

## 4. 'To Demand Equality is to Lack Ambition': Sex discrimination Legislation—Contexts and Contradictions<sup>1</sup>

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*From an acknowledgment of all that was achieved in the passage of the Sex Discrimination Act 1984, this chapter moves on to consider the inherent contradiction in expecting government, which has legitimised discrimination against women, to redress such wrongs, and to consider a range of critiques advanced from the wider socio-political contexts of the early 1980s. Its second half focuses on the twenty-fifth anniversary of this legislation in its context of global recession and socio-political anxiety.*

Of course, it was an outstanding achievement: the *Sex Discrimination Act* passed in 1984, 25 years ago. That moment was one of exceptional confluence between the reforming goals of the Australian Labor Party (ALP) and the liberal commitment to equality between the sexes of the Australian women's movement. Both were personified in Susan Ryan, a member of the cabinet in the first Labor government of Bob Hawke and a longstanding member of the Women's Electoral Lobby (WEL).<sup>2</sup> This landmark legislation enjoyed enthusiastic support from all over Australia, from WEL and from a host of feminist organisations considerably older than WEL or women's liberation—from the Australian Federation of University Women, from the National Council of Women, from the UN Status of Women Committee, from the Union of Australian Women, from Women and Development Australia, from the Young Women's Christian Association and from Zonta.<sup>3</sup>

Even so, the women's movement was—and is—an umbrella term that groups together a host of very different experiences, beliefs, commitments and practices. That same moment was not a cause of rejoicing, or even attention, among all

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1 My thanks to Sandra Lilburn for newspaper research, to Anne Edwards for editorial help, to Dianne Otto for discussion and encouragement, and to Sue Sheridan, always, for quality control.

2 Susan Ryan, *Catching the Waves: Life in and out of Politics*, Harper Collins, Sydney, 1999, pp. 241–4.

3 'Women's groups support Sex Discrimination Bill', *The Canberra Times*, 12 September 1983, p. 7; 'Sex discrimination ban "a must"', *The Courier-Mail* (Brisbane), 29 September 1983, p. 15.

feminists. Some saw contradictions in the whole project. Others, coming from extra-parliamentary commitments, had dreams of what feminism might achieve, which dwarfed notions of equality.

Margaret Thornton spelled out the central contradiction inherent in anti-discrimination legislation some years ago. She pointed out that while citizens of a democracy commonly assume that a fundamental norm is their equality, such equality is demonstrably 'imperfectly realised'. Comparison of one individual with another, one group of people with another, shows differences—and differences in hierarchical relationships to each other. At the peak of that hierarchy is an all too recognisable figure: 'a white, Anglo-Celtic, heterosexual male who falls within acceptable parameters of physical and intellectual normalcy, who supports, at least nominally, mainstream Christian beliefs, and who fits within the middle-to-the-right of the political spectrum.'<sup>4</sup>

Such men have power in our society and, Thornton went on to observe, 'they will invariably exercise it in their own interest'.<sup>5</sup> Accordingly, she concluded that the most positive case to be made for anti-discrimination legislation was that it rendered these characteristics of our society visible, so such legislation served 'an important symbolic and educative function'.<sup>6</sup> Sadly, though, only four years later, Thornton was compelled to note that legal discourse had remained largely immune to that function:

[T]he benchmark male continues to be a powerful normative force within law, whose eminent reasonableness is used to disqualify the disorderly voices of women. This is the case with EEO, no less than with rape, wife-battering, provocation, pornography or with any of the manifold social harms to which women are subjected.<sup>7</sup>

Further, the benevolent intent of legislation with such a 'symbolic and educative function' depended on a generally liberal—small-'l' liberal—political and legal context. Such a context cannot, however, be assumed.

Context is the crucial factor in this whole consideration. That context, in 1984, included the opposition raised against Susan Ryan's Bill, which was, at the time, called 'the Ryan juggernaut'. One-quarter of a century on, people might find it difficult to credit the opponents' arguments and fervour. Most vociferous were the Women Who Want to be Women (WWWW), founded in 1979 by Babette

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4 Margaret Thornton, *The Liberal Promise: Anti-Discrimination Legislation in Australia*, Oxford University Press, Melbourne, 1990, p. 1.

