From equal employment opportunity to diversity: Australia's response to workforce diversity

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FROM EQUAL EMPLOYMENT OPPORTUNITY TO DIVERSITY: AUSTRALIA'S RESPONSE TO WORKFORCE DIVERSITY

Managing Workforce Diversity is a nascent managerial movement in Australia where it has been associated with the rise of Human Resource Management and Quality Management over the past decade. Adopted by a small number of public and private sector organisations, Diversity Management has been heralded as 'second generation' equal employment opportunity. It follows a wave of anti-discrimination and Affirmative Action legislation in Australia during the 1970s and 1980s. Managing Diversity has been spurred on by pressure on Australian business to become internationally competitive, changes in the labour force, growing awareness of the importance of human resources management and a backlash created by perceptions of special treatment for women.

Coordinated responses to workplace diversity are embryonic and confined to a small number of companies. A recent report of the Industry Task Force on Leadership and Management Skills concluded that 'while Australian managers show a growing awareness of diversity issues, these managers do not make managing a diverse workforce a priority' (1995: 124). This is despite the fact that legislative and administrative law measures provide a fundamental underpinning for equity and diversity across Australian workplaces.

The Australian situation contrasts with the United States and the United Kingdom, where minimal statutory regulation has placed the onus of employers to provide equity and work-family programs (Spearritt & Edgar, 1994). In Australia, however, corporate restructuring and workplace bargaining have endangered attempts to institutionalise equity and diversity. Moreover, small business is largely unaffected by these developments, but this is the fastest growing source of employment in Australia, as in the United States.

The earliest reference to 'Managing Diversity' in Australia appeared in an article in the Business Council of Australia Bulletin (Carmody & Smith, 1991: 32-35). In the Australian literature definitions and concepts borrow heavily from American usage. Diversity is usually defined as the recognition of difference based on gender, race, disability, age and family responsibilities, as well as behavioural differences such as work style, needs and values (DeLuca & McDowell, 1992: 232; Loden & Rosener, 1991: 18-19; Roosevelt, 1991: 10). Valuing Diversity is the recognition of those differences, while Managing Diversity is creating an environment to maximise the potential of all employees.

For some managers, Managing Diversity is a timely response to organisational restructuring and the articulation of new corporate values focussed on employee commitment, quality and innovation. Some practitioners regard it is a way of packaging a number of equal employment opportunity and work and family initiatives. Cynics claim that in so far as the Diversity agenda is a managerial tool for gaining competitive advantage, it threatens to weaken the focus on strategies for women when achievements remain limited. Some feminists believe the managerialist nature of EEO, Affirmative Action and Diversity blunt its use as a feminist instrument by understating the power politics at work (Thornton, 1994: 222; Burton, 1992).

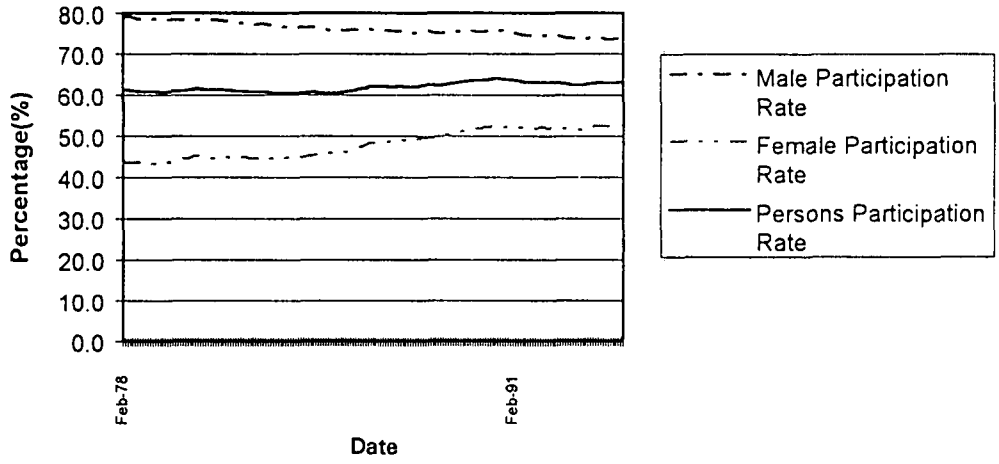
In this paper, we first review Australian labour market trends over the past two decades. The second section considers the public policy framework, including industrial relations, anti-discrimination and affirmative action legislation and federal initiatives on gender and cultural diversity. Employer responses, focussed on recruitment, career management and work-family strategies are the subject of the third section. We consider some of the dilemmas for the diffusion of Diversity practices in the final section.

LABOUR MARKET TRENDS

As in most industrial countries, the breadwinner-housewife model of the family has shifted markedly in recent decades. In the early 1950s the participation rate of married women was only 12 per cent; by 1961 women made up 30 per cent of the total workforce. Today men and women at every socioeconomic level in Australian society are staying longer at school, seeking higher qualifications for a more knowledge-based market and delaying marriage and childbearing.

Over the past two decades, the labour force participation rates for women and men have become gradually closer in Australia, as in Northern Europe and North America. Between 1978 and 1994, the participation rate for men declined from 80 per cent to 74 per cent; for women, it increased from 44 per cent to 53 per cent (see table 1).

Table 1: Participation Rates, Australia

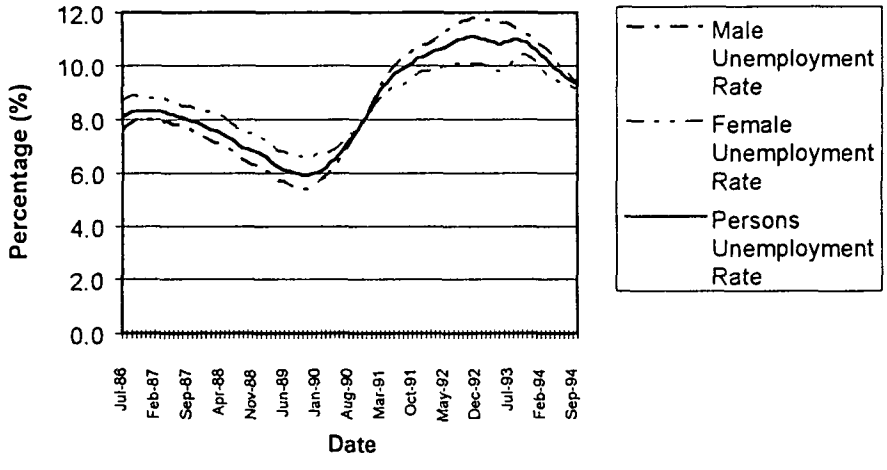


The participation rates for married and single women are fairly similar, although the proportion of married women is now slightly higher. In 1993-94 there were 3.3 million women and 4.5 million men in paid employment, with 42 per cent of the women and 10 per cent of the men employed part-time (ABS 1994a: 75). The workforce participation of women with children under four increased from 25 per cent in 1972 to 45 per cent in 1991. Nearly 60 per cent of two parent families with dependent children have both parents in the labour force.

Most of the increase in women's participation in part-time work occurred in the mid 1980s. The increase in full-time jobs has been much less than for part-time jobs. Men's full-time labour force participation has fallen substantially, from 79 per cent in 1978 to 67 per cent in 1993, while part-time employment for men has increased (Mitchell & Dowrick, 1994: 3).

An increasing number of men are now unemployed. Since the beginning of the 1990s, the male unemployment rate has been higher than the rate for women (see table 2).

Table 2: Unemployment Rates, Australia

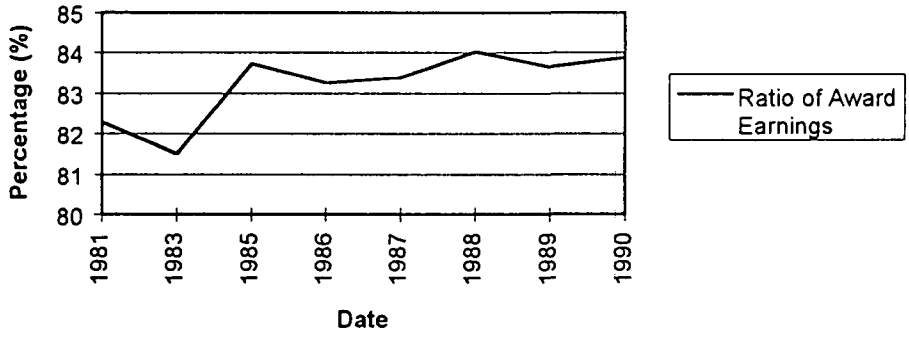


But employed men are working longer hours, a trend which has partly offset the decline in the number of men employed. In 1993, the average hours per worker for full-time men was 43.4. Women employed full time worked on average almost 40 hours a week in Australia, an increase of one and a half hours since August 1984. The trend to longer work hours has occurred against a backdrop of reductions in the length of the working day. Australia formally has a 38 hour week in most industries.

Women's increasing participation at all levels of education has facilitated the growth in labour force participation. Between 1982 and 1991 the year 12 retention rate for young women rose from 40 per cent to 77 per cent. Female university undergraduate students have outnumbered male students since 1987. In 1993, women represented more than half of all undergraduate students, 45 per cent of masters by coursework and 38 per cent of PhD students. Women received almost half the number of bachelor degrees in law (50 per cent), business (48 per cent) and science (44 per cent), but only 13 per cent of engineering degrees in 1993 (Department of Education, Employment and Training, 1995: 66).

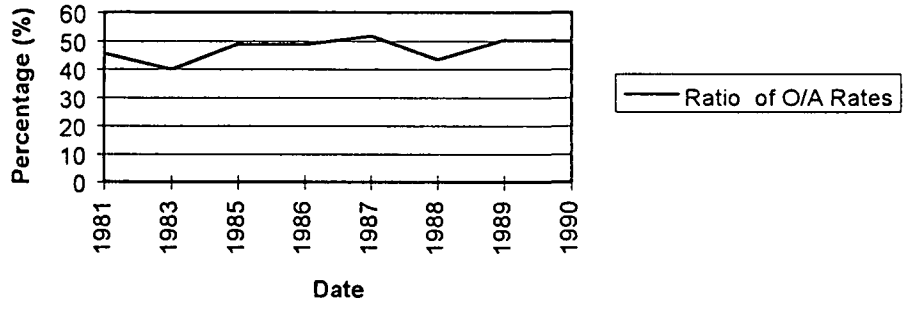
The significant upgrading of educational qualification by women has helped to narrow the gender wage gap. Between 1981 and 1990, women's average weekly earnings were about 81 to 84 per cent of men, up from 60.7 per cent in 1971. The ratio of female to male award earnings was higher (see table 3).

