

It is just a matter of time and other myths

By Justice Susan Glazebrook¹

Introduction – the Gender Gap

As at the latest census by the Human Rights Commission in 2012,² only some 19 per cent of partners in large law firms were women.³ The figures are slightly better for smaller law firms of two to five partners, but the percentage still does not reach 25 per cent.⁴ Statistics from the New Zealand Law Society show that the figures for mid-sized firms are slightly worse than those for the large firms at just over 18 per cent.⁵ The figures for Queen’s Counsel are even worse, although there has been a slight improvement over the figures in 2008. In 2008, only 11 of the 89 practising Queen’s or Senior Counsel were women, which amounted to 12 per cent.⁶ Of the 83 Queen’s Counsel as at 1 March 2013 only 12 (14.45 per cent) were women. When the most recent round of appointments made in May 2013 is taken into account, the percentage has crept up slightly to 14.67 per cent.⁷ The percentage of women judges in New Zealand is somewhat better, with the percentage of female judges in 2013 falling close to 28 per cent.⁸

¹ Judge of the Supreme Court of New Zealand. This paper elaborates on a speech prepared for the event ‘Get up and Speak 2013’ held in Wellington on 15 August 2013. A similar speech was given to the New Zealand Bar Association and Canterbury Women’s Legal Association conference “Obstacles and Opportunities” held in Christchurch 22 November 2013. These issues are also discussed in three other papers I have written on similar subjects: “Looking Through the Glass: Gender Inequality at the Senior Levels of New Zealand’s Legal Profession”, “Gender Inequality in the Workforce: A Work in Progress” and “Women in the Public Sector – a question of equality” available at <www.courtsofnz.govt.nz>. I am grateful to my clerk, Claire Brighton, for her invaluable assistance with this paper.

² Human Rights Commission *New Zealand Census of Women’s Participation 2012* (Wellington, November 2012) [Women’s Participation Census 2012].

³ The exact percentage is 19.3 per cent. A large firm is one with ten or more partners: Women’s Participation Census 2012, above n 2, at 74.

⁴ The exact percentage is 23.7 per cent: Women’s Participation Census 2012, above n 2, at 75.

⁵ The exact percentage is 18.4 per cent. A medium firm is one with between six and ten partners: New Zealand Law Society “Women in Law Firms” (2012) 804 LawTalk 8.

⁶ Human Rights Commission *New Zealand Census of Women’s Participation 2008* (Wellington, 2008) [Women’s Participation Census 2008] at 67.

⁷ This figure was calculated by adding the figures from the May appointments to the March 2013 figures. As there were four new female appointments, this brings the total female QCs to 16. The 26 new appointments bring the total number of QCs to 109. The percentages given are calculated on the assumption that no QCs retired in the intervening period.

⁸ New Zealand Law Society “A Snapshot of the New Zealand Legal Profession” (2013) 815 LawTalk 4 [Snapshot of the Profession 2012] at 4 (this figure is as of 1 March 2013). There is even less diversity in the judiciary in England and Wales. As at April 2011, there was only one woman on the Supreme Court (out of 12), four women in the Court of Appeal (out of 38) and 16 women in the High Court (out of 108):

Whichever way you look at them, these figures are woeful. Most, however, remain marginally better than the percentages of female representation as directors in the top 100 companies listed on the New Zealand Stock Exchange. This figure is 14.75 per cent⁹ up from 9.32 per cent in 2010¹⁰ and 8.65 per cent in 2008¹¹. The 2012 Human Rights Commission report says that, at the rate of progress over the last ten years, it will be another 35 years before board room equality is achieved.¹²

There are a number of organisations working on gender issues in relation to board representation of commercial firms.¹³ Their efforts may account, to a degree, for the number of women on boards passing 10 per cent for the first time, although the 2012 Human Rights Commission report attributes this mostly to efforts across the Tasman.¹⁴ Given these efforts with regard to commercial boards both in New Zealand and offshore, the legal profession cannot afford to be complacent. It risks being outstripped by its clients and appearing out of touch.

