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Published by: The Johns Hopkins University Press
Stable URL: https://www.jstor.org/stable/4316604
Accessed: 06-12-2018 05:15 UTC

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Affirmative Action in Australia: 
A Consensus-Based Dialogic Approach

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Abstract

This paper reviews Australia’s affirmative action legislation and shows how processes of consensus building, strategic alliances, and dialog have been used to encourage organizations to look more critically at their work practices, and introduce policies and procedures that provide as many opportunities for women as have been traditionally provided for men. The legislation is unusual in that it operates independently of antidiscrimination legislation and mandates affirmative action programs for all large workplaces while explicitly upholding the principle of merit. The assumption of early advocates of the legislation was that once organizations underwent the mandatory eight steps of critical self-analysis and appraisal, workplace culture and values would change, and in this process, movement to gender-fair constructions of merit would be inevitable. While some organizations have shown both capacity and willingness to rethink work practices, many have escaped the net of social change. Those that have been influenced substantively through their compliance with the legislation share the following qualities: commitment to a “fair go for women,” linking of EEO with good management practice, openness to ideas outside the organization, and the active participation of women within the organization.

Anti-discrimination laws in Australia exist at both federal and state levels of government. At the federal level, separate legislation is in place for race and gender discrimination (Racial Discrimination Act 1975; Sex Discrimination Act 1984). Some states have no legislation of their own, while others have legislation that proscribes discrimination on a range of criteria including race, sex, disability, marital status, and homosexuality (Ronalds 1987).

In contrast to the United States, affirmative action programs in Australia rise out of a special piece of federal legislation that is independent of the anti-discrimination laws, the Affirmative Action (Equal Employment Opportunity for Women) Act (1986). This legislation mandates the set-
ting up of affirmative action programs in larger workplaces to remove barriers to women's equal participation in the workforce. Unlike the United States, the legislation for affirmative action programs focuses on gender and was developed against the backdrop of Australia's ratification of the International Labor Organization Convention 111, Discrimination (Employment and Occupation) [1958] and the United Nations Convention on the Elimination of all forms of Discrimination against Women.

The regulatory apparatus that exists for countering discrimination in Australia is less adversarial than in the United States [Grabosky and Braithwaite 1993]. The philosophy rests on negotiation and conciliation as the main method of resolving problems, with a quasi-judicial tribunal to inquire into individual complaints that can't be resolved during the conciliation process [Ronalds 1987]. In relation to gender equality, change is occurring, albeit slowly. In the last decade, the female labor force has increased at about twice the rate of the male workforce, 30% compared with 14%, with women more likely to hold part-time jobs and more than one job [Australian Bureau of Statistics 1997]. In 1980, Australia had the highest index of occupational segregation of twelve OECD countries [Organisation for Economic Co-operation and Development 1980]. This feature of the workforce has proven remarkably resistant to change over the past two decades [Australian Bureau of Statistics 1998]. As of 1998, the labor force remains highly segregated with 54% of all employed women working in the clerical, sales and service occupational groups where they substantially outnumber their male colleagues [Australian Bureau of Statistics 1998]. However, the 1995 Australian Workplace Industrial Relations Survey [Morehead, Steele, Alexander, Stephen, and Duffin 1997] has revealed that female participation in male dominated industries is increasing. As in other countries, women's earnings are lower than men's. The ratio of women's to men's average weekly earnings has been relatively stable over the past decade at 83.2% [Independent Review Committee 1998].

Australia's Affirmative Action (Equal Employment Opportunity for Women) Act (1986) is just one of many institutional levers for changing patterns of labor force participation among women in Australia. Also, since it covers only larger organizations, that is, about 25% of the workforce [Independent Review Committee 1998], its contribution to shaping the statistical profile reported above is indeed small. The legislation is significant because it mandates a process for changing the culture of the Australian workplace to make it more responsive to the needs of working women, a change that initially was supported by a minority, but was eventually accepted by an influential government and business elite.

This article examines both the enactment and implementation of this legislation; the same strategies were set in place to procure acceptance first from a wary and antagonistic parliament, and later from a resistant
and poorly informed public. The legislation has been built and implemented through cooperation among opposing interest groups. The central elements of this cooperation have been (a) universal acceptance of the principle of "a fair go" for women (core value consensus), (b) a link between best business practice and affirmative action programs (institutional redundancy), and (c) commitment to dialog involving social networks that span different interest groups and that cut through organizations vertically, empowering employees in the change process. This article is divided into six sections. The first provides a brief description of the legislation. The second discusses the principles of consensus, redundancy, and dialog across and within organizations for achieving reform. The third section demonstrates how these levers for change framed debate over affirmative action, and the fourth reviews the degree to which their use at the implementation stage changed workplace culture. In the fifth section, we provide some insights into where the legislation has been effective and where it has not, and finally, where hope for future change lies.