5 Ibid., p. 261.

6 Ibid.

7 Margaret Thornton, 'The Seductive Allure of EEO' in Norma Grieve and Ailsa Burns (eds), *Australian Women: Contemporary Feminist Thought*, Oxford University Press, Melbourne, 1994, pp. 215–16.

Francis, a scientist, to oppose feminist influence on government.<sup>8</sup> She and her supporters deluged Members of Parliament with letters written on pink paper, creating an illusion of a large organisation by writing dozens each. A Canberra member of the 4Ws, Betty Hocking, was also a member of the Family Team in the ACT House of Assembly. She issued a statement asking, 'Is there no-one who can see that the women who hate men are castrating them with their sex discrimination Bills and making them eunuchs in their own kingdoms?' Then, even more memorably, she observed: 'Delilah cut off Samson's hair and made him her slave. The Sex Discrimination Bill cuts off far more than that.'<sup>9</sup>

As an aside, I would note that it was not only the opponents of this Bill who found that questions about equality between women and men impelled them to allusions to people's sexual anatomy. What Margaret Thornton refers to as '[w]omen's indelible association with corporeality'<sup>10</sup> operated subconsciously, even among those who supported the Bill. Democrat spokeswoman, feminist Janine Haines, startled other members of the Senate when she observed that there had been 'many hysterical comments' about how the Bill would eliminate differences between men and women: 'Despite the Freudian remarks about assertive women, that they suffer only from penis envy, I have yet to meet a woman who suffers from that or who has any particular desire to acquire that section of the male anatomy.'<sup>11</sup>

No less a personage than Dame Roma Mitchell, inaugural chair of the then recently established Human Rights Commission, would find herself having to argue—a little more euphemistically—that the laws against sexual harassment would not 'rob Cupid of his arrow'.<sup>12</sup>

The 4Ws organised for two veterans of the struggle against the *Equal Rights Amendment Act* in the United States to visit. One was Phyllis Schlafly, a lawyer now acclaimed as the best-known advocate in the United States of the dignity and honour owed to the full-time homemaker,<sup>13</sup> the other Michael Levin, a professor of philosophy at the City College of New York. Both toured Australia speaking against the Sex Discrimination Bill. Levin accused feminists of becoming 'increasingly coercive', of endeavouring to institute 'a unisex society—that is not workable, and boring anyway', declaring that 'feminists are not women'

8 Emma Grahame, 'Anti-Feminism' in Barbara Caine, Moira Gatens, Emma Grahame, Jan Larbalestier, Sophie Watson and Elizabeth Webby (eds), *Australian Feminism: A Companion*, Oxford University Press, Melbourne, 1998, p. 380; Marian Sawyer with Gail Radford, *Making Women Count: A History of the Women's Electoral Lobby in Australia*, UNSW Press, Sydney, 2008, p. 79.

9 'Are there men in Parliament?', *The Courier-Mail* (Brisbane), 27 September 1983, p. 13.

10 Thornton, 'The Seductive Allure of EEO', p. 223.

11 Amanda Buckley, 'Senate's uncomfortable Friday...and more to come', *Sydney Morning Herald*, 22 October 1983, p. 6.

12 *The Advertiser* (Adelaide), 27 August 1984.