Kate Maleson “Gender Quotas for the judiciary in England and Wales” in Ulrike Schulz and Gisela Shaw *Gender and Judging* (Hart Publishing, Oxford, 2013) at 481 at 482. Since 2011 there have been two additional female appointments to the High Court, bringing the figure up to 18: Judiciary of England and Wales “2013 Judicial Diversity statistics - Gender, Ethnicity Profession and Age” as at 1 April 2013 <www.judiciary.gov.uk>.

⁹ Women’s Participation Census 2012, above n 2, at 46.

¹⁰ Human Rights Commission *New Zealand Census of Women’s Participation 2010* (Wellington, November 2010) [Women’s Participation Census 2010] at 14.

¹¹ Women’s Participation Census 2008, above n 6, at 14.

¹² Women’s Participation Census 2012, above n 2, at 2.

¹³ These include ‘Global Women’ <www.globalwomen.org.nz>; The New Zealand group of the United Nations Women’s Empowerment Principles <www.unwomen.org.nz>; ‘The 25% Group’ <www.25percentgroup.co.nz>; and ‘Women on Boards NZ’ <www.wob.org.nz>. See Women’s Participation Census 2012, above n 2, at 4, fnt 4. See also the United Kingdom review of female representation on boards: Department for Business, Innovation & Skills *Women on Boards* (United Kingdom, 24 Feb 2011) and Department for Business, Innovation & Skills *Women On Boards 2013: Second Annual Review* (United Kingdom, 20 May 2013). For a discussion of female representation in Australia see: Committee for Economic Development of Australia *Women in Leadership: Understanding the Gender Gap* (Melbourne, June 2013) [CEDA report] and Meredith Edwards and others *Not Yet 50/50: Barriers to the Progress of Senior Women in the Australian Public Service* (ANZOG institute for Governance, Australian National University, Canberra, 2013).

¹⁴ Women’s Participation Census 2012, above n 2, at 2 and 9. The New Zealand Stock Exchange has released a guidance note on diversity and encourages issuers to adopt a diversity policy: NZX Market Supervision *Guidance Note – Diversity Policies and Disclosure* (17 December 2012) <www.nzx.com>. The Australia Stock Exchange requires companies to have a gender and diversity policy and to set measurable objectives and report on them, or to explain to shareholders why they have not: ASX Corporate Governance Council *Corporate Governance Principles and Recommendations with Amendments* (2nd ed, August 2011) at 11. An ASX report released in late 2012 showed that 98 per cent of listed companies were complying with this requirement. In the United Kingdom, all listed companies are required under the Listing Rules either to comply with the provisions of the UK Corporate Governance Code or explain to investors in their next annual report why they have not done so. Under the Code, listed companies are required to include a diversity policy in their annual report, and to consider diversity in all appointments: Financial Reporting Council *The UK Corporate Governance Code* (London, September 2012).

It is not just the lack of women in senior positions that is the issue. It is clear that there are financial disadvantages in being female. New Zealand has had legislation requiring equal pay in the public sector since 1960.¹⁵ In 1972 this was extended to the private sector¹⁶ and grievances can currently be investigated by the Employment Relations Authority.¹⁷ Despite this, the gender-pay gap still persists.

According to a 2011 study of the New Zealand workforce¹⁸ conducted by Goldman Sachs,¹⁹ females earn 17 per cent less on average than males on a full time equivalent basis. In no industry do women earn more on average than their male counterparts. Potentially of greater concern, however, is that the gender pay gap grows as qualification levels increase. The median wage of unqualified females is roughly 86 per cent of the median wage of unqualified males. At the bachelor degree or higher level, however, the median female salary has been as little as 37 per cent of the median male salary.²⁰

This problem is not only present in New Zealand. A recent study carried out by the United Kingdom Office of National Statistics found that male dominated jobs tend to be paid higher than female dominated jobs. While the most common occupation category for both men and women was “professional” (19 per cent of men and 21 per cent of women), men tended to work in professional occupations associated with higher levels of pay. For example, the most common professional occupation for women was nursing, while the most common for men was programmers and software development professionals. Programmers and software development professionals earned £20.02 per hour (excluding overtime) while nurses earned

¹⁵ Government Service Equal Pay Act 1960.

¹⁶ Equal Pay Act 1972.

