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Book Reviews

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BOOK REVIEWS

EQUAL EMPLOYMENT POLICY FOR WOMEN: *Strategies for Implementation in the United States, Canada, and Western Europe.* Ronnie Steinberg Ratner, ed. Philadelphia, Pennsylvania: Temple University Press. Pp. xxii, 520. *Reviewed by Robert Belton.**

The political atmosphere in many Western nations today is charged with debate over the widespread demands for the complete equality of women. A number of international agreements ratified by many countries, and presently in effect, provide for political, social, and economic rights for women.¹ The movement for equal opportunity in the labor market has been one of the major forces behind the drive for equality for women. Working women have traditionally suffered many kinds of discrimination based upon biological myths and social roles that have been increasingly undermined by scientific understanding and changing social values.

Historically, one of the usual assumptions about the role of women in the labor market in Western societies, at times more implicit than explicit, is that women constitute a "reserve" or "secondary" cadre of workers which can be called upon when the supply of men is short and which would retreat to their "primary" roles as homemakers when their services are no longer needed. Such has been the history of both world wars; women were pressed into service in the labor market during the wars, but afterwards they were forced to return to their primary roles. The 1960's and 1970's again saw employers actively recruiting women for a wide variety of jobs not previously opened to them, but the impetus for the presence of women in the labor market stemmed, in large part, from a world wide movement toward the recognition of equality between the sexes. This period coincided with a more aggressive women's movement; a movement demanding not just equality at the ballot box, but full equality in the labor market.

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1. See Guggenheim & Defeis, *United States Participation International Agreements Providing Rights for Women*, 10 *Loy. L.A.L. REV.* 1 (1976).

The present interest in labor market equality for women has been articulated in two policy positions—equal pay and equal employment opportunity. Equal pay, until recently, was the more broadly accepted of the two, despite lengthy controversy over the definition of “equal.” The International Labor Organization (ILO) has advocated “equal pay for equal work,”² while the Treaty of Rome establishing the Common Market preferred “equal remuneration for equal work.”³ The former definition has been criticized for requiring a detailed study of how the value of work is to be defined, the latter has been criticized as being too narrow.⁴ Whatever the definition, the policy of equal pay has been endorsed by the United Nations,⁵ and advocated in countries such as the United States,⁶ Great Britain,⁷ and France.⁸

As a policy, equal employment opportunity has been less widely accepted than equal pay. While laws which prohibit discrimination on the basis of sex in hiring, training, promotion, placement and termination further the objectives of an equal opportunity policy, this concept is subject to some of the same definitional problems as equal pay. Again, the United Nations⁹ and the ILO¹⁰

2. *International Labor Organization 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value*, art. 2, 165 U.N.T.S. 303, adopted June 29, 1951.

3. *Treaty Establishing the European Economic Community*, Mar. 25, 1957, 298 U.N.T.S. 11 (entered into force Jan. 1958).

4. These arguments were considered when the British were developing their equal pay act. The wording of the act represents a compromise, giving a woman the right to claim equal pay if she is doing the “same or broadly similar work” as a man or if she is doing work which has been rated equivalent under a job evaluation exercise. See Larson, *Equal Pay for Women in the United Kingdom*, 103 INT’L LAB. REV. 1, 2-3 (1971).

5. The Universal Declaration of Human Rights adopted in 1948 states: “everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as . . . sex. . . . Everyone, without any discrimination, has the right to equal pay for equal work.” Arts. 2, 23, G.A. Res. 217 A, U.N. Doc. No. A/810 (1948). See also HAMMARSKJOLD, *EQUAL PAY FOR EQUAL WORK* (1960).

6. See, e.g., Equal Pay Act of 1963, 29 U.S.C. § 206(d) (1970). For an overview of other acts and orders, see Fuentes, *Federal Sanctions, Focus on Title VII*, 5 VAL. U.L. REV. 374 (1971).

7. See Covington, *American and British Employment Discrimination Law: An Introductory Comparative Survey*, 10 VAND. J. TRANS. L. 359, 414-18 (1977).

8. See Alexandre, *The Statute of Women in France*, 20 AM. J. COMP. L. 647, 656 n.4 (1972).

9. U.N. Charter, art. 55, states that “higher standards of living, full employ-

have taken some initiative to establish equal employment opportunity as an international policy.

The available statistical data demonstrates that implementation of current equal pay and equal employment opportunity policies for women have not been effective and that the international conventions are not being rigorously enforced.¹¹ Moreover, studies have indicated that effective development and implementation of any policy of equality for women in the labor market depend upon the legal, social, economic, and political status of women and are so interdependent that they cannot be arbitrarily separated.¹² Women in all countries are likely to face many of the same problems in any campaign to bridge the gap that exists between theoretical equality and equality as a reality that is manifest on any measurement scale. Not many countries have attempted to establish comprehensive policies and effective implementation strategies for labor market equality for women.

