The Seesaw Effect: Down Goes Affirmative Action, Up Comes Workplace Diversity

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This article is called the “seesaw effect” because it tracks two trends operating in relation to equity in Australia: a reduction of the (albeit limited) regulatory force of affirmative action and a growth in the implementation of “workplace diversity” initiatives. Regarding the latter, the primary focus is the new Public Service Act 1999. The argument is that the two trends are opposite sides of the same coin – that workplace diversity is being offered as a replacement for affirmative action and one which will ask a good deal less of employers. The article sees this shift as part and parcel of the Howard government’s commitment to “free up” competition and to reduce governmental oversight of business activities.

INTRODUCTION

Important changes are taking place in relation to affirmative action, and to workplace relations in the public sector in Australia. Regarding the former, there is a shift from regulation to voluntarism. Regarding the latter, in the Public Service, the language of workplace diversity is supplanting equal employment opportunity. These two shifts – reducing the regulatory ambit of affirmative action, and the introduction of “workplace diversity” in the Public Service – serve similar goals: reducing government surveillance of business practices, leaving employers, including the Public Service, in control of employment decisions.

I want in this article to examine the sources of a “managing diversity” or “workplace diversity” discourse, the ways in which it is positioned in relation to equal employment opportunity (EEO) and affirmative action, and the ways in which it neatly aligns with the government's deregulation agenda. My argument in brief is that we will continue to see a consistent whittling away of the power to enforce affirmative action and the positioning of managing diversity as the way “forward.” My skepticism about the progressive potential of the latter, a skepticism shared by others (see Sinclair 2000; Humphries and Grice 1995; Prasad et al. 1997), will be clear in what I have to say.
AFFIRMATIVE ACTION IN AUSTRALIA

In 1998 Australia’s 1986 Affirmative Action [Equal Employment Opportunity for Women] Act was reviewed in line with the requirements of the federal government’s Competition Principles Agreement. The opening Term of Reference specified that “Legislation/regulation should be retained only if the benefits to the community as a whole outweigh the costs.” That is, the starting premise was that legislation is a bad thing which needs to justify its existence, and it needs to justify its existence in ways which can be measured. The force of this framing Term of Reference is felt throughout. Term of Reference “c” specifies that “compliance costs and the paperwork burden should be minimised,” and the attention of the Review Committee is directed to “those parts of the legislation, and its administration, which have the potential to restrict competition” (Independent Review Committee 1998; emphasis added).

The Independent Review Committee made its report in July 1998, though its findings were made public only in December 1998 when they were accompanied by the government’s response (see Affirmative Action Agency 1999). A new Act, the Equal Opportunity for Women in the Workplace Act, introduced into parliament in September 1999 and taking effect from 9 December 1999, implemented the following changes: the eight-step reporting requirement will be replaced with a simpler reporting pro forma, “eliminating the requirement to consult with unions” (Sawer 1998); the sole requirement for compliance will be “that employers take reasonably practicable actions to eliminate discrimination and promote equity in relation to employment matters”; a new advisory board has been set up (from 2 July 1999) with a heavy business representation. The two Review recommendations which might have made monitoring more effective, workplace visits and the ability to refer matters to the Sex Discrimination Commissioner, have been rejected.

Attempts to reduce reporting requirements by making them biennial rather than annual were thwarted by the Senate. According to the new Director of the Equal Opportunity for Women in the Workplace Agency Fiona Krautil: "this means we are currently investigating ways to minimise any repetitive reporting requirements and to maximise the usage of electronic reporting so that we can streamline the reporting process for employers, reduce the onerous method of reporting, as well as delivering our increased educative role (AA Agency 1999a).

At the launch of the Equal Employment Opportunity Advisory Board in August, 1999, Peter Reith, the Minister for Employment, Workplace Relations and Small Business, indicated that he is awaiting advice on “an optional report format,” and that he expected the Agency to waive reporting requirements for “a wider range of organisations” (Reith 1999a). The Minister’s press release on 16 December stated that: “there will be a new emphasis on a facilitative rather than a punitive approach to compliance” (Reith 1999b). As Marian Sawer (1998) so aptly put it: “It’s
hard to think what this can mean, considering the whole approach of the Act has been based on gentle persuasion, awards of various kinds and best practice models.” The move is towards voluntarism and purging Australian political discourse of the term “affirmative action.”

