

CHAPTER 1

INTRODUCTION

Women all over the world have been steadily participating in the work force. Paid jobs for women in the rich world are becoming a new norm.¹ The “idea of a nuclear family with the breadwinner father out at work and the housekeeper and child minder mother at home is neither as old nor as obvious as it seems”.² Women of the world are no longer content to stay at home and solely carry out domestic responsibilities. Women are participating in paid work to gain financial independence, security and to seek a larger share in decision making in the household and work place. It is noted that as women begin to enter the labour force and earn money, they “will increase [their] role within the family”.³

Women have also battled a long road of prejudice, discrimination and bias in the family and society due to pre-defined roles and behaviour. Insight into prejudice, discrimination and bias surrounding women in and outside the work place can be explained with the help of two models. The two general models are early childhood socialisation and socio-structural coercion, which helps us comprehend how the roles and

¹ _____, “For Better, For Worse”, *The Economist*, (June 18 1998).

² Ibid.

behaviours of men and women in and outside the home are formed. These two approaches also help us understand how roles and behaviours assigned to men and women are reinforced through social institutions such as in the family, school and in the work place. The early childhood socialisation approach defines early behaviours among boys and girls.⁴ This approach states that "through observation, children learn behaviours associated with both parents [and] through differential reinforcement from parents, teachers and peers, children [will] begin to know what they can and cannot do".⁵ In short, "children begin to value gender 'appropriate' behaviours because they are rewarded and to devalue gender 'inappropriate' behaviours because they are punished or ignored".⁶ The socio-structural approach stresses the ways in which social institutions which are created and controlled by men, shape women's options and thus coerce their behaviour" at home and in the work place.⁷

At this point, I pause to mention that the early childhood socialisation and the socio-structural coercion approaches form the basis of this study. These approaches explain the emergence of the first variable of the study - sex-role stereotype. Details on the approaches and its link with sex-role stereotype will be discussed further in the conceptual framework of the study in Chapter 2.

³ Engle, P.L., "Intra-Household Allocation of Resource Perspectives from Psychology. In Rogers, B.L., and Schlossman, N.P. (Eds), *Intra Household Resource Allocation: Issues and Method Development Policy and Planning*, United Nations University Press, 1990.

⁴ Kessler, Suzanne and Wendy McKenna, "The Changing Experience of Women: Development Aspects of Gender", London: Basil Blackwell, 1989.

⁵ Kessler, *opcit*, 24.

⁶ Kessler, *opcit*, 25.

⁷ Gerson, Kathleen, "Hard Choices", Berkeley: University of California Press, 1985.

As mentioned earlier the two approaches explain how men and women's roles and behaviours are formed and further reinforced in and outside the home. Boys and girls and men and women learn gender assigned roles and behaviours in the home and in the work place. These pre-defined roles and behaviours lead to sex-role stereotype. The sex-role stereotype factor is the source of women's lack of basic rights in the community. A hundred years ago, few women around the world enjoyed the right to vote.⁸ This "basic lack of political rights", led to constraints in education opportunities and participation in the world of commerce and trade among women.⁹ Stereotyping has also led women into occupational categories that reflect their role at home.

Women have come a long way since then. The women of today "have the same legal rights as men; to vote, to work and to do as they please".¹⁰ Women's rights today, have extended to include "equal access to education at all levels [and] some of these changes may have been speeded up by feminism".¹¹ Feminism has helped acknowledge the inequalities facing women and given it importance in society. Women's rights have benefited from feminism, through the appreciation and "belie[f] that [the] experiences, concerns and ideas [of women] are as valuable as those of men and should be treated with equal seriousness and respect".¹² However, it is believed that "the most effective [tool] for changing attitudes [towards women's role] has been women's mass exodus from home to [the] workplace".¹³ Women's participation in the workforce has brought about

⁸ Sadik, Nafis, "Women and the 21st Century, New Perspectives Quarterly, 1998 Special.

⁹ Ibid.

¹⁰ _____, "Balancing Act", The Economist, (June 18 1998).

¹¹ Ibid.

¹² Andersen, M. L., "Thinking About Women: Sociology Perspectives on Sex and Gender", (Fourth Edition), Ontario: Allyn and Bacon, 1997.

