

The New GFC: the Gender Fairness Crisis

by

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The Hon John Brumby, Premier of Victoria
The Hon Maxine Morand, Minister for Women's Affairs
Ladies and Gentlemen

It is a great honour for me to have been invited to address you today, at the 10th annual Victorian Premier's Women's Summit. This is a tremendous initiative, one that I wish other states - and the federal government - would emulate because there are simply not enough opportunities to governments to hear what women are thinking. I commend the Victorian government - and especially the Premier - for showing such leadership in this area.

Last year, the theme of the Summit was Women and Money. This year the theme I have been asked to address is Women's Leadership in the Workplace. It might sound strange but there is in fact a very direct connection between the two topics. As I will attempt to show in my remarks, the lack of women in leadership positions in the entire Australian workplace has very grave consequences for the overall financial well-being of women.

We have all heard of the GFC - the Global Financial Crisis. What I want to put to you today is that there is another GFC - one that is much closer to home and that is the Gender Fairness Crisis.

On virtually every measure, women are behind - and going backwards.

It has been quite a shock to someone like me who believed in the inevitability of equality to see that in many respects women are worse off today than even under the women-unfriendly years of the Howard government.

This is not to say that we do not have a lot to be proud of.

A woman Governor-General. A woman Deputy Prime Minister. A woman Premier of Queensland. Three out of seven High Court Justices women. Four women in federal Cabinet. Cate Blanchett, Nicole Kidman, Simone Young. There are many other individual examples I could point to. In sport, for instance.

But when it comes to employment, especially in the private sector, the picture is not so rosy. Australia ranks 41 in the global index of women's workforce participation with just 58 per cent of women in the workforce, compared with 72 per cent of men and, as we shall see, when it comes to remuneration, the picture is dismal indeed.

We need to be clear-eyed about the situation -- so we can address it. So we can remedy it. We need to get back on track on the road to equality.

Victoria is well-placed to lead the charge because it has a proud political history of promoting women's equality - and it can lead the way again.

Last year, Victoria marked the centenary of women's suffrage. This state was the last to grant women the vote - a full 14 years after South Australia which was the first - although, unlike several of the other states, Victoria did include Indigenous women in the franchise. In other words, it was the first state to get it right.

Since then, Victoria has tended to be more progressive than most other states.

Victoria produced the first woman to stand for federal parliament. In fact, Vida Goldstein was the first woman in what was then known as the British Empire to run for office when she sought election to the Senate in 1903. Altogether she stood five times, each time unsuccessfully. The federal seat of Goldstein, currently occupied by Andrew Robb, is named after her.

In other milestones, Julia Bella Guerin became the first woman to graduate from university when she received her arts degree from the University of Melbourne in 1883.

Victoria was the first state to allow legal abortion after the Menhennitt ruling in 1969, and continued this tradition by removing abortion from the criminal statutes last year. In 1977 Victoria became the second state to introduce anti-discrimination legislation in 1977.

There are many other milestones, achievements or people I could mention - Germaine Greer, EMILY's List, Joan Child, Joan Kirner - as well as the following notable achievements:

- Victoria had a woman premier in 1990 (as did Western Australia) long before other states such as Queensland – and New South Wales where it has yet to happen.
- Chief Justice Marilyn Warren of the Victorian Supreme Court is the first woman to hold such a position anywhere in Australia
- As was Christine Nixon, the former Commissioner of Police in Victoria
- And let's not forget that three of the four women in Kevin Rudd's cabinet, including Australia's first woman Deputy Prime Minister, Julia Gillard, are from Victoria.

Just last week, on Equal Pay Day, Maxine Morand, the Minister for Women's Affairs reminded us that Victoria now has a policy of aiming for 50 per cent of all new board and committee appointments to be women. This is certainly a first for Australia, and one that should be commended because one indicator of the Gender Fairness Crisis is the relative absence of women in leading positions in our country's major institutions.

Late last year, we were all disconcerted when the latest EOWA Census on women in leadership in ASX200 companies was released because the figures showed a significant reversal in what had been achieved in earlier years.

The number of women executive managers had declined from 12% in 2006 to 10.7% in 2008, which was below the level measured in 2004. In 2006, 39.5 per cent of companies had NO women executive managers; in 2008 that figure had risen to 45.5%. Those women who do make it to senior executive roles are overwhelmingly clustered in support roles, which tend to exclude them from the pipeline that leads to higher ranks.