Australia’s *Affirmative Action (Equal Employment Opportunity for Women) Act* (1986) (AAA) has undergone two reviews (1992 and 1998) since its enactment twelve years ago. At first, all private sector employers with 100 or more employees and institutions of higher education were required to identify sources of gender-based discrimination and take steps to ameliorate these problems. After the Effectiveness Review in 1992, the coverage of the legislation was broadened to include community organizations, non-government schools, unions, and group training schemes. The 1998 review to assess the legislation’s impact on business competitiveness has yet to report its findings, but coverage of the legislation (25% of the workforce) again has attracted attention in a bid to extend affirmative action programs to small business.

The legislation requires employers to set up an affirmative action program that incorporates eight steps: (1) issuing an equal employment opportunity policy statement to all employees, (2) appointing a senior officer responsible for the affirmative action program, (3) consulting with trade unions, (4) consulting with employees, (5) collating and analyzing the employment profile of the workplace by gender and job classification, (6) reviewing employment policies and practices to identify sources of discrimination, (7) setting objectives and forward estimates for the affirmative action program, and (8) putting in place self-regulatory procedures to monitor and evaluate progress.
Companies report in writing annually to the Director of the Affirmative Action Agency detailing their progress in implementing their programs. Compliance with the legislation in terms of reporting to the Affirmative Action Agency has been remarkably high (more than 95%) (see Affirmative Action Agency Annual Reports 1989–1997). If a report is not submitted without good reason or if the report does not indicate sufficient progress in implementing an affirmative action program, the employer is sanctioned by being named in parliament. Naming was used with 63 employers in 1996–7 (Affirmative Action Agency Annual Report 1997). A further sanction, added after the 1992 effectiveness review of the AAA, is that government contracts can be denied to those companies that are not in compliance with the legislation. We are not aware of any case in which this sanction has been used.

Since 1995, changes have been made to the reporting form used by companies and the feedback provided by the Affirmative Action Agency (Affirmative Action Agency Annual Report 1995). The eight steps specified in the Act have been incorporated into a best practice model so that affirmative action activities can be fully integrated into the strategic business plan. These reports are given an assessment on a five-point scale by the Agency staff to provide feedback to individual organizations and benchmarks for different industries. When organizations have implemented comprehensive affirmative action programs for three consecutive years, they may be given a temporary exemption from reporting by the Director of the Affirmative Action Agency. By 1997, exemption had been offered to 11% of companies covered by the Act (Affirmative Action Agency Annual Report 1997).

While the legislation does not specify the strategies that organizations should use to bring gender equity to the workplace, the Affirmative Action Agency shares information about recruitment drives to encourage women to enter non-traditional fields, re-entry programs for women, maternity and paternity leave entitlements, child care provision, job-sharing, and job training, and offers critical appraisal of selection and promotion criteria. The legislation explicitly states that strategies such as these are subordinate to the operation of the principle of merit. The best person for the job remains the ultimate and universal principle for appointment under Australia’s AAA.

Of considerable significance for social change agents, however, is that the legislation does not preclude the possibility of changing definitions of merit. Indeed, the changes in workplace culture that are expected to accompany compliance with the legislation should lead to a critical appraisal of how merit is defined and adjudicated.
Principles Used to Win Acceptance of the AAA

Legislating for affirmative action was highly controversial in Australia. Success depended upon actively building communities of support for the legislation, and this occurred through the use of the principles of value consensus, institutional redundancy, and dialog.

To use the principle of value consensus means to identify a small set of broad and abstract societal goals with which the vast majority of citizens agree and link the achievement of these goals with the proposed legislation. Identifying points of value consensus does not deny differences around affirmative action at more specific levels. Rather the shared values act as framing devices to guide discussion and remind antagonistic parties that their ultimate objectives are not as divergent as they may at times think.

Using shared and abstract values to bring different interest groups together is at odds with much of the academic debate that has taken place around affirmative action. Such debates have been primarily concerned with differentiating objectives (equal opportunity versus affirmative action), clarifying principles (social justice versus equity in reward allocation), uncovering motives (profit versus citizenship), and evaluating outcomes (satisfying legal requirements versus en culturating new work values). Understanding these different perspectives and weighing of arguments from each side are essential to good policy formulation. Equally important, however, is recognition that effective policy can entail enmeshing different interest groups in a common action plan that blurs many of these distinctions (Gibson and Goodin 1998), and that enables collective movement toward the removal of discriminatory social barriers.

