


OBITUARY

Frances Hayes 8 November 1953–11 December 2023

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Fran Hayes was an Australian labour rights activist and feminist. In the words of Sally McManus (2023), Secretary of the Australian Council of Trade Unions (ACTU), Fran played a pivotal role in the Australian trade union movement, both practically and as a source of cultural change.

From the age of 21, as a new graduate in social work and politics, Fran entered the emerging field of youth work and community organising, immediately becoming a powerful force for change. She played a leadership role in a 6-year struggle to secure the industrial organisation and recognition of what is now one of the largest and fastest-growing sectors of the workforce – the predominantly female social and community services (SACS) sector. The occupation of community worker had begun to emerge only in the 1970s, differentiated from the graduate social work profession, and characterised by insecure employment and widely varying pay rates, often in small and inexpertly managed organisations reliant on short-term government contracts.

In 2019, looking back on these beginnings, Fran wrote an account of the journey whereby community welfare workers had transformed themselves into an industrially organised workforce (Hayes 2019). This journey owed much to Fran. It was driven by the need to protect employment rights, at a time when a youth worker might be summarily dismissed, for example for displaying an anti-uranium mining poster to which a local manager might take exception. To achieve industrial protection, welfare workers needed to be recognised as members of an industry, through gaining an industrial award regulating their wages and conditions. In the 1970s, the prospects of attaining such an award were slim: even established occupations such as teaching, let alone new human service and welfare occupations, were not recognised by the federal Conciliation and Arbitration Commission as forms of industrial work. At this time, the concept of ‘industry’ was still taken to apply mainly or only to the work of male blue-collar occupations.

Natalie Lang, currently ACTU Director of Education and Capacity Building, in introducing Fran’s history of this campaign for a federal award (Hayes 2019), described Fran as a ‘union legend’ for her ground-breaking work in widening the concept of what constitutes an ‘industry’. In 1977, fresh from university, Fran had begun working as a volunteer member of the Australian Social Welfare Union (ASWU) – a small, impoverished union that had formed only the previous year. At the time, university-educated social workers had decided to draw a sharp line between their professional role and the community work of ‘social action’ campaigners. This temporary demarcation turned out to benefit community workers, who organised themselves as the ASWU, making good use of

their professional social worker colleagues' lack of interest in utilising the registration with the federal Conciliation and Arbitration Commission that a previous forward-looking leadership had secured for them (Hayes 2019, 5–6). Within weeks of taking up the ASWU position, Fran was already the New South Wales (NSW) delegate to a National Award Committee and was in the thick of an Australia-wide campaign to utilise this registration to facilitate an application for a federal industrial award regulating community workers' pay and conditions. Fran became the fledgling ASWU's first organiser; by 1978 as Federal President and in 1980 as Vice President, she continued to lead the quest for a federal award. It was a daunting prospect: their small, inexperienced union faced strong opposition, not only from employers, governments, and other unions but also from within their own union. Novice ASWU activists faced a steep learning curve, navigating the often arcane processes of tribunal hearings as they argued their case. Fran wrote, 'In the space of two hearing days, our witnesses quickly learned what was meant by the term "cross-examination"', with the ASWU barrister having to request enforcement of the right of witnesses to respond to questions without being interrupted' (Hayes 2019, 30).

The struggle required perseverance through a succession of four formal hearings, as the national government backed employer appeals against tribunal rulings in the union's favour. At stake was a fundamental argument over the nature of service work. Framed in terms of whether the dispute over pay and conditions was an 'industrial' dispute, this was an argument over whether community service met the criteria for recognition as an industry. After a final defeat in the Conciliation and Arbitration Commission, Fran and her colleagues, with pro bono support from the ASWU barrister, finally in 1983 took the case out of the industrial relations arena, challenging the decision in the High Court of Australia. The result was a rare unanimous decision in the union's favour (Waterford 1983).

Fran and her fellow activists had achieved what a front-page headline in *The Australian Financial Review* declared to be an 'industrial relations revolution'. The accompanying article noted: 'The High Court yesterday extended the potential reach of the Commonwealth Arbitration Commission to every potential employment sector in Australia, with the possible exception of some limited areas of public sector employment' (Solomon 1983, 1). There was even discussion of wider implications for federal–state relations, for example, in relation to the contemporary environmental campaign against the Tasmanian government's proposed damming of the free-flowing Franklin River for a hydro-electric scheme (Waterford 1983). The ripple effects in industrial relations were immediate: unions covering public sector teachers, firefighters, and other service occupations quickly sought federal registration as industrial organisations. The term 'industrial' could now for the first time be applied to work in the service economy, where most jobs have since come to be located. The gender impact was major: women's areas of employment, largely in the service economy, could now be industrially regulated (Burgmann 2023). By the late 1980s, the ASWU had amalgamated with other unions in related areas to become the Australian Services Union (ASU), reintegrating graduate and non-graduate occupations and representing a wide range of services. In 2010–2012, the ASU, this time with government support, was able to win a significant gender-equal remuneration determination on behalf of SACS workers.