It is against this background that the Wellesley College Center for Research on Women¹³ sponsored a conference in May 1978 to discuss, in an international context, the problems in expanding employment opportunities for women. The book under review is a collection of revised versions of the papers specially commissioned for the Wellesley Conference. The papers constitute a set of case studies and critical essays on the evolution, implementa-

ment, and conditions of economic and social progress and development" are to be sought without distinction as to "race, sex, language, or religion." For example, both the Declaration of Elimination of Discrimination Against Women, art. 1 G.A. Res. 2263, U.N. Doc. No. A/6717 (1967), and the International Covenant of Economic Social and Cultural Rights, art. 7, G.A. Res. 2200, U.N. Doc. No. A/6316 (1966), stress the right to work as well.

10. *International Labor Organization Convention 111 Concerning Discrimination in Respect of Employment and Occupation*, art. 2, 362 U.N.T.S. 32, adopted June 25, 1958, asserts: "Each member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment occupation, with a view to eliminating any discrimination in respect thereof."

11. See generally, IRELAND, *International Advancement and Protection of Human Rights for Women*, 10 LAWYERS OF THE AMERICAS 87 (1978); M. GALENSON, *WOMEN AND WORK* (1973).

12. See, e.g., *Symposium on Law and the Status of Women*, 8 COLUM. HUMAN RTS. L. REV. 1 (1976); Voegel, *Some Suggestions for the Advancement of Working Women*, 112 INT'L. LAB. REV. 29 (1975).

13. Wellesley College Center for Research on Women is located in Wellesley, Mass.

tion, and the impact of equal employment policy in seven countries: Austria, Canada, the Federal Republic of Germany, France, Sweden, the United Kingdom, and the United States. It appears that these countries were selected because, despite the different social, political, and economic factors that influence the development of policy and implementation of labor market equality, they can be characterized as advanced industrialized democracies.¹⁴ Each country provides a source of experience and ways of examining alternative approaches to expanding employment opportunities for women.¹⁵ Equal pay and equal employment policies are high priority items on the political agenda in each country.¹⁶

The editor, Ronnie Steinberg Ratner, announces what appears to be the basic organizing theme for the book (and the conference) in the first paragraph of her opening chapter:

Equal employment policy for women, which encompasses the goals of equal pay and equal opportunity, has become one of the salient political issues of the late 1970's. A critical mass of women has exerted pressure on governments, trade unions, and employers to develop laws, collective bargaining agreements, and other government regulations to rectify the acknowledged unequal labor market situation of women. This volume assesses cross-nationally the variety of institutional means by which equal employment policies have been implemented in seven countries: Austria, Canada, the Federal Republic of Germany, France, Sweden, the United Kingdom, and the United States. While the development of policy in these countries is at differing stages, the concern in all of them has moved from *whether* to expand the employment opportunities of women to *how* best to accomplish this change. The issue of how to achieve labor market equality for women involves, in turn, both the choice of an implementation strategy and the selection of specific policy goals.¹⁷

This is not only an appropriate organizing theme but as a general thesis, it is clearly correct. Not only do statistical data, case studies and critical essays on the seven countries demonstrate it,

14. EMPLOYMENT POLICY FOR WOMEN: *Strategies for Implementation in the United States, Canada, and Western Europe*, Introduction xvii (1980) [Hereinafter EMPLOYMENT POLICY FOR WOMEN].

15. EMPLOYMENT POLICY FOR WOMEN, Preface xiii.

16. *Id.* Introduction xviii.

17. Ratner, *Policy and Problems: Overview of Seven Countries*, *supra* note 14 at 1 (original emphasis).

but previous publications have sounded the same theme.¹⁸ But it must be conceded that this thesis, though correct, is not particularly startling. It could have been (and has been) demonstrated in the course of a long article.¹⁹ The value of this book must be justified on other grounds.

The editor suggests, in her Introduction, that the basic value of the book is that it "comprises the first cross-national discussion of equal pay and equal opportunity for women."²⁰ From United States perspective, this "first" very well may be true,²¹ but cross-national consideration of equality for women generally, and in the labor market particularly, has been written about before.²² The book is justified also for other reasons which the editor describes as "unique." First, she notes that all of the chapters are original: several because they present unpublished data on the effects of equal opportunity or equal pay policy in private firms; others because they document some of the contradictions in policy implementation with information that had been accessible only to policy-makers; and others because they discuss policies in continental Europe in English. Second, she states that the authors write from first-hand experience in developing, implementing, and/or evaluating equal employment opportunity and equal pay policies.²³ There are additional reasons that support the value of the book, reasons other than those stated in the Introduction, but some comments about the book may be helpful before those reasons are stated.

There is an inconsistency in the statement of the themes addressed at the conference and the themes addressed in the book.