Table 3: Ratio of Female to Male Award Earnings, Australia



In the same period, women's overaward earnings varied from 39 to 51 per cent of the equivalent male rates, with the closest margin in 1987 at the time of award restructuring, that is early in the process of labour market decentralisation (see table 4).

Table 4: Ratio of Female to Male Overaward Rates, Australia



Australia has one of the smallest gender earnings gaps of Western industrialised countries, although the effects of workplace bargaining are yet to be fully investigated. Decentralisation in the form of the growth of overaward bargaining has led to an increase in the gender wage gap.

Changes in occupational segregation have not contributed to this narrowing wage gap. The two major occupation groups for women employed full-time made up 53 per cent of jobs in 1989 and 52 per cent in 1994 (clerks and salespersons). Men had broader occupation coverage, with three occupations groups - tradespersons, managers and professionals - accounting for 54 per cent of jobs in 1994. Between 1989 and 1994, the proportion of full-time employed women who were managers showed a modest rise from 7.2 per cent to 8.9 per cent. Many commentators are concerned that the glass ceiling is thickening in Australia. The nation has the

lowest percentage of women in management in the industrial world: in 1993, women held 26 per cent of management positions, mostly at lower levels (Industry Task Force, 1995: 124).

The increasing employment of women and minorities in the Australian Public Service, and particularly at senior levels, in indicative of changing attitudes and in itself is a significant influence on the labour force status of women and minorities. In 1993, women represented 48 per cent of the Australian Public Service workforce. They made up about 14 per cent of the highest level (Senior Executive Service) and 18 per cent of the Senior Officer level. Other 'minority' groups represented as of December 1993 include Aboriginal and Torres Strait Islanders (2 per cent), disabled people (5 per cent) and people of non-English speaking background (14 per cent). These figures have increased significantly over the past decade.

Aboriginal and Torres Strait Islander people comprised 1.5 per cent of the population (265,500 people) in 1991. The total number of Aboriginals and Torres Strait Islander people in the labour force in 1994 was estimated at 105,200 (65,100 employed and 40,200 unemployed). The labour force participation rate for Aboriginal and Torres Strait Islander people 15 years and over was 58 per cent. They have the highest unemployment, lowest levels of education, housing and community services of any groups in Australia. In the decade 1981-1991, there was a significant increase in the participation of Aboriginal and Torres Strait Islander women labour force, although most remain concentrated in community services and public administration.

In Australia, people who have limitations, restrictions or impairments which are likely to last for six months or more are classifed as having a disability. They are classified as having a handicap if their disability limits their performance of certain tasks associated with daily living. Almost half a million people with a handicap were employed in 1993. Women and men with a handicap had the lowest labour force participation rates in 1993 (ABS, 1994a: 84).

Between 1947 and 1991, the proportion of the population born overseas increased from 10 per cent to 23 per cent. In the period from 1947 to 1961, there was more than a seven fold increase in the number of people from continental Europe. During the 1980s, the size of some European born groups fell and there was a rapid growth in migrants from South East and North East Asia and Oceania (ABS, 1993: 14). This is reflected in the composition of the labour force.

In March 1995, 25 per cent of Australia's labour force (2.2 million people) were born outside Australia. This is little changed from the figure of 27 per cent in 1971. The largest group of overseas born workers were from Europe and the former USSR (57 per cent), while 12 per cent were from Oceania, 10 per cent were from SE Asia, 5 per cent from NE Asia and 4 per cent from the Americas. The ethnic mix of the labour force has been changing since the

1970s, with the southern European and Middle-Eastern population declining, while the South-East Asian representation increased.

People from non-English speaking backgrounds are represented across all major occupational groups, but are concentrated in plant and machine operators and labourers, areas considered to require comparatively low levels of skills (Stephens & Bertone, 1995: 13). Recently arrived groups from Vietnam, Lebanon and Poland seem to suffer the most labour market disadvantage, while professionally qualified immigrants from countries such as Hong Kong and Singapore are overrepresented in professional and clerical jobs compared with their total employment numbers (BIPR, 1993: 25 in Stephens & Bertone, 1995: 13).

An enduring feature of the Australian labour market is the higher unemployment rates of people from non-English speaking backgrounds. In August 1994 people born in these countries had a higher unemployment rate than those born elsewhere. NESB had an unemployment rate of 15 per cent, compared to 8 per cent for women born in Australia and 7 per cent for those born in main English speaking countries (ABS, 1994: 80). The disadvantaged position of immigrant workers is evident in other ways. A recent study in four large companies found that the proportions of interviewees who had not received or did not understand information about award restructuring or workplace bargaining were much higher for NESB women and men than Australian born and English speaking workers (Stephens & Bertone, 1995: 165).

Older people are projected to contribute a large share of the labour force in 2011, with the major growth in labour force numbers expected to occur in the 45-54 age group. The male/female ratio of the labour force is projected to shift from 58 per cent/42 per cent in 1993 to 54 per cent/46 per cent in 2011 (ABS, 1994b: 1).

Australia's public policy and legislative environment has gradually adapted to this increasing labour market diversity, especially the growing number of employed women, as the next section details.

PUBLIC POLICY

Over the past decade, Australia has implemented a range of legislative programs targeted towards women, Aboriginals and Torres Strait Islanders, ethnic minorities and disabled people. These reforms provide the foundation for the development of equity and diversity policies at the level of individual organisations.

Government Policies for Disadvantaged Groups

Gender

Australia's comprehensive government machinery for women is often upheld as a leading model of liberal feminist reform: '. . . Australia has now gone further than comparable countries in institutionalising the feminist insight that no government activity is gender neutral' (Sawer, 1994: 1). At its centre is the Office of the Status of Women, a division of the Prime Minister and Cabinet, which initiates, coordinates and administers government policies and programs to raise the status of women. Women's budget statements designed to monitor the gender impact of annual budgetary allocations are another innovation.

The key policy document produced by the Office of the Status of Women is the *National Agenda for Women*, a government blueprint for raising the status of women to the year 2000. First adopted in 1988, the National Agenda was updated in 1993 and covers issues from violence from employment and childcare to income security and the environment. The government's inquiry into Equal Opportunity and Equal Status for Australian Women, established in 1989, provided a springboard for further legislative and policy reforms detailed in the 1992 report *Half Way to Equal*.

Ethnicity

Australia is considered one of the most culturally diverse countries in the world: from a society in the 1850s which was either Aboriginal or Anglo-Celtic, Australia's population is now 75 per cent Anglo-Celtic and one per cent Aboriginal. Since the late 1970s, Australia has moved from a government policy of assimilation to multiculturalism. At the same time, the public discourse about multiculturalism has followed a similar path to that relating to Affirmative Action – from social justice to business benefits. Whereas early discussion of immigrants focussed on their welfare problems, in recent years the focus has been on the talents and skills immigrants bring to Australia (Jupp, 1989: 1).

Multiculturalism originally developed under the guidance of the Federal Department of Immigration and Ethnic Affairs as a response to various studies indicating widespread discrimination against migrants, especially in employment. In 1987, the Office of Multicultural Affairs was created to provide a broad overview of multicultural policy and conduct research. In order to encourage all government institutions and agencies to recognise Australia's ethnic diversity in all their activities, the federal government announced a *National Agenda for a Multicultural Australia* in 1989. Key aspects of the Agenda included improving access to government services to overcome barriers of language, culture and prejudice and adoption of a reform strategy to improve processes for the recognition of overseas skills. All levels of government now embrace multiculturalism in some way.

Economic multiculturalism, the most recent addition to Australia's multicultural rhetoric, closely connects with the rationale for Diversity Management. Maximising the use of human resources is a common factor in this argument:

> Removing inequities and inequalities based on ethnic or racial origin will open doors for many people to participate in our economic development. Overseas qualifications need to be more readily accepted. Australia's people, whatever their ethnic origin, should have the opportunity to contribute fully to the nation's economic growth (Office of Multicultural Affairs, 1988, in Allbrook et al, 1989: 21)

Indigenous People

Racist attitudes were entrenched in many government policies and programs until 1967 when a record 90 per cent of Australians endorsed constitutional change to enable the federal government to legislate for Aboriginals in the states and for Aboriginal people to be counted in the national census. Federal government involvement in the provision of Aboriginal and Torres Strait Island programs and services has since increased, with programs in economic development, employment and training and youth and education. The federal government announced an Aboriginal Employment Development Policy in 1986 to increase employment opportunities for Aboriginal and Torres Strait Islander people.

Critics have pointed to a number of deficiencies in Australia's public policy framework. Class and gender differences tend to be submerged in much public rhetoric of ethnic diversity (de Lepervanche, 1992: 83). Some argue that multiculturalism has not dealt adequately with racism towards Aboriginal people and Asians in Australian society. Because of growing concerns about racial bigotry and xenophobia, the federal government introduced a *Racial Hatred Bill* in the House of Representatives in December 1994, to be considered by the Senate.

Industrial relations and equity

The division of powers under the Australian Constitution vested federal and state governments with powers over industrial relations. At both levels of government, legislation was enacted providing for the creation of systems of compulsory conciliation and arbitration. In practice, the notion of compulsion has not precluded workplace and industry-based bargaining. But the typical outcomes of arbitral proceedings have been legally enforceable awards and agreements. For much of this century, these awards and agreements enshrined wages and conditions of employment that treated men and women differently.

Despite the division of powers, a system of national wage fixing developed in which the federal tribunal, now the Australian Industrial Relations Commission, became dominant. Decisions of the Commission through test

cases generally were emulated by tribunals at the state level. This system of wage fixing commenced with the *Harvester case* of 1907 (2 CAR 1) in which a basic or minimum wage was set to maintain a male worker supporting a wife and three children. Subsequent decisions built on this and enshrined male and female wage differentials into the system of awards until the *Equal Pay* cases of 1969 and 1972 (147 CAR, 173-181). The first of these test cases awarded equal pay for equal work, that is indented wage rates for men and women performing the same work. In the latter case, the Commission extended the concept of equal pay to work of equal value and laid down principles to be applied on a case by case basis. These concepts were adopted by state tribunals.

Since 1972, Australia had made significant progress towards pay equity, as indicated earlier. Yet more than two decades later a substantial difference exists between male and female earnings. In February 1994, women's ordinary time full-time earnings were 84 per cent of male earnings, but only 80 per cent of total full-time male earnings and 66 per cent of total male earnings. The principal factors which explain this are:

- *Incomplete application of the principle of equal pay.* The concept of equal pay for work of equal value could only be applied on the application of a party to an award and then following a determination of the work value of the various occupations. Tribunals have ascribed occupations and industries dominated by women a lower work value than those in which men dominate (Walpole, 1994b: 7). Thus occupational location is seen as a more powerful determinant of remuneration than objective measurement of work value (O'Connor, 1994: 9).

