

Equality is not enough, we need change!

© Moira Rayner and Eva Cox. www.moirarayner.com.au. The Women's Constitutional Convention 2003
Unpublished

Eva Cox and Moira Rayner are two well known outspoken feminists who passionately believe that the societies we live in can be made much fairer and better if women, in their diversity, take more responsibility for making a difference. Moira is a well known constitutional lawyer, with a background in law reform and has been the equal opportunity commissioner in Victoria and is acting in that position in WA. Eva is a sociologist and researcher, who has worked for government and not for profit groups and is currently an academic teaching research and policy. With 30 years activism in WEL, she has mostly a critic on the outside. However, both spent some time recently in Sydney discussing some new strategy possibilities.

This paper is a compilation of their views of the problems of depending on law and numbers as the most effective ways of achieving change. Both recognise that legal reform has been and will be important, but both want to see more thinking about how these become embedded in cultures which recognise the needs for diverse voices and the particular inputs that differing life experiences still create for women.

Eva and Moira

Without wanting to support the idea that just because we are women, we are intrinsically warm and caring (because it's not true!), we do offer different perspectives because we still predominate as relationship managers, part time low paid workers, child bearers and carers. The possibilities of integrating these perspectives into public policy, valuing resources and other aspects of society depend on culture changes which are not occurring

If women in positions of power and influence are only permitted to hold these by cultural compliance with dominant views, little will change. Current or evolving macho/masculine defined views about power, responsibilities and the ways the world should work are often blinkered and limited, failing to recognise the value of what is often deemed as the private, interpersonal, social or communal side of life. Issues of respect, care and ethics are often relegated to these spheres as opposed to a public

emphasis on 'rational' and financial exchanges. We require cultures in communities, governance and organisations which are open to change, adopt ethical processes and respect differences.

Such reforms are not attractive to those who see the project as only adding women to the existing mix, but both of us want to see better governance and political processes. The present distrust of political parties and the processes of parliament does not bode well either for democracy or for a fairer society. The re-engagement of political parties with issues of fairness and ethics which we outline below as parts of necessary cultural change processes may give voters more confidence in our political system.

Distrust of political processes and parties results in populist politics, and anxieties which make citizens anxious and change averse. As a passionate feminist we want to see wider access to diverse viewpoints and a reengagement with politics by younger voters. The present faces and voices of politics are too uniform and fail to engage either in passionate debate or new ideas. We put these ideas forward in the hope that the women at the convention will take on the complex issues of culture change and not become distracted by possible legal reforms which may be ineffective without the former.

The following sections have been adapted for the convention from other material we have recently written on this area.

Eva

Ongoing debates amongst women concerned about constitutional reform always seem to focus on trying to use the constitution to ensure that women have some forms of numerical equality in future governance and power. Discussions range from putting sex equality into a bill of rights, to forms of guarantees of equal representation in the various government bodies. The basic assumption is that by changing the gender proportion to some form of equality, we will somehow do away with the problems women face because they are women.

As a veteran of thirty years of active feminism, I have become increasingly dubious about the possibilities of sheer numbers making a big difference. Firstly, we have seen some major increases of women in some top positions, still a minority but moving in some areas towards, or even past critical mass. Secondly, we have seen most institutions, government, commercial and not for profit becoming ever more

© Moira Rayner and Eva Cox. www.moirarayner.com.au. The Women's Constitutional Convention 2003
Unpublished

imbued with values such as competition and individual well being. So public cultures have become more traditionally masculine despite there being more senior women in the ranks.

Equal Opportunity was a key plank of an earlier feminist stance which saw increasing the proportions of women in positions of power as a necessary, if not sufficient condition to changing politico/social agendas to include more of the particular experiences and interests of women.

We failed to recognise that most of the women who make it into senior ranks seem to suffer a sea change and become compliant with the dominant cultures. Why should it be otherwise? Anyone familiar with the literature on organisational cultures know that belonging and acceptance in tribe or corporation depend on being acceptable and accepted. As women cover the same spectrum as men, their reactions will also span the possibilities from any definitions of good to not so good.

It's easy to talk about culture change, but harder to achieve this, even though this has been the core of many of the equal opportunity strategies with which we started these debates. One early strategy included selling the idea of EO on its ability to change the cultures of organisations. We even fell into the trap of selling women's participation as offering different, more caring models of leadership. We claimed that institutional masculinity would be changed and out of this a fairer society would emerge for all! Therefore pressure for numbers was seen as a model for changing organisations for the better, and in the process often defining women into limited stereotypes without real leadership potential.