Blurring of distinctions and reconciling contradictions are central to the consensus-based dialogic approach and are evident in the way the legislation was drafted and introduced. Affirmative action programs were to be implemented while preserving the merit principle; self-regulation in overcoming discrimination was to be combined with government regulation in reviewing progress; and affirmative action for women was linked with best practice for industry. The blurring of boundaries allowed the breaking down of differences that is central in the process of building bridges across opposing interest groups (Pruitt and Carnevale 1993). Business groups and conservative politicians shared with trade unions and women’s groups a commitment to the broad value of “a fair go” for women. Trade unions and women’s groups shared with business and government a concern for the broad social goals of employment growth and a competitive private sector. These points of shared interest and mutual respect brought all relevant parties to the negotiating table and kept the dialog going. Differences in priorities and details were aired
under an umbrella of common goals and values. And at the end of the day, organizations were given the freedom to take their differences to their workplaces and resolve them within the general guidelines of the legislation. Thus, what is, from one perspective, confusing and vague legislation is, from another perspective, legislation that has been carefully crafted to weave through disparate interest groups, capturing support with an array of hooks and sidestepping organized resistance. The key has been to identify the values that represent common ground—a fair go, economic prosperity, respect for individuality, reward for merit, and freedom—and to keep these values to the fore in deliberations on the legislation.

The second principle used to build support for affirmative action legislation and programs in Australia was institutional redundancy. To establish institutional redundancy is to fly in the face of parsimony by setting in place a set of practices that not only achieve new objectives but consolidate some old objectives as well (Braithwaite 1993, 1994, 1998). Affirmative action programs are designed to institute a set of practices to further social justice objectives in the workplace. Using these same programs to give business a competitive edge in making the most of the available pool of talent suggests to some scholars that social justice is being compromised in the name of efficiency and effectiveness (Edelman, Riggs Fuller, and Mara-Drita 1998; Poiner and Wills 1991). The principle of institutional redundancy asserts that new practices can best be institutionalized if they back up well established and widely accepted objectives, as well as achieve new, and perhaps controversial objectives. The corollary is that practices that are linked with one purpose, and one purpose only, are readily dismantled. Institutional redundancy provides back-up for why a set of gender-friendly practices should be honored in the workplace.

The multiplicity of forces that hold a new set of regulatory norms in place include other institutions, authorities, and beliefs and practices that have opposed women entering the paid workforce. Society’s major institutions of education, religion, law, media, finance, and the family worked in concert to extinguish women’s workforce aspirations. Women were often not as well educated as men, religion reinforced the incompatibility of career and family for women, laws restricted the nature of women’s participation in paid work, financial institutions were slow to recognize working women as independent economic entities, the media stereotyped women in domestic, sexual or subservient roles, and family life centered around the ever-present role of the mother. Multiple authorities—leaders from government, business and religious groups, teachers, parents, and male breadwinners—communicated to women the need to marry well, have children, and stay at home to care for the family. Venturing into the workforce was considered appropriate only under special circumstances, and even then women could not expect to be on an equal footing with
men. The reasons were multiple—care for the family was the responsibility of women, the role of male income earners was to support women, and therefore, men needed jobs more than women. Added to the ideological reasons were the practical reasons of non-existent or restricted and expensive child care, inhospitable work environments, and little support with domestic chores at home. If women managed to overcome one obstacle, there was inevitably another behind it, and another behind that, and so on.

If institutional redundancy can entrench work practices so firmly, it should also be a powerful tool for changing institutions through bringing together multiple and varied institutional reasons for change. The key to using institutional redundancy as a lever for social change is being able to argue that the new institutions will support other established and valued institutions. For example, law that promotes affirmative action supports earlier legislation that outlaws discrimination and both, it has been argued, advance the agenda of good management and best business practice (Affirmative Action Agency 1992; Ronalds 1987). Institutional redundancy ensures that there are a number of authorities who will publicly support the change—from feminists who want social justice to CEOs who want the competitive edge. Furthermore, once the change has been implemented, institutional redundancy assists in ensuring that the new practices remain central to organizational functioning and are not marginalized, forgotten or dropped off the agenda with a change of personnel or organizational restructuring. A manager unsympathetic to gender equality will think twice about dismantling a program that is contributing to business effectiveness.

Implicit in the notion of institutional redundancy is that other powerful institutions see mileage in supporting rather than opposing affirmative action programs. Indeed, programs that strengthen rather than undermine such institutions will more readily attract a broad institutional support base and be less likely to encounter organized resistance. The approach, though not without costs, was fundamentally important to Australia’s affirmative action legislation.

