

AHRI/UN Women Australia Gender Equity in the Workplace Summit

The State of gender equity in Australia on International Women's Day: what more needs to happen?

Speech by Elizabeth Broderick, Sex Discrimination Commissioner

I missed the International Women's Day Breakfast today, mainly because I went to my daughter's school – they asked me to go and speak out there. When I told my daughter about this she said 'Mum, you are so embarrassing – can't you be on the tuck shop like all the other mums? And who's going to pay \$20 to hear you speak.'

It wasn't a huge number I have to say, but there were a few people there and it was a good morning.

Today I'm only going to talk about a couple of things in the evolution of the women's movement in Australia, because both Gail [Kelly] and Kate [Ellis] have covered quite a deal of that.

I do want to say a couple of things about equal pay and women's leadership, then look at sexual harassment, particularly post- the David Jones case, and I do want to put this issue of violence against women on the business agenda.

I should also say I'm particularly pleased to see a number of women in the audience today who were with me last week in the United Nations for the launch of UN Women. It was such an amazing experience – delegations from 192 countries, around 3000 women and men in the General Assembly for a big party to launch UN Women – and a real sense of energy on the global scale; a sense that women's progress represents the progress of the world. Julie [McKay] was there and we were partying together with Shakira, Nicole Kidman and Geena Davis. It was a great event.

How International Women's Day started is that on the 8th of March, about 100 years ago, 15,000 women textile workers marched through New York City demanding shorter hours, better pay, voting rights and an end to child labour. The conditions under which they were working were tragically highlighted three years later when a fire broke out at the Triangle Shirtwaist factory in New York City.

The exits had been locked from the inside to prevent women from taking breaks and taking materials and the fire caused the deaths of around 150 women, mainly immigrant women and some child labour. So children under the age of 12 were either trapped in the burning building or were killed as they leapt to their deaths.

That same year more than 1 million women and men marched across Europe and rallied for women's rights on what was the first official International Women's Day. And today, all around the world, International Women's Day is celebrated.

Just to tell you about the Australian Women's Day, as Gail said, we're actually only at 83 years, and I'm really excited about that because in 17 years we can do this all over again.

The first rally was here in Sydney's Domain in 1928 and women were calling for equal pay for equal work, an eight-hour day for shop workers, a ban on piece work, a basic wage for the unemployed and annual holidays on full pay.

They don't seem like radical demands, but the reality is that there are many working women across this country who cannot lay claim to all of these things. In fact, some of them to any of them. That's not to say that the situation hasn't improved for women over the last 100 years – it absolutely has. But I think it's worth spending some time today celebrating the achievements, but also saying, okay, what else needs to be done?

You've heard from Gail about how women won the vote, the issues around women holding their own loans, women entering state parliament. The thing I like to look at is that in 1965 Australian women finally won the right to drink in a public bar.

On a Wednesday afternoon in that year two women, Merle Thornton and Rosalie Bogner, entered the public bar of the Regatta Hotel in Brisbane. (I don't know if you've been there, but it's worth going to have a look.) They ordered two beers and when they were refused their beers and asked to leave they promptly chained themselves to the foot rails. That was a part of the women's lib movement that you can see up on the screen.

So the women's lib movement actually started in the 1960s, and the aim of the movement wasn't to have it all, as some contemporaries would have us believe. It was really about transforming the power relations between men and women that lay at the foundation of our society.

There were a lot of developments in the 1980s – the Sex Discrimination Act [1984], strong gender equality law. And then through to the 1990s, when we start to see women and men looking at how they could each play a role to bring about gender equality. This is what I call the DIY feminists: they took the concept of men and women as equal partners as a given and applied it to both their professional and personal lives.

Their focus was on individual practices and personal challenges, rather than identifying with a broader women's movement. They rejected the notion of women as victims and many of them didn't identify as feminists, even though they advocated for their own rights and absolutely believed in the feminist ideals.

