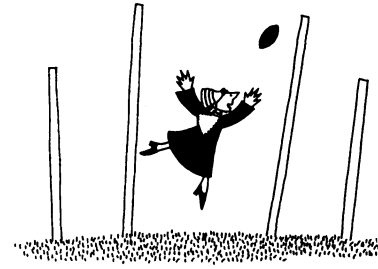


SPORT AND THE LAW

Equal P(L)AY

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In recent months the gap between women's and men's wages has been highlighted yet again. Startlingly, the gap is widening — not closing. Similarly, the worsening numbers of women on corporate boards has been dragged into the light again. The numbers are so outrageously low that the Executive Director of the Business Council of Australia, Katie Lahey,¹ and the Sex Discrimination Commissioner, Elizabeth Broderick,² are both exploring quotas as a solution. Yet, the discussion about equal pay and representation for women is missing something — sport. Sport is never part of the equation. The inequality for women in both spaces is startling and the options for change may have commonalities.

The women's sport world comes to Sydney

In May 2010, the 5th World Conference on Women and Sport was held in Sydney. The week-long conference attracted delegates from over 50 countries, including internationally-renowned researchers, academics, athletes and people working in sport. The conference program was filled with presentations demonstrating the positive effects of sport on health and the wellbeing of women and girls.³ Sport builds self-confidence for girls and women; it can lift women out of oppression.

The International Working Group on Women and Sport, which organises the 4-yearly event, sets Legacy Goals at each Conference. The Sydney goals included a call for the creation of transparency measures to collect information about the gender break-down of sporting boards due to the appalling low numbers of women. While this would be a step towards shining a light into dark corners, it is very important to recall that in Australia it was not always the case that women were shut out of leadership roles in sport.

The incredible disappearing woman

Before the late 1990s and early 2000s, sporting organisations were administered by separate women's and men's associations at the state, territory and national level. Women's associations were run by women, for women and girls. Leadership roles in those associations were held almost entirely by women. However, a number of factors encouraged and, at times, enforced amalgamations. For example, Women's Cricket Australia (originally formed in 1931) and the Australian Cricket Board merged to become Cricket Australia in 2003.

Amalgamations happened across all National Sporting Organisations (NSOs) during the early 2000s, including in sports with large female participation rates such as soccer, basketball and hockey. However, the amalgamations saw the disappearance of women from the board table and Executive Director or CEO positions. For example, Cricket Australia has never had a female board member. In soccer, of the 49 board positions at the state and territory level, only eight are held by women, with two jurisdictions not having a single woman on their board. At the national level, only one person on Football Australia's board of eight is a woman.

Only the Australian Women's Hockey Association prevented the complete disappearance of women from leadership roles during amalgamation. This was only achieved, however, by the women forcing the insertion of a clause into the newly created Rules to ensure a minimum of 30 per cent representation of any one gender on the board. Sadly, Hockey Australia recently chose to undermine this protection by deleting the 30 per cent rule, increasing the size of the board by three and changing the minimum quota to three persons of any one gender. Thus, the gender ratio on the board of Hockey Australia went from six men/three women to nine men/three women.

The current scorecard for women on the boards of Australian NSOs is appallingly low. And it is not a lack of talent creating the problem. Her Excellency Quentin Bryce AC, Governor-General of Australia, was the President of Women's Cricket Australia at the time of amalgamation. Even she, it seems, was not good enough for the board of Cricket Australia. Indeed, the myth that women just lack the skills for board membership persists. Leadership training for women appears to be the current solution to the woman problem.⁴

Follow the money trail

NSOs receive their funding from a variety of sources, including the Commonwealth and state and territory governments. It is clear there is a problem with gender singularity on the boards of NSOs, which reflects that of Australian companies.

Similarly, while it seems obvious that there is unequal pay of female athletes and unequal funding of women's and girls' programs by NSOs, there appears to be no available research or papers on inequality of funding for women's sport. Such research could reveal discrimination in the distribution of funding.