¹³ _____, "Balancing Act", The Economist, (June 18 1998).

changes in attitudes towards women's role. The role assigned to women as "'just a housewife' is now a thing of the past".¹⁴

Women taking on the working world have helped alter traditional mindsets to include the role of an income earner. Governments and male and female citizens have realised that "modern economies [cannot] function without women workers".¹⁵ The working women phenomenon is welcomed by governments who understand "that the larger the share of the population at work, the better it is for the [country's] economy [and] more people at work means better public services" for everyone.¹⁶

Organisations have also acknowledged that to stay on top, to be competitive and successful, "they need to cast a wider net when recruiting [employees] and [that they also need] to make their staff better reflect their customer base".¹⁷ Therefore, as organisations look at expand[ing] their workforce, [they] turn to recruiting among "traditionally under-represented groups" including women.¹⁸

Meanwhile in the home front, women's participation in paid work has helped husband and wives share the task and responsibility of providing financial security for the family and to ease financial difficulties. Families with working couples are known as "dual-earner families, which makes a difference between just getting by and living

¹⁴ _____, "Balancing Act", The Economist, (June 18 1998).

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ DeVoe, Deborah, "Expanding the Pool of IT Workers", InfoWorld, (May 18, 1998).

¹⁸ Ibid.

comfortably".¹⁹ "In America about one in five women earn more than her husband and younger dual-career couples increasingly view both careers as equally important".²⁰ This is another move in the right direction towards changing attitudes towards women's new role as income earners and career women. Besides reflecting changing attitudes, dual-earner families also provide men with a new range of choices where they may "even take turns with their wives as the main breadwinner".²¹ The sharing of breadwinner role will also present the opportunity for men to spend more time at home and "get to know their children better".²²

The positive effects of the working women phenomenon includes greater decision making and spending power for women, financial security for the family, competitive work force and better services and quality of life for the whole society. The knowledge that women, in the work force is good has not been strong enough to eradicate bias, prejudice and discrimination they faced in the work place. Women face these obstacles and discrimination prior to entry and while in the work place. One such discrimination against working women was and still is wage discrimination. The increase in women's entry into the work place is "accompanied by a widening of the wage (and unemployment) gaps between men and women".²³ Wage discrimination occurs when women receive lower wages than men based on gender differences. Wage discrimination

¹⁹ _____, "For Better, For Worse", *The Economist*, (June 18 1998).

²⁰ Ibid.

²¹ _____, "For Better, For Worse", *The Economist*, (June 18 1998).

²² Ibid.

²³ Lloyd, C.B., and Beth T. Niemi, "The Economics of Sex Differentials", New York: Columbia University Press, 1979.

happens because of the "gendered nature of work in general".²⁴ "Men's jobs are distinct from women's jobs [whereby] the former are largely full-time, well paying and secure while women's jobs are part-time, low-paid and transitory".²⁵

Besides the nature of jobs available to women, women also receive less wages because of the types of jobs available to them. In the nineteenth-century, of the numerous women engaged in employment most "were overwhelmingly members of the working and peasant classes [who] mostly held jobs in domestic service, garment making or textile industry".²⁶ Similarly in Malaysia, "when women went out to work in the factories, they were mostly engaged in labour-intensive jobs which were considered inferior to men's and [were] given lower pay".²⁷ Therefore women are isolated into selected areas or categories of occupations, which reflected much of their domestic role in the household.

Another explanation for lower wages received by women is the aspect of gender differences in human capital acquired by men and women. The link between human capital (education, work experience and on-the-job training) and the earning gap between men and women are evident in literature. Wages received "provides [a] measurable return on human capital".²⁸ However, an earning gap as a result of differences in human capital

²⁴ Lynn, Marion and Milana Todoroff, "Women's Work and Family Lives". In Mandell, Nancy (Ed), *Feminist Issues: Race, Class and Sexuality*, Ontario: Prentice Hall, 1998.

²⁵ Ibid.

²⁶ Scott, Joan and Louise Tilly, "Women's Work and the Family in Nineteenth - Century Europe: The Changing Experience of Women", Oxford: Basil Blackwell, 1989.

²⁷ Jamilah Ariffin, "Women and Development in Malaysia", Selangor, Malaysia: Pelanduk Publications, 1992.