18. See, e.g., *Symposium, Law and the Status of Women*, 8 COLUM. HUMAN RTS. L. REV. 1 (1976); Vogel, *supra* note 12.

19. See, e.g., Vogel, *supra* note 12; Cordova, *A Comparative View of Collective Bargaining in Industrialized Countries*, 117 INT'L LAB. REV. 432 (1978); Leijon, *Sexual Equality in the Labour Market*, 112 INT'L LAB. REV. 109 (1975).

20. EMPLOYMENT POLICY FOR WOMEN, *supra* note 14, Introduction at xviii.

21. In preparation for the Wellesley Conference, it is noted in the Preface that those at the Center "naturally looked to other western industrialized countries as a source of experience and alternative approaches to expanding employment opportunities for women. The idea for an international conference on equal pay and equal opportunity therefore was firmly grounded in an evaluation of United States policy from the critical perspectives of research, policy, and action." *Id.* at xiii-xiv.

22. See, e.g., *Symposium, Law and the Status of Women: An International Symposium*, 8 COLUM. HUM. RTS. L. REV. 1 (1976).

23. Ratner, *supra* note 17 at xviii-xix.

The editor states in the Introduction that *five* related themes or issues were addressed at the conference: the economic and social context of equal pay and equal opportunity, strategies for implementing equal employment policy, the impact of these policies on employment procedures in work organizations, the role of trade unions and women's organizations in facilitating equal employment policy, and technical issues in implementing these policies.²⁴ The Introduction states also that the book addresses *four* aspects of equal employment policy development and implementation: the strengths and weaknesses of the strategies in the seven countries for achieving equal employment policy and the linkage of such strategies to organized political organizations; the effect of those policies on work organizations; the ways in which economic conditions and other public policies restrict or facilitate policy implementation, and equal employment policy goals for the future.²⁵ Furthermore, the editor notes, in the concluding chapter, that the "preceding chapters address a wide array of issues and themes that flow from considering the actual institutional means by which equal employment policy for women is implemented."²⁶ After noting that it is impossible to capture and summarize in a few pages the diversity of perspectives in these issues, she relies on the preceding chapters to arrive at some general conclusions about *five* key topics: the effectiveness of general strategies for achieving equal employment for women; improvements gained for women within firms as a result of policy; the creation of policies to stimulate alternative arrangements in working hours as a complement to policy; the effect of recession on policy and methods for dampening its impact; and the limitation of current policy because of its failure to address the underevaluation of women's work.²⁷ It is particularly unfortunate that the editor did not give more careful attention to provide a consistent and coherent statement of the themes that are addressed. These inconsistencies do not provide the reader with a clear statement of the unifying factors on the different aspects of inequality in the labor market that are discussed by the individual contributors. Such a clear statement is necessary in a multi-authored collection. While there

24. EMPLOYMENT POLICY FOR WOMEN, Introduction xviii.

25. *Id.* at xix.

26. Ratner, *Equal Employment for Women: Summary of Themes and Issues*, *supra* note 14 at 419.

27. *Id.* at 419-20.

are unifying themes in the book, they should not be left to the reader to discern.

The editor has organized this book of twenty synthetic and analytical case studies and essays on the seven countries into five well-structured parts: Background; Legislation and Collective Bargaining; Strategies for Change; Training and Organizing for Equal Employment; Implementing Equal Pay and Equal Opportunity Inside Work Organizations; The National Context and Equal Employment Policy; and Policy Goals for the Future. In addition, the book includes an Introduction and two topics set out in appendices: the range of statistics necessary to monitor equal employment policy and the applicability of job evaluation schemes to equal pay policy. The editor has contributed both an opening and a concluding paper of her own as an appropriate and very effective prologue and epilogue to the entire project.

An examination of the credentials of the contributors helps to understand the tone of the entire book. The authors of the various chapters represent a wide range of disciplines: economics, sociology, industrial and labor relations, psychology, journalism, public administration, law, and social science research. It is a remarkable experiment of two-dimensional equal rights research, both interdisciplinary and transnational in approach. Out of this diversity of viewpoints and methods of research and analysis, there emerges a wide spectrum of contributions which undoubtedly will entice others to follow this interdisciplinary trail.

In Part I, the editor presents an excellent overview of the policy and problems in the seven countries. The statistical data that she includes underscore the opening statement in the Introduction that "[e]qual employment policy for women stands at an historic juncture in the advanced industrialized democracies."²⁸ In separate sections, the editor documents and discusses trends in the labor force participation of women, concentration and inequality of women workers, the wage gap between men and women, unemployment rates of women, and the limitation of most women to part-time work. In the section on evolution of equal pay and equal opportunity policy, she provides a brief but adequate summary of the history of equal employment policy and its links to the earlier well-established policy of equal pay. Although the goal of equal pay was first articulated in the late nineteenth and early

28. EMPLOYMENT POLICY FOR WOMEN, Introduction xvii.

twentieth centuries by three distinct groups (the socialist movement, trade unions, and middle class women's rights groups), it did not become a serious political demand until World War II. The women's movement, international concerns, government commissions, study groups, and other agencies concerned with the status of women thoroughly documented the extensive inequality of women in the labor market.