The government’s response to the Review and the new Act are consistent with other developments in the current policy regime. There has been a determined attempt to deregulate business activities and to encourage competition. Most notable have been changes in workplace relations with the introduction of enterprise bargaining, and not too subtle attempts to reduce the influence of unions. The argument has consistently been that we have too much government and that government “interference” needs to be reduced. The nature of government is being redefined through the purchaser-provider model, with a large number of activities previously provided by government now being outsourced (Considine and Painter 1997). It is not surprising in this environment to see an attempt to reduce the regulatory power of affirmative action guidelines. In fact, Peter Reith clearly indicated that he saw the Equal Opportunity for Women in the Workplace Bill as complementary to the Workplace Relations Amendment Bill which introduced AWAs (Australian Workplace Agreements), non-union individual contracts. In his words, both Bills “seek to move away from a paternalistic structure, which assumed government knew more about business than the people at the workplace level,” and “give workers and employers more choice and more opportunity to manage their own workplace issues” (Reith 1999a). In tune with this shift, “We no [sic] can no longer afford to make paternalistic and prescriptive assumptions, allowing a government agency to decide what might be best for individual workplaces.” Instead, the Agency will “concentrate its efforts ... in a facilitating and educating role that will benefit both women and the business bottom line.” Reith emphasised the need to move away from a “one size fits all” approach to “one that recognises the distinct circumstances of different industries.” The Explanatory Memorandum (Reith 1999c, 9) describes the Bill as “more business-friendly” and as “moving towards a more business-regulated [i.e. regulated by business] approach.”

Coincident with these changes to affirmative action, a revolution is taking place in the Australian public service. A new Public Service Act 1999 sets out to transform the public service into an employer like any other employer, with employees subject to the Workplace Relations Act. At the same time the language of workplace or managing diversity is supplanting equal employment opportunity. I want to suggest that these two developments are linked, that they both serve a deregulation agenda.

WORKPLACE DIVERSITY IN THE PUBLIC SECTOR

The current Howard government brought forward a new Public Service Bill in 1997. Unable to pass it at that time, the government proceeded to prepare the
groundwork for the legislation through administrative means (Public Service and Merit Protection Commission 1997a). As part of this process, all government agencies were instructed to introduce Workplace Diversity programs by 31 August 1998 (PSMPC 1998a, 1). The Act, passed on 5 December 1999, confirms the centrality of workplace diversity in the government’s plans for the public sector. The new Public Service Act heralds the need to “utilise[s] the diversity of the Australian community it serves” and to be “sensitive to the diversity of the Australian public” (PSMPC 1999a). New South Wales (Office of the Director of Equal Opportunity in Public Employment 1996), South Australia (Office of the Commissioner for Public Employment 1998) and Victoria (Office of the Public Service Commissioner 1998) have also introduced directives calling for the introduction of managing diversity programs.

The overall goal of the new Public Service Act (Kemp 1999) is “that APS employment should operate on the same basis as applies to the private sector.” To this end, “[r]esponsibility for employment decisions has been devolved to Agency Heads, vesting in them greater flexibility and authority to manage their own workplaces.” This, we are told, will produce “a more flexible, less regulated workplace,” will involve the “removal of unnecessary prescription and red tape and the devolvement of employment powers to Agency Heads,” translating a desire by staff for “security in employment” to “a greater focus on maintaining and upgrading their employability.”

In effect the new Public Service Act privatises the public service, creating the public sector as an employer like any other, and making employees subject to the government’s Workplace Relations Act. David Kemp, in the address which marked the commencement of the new Act, specified that “the APS is being transformed from a centralised, highly unionised and conservative workplace to a dynamic organisation at the cutting edge of reform” (Kemp 1999). In a recent conference organised by the PSMPC (Public Service and Merit Protection Commission) entitled Building the Foundation: APS Values at Work (PSMPC 1999b), Leslie Riggs, Group Manager, Workplace Reform Group, noted that one of the key impacts of reform was “limitations on an employee’s right to strike” (Riggs 1999, 128).

I want to suggest that the shift in language and policy from equal opportunity to “workplace diversity” fits the government’s agenda of reducing controls on employers, including the Public Service. This is indicated in the appointment of Fiona Krautil, previously Senior Manager Workforce Diversity at Westpac Banking Corporation, as the new Director of the Equal Opportunity for Women in the Workplace Agency. Ms. Krautil (AA Agency 1999a) has described how her experience at Westpac has influenced her approach to reform: “Although continuing to be idealistic, I became more reasonable in terms of practical outcomes that could be achieved within a given timeframe and business environment.” These words “reasonable” and “practicable” will, I suggest, become the hallmarks of workplace initiatives in relationship to equity
in the future. While in themselves inoffensive terms, they capture the tone of a less regulatory approach to equity issues.