“The encouraging increase of women in line management roles from 2003 to 2006 (4.7% compared to 7.4%) has reversed,” the report stated, “and the figure declined to pre-2004 levels (5.9%)”.¹

There are also fewer women on boards, and fewer women chairing boards - with the conspicuous exception of the Telstra Board which earlier this year appointed Catherine Livingstone as its chair.

¹ Equal Opportunity for Women in the Workplace Agency, “2008 EOWA Australian Census on Women in Leadership” Media Release 28 October, 2008

But mostly we are falling further and further behind the rest of the world. Only 54.5% of ASX200 companies have at least one woman in management, compared with 85.2 per cent in the United States. To put it another way, 46 per cent of Australian companies have NO women in management at all, compared with just 15 per cent in the US.

These results were so shocking that they prompted Katie Lahey, the CEO of the Business Council of Australia, to say in a radio interview that perhaps it was time that Australia considered quotas.

In saying this, Katie unleashed a debate that is now raging and, with the recent announcement by the federal government of the review of the Equal Opportunity for Women in the Workplace Act 1999 and of the Equal Opportunity for Women in the Workplace Agency, this debate has taken on a political relevance of a kind that we have not seen before in this country.

People everywhere are now talking about quotas.

Maxine Morand raised the issue in her press release on Equal Pay Day, saying "Legislation may be needed to set quotas for board appointments in the private sector given that only 8 per cent of board members in the top 200 are women". A Women on Boards conference in Sydney last week surveyed all delegates asking a series of questions about quotas. In May this year the Serious Women's Business Conference held a half-day high-level invitation only symposium to talk about quotas. Some of Australia's leading businesswomen - and a few male CEOs - took part in a wide-ranging discussion about how we can ensure that more women are appointed to senior positions. There was consensus that some kind of targetted goals were needed.

To give these discussions a little context, it is worth recalling the history of this issue in Australia.

In 1986 the Hawke government introduced the Affirmative Action (Equal Employment Opportunity for Women) Act. I was intimately involved in the drafting of this legislation and the consultation processes with business, the unions, women's organisations and the higher education sector that preceded its introduction. As head of the Office of the Status of Women I had been charged with developing legislation that would be acceptable to all sectors but would still meet Labor's key policy objective of improving women's employment opportunities.

The legislation reflected the compromises that had been heavily negotiated. The fact that there even **was** legislation that required companies to report to the government on their affirmative action plans was quite an achievement.

Everyone had been scared to death of the notion of "American-style quotas" so we avoided that language. Instead, we came up with the language of "objectives" and "forward estimates". The "objectives" were intended to be qualitative and therefore rather vague, whereas the "forward estimates" were supposed to be quantitative and therefore measurable.

Perhaps not surprisingly, in the second year of the operation of the legislation whereas 71 per cent of the 521 companies reporting had set objectives, only 34 per cent had

managed any forward estimates.² Where they had reported their plans, these were far from ambitious. They included “increasing women’s participation in non-traditional areas, for example apprenticeships...” or “increasing women’s participation in training - on and off the job”.³ In other words, this was a very tame form of affirmative action.

I am not saying it was useless, but it was certainly not radical.

But it was too much for the Howard Government which in 1998 reviewed the Act and in 1999 changed everything about the legislation from its name to its intentions. All reference to objectives and forward estimates was removed, as was the language of “affirmative action” with the resultant watered down legislation requiring companies merely to lodge a report on their “strategies to prevent discrimination”. Nothing measurable, and no sanctions. The worst that could happen was that a company could be “named and shamed” for not submitting a report; the contents of the report were subject to neither verification nor evaluation.

The current review of EOWA and the legislation announced recently by Tanya Plibersek, the Minister for the Status of Women, provides a unique and, I would say, most timely opportunity to review the scope and content of the legislation. In doing so, I believe that we must be mindful of the wider picture of women’s employment.

I have already referred to the shameful lack of women at senior levels of the private sector. The large and growing gender pay gap is also a critical fact.

We know that in Victoria women on average earn 83.4 cents for every dollar earned by men.⁴ There has been only a marginal improvement in the past quarter-century with the Australia-wide gap narrowing from 18.5 per cent in May 1984 to 17.4 per in May 2009.⁵ I remember that in 1984 I used to quote this figure to show that the gap was narrowing. It had been close to 30 per cent some years earlier. I expected the gap to continue to narrow, and for this to happen relatively quickly. I was wrong.

We know that the pay gap starts from the moment women leave university, with female graduates earning on average \$2,000 p/a less than male graduates. When it comes to the professions, women are far worse off. A House of Representatives inquiry into pay equity has heard evidence that women lawyers are among the least fairly treated of all women.