The editor then identifies equal employment policy as a concept that is broader than, but may encompass, the policy of equal pay. She states that equal employment policy for women encompasses those policies and programs that aim at the removal of barriers preventing the full integration of women into the paid labor market. The primary "barriers" are identified as adverse decisions made by the gatekeepers at employee career junctures, such as education and training to obtain marketable skills, hiring and job selection, and once on the job, further job training and mobility. This concept also includes "barriers" that operate outside the labor market, such as women's home and family responsibilities, and the effects of prior socialization of men and women in appropriate expectations and patterns of behavior.²⁹ This overview of the many factors that account for inequality and a review of history of how equal employment policy evolved leads the editor to conclude that if women are to achieve equality in the labor market, equal pay — the dominate policy of most of the countries until recently — must be supplemented by other governmental policy and non-governmental activity such as laws and collective bargaining agreements mandating equal employment opportunity and its enforcement; vocational training and other labor market policies to promote the entrance of women into traditionally male occupations; family policy such as day care programs to enable women and men to balance work and family obligations; and efforts by trade unions and other employee organizations to incorporate women and to seek to sustain the elimination of employment discrimination.³⁰

Although recognizing that country-specific factors are important to the evolution of policy, Ratner is able to identify three general strategy and implementation models that link institutions and policy-goals to different assumptions about the sources of labor market equality for women in the seven countries:

29. Ratner, *supra* note 17 at 41-42.

30. *Id.* at 33.

In the *discrimination* model, labor market inequality is perceived to result from the specific behavior of employers and others toward employees. These actions constitute unfair treatment or discrimination. Policy, then, is formulated in terms of what employers and others are to be prohibited from doing. A major activity of this approach would be the resolution of disputes between those who discriminate and those who are discriminated against. Strategies for resolving disputes include litigation in the courts, complaints made to administrative agencies, or conciliation and arbitration associated with collective bargaining.

In the *affirmative action* model, indicators of labor market inequality such as the extent of occupational segregation and the male-female wage gap constitute sufficient evidence that discrimination is an inherent feature of the normal operation of the labor market, regardless of whether any individual or group of employees has registered a complaint of unfair treatment. The emphasis of policy is to formulate and implement new personnel procedures within work organizations—in other words, to change the ways firms recruit, select, assign, train, or promote employees. Strategies for implementing this approach to EEOC [equal employment opportunity for women] are carried out by administrative agencies, by other governmental agencies, and by firms, as well as through the activities of trade unions and women's organizations.

Finally, in the *expanding opportunities* approach, the sources of women's labor market equality is located outside the boundaries of the labor market. It flows from three interrelated handicaps women suffer that make it impossible for them to perform in the labor market as the equals of men. These are their lack of training for higher-paying jobs, their home and family responsibilities, and their tenuous commitment to full-time, continuous employment. If these impediments were removed, the labor market would be relatively sex-blind in its processing of employees. From this analysis of the problem follows a strategy emphasizing pre-employment training programs, as well as the development of day care programs and social service programs for the aged. In addition, this approach calls for the modification of existing social policies that work to the advantage of the one-earner family.³¹

Ratner then summarizes the dominant institutional strategies in the seven countries and relates these strategies to one or several of the three models. This is a very helpful analysis, but it would have been more helpful if the individual contributors, who discuss the strengths and weaknesses of the strategies and poli-

31. *Id.* at 42.

cies in each country in Parts II and III, would have tried also to relate their assessments to these models.

Part II includes six papers on the policies and strategies of the seven countries. The first paper, by Alice Cook, an industrial and labor relations expert, discusses collective bargaining as a strategy in Sweden and West Germany, and compares the two approaches in each country on both equal pay and equal opportunity policy. This paper is about the only one in the book which attempts to make a comparative analysis between several countries. The second paper discusses policies and strategies of labor market equality in France. The author notes that the package of law reforms on equal pay and equal opportunity, most of which was enacted since 1970, is part of the century-long struggle of French women who fought to establish their right to equality under law. Although she concludes that it is too early to fully assess the effectiveness of these reforms, she provides an assessment of two sets of reforms—one in the public sector and the other in the private sector. One conclusion is that effective implementation of a policy of labor market equality for women in France will require “deep-rooted socio-psychological changes in order to overcome the reluctance of women themselves, as well as men, to accept a redefinition of sex-stereotyped roles with the occupational system and the family system.”³² The third and fourth papers in this part deal with labor market equality in the United States. Because I am rather familiar with the policies and enforcement strategies on employment discrimination in the United States, I find these papers less than satisfying. Because strategy and implementation of equal employment policy in the United States is so well documented (mostly by lawyers), it might have been more useful to have non-lawyers prepare the papers on the United States. The papers about policy in the United States by Marcia Greenberger and Peter Robertson, both lawyers, are tied so closely to a traditional law review format that they are not likely to be much help to the international non-lawyer reader. The fifth and sixth papers discuss administering anti-discrimination legislation in Great Britain (England, Wales and Scotland) and the enforcement of laws against discrimination in England. Much of the machinery for the implementation of equal pay and equal opportunity in England has been redesigned in recent years; thus the present