- *Lower discretionary payment.* Typically, the earnings of Australian workers are composed of an award and an overaward component. The level of overaward payments has not been determined by industrial tribunals, but by bargaining or unilaterally by management. Not suprisingly, overaward payments, including bonuses and incentive payments, remain the major source of the male/female earnings differential.

- *Differential working time.* Not only do women work fewer hours on average than men, there is some evidence that in allocating overtime managers tend to exercise discretions in favour of male employees.

Equal opportunity legislation

Australia's anti-discrimination and Affirmative Action laws are relatively recent compared to the United States. Federal and state governments, with the exception of Tasmania, enacted legislation prohibiting discrimination in employment based on sex, race and other grounds from the 1970s on. As in most other countries, Australia saw the development of sex discrimination legislation after legislation to cover racial discrimination, a reflection of the later development of debate about the position of women.

A combination of social and political factors led to the enactment of anti-discimination legislation in the 1970s. These were the years of the Women's Liberation Movement and the ascendancy of the 'femocrat', a uniquely Australian term to describe feminists who gained employment with the state. The election of a reformist government at the federal level and the historic Equal Pay decision by the Arbitration Commission in 1972 fuelled feminist activity. Backed by the powers of the state, feminism made headway in changing attitudes and practices connected with employment, especially in the public sector (Sawer, 1990, 1994).

It was not until the 1980s that equal opportunity in employment entered into popular debate with a small number of cases receiving extensive media coverage. One involved a female pilot who complained to the Victorian Equal Opportunity Board that she had been denied employment as a commercial airline pilot on account of her sex. The Board found in favour of Wardley and her future employer went on unsuccessfully to appeal the decision before the High Court on constitutional grounds *(Ansett Transport Industries (Operations) Pty Ltd* v. *Wardley* (1980) 142 CLR 237).

At the federal level, the major enactments are the *Racial Discrimination Act 1975*, the *Sex Discrimination Act 1984*, the *Human Rights and Equal Opportunity Commission Act 1991* and the *Disability Discrimination Act 1992*. The counterpart legislation in the two most populous states, New South Wales and Victoria, which together account for 60 per cent of Australia's population, is the *Anti-Discrimination Act 1977* (NSW) and the *Equal Opportunity Act 1984 (Vic)*.

While the structure of Australian legislation differs among the jurisdictions, the provisions have four common characteristics:

- *Discrimination in employment is prohibited on specified grounds.* Direct discrimination involves treating an employee less favourably than someone else in the same position as that person. Indirect discrimination occurs as a result of imposing some condition or requirement with which that person is not able to comply, whereas a substantially greater number of persons of a different sex, race, marital status or other specified characteristics would be able to comply. The breadth of this concept was demonstrated in *Australian Iron and Steel* v *Banovic* (1989) 64 ALJ 51. In that case the High Court found that a face value neutral retrenchment policy of last on, first off, was discriminatory as it perpetuated the effects of past discrimination. It is worth noting that the Australian concept of direct discrimination corresponds to disparate treatment under Title VII of the United States *Civil Rights Act 1964*, while indirect discrimination parallels the categories of adverse impact and perpetuating the effect of past discrimination.

- The unlawfulness of indirect discrimination turns on its reasonableness. An authoritative statement of the meaning of this term has been provided

by the full Federal Court in Secretary, *Department of Foreign Affairs* v. *Styles* (1989) 88 ALJR 621, 635:

> the test of reasonableness is less demanding than one of necessity, but more demanding than a test of convenience. . . The criterion is an objective one, which requires the court to weigh the nature and extent of the discriminatory effect, on the one hand, against the reason advanced in favour of the requirement or condition on the other. All the circumstances of the case must be taken into account.

The court's conclusion the the employer's decision was reasonable turned on its acceptance that the choice of a more highly graded applicant was justified because the gradings depended on 'merit, rather than, for example, purely on seniority' and that this was fair when balanced against the discriminatory impact of the decision.

- *Unlawful discrimination may occur at the time of hiring, during employment and at the point of termination.*

- *The legislation is complaints based and operates through the creation of specialist tribunals which are distinct from industrial tribunals.* Recent amendments to the federal *Industrial Relations Act 1988*, however, provide for interconnection with the specialist tribunal at that level, the Human Rights and Equal Opportunities Commission.

- *All jurisdictions prohibit discrimination on the grounds of sex, marital status, race, pregnancy and physical or mental impairment.* Political opinion, family responsibilities or parental status, age, and sexual preference may also constitute grounds for unlawful discrimination in some of the jurisdictions. Significantly, in view of the overriding force of federal legislation, family responsibilities are included among the prohibited grounds of discrimination at the federal level (Fox et al, 1995: 464).

For present purposes the relevant federal legislation is the *Sex Discrimination Act 1984* and the *Racial Discrimination Act 1975.* The *Sex Discrimination Act* defines direct and indirect discrimination in relation to sex, marital status and pregnancy has been extended to include family responsibilities. Discrimination in employment is made unlawful by s. 14 which is cast in broad terms and includes the catch-all phrase 'by subjecting the employee to any other detriment'. Discrimination on the basis of sex or marital status in relation to membership of a pension fund or payment of a fund benefit is unlawful where this arises from the exercise of a discretion. Under s.105, liability for discrimination is effectively extended to a person who 'causes, instructs, induces, aids, or permits' another to engage in discrimination in employment.

The *Racial Discrimination Act* adopts a broad definition of discrimination based on the International Convention on the Elimination of All Forms of

Racial Discrimination, which is included as a schedule to the legislation. Section 9 makes it unlawful to do:

> any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

Liability is extended to employer associations and unions; however, unlike the *Sex Discrimination Act* s.105, liability for discrimination only arises from positive acts like attempting to prevent employment being offered to a person.

The federal *Disability Discrimination Act 1992* was enacted because of inconsistent state laws prohibiting discrimination on physical and mental impairment. The amendments extend the concept of unlawful direct discrimination to less favourable treatment resulting from the fact that a person 'is accompanied by, or possesses (a) a palliative or therapeutic device, or (b) an auxiliary aid' or is accompanied by an interpreter, reader, assistant or carer (ss. 5-8).

Until 1993, federal and state legislation generally provided an exemption for discrimination, other than racial discrimination, occurring under statutory authority. The most common form of exemption applied to awards and agreements ratified by industrial tribunals. However, as explained below, recent amendments to federal legislation have substantially reduced this exemption. In the case of the *Disability Discrimination Act*, the exemption is intended to facilitate employment of persons with disabilities by empowering relevant courts or tribunals to make minimum wage determinations 'by reference to the capacity of the person' (s. 47).

Although tribunals have included sexual harassment in the definition of discrimination, separate provisions have been enacted in some state and in the federal jurisdiction. For example, the *Sex Discrimination Act* defines sexual harassment as:

> (a)the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours to the person harassed.
>
> (b)engages in other unwelcome conduct of a sexual nature in relation to the person harassed.

Sex Discrimination Act Amendments

Anti-discrimination and industrial relations legislation have largely operated in separate spheres in Australia. For example, until 1993 s.40 of the federal sex discrimination legislation exempted orders or awards of 'a court or tribunal

having power to fix minimum wages and other terms and conditions of employment' from its operation. A Human Rights and Equal Opportunity Commission survey of awards undertaken in late 1991 found numerous examples of discriminatory provisions in awards, including:

•Differential travel allowances for men and women in the airline industry.

•Women employed subject to the declaration of a board which could declare specified work unsuitable for women and determine whether women could perform shiftwork in the metals and aircraft industries.

•Provision for women to be employed in jobs exclusively performed by men subject to agreement with the union in the meat industry (Walpole, 1994a: 3).

In addition, few unions have taken advantage of their rights under the *Sex Discrimination Act* to lodge a complaint on behalf of a member or members (Walpole, 1994a, 2). This separation began to diminish with amendments introduced in December 1992, following the release of a House of Representatives Standing Committee report, *Half Way to Equal*, on Equal Opportunity and Equal Status For Australian Women which recommended the removal of the award exemption. At the same time, a report on Equal Pay and Sex Discrimination in Remuneration by the Human Rights and Equal Opportunity Commission underscored the need for further legal intervention to prevent the ratio of female to male earnings increasing in a more decentralised labour market (Innes, 1994: 8).

The amendments brought about two changes. First, termination of employment on the grounds of family responsibilities was outlawed. This was consistent with the ILO Convention on Workers with Family Responsibilities ratified by Australia in 1990. Under the Act, family responsibilities are defined as responsibilities of the employee to care for, or support, a dependent child of the employee or any other immediate family member. Unlike other forms of discrimination, this does not extend to indirect discrimination. The value of this provision was to outlaw dismissal of workers arising from circumstances such as their being unavailable to work a twelve hour shift or seven day roster negotiated under the terms of a workplace agreement. Secondly, the exemption for discrimination authorised by industrial awards and agreements was restricted to awards and agreements implemented before 13 January 1993. Identification of discrimination and its elimination involves a new procedure under both the *Sex Discrimination* and *Industrial Relations Acts.*

Affirmative Action

Affirmative Action has been mandatory in Australia for almost a decade and now applies to about 3,000 of the country's largest employers. The first significant mention of Affirmative Action in Australia occurred in 1980 as part of a Review of NSW Government Administration. It was argued that anti-discrimination laws 'must be complemented by positive steps both to

counteract the continuing impact of past discrimination on women and migrants and to achieve change in social attitudes' (Ziller, 1980: 20).

Affirmative Action was originally included in the *Sex Discrimination Bill* in 1981, but the Affirmative Action obligations were dropped from the legislation when it reached Parliament in 1983, soon after the election of the Hawke Labor Government. Aware of the sensitivity of the Affirmative Action proposals, the responsible Minister issued a policy discussion paper. The new government was anxious to nurture a constructive relationship with business and wanted to convince the private sector that Affirmative Action programs were workable. A pilot program involving 28 large companies and three tertiary institutions and a working party of union, employer and government representatives were set up. The aim was a 'home-grown Affirmative Action plan' to take account of Australia's industrial heritage and business realities.

When the federal government released its policy discussion paper on Affirmative Action in 1984, 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. Affirmative Action is compatible with appointment and promotion on the basis of the principle of merit, skills and qualifications. It does not mean women will be given preference over better qualified men. It does mean men may expect to face stiffer competition for jobs. This is not discrimination. . . The Government does not propose, or advocate, the use of employment quotas for women or any disadvantaged group since it believes that genuine progress in reducing occupational segregation can be made only if jobs are awarded on merit (Department of Prime Minister and Cabinet, 1984).