The third principle that was important for introducing affirmative action programs into the workplace involved the institutionalization of dialog between different social groups, both horizontally and vertically. Dialog and the empowerment of women were fundamentally important in the process through which the women’s movement influenced the state in the 1970s and 1980s. The Australian women’s movement was highly effective in networking within the corridors of power and created a specialized bureaucratic machinery to monitor and evaluate government policy as it related to women. This machinery became known as the femocracy (Sawer 1990a; Yeatman 1990), and the women’s movement worked hard to ensure that femocrats inside government did not lose touch with their sisters outside. Dialog among women on government
policy was institutionalized largely through the efforts of the femocrats and the women's movement. Femocrats ensured that the voices of women could be heard through broadly based consultative committees and through formalizing links with feminist pressure groups (Sawer 1990b). When affirmative action legislation became an issue in the mid-1980s, the dialogic approach to problem solving and policy development was formalized through working parties and pilot programs that brought together representatives from the private and public sector, the community, and both sides of parliament. This type of cooperation among different interest groups found its way into the legislation itself. Consultation became mandatory within organizations, as essential to achieving deep-seated cultural change on gender-related issues. Thus, the use of dialog to problem solve and work toward a mutually satisfactory action plan became important at two levels; first in linking together different interest groups from business, government and the community, and second in bringing together working men and women at the grass roots level to identify and discover ways of resolving discriminatory practices in their workplace.

Enactment with Value Consensus, Institutional Redundancy and Dialog

The affirmative action legislation passed through both houses of parliament in 1986 with bipartisan support, marking the end of a period of concentrated activity to improve the status of women during the United Nation's Decade for Women (1975–1985). The outcome, however, was not achieved without a considerable amount of debate and controversy. Australia's AAA had its origins in a bill put forward in 1981 by Senator Susan Ryan. This bill sought to make it unlawful to discriminate on the grounds of sex or marital status in Australia. In addition, it required the preparation and implementation of an affirmative action management plan by Commonwealth government employers and private sector employers with more than 100 employees. The bill did not have the support of the coalition government of the day, and was not even debated (Ronalds 1987).

With a change of government, the issues of sex discrimination and affirmative action came back on the political agenda. While the newly elected Labor government in 1983 had control of the lower house, the opposition controlled the upper house. To improve the likelihood of getting legislation through both houses, the issue of sex discrimination was separated from the more controversial issue of affirmative action. The Labor government committed to enacting national sex discrimination legislation without delay (Sex Discrimination Act 1984), and initiated a process of discussion and negotiation that led to the AAA of 1986.
In 1984 the Labor government released the Policy Discussion Paper (Green Paper), which recommended a scheme of affirmative action for women. Prime Minister Hawke presented the paper to parliament. Affirmative action was defined as "a systematic means, determined by the employer in consultation with senior management, employees and unions, of achieving equal employment opportunity (EEO) for women" (Department of the Prime Minister and Cabinet 1984, 3). The paper advocated policies that would "ensure that women are given the opportunity to improve their labor market prospects, to compete for a wider range of jobs, and to be able to apply on an equal footing with men for those jobs that are now available" (Commonwealth Parliamentary Debates (CPD), House of Representatives (HR), 1984, 137: 2870). The government emphasized that equal opportunity was the ultimate goal and that affirmative action programs were the means for its achievement. The practice of awarding jobs on the basis of merit was not to be overturned. This approach built the climate of consensus that was needed to get the legislation through both houses of parliament.

To further entice cooperation from opposing interests, industry was courted with a commitment to a self-determined industry-specific approach. Affirmative action policies would be essentially employment policies to improve the skill, efficiency, and mobility of the workforce. Affirmative action measures were proclaimed as integral to good management practice (CPD, HR, 1984, 137: 2872). In these ways, institutional redundancy was used along with value consensus to build support for the legislation. So too was dialog. Prime Minister Hawke held strongly to the view that "the Government had no intention of imposing anything on the private sector that is unrealistic and unworkable. It would be utterly counterproductive to do so. Indeed, we will proceed with our proposals in the same way as we have introduced other important reforms, through a careful process of consultation with the parties concerned; in this case business, trade unions, women's organizations, and tertiary educational institutions" (Department of the Prime Minister and Cabinet 1984, 3).

In spite of the Prime Minister's efforts to disarm his critics and allay fears, the Green Paper was highly controversial. The media represented business groups as hostile to the concept and women's organizations as disappointed that the proposals were not far-reaching enough ("Business Likely to Oppose Non-Compliance Sanctions" 1984; Snow 1984). To dispel any misapprehension about the strategy, a pilot program was instituted to trial its effectiveness.