13 Available online at: <<http://www.eagleforum.org/misc/bio.html>>

and announcing that '[s]exual harassment is a problem that simply does not exist'.<sup>14</sup> Local heavyweights who joined them included Lachlan Chipman, Founding Professor of Philosophy at the University of Wollongong, and the Very Reverend David Roberts, Anglican Dean of Perth. Roberts declared:

Susan Ryan's drab and humourless Utopia...has lost sight of the complementary delights of being male and female...It would be tragic for our humanity if we allowed ourselves to be remodelled by an Amazonian reformism which legislates against the weakness of men and apparently counts as ineffectual the real strength of women—the humanising and civilising power of their femininity.<sup>15</sup>

'Whatever can the Dean have been reading as the Sex Discrimination Bill?' expostulated Dame Roma. 'Certainly not my copy.' 'Sometimes I wonder,' she went on, 'whether those who oppose the Sex Discrimination Bill accept women as human beings.'<sup>16</sup>

Other opposition to the Sex Discrimination Bill came from closer to the centre of the political spectrum. Margot Anthony, described as 'housewife and partner to the Leader of the National Party', and as 'one of the backroom campaigners of the National Party's fight against the Government's sex discrimination Bill', went to Sydney to hear Schlafly speak against the Bill at Macquarie University. She was horrified by the students' hostility to Schlafly and subsequently appeared in the *Sydney Morning Herald*, 'to put the intelligent conservative position from women who seldom get a hearing'. She thought that the Bill carried a subtle message that women were wrong if they wanted to stay at home, rather than seek work in the labour market, and she wanted to combat that. She lamented the decline of the family and traditional values.<sup>17</sup> Other wives of members of the parliamentary National Party joined her, including one wife—Flo Bjelke-Petersen—who was herself a senator.<sup>18</sup> The parliamentary Liberal Party, in contrast, was generally supportive. Its Deputy Leader, however, Shadow Treasurer, John Howard, leant, he said, 'towards the National Party position which opposed key aspects of the bill'.<sup>19</sup>

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14 'US professor: what sexual harassment?', *West Australian*, 17 September 1983, p. 3; Mark Hooper, 'Professor invites fury by scorning feminists', *The Australian*, 7 September 1983, p. 3.

15 Roma Mitchell, Address at Monash University, 10 December 1983, State Library of South Australia, Adelaide, PRG 778/17/27.

16 Ibid.

17 Amanda Buckley, 'Why Mrs Doug Anthony is against the sex bill: is it wrong to stay at home?', *Sydney Morning Herald*, 16 September 1983, p. 1.

18 Kate Legge, 'Coalition split widens on sex discrimination Bill', *The Age* (Melbourne), 19 September 1983, p. 5; Editorial, 'Sex bill splits the opposition', *The Age* (Melbourne), 20 September 1983.

19 Amanda Buckley, 'Sex bill row to split Liberal Party room', *Sydney Morning Herald*, 19 September 1983, p. 1.

Of course, the context of the passage of this bill also included the presence or absence of feminisms committed to other forms of change in the world besides change directed towards equality between the sexes to be won through mechanisms of the state. Those feminisms were still present in 1984. In women's liberation, we used to wear badges that read 'To demand equality is to lack ambition'. We were not silly. We were simply drawing on ideas from another of the multifarious political components of the women's movement. Let me offer two sets of examples.

At much the same time as Susan Ryan was using all her energy and ingenuity to get the Sex Discrimination Bill through its final moments in the Senate, a considerable number of other feminists were engaged in the Close the Gap Women's Peace Camp at Pine Gap in the Northern Territory. The changes that those women sought were the removal of US nuclear bases from Australia; land rights, autonomy and self-determination for Aboriginal people; removal of Pershing missiles from England and Europe; and unity of women of all cultures acting against global violence.<sup>20</sup> These, surely, were immense goals—way beyond the capacity of any government, however benevolent.

At about the same time, I was taking up a new post to set up a Research Centre for Women's Studies at the University of Adelaide. Women's studies was engaged with some quite electrifying ideas. Recall, for a moment, American Kate Millett linking power—the core concept of any kind of politics—to sex.<sup>21</sup> Remember expatriate Australian Germaine Greer elaborating a similar connection, declaring women to be sexual eunuchs.<sup>22</sup> Another American, Shulamith Firestone, urged the abolition of sex differentiation altogether, arguing that reproduction and child rearing should be disengaged from biology, rendering the biological family unnecessary and making possible sexual freedom, economic independence and self-determination for everyone—women as well as men, and children too.<sup>23</sup> English feminist theorist Juliet Mitchell exclaimed: 'The longevity of the oppression of women must be based on something more than conspiracy, something more complicated than biological handicap and more durable than economic exploitation.'<sup>24</sup>

