a growing but incomplete awareness of the needs of women in paid employment, and that that awareness has been associated with the increased political representation of women.

### 3.8 Conclusion

New Zealand women have contributed much to the political leadership and development of the country. Their contribution has been effected through access to and participation in political decision-making, through political parties and governments. The achievement of the efforts of women is seen in changes to the legal system, which increasingly formally recognises the equality of women. Women have also increasingly gained economic independence, through participation in paid employment and fairer laws recognising their unpaid contribution to partnership property. In addition, women fully participate in their local and national communities and actively engage in the political process directly and through their NGOs. It is apparent, however, that these achievements have been gained through adapting to institutions that still reflect the male experience. It would be misleading to assume New Zealand women have achieved equality within the political system. The fact there is

still much to be done is recognised by CEDAW concluding observations and recommendations when they observed as follows:<sup>20</sup>

The Committee notes with concern the number of challenges that continue to impede the full implementation of the Convention in the state party, including recourse to gender neutral language with respect to gender based violence, including domestic violence; pay inequality and pay equity; the status of vulnerable groups of women, including women with disabilities and minority women; the impact of the 2011 earthquake on women; the impact of policy changes such as financial cuts to legal aid schemes; adequacy of targets and benchmarks to advance women's rights; and the insufficient dissemination and promotion of the Convention.

An assessment of the continuing development of women in political leadership will be seen in the next country report on the implementation of the obligations in CEDAW.

## Notes

- 1 *New Zealand Māori Council v Attorney-General* [1987] 1 NZLR 641.
- 2 Constitution Act 1986, s 17.
- 3 Electoral Act 1993, s 74.
- 4 Except for s 17 – Term of Parliament, which is subject to s 268 of the Electoral Act 1993 that specifies reserved provisions that require a 75 per cent majority in parliament or a majority at national referendum to change.
- 5 See Electoral Act 1993, s 268 for a list of the reserved provisions.
- 6 *Supra* No. 6, p 24.
- 7 See Harris and Levine (1992) and Levine and Roberts (1997) for a discussion of the factors that contributed to the MMP debate during this period.
- 8 Gustafson 1986: 266–87. In the 2011 National Party election manifesto only three women's policies were specifically identified – family friendly workplaces, violence against women and women on boards.
- 9 The author was elected the NZLP President in 1984.
- 10 See: [www.neon.org.nz/census2010/](http://www.neon.org.nz/census2010/)
- 11 Department of Labour research available at: [@dol.govt.nz](http://@dol.govt.nz)
- 12 Also see Coalition for Equal Value Equal Pay (CEVEP) for bibliography of recent publications, available at: [www.cevep.org.nz](http://www.cevep.org.nz) (accessed 20 November 2012).
- 13 See: [www.parliament.nz/en-nz/parl-support/research-papers/00PLLaw2012021/final-results-for-the-2011-new-zealand-general-election](http://www.parliament.nz/en-nz/parl-support/research-papers/00PLLaw2012021/final-results-for-the-2011-new-zealand-general-election) (accessed 20 November 2012.)
- 14 See Irwin (1992)
- 15 *Talley Fisheries v Lewis & Edwards* [2007] 4NZELR 447.
- 16 *Government Appointments: Diversity of Boards Membership*, C O (02) 16, available at: [www.dpmc.govt.nz/Cabinet/Circulars](http://www.dpmc.govt.nz/Cabinet/Circulars) (accessed 22 June 2012).
- 17 *Gender Analysis: Inclusion of Implications Statement in All Submissions to Cabinet Social Equity Committee*, CO (02) 6/3/2002, available at: [www.dpmc.govt.nz/Cabinet/Circulars](http://www.dpmc.govt.nz/Cabinet/Circulars) (accessed 22 June 2012).
- 18 Committee on the Elimination of Discrimination Against Women, *Concluding observations of the Committee on the Elimination of Discrimination against Women*, CEDAW/C/NZL/CO/7, available at: [www.un.org/womenwatch/daw/cedaw/39sess.htm](http://www.un.org/womenwatch/daw/cedaw/39sess.htm) (accessed 30 November 2012).
- 19 *Supra* n 28 at p 93.
- 20 *Supra*, n 47, available at: [www.un.org/womenwatch/daw/cedaw/39sess.htm](http://www.un.org/womenwatch/daw/cedaw/39sess.htm) (accessed 30 November 2012).

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