That's really where we're at today. But as I sit in my office in the Human Rights Commission I never let a day go past when I don't think about how lucky I am in my own life that I was able to go to university. That when my children were born I was able to be a partner in a large law firm three days a week, and now to be able to be a Federal Commissioner with two young children. I never let myself forget that this wouldn't have been possible but for a strong women's movement in this country and also a strong piece of gender equality law.

So today also gives us opportunity to look at where we need to pick up the pieces, where we need to make more progress. The areas that I want to highlight today are pay equity, women's leadership, sexual harassment and the issue of violence against women.

Just look at pay equity. I mean, how interesting that 100 years ago women were marching in the streets for equal pay and here we are in 2011, 100 years later. Not only do we not have equal pay, but we know the gap's widening – it's up around 17 per cent at the minute.

The opportunity for progress came earlier this year in the form of the Australian Services Union's test case in Fair Work Australia, so this will be the first case to test the new provisions of the Equal Pay for Work of Equal or Comparable Value. And some of you may be looking to see what's happening with that case.

But it's seeking to address lower pay among female-dominated community sector workers, and it's a great place to start. Two hundred thousand, largely women, in that sector, and in that case they're looking at women working in the sector versus women actually working in government delivering the same services.

If the application succeeds it will be a major step forward for the women who carry out this important work, but it will have further ramifications. And I know there's a lot of discussion around, well, how are we ever going to pay for this? My view is whether community sector work is undervalued and how an increase might be funded are two absolutely separate questions and we need to answer that first question first.

Pay inequality isn't limited to female-dominated industries – it's particularly pronounced in ASX 200 companies. Among the key management personnel in these companies the gender pay gap is not 17 per cent; it's out at 28.3 per cent – more than 10 per cent higher than the current national average pay gap.

And it's interesting when you think about the pay gap, because the corporate world operates with a view that people who are paid more matter more; they have greater influence about decisions and by and large, I think it's safe to say, they're usually more important.

So the very existence of the pay gap further marginalises women and is actually an additional burden. Not only are women paid less, but they're perceived to be less valuable. I think it's an area that needs significant focus and concentration.

Recently a male CEO told me about an initiative in his organisation to examine all salary recommendations through a gender lens, so everyone putting in salary recommendations was examined by a high-level team which worked with each of the business units to identify any gender pay gap. This high-level team has the authority to override any manager where the explanation for the pay gap is not compelling. I think that's a good example of one approach to addressing that issue.

Pay inequality exists because we allow it to do so. A concerted effort by business, by government and the community is needed to close this gap. And in my gender equality blueprint I also recommended a national pay equity strategy be put in place to comprehensively address this issue. One hundred years after women marched in the street demanding equal pay it's absolutely time to deliver.

I now want to say a few words about women's leadership. Despite having a female Governor General, female Prime Minister, female state and territory Premiers and Governors, I'm sure we all

agree that there has been insufficient progress in the area of women's under-representation at the decision making level.

I'm not going to run through these slides too much – you know the stats. We had the increase of moving up 0.2 per cent over eight years when we looked at women on boards, and then of course women in management is sitting right now down on 4 per cent. But it really took some of the finest statisticians in the land to prove that there'd been any movement at all, and that was after five revisions.

So why do we care about this issue? Well, we care about it because there's a strong correlation – not causation but correlation – between improved corporate performance and greater gender diversity at senior levels. And the good news is that with so many organisations coming together – the AICD [Australian Institute of Company Directors], Women on Boards, BCA [Business Council of Australia], AHRI [Australian Human Resources Institute], Chief Executive Women and, of course, the ASX Corporate Governance Council and many people in this room – change is happening.

In the past year (and that statistic on the screen is out of date, it is 11 per cent, we're heading upwards), there was almost a 600 per cent uplift in the number of women appointed to ASX 200 boards. It sounds like a lot, but the embarrassing thing is that the actual numbers were very small from the beginning. But I think the message is strong; we've turned the corner and we're on our way.