Her endeavour to explain such oppression became a very fat book called *Psychoanalysis and Feminism*.<sup>25</sup> Joan Kelly demonstrated just how different writing history must become (in terms of periodisation, categories of social

20 Emma Grahame, 'Anti-Nuclear Activism', in Caine et al., *Australian Feminism*, pp. 381–2.

21 Kate Millett, *Sexual Politics*, Rupert Hart-Davis, London, 1971.

22 Germaine Greer, *The Female Eunuch*, Paladin, London, 1971.

23 Shulamith Firestone, *The Dialectic of Sex: The Case for Feminist Revolution*, Paladin, London, 1972.

24 Juliet Mitchell, *Psychoanalysis and Feminism*, Allen Lane, London, 1974, p. 362.

25 Ibid.

analysis and theories of social change) if histories were to include women.<sup>26</sup> Eleanor Maccoby and Carol Jacklin dismantled seemingly timeless assumptions about the psychology of sex differences.<sup>27</sup> Michelle Rosaldo and Louise Lamphere explored and exploded longstanding analogies that anthropologists drew between men and 'culture', women and 'nature'.<sup>28</sup>

These ideas were part of a radical intellectual transformation, challenging a host of taken-for-granted assumptions into which we had all been inculcated. Some of them had thoroughly practical consequences as well. Here in Australia, human geographer Fay Gale pointed out one of the consequences of social scientists assuming that the human is male. This was the story of Werlatyre-Therre, a place near Alice Springs where the city fathers wanted to build a recreational lake. Government officials—planners, engineers, construction managers (all men)—consulted the local Aboriginal men. The Aboriginal men had nothing particular to say about it, so construction was about to begin. Then, however, 'a number of Aboriginal women...moved in to protest loudly and visibly. They set up camp at the site and effectively called a halt to construction, demanding that they be recognised, just as Aboriginal men would have been considered if it had been a men's site.'<sup>29</sup>

For this was a very important women's site—a 'crucial site in the whole women's Dreaming pattern of central Australia'. White male Australia's sexist assumptions about Aboriginal landownership giving all authority over land to men had, here, cost the government—us, taxpayers, as Gale did not shrink from pointing out—a great waste of hard cash.<sup>30</sup> Engagement with intellectual transformation of this order promised all-encompassing change.

I was not dismissing the *Sex Discrimination Act's* achievement by wearing a badge declaring that 'To demand equality is to lack ambition' as I went about setting up women's studies at the University of Adelaide. Rather, I was trying to make people think about what equality meant in the wake of the Sears case in the United States, a case that pitted equality against, not in-equality, but difference<sup>31</sup>—another of the debates addressed in women's studies.

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26 Joan Kelly-Gadol, 'The Social Relation of the Sexes: Methodological Implications of Women's History' (1976) 1(4) *Signs: Journal of Women in Culture and Society* 809.

27 Eleanor Maccoby and Carol Jacklin, *The Psychology of Sex Differences*, Oxford University Press, UK, 1974.

28 Michelle Rosaldo and Louise Lamphere (eds), *Woman, Culture and Society*, Stanford University Press, Calif., 1974.

29 Fay Gale, 'Seeing Women in the Landscape: Alternative Views of the World Around Us' in Jacqueline Goodnow and Carole Patemen (eds), *Women, Social Science and Public Policy*, George Allen & Unwin, Sydney, 1985, p. 65.

30 *Ibid.*, pp. 63–5.

31 See, for example, Joan Wallach Scott, 'The Sears Case', *Gender and the Politics of History*, Columbia University Press, New York, 1988.