The pilot program was a twelve-month trial that began in June 1984 and involved 28 large private sector companies and three higher education institutions. A working party, comprising members from government, business, trade unions, higher education, women's organizations, and the opposition, was established to monitor the pilot program and to make
recommendations on the type of legislation proposed by the government. The decision by companies to join the committee signaled support for the government in its consensus building and cooperative approach to affirmative action (Buckley 1984). According to the executive director of the Business Council of Australia, “[t]he business world recognizes that there is a great deal of untapped potential among female employees and it is in their interests to tap that talent” (Buckley 1984). This is not to say that differences within this working party were not expected. In particular, it was anticipated that business would oppose proposals for companies to set targets and push for non-interventionist legislation (“Business Likely to Oppose Non-Compliance Sanctions” 1984).

The media followed the debate closely. Despite the support of some business groups, other employers were strongly opposed to the government’s proposals, fearing increases in government regulation, quotas, and the undermining of the merit principle (Ronalds 1987). Women’s organizations were also strongly voicing their dissatisfaction with the recommendations of the policy paper but for different reasons. The Women’s Electoral Lobby criticized the paper as being a “sop to business and unions,” and not going far enough in recognizing the inequalities inherent in the work force. The Lobby also opposed any delay in the compulsory introduction of affirmative action programs (Snow 1984).

The major recommendation made by the working party was to introduce legislation that required private companies with more than 100 employees and higher education institutions to devise and implement affirmative action programs for women (CPD, HR, 1985, 145: 3903). Reaching this point had been a difficult process. Both the Business Council of Australia and the Confederation of Australian Industries believed the legislation to be unnecessary and argued that its introduction would be detrimental to the cause of affirmative action. But in October 1985, the government announced its intention to go ahead, and in the following year the Prime Minister introduced the Affirmative Action (Equal Employment Opportunity for Women) Bill to parliament. Prime Minister Hawke stated that legislation was needed “to ensure that all larger employers take seriously their obligations to their women employees” (CPD, HR, 1986, 146: 862), and recognized that the legislation was designed to “foster the development of affirmative action programs in an atmosphere of consensus and cooperation between governments and employers” (CPD, HR, 1986, 146: 865). He described the legislation as non-punitive, the only sanction incorporated in the bill being the naming in parliament of non-complying companies. The legislation, claimed one Member of Parliament, “aims at education and persuasion, not coercion and intimidation” (CPD, HR, 1986, 147: 1953). This approach revealed an awareness, based on previous experience, that harsh penalties would result in greater opposition. Senator Ryan’s bill of 1981 had contained the more severe sanc-
tions of a court order, which, if breached, could be followed by fines and prison sentences and, in some cases, termination of Commonwealth contracts and blacklisting for a number of years [Ronalds 1987].

The 1986 bill, in contrast, was gentle in what it threatened and loose in what it asked of employers. These qualities concerned the opposition because of fears of where the proposals might lead [Braithwaite 1998]. The opposition directed its attack toward tightening the scope of the bill and clarifying its meaning. The goal was to change the bill from legislation aimed at affirmative action, with the potential of becoming more aggressive, to legislation constrained by the less controversial and threatening principle of equal employment opportunity. To this end, the opposition fought to amend the bill to take out the words “affirmative action” in its title. At the end of the day, however, the opposition did not oppose the bill “because of our deep commitment to the concept of equal employment in opportunity” [CPD, HR, 1986, 147: 1976]. The consensus-based dialogic approach that the government had single-mindedly pursued in the face of numerous brush fires had prevailed. The Affirmative Action (Equal Employment Opportunity for Women) Act was passed in late 1986.

Implementation with Value Consensus, Institutional Redundancy and Dialog

Early implementation of the legislation was far from perfect. The time of the passage of the Affirmative Action Bill through the Senate was the time for commencing the orchestration of the implementation of the legislation. This did not happen to the extent necessary to capitalize on the opportunities created by the consensus of the parliament. The message of bipartisan support for the AAA should have been shared with civil society, the business community, the employees, trade union members, and citizens. Instead the cooperation and commitment among the key players disappeared from public view. At a time when resources should have been directed toward informing the public of a new program of workplace reform, the task of engaging civil society was left to the initiative of the media.