PRODUCTIVE DIVERSITY


Publications like Productive Diversity (Cope and Kalantzis 1997) locate “workplace diversity” in developments in organisational theory. Cope and Kalantzis (1997, 290) compare styles of management under Fordist, post-Fordist and (their model) Productive Diversity. The first is described as hierarchical and task-oriented; the second is credited with discovering the importance of culture to work – that is, noting that work means more to people than a pay packet and that it is important to have people involved, committed to what they do. Cope and Kalantzis criticise this approach for insisting upon assimilation to common standards. In their view, “culture” in this approach is seen as unitary and hence as modeled on the values of the incumbents in positions of authority, white men. Their goal is to disrupt this unitary notion of culture. They replace it with a notion of negotiated difference, captured in the phrase “productive diversity.”

The work of Cope and Kalantzis is note-worthy because it emphasises the need for incumbent members of organisations to change, to learn new languages, for example, and to learn to assess the value of different ways of doing things, instead of insisting that there is only one way. They talk about cohesion-in-diversity and a notion of corporate citizen based upon an acceptance of civic pluralism (Cope and Kalantzis 1997, 289—291). The confrontational aspect of their study can be seen in the challenges they pose to some pretty commonly accepted principles of good management. Basically they say that the following are bad ideas: shared vision and corporate culture, teams, win-win conflict resolution, benchmarking, setting standards, quality management.

Significantly, for the argument developed in this paper, Productive Diversity (1997, 258—9) is deeply ambivalent about what to do about discrimination: “The agenda behind these impositions [anti-discrimination legislation, equal employment opportunity, affirmative action or employment
targets] is accusation, and justifiable accusation by and large, of racism or sexism and fundamental inequities in education and employment.” The authors go on:

But, as important as the accusations have been at their historic moment, and as educative as they have been of community opinion, they frequently meet resistance precisely because they continue to take the form of accusations. People do not take well to accusation, justified or not. People only shift their attitudes and their practices when they see the need and personally choose to change.

And so Cope and Kalantzis (1997, 259) conclude: “Anti-discrimination measures, equal employment opportunity and affirmative action might be important ideas but they are also fraught ideas. This book is not about these ideas.”

I have quoted Cope and Kalantzis at length on these issues because they illustrate a new tone in organisation theory, a focus on diversity as “good for business” and a differentiation between “diversity” and previous equity approaches, including affirmative action. There is also a suggestion in their work, in the comment about the appropriateness of accusations of racism and sexism “in their historic moment,” that it is time to move on.

This setting of “managing diversity” against affirmative action and equal employment opportunity appears in many places, some more explicitly than others. For example, George Henderson (1994, 7) sets out in tabular form the different characteristics of affirmative action, valuing diversity and managing diversity. Henderson describes affirmative action as an “assimilation model” in which previously excluded groups “have an advantage.” In contrast, valuing differences and managing diversity are offered as pluralistic responses to difference. More commonly, we are told simply that “workplace diversity” “stretches beyond EEO” (PSMPC 1998b, 7).

It is sometimes difficult to discern immediately what these shifts in rhetoric mean in practice. Frederick Miller (1994) assists us here. He suggests that there are two distinct framings of “managing diversity” operating in the United States. One is a social justice understanding which sees managing diversity as having goals similar to equal opportunity, but as having superior methods. The second understanding Miller labels the “individual differences” approach. This approach stresses that each individual is unique and that the goal of organisations should be to encourage each unique individual to maximise their potential. This approach de-emphasises groups and challenges the need for government-regulated programs targeting equity groups.

Miller begins the book he co-edits, entitled The Promise of Diversity: Over 40 Voices Discuss Strategies for Eliminating Discrimination in Organizations, with a quote from a reader’s report of the original manuscript:

Oppression and discrimination pervade the tone of this book. The word racism appears often, and anecdotes of discrimination
abound. This is not a book about the “Promise of Diversity” but a book about “The Shame of Discrimination.” ... this viewpoint is not a majority view of the issue of diversity. Those responsible for diversity programs have stressed that diversity does not mean “pointing a finger.” It does not mean equal employment opportunity. It does not mean the study of discrimination and oppression. It is a celebration of individual differences and the strengths these differences bring to the workplace.

According to Miller (1994, xxvi), this reaction to his manuscript indicated that “At the heart of the matter lie some very different assumptions about ‘diversity’ and the path to change.” I agree, and intend to proceed to elaborate what some of these assumptions are.

A key indicator of an “individual differences” approach is the tendency to offer a long list of the kinds of differences which make us all unique individuals. Cope and Kalantzis (1997, 267) typically list the following broad range of characteristics which encompass diversity: “age or generation, ethnicity, life experience, educational experiences, language, ways of speaking, ways of thinking, skills, interests, aspirations.” The management literature on “managing diversity” uses this emphasis on “individual differences” to support a human resources approach focusing upon the needs of the individual. With this approach, it becomes increasingly difficult to insist upon the relevance of equity groups for management initiatives. Daniel Sauers (1993, 46; see also Harvey and Bowen 1996, 389—90), for example, states expressly that managing diversity requires individualized treatment to meet individual abilities and needs rather than inflexible policies or programs mandated either to treat everyone the same or to give special treatment to a specific group. The idea is to treat people as individuals, recognizing that each employee has different needs and will need different kinds of help to succeed.