Have board standards been lowered to accommodate the women? I think you'll agree, not. Women such as Carol Schwartz, Catherine Brenner, Alison Watkins, Belinda Hutchinson, Sam Mostyn, Alana Atlas, Christine McLaughlin, Yasmine Allen, Helen Nugent – really talented, impressive women – have been appointed to these boards, and many haven't sat on boards before. So I think you'll agree that the question of lowering board standards is absolutely not occurring.

The big question, though, is will these changes, these increases become entrenched? That's a question I can't answer, but I fear that without significant cultural change in the organisations themselves, we will slip backwards again.

Targets or even quotas may deliver greater gender equity on boards, but they potentially will have a limited impact on increasing the number of women in senior line management roles. That's where the complex issue is. Even the Norwegian quota system – one of the documented failures of that system – still hasn't had significant impact on women at senior executive level.

Avivah Wittenburg-Cox, a noted gender consultant who Catherine [Fox] quoted, said: There is massive corporate misadaptation to today's talent realities and the subsequent inability to retain and develop women as well as men.

I call this gender asbestos. It's hidden in the walls, the cultures and the mindsets of many organisations. But ridding the structure of these cultural toxins will require more than pointing accusingly at the mess; it requires a detailed plan for how to move forward and a compelling, attractive portrait of the result.

Stop asking what's wrong with women that they're not making it to the top, start asking what's wrong with companies if they can't retain and promote the majority of educated Australians.

There's no question that addressing the issue of women at senior management level is a more complex issue. Over the years there have been many programs, strategies and interventions to do just that, but in that area we don't seem to be making much progress, as the statistics show.

The sense I hear from travelling around Australia is that there is growing frustration at the slow pace of change, particularly at the senior management level. And it will be great to hear the panel discussions, but also to hear what strategies you have in the afternoon to identify what else it is that we can do.

So I now want to talk a little bit about sexual harassment, because this is a topic that has galvanised not just boardrooms but the nation over many months. For those of you who might have missed the media hype, they are still running workshops on lessons learnt from the DJ's [David Jones]-Mark McInnes-Kirsty Fraser Kirk case.

Ordinarily sexual harassment claims proceed either to the Human Rights Commission, so they might come to us or one of the state-based Commissions, and we then attempt to conciliate that by bringing the parties together and getting an agreed outcome. But if a successful conciliation isn't possible, then the complaint is terminated and usually a small number of well-funded complainants then bring their complaint to the Federal court.

But the DJ's case channelled an unusual route, because the first port of call was the Federal Court and it was based on alleged breaches of the Trade Practices Act and the employment contract. Not only that, but for the first time we saw individual board directors personally named in the pleadings.

The claim raised many important issues regarding the extent of the board's role in operational matters and its liability to employees for representations made. It raised issues about the kind of reporting structures the board should have in place to protect themselves from allegations of misleading and deceptive conduct and breach of contract.

While the high punitive damages sought in the case became the focus for many, the principle issue that needs to be on the boardroom and management agenda is the high prevalence of sexual harassment in Australian workplaces, and what it is that the management and board should be doing about that.

Sexual harassment (you can see from the slide here), despite being prohibited under the Sex Discrimination Act for 25 years, we can see that 1 in 5 women experiences sexual harassment in the workplace – there is high prevalence. Secondly (and you'll see here the low number of women making complaints), only 16 per cent of those women who experienced sexual harassment brought any form of formal complaint whether it was through the company or to the Human Rights Commission. And that was a significant drop from five years earlier when Pru Goward ran this same study; she found that that it was 32 per cent of women.

I should say that sexual harassment does happen to men – 1 in 20 men experience sexual harassment. But it's still the case that most harassers are male.

The third thing I'd like to point out about sexual harassment is that there is still much confusion about where work ends and private life starts, because the Act only prohibits sexual harassment in certain areas of public life.