We have seen how this operates in practice with more women both in political life and more in senior ranks. We have also seen how these assumed characteristics are used sometimes for different ends such as appointing women as state premiers to clean up impossible messes. We have also seen a range of women both promoted and then dropped when they failed to meet media expectations in ways which did not affect men with similar styles or faults. So women in public life and/or senior positions still are expected to be like the blokes or comply with other stereotypes. Neither of these creates culture changes.

Can we say with any conviction in 200/2 that Cabinets or shadow cabinets, political parties or other major political institutions have any wider appreciation of diversity of

© Moira Rayner and Eva Cox. www.moirarayner.com.au. The Women's Constitutional Convention 2003
Unpublished

opinions, cultures and experiences? Or are we just supporting a system of increasing women's representation primarily on the basis of how well these 'outsiders' fit in? We can now see achievements in the careers of senior women who act very much the way men would. The older cultures of white Anglo Celtic masculinity have colonised women's group to make sure they have been appropriately socialised and assimilated. If the system has been able to impose its dominant and/or more masculinist values on the women who move into senior ranks, then the project of broadening the advice, experiences and values of the institutions will fail

After a quarter of a century of assuming that numbers should be the core of equality debates, it is time to reassess the way we have been looking at the issue. In this time we have not made substantial and sustainable changes to the political culture of either main party or the institutions of governance. Are there are other ways of approaching the problem, which may be more effective?

The shift I am proposing is that we should consider EO as part of an ethical framework ie ethical organisations are by definition responsive to EO issues ergo it is unethical not take these into account. This moves the debate from an emphasis on the rights of specified groups to be included at levels of other more privileged groups to asserting that a duty of care for all includes attention to those who are not, or have not been, given appropriate opportunities or cannot achieve comparable outcomes. The current debates on civil corporation and ethical organisations may be the new take on the remarkably stubborn continuing problems of discrimination. Its main area of discussion comes under the rubric of the social and ethical auditing and the triple bottom line.

I think that emphasis on rights as the primary argument for inclusion takes us only part of the way, as it does not involve any debate on how the cultures and values need to be changed. We have now an increased level of representation in some senior decision making areas such as politics and the public services, yet the cultural change has tended towards more macho, competitive individualism and career advancement.

Now don't get me wrong, as an ex-boss of mine once said, EEO means as many senior female 'fuckwits' in top positions as male ones. On equity grounds therefore I support the proposition that each of the defined equity groups have equal rights to

© Moira Rayner and Eva Cox. www.moirarayner.com.au. The Women's Constitutional Convention 2003 Unpublished

occupy the senior ranks and enjoy the privileges these offer. However, I am somewhat unfashionably still interested in working out how EO can contribute to making organisations better and policies and processes fairer.

What do I mean by 'better'? This is obviously a contested concept but I have recently found ways of defining the concept in the context of an emerging debate on ethical organisations and organisational ethics. I know ethics and politics are often seen as contradictions in terms but I think it may be time for women to put the two concept together as ways of broadening the political field in ways which may lead to better governance and better representation of diverse viewpoints. It is in this arena that I think we can reconstruct the equality debates. So we also become involved in some debates about some construction of the common good, not just the benefit to individuals.

This also involves recognition that diversity as well as debate and change are the core of capacity building and resilience ie the socially sustainable institution and create more civil governance as well as corporations, public services and not-for-profit groups. I want to identify processes and relationships which can sustain such behaviours within such organisations. Factors such as fairness, transparency and accountability are part of ensuring that stakeholders are not harassed or discriminated against.

We have achieved the necessary legal frameworks and formal training programs that we saw as keys to change but need to acknowledge that these have not been enough to make changes in organisational assumptions about appropriate female behaviour integration of public and private areas, ie responsibilities outside the workplace, or other aspects of gendered private/public differences.

Equal opportunity has tended to focus on formal processes, setting standards for recruitment, promotion and other definably rule driven processes. Its initial phases of raising awareness about the exclusion of particular groups was often part of a strong advocacy push and gaining acceptance for the rights of each group was a long process and vigilance has to be maintained.

Together with raising cultural awareness and other aspects of dealing with diverse populations, these types of measures were expected to improve the status of groups less favoured under former regimes. What if there were a series of connected

© Moira Rayner and Eva Cox. www.moirarayner.com.au. The Women's Constitutional Convention 2003
Unpublished

characteristics/processes within groupings, formal and informal, which influences their overall ethos? Maybe these would offer evidence of connections between the types of decisions made, the ways people are treated and the reputation of the organisation.

Identifying commitments to doing the right thing can perceptibly affect the overall functioning and performance of such groups. I am proposing that EO be integrated into a wider construction of ethical organisational practices and processes, as a necessary part of any deeming any organisations as being of good repute.