¹⁷ Employment Relations Act 2000, pt 10. New Zealand’s first pay-equality case was heard in 2013. It was argued that female caregivers employed by the defendant rest home operator were being paid at a lower rate than they would if caregiving of the aged were not so substantially female dominated. In a preliminary decision handed down on 22 August, the Employment Court held that equal pay for women for work predominantly or exclusively performed by women is to be determined by reference to what men would be paid to do the same work abstracting from skills, responsibility, conditions and degrees of effort as well as from any systemic undervaluation of the work derived from current or historical or structural gender discrimination. The Court left the application of its decision to the facts to a judge alone hearing to be held at a later date: *Service and Food Workers Union Nga Ringa Tota Inc v Terranova Homes and Care Ltd* [2013] NZEMPC 157 at [7] and [118].

¹⁸ Including both the public and private sectors.

¹⁹ Philip Borkin *Closing the Gender Gap: Plenty of Potential Economic Upside* (Goldman Sachs & Partners New Zealand Research Report, 9 August 2011) <www.eeotrust.org.nz> [Goldman Sachs study] at 7–8.

²⁰ Goldman Sachs study, above n 19, at 8. See also Paul Mahoney *What do Men and Women Earn after their Tertiary Education?* (Ministry of Education, Tertiary education occasional paper 2011/02, September 2011) <www.educationcounts.govt.nz>.

on average £16.61.²¹

So why is the situation so dire and what can we do about it? I will first address a number of myths that persist in the area.

Onto myth busting

(a) It is just a matter of time

The first myth is that we just have to wait and the weight of numbers will eventually cause a “trickle up” effect. Well the figures I have just given you would suggest that it is not happening very fast.²² In the latest round of QC appointments, only 15 per cent were women.²³ Only 28.4 per cent of judges appointed over the five years up to September 2009 were women.²⁴ In 2010 women accounted for only 27.2 per cent of judicial appointees, and in 2011 this percentage dropped to 22.7 per cent. While 2012 saw a dramatic rise with women accounting for 45.45 per cent of appointments, there were only 11 appointments made that year, which is roughly half that of other years. To date, only two of the 13 appointments made in 2013 have been female.²⁵ This means that only 28.82 per cent of all appointments made since 2009 have been female. This is despite the fact that since the 1990s, there have been roughly equal numbers of women and men at our law schools and that admission to the profession for women has ranged from 23.2 per cent in 1980, climbing to

²¹ *Women in the Labour Market* (Office of National Statistics, 25 September 2013) <www.ons.gov.uk> at 10–11. The study also found that between the ages of 16–29, the top 10 per cent of earners of that age were almost evenly split between male and female (female between 45 and 47 per cent; male between 53 and 55 per cent). The disparity between the percentages of each gender in this top bracket increased, however, from age 30 and increased from there with men accounting for 62 per cent of the top 10 per cent 30–34 year old earners, and 74 per cent of the top earners in the 45–49 year bracket: at 18.

²² See also Catherine Fox “The Higher You Go the Wider the Gap” in CEDA report, above n 13, 21 at 30.

²³ See Christopher Finlayson “Queens Counsel Appointed” (press release, 17 May 2013).

²⁴ Jane Glover “Women on the Bench” (2010) 134 NZ Lawyer <<http://www.nzlawyermagazine.co.nz>>. Glover was provided with figures from the Ministry of Justice in September 2009, pursuant to a request made under the Official Information Act 1982. These figures would not have included four appointments made in October 2009 and one made in November of 2009, two of which were female. In terms of eligibility for appointment as a judge, just under 40 per cent of those who are eligible for appointment are women (there are 5275 men who have been admitted for greater than seven years and 3463 women): *Snapshot of the Profession 2012*, above n 8, at 13.

²⁵ These figures were manually calculated by my clerk Claire Brighton from press releases made by the Attorney General, who is responsible for appointing all judicial officers: <www.beehive.govt.nz>. They include those appointed to the District Court, Family Court, Environment Court, Court Martial, Coroner, Employment Court, Environment Court, Youth Court, Maori Land Court (appointed by the Governor General) High Court, Court of Appeal and Supreme Court. There is a margin of error in this method of calculation and the total accuracy of the figures is not guaranteed. I also note that, if women judges appointed are made in respect of male retirements as against female retirements then the overall percentage of women in the judiciary will be increasing.