In the early 1980s there was widespread opposition to Affirmative Action. Some opponents claimed it would mean quotas for women and would erode the principle of merit-based selection. Employer organisations predictably opposed 'prescriptive legislation', giving support to the more palatable phrase of 'equal employment opportunity'. From another direction, women's groups and unions expressed their disappointment with the weak sanctions for non-compliance and the rhetorical shift from 'goals and targets' to 'objectives and forward estimates' in the final draft of the legislation.

The *Affirmative Action (Equal Employment Opportunity for Women) Act* was passed in 1986. Initially, it required private sector companies with 1000 or more employees and higher education institutions to identify and eliminate barriers to women's employment opportunties. The Act now covers private employers with more than 100 employees, unions, group training companies, non-government schools, community organisations and higher education institutions. Employers are required to report on the eight steps of an Affirmative Action program. The sanctions for non-compliance include being

named in Parliament and, since 1993, ineligibility for government contracts and specified forms of industry assistance.

As explained above, Affirmative Action is primarily based on self-assessment with only minimal sanctions for non-compliance. Consequently it is not surprising that there is a large gap between compliance with reporting requirements and progress towards the goals of the Act. Thus, while 95 per cent of organisations met their reporting requirements in the first five years of the Act's operation, a survey of employees in 76 companies found knowledge of specific aspects of AA legislation was low and often confused with quotas (Affirmative Action Agency, 1992). A study of nine 'good' Affirmative Action companies found these organisations were still uncertain of the nature of the legislative requirements to set objectives and make forward estimates. More positively, however, a study of more than 160 EEO Officers and CEO's found the Act had raised awareness of discrimination and helped to break down barriers against women (Affirmative Action Agency, 1992).

Recognising the undemanding nature of the existing reporting system, the Affirmative Action Agency recently developed a more strategic approach which provides employers with clearer guidelines on designing affirmative action programs that are in line with the goals of their business. In 1993-94, 39 companies did not submit a report and 43 organisations were named for submitting a report that did not meet the requirements of the Act. This was the first time that companies were named for not fulfilling the requirements of the Act (Affirmative Action Agency, 1994).

While Affirmative Action legislation aroused widespread fears, its practical implications appear to have been quite limited to date. Its major effects have been to raise business awareness of equity and diversity issues and ensure the formulation of Affirmative Action plans. It is doubtful whether the Act has operated to compel employees to implement more than minimalist Affirmative Action programs. This conclusion is confirmed by a recently completed government report on management which again raises the spectre of quotas. (Industry Task Force, 1995: 245)

Workplace bargaining and the Industrial Relations Reform Act

Until 1994, in principle, conciliation and arbitration was the cornerstone of industrial regulation under the federal *Industrial Relations Act 1988* and its predecessor, the *Conciliation and Arbitration Act 1904.* In practice, major changes in the system of industrial regulation commenced in 1987 with the Industrial Relations Commission responding to the employer and union peak bodies and the federal government by abandoning the system under which wage rates had been indexed periodically to maintain their real value. Such an arrangement ceased to be viable in the wake of the movement to flexible exchange rates in 1983 and was closely linked with an incipient process of national microeconomic reform designed to improve Australia's economic

competitiveness (Australian Conciliation and Arbitration Commission, 1987: 11-12).

Over the period 1987 to early 1994, when major amendments to the *Industrial Relations Act 1988* came into effect, the Commission fostered the development of workplace bargaining by variations in the wage fixing principles promulgated in National Wage decisions. This was in sharp contrast to the approach adopted throughout much of the century in which the Commission consistently had attempted to staunch workplace bargaining. Coincidentally in periods when workplace bargaining has been ascendant, the differential between male and female earnings has generally increased. This has led numerous commentators to express concern about the consequences of the recent growth of workplace bargaining. As argued below, these concerns are reflected in a series of major amendments desgined to enshrine equity in employment in the emerging decentralised labour market.

Concerns about the compatibility of workplace bargaining with equity were not allayed by the Commission's articulation of its vision of a more flexible labour market. For example, in the 1988 *National Wage Case* (Australian Conciliation and Arbitration Commission 1988), a 'structural efficiency principle' was introduced as the basis for negotiated wage rises. While this principle provided for 'addressing any cases where award provisions discriminate against sections of the workforce', its centrepiece was 'ensuring that working patterns and arrangements enhance flexibility and meet the competitive requirements of the industry'. Possible working arrangements included increasing the daily span of ordinary working hours, shift work, twelve hour shifts and job-sharing (Australian Industrial Relations Commission, 1989, 10).

Despite successive revisions of the wage fixing principles and two sets of amendments to the *Industrial Relations Act*, the federal government was dissatisfied with the rate at which workplace bargaining agreements were displacing multi-employer awards. Following its re-election in 1993, the government undertook a major rewriting of the Act to enshrine workplace bargaining as the principle method for setting wages and conditions of employment and relegating compulsory arbitration to a process of last resort. Although the legislation, the *Industrial Relations Reform Act 1993*, bears much of the hallmarks of a system of collective bargaining, it is distinguished by providing two streams of bargaining and an extensive framework of protections for employees at both federal and state levels. Significantly, only one of these streams involves collective bargaining as the term is usually understood.

The Industrial Relations Reform Act and Anti-Discrimination Legislation

In the past, connections between anti-discrimination legislation and industrial relations legislation have been negligible, with progress limited by the inherent nature of a complaints-based jurisdiction. Recent amendments to the

Industrial Relations Act are important because, for the first time, equal opportunities are central to industrial regulation. Additionally, many of the limitations of the traditional complaints-based approach are bypassed. The Commission must now take into account the *Disability Discrimination Act, Racial Discrimination Act, Sex Discrimination Act* and Family Responsibilities Convention in carrying out its functions.

The major protections provided under the amended Industrial Relations Act relate to:

- minimum wages
- equal pay
- unfair dismissals and redundancies
- family and parental leave
- award safety net and award reviews

The Commission may order a minimum wage for employees in a group or categories within a group, in order to give effect to the Minimum Wage Convention. Significantly, this power is exercisable on the application of an employee or a trade union with coverage rights. It may also operate to override the jurisdiction of a state government where there is no mechanism for wages to be set and adjusted by conciliation and arbitration (s.170AE).

Following the Equal Remuneration Convention 1951 and other international instruments, the Commission is empowered to make orders to ensure that men and women receive equal remuneration for work of equal value (s.178BC). An employee, union or the Sex Discrimination Commissioner can make applications to the Commission. In contrast to the more restricted approach enunciated in the *Equal Pay case* of 1972, remuneration is defined to include all forms of overaward payments, allowances and superannuation. As demonstrated above, such payments remain a significant source of pay inequality pending fuller development of workplace bargaining. Recent amendments have significantly increased the Commission's capacity to award equal pay either under awards or agreements and an opportunity to redress past neglect of issues relating to women workers, but no major cases have been concluded in the 15 months since the legislation was proclaimed. With union membership waning in Australia, as elsewhere, the vigorous pursuit of pay equity provides unions with a potential marketing tool and an opportunity to redress past neglect of issues relating to women workers.

Drawing primarily on the Termination of Employment Convention, the reforms ensure that protection against unfair dismissal is comprehensive and conforms with a minimum standard. Hitherto, unfair dismissal was addressed through a mix of state and federal anti-discrimination and industrial relations legislation and under federal awards. Under the amendments, employees can only be terminated with a 'valid reason' or reasons connected with the employee's capacity or conduct or based on operational requirements. A reason is not valid if it is found to be 'harsh, unjust or unreasonable', s.170DE (2). Section 170DF prohibits termination on specific grounds including race,

colour, sex, sexual preference, age, mental or physical disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction and social origin. Unlike the other protections, the right to lodge an application is confined to employees, though they may be represented by unions or legal practitioners.

While these forms of discrimination leading to termination are addressed by existing federal and state legislation, their inclusion within the unfair dismissals jurisdiction of the Industrial Relations Commission and the Industrial Relations Court is a pragmatic recognition that terminations may arise for multiple reasons. Further, the federal jurisdiction is only available in the absence of an adequate alternative remedy 'that satisfies the requirements of the Termination of Employment Convention' (s. 170EB).

An entitlement to parental leave of up 52 weeks following the birth or adoption of a child was introduced by the amendments to the Act and by regulation. While based on the Family Responsibilities Convention and other ILO instruments, the entitlement largely replicated award provisions promulgated following test case decisions of the Commission. These included the *Maternity Leave case* of 1979, the *Adoption Leave test case* of 1985 and the *Parental Leave test case* of 1990. In 1994, the Commission handed down measures to 'assist workers in reconciling their employment and family responsibilities' through extended leave entitlements (Australian Industrial Relations Commission, 1994). The Commission extended access to sick leave to enable employees to use their sick leave for a family member who is ill and 'facilitative provisions' to introduce greater flexibility into the award system, such as allowing for time off in lieu of overtime.

The Act also operates to eliminate entrenched discrimination and to prevent further discrimination. Section 150 of the *Industrial Relations Act* requires the Commission to review awards every three years to ensure, among other things, that an award does not contain:

> a provision which discriminates against an employee because of, or for reasons including, race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

The Commission has emphasised the importance of these reviews in ensuring that awards 'provide a safety net underpinning enterprise bargaining' and placed particular stress on the role of reviews in bringing about 'greater equity in the workplace' (O'Connor, 1994: 5).

Workplace bargaining implications

Based on a sample of 2,700 agreements at November 1994, the federal Department of Industrial Relations estimated that 1.35 million employees, or 56 per cent of federal award employees, were covered by federally registered

workplace agreements. Although manufacturing remains the source of the largest number of enterprise agreements (57 per cent), the largest number of employees were covered by agreements in transport and communications, government administration and defence, finance and business services and manufacturing (Labour Information Network, 1994). As agreements spread beyond the male-dominated and more heavily-unionised areas such as manufacturing, what are the implications for employment equity?

As mentioned earlier, the gap between average male and female earnings has increased in periods when workplace bargaining has been more common, as in 1981-83. Predictably, there have been concerns and some evidence that the shift to workplace bargaining in Australia has disadvantaged women workers in their access to wage rises, the size of wage increases and conditions of employment. Hall and Fruin found that for the 20 largest enterprise agreements concluded in early 1993, the median pay rise was higher in male-dominated and more highly unionised industries (1994). More recent research indicates that in the two years ended March 1994, the average proportion of women covered by agreements rose from 13 to 22.5 per cent. In agreements where women constitute more than 60 per cent of those covered, higher average wage increases were achieved in manufacturing, wholesale and retail trade, finance and business services and cultural and recreational services. Increases were below average in government administration and defence and cultural and recreational services (Labour Information Network, 1994: 26-8). These results provide tentative evidence that industries in which women are over-represented are not inevitably low wage ghettoes and successful wage bargaining appears to be positively associated with unionisation rates.