Although 56 per cent of law graduates are women, by the time lawyers are 40 only 25 per cent of Australia’s practising lawyers are women. One reason for the drop-off is the appalling gap in earnings. Women lawyers suffer a 62 per cent pay gap. And it starts in the first year. The Law Council of Australia has revealed that in in 2007 in New South Wales male graduates were paid \$70,300 while women received only \$63,500.⁶ This earnings gap is entrenched right at the start and continues to widen the longer the women stay in the profession. Is it any wonder that women get discouraged and leave?

² Affirmative Action Agency Annual Report 1987-88 Australian Government Publishing Service, Canberra, 1988 pp 40-42

³ Ibid . 42

⁴ *Supporting the Victorian Community to Reduce the Pay Gap* Statement by women’s Affairs Minister Maxine Morand 1 September, 2009

⁵ *Review of the Equal Opportunity for Women in the Workplace Act 1999 Issues Paper* Department of Families, Housing, Community Services and Indigenous Affairs, Office for Women 2009 p. 4

⁶ Sue Dunlevy, “Women lawyers not equal” *Daily Telegraph* 12 August, 2009 p. 3

It seems the higher up you go in an organisation, the worse the pay discrimination is. A recent report from EOWA revealed that women CEOs receive only 67 per cent of male CEOs salaries, while Chief Financial Officers are even worse done by, getting just 49 per cent of the salaries of their male counterparts.⁷

But the most startling statistic of all is the one that tells us that in Australia in 2009 there is a million dollar penalty to being a woman.

Recent research shows that if current earning patterns continue, the average 25 year old male starting work today would earn \$2.4 million over the next 40 years while the average 25 year old female would earn \$1.5 million.⁸ Over a life-time of working, a woman will earn almost one million dollars less than a man. How fair is that?

The consequences of this gender pay divide is that women not only have less money than men during their working lives but that they are two and half times more likely to live in poverty in their old age than men. How fair is that?

We have a Gender Fairness Crisis.

Across the board, women lag when it comes to occupying leadership positions, and are disadvantaged in almost every area of Australia life. This disadvantage is summed up in, *Gender Equality Stats 2009*, a document released by the Sex Discrimination Commission, Elizabeth Broderick, to mark the 25th anniversary of the introduction of the federal Sex Discrimination Act. Australia ranks 17 in the Global Gender Gap index, according to the document and women's representation at all levels of leadership, state and federal, private and public sectors, is low and falling. Women are also more prone to be victims of violence, to suffer sexual assault and to be pitifully provided for when it comes to retirement.

These earnings figures are disturbing for a number of reasons. They are patently unfair, of course. Not only do they breach equal pay laws but they are an abrogation of the culture of fairness we like think prevails in this country. This gap can only exist, and persist and widen, if there is entrenched and systemic discrimination against women. This is clearly the case. We therefore have a crisis in fairness in Australia.

Second, the compounded effect of reduced earnings means that women's economic well-being will deteriorate as they get older. We know that women managers earnings tend to stagnate when they reach their 40s. Yet women are likely to work well into their 60s. Women's superannuation is already much lower than men's and this gap will increase markedly as the gender pay gap widens.

The Queensland government has calculated that by 2019, on average, women will have half the amount of superannuation that men have.⁹ Today, half of all women aged between 45 and 59 have \$8000 or less in superannuation. This means that, despite the vast increase in women's workplace participation, their reduced earnings means that many women will face old-age in penury. At present the average superannuation payout for

⁷ Catherine Fox, "Female executives working for half pay" *Australian Financial Review* January 25-28, 2008 p. 9 Read the report:

[Http://www.eowa.gov.au/Australian_Women_In_Leadership_Census/2006_Australian_Women_In_Leadership_Census/Top_Earner_Report/FINAL_REPORT.pdf](http://www.eowa.gov.au/Australian_Women_In_Leadership_Census/2006_Australian_Women_In_Leadership_Census/Top_Earner_Report/FINAL_REPORT.pdf)

⁸ Cassells, R. Miranti, R. Nepal, B and Tanton, R (2009) *She works hard for the money: Australian women and the gender divide* AMP/NATSEM Income and Wealth Report, Issue 22

⁹ www.women.qld.gov.au/resources/focus-on-women/

men is \$110K, compared with \$37K for women. This is another indicator of the gender fairness crisis in this country.