The role the media performed was to disperse cynicism and fear through the community through reports of dissension. Fewer than half a dozen stories appeared in the major newspapers [The Age, The Sydney Morning Herald, The Australian, The Australian Financial Review, and The Canberra Times] in the week on either side of the passing of the AAA, and all conveyed stories of conflict and resistance. The centrally important story was notably absent: the government and the opposition had supported legislation because they believed that women were not getting a fair go in the workplace. As a consequence, the security and the sense of involve-
ment that civil society needed to play its role in workplace reform was non-existent. They were left ignorant, confused, and disinterested. Five years later, they were still ignorant and confused. Managers did not understand the legislation, many did not recognize a problem, and employees didn’t know the legislation existed (Braithwaite 1992; Powell and Russell 1993; Victorian Trades Hall Council 1993).

Neither consensus nor workplace dialog were evident in the early days of implementation. Change was initiated through the strategic networks set up between business and government during the earlier dialogic process. These networks of influential leaders supported the linking of good business practice and affirmative action at the implementation stage. Affirmative action programs seeking gender equity were backup institutions for achieving a competitive business edge. Institutional redundancy was operationalized. Linking affirmative action programs to the twin objectives of equity and efficiency was the success story for the Affirmative Action Agency in its first five years of operation. Where strong human resource management practices were in place, so too were embryonic affirmative action programs (Braithwaite 1993). Where they were not, affirmative action remained on the shelf as a report to be filled out for the government once a year.

Human resource management programs undertook actions to accommodate the needs of women. Flexible working arrangements, job sharing, permanent part-time positions, leave to care for sick family members, training programs, management development programs, child care provisions, maternity and paternity leave, and career break schemes were more likely to be found in companies that were high on procedural compliance with the legislation and where there was a commitment to the philosophy of human resource management. Multiple regression analyses of two large Australian data sets collected during the early years of implementation showed that complying with the required steps of the AAA and commitment to human resource management each made a unique contribution to substantive compliance in the form of a more gender-friendly workplace (Braithwaite 1993). These findings illustrate the principle of institutional redundancy at work.

**Limits to Success and the Way Through**

In spite of pockets of success and more recent reports from the Affirmative Action Agency of continuous improvement in gender equity programs in Australian workplaces (Affirmative Action Agency Annual Report 1997), the changes have been slow and limited (Eveline 1994, 1995; Pocock 1995; Sheridan 1995). The most popular explanation for why the workplace has not changed more quickly in response to the AAA has been
the inadequacy of the legislation itself. Critics have called it a “toothless tiger” because of its limited scope for sanctioning non-compliant employers (Affirmative Action Agency 1992; Poiner and Wills 1991; Thornton 1990). Others have been concerned about lack of specificity, arguing that the wording of the act leaves too much open to interpretation (Affirmative Action Agency 1992; Thornton 1990). Over time, the Affirmative Action Act has acquired the aura of a poorly drafted piece of legislation, leaving bureaucrats and EEO officers in the dark as to what constitutes compliance. The 1992 Effectiveness Review of the Act, therefore, heard calls for stronger sanctions, as well as the specification of benchmarks and performance standards (Affirmative Action Agency 1992).

The Affirmative Action Agency responded to these criticisms without compromising their regulatory posture of conciliation, education, and persuasion. In addition to their earlier efforts to educate through a quarterly newsletter (“Action News”), and special publications and seminars (Annual Reports 1989–97), and to reward best practice through the annual industry supported Affirmative Action Awards, the Agency has sought to widen its influence and consolidate its links with business. The abolition of the eight legislated steps for reporting purposes in favor of a strategic business plan that incorporates affirmative action programs demonstrates the closing of the gap between reporting requirements and mainstream business practice. Women’s magazines and leading newspapers run regular features on women and work, which feature reports from the agency on the legal rights of female employees and on the performance of organizations on gender issues. The influential Industry Task Force on Leadership and Management Skills (1995), a comprehensive industry-based three year-review of leadership and management skills, has thrown its support behind the agency’s appeal for better affirmative action programs, criticizing business for failing to deal with problems of discrimination and failing to make the most of the diversity of its workforce. The release of such a report from the business sector, confirming reluctance on the part of Australian business to implement the AAA, shows the potential power of both principles of institutional redundancy and strategic networking through dialog. Through this conservative Task Force’s recognition of the negligence of Australian business in relation to both the AAA and good management practices, the traditional naming of non-compliant companies in parliament assumes new significance. The message since the Task Force Report is not a nostalgic one about a few remaining bastions of male chauvinism. Instead, being named for non-compliance conveys a public message about bad management and poor leadership.