It is important to recognise the courage and hard work that went into what Sally McManus (2023) has described as the approach of the 'young leadership of the feisty union' in the original industrial award application. Sally describes Fran as having been the 'spearhead doing the hard on-the-ground work to organise across the country and to put together the case', facing 'endless hurdles and the might of governments', which expected this 'upstart union' to give up. She describes Fran's 'determination' and 'tenacity', working with few resources to outlast opposition and achieve a victory for community and disability workers that today is 'still talked about and celebrated'. Fran not only did the complex advocacy work: she played a significant role in initiating and structuring union

education programmes, within and across unions. Fran was a brilliant trainer and mentor to other activists. A web-search shows that her legacy, particularly her webinars and training materials and her capacity for clear exposition of issues, has had a lasting impact on her union and beyond. In 2018, the ASU awarded Fran life membership for her inspiration to generations of activists, fostering an attitude of never giving up but fighting for what is right, whatever the odds (McManus 2023).

Fran was the first woman to be appointed by the Trade Union Training Authority as a trainer at the Clyde Cameron College at Albury Wodonga, where she developed educational and organisational strategies for addressing the then novel issues of harassment prevention and childcare access. In an interview provided for an oral history project on Australian union women (Hayes, in Gavin and Kaines, n.d.), Fran described the toll that this work took on her. It is hard now to remember just how few women there were in union leadership positions in the 1970s and 1980s, and to understand the structural barriers they faced. Support networks such as those Fran helped build were vital for women activists who, within their own unions and workplaces at the time, were confronted by accusations of divisiveness and irrelevance when they campaigned against harassment and for recognition of workers' childcare responsibilities.

Fran was a foundation member of the National Pay Equity Coalition (NPEC), formed out of a 1988 Socialist Feminist Conference convened in the wake of the 1986 failure of a nurses' pay equity case and in the context of fiscally imposed wage restraint. The late 1980s and early 1990s were a time when the struggle for gender equity faced the headwinds of structural adjustment policies favouring value-added manufacturing exports and over-award bargaining. At the time, women's concentration in rapidly growing service occupations was deemed 'a major source of structural rigidity and inefficiency' (Dawkins and Holding 1987, 16). In the first half of the 1990s, the NPEC campaigned on the gender pay inequity implications of decentralised bargaining and narrowly defined concepts of skill and productivity.

After a national conservative government came to power in 1996, the NPEC continued to campaign against the gender impacts, not only of decentralised bargaining but also of the increasing decollectivisation and individualisation of industrial relations. At the same time, under a NSW Labor government, a more congenial policy climate allowed the NPEC to contribute to the ground-breaking 1998 Gender Pay Equity Inquiry. Fran contributed to the marathon organisational effort that ensured NPEC representation at almost all sessions of this 6-month-long Inquiry. The result was the landmark NSW Equal Remuneration Principle 2000 that allowed pay equity cases to be argued on the grounds of historical undervaluation without the need for a male occupational comparator. Nationally, Fran's lobbying and evidence helped pave the way for the federal 2009 Fair Work Act and the 2010–2012 SACS case, although it was not till December 2022 that the historical undervaluation principle was irrevocably established in federal industrial law (Hall, 2024).

In the NPEC campaigns from 1988 through to the 2012 SACS case, Fran helped frame media releases, pamphlets, leaflets, and letters to newspapers and parliamentarians. Having the freedom of working outside parliaments and bureaucracies, Fran and Suzanne Hammond, along with Meg Smith, played a significant role as the public face of the NPEC, providing interviews and verbal evidence to parliamentary and tribunal inquiries and in face-to-face meetings with politicians. They had the ability to clearly explain the NPEC position on complex industrial matters. Always stylishly dressed, they were also on the front line in demonstrations, bringing colour and fun to protests.

Fran networked actively with other women's organisations. Her social work background and her passion for gender equity and social justice were further expressed through her long-running work with the Women's Electoral Lobby in convening the Coalition for Women's Refuges. In particular, Fran coordinated NSW campaigns to ensure that

women's refuges continued to provide specialist domestic violence services, in the face of the 2012–2016 'Going Home Staying Home' policy changes introduced by a former conservative NSW government. Fran's focus on family violence was an example of her attention to addressing the deeper structural sources of gender inequality, rather than just ameliorating the symptoms.

Fran brought fun to gender equity campaigning, for example, through her enthusiastic participation in the annual Ernies Award media event. This was an adjudication, through hilarity and booing, of the year's most sexist statements by public figures. Held between 1993 and 2022 in the NSW Parliamentary Dining Room, this approach to public consciousness-raising was instituted during the 1991–2007 tenure of NPEC member Meredith Burgman AM as Member of the Legislative Council and its President from 1999 to 2007. Fran's style and exuberance were exemplified in her manner of living for 10 years with Parkinson's: for example, her active participation in the Dance for Parkinson's organisation (Hall, 2024).

It was the daily kindness and love of her partner of 53 years, Dan O'Brien, that allowed Fran to sustain her ongoing life of community and political engagement. Dan had supported Fran's work since their university days. Fran was close to her four siblings and spoke lovingly of the skills of her and Dan's daughter, Ellie, who worked as a chef in the gender-segregated hospitality industry. Both Dan and Fran were gifted storytellers, and it was by this means that, without self-assertion, Fran was able to impart her considerable knowledge and strategic wisdom. Affirming the value of the social and community sector work done mainly by women, Fran was always generous in celebrating the successes of other feminists, for example, in enthusiastically nominating colleagues for the annual Edna (Ryan) Award. Fran's knowledge and wisdom will be sorely missed.

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