Today, one-quarter of a century later, we inhabit markedly different contexts. There have been gains in the position of women. Such pride we can take in the appointment of Quentin Bryce as Governor-General; in the front bench of the first Rudd Government, with Julia Gillard as Deputy Prime Minister and three other women with major portfolios; in the election of Anna Bligh, the first woman to be elected as a State premier. Fay Gale was a vice-chancellor. Women's studies has been mainstreamed or has become gender studies. Events have overtaken one of the Pine Gap protesters' goals: the US Pershing missiles have been removed from England and Europe. And yet, and yet—there is still an immense gulf between the optimism of 25 years ago and the position of women today.

Economic and political change from the early 1990s on made us all familiar with neo-liberal social ideology emphasising the individual, profound economic conservatism emphasising the primacy of market freedom, joined with a moral vacuity in which advertisements tell each of us to 'Put yourself first', which fosters the concept of 'retail therapy', even 'retail fun'—currently blamed for a greed-is-good culture and its consequences. As La Trobe University academic Mark Furlong observed recently: 'The personal pronoun has taken dominion in our period: there is the iPod and the iPhone; one spends time on MySpace or YouTube; universities simulate small group interactions using i-peer; you can even buy MyDog food.'<sup>32</sup>

In such a context, the feminisms of the 1970s and 1980s could be dismissed as having failed to provide to young women all that they wanted to have, while the market, if allowed free rein, would do just that. Any voices reminding that what such feminism had been about was not about having but, rather, about what women could do, or were being prevented from doing, were few and drowned out by advertising jingles.

Women are still victims of rape, domestic violence and trafficking. The sexual division of labour within households stretches women to snapping point, as women continue to provide most of the unpaid, usually unrecognised 'caring work' for members of the household, even when they are themselves employed in the labour market.<sup>33</sup> It is worth recalling that estimates of the market value of women's 'vast non-market contributions to family and community welfare' have shown it to be worth approximately 60 per cent of gross domestic product

32 Mark Furlong, 'i-dolatr', *Arena: The Australian Magazine of Left Political, Social and Cultural Commentary*, 101(8 September 2009) 12–13.

33 Adele Horin, 'Women stretched to snapping point', *Sydney Morning Herald*, 4–5 July 2009.



(GDP).<sup>34</sup> So much for considerations of work/life balance.<sup>35</sup> Paid parental leave is still no more than a promise.<sup>36</sup> Current legislation relating to the children of divorced couples operates starkly to women's disadvantage.<sup>37</sup> And Equal Pay Day, 1 September 2009, brought acknowledgment that in 2008, female university graduates started work on \$2000 less than their male peers and that an average woman at the end of her earning life will have brought in \$1 million less than the average man, which means that 'Australia's gender pay gap averages 17.4%, which is only a 1.1% improvement from 25 years ago'. As a consequence, women retire with less than half the amount in their superannuation accounts compared with men and are two and a half times more likely than men to live in poverty in their old age.<sup>38</sup>

This is a list prompting despair. Yet there are those who will argue that today we face far more alarming prospects affecting not only the women of Australia but the whole world: the global economic crisis and the threat that climate change poses not only to human life but to all life. Against that argument, I would contend that the present crises offer us unprecedented opportunities. Anthropologist Peter Sutton observed recently: 'Deep changes in culture are normally and, in most of human history, unintentionally generated in contexts such as substantial economic changes, radical ideological shifts such as mass conversion to an evangelical religion or social reconstruction following epidemics, warfare or environmental catastrophes.'<sup>39</sup>

Former Prime Minister Kevin Rudd identified the present economic crisis as having 'called into question the prevailing neoliberal economic orthodoxy of the past 30 years—the orthodoxy that has underpinned the national and global regulatory frameworks that have so spectacularly failed to prevent the economic mayhem which has now been visited upon us'.<sup>40</sup>

So we are amid one of Sutton's 'radical ideological shifts', one that, in Prime Minister Rudd's words, repudiates 'the neoliberal extremism that has landed us in this mess' and instead demonstrates that the social-democratic state—the government—offers the best guarantee of preserving the productive capacity

34 For example: Anne Edwards and Susan Magarey, 'Introduction' in Anne Edwards and Susan Magarey (eds), *Women in a Restructuring Australia: Work & Welfare*, Allen & Unwin in association with the Academy of Social Sciences in Australia, Sydney, 1995, p. 7.