²⁸ Jacobsen, J. P., "The Economics of Gender" (Second Edition), Massachusetts: Blackwell Publishers, 1998.

between men and women does not mean wage discrimination exists. It simply means that men have invested more in human capital than women, leading them to engage in skilled-work that uses the skills and knowledge acquired through education, and therefore commanding a higher wage than women. However, this study attempts to see differences in human capital as a result of women not having the choice of investing in education and of employers not investing in them by providing training, due to sex-role stereotypes. Women's role in society does not make allowances for women to participate in extended formal education. Women's segregation into selected work areas and the length of time engaged in work also reduces work experience considerably. On-the-job training also eludes women as employers' favour training men. Men are seen as long-term employees and the future of the company and investing in their training would seem beneficial to the company.

The notion of paying women lower wages than men "for exactly the same job [may have been] considered perfectly acceptable" in the past.²⁹ The reason for this lies in the "stereotypical assumption that men work as breadwinners for the family whereas the women's wage is merely "pin money" [which is] a top-up for extras rather than an essential component in the family budget".³⁰ However, even with changing attitudes in today's world, this view still "lives on in hundreds of millions of heads [of] female as well as male", which only serves to explain the existence and persistence of gender-related job segregation and gender differences in human capital in causing wage discrimination.³¹

²⁹ Pitt, Gwyneth, "Employment Law" (Third Edition), London: Sweet & Maxwell, 1997.

³⁰ Ibid.

The important variables of this study have been identified as sex-role stereotype, gender-related job segregation, gender differences in human capital and wage discrimination. In addition, two general models - early childhood socialisation and socio-structural coercion - will help us gain insight and understanding of the sex-role stereotype variable. The variables and the two approaches will be presented in a conceptual framework, for clarity and further understanding in Chapter 2.

1.1 Research Methodology

The research method used in this study is legal research methodology. This method was chosen because it helps achieve the nature of this study, which incorporates advocacy and persuasion. Case studies are used to help us reach our goal to put forward advice and recommendations for a society and country functioning with lesser discrimination. Specifically, through advocacy and persuasion, the study "intends to inform some decisions".³² In the case of this study, the outcome is advice and information on decisions that can be implemented with the help of the government, employers and trade unions and women themselves. More on the actions available to these players will be highlighted in Chapter 5.

The major objective of this research method, which aims to advocate, involves "analysing and presenting alternatives available for solving public problems".³³ I will

³¹ _____, "Balancing Act", *The Economist*, (June 18 1998).

³² Weimer, David L. and Aidan.R. Vining, "Policy Analysis: Concepts and Practice", Englewood Cliffs, New Jersey: Prentice Hall, 1998.

³³ Ibid.

therefore analyse the case studies in detail in Chapter 3 and present possible alternatives and recommendations in Chapter 5 for solving the discrimination problem in general. Another aspect of advocacy and persuasion concerns the 'client' of this research. The 'client' of this research is the "specific decision-maker [and the] collective decision-maker".³⁴ The specific decision-maker is women themselves who guide their own destiny. Making changes either in their attitudes or investing in further education are only two steps towards enhancing their status in society and reducing stereotypes. The collective decision-makers include employers, trade unions and the government and how they can work together towards a better working environment with greater equality for Malaysian women. The recommendations to solve or reduce wage discrimination, which are available to the specific and collective decision-maker will be discussed further in Chapter 5. Lastly, this research methodology looks at the "synthesis of existing research and theory to estimate consequences of alternative decisions".³⁵ In Chapter 3, I will use all legal provisions and findings from the decided cases to highlight the existence of the variables of this study in the Malaysia setting. The existence of the variables of this study - sex-role stereotype, gender-related job segregation and gender differences in human capital acquired - in several aspects of the Malaysian scenario will then be discussed in Chapter 4.

This method of research is in contrast to the approach of empirical social science methodology. In empirical social science methodology, the major objective includes the

³⁴ Weimer, *opcit*, 4.

³⁵ *Ibid*.