But my message is clear: just because you're not hearing about sexual harassment, doesn't mean it's not happening. There was some suggestion following the DJ's case that that would deter women from bringing complaints in the future. But when I review the data, it tells me exactly the opposite.

We've seen an increase in the number of sexual harassment complaints since that case; it now constitutes 30 per cent of all complaints under the Act. And it was very interesting to see just a couple of months ago another high-profile case against a financial institution which was filed and, once again, claimed punitive damages. This case also settled private hearing, but I have no doubt that the manner in which these claims are pleaded in the future is likely to change.

I now want to go onto my final area, which is to talk to you about violence against women, and particularly domestic violence. It is often the elephant in the room; the issue that really dare not speak its name in the business environment.

Domestic violence is not just someone else's problem; it's not determined by how much money you have, where you come from, how old you are. Domestic violence is violence which occurs in a current or former intimate relationship or family relationship, which is characterised by a systemic, systematic pattern of power and control. Of all the things I look at as a Sex Discrimination Commissioner, it is perhaps the most monstrous form of violence in our society.

So, how big is the problem? Well, we don't have up-to-date stats; what we rely on is the 2005 personal safety survey. And as Kate Ellis said, 1-in-3 women in Australia has experienced violence since the age of 15.

Now, that's not all domestic violence, but if you do the maths that's about 3 million women who have experienced violence. And 40 per cent of those women will have experienced violence at the hands of a current or former partner; that's 1.2-1.3 million women. And it doesn't end there. Each year this violence is witnessed by 180,000 children across our country.

Now we know that women from different racial backgrounds – Aboriginal and Torres Strait Islander women, migrant women and women with disabilities – will face even greater prevalence rates. In fact, Indigenous women are 35 times more likely than non-Indigenous women to be victims of domestic violence; and women with disabilities are assaulted, raped and abused at least twice as often as women without disability, particularly women with intellectual disability.

Almost every week in our country one woman is killed by a current or former partner, often after a history of domestic violence. VicHealth [the Victorian Health Promotion Foundation] has found that domestic violence is the leading contributor to death, disability or illness in women aged 15-54. So it's greater than factors like high blood pressure, smoking or obesity. And it does have a financial cost: it costs our nation \$13.6 billion per annum, and if I look at lost productivity, around half a billion dollars per annum.

And I ask myself the question, when we've achieved so much in the last 100 years on International Women's Day, how is it that we still don't have an answer to this shameful scourge? How is it that we become so numb to the statistics that we forget that behind each of these numbers is a human tragedy? That this could be our mother, our sister, our aunt, our daughter or us.

Part of the problem when I look at it is, yes, there is some awareness. But it's still very low, and people don't understand the patterns and realities with which victims have to live, and that's particularly the case in Australian workplaces.

Why am I telling you all this? To try and convince you that domestic violence is also a workplace issue. Because I often go into businesses, I come into your companies, and as I travel around Australia I have a good conversation around sexual harassment. But when I mention the words domestic violence I'm politely told that domestic violence is a private matter, that workplaces have no role.

So let me tell you why it is a business issue. The bottom line is what affects employees affects employers. And we know that almost two-thirds of women who experience domestic violence are in paid work, so there's no question that it affects employees in your organisation.

But domestic violence may result in lower performance and productivity at work; frequent or prolonged absenteeism; job loss because of trauma; or the need to preserve and prioritise safety. Women who experience it are more likely to have a disruptive work history, more likely to change jobs and working casual and part-time work.

A recent study out of the State University of New York [SUNY] found that some abusive men use a range of tactics to try and sabotage women's work efforts. As part of the study, a woman named Judy recounted how she'd lost her job as a manager of a fast food outlet because of her husband's jealousy and violence. She explained: 'If a guy talked to me, my husband would rip doors off hinges; he'd go nuts. I left because I didn't think it was fair to my employers.'