Although the *Industrial Relations Act* now provides a mechanism for ensuring pay equity in relation to awards and overward payments and workplace agreements, the pursuit of equity in pay and employment will fall to activists and unions. The attitude of the Commission will be crucial because increasingly it will be called on to provide an objective value of the work in question and to identify and eliminate discrimination in employment. In undertaking these tasks, experience with the emerging system of enterprise bargaining suggests several areas requiring careful scrutiny.

•Workplace agreements increasingly contain flexible working practices such as twelve hour shifts. Such arrangements have the potential to conflict with family responsibilities, yet a majority of workers may approve of the inclusion of such provisions in agreements. As the *Sex Discrimination Act* provisions relate only to termination, individuals would have to seek redress through the *Industrial Relations Act* if the Commission had not already identified the potential for discrimination in the process preceding certification of the agreement.

•Failure to include provisions in agreements which enable workers to fulfil family responsibilities also may constitute a form of indirect discrimination, unless it is unreasonable for the agreement to meet those needs (Mark &

Hennessy, 1994: 77). What considerations may be taken into account in determining reasonableness in such a case cannot be conclusively determined, but numbers of women in the workforce and the history of family-related absences are likely to be relevant considerations.

•The Commission is required to refuse certification where an agreement applies to a group of employees within a single business who are not geographically, operationally or organisationally distinct and could be reasonably covered, but it fails to do so (s.170MD (7)). Similarly, the Commission is required to refuse to certify an agreement where it discriminates on any of the specified grounds (s.170MD(5)). Such a situation could arise where a proposed agreement increases the wages of one group of predominantly male workers and no agreement is negotiated for another group of predominantly female workers (Walpole, 1994b: 8).

•The increasing popularity of home-based work is being reflected in provisions in agreements, though typically these are based around business convenience or are targeted to managerial employees. Arguably, the refusal to extend such working arrangements to working from home to fulfil family responsibilities may be discriminatory.

•Qualification for bonus leave entitlements may require attendance at work for a specified number of days subject to listed exceptions other than family responsibilities and maternity leave. Again the flexibility associated with workplace bargaining may be a source of discrimination.

Clearly while amendments to the *Industrial Relations Act* have closed the gap between industrial relations and anti-discrimination legislation, little progress has been made in addressing discriminatory provisions in existing awards. At the time of writing the Commission was undertaking such a review. In relation to workplace bargaining agreements, there are no published reports which could provide an indication of the incidence of potentially discriminatory provisions and how they have been dealt with by the Commission. These comprehensive legislative measures have been recently complemented in some companies by a cultural shift towards the management of employee diversity.

EMPLOYER RESPONSES

Managing Diversity has been pioneered in Australia by a small number of foreign-owned companies and by public sector departments and authorities eager to adopt private sector management techniques as part of the process of microeconomic reform. The private-sector firms are generally seen as exemplars of strategic human resources management. They are usually American-based companies, often in high technology industries. Evidence indicates Australian-owned firms and small firms are less likely to have established Human Resources practices than large, foreign-owned companies (Gardner & Palmer, 1992: 218). The exemplars usually aim to

minimise the American experience of Affirmative Action and Diversity and address home-grown issues.

The initiatives of these exemplars have evolved around three areas: recruitment, career management and balancing work and family. This is similar to the mainstream experience of Affirmative Action, in which the most common initiatives are flexible working arrangements, increased access to training for women through award restructuring and workplace bargaining and better work-family provisions (Affirmative Action Agency, 1992).

Our findings draw on research with a number of large companies, with particular emphasis on Hewlett Packard and Australia Post. While Hewlett Packard employs 90,000 employees internationally, the Australasian operation employs more than 700 people. Women make up 30 per cent of the workforce. Australia Post employs more than 35 000 staff and women make up 27 per cent of their total workforce.

Recruitment

A barrier to women's advancement often cited by Australian managers is the lack of women and minority group candidates for graduate and professional positions. The proportion of women completing higher education has increased dramatically in recent decades, and they now constitute a majority of graduates, although in technical areas such as engineering women receive only 13 per cent of undergraduate degrees. Within the technical professions, the proportion of women remains low. For intance, women represented only 3 per cent of building professionals and engineers in Australia in 1994.

A major focus of Affirmative Action programs has been targetted recruitment of women. Since the advent of Affirmative Action legislation, most companies have added 'This company is an equal opportunity employer' in external advertisements and formalised equal opportunity policies as a minimalist response. More substantial responses involve female employees conducting recruitment presentations at universities among a range of targetted attempts to attract more women. EEO officers have played a role in the development of selection criteria and interview guidelines.

Australian human resource management practices are driving a push to competency-based selection. Companies attempting to create greater workplace diversity, such as Hewlett Packard, have broadened selection criteria away from strict technical measures. This means a shift from narrow technical competencies to an appreciation of analytical, communication and management skills. In one function of Hewlett Packard, the percentage of women candidates increased by 75 per cent when changes were made to the competencies and behavioural attributes included in selection criteria.

Hewlett Packard uses a range of recruitment channels to search for a heterogeneous group of applicants. Some divisions of the company offer scholarships to undergraduate women and new recruits are mentored by

young professionals in their first year. Other large companies are beginning to follow this innovative recruitment strategy by promoting diversity and career development to potential applicants.

Development opportunities

Lack of development opportunities is another barrier to advancement, although it effects women more than men. Management and behavioural skills training are a feature of companies with advanced human resource management systems, but evidence of fully integrated career development schemes is scarce in Australia (Gardner & Palmer, 1992: 269). The performance of management development is weak across large, medium and small enterprises, according to a recent Industry Task Force report (1995: 143). Australian managers have low levels of tertiary education and little experience with newer methods of development such as mentoring. Women in particular feel they are overlooked for challenging job assignments, often ending up with 'trivial, non-core' activities. Because of the lack of formal development processes, informal networking or the 'grapevine' become the main source of career opportunities.

To facilitate workplace diversity, systematic career planning processes are established in some companies. These include performance appraisals, career development programs and, to a lesser degreee, upward appraisals. The local divisions of Ericsson and Hewlett Packard have upward appraisals, in which employees review the performance of their managers. Many employees suggest that management attention to their subordinates' development should be added to the upward appraisal process. Another solution is for rotational job assignments to become a formal part of management and employee development.

Many companies have run specialised career development programs for women. Australia Post implemented an Executive Development Program for women in 1993 to improve Affirmative Action strategies for women at middle management levels of the organisation. Women nominated for the program are assigned individual career development plans which are overseen by a plan manager.

Many issues raised in our diversity research relate to the way people are managed. Some organisations, such as Esso, Australia Post and IBM are providing leadership training, including awareness of people diversity, to broaden management development (Krautil, 1994; McDonald, 1994). An emphasis on technical rationality in many organisational cultures is often achieved at the expense of good people management. As one executive in a large company asserted: 'We don't value people who talk about soft things like feelings, honesty and self-fulfilment'.

This emphasis on technical competency often disadvantages women who are concentrated in non-technical career tracks of engineering companies. It also means they have fewer opportunities to create business opportunities of

value and can be overlooked for their broad managerial competencies. This is also being addressed at the undergraduate level through a decision by the Institute of Engineers Australia to require all engineering undergraduate course to include at least ten per cent of rather broadly-defined management courses from 1995 onwards.

Performance recognition

Closer linkage of performance to reward needs on an individual basis is another important initiative. Performance recognition usually includes formal assessment procedures such as ranking and short-term rewards such as dinners or weekend trips. At Hewlett Packard, this was found to satisfy most male managers, but fewer women managers. This is consistent with a number of recent investigations of gender and performance reward satisfaction. A number of Hewlett Packard women managers said they sought less tangible signs that showed they were valued by the company.

Companies such as Esso, Australia Post and Hewlett Packard are attempting to break this barrier by conducting diversity training for supervisors and constantly reinforcing the importance of valuing individual differences through performance assessment and informal feedback. As Krautil argues, 'To manage our diverse workforce, we have recognised that we have to shift our management style from treating everyone the same, based on the old rules that worked well for our homogenous white male workforce to managing people as individuals' (1994).

Mentoring and Networking

Lack of mentoring and networking is a significant barrier to the development of women and men and the attainment of diversity. At Hewlett Packard, almost the same number of men and women managers and a large number of employees rated mentoring and networking as a primary means to foster diversity. Systematic mentor selection is an option used by some United States companies, but documented evidence of this in Australia is rare. A mentoring program is built into Australia Post's Executive Development Program for Women and Hewlett Packard's graduate induction program.

The key to successful mentoring is selecting mentors with great care – people who are sensitive to the issues that affect different types of individuals and groups (Morrison, 1992: 131). Mentoring can also help to overcome women's perceived lack of confidence and 'organisational savvy' by providing women with a greater understanding of organisational politics, but it may not provide automatic entry into the 'men's club' (Still, 1993: 159).

Network groups provide useful forms of support. Numerous Australian companies now have women's networks, but there is a move away from segregated women-only networks. This is partly because of a wider backlash against the focus on women since the introduction of Affirmative Action programs. At Hewlett Packard, for example, network discussions have

focussed on broad topics such as mentoring, career development and balancing work and family. Some companies have broadened networks with other 'benchmark' companies to further 'best practice' exchange. In Melbourne, eleven major companies are involved in an intercompany network to encourage women in their personal and professional development.

Balancing work and family

Many Australian companies are beginning to provide greater flexibility to accommodate family needs in response to employee demands, concern for public image and the changing needs of business (Spearritt & Edgar, 1994). Flexible work practices are a top priority of employees in a range of industries and worksites in Australia and overseas.

The struggle to balance work and family remains an imposing barrier for many women and men. Although numerous companies have experimented with innovations in quality management, few have extended this focus to work and family issues. It is rare for senior managers to have an understanding of dual-career concepts, even in companies with a relatively young workforce. The prevailing view, according to one manager, is that 'people who put their family aside are successful in business. It's all about survival of the fittest.' This is explicitly manifest in High Potential Officer criteria in some companies in which 'commitment to work, career and company' is the top criteria. While the 'career comes first' mentality is based on an outdated view of workforce homogeneity, its roots lie deep in the attitudes of managers.

The dominance of the career first mentality is demonstrated by the fact that although maternity leave and use of sick leave for family reasons are now enshrined in law, leave of twelve months is often begrudgingly granted by managers. Women on maternity leave can be reluctant to return to work because of unstated weekend work demands. Some return to full time work for fear that they will not be taken seriously as a part-timer. These are not problems for women only, although women hold a greater share of domestic responsibilities generally. One executive interviewed said he expected more employees aged 35-50 to leave the company because of the lack of recognition of employees as both parents and paid workers.