"construction of theories [to help us] understand society".³⁶ This is achieved by "identifying general patterns and relationships".³⁷ The style employed to identify general patterns includes "rigorous methodology to construct and test theories".³⁸ Theories or "pool of ideas [are] improved and expanded by testing their implications".³⁹ Hypotheses which "are derived from theories and their implications [are] tested". Hypotheses' testing helps "improve the overall quality of the pool of ideas, refine theories and improve and elaborate a set of ideas".⁴⁰ All these provide researchers with "explanations of general patterns and features of social life".⁴¹

The case studies mentioned above are decided cases based on equal pay claims under the Equal Pay Act 1970 of the United Kingdom. Each case highlights the instance of *like work*, *work rated as equivalent* and *work of equal value* respectively. In the United Kingdom, "the basis of national right to equal treatment once a woman is actually in employment is the Equal Pay Act 1970. The Act achieves equal treatment by implying an equality clause whenever a women is employed on *like work*, *work rated as equivalent* and *work of equal value* to that of a man in the same employment as herself".⁴²

The aim of these selected equal pay claim cases is to reveal that when all factors remain equal, wage inequalities still persists against the working women. The equal pay claim cases are *Shields v E.Commes (Holdings) Ltd* [1978], *Bromley & Others v H. & J.*

³⁶ Weimer, opcit, 4.

³⁷ Ragin, Charles C., "Constructing Social Research", Thousand Oaks, California: Pine Forge Press, 1994.

³⁸ Weimer, opcit, 4.

³⁹ Ragin, opcit, 33.

⁴⁰ Ragin, opcit, 34.

⁴¹ Ibid.

Quick Ltd [1988] and *Pickstone & Others v Freemans Plc* [1987]. Each case is different because each showcase an instance of *like work*, *work rated as equivalent* and *work of equal value* respectively. Further details on the cases will be discussed in Chapter 3. The decided cases are relevant to the Malaysian setting because the product of these cases act as advice for decision-makers, law-makers and male and female citizens of Malaysia towards waging the war against discrimination, specifically wage discrimination.

The three cases collectively advocate the importance of having laws and legislature governing equality for women. Besides the promotion of equality among men and women, these laws help women seek justice when discriminated upon, help set a better quality of life in and outside the work place, raises the status of women in society and gives women recognition for their role in the economy. As we have no reference on a legal standpoint in Malaysia, the three case studies are relevant because they help advocate for better laws to promote equality. The cases also provide insight, which signifies the importance of education and training towards empowering Malaysian women and changing attitudes among women, men, parents and community members.

1.2 Problem Statement

In the beginning of this chapter, I introduced the working women and the earning gap between men and women. I also presented sex-role stereotype, gender-related job segregation, gender differences in human capital and wage discrimination as

⁴² Evetts, Julia (Ed), "Women & Career: Themes and Issues in Advanced Industrial Societies", London: Longman, 1994.

variables of this study and further offered two approaches to explain the existence and emergence of the first variable - sex-role stereotype. All these important elements - sex-role stereotype, gender-related job segregation and gender difference in human capital - working against women at work causes wage discrimination.

Malaysian women have also been subjected to the influence of the variables of this study. Sex-role stereotypes as a result of values and intervention from our former colonial rulers have given rise to inequalities facing working women. Sex-role stereotypes also influence decision-makers when planning national government policies. This is clearly seen in the segregation of women into occupational categories based on values and criteria associated with women. The influences of sex-role stereotypes are also seen in the third variable - human capital. Sex-role stereotypes have limited women's entry into formal education. With all these variables at play in the Malaysia scenario, the consequence is inequalities in pay facing working women.

Wage inequalities occur when “men earn more than women in almost every occupation [with] occupations most populated by women workers [being] the lowest paid of all”.⁴³ The “most notable economic trend regarding gender difference is the convergence between gender participation rates and paid work”.⁴⁴ Men and women work in “gender (and racial or ethnic) – segregated jobs” and differences in education and

⁴³ Andersen, *opcit*, 211.

⁴⁴ Jacobsen, *opcit*, 100.

training have “enormous consequences [on] women’s earnings”.⁴⁵ As we have mentioned in the earlier paragraph, this phenomenon is also reflected in Malaysia.

Therefore as we acknowledge the role of these variables in causing wage discrimination, several questions still plague us.

1. Are sex-role stereotype, gender-related job segregation and gender differences in human capital direct causes of wage discrimination?
2. How do we explain the link between the instance of *like work, work rated as equivalent* and *work of equal value* with the variables of the study?