Significantly, Action News, the monthly newsletter of the Affirmative Action Agency, contains the following excerpt from a Mobil Oil Australia Ltd. case study: “Inclusion and Diversity is about maximising everyone’s potential. It is not about taking away opportunities to give to a ‘minority group’” (AA Agency 1999a). Moreover, by transforming the issue of equity into a human resource issue, the implication is that government surveillance of business practices in this area is unnecessary and inappropriate (Bacchi, 1999b). In this scenario, legislated affirmative action will have seen its day.

The tendency to characterise equal opportunity as assimilationist, seen in Henderson above, is typical of much managing diversity discourse. For example, Robin Kramar (1998, 196) quotes C. Chen (1992, 32) to the effect that “The quest for EEO has been sought through ‘laws and practices that demand similar treatment’.” This approach is counterposed with a need to utilise “different employment patterns and practices for different groups.” On the one hand, insisting upon the need for “different treatment” as a way to
accomplish equality can be associated with interventionist programs like affirmative action. I have made such a case myself (Bacchi 1990; 1996). In addition, insisting upon genuine culture change in place of assimilating token representatives of “disadvantaged groups” can also be seen as a progressive demand. The problem is that in some hands this insistence upon “individual differences” can mean simply bypassing groups and government intervention. It is this tendency which I believe characterises mainstream approaches to diversity.

I am not alone in this belief. The well-known writer on management education, Amanda Sinclair (2000), while acknowledging that she has and still uses the rhetoric of “productive diversity”, identifies two basic problems with managing diversity. In her view, “‘diversity’ fosters a focus on the ‘other’ in organisations, on those who are deemed ‘different’ within the dominant regime.” This occurs, says Sinclair, despite the claim that the ultimate goal is an inclusive organisation. Moreover, she believes that “the managing diversity approach ignores power – it takes existing power differentials as granted and it fails to recognise that changing the distribution of power is a prerequisite of any shift in gender relations.”

The edited collection of essays, Managing the Organizational Melting Pot: Dilemmas of Workplace Diversity (Prasad et al. 1997, 7—8) offers another critical engagement with managing diversity. The editors stress that the philosophy behind the initiative is voluntaristic, “calling for corporations and individual work organizations to take the initiative in responding to external demographic trends.” Hence, they argue, managing diversity “stands in contrast to anti-discrimination legislation in the United States [and in Australia], where the emphasis is on legal requirements and penalties for noncompliance.” The editors note the grounding of diversity arguments in human capital theories which maintain that a diverse workforce will give an organisation a competitive advantage. They also point out that these theories “remain astoundingly blind to the conflict potential contained within diverse workforces” and to “institutional resistance to workplace diversity.”

Countering the claim that managing diversity moves beyond the assimilation described as inherent in equal opportunity policies, contributors to this collection emphasise what they call “organizational monoculturalism.” Richard Marsden (1997), for example, analyses the microprocesses of Industrial Relations (IR) and Human Relations (HRM) practices and their impact on the construction of “normal” or standardised behaviour. He (1997, 20) starts from the premise that organisations are about regulatory mechanisms (disciplinary practices) “involving the organization of time, space, and movement and that the effect of those mechanisms is simultaneously to totalize and to individualize.” The individual is compared to the collective; quantitative differences among employees are equalised or averaged and translated into workplace norms governing behaviour and performance. This “normalizing process” stands in sharp contrast to “professed notions of
Maria Humphries and Shayne Grice (1995, 24, 26) offer another challenge to the claim that diversity is about recognising differences. They emphasise the “significant homogenizing of values and practices” implied in a discourse which insists that all individuals are motivated by a desire to “get on” economically and will make their “choices” accordingly. They also note the linkages between the contemporary ascendancy of the HRM model and the parallel ascendancy of neo-liberal labour policies: “Labour processes which make the diversity of interest between employers and employees explicit have been superceded by managerially driven processes purporting to celebrate the unity of interests between employer and employees.” They conclude that “management of diversity” purports to value individuals as people while at the same time minimising their social identification with specific categories of alienated people.”