32. Loree, *Equal Pay and Equal Opportunity Law in France*, *supra* note 14 at 102.

machinery is still at an early stage of operation. Like France, it is yet too early to make an effective assessment of present policy.

Part III deals with training and organizing women for equal employment. The lack of organization for pre-employment and on-the-job training contributes greatly to keeping women in poorly paid, dead-end jobs. The papers in this section discuss the strategies for Sweden, the United States, and Canada in separate papers. Great Britain, Austria, and Germany are treated in a single paper. The central theme sounded is that all of these countries recognize, to differing degrees, that vocational training is one of the keys to equality of opportunity both in wages and in the kind of work women do.

The three papers presented in Part IV focus on the impact of government policies on personal procedures and on employment patterns in private companies in the United States and in the United Kingdom. Equal pay and equal employment policies have been in effect in both of these countries for more than a decade. Original data on the effects of these policies, on the position of women and on personnel procedures within private firms in these two countries, are presented from two large-scale studies of major corporations. The study by Ruth Gilbert Schaeffer, using aggregate data,³³ measures changes in the range of jobs available to women in the United States. A second study, by Nancy Sears, measures changes in the gap in wages between men and women in Great Britain. Both studies are restricted to the period 1970-1975. A third paper considers models for measurements of policy enforcement that cannot be determined by the use of aggregate data, and attempts to provide case material on extensive changes in the preception and treatment of women in private companies and the implication for other change methods.

The subjects considered in Parts V and VI are the most valuable sections in this book. Part VI explores the economic and social context of equal employment policy, particularly the impact of recession on opportunities for women and the planned coordination of equal employment policy and family policy. The four papers in Part VI transcend national jurisdictional boundaries and thus provide the basis for a meaningful international discussion of labor market equality for women. The papers demonstrate that equality in the labor market is closely tied to the ebb and

33. Schaeffer, *Improving Job Opportunities for Women From a U.S. Corporate Perspective*, *supra* note 14 at 179-81.

flow of the national economy of each country; that high levels of unemployment appear to severely strain programs to expand the employment opportunities of women. The effect of a recession and other macro-economic conditions in the United States and West Germany are explored and it was found that public works and training programs to put the unemployed back to work continue to be targeted to unemployed males. Even more disturbing are the proposals surfacing in West Germany, and to a lesser extent in Sweden, to pay mothers "upbringing money"³⁴ and, in doing so, remove them from the labor force. As Herta Daubler-Gmelin reports in her paper, this reform, as proposed in West Germany by members of moderate and conservative parties, would extend for one year, would pay a lower stipend than is provided by unemployment compensation, and would not require an employer to rehire an employee. Behind such suggestion, as the author notes, "stands too clearly a trend toward forcing women more strongly than ever out of the business world."³⁵

The successful implementation of equal employment policy not only requires an expanding economy but also a sensitivity on the part of policy makers to the dual role of working women. Women have entered the labor market in unprecedented numbers without having yet fully relinquished their primary responsibility for the family. The point is made, in this section, that equal employment policy must take into account women's family responsibility even if only to create incentive that will lead to a more equal division of these responsibilities. It is all the more startling to note that there is a considerable variation among countries in the degree to which policies that affect the family are made consistent with the goals implicit in equal employment policy. Nowhere are these differences more apparent than in Great Britain and Sweden for which the case materials presented in two chapters in Part V are rich in detail.

Apart from the intrinsic value of each of the papers standing alone, the book grapples with the difficulties and dilemmas that arise in the selection of goals and concrete means for achieving labor market equality for women. Two papers in Part V deal with this subject. The first paper, "Beyond Equal Pay for Equal Work: Comparable Worth in the State of Washington," by Helen Rem-

34. Daubler-Gmelin, *Equal Employment Opportunity for Women in West Germany Today*, *supra* note 14 at 347.

35. *Id.* at 349.

ick, argues that to the extent equal pay continues to be a separate policy, a new standard of value, referred to as "comparable worth"³⁶ should be adopted because equal pay for equal work concepts are inadequate for understanding the pay differences for jobs held predominately by women. She analyzes the point factor evaluation systems, now fifty years old, and describes their limitations, one of which is described as a bias against women in the choice of factors and frequency in application. She then describes a landmark study, commissioned by the State of Washington, to determine whether jobs of comparable worth received comparable pay. Her conclusion is that the comparable worth standard makes it possible to compare wages of women in typically female jobs with the wages of men in typically male jobs.