The third reason for concern about the widening gap in women's earnings is what it means for women's status generally. It must be a mark of the low status of women that such discrimination can exist and persist. Despite the existence of state and federal agencies that are meant to monitor women's status (Human Rights Commission, EOWA, the Office for Women, to name just a few), despite the fact there have been numerous parliamentary inquiries in recent years into various aspects of women's status, and despite constant findings by both these bodies that inequality and discrimination exists, nothing is done. Nothing happens.

The EOWA Review could, and I hope will, provide a circuit-breaker. It is time to once and for all end this shameful and entrenched gender pay gap, much of which can be traced to the systemic discrimination that persists against women in all areas of employment in this country.

There can no longer be any argument about women's skills or experience. There are no jobs that women cannot do - if they have the opportunity. The federal government has an opportunity to ensure that in the future those opportunities are as entrenched as discrimination currently is. And the way to achieve this is to set numerical targets - with penalties for non-compliance.

And this must not just be for Boards, it must be for management positions as well. (In fact, the EOWW does not cover board positions so is, technically speaking, outside the scope of the review). The key driver must be to get more women into all levels of management, including senior and executive management, as this is where the absence of women is so glaring.

If it was going to happen naturally, it would have by now. Twenty years after the Hawke government legislated for equal opportunity for women in employment it still hasn't - and it won't.

If governments are truly committed to delivering equality of opportunity to all their citizens, then they have to be prepared to use all the tools at their disposal, including legislation, to ensure it happens.

A lot of people are worried about quotas. Especially women. I hear many women say they want to "get there on merit". The trouble is, we do not have a merit-based system in this country. We pretend to but we don't. If we did, we would not have the outcomes we have. If the system truly operated on merit, a lot more women would hold high-level jobs

People are promoted for all sorts of reasons - networks, connections (old school tie, golf buddies), competence, luck, nepotism and so on. Merit may sometimes be part of it, but you would not want to bet on it. In fact, we see examples every day of people of lesser merit being promoted over those who are more qualified.

We all know about the Norwegian experience.

In 2002 the Norwegian government introduced legislation that required private and public organisations to appoint women to at least 40 per cent of their board directorships.

Companies were given three years to comply. By 2005 there had been virtually no progress, so the legislation was supplemented with tough sanctions. Companies that did not comply by January 2008 would be de-listed. As a result, the numbers of women on boards soared, growing from 6 per cent in 2002 to 41 per cent today.¹⁰

The legislation was predictably greeted with protests that it would weaken the performance of Norwegian companies, and dilute shareholder value but these fears appear not to have been borne out. Today, apparently, some of those men who most decried the legislation are now among its greatest cheer-leaders.

Could this happen here?

It is difficult to see the political circumstances under which the federal government would embrace a quota system but I think over the next few weeks we will see more and more arguments being made in favour of some kind of enforceable targets being legislated. We should all be joining the debate because I worry that the outcome of the review will be determined by a small number of special interests unless all of us have a say.

We need to understand the depth and breadth of the Gender Fairness Crisis, so that we can take resolute steps to address it. In the past we have relied on good-will, on voluntary compliance, on market forces, on a supposed meritocracy being in place.

We've tried everything - and nothing has worked. It is time to make sure we get equality in the 21st century.

And for those of you who still worry that you will be stigmatised if you succeed under an affirmative action program, that you will be somehow thought less of because you did not succeed "on merit", I have just four words I want to say to you. Just four words that demonstrate how affirmative action can release talent, can liberate merit by opening up an opportunity that would not otherwise have been there.

We have plenty of examples of good people who have succeeded by being given this initial leg-up. Just two names - four words - will make my point: Julia Gillard and Barack Obama.

Julia Gillard would not be in parliament today without the affirmative action quota program adopted by the ALP in 1994 to ensure that women had to be pre-selected for at least 35 per cent of winnable seats. Gillard had tried twice for pre-selection before she was successful in winning a seat in 1998.

Barack Obama would not have got into Harvard University without the affirmative action program that reserved a certain number of places for African-Americans.

No one doubts the competence or ability of Gillard or Obama, but we have to acknowledge that barriers to their having opportunities could easily have denied the world their talents had affirmative action not been there for them. Imagine how many other bright and clever people are being denied opportunity because of gender and race barriers. It is not just the individuals who suffer from these barriers, it is society. And it is up to society to change this. We have an opportunity right now in Australia to do this.

¹⁰ Catherine Fox, "When men are made to move over" *Australian Financial Review* August 29-30, 2009 p. 23

Thank you

GENDER EQUALITY STATS 2009

Briefing Note

Sex and Age Discrimination Unit

Gender equality – the international perspective

Women represent 50.3% of the Australian population.