In this regard, it is interesting to note how management theory has moved on from the characterisation offered by Paul du Gay in his important study *Production of Culture/Cultures of Production* (1997). Du Gay describes the aim of “managing organizational culture” as producing “new sets of meanings through which people will come to identify with their employing organisation in a way which enables them to make the right and necessary contribution to its success.” He (1997, 241, 255) notes how the emphasis in the “culture” discourse is on “consensus and unity,” but in his analysis this necessitates ignoring “difference and differentiation of groups.” I would suggest that managing diversity has as its goal the same ideal of consensus and the elimination of conflict but that it is based on the contention that this can best be accomplished through acknowledging difference and differentiation, so long as this difference is seen to lodge in individuals. Consensus in this vision is accomplished through an assumption of a common commitment to economic success through organisational cohesiveness.

THE DIVERSITY CONUNDRUM

So far I have been painting the managing diversity discourse in fairly negative hues, insisting that the end goal is to reduce recognition of asymmetrical power relationships between groups. However, I think that there is a need to recognise what I have chosen to call the diversity conundrum. That is, it is important to establish that a desire to acknowledge the importance of diversity came onto the political agenda from a number of directions. And indeed it is important to recognise that some of the impulses behind some uses of the language of diversity are deeply committed to progressive change. It is this chequered history of the language of diversity which, I believe, has made it susceptible to the kinds of shaping I highlight in the section above.

If we look to the history of affirmative action in the United States for example, we will see that a diversity argument has proved useful in defending
affirmative action programs. John Skrentny (1996, 228) also notes how, in response to the growing assault upon affirmative action in the United States, a strategic shift to the language of diversity redefined “the issue not as a break for blacks but as a public good, suggesting the image of an integrated socioeconomic ladder.”

From a different direction, feminists and other identity groups have been working theoretically to find ways to acknowledge that “women” as a group, for example, is marked internally by differentiation along class, race, ethnic, age, ability and sexual preference lines (Bacchi 1999c). This direction in feminist theory coincided with a theoretical development, commonly called postmodernism, which wanted to emphasise people’s multiple affiliations. Commentators from a number of perspectives (see, for example, Callincos 1989; Coronil 1992; Rizvi 1993; Schor 1994) have expressed concern about the possibly individualising tendency of some of this discourse. I believe that managing diversity illustrates exactly this tendency, though I would want to stress that this outcome is only one possible use of postmodern arguments, a very postmodern position you might say (Bacchi 1999a, Chapter 2).

Concern about “essentialist” categories, including “women,” has produced intense debates about the advisability or dangers of making appeals on the basis of identity (see, for example, Brown 1995; Bickford 1997). One argument, put briefly, is that, if categories like “race” and even “women” (see Donald and Rattansi 1992; Bacchi 1996) are social constructs and not “natural” groupings, activists need to be wary of reifying these categories by making them the basis of political claims. Appeals on the basis of identity groups, it is feared, will undermine broader social change by enshrining constructed social categories which serve the purposes of defenders of the status quo.

Others criticise identity politics on the grounds that it fragments social cohesion. A wide range of authors from various political backgrounds express concern either for a concept of community or for national unity. More conservative authors (Bloom 1987) tend to speak in terms of the latter; those further to the left (Taylor 1992; Sandel 1982), the community supporters, share a concern about declining political commitment and cohesiveness in the population. Reforms like affirmative action then, which target identity groups, come in for criticism from a wide array of people because of the way they either challenge the possibility of a colour- and gender-blind polity (see, for example, Thernstrom and Thernstrom 1997) or freeze identities (Frazer 1995, 88 fn 40). By way of reply to these criticisms, I would want to draw attention to the way in which outgroups, those targeted in affirmative action policy, are the ones held responsible for fragmentation in both scenarios. In neither case is the culture of the mainstream considered responsible for undermining social cohesion.5

My goal in this section has been to highlight the variety of political developments associated with the language of diversity, and to suggest a need to scrutinise carefully the political agendas with which it is associated. In some
hands, a diversity agenda could be transformative, trying as it does to insist that inclusiveness means more than assimilation into existing work rules. In other hands, however, diversity transforms workers into isotopes who need to be dealt with on a one-to-one basis. This “individual differences” (see Miller 1994) diversity discourse clearly suits the current government’s workplace relations policy, with non-union individual contracts between employers and employees (AWAs) (Bessant 1997, 25). I would suggest that this individualising discourse of diversity will in the end make it more and more difficult to demand pro-active efforts, such as affirmative action, to address asymmetrical power relations between social groups.