35 Barbara Pocock, *The Work–Life Collision: What Work is doing to Australians and what to do about it*, Federation Press, Annandale, NSW, 2003.

36 The *Paid Parental Leave Act 2010* (Cth) was passed by the Rudd Government in June 2010 [Ed.].

37 Caroline Overington, 'Fair share?', *The Weekend Australian Magazine*, 5–6 September 2009, pp. 15–17.

38 'Issue of the week: the gender pay gap', *The Week*, 4 September 2009, p. 37; Eva Cox, 'Financing our Futures—How Privatising Retirement Discriminates Against Women' (2007) 26(3) *Dialogue: Academy of the Social Sciences in Australia* 42; Australian Council of Trade Unions, Media release launching an alliance of 135 organisations to mark Equal Pay Day, 31 August 2009.

39 Peter Sutton, 'Culture Worriers' (2009) 4(5) *Australian Literary Review* 4.

40 Kevin Rudd, 'The Global Financial Crisis', *The Monthly*, February 2009, p. 20.



of competitive markets because the government (not the market) will be the regulator, the government (not the market) will provide necessary public goods and the government (not the market) will 'offset the inevitable inequalities of the market with a commitment to fairness for all'. Does this suggest a commitment to change from a liberal-market society like Britain, the United States and New Zealand to a social-democratic society as in Scandinavia? If it does then it signals a historic transformation. And perhaps it does. Rudd observed, trenchantly: 'Social democracy's continuing philosophical claim to political legitimacy is its capacity to balance the private and the public, profit and wages, the market and the state. That philosophy once again speaks with clarity and cogency to the challenges of our time.'<sup>41</sup>

The former Deputy Prime Minister, Julia Gillard, signalled one way in which these optimistic principles are to be implemented when, at a recent conference of industrial relations practitioners, she called for a 'new focus on *cultural change*' (my emphasis). Having achieved the passage of the *Fair Work Act* through the Parliament, she wanted to move the reform process further forward, she said, by developing 'a new focus on cultural change in the workplace. We need to build partnerships between management and workers and their unions that operate for the benefit of all'<sup>42</sup>—an aspiration directed away from the neo-liberal market society and towards a Scandinavian social-democratic balance between capitalism and welfare.

Such culture change can be achieved only if it includes genuine sharing of the caring work of our society, with greater flexibility in workplace structures and procedures to allow both parents to participate in child care and housework, protections against the harms to which women can be subjected and proper parity in payment for work done. This is not simply a matter of justice for women; it is, rather, a rational deployment of *all* of our social resources. No society can afford the wasteful misuse of the resources that the female half of the population can bring to the whole society's endeavours. The women's movement—continuing in whatever form it might assume now—will demand nothing less. It should never again be possible for anyone to wonder, as did Dame Roma Mitchell, if there are people who cannot 'accept women as human beings'.

To conclude: a study recently published in Britain points out the 'life-diminishing results of valuing growth above equality in rich societies'. So, much as we might hope for growth to be restored in the economies that determine our employment levels, it will need to be growth regulated by government—a government committed to equality for all. As the British study observes:

<sup>41</sup> Ibid., p. 21.

<sup>42</sup> Ewin Hannan, 'Only the beginning', *The Weekend Australian*, 29–30 August 2009, p. 17.

Inequality causes shorter, unhealthier and unhappier lives; it increases the rate of teenage pregnancy, violence, obesity, imprisonment and addiction; it destroys relationships between individuals born into the same society but into different classes; and its function as a driver of consumption depletes the planet's resources.<sup>43</sup>

So let us insist that, while members of the Rudd Government traverse the world to ensure that Australia's social-democratic principles contribute to the future shape and nature of the economies of the G20, so, too, must members of the Rudd Government ensure that those principles include equality—yes, equality (I have abandoned my old badge)—for *all* of its citizens, women as well as men. We might then be able to agree on what to do about climate change as well.

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