Australia is ranked 17 in the Global Gender Gap Index.

Australia is one of a group of countries ranked number 1 for women's educational attainment.

Australia is ranked 41 for women's participation in the workforce.

Women in parliament

Following the most recent Federal Election in 2007, women represent 29.6% of elected positions in the Australian Commonwealth Parliament. Women account for 35.5% of Australian Senators and 26.7% of the Members of the House of Representatives.

Australia is ranked 28 in the world for women's representation in Parliament.

Women in leadership

Women chair only 2% of ASX200 companies (four Boards); hold only 8.3% of Board Directorships; hold only four Chief Executive Officer positions (2% of ASX200 companies) and represent only 10.7% of Executive Management positions.

Women comprise 33% of the total membership of Australian Government boards and bodies.

Women remain under-represented at higher classifications of the Commonwealth Public Service. Women comprise 45% of Executive Level employees and only 37% of the Senior Executive Service. Women account for 57.6% of Commonwealth Public Service employees and outnumber men at all junior classifications.

Over the last 50 years only 11 women have been named Australian of the Year.

Domestic and family violence

One in three Australian women is affected by domestic and family violence.

Domestic violence has been identified as the leading contributor to preventable death, disability and illness in women aged 15 to 44 in the state of Victoria.

Women are the biggest group of people using homelessness support services.

Domestic violence is the primary reason women seek assistance from homelessness support services.

Sexual assault

Nearly 1 in 5 Australian women has experienced sexual violence since the age of 15, compared to 1 in 20 men.

Women who have been exposed to violence have a greater risk of developing a range of health problems, including stress, anxiety, depression, pain, phobias and medical symptoms.

Internationally, around 1 in 3 women have experienced sexual violence in their lifetime.

Sexual harassment

Nearly 1 in 5 complaints received by the Australian Human Rights Commission under the *SDA* relate to sexual harassment. The vast majority of these take place in the workplace.

22% of women and 5% of men have experienced sexual harassment. Women are four times as likely to experience sexual harassment in the workplace compared to men.

More than one in ten Australians has witnessed sexual harassment in the workplace in the last five years.

Only 16% of those who have been sexually harassed in the last five years in the workplace formally reported or made a complaint.

Women's participation in the workforce

Women account for 45.1% of the total work force in Australia.

58.9% of women participate in the workforce compared with 72.1% of men.

Pay equity

Women in Australia currently earn 84.3 cents in the male dollar (full time adult ordinary time earnings).

The gender pay gap is even greater when we factor in women's part time earnings – overall women earn only 66 per cent of what men earn.

The gender pay gap has widened slightly over the last three years.

Women's unpaid work

Women undertake two thirds of the unpaid caring and domestic work in Australian households.

Women spend almost three times as many hours per week looking after children as men.

Retirement savings

In 2007, 2.8 million women and 1.6 million men aged 15 years and over reported not being covered by superannuation

Half of all women aged between 45 and 59 have \$8 000 or less in superannuation.

Current superannuation payouts for women are one third of men's – 37K compared with 110K.

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World Economic Forum, HYPERLINK "<http://www.weforum.org/pdf/gendergap/report2007.pdf>" \t "_blank" [Global Gender Gap Report](#) 2007.

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Sexual violence includes sexual assault and sexual threats.

2005 ABS Personal Safety Survey

2006 VicHealth Two Steps Forward, One Step Back: Community Attitudes to Violence Against Women

2002 International Violence Against Women Study

2005/2006 Complaints Data

Australian Human Rights Commission (2008) – *Sexual Harassment: Serious Business*

Australian Human Rights Commission (2008) – *Sexual Harassment: Serious Business*

Australian Human Rights Commission (2008) – *Sexual Harassment: Serious Business*

ABS Labour Force Australia- June 2009

ABS Labour Force Australia- June 2009

ABS *Average Weekly Earnings* August 2008 trend data. Note this data is an average that does not take into account the occupational groupings within the industries it surveys.

The ABS does collect data on differences in occupational groups and managerial/non-managerial employees – in *Employee Earnings and Hours* - but this is published every two years and it is difficult to assess trends over time using this data because it is not designed to be used on a longitudinal basis

Actual figure is 65.3 per cent, all employees' total earnings, i.e. full and part time work, which is slight increase in the gap from the last quarter

From a 15 per cent gap in February 2005 to 16.7 per cent in August 2008 (full time adult ordinary time earnings). The gap between overall part and full time earnings has remained steadier.

ABS, *How Australians Use Their Time, 2006* (cat. no. 4153.0)

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