WORKPLACE DIVERSITY IN PUBLIC SERVICE REFORM

In the lead-up to the introduction of workplace diversity programs in the Public Service, a number of workshops were held around Australia (in Brisbane, Sydney, Melbourne and Canberra) in August 1997. The workshops were described as “an opportunity for EEO workers from across the APS to reflect on EEO experience to date, to share some of their knowledge and expertise and, in light of government policy, to consider where agencies might go from here.” A summary of some of the discussion at these workshops (PSMPC 1997a) indicates that the tensions Miller identified between an “individual differences” and a “social justice” approach to diversity are present in Australia. “Recurring themes in the debates on EEO and diversity,” we are told (PSMPC 1997a, 3) include: “‘valuing diversity’ derives from a different philosophical perspective; ‘diversity’ is focused on the individual and is driven from the top levels of the organisation; EEO is group-based and emanates from the employees.” Another theme picked up in the discussions is described thus: “a shift in perception and treatment couched in the language of ‘business’ does not mean that we lose sight of our commitment to EEO as social justice.” Dissenting voices, that is, those unsure of or less enamoured with the new diversity approach, come through in some of the questions listed in the summary document, questions which are never addressed. For example, someone asked “How do agencies maintain the diversity of their workforce when required to downsize?,” a highly pertinent question in the present climate. Someone else asked “How do we monitor the impact of new workplace agreements (particularly AWAs) and greater flexibility in employee’s pay and conditions to ensure that they do not have results that are detrimental to some groups of employees?”

Workplace diversity programs have been put forward as a key component of public sector reform. This was noted above. The task then is to tease out the relationship between these programs and a deregulation agenda. I will proceed to look briefly at several of these.

1. The approach to reform of the Public Service has been described as a shift from “rules” to “values” (Ellison 1999, 4–5). “Adherence to
fundamental values” is described as an advance on “reliance on prescriptive legislation and regulation” (1999a). Key values include that the APS is apolitical, that employment decisions are based on merit, that the APS provides a workplace free from discrimination and which “recognises the diverse backgrounds of APS employees,” that the APS has “the highest ethical standards.” The shift from rules to values is designed to give “public servants a framework in which to exercise discretion in decision making and to respond to emerging issues.” Helen Williams (1999, 9) notes that, when brought together with the devolution of responsibility to agency heads, this means that agencies will not be bound by a process; rather they will be free to introduce “innovative recruitment and promotion strategies to meet their business objectives.” And, I would suggest that it follows that they will also be free not to introduce these strategies.

2. Specific commitments to tackle discrimination written into the 1922 Public Service Act have been removed: “With the exception of the APS Values, the new legislation does not provide any specific anti-discrimination provisions in relation to APS employment. Rather, it brings the APS under the same anti-discrimination regime that applies to other sectors of industry” (PSMPC 1999c). Here is a clear instance of the declared goal “that APS employment should operate on the same basis as applies to the private sector” [read as: an employer like any other] (Kemp 1999). The full implications of this shift are unclear at this time. However, the emphasis in existing “Advice” is upon merit (see below) and it has been specified that “special recruitment measures” will need to be approved by the Public Service Commissioner.

The Guidelines (PSMPC 1998a) make a distinction between the “main drivers of EEO Programs” as “procedural fairness and legal compliance ... with a resulting emphasis on redress,” and “managing diversity” which “emphasises the importance of valuing workplace differences as good practice.” While the emphasis on diversity sounds positive, the characterising of conventional EEO approaches as too concerned with “procedure” is worrying.

3. Diversity is characterised in the Advice and surrounding implementation documents as a long list of individual attributes, a tendency, as I suggest above, which corresponds with a downplaying of the importance of asymmetrical power relations between groups. According to the Guidelines (PSMPC 1998a, 3):

Diversity relates to gender, age, language, ethnicity, cultural background, sexual orientation, religious belief and family responsibilities. Diversity also refers to the ways we are different in other respects such as educational level, work experience, socio-economic background, personality profile,
geographic location, marital status and whether or not one has
carer responsibilities.

In a paper delivered at the *Building the Foundation* conference, Maria
Dimopoulous (1999, 149) elaborated upon the philosophical foundation
of a managing diversity perspective: “We must all realize that the
ultimate aim of valuing diversity is to be able to individualise each and
every person we encounter, taking into account all facets of his or her
identity. The people themselves become the category rather than having
to fit into categories we assign them.” The challenge to the relevance of
traditional EEO categories is, I would suggest, clear in this approach.

4. The merit principle is entrenched in the whole discussion, indicated in
the very name of the Public Service and Merit Protection Commission.
Now, this is not something new. In fact, a commitment to merit is
specified in the *Affirmative Action Act*. Section 3(4) of the Australian
*Affirmative Action Act* states that: “Nothing in this Act shall be taken to
require a relevant employer to take any action incompatible with the
principle that employment matters should be dealt with on the basis of
merit” (Ronalds 1987, 63—64).