1.3 Significance of Study

The study looks at the changing roles of women in the society, which will help provide an insight into the progress of women's position and status in the family and community. It is hoped that this insight into women's changing role, will help highlight and acknowledge the important contributions working women offer to her family, work place and community.

This study also explores the causes of wage discrimination by examining sex-role stereotype, gender-related job segregation and gender differences in human capital. This serves to indicate that “discrimination is institutionalised”⁴⁶ and social institutions such as the family, school and the work place are participants in forming and reinforcing

⁴⁵ Andersen, opcit, 210.

⁴⁶ Anderson, opcit, 265.

discrimination against women. This will indicate the important role families, school, peers, teachers and employers play towards encouraging and instilling the right attitudes among boys and girls and men and women and towards eliminating stereotypes.

The case studies discussed will also help emphasise government's role in confronting wage discrimination and protecting working women's interest through the provision of employment or labour laws. Though the cases are based on the Equal Pay Act 1970, which is a United Kingdom employment act, it will showcase the importance of such a law towards the promotion of equality among its citizens. This will also serve as an example for Malaysia. We will discover in Chapter 4, that the federal constitution and labour laws of Malaysia are inferior with regards to provision of labour and employment laws, which should protect Malaysian women against discrimination of any kind. The case studies help highlight the scope of wage discrimination through the various instances specified by the Equal Pay Act 1970 such as *like work*, *work rated as equivalent* and *work of equal value*. This will help Malaysian lawmakers in drafting new laws on equal employment and specifically on eradicating wage inequalities. The instances stipulated in the UK act, help as building blocks for a more comprehensive legal framework designed to protect its female citizens. The case studies also helped to identify the existence of the variables of this study in the Malaysian context. This paved the way for possible reforms and recommendations in Malaysia's legal framework, government policies and education system.

1.4 Objective of Study

The general objective is to study wage discrimination against working women.

The specific objectives are:

1. To examine sex-role stereotypes resulting from a colonial background, as a cause of wage discrimination against working women.
2. To explore gender-related job segregation existing in government policies as a cause for wage discrimination against working women.
3. To examine gender differences in human capital resulting from lack of access to education, as a cause for wage discrimination against working women.

1.5 Definitions of Concepts

Discrimination:- “refers to the practice that systematically disadvantages one or more groups”.⁴⁷

Equal pay without discrimination based on sex:- includes characteristics such as "(a) pay for same work at piece rates shall be calculated on the basis of the same unit of measurement and (b) pay for work at time rates shall be the same for the same job".⁴⁸

Feminism:- "is a politics [which is] directed at changing existing power relations between

⁴⁷ Anderson, opcit, 213.

women and men in society".⁴⁹

- "constitutes a social, economic and political commitment to eradicating race, class and sexual domination and to reorganising society so that individual self-development takes precedence over imperialism, economic expansion and material desires".⁵⁰

Feminisation or feminised:- reflects an occupation which has been identified as being atypical to a particular sex whereby "occupations associated with caring, manual and finger dexterity and typical household related work" as having more women rather than men undertaking them.⁵¹

Gender:- "socially learned behaviours and expectations that are associated with the two sexes".⁵²

Gender segregation:- "refers to the pattern whereby women and men are situated in different jobs throughout the labour force".⁵³

Glass ceiling:- "is the subtle barrier of negative attitudes and prejudices that prevents women (and minorities) from moving beyond a certain level in the corporate hierarchy".⁵⁴

⁴⁸ _____, "Supranational Action Against Sex Discrimination", International Labour Review, Geneva: International Labour Office, Vol. 138(4), (1999), 390-410.

⁴⁹ Weedon, Chris, "Feminist Practices & Post Structuralist Theory", London: Basil Blackwell, 1987.

⁵⁰ Hooks, Bell, "Feminist Theory: From Margin to Center", Boston: South End Press, 1984.

⁵¹ Melkas Helina and Richard Anker, "Gender Equality and Occupational Segregation in Nordic Labour Markets", Geneva: International Labour Office, 1998.

⁵² Anderson, opcit, 213.

⁵³ Anderson, opcit, 114.