In the second paper in Part VI, the editor evaluates the various strategies in the seven countries and draws some general conclusions. First, no one policy instrument, whether law, government, regulation, or collective bargaining, can by itself, achieve equal employment opportunity for women. Second, laws, which should contain a clear definition of what constitutes discrimination, should be drafted so as not to lose support for its goals from natural allies, i.e., unions already organized. Third, mechanisms should be established for monitoring change. This third conclusion suggests that present methodologies are ineffective to measure the "progress" made to eliminate discrimination in the labor market. In a paranthetical comment, she defines "effectiveness of strategy" in terms of the reduction of occupational segregation, the decrease in the wage gap, or both.³⁷ Of the various strategies discussed, litigation of individual cases is found to be the most inefficient and ineffective because it is expensive, time-consuming and painful. The experience of the United States is suggested as a source for countries currently developing an equal opportunity policy even though other countries may encounter or have encountered difficulties with this experience because of differing judicial perceptions.

In the second part of the final chapter the editor notes that many issues remain unresolved even among those who share a commitment to the development of policies to further equality in the labor market for women. Among those issues are: a conflict

36. Remick, *Beyond Equal Pay for Equal Work: Comparable Worth in the State of Washington*, *supra* note 14 at 407.

37. Ratner, *supra* note 24 at 420.

between short-term and long-term policy goals, i.e., acceptance of existing inequality in favor of development of a more comprehensive policy with the recognition that some women will be treated unequally in the present; the issue of quotas; and determining policy priorities, i.e., a policy aimed at changing women to enable them to conform to existing labor market practices or changing labor market practices to conform to the distinctive needs of women. No answers are suggested to these unresolved issues, but the absence of suggested answers is perhaps due to the recognition that uniform answers may not be adaptable to the differing circumstances of the various countries.

The third part of this final chapter offers specific suggestions for the future development of policies in three areas: changing women's family responsibilities as an integral part of equal employment policy; increasing the role of organized interest groups in the policy implementation process; and broadening the goals of equal employment policy to encompass both affirmative action and equal pay for comparable worth.

Individually, the various chapters in Parts II through V (chapters 2-18) are quite incisive, comprehensive and readable studies in English of the development and implementation of employment policy for women in each of the seven countries. Collectively, they provide a base for comparative studies of the institutions and a mechanism for the implementation of strategies to reduce women's inequality in the labor markets of the seven countries.

The book is more than a collection of independent articles written to fill a prescription suggested by the agenda prepared for the Wellesley Conference. It appears to be the product of a genuine effort in which those involved shared ideas, and for the most part, made some attempt to convey pertinent information about each country's policies and policy implementation problems. The editor developed a framework which provides a basis for a study to focus on the similarities and differences on the various countries. Several qualities give these studies and essays special interest and value. First, although each of the contributors did not use a uniform outline³⁸ to cover their own countries, they present the problems and policies of the countries in terms of their own policy and implementation structures and emphasize those charac-

38. Compare Symposium, *supra* note 18 at 9.

teristics believed to be central to that country.

The second valuable feature of these studies and essays is that they do not focus solely on governmental policy. For the most part, they extend to the whole range of institutional factors, public and private, used in each of the countries. The breadth of the studies enables the reader to see the development and implementation of equal employment policy for women in the proper perspective among a number of strategies which may be at work in any given country.

The third special quality of this book is that, except for the materials on the United States, they go beyond the formal legal structures and procedures to give some glimpse of the actual work of the dynamics of the implementation strategies involved. Our understanding and appreciation of each country as a set of living, working institutions is sharpened by the willingness of most of the contributors to subject the operative policy in each country to critical examination. Criticism is not made in terms of theoretical inconsistency, but in terms of the practical effectiveness of developing policy and providing effective implementation.

Finally and wisely, I believe, the materials in this book reflect a decision to forego yet another in-depth assessment of the substantive international legal norms that have evolved during the past several decades or the developing measures and procedures that the international community must adopt if it truly wishes to guarantee effective implementation of labor market equality for women. Instead, the editor and contributors have opted for concentration on ways and means of encouraging interested groups and individuals within any country to give more serious and directed consideration to the continuing effect of inequality in the labor market against women.

With all of these strengths, and they are indeed considerable, the book somehow fails to satisfy. Reading it seems unaccountably burdensome, retaining and integrating the materials seems unduly difficult, and grasping its relevancy remains a bit beyond our reach. The puzzling question is why this is so. Putting aside the real possibility that the fault is in the reader, I would like to suggest two possible sources of discomfort.