However, in the material discussing workplace diversity, merit is
consistently positioned as in opposition to “special treatment” (see
PSMPC 1998a, 6). Given the numerous theoretical contributions (for
example, Burton 1987) which highlight how conceptions of merit map
onto the characteristics of those holding positions of authority, this
privileging of “merit” puts in question the claim that managing diversity
moves beyond assimilation to the creation of a genuinely inclusive
organisational culture.

5. A key principle guiding the reform process is the devolution of
responsibility to Agency Heads. The *Practitioners’ Handbook* (PSMPC
1998b, 18) emphasises that “Because every organisation is unique ...
each must determine appropriate strategies to support those differences”.
The *Guidelines* (PSMPC 1998a, 11) stress “particular corporate goals,”
as well as the desirability of “minimising prescription” and “lesser
reporting requirements.” Hence, accountability will depend upon
“annual self-evaluation” (PSMPC 1997a, 12—13), and “provision of
EEO details, except for gender, is voluntary.” These changes confirm a
shift from regulation to voluntarism.

The full implications of this shift are hinted at in the *Practitioners’
Handbook* (PSMPC 1998a, 17, emphasis added):

In many agencies, established EEO strategies will remain
relevant. The context and focus, however, is shifting from
compliance with EEO and other human rights legislation to an
increasing recognition that nurturing a culture devoted to
values such as diversity and empowerment is an essential
element of organisational success. Under this new approach
both employees and the business are expected to benefit. A specific recognition of business objectives as well as social justice objects requires a balanced approach to ensure that both objectives are achieved.

While on the one hand the language of balance sounds even-handed and sensible, *Advice No. 20: Workplace diversity programs* (PSMPC 1999d), issued to complement the new Act, elaborates in point 6 that “Agencies will need to ensure that this [the diverse background of APS employees] is appropriately covered in recruitment and other employment strategies, although the organisational and business goals of the agency and the skills required to perform the duties will continue to be the prime considerations in recruitment strategies” (emphasis added).

6. Accompanying this privileging of business priorities, workplace diversity documents, issued by the Government, emphasise that the intent behind the changes is reducing reporting requirements and hence surveillance, though “accountability” is still stressed. The Practitioners’ Handbook (PSMPC, 1998b, 21) locates workplace diversity as “part of the Government’s broad reform agenda – aimed at reducing central prescription and control, improving accountability for results and achieving a better focus for performance.” In line with this goal, “the reporting requirements imposed on agencies have been significantly streamlined.” It goes on: “Information being collected should be information gathered by agencies in the normal course of managing their activities and should entail minimum effort to collect.” To this end “there will be no Service-wide mandatory targets set for agencies” (PSMPC 1998b, 12).

The Public Service Commissioner, Helen Williams (1999, 10), clarified how indicators of success in “improving agency performance for women and other EEO groups” ought to be evaluated. She stressed the difficulty in assessing the degree “to which these variations were due to variations in organisational culture and commitment to the value of non-discrimination and diversity, or to factors outside agency control” (emphasis added). Here she mentioned “the representation of EEO groups in the labour market generally, which impacts on the number of people with the qualifications and skills needed by the agency to achieve its business goals.” This kind of explanation neatly “handballs” the problem away from the Public Service into “the labour market generally,” making it unnecessary to take into account established patterns of discrimination in the workforce (Bacchi 1996, 62). Moreover, Williams’ cautionary remarks suggest that, despite the talk of accountability, agencies can expect a good deal of leniency in the assessment of their performance.

It seems fair to conclude that the overall purpose of the changes to the *Public Service Act* is to reduce scrutiny in the area of equal opportunity. And
this reduction of scrutiny is defended in the language of flexibility. In the 
Building the Foundation Conference, the Acting Merit Protection 
Commissioner, Alan Doolan (1999, 138), noted that “as you are all aware, a 
major thrust of the move to a workplace diversity model has been to give 
agencies much greater flexibility in the way in which they implement and 
manage equity and diversity.” The language of flexibility is ubiquitous in 
current discussions of workplace relations but, as Martina Nightingale (1995, 
125) argues, “terms such as ‘flexibility’ have quite different meanings, 
depending upon who is speaking and whose interests are being represented.” A 
number of authors (Green and Macdonald 1991; Campbell 1993) have drawn 
attention to the ways in which the language of flexibility can serve management 
agendas. I am suggesting that the language of flexibility is being used to justify 
a diminution of commitment to workplace equity.

WHAT’S THE PROBLEM?

In a recent book (Bacchi 1999a), I suggest that a first step in assessing a policy 
is to consider how it constructs the problem. I also argue that understandings 
of the problem are clear in policy proposals. Since proposals are supposed to 
be moving things in a desirable direction, they invariably present what is 
considered to be the problem. My contention is a simple one – if you disagree 
with the way in which the problem is understood or represented, you are 
unlikely to find the proposal helpful.