Accountability

Workforce diversity initiatives that fit with business priorities are being developed at a few Australian companies. Hewlett Packard includes 'valuing diversity' as part of its five core values for management performance evaluation:

> Demonstrates a commitment to hiring, developing and retaining a diverse workforce. Creates an environment free of harassment that supports diversity and values individual differences. Actively participates in or supports efforts to

> recruit and develop minorities and women. Meets workforce diversity goals and/or Affirmative Action goals if appropriate.

The performance plans of all Australia Post executives and contract middle managers include a mandatory performance indicator for equal employment opportunity and performance pay is related to these objectives. Inclusion of equal employment opportunity responsibilities in duty statements is increasingly common, but this alone does not guarantee it is taken seriously in recruitment and promotion.

DIVERSITY DILEMMAS

Competitive advantage only?

The growth of diversity programs, in the United States and to a lesser degree in Australia, reflects an emerging view that it is not just a moral matter, but a business issue. There is almost universal acceptance among those interviewed in our research – including senior management, middle management and employees – that achieving greater workforce diversity will have a positive business impact. Diversity carries the promise of more innovation and better synergy among teams. It helps to attract quality employees, improve customer interaction, expand skill-sets and reduce turnover and absenteeism. As one manager said:

> It comes down to profit. We've got to believe there is a pool of talent that is better – a great untapped pool of talent. We will make more profit because there's a higher pool of women. There's no doubt that diversity will bring competitive advantage. You can overplay social reasons for diversity and underplay the business impact. It's my view we must tap into this resource before anyone else.

There is a growing amount of evidence on the business benefits of diversity in Australia. For example, significant jumps in retention have been reported in some Australian companies. Esso set up a work-based childcare centre in 1986 and offered part-time work in 1987. The retention of women after maternity leave at Esso has since increased from 60 per cent to 80 per cent in 1989 and to 100 per cent in 1993. Esso also found that childcare provision enhanced their recruitment ability (Krautil, 1994b).

But the balance of power lies not just with management. In less highly-skilled workforces, managing diversity can be used to foster skill development. At Australia Post, a Human Resources director said 'we see a lot of staff with hidden skills often applied in the external community. We want to develop and harness these skills'. Hewlett Packard's Diversity initiatives have contributed to women's lower attrition rate, higher promotion rate and better performance than male professionals. Employees believe their job

satisfaction and loyalty are improved by the implementation of Diversity initiatives.

Many of the corporations that have began comprehensive Diversity programs are in the non-union sector. This has fuelled some concern that Human Resources Management and Workforce Diversity are part of a strategy to avoid unions. Our research to date indicates qualified employee and union support for diversity initiatives. In a time when the managerial agenda is increasingly focussed on innovation and cost-reduction, employees are inevitably feeling the demands of extra work loads. It is instructive that lack of work-life balance emerged as the key barrier to Diversity in our recent review of diversity among employees at one company. Union representatives of another firm fully support its shift to Diversity management. Some argue that the firm is in advance of Australian union structures, policies and practices. Union support for part-time work, job-sharing and flexible working hours varies considerably because of the overarching concern for casualisation of the workforce.

Ethnic identification: Australian dilemmas

Because the concept of Workforce Diversity originated in the United States, some managers appear sceptical of applicability to the local culture. It is considered less relevant in Australia because minority problems appear to be less visible and immediate. Indeed, multiculturalism has been relatively successful in Australia in avoiding large urban concentrations of ethnic groups and ghettos. As one senior manager said: 'There's a big difference in that it has its roots in the US where diversity has less to do with women than with minorities. I think diversity needs are greater for minorities there'. Some managers interviewed in our research believe that highlighting diversity will spark unneccessary ethnic divisions in their workforce. This has caused many managers to favour recognition of individual differences, rather than group differences, in their promotion of diversity.

Human Resources or Management?

Critics of Affirmative Action believe that a key distinction between Affirmative Action and Diversity is that Affirmative Action has been a reactive, piecemeal porgram directed by external forces and patrolled by personnel functions. This was not the original intention of Affirmative Action. Although social justice rhetoric featured strongly in the original promotion of the concept in Australia, there was some acknowledgement of the cultural and business gains by original advocates of Affirmative Action. Diversity, by contrast, is perceived as a management issue, interlinked with Quality Management and Human Resource Management. Despite this shifting emphasis, most managers and employees conceptualise diversity as an 'extension' of equal employment opportunity programs. The key distinction is an emphasis on the business performance, not just moral imperatives, and accountability to ensure management 'buy in' to the concept.

Equality or differential treatment

Debates about equality and difference have been a feature of feminist theory for some time (Bock & James, 1992). Although the *Sex Discrimination Act* does recognise the need for 'special measures' in some circumstances, EEO programs in general have tended to bury individual differences in the name of gender-neutral treatment (Krautil, 1994a), This belief is manifest in remuneration systems which do not reward for individual or team performance and in the tendency of managers to promote in their own image. It is also evident in tightly-prescribed benefits packages, which provide five-star accommodation for travelling employees, but no childcare backup support.

Yet many practitioners argue that treating all people the same is not equitable and 'hobbles the talents of women and minorities' (Gottfredson, 1992: 289). Others believe that treating people differently conflicts with corporate philosophies of equality and unitary goals. As one manager said:

> We do struggle with diversity because to some extent it is in conflict with (our) philosophy of hiring the best people for the position. I know it comes down to saying: 'given the abilities are equal, then you positively discriminate to achieve a more diverse workforce and to achieve some Affirmative Action.

Companies such as Esso, Australia Post and Hewlett Packard are attempting to reduce this 'one-size-fits-all' aproach through diversity training for supervisors and constant reinforcement of the importance of valuing individual differences through performance assessment and informal feedback.

Differential treatment can create resentment and backlash. Despite the merit-based principle of Affirmative Action in Australia, many employees in companies included in our research perceive that preference has been given to women in selection and promotion processes. According to one senior manager: If you asked anyone in our workforce now they would see Affirmative Action as being a huge cultural bias towards women.' Some women's networks now invite all employees to participate in functions to avoid perceptions of separatism and the backlash from such perceptions.

Sexual harassment

Greater workplace diversity in the workforce can lead to increased sexual harassment because men and women are still learning to work together as peers (Kanter, 1993: 291). In Australia, reports of sexual harassment are increasing, partly because of improved understanding of the law and employee rights. The Victorian Equal Opportunity Commission found a steady increase in the proportion of sexual harassment enquiries from 803 (8.8 per cent) in 1991/92 to 1,413 (10.6 per cent) in 1992/93 and 1, 840 (11.8 per cent) in 1993/94. The Commission received the highest number of complaints

in 1993/94 since the *Victorian Equal Opportunity Act* was introduced in 1977. Employment discimination complaints increased by 150 per cent, and sexual harassment was the largest ground of complaint in 1993/94.

Restructuring and small business

Although the application of Diversity Management is likely to have beneficial implications for large Australian firms, there is evidence to suggest that the concept is irrelevant to the majority of Australian workplaces. Like most industrial countries, Australia has undergone a broad program of microeconomic reform since 1986. Allied with this has been a shift from traditionally male manufacturing jobs and the growth of service employment. While the number of people employed in recreation, personal and other services has grown by 50 per cent over the past decade, the number of manufacturing employees declined by 16 per cent (ABS, 1991: 49). Since the balance of trade crisis and rapid depreciation of the Australian dollar in 1985-1987, the institutions of labour market regulation have been restructured to place greater focus on the workplace. At the level of public policy, award restructuring and enterprise bargaining have mandated a shift to competency-based training and a more strategic approach to skill formation.

Recent research suggests some major employers have adopted Human Resources policies emphasising exclusive recruitment and training, entirely divorced from concepts such as valuing diversity. For example, at one automobile component factory in Melbourne, job aspirants outside the age of 18-38 years, or who cannot demonstrate sufficient levels of English language, literacy and numeracy skills are unlikely to be suitable candidates (Stephens & Bertone, 1995: 129). There is an increasing tendency for employers to seek to recruit secondary school graduates for assembly-line jobs previously performed by minority workers with limited formal education and skills.

Small business is also a growing sector because of the downsizing of organisations, growth of contracting out and the move away from traditional career paths. During 1991-1992, there were an estimated 801,000 self-employed persons in Australia (544,600 men and 256,500 women). This was 26 per cent more than the number estimated for 1983-1984 and a 9 per cent increase since 1989-1990. The proportion of the self-employed who are women has also risen.

This sector does not have to comply with the requirements of Affirmative Action legislation, which applies to 3000 of the country's largest employers. For the self-employed, small business provides greater independence and autonomy, but the growth of this sector also increases the marginalisation of women and minority groups as unionisation rates are low and employment arrangements are often less informal. The primary avenue for recourse against discriminatory practices in small business is the complaints-based approach in anti-discrimination legislation.

Conclusion

Barely a handful of Australian companies, government departments and public authorities have responded to issues of workplace diversity in any comprehensive and programmatic way. These organisations tend to be already characterised by gender-based, racial and ethnic diversity and are seeking to maximise the different talents and perspectives that exist within their companies. While these are often Australian branches of American companies operating in high technology industries, some local, public sector corporations are adopting similar policies as part of a broader approach of achieving competitive advantage in the context of microeconomic reform. Most are developing cultures in which employees are valued and invested in.

At the other end of the spectrum is the growing sector of small business often ill-prepared to invest in the training and career development of employees. Employee support for work-family demands remain entirely at the discretion of management. At times of restructuring and downsizing in small and large companies, it is often women and minority groups who suffer most. A recent case of indirect discrimination involving thousands of women on maternity leave unable to meet return to work requirements during a 'spill and fill' policy at Australia's largest bank is one instance when reality outstrips rhetoric.

While cultural reform embracing diversity has the potential to advance women and other disadvantaged groups, this discussion indicates the importance of legislative and industrial underpinnnings. In this respect, Australia's increasingly integrated equal opportunity and industrial relations legislation may provide an innovative model to other countries. Yet there is the danger that this will be displaced unless concerted attention is given to the impact of workplace bargaining on women and other minority groups.