First, the papers are not comparative studies but parallel studies. Each author, generally, presents his or her own country in its own terms. Meaningful comparison can be drawn only by one who has substantial knowledge and sense of the essence of the country being discussed. Even those people who have some familiarity

with another country have difficulty fitting specific materials to what they already know of the system. The responsibility for comparison must rest with the writer unless the material is intended only for the cognoscenti.

Comparisons need not be explicit; indeed, efforts to be explicit invite oversimplification and sterility. The reader needs, however, to be able to relate the compared systems to his own framework. But this requires the writer to understand the reader's framework; the writer must incorporate implicitly the reader's perspective. The authors in this book have not presented their systems with sufficient perspective of the American system to enable us to see implicit comparisons.³⁹ With the exception of the chapters by the editor, they seem to be addressing each other rather than a wider audience. The result is a book which may be more readable and illuminating for European than for American readers.

Secondly, some of the papers do not enable us to see the problems in the implementation of equal employment policy in the country discussed in the context of the social institutions of which they are a part. For example, the several chapters on the United States do not discuss the political, economic, or social policies which interact with effective implementation of sexual equality. These chapters, both written by American lawyers who have extensive experience with policy and implementation problems, approach the issues almost exclusively from a legal perspective. There is virtually no discussion or assessment of the role of collective bargaining as an institutional means of implementation of the national policy for labor market equality. More importantly, we gain only a fleeting glimpse of the social attitudes which surround and permeate many of the institutional means for implementation. But it is the structure and operation of the political, social, economic, and legal institutions, along with social attitudes, that shape the implementation process, and it is only when we see these procedures in their institutional context that we can begin correctly to understand and appreciate their significant characteristics.

All in all, this reviewer highly recommends the book to anyone who is interested in further development of policy and implementation strategies whether they are in advanced industrialized countries or in countries which are now just beginning to face the

39. *Supra* note 21.

issue of equality for women in the labor force. The book can be especially useful to management and labor leaders, lawyers, policy-makers, and others who are interested in the continuing effort to eliminate sex discrimination in employment and expand work opportunity for women throughout the world.

THE HOST STATE OF TRANSNATIONAL CORPORATIONS. Juha Kuusi. England: Saxon House. 1978. Pp. 117. \$25.25 *Reviewed by Dr. Nasrollah S. Fatemi.**

Since the 1950's, the multinational corporation has had a significant impact on the world economy. These corporations are now responsible for two-thirds of world industrial production. Their growth and dominance of the world economy has caused the internationalization of production, technology, banking, and management. Their planning, research, investment decisions, development, and other economic activities often involve global allocations of capital resources and marketing. Through the development of multinational corporations, international production has replaced foreign trade as the main channel of international economic relations, in terms of size, rate of growth, and future potential. The success, the size, and the diverse activities of these corporations have raised serious debates as to their legal status and relations with host countries. An active multinational corporation faces a different set of social, political and economic problems in host countries from those existing at home.

Juha Kuusi's book, originally submitted as a thesis to the faculty of law at the University of Oxford, has attempted to address the problem of host state contracts with foreigners. Part one gives an historical account of the multinational corporation. The author examines state contracts with foreigners prior to 1939, the post-war change in economic structures, and the current nature of international investment.

Part two examines non-municipal law as the governing rule of state contract with multinational corporations and also deals with cases submitted to arbitration since the 1950's. The role of the United Nations and its formulation of resource sovereignty is examined by the author in detail. Specifically, the 1962 resolution concerning nationalization and permanent sovereignty over natural resources, was a direct result of the nationalization of the Anglo-Iranian Oil Company by Iran in its attempt to protect itself from Anglo-American dominance. This nationalization was tempo-

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rarily subverted by the C.I.A.-backed coup d'état against the Mussadegh government and by the restoration of the deposed Shah.

The final and most interesting section of the book deals with recent developments in contractual and arbitral practices. Of particular interest is the author's mention of the International Center for Settlement of Investment Disputes [ICSID]. The reader should be aware that all Latin American countries, as well as many Asian and African nations, have decided not to take part in ICSID. Kuusi illustrates recent developments in this area by examining the following cases: *Holiday Inn v. the Government of Morocco*,¹ *AGIPSpa v. the Government of the People's Republic of the Congo*,² and *Guadelupe Gas v. the Government of Nigeria*.³

Although this book will be of use and interest to international lawyers and law students, non-lawyers may find its style to be difficult with many footnotes and quotations. Despite this aspect, the author has provided a useful contribution to a difficult subject and an exposition of the shortcomings of the application of international law to the problem of host state countries with multinational corporations.

1. On December 27, 1971, ICSID was asked by both sides to adjudicate the case. The case is still pending.

2. This case was submitted to ICSID on November 4, 1977 and is still pending.

3. The case was submitted to ICSID on March 20, 1978 and is still pending. As of the end of 1979, ICSID has rendered one final award: *Gardella Spa v. the Government of Ivory Coast* (August 29, 1977). A total of 8 cases have been submitted to ICSID and four of them have since the registration been amicably settled.