REFERENCES

1. Ms Lahey has commented widely on the issue of quotas during early 2010 and began this discussion on ABC Radio program *The World Today* on 28 October 2008 <abc.net.au/worldtoday/content/2008/s2403304.htm> at 9 May 2010.
2. The representation of women on boards in 2008 is lower than it was in 2006 and has almost receded back to 2004 levels. For further discussion see Elizabeth Broderick 'Is there merit in quotas? The Australian context' (Paper presented at the 2nd Diversity on Boards Conference, Sydney, September 2009).
3. To view the full IWG in Sport Conference program, go to <iwg-gti.org> at 9 May 2010.
4. See the Australian Sports Commission Sports Leadership Grants and Scholarships for Women <ausport.gov.au/participating/women/get_involved> at 9 May 2010.

For example, it is understood the total funding for the women's national soccer football league (W-League) is less than the funding directed to just one men's A-League team by Football Australia. This is likely to be the tip of the iceberg.

Yet at present there are no means by which to require or collect data about the gender breakdown of NSO boards or look at how NSOs spend funds on a gender basis. This prevents quantitative or qualitative research being undertaken to determine what is occurring.

Options to achieve equal p(l)ay

At the sporting board table, governments have significant power. One option to increase the number of women on the boards of NSOs is to tie government funding to gender-based outcomes. Governments could require a minimum representation of 20 per cent of one gender on NSO boards, which could be graduated over a five-year period to 50 per cent. It would be straightforward; failure to meet the quota would be a failure to meet funding criteria.

Internationally, it has been demonstrated that change of this nature can happen and that it can have overwhelming benefits for companies. In Norway, a quota of 41 per cent was imposed on corporations to increase women's participation on corporate boards. Even though the system was met with hostility at first, it is now widely supported. The results demonstrate that women increase accountability, help companies make better decisions, ask different types of questions at the board table and are all round better prepared than their male counterparts at meetings.⁵ In Australia, NSOs (and companies) would likely benefit in the same way.

Each year the Commonwealth Treasury produces a document called The Women's Budget Statement. It contains detailed spending information, with each government department accounting for every dollar spent on women's programs on a per department basis. Mysteriously, sport seems to be exempt from reporting on Commonwealth government expenditure. The Australian Sports Commission and the NSOs which receive Commonwealth funding do not report on how they direct funds to women's/girls' programs versus how they direct funding to men's/boys' programs. This exemption for sport cannot continue. A lack of transparency and accountability always facilitates injustice. Gender-based disclosure by NSOs of how funds are directed — supported by

government requirements about equality of spending — are long overdue.

Of course the lawyers out there will see another option to bring about equality of funding and equal pay: strategic litigation. Running equal pay and equal funding cases for brave women athletes against NSOs would be an excellent public interest campaign. I wonder who will step forward first — brave women athletes or brave politicians willing to affect change?

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Addendum

Since this article was written, the Sex Discrimination Commissioner has formally called for the representation of women on the boards of NSOs as a condition of funding. In an article published in May 2010, she stated 'It is truly time that we took such decisive and effective action'.

For the full text see, Elizabeth Broderick, 'Women in sport hit the grass ceiling', *Canberra Times* (Canberra), 21 May 2010, <canberratimes.com.au/blogs/national-comment/women-in-sport-hit-the-grass-ceiling/1836486.aspx> at 5 June 2010. See also Daniel Lewis, 'Call for funding link to equality', *Sydney Morning Herald* (Sydney), 20 May 2010, <smh.com.au/sport/call-for-funding-link-to-equality-20100519-vfbp.html> at 5 June 2010.

5. The representation of women on corporate boards in Norway increased from 7 per cent to 41 per cent from 2003 to 2005. For details on the effects of the change see Arni Hole, *Government action to bring about gender balance* <20-first.com/406-0-a-personal-account-of-the-quota-legislation-in-norway.html> at 9 May 2010. See also 'Norwegian firms' boards', *The Economist*, 3 January 2008; Australian Government, Corporations and Markets Advisory Committee, 'Diversity on boards of directors' Report, March 2009, <camac.gov.au/camac/camac.nsf/byHeadline/PDFFinal+Reports+2009/\$file/Board_Diversity_B5.pdf> at 27 May 2010.