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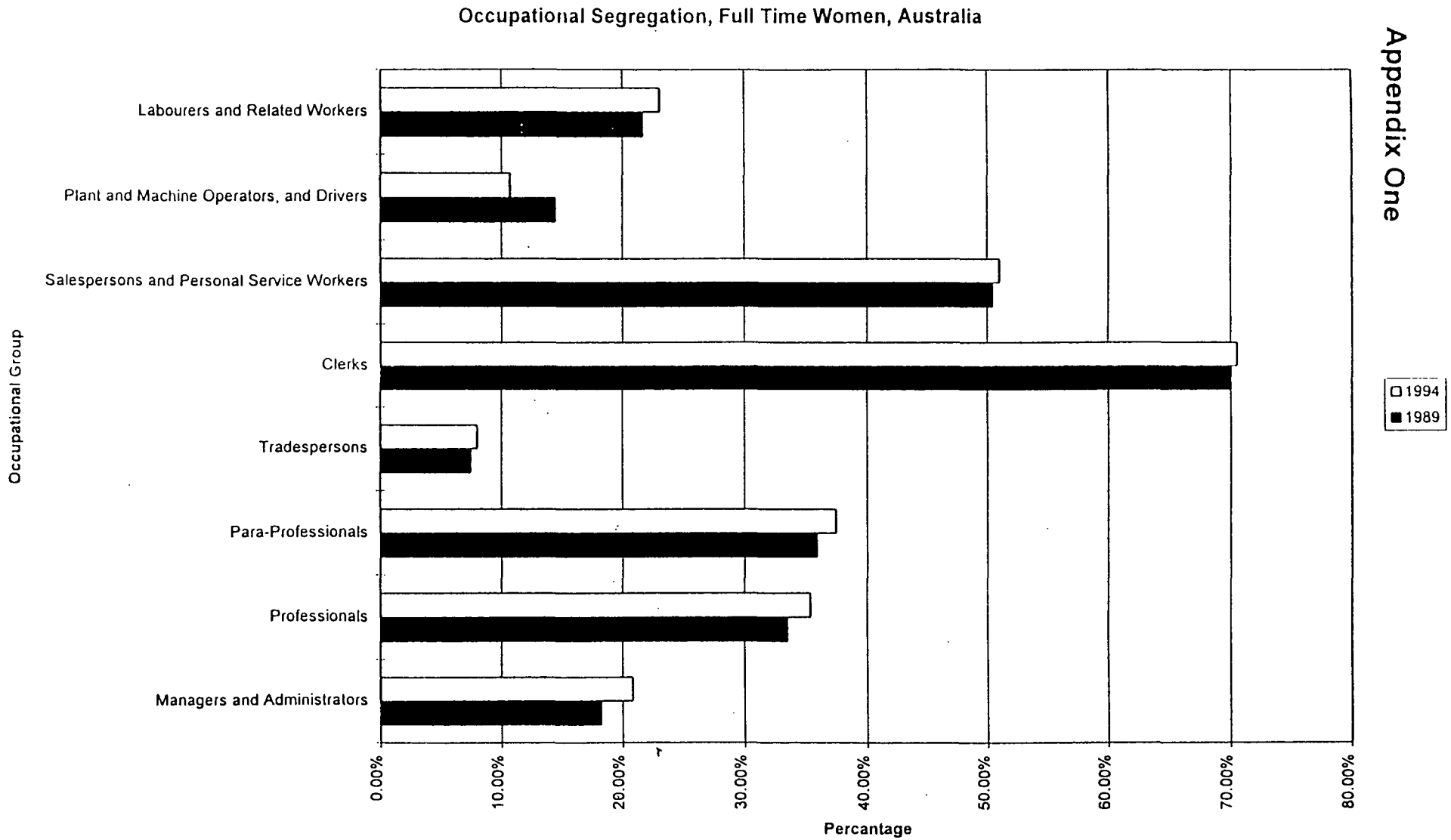
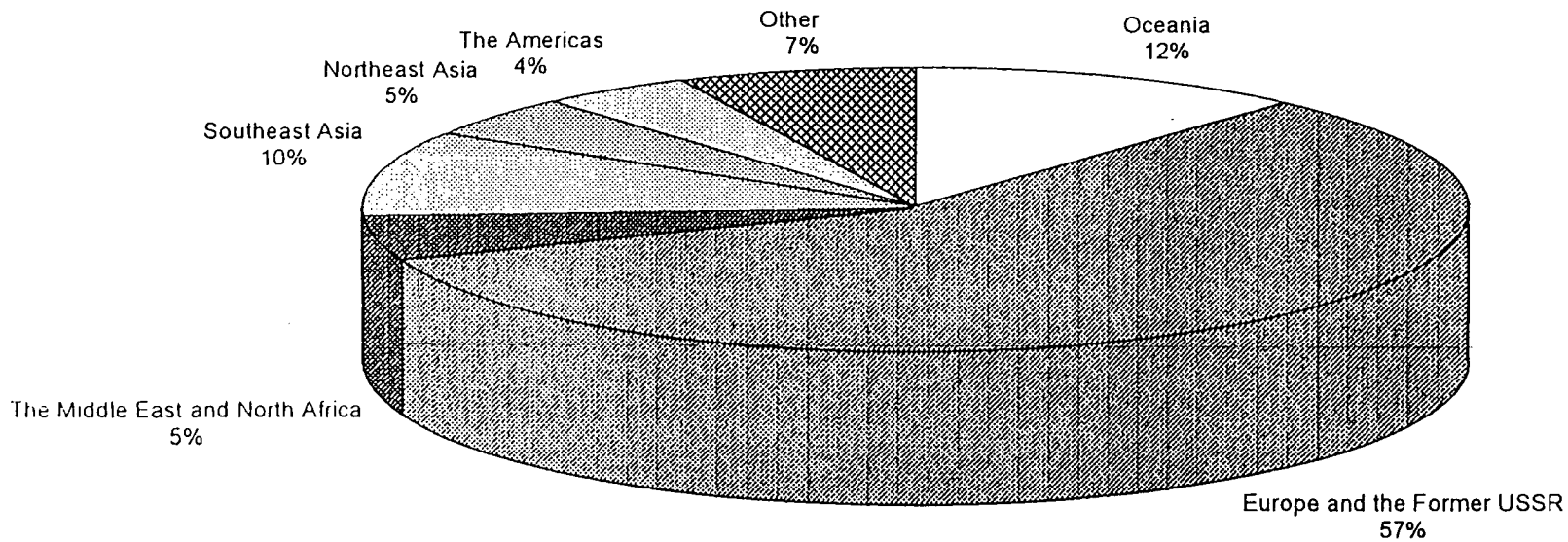
Appendix One



Source: Labour Force Survey, as cited in Australian Women's Year Book 1994, ABS Catalogue No. 4124.0

Appendix Two

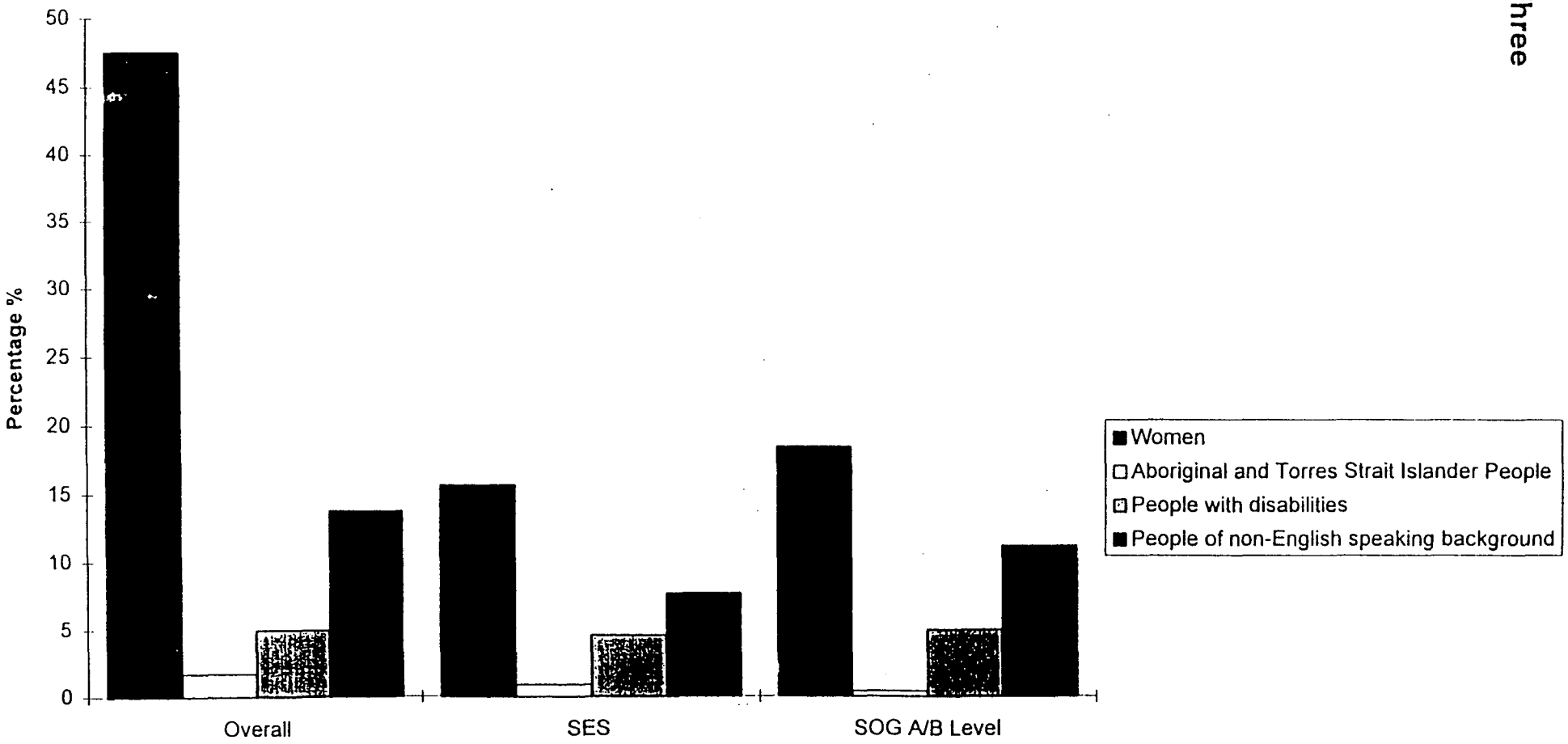
Civilian Labour Force by Birthplace, March 1995