The effectiveness of the sanctioning procedure has been strengthened further by the Affirmative Action Agency with the introduction of industry benchmarks after the 1992 Effectiveness Review. Employers are given ratings on their performance relative to these benchmarks. Apart from
providing more explicit feedback on relative performance to employers, the ratings increase the agency’s capacity to define poor performance, enable the return of unsatisfactory reports to companies for further work, and ultimately provide justification for naming poor performers in parliament. In the early days, only those recalcitrants who failed to submit their annual reports were named. Interestingly, as the knot between best business practice and affirmative action programs has been tightened, the likelihood of sanctioning has increased (compare Affirmative Action Agency Annual Reports 1988–1992 with 1994–1997). This runs counter to traditional regulatory concerns that closing the gap between business and government increases the risk of regulators being captured by those who they are supposedly regulating.

The process of legislating and implementing affirmative action has been highly dialogic. And yet, the dialog that has so obviously taken place among the elite of business, government, trade union, and feminist circles has rarely involved men and women at the grass roots level of the organization. Consultation and empowerment of employees are mandatory, but have been among the most poorly implemented steps of the legislation. Consultation with all female employees occurred in less than 30% of companies up to the time of the Effectiveness Review (Affirmative Action Agency Annual Report 1993; Braithwaite 1993). The percentages were much the same when the issue of consultation with employees in general was examined. The marked absence of efforts to engage employees in the process of change justifies the concerns that feminists have raised about Australian affirmative action programs losing sight of the objective of social justice in their quest for industry acceptance (Bacchi 1994; Burton 1991; Eveline 1995; Poiner and Wills 1991; Thornton 1990).

Although the philosophy of human resource management has been in the interests of furthering women’s full participation in the workforce, there are obvious limits to its success. The key components of human resource management are maximizing organizational integration and building employee commitment, flexibility, and quality of work (Guest 1987). This means that policies that increase women’s commitment, quality of work, and flexibility will have a place under the human resource management umbrella, but only in circumstances where it is strategic for the organization to do so. Practices that are unjust and exploitative of women run the risk of remaining unchallenged because they are not manageable problems within the confines of the organizational mold. These concerns have been expressed widely by feminists in Australia: “this focus—on the human resources needs of enterprises—allows much that needs to be changed to be left intact, in particular, the ‘masculine’ values which predominate in work organizations in the public and private sectors, and to which women are expected to conform.” (Burton 1991, xiii). The potential conflict has been evocatively presented by contrasting a human resource management program where “disadvan-
taged groups are sent off to assertiveness training sessions” with an affirmative action program where “employers create work environments in which less ‘assertive’ employees can be productive and prosper” (Poiner and Wills 1991, 16). Poiner and Wills capture a strongly held view among feminists that Australia’s affirmative action legislation will only benefit women who have their foot in the door, who fit the corporate image, and will do nothing to provide opportunities for those women whose style or needs are different.

Following this line of argument further, criticism has been leveled at the way in which the concept of merit remains unchallenged in the legislation (Thornton 1990). Invariably, indicators of merit are tied closely to “organizational and institutional interests” (Cohen and Pfeffer 1986, 2). Through insisting that employers refrain from action that is incompatible with the principle of merit, Thornton argues, the message given is “that no change in the traditional nature of allocations is intended” (230).

Yet, in theory, definitions of merit can be changed, provided that voices can be heard within, and outside, the organizations that evaluate and criticize current practices and recommend adjustments. The AAA was designed to make such a process mandatory. Consultation, the setting of targets, evaluation and monitoring of programs provide opportunities for reassessing definitions of merit, organizational objectives, and the best ways of getting there. The problem lies not with the vision encompassed in the legislation, but with the companies that have assiduously avoided engaging in these mandatory steps (Braithwaite 1992, 1993).

It is reasonable, perhaps, to conclude that the AAA overestimates the sophistication of Australia’s private and tertiary education sector and their will to honor their part of the affirmative action bargain with government. Research findings suggest that some organizations, particularly smaller ones, have been neither willing nor able to look at themselves critically, they have been reluctant to seriously investigate ways in which some are advantaged over others, and they have shirked their responsibility for making the hard decisions about who is to lose their advantage (Braithwaite 1992, 1993; Eveline 1993, 1994, 1995; Sheridan 1995).