Human capital:- "any form of investment that increases a person's well-being either from: (a) an increase in a person's productivity in market and non market work or (b) an increase in a person's satisfaction with time spent in market work, non-market work or leisure".⁵⁵ A *general* human capital includes the ability to read, while a *specific* human capital is the ability, which is more specific to a particular industry such as the knowledge of a firm's operating procedures.⁵⁶

Job evaluation scheme:- a study which "attempts to measure the worth of jobs and may be used by management essentially as a way of trying to demonstrate to the work force [that] the differentials [between men and women are] justified".⁵⁷

Job ranking:- "each job is considered as a whole and is then given a ranking in relation to all other jobs. A ranking table is then drawn up and the ranked jobs [are] grouped into grades. Pay levels can then be fixed for each grade".⁵⁸

Paired comparisons:- "each job is compared as a whole with each job in turn and points (0, 1 or 2) [are] awarded according to whether [each job's] overall importance is judged to be less than, equal to or more than the other. Points awarded for each job are then totalled and a ranking order [is] produced".⁵⁹

Pay:- "the ordinary basic and minimum wage or salary and any other consideration,

⁵⁴ Crampton, S.M. and J.M. Mishra, "Women in Management", Public Personnel Management, Alexandria: International Personnel Management, Vol. 28(1), (Spring 1999), 87-106.

⁵⁵ Jacobsen, opcit, 102.

⁵⁶ Ibid.

⁵⁷ Pitt, opcit, 150.

⁵⁸ Painter, R. W., Ann Holmes and Stephen Migdal, "Cases and Materials on Employment Law", London: Blackstone Press Limited, 1995.

whether in cash or kind, which the worker receives directly or indirectly, in respect of his employment from his employer".⁶⁰

Pay equity:- men and women "are paid the same salary because the value of their work is thought comparable".⁶¹

Wage:- "compensation for the time that a person spends working [and] compensation for the [organisation's] use of the person's capital stock during the time spent working".⁶²

Workplace discrimination:- "occurs when two persons who have equal productivity and tastes for work conditions, but who are members of different groups, receive different outcomes in the workplace in terms of the wages they are paid and/or of their access to jobs".⁶³

1.6 Limitations of Study

This study aims to explore wage discrimination caused by gender-related job segregation. However, occupational choice among women may also be determined by ethnic or race-related segregation, which the study does not include. In a multi-racial

⁵⁹ Painter, opcit, 217.

⁶⁰ _____, "Supranational Action Against Sex Discrimination", International Labour Review, Geneva: International Labour Office, Vol. 138(4), (1999), 390-410.

⁶¹ Boneparth, Ellen, "Pay Equity: Beyond Equal Pay for Equal Work". In Boneparth, Ellen (Ed), Women, Power and Policy, New York: Pergamon Press, 1992.

⁶² Jacobsen, opcit, 102.

⁶³ Jacobsen, opcit, 101.

country like Malaysia, women may also be subject to ethnic or race-related segregation in addition of gender. Social scientists have pointed out that the "explanations for the gendering of the labour market should [also take into] account [the] differences by race and class".⁶⁴ Similarly, other research has also acknowledged that the scope of gender-related job segregation has been "further complicated by race".⁶⁵ Therefore the scope of gender-related job segregation is not limited to government policies only.

The study also does not specify the marital status of women. Literature shows that the marital status of women also contributes towards wage discrimination against working women. Studies in this field among male and female physicians, indicate "that being married and having children are positively associated with income for men and negatively associated with income for women".⁶⁶

Another major limitation posed is that the study highlights equal pay claims from the United Kingdom, which have the benefit of legislatures or employment acts. No cases relating to Malaysia have been included because there is no legal provision promoting pay equality to enable women to bring forward their grievances or plight through the legal system. Therefore, a major limitation is that no comparison can be made between the UK and Malaysian legal framework. This eliminates a scope of study beneficial to Malaysia. This is because firstly, this scope would include exploring the effectiveness of the two frameworks. Second, outline the difficulties in implementation of equal

⁶⁴ Redclift, Nanneke and M.T. Sinclair (Eds.), "Working Women: International Perspectives on Labour and Gender Ideology", London: Routledge, 1991.

⁶⁵ Anderson, opcit, 115.

employment acts in the two countries and therefore advocating for changes and improvements in Malaysia.

⁶⁶ Jacobs, J., "Revolving Doors: Sex Segregation and Women's Careers", Stanford, California: Stanford University Press, 1989.