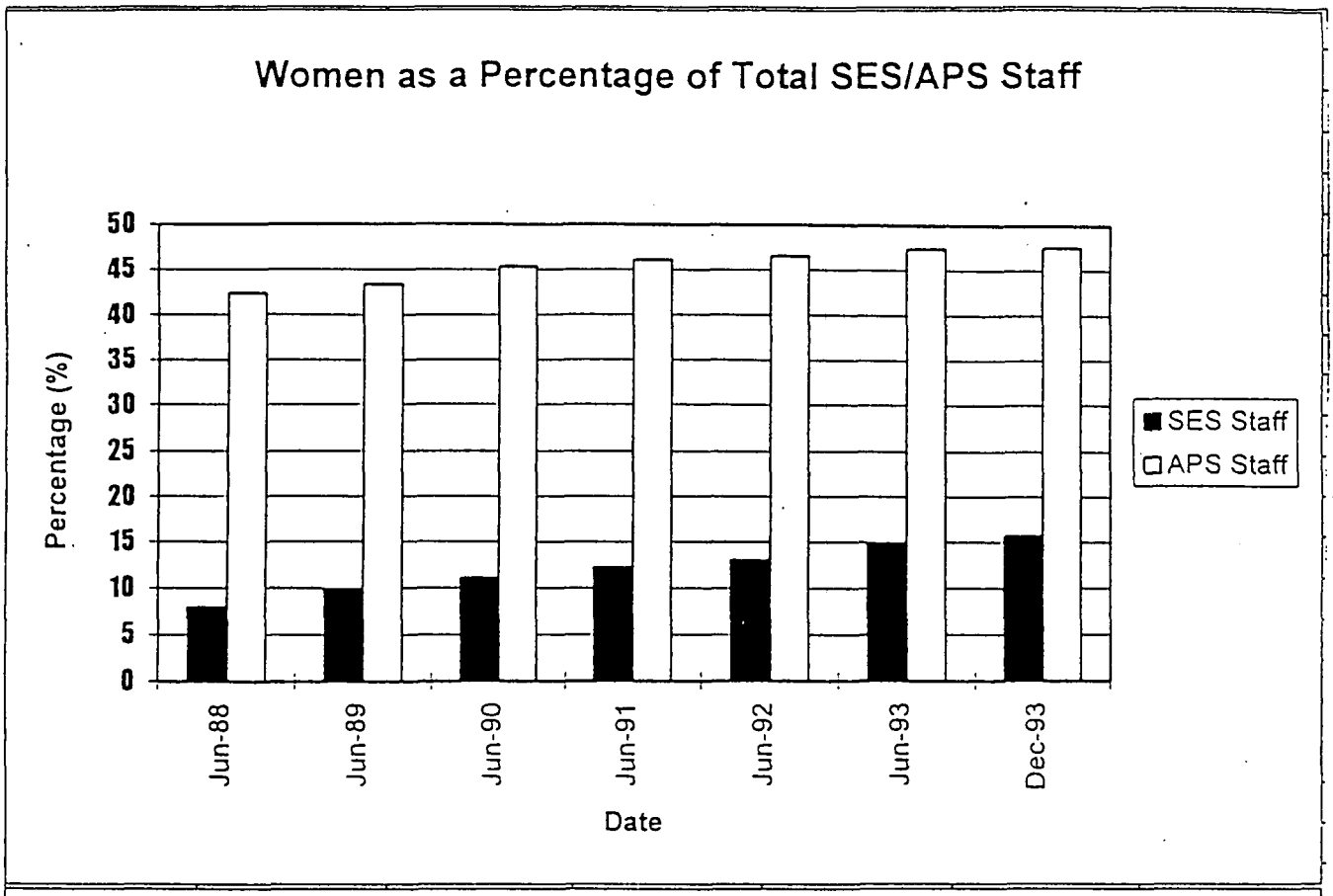
Source: Australian Bureau of Statistics (March 1995), The Labour Force, Australia, Cat 6203.0

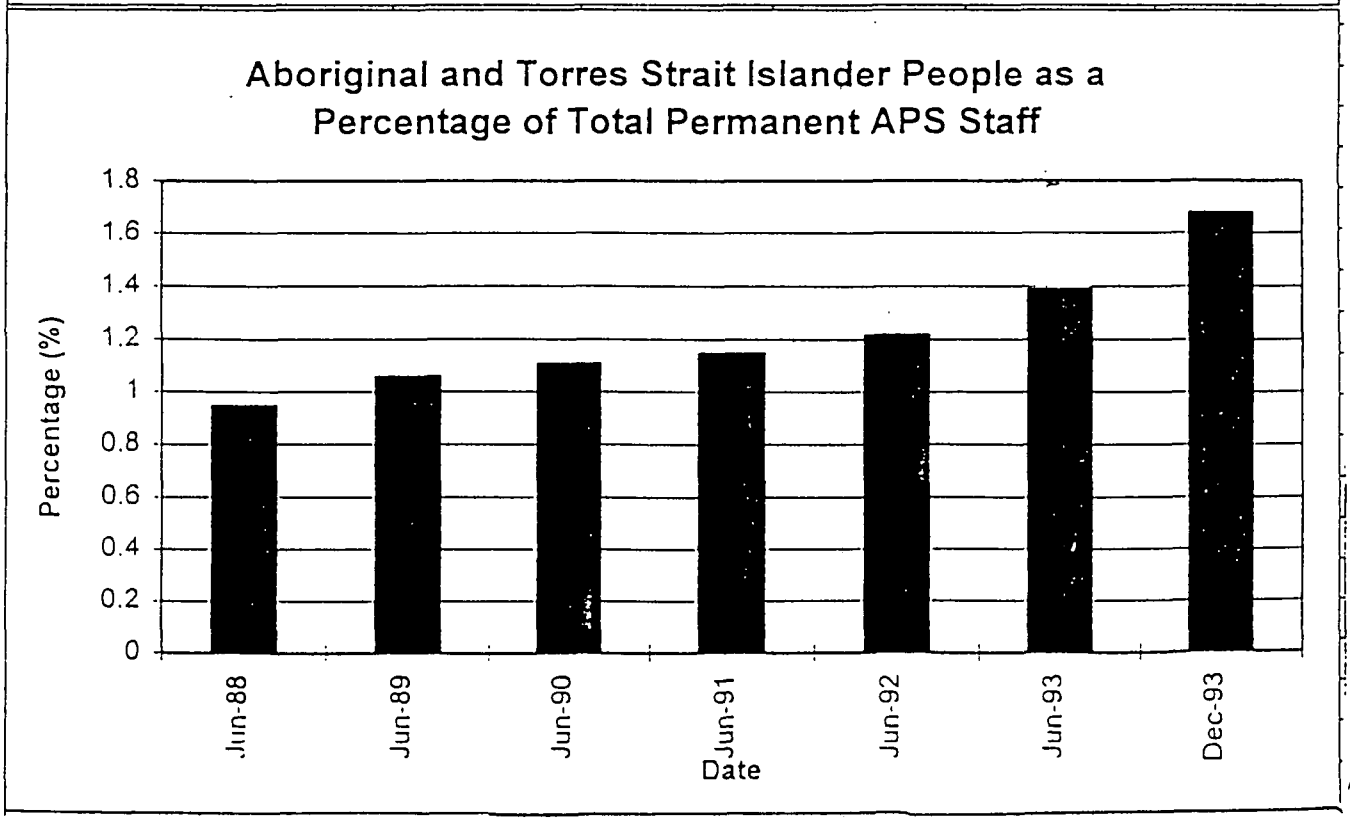
Appendix Three

Representation of EEO Groups at Senior Executive Service and Senior Officer A/B levels, December 1993



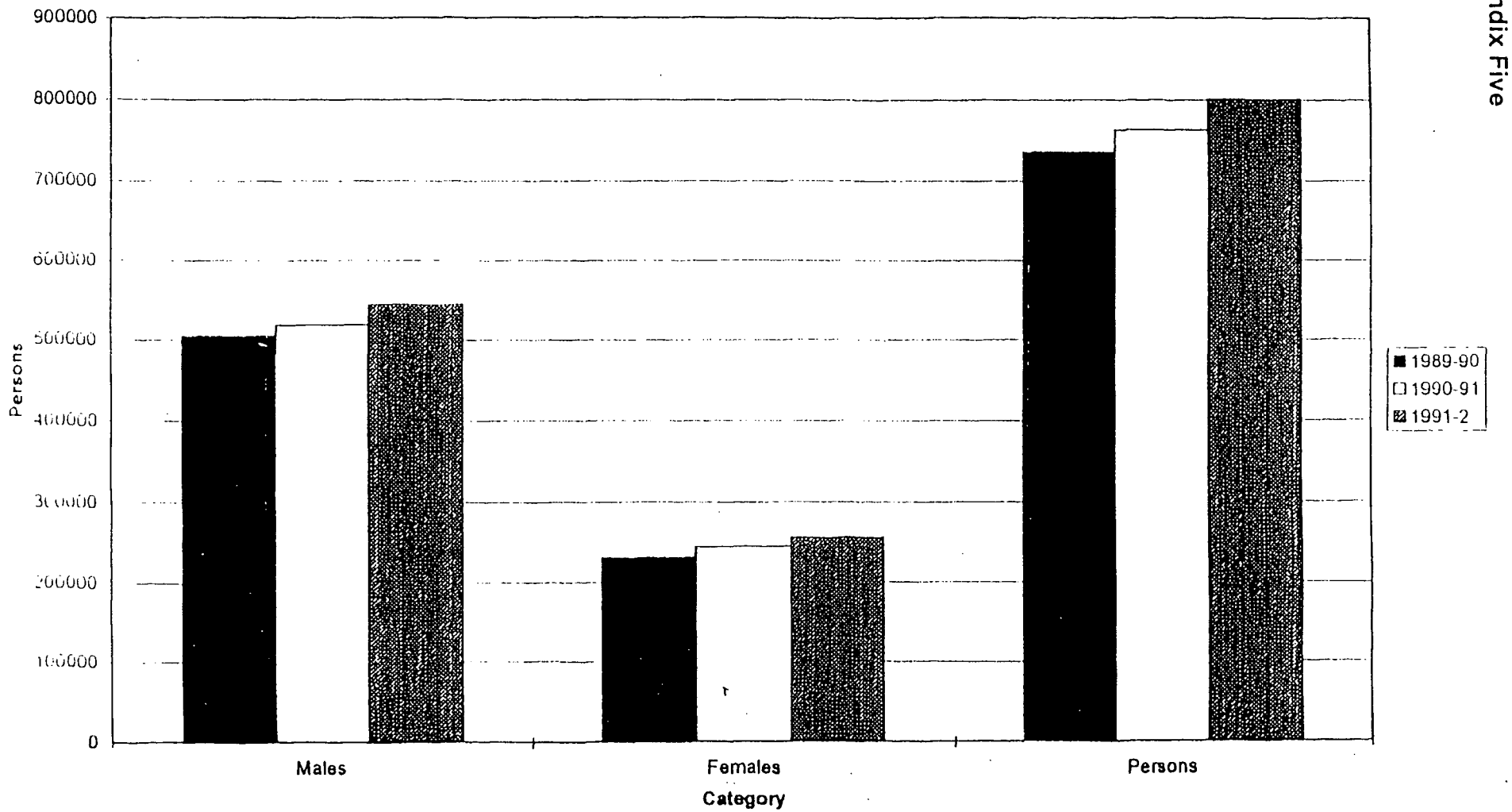
Appendix Four





Appendix Five

Self Employed Persons by Sex, Australia.



Source: Australian Bureau of Statistics (1993), Small Business in Australia, Cat No 1321.0

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