Another woman, Joan, described her husband hiding her clothes to prevent her going to work. And another talked about how her husband would promise to look after the children, but then not show up or show up early in the morning after a night drinking. 'I wouldn't leave my children with him when he was drunk,' she recalled. 'So I went through many jobs. I got fired often. I was very embarrassed. It ate away at my self-esteem.'

The penalties and disruptions to a woman's working life have profound financial consequences and these consequences are life long. Recently I was struck by a Four Corners program on men's behavioural change programs. It followed three men who had voluntarily agreed to enter and undertake a 28-week program to deal with their violence. But interestingly, for two of them, the event that triggered their inclusion in the program was not that they were violent at home and their wives lived in fear, but rather that they'd been counselled at work and told that if their behaviour towards their co-workers didn't change, they'd be fired from the workplace.

But there is hope, and over the last six months a number of organisation – both public and private sector – have started to really develop policies in this area. Some have included entitlements to DV [domestic violence] leave in their enterprise agreements. But others have created workplace policies to really support staff by offering flexible work; special leave; the ability to change a telephone number/extension number; the possibility of working in another office; domestic violence support information supplied at the time of induction with workplace safety training, and a whole range of other strategies. CEO Challenge, which is a great organisation in Brisbane, is also breaking new ground by taking this message into workplaces.

As Betty Taylor, a noted Australian expert and author, says in the area: The affects of domestic violence are all pervasive. Women suffer silently and business continues losing money unawares.

Business should address it, not just because of the bottom line, but because it will take all sectors of society to eliminate this blight on our nation. It's incumbent on all of us to work together to address this issue and the creation of some innovative and bold policies in the workplace would be a good starting point.

Addressing this issue has become an absolutely urgent priority for me. I have two years left in my term and the experiences of the women that I meet every day in refuges and shelters and services all around this country dictate that this issue can't be put in the too-hard basket. We need action, and we need it now. It is the pointy end of gender inequality in this country.

It was great to see that the government has released a unified national plan endorsed by all states and territories, but I think business has to also become part of the conversation. Business is what's missing in the conversation on domestic violence in our country.

I'd like to finish by recounting one final story which was told to me recently by the head of one of Australia's largest women's organisations. It's a story that gives me great hope that we can create a more equal future, but it requires all of us to treat this issue with the seriousness it deserves.

It's a story of a woman I'll call Ella. Ella was in her mid-70s and had been living in an abusive relationship for about 45 years. Her daughter and granddaughter had come to stay with her and her husband at Christmastime.

One night Ella's husband came home from the pub, like he always did. He'd been drinking with his mates, like he always did. He walked into the kitchen and, like he always did, proceeded to hit and punch Ella.

Ella's 40 year old daughter did what she always did, and that was she ran away and hid. But it was Ella's teenage granddaughter, who was watching from the next room, who did something different.

When her grandfather finally left she approached Ella and said: It doesn't have to be like this, Grandma. For the first time someone, Ella's granddaughter, had offered her a way out and she was the one who went with her grandmother to the domestic violence counselling service.

I think the heartening thing about this story is to see the power of education. And also to see that some of the generational impacts of domestic violence can be mitigated in certain circumstances.

On International Women's Day, stories like Ella's give me hope. The same hope that's seen us pull together to get a paid parental leave scheme in this country; to really address some of the issues of pay equity, women's leadership, sexual harassment.

I hope that with education, awareness, advocacy and commitment we can create a world where these women – all women – have the chance of a life free from violence. And just as we all have the right to live free from violence, we all have a responsibility to do something about violence.

So on this occasion of International Women's Day I call on each of you to show leadership by creating workplaces which are inclusive of all people – particularly women. Workplaces where men

and women are equal partners; where they are paid equally, where harassment and violence has no place. And workplaces where those who live with violence can be supported and feel safe.

Together we can create a more equal and just Australia. Join with me, let's make it happen.

Thank you.