As we have seen, the changes associated with workplace diversity 
programs emphasise devolution and agency flexibility in hiring and promotion. 
The goal is to reduce rules and regulations, described as inhibitors of flexibility 
and innovation. Unsurprisingly, we see here the same imperative as that 
driving the amendments to the Affirmative Action Act, discussed at the outset –
to increase competition and to reduce legislative requirements which are seen 
to impede competition. There are assumptions here about the benefits of 
competition policy and the costs of legislation which go unscrutinised.

Moreover, at the level of causality, the material on workplace diversity, 
despite the talk about creating an inclusive organisational culture, offers a 
simplistic and individualistic understanding of the problem. The whole shift 
from “rules” to “values” (PSMPC 1999a) locates the problem in the heads of 
individuals, for where else do values originate? Listen for example to Maria 
Dimopoulos (1999, 149), Principal Consultant, Phoenix Projects, addressing 
the Building the Foundation conference:

Within the context of diversity, the relationship between 
organisation values and personal values becomes critical. At the 
personal level, each person needs to actively examine one’s 
values, particularly values about differences. All of us must begin 
a process of identifying and examining the underlying thoughts, 
feelings, attitudes and assumptions that block our understanding
“Values,” like “flexibility” and indeed like “diversity” itself, seem on their face to be desirable foci for organisational change. But each term needs to be examined both for the political uses it serves (Bacchi, 1996) and for the way in which it constructs the problem (Bacchi, 1999a). I am not denying that attitudes and hence “values” play a part in discrimination. However, the way in which the new Public Service Act counterposes “rules” and “values,” defending the replacement of the former with the latter, produces a psychologising analysis in the place of a structural understanding of the problem. In effect, discrimination becomes a matter of individual prejudice, ignoring insights into the systemic character of discriminatory practices (Bacchi 1999a, 95—103).

This characterisation of the problem is accompanied by devolution which places increasing power and discretion in the hands of Agency Heads. Hence, it is not surprising to find these people the prime focus of the psychologising approach just identified. According to Dimopoulos (1999, 151—2), “individual managers need to be capable not only of overcoming their own resistance to change, but of actually learning to enjoy the process. Change begins at the personal level.”

To summarise, the following changes mark a reduction of the Public Service’s obligations to direct attention to equal opportunity: the removal of the anti-discrimination clauses, a reduction of reporting requirements, a locating of responsibility for the problem within agencies and more precisely within the heads of Agency Heads. Of course, as an employer like any other, the public service will be subject to the Equal Opportunity for Women in the Workplace Act 1999. But here, as indicated at the outset, it will encounter reduced requirements and, I dare to predict, soon a familiar language – workplace diversity.

CONCLUSION

I called this paper the “seesaw effect” because I noticed two trends operating in relation to equity in Australian workplace policy, a reduction of the (albeit limited) regulatory force of affirmative action and a turn to the language of workplace or managing diversity in many settings. My contention is that these two trends are related, that weakening the provisions of the Affirmative Action Act is the logical flipside of an effort to enshrine a new equity discourse, managing diversity. And this new equity discourse, as I describe it, is part and parcel of attempts to “free up” industry competition and reduce governmental scrutiny of work and management practices.

As noted earlier, the language of diversity can achieve a number of useful goals. The suggestion in this article is not that it be jettisoned but that we need to be aware of how it can be shaped to serve a deregulation agenda. Key points here are the undermining of equity groups through a focus on “individual differences,” and the displacement of scrutiny of employer
practices through locating the “problem” in the heads of individuals. Those attempting to implement progressive change would do well to direct their efforts to contesting these claims, reasserting the importance of equity groups and the systemic character of discrimination (see Bacchi forthcoming 2001).

NOTES

1 I would like to thank Bronwyn Donaghey for her assistance in researching this paper.
2 The Competition Principles Agreement is a 1995 agreement between the governments of the Commonwealth, States and Territories to achieve and maintain “consistent and complementary competition laws and policies that will apply to all businesses in Australia regardless of ownership” (Independent Review Committee 1998, 1).
3 The reference to demographic trends refers to the repeated assertion by managing diversity proponents that the character of the workforce is changing, and that in the near future minorities, women and immigrants will compose a very large percentage of the workforce – hence the need to learn to “manage” diversity. See Baker 1996, 144.
4 Ole Moen (1998, 96) offers examples of the use of an argument for diversity in American affirmative action legal cases, including Bakke.
5 Carol Johnson’s work (1997) also highlights the importance of directing attention to the “culture” of the mainstream.

WORKS CITED


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