It is almost impossible to define clear ethical outcomes but both harassment and negative discrimination are clearly unethical. It is therefore important to identify how some assumptions and expectations directly and indirectly increase negative consequences or risks for certain groupings so EO must be one of the core requirements for organisations to claim ethical processes.

Moira

I am happy to be described as a human rights advocate. I believe that our anti-discrimination law is the only manifestation of Australia's human rights obligations in our domestic legal system. It is inherently valuable legislation. But after more than 25 years of equal opportunity debates and policy I believe that 'equal opportunity' language needs a new vocabulary. It has not achieved substantial and sustainable changes to the culture of workplaces. This is, I regret to say, very evident from the kind of work I've been doing over the last 15 years. I think that there is a new way.

What I propose is a simple semantic and philosophical shift. Eva Cox recently wrote in favour of a new approach to equal opportunity arising from the developing discourse about civil society in corporate life and ethics in organizations. If Equal Opportunity were seen as part of an ethical framework, ethical organizations would by definition be responsive to discrimination issues, because it would be unethical to fail to take them into account. By moving from 'rights' to ethics, she says, we might move the debate from an emphasis on the rights of specific groups to be included at the levels of other more privileged groups, to asserting that a duty to consider the effect of what we say and do on 'stakeholders' includes giving attention to those stakeholders who have not had sufficient opportunities to articulate their claims and interests - and who thus cannot achieve comparable outcomes.

She also defined an ethical organization as one that tries to improve how it does things by considering how its policies and processes might affect stakeholder needs and conscientiously seek out the information to find better solutions. Ethical processes she defined as making decisions, encouraging relationships and taking actions that can both achieve the purposes of the organization, and take into consideration the sometimes conflicting needs of stakeholders, their differential access to and hold on power, and questions of the common good. There may be winners and losers, because there are always conflicting interests, but if processes are ethical in this sense, damage should be minimised, and the risks and effects can be tested against principles of fairness

It is my experience, that there has been only limited change to the cultures of senior management and other organisational practices over the last quarter century. I have unapologetically used the language of rights as the moral basis for inclusion. But this does not involve any proper debate on how a rights-based culture can develop in a Petrie dish that has never used that solution to grow anything. But observe our corporate culture today. Along with 'rights' - and enforcement mechanisms - the old competitive individualism and career advancement has flourished.

Once we thought that a 'critical mass' of women in senior positions would change the culture of organizations. We now know that the very process of advancement removes the ethical edge from the women who made it to the top. The 'flavour' of difference is gradually removed until, as High Court Justice Mary Gaudron pointed out when she launched the Australian Women Lawyers Association more than five years ago, the women lawyers who succeeded, ended up being just the same as the men, part of the culture we originally fought against: subsumed and practising law just as males did, but without the rewards or recognition.

My message today is that compliance with a law through fear of the consequences of its breach is not sufficient. To build ethical cultures, we must want to obey the law. That depends on trust, belief, and a willingness to do more than merely comply.

The law simply acts as a Zen stick. For the last twelve years I've been working with employers who have begun to address these cultural issues because the cost of dealing with them has been unacceptably high, from lost work productivity to insurance claims, legal costs and workplace wretchedness. Mostly, there is plenty
 © Moira Rayner and Eva Cox. www.moirarayner.com.au. The Women's Constitutional Convention 2003
 Unpublished

of evidence that problems had been long-standing, and that the workplace culture had been such that its management simply failed to recognise and respond to it appropriately. The culture was part of, if not the cause of the problem. The same could be said of those high profile companies that have gross legal problems with conflicts of interest, unfair dismissals, industrial espionage, thieving staff. The culture enabled them to thrive.

Anti discrimination legislation does not provide a simple remedy. Arguably it doesn't satisfy anyone to go through the conciliation or litigation process. As Rosemary Hunter and Alice Leonard said, in their review of sex discrimination conciliation in three Australian States ^{1[2]}

'Some of the most optimistic claims for discrimination law - that it can protect rights and change the way society operates - are not fully borne out by our research. Quite often, in the emphasis on getting the parties to an agreement, the legislation was treated more like a set of guidelines than a statement of unlawful behaviour.'

I think this is another piece of evidence that the law only acts as a Zen stick, a very noisy, but not necessarily painful way, of getting your attention to a problem. The best way to address that problem is to build a culture where it is unlikely to occur or where it is dealt with effectively, because the values underlying bullying and harassment are so powerful that the message gets to the workforce generally, and potential offenders and victims as well. The best way is to take those snapping synapses of difference and misunderstanding, and use the energy it creates in constructive way.

^{1[2]} *The Outcomes of Conciliation in Sex Discrimination Cases*, published by the University of Melbourne's Centre for Employment and Labour Relations Law (1995).