Reactions to the Affirmative Action Act were captured in a study of organizations randomly selected from the public report data base compiled by the Affirmative Action Agency (Braithwaite 1992). The majority of the 153 EEO contacts from these organizations saw the legislation as reasonable, legitimate and even helpful in making them aware of better ways in which they could utilize women’s skills. Yet, management was remarkably resistant to the idea that sex discrimination was a problem in their companies. Furthermore, they recoiled from any suggestion that some groups who have been discriminated against in the past may need assistance to become fully integrated into the workforce. These two attitudes capture the major stumbling blocks to giving women an equal footing with men in the workplace in Australia.
Lack of awareness of discrimination in one’s own backyard is not surprising given the degree to which the workforce is segregated both horizontally and vertically. The majority of women do different jobs from men and have little representation at the levels of senior management. Women are virtually absent from Australian boardrooms. It is easy to see how information that is freely circulated among female workers never reaches the ears of those who are in a position to do something about it. With such distinctively different social networks, some EEO officers see little point in doing anything but patiently wait for the new generation of directors to come on board, a generation who have learned about sex discrimination through the experiences of their wives and daughters [Braithwaite 1992]. The problem is further exacerbated where management maintains high control over communication to ensure that they are not “opening a can of worms” and to guard against “raising women’s expectations” [Braithwaite 1992]. In some instances where companies have had to confront sexual harassment problems, offending individuals have been dismissed, a sexual harassment policy introduced, but little more has been done to set in place an affirmative action program that encourages an exchange of views about gender issues within the organization [Affirmative Action Agency 1992].

Is there a better strategy for improving communication between those who bear the brunt of discrimination and those who can do something to prevent it? Some companies have endorsed the management principle that resources need to be devoted to building a good communication network where information on a range of matters flows readily and easily from one group to another within the organization, as well as across organizational boundaries. Openness to new knowledge and information and dialog between groups is considered central to goals of continuous improvement and adaptability. Companies that take slices through their organization, bringing people together who do not normally have contact with each other, to identify problems, share ideas, and propose solutions, are among those with the most progressive affirmative action programs [Braithwaite 1992, 1993]. In these settings it is possible for different understandings to confront each other and be worked through until new shared understandings of gender and work unfold.

The second impediment to change, that special consideration for under-represented groups is neither practical nor desirable, is deeply entrenched in many work cultures [Eveline 1993]. The principle has not stood in the way of family programs that are seen to benefit all [e.g. child care, parental leave], but it has stood in the way of training programs, positions and promotional opportunities set aside specifically for women. Programs for female employees have been frequently rejected by Australian businesses because of the likely harm done to the morale of male employees [Braithwaite 1992].
Increasingly, those involved in management research and practice are recognizing the inevitability of heterogeneous workforces and the necessity for accommodating human diversity, even harnessing it as a new resource that can add vitality and the competitive edge. A philosophy of managing diversity means that all employees cannot be treated in the same way and that different programs must be put in place to cater to different knowledge and skills. Whether this management philosophy will make it easier for companies to come to terms with programs that focus specifically on the needs of women in the workplace remains to be seen.

**Future Directions**

The achievement of the first decade of operation of the AAA has been the building of a link between good business practice and affirmative action programs. It has been achieved through dialog among a variety of groups who have sought consensual solutions and been willing to accept the principle of institutional redundancy. The challenge for the next decade is to fulfil the legislative requirements of the AAA through convincing ordinary men and women in the Australian workforce to own the legislation and use it to bring about change at the grass roots level. In an era in which affirmative action has been a controversial initiative, proponents and opponents have tended to interpret proposals as win-lose options. Women's gains are seen as men's losses, or business interests are seen as undermining feminist aspirations for women's participation in the workforce. Such scenarios have some truth value and, therefore, cannot be ignored. By the same token, they do not represent the whole story. Abstract wariness of possible conflict undermines the social dynamics that make unlikely alliances highly effective in dealing with particular problems in specific contexts. In Australia, the risks of not forging new relationships and new alliances loom large as we approach the millennium.

Traditionally, Australia has had a centralized wage fixing system that has regulated how much individuals should be paid for particular kinds of work, and that has played a major role in reducing wage inequality between the sexes (Mitchell 1995; Pocock 1995). Recently, the powers of the Industrial Relations Commission have been seriously curtailed in favor of enterprise bargaining over wages and conditions at local work sites. Many predict that the loss of a centralized wage fixing system will undermine the hard earned gains of women in Australia (Bennett 1995; Mitchell 1995; Pocock 1995). As unwelcome as the change has been to those interested in gender equality, enterprise bargaining, if paired with the affirmative action legislation, may provide a vehicle for promoting dialog...
in the workplace, a dialog that has been too often lacking. Furthermore, enterprise bargaining at local sites may offer ordinary men and women an opportunity to listen to each other. An alliance between men and women is not only desirable but conceivable. Increasingly, both men and women in Australia are looking for ways of increasing family and leisure time [Hannan 1997]. Men are looking for some of the lifestyle options that have been stereotypically female, just as women are looking for some of the options that have been stereotypically male. The Affirmative Action legislation, in these circumstances, offers a window of opportunity for work site consultation and negotiation that can fulfill a variety of aspirations.

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