THE ENCLOSURE OF OCEAN RESOURCES: ECONOMICS AND THE LAW OF THE SEA. Ross D. Eckert. Stanford: Hoover Institution. 1979. Pp. xvi, 390. \$16.95. *Reviewed by Ann L. Hollick.**

Ross Eckert brings a novel and useful perspective to bear on the issue of management of ocean resources during the second half of the twentieth century. The oceans have traditionally been the domain of the users—fishermen, seafarers, or oil men—and of the legal experts who have tried to develop legal forms to govern the interactions among ocean users. When economists have ventured into this domain, it has usually been with an in-depth analysis of one ocean resource, such as fisheries, or with a cursory review of several resource activities. Because it is both comprehensive and detailed, *Enclosure of Ocean Resources* breaks new ground.

In addition to his economic credentials, Eckert has a thorough grounding in international law and successfully relates the law of the sea to the economics of the sea. His central theme is that vast ocean areas formerly governed by the “freedom of the seas” doctrine are increasingly subject to coastal state jurisdiction. In reviewing the legal history of the enclosure of ocean space through national claims, three propositions emerge that are fundamental to his analysis: (1) the nature and timing of enclosures are driven by technological developments and economics; (2) those who favor greater degrees of enclosure prevail over those who do not; (3) the prospect of an international conference to establish a legal regime accelerates the rate at which enclosure takes place.

Eckert sets himself the task of evaluating the evolving oceans regime in terms of economic efficiency. The goal is to maximize the benefits from ocean resource exploitation while minimizing the costs. Given the diversity of ocean resources, he argues that for each resource activity no single institutional approach is likely to be consistently more efficient than any other. Each sector must be viewed in terms of the unique aspects of the resource and the requirements for its efficient management. In Part I, Eckert de-

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votes separate chapters to examining the most efficient regime for offshore hydrocarbons, fisheries, marine pollution, scientific research and deep seabed mining. In each case, the economically optimum approach is measured against evolving state practice through enclosure. In Part II, Eckert compares the economically optimal regimes and the customary law approach with the regimes that are being developed at the Third U.N. Conference on the Law of the Sea (UNCLOS III) as reflected in the Informal Composite Negotiating Text of 1978. What quickly emerges is the fact that politics, not economic efficiency, has been the consistent guideline of UNCLOS III. In Eckert's view, "[t]he enclosure movement, in general, has produced outcomes that are a triumph of rationality compared with the inefficiency, friction and delay that are characteristic of UNCLOS" (p. 358). Both the elaborate agenda and the voting structure have served to make the UNCLOS process cumbersome and costly. The only areas where UNCLOS might have some advantage over national enclosure is in the provision for pollution from ships, migratory fisheries and possibly marine science issues which cannot be properly handled by national claims.

The case Eckert makes for the superiority of customary law by national claims rests on the premise that the new structure of property rights provides the opportunity for increasing the output of ocean resources. This premise is true, insofar as it goes, and may be particularly valid for a country such as the United States which has long coastlines fronting on open ocean in addition to the technical capability to manage these vast offshore areas. It is less obvious that the potential for resource optimization can be realized where states are poor and have short coastlines (such as West Africa) or front on semi-enclosed seas (such as the Caribbean). The enclosure movement has created a new set of problems for developing nations which they are only gradually beginning to recognize as the euphoria of "owning" new offshore areas wears off.

Enclosure was finished in 1978, when the UNCLOS outcome was doubtful. Nonetheless the analysis of the treaty text remains valid since relatively few changes have occurred in the negotiating text in the intervening years. In 1980, however, there seems to be general optimism that there will be an UNCLOS treaty, possibly open for signature in 1981. Eckert's admonition against the United States signing—much less ratifying—the UNCLOS treaty is thus particularly timely. In his analysis of United States inter-

ests at the Law of the Sea Conference, he emphasizes that the United States concern for navigation rights, especially in international straits, has been a driving force behind a long series of compromises that United States negotiators have made of its national resource interests. Eckert offers in response the view that relatively few straits are strategically significant to the United States and these can be better managed through bilateral negotiations. In addition, the mining of seabed resources would be better approached on a national basis, with resort to joint ventures and informal understandings where several countries became interested in the same deposits.

As UNCLOS III draws to a close and the prospect of signing a treaty emerges, these concerns and the arguments developed in *Enclosure of Ocean Resources* merit close attention by policy makers and the interested public that will be living with the regime in question for the rest of the century. The book will be of value to those who follow or are engaged in U.N. multilateral negotiations on a wide range of issues. The book also has a broader relevance to students of American foreign policy, international law and ocean policy.