42 per cent in 1990, 58.5 per cent in 2000 and reaching 61 per cent in 2012.²⁶

Given that over 40 per cent of lawyers entering the profession since 1990 have been women (ie for over 20 years), one would have expected more movement in the figures than has been seen to date, or, at very least, that the rate of female appointments to senior positions over the last five to ten years would be starting to be evenly balanced.

(b) *Everything is OK before the glass ceiling*

The next myth is that everything goes swimmingly for women until they hit a glass ceiling at senior levels. Well no, sorry. The gender gap begins from the first day of work. A study in 2010 by Statistics New Zealand found that male graduates receive on average a starting salary that is \$1890 (6.5 per cent) higher than female graduates.²⁷ Five years in, male graduates received significantly more than female graduates, with male graduates who left in 2005 receiving 18.2 percent more than female graduates.²⁸ Differential family responsibilities cannot have had much influence on these figures, particularly as people tend to start their families later now,²⁹ although it has been suggested that in the first five years of work there may be a reluctance to progress women at the same rate in terms of pay increases because of the perception that they will at some stage have children.³⁰

This is not just a New Zealand phenomenon. In Australia, the 2012 Grad Stats report shows

²⁶ Snapshot of the Profession 2012, above n 8, at 9.

²⁷ Clare Ward *Student Loans and Allowances: 2010* (Statistics New Zealand, 2 December 2011) <<http://www.stats.govt.nz>> at 6.

²⁸ Ward, above n 27, at 7. See also the report prepared by Nancy M Carter and others *High Potentials in the Pipeline: On Their Way to the Boardroom* (Catalyst, 17 July 2013) [Catalyst MBA study]. The report presented findings from an online survey conducted by the Catalyst organisation of 9,927 alumni who graduated between 1996 and 2007 from MBA programmes in leading business schools worldwide. The study began in 2000 by following the careers of graduates from top US schools and was later expanded to include graduates from top schools in Asia, Canada, and Europe. It was outlined in the report that, even after taking into account an individual's previous experience, women were still more likely than men to start in their post-MBA job at a lower level, and men had higher starting salaries. These salary differences were not due to different aspirations or parenthood: at 3. See also Paul Mahoney *What Do Men and Women Earn after their Tertiary Education?* (Ministry of Education, Tertiary education occasional paper 2011/02, September 2011) <www.educationcounts.govt.nz>.

²⁹ As noted by the Ministry of Women's Affairs, the last 50 years have seen major changes in the characteristics of families and the ways in which they are formed. Women are having children later in life, giving birth at a median age of 30 years, with a median age of giving birth to a first child of 28 years. Fertility rates for women 30 years and over have increased over the last decade. Women aged 30–34 now have the highest fertility rate: Ministry of Women's Affairs *Indicators for Change 2009 Tracking the Progress of New Zealand Women* (Wellington, February 2010) <www.mwa.govt.nz>.

³⁰ Point made by Judge Mary O'Dwyer when she was convenor of the Women's Consultative Group and cited in Diana Dekker "The Great Divide" *The Evening Post* (New Zealand, 9 March 2002).

a median full time starting salary for male graduates of \$55,000 compared to \$50,000 for women. The current graduate gender pay gap across all occupations is 9.1 per cent.³¹ A study³² conducted in the United States of MBA students from top programmes worldwide show that women are behind in level and pay from the moment of graduation, even when prior work experience, industry, region and other relevant factors are taken into account. The gender gap widens as careers progress.³³

(c) *Women choose different career paths*

Well, one possibility is that women go from law school to careers other than law, and that women fall out of the legal profession in greater numbers than their male counterparts.³⁴ It is true that law graduates do not always pursue a legal career, but it is not clear that there is a differential between men and women in this regard. It appears that there is an equal split between men and women in the lower levels of New Zealand's law firms.³⁵ More generally, by admission year, the figures of lawyers currently practising are not that different from the admissions percentages. Of those admitted in 1982, 24.2 per cent of those currently practising are women. The figures for 1992 are 45.1 per cent, for 2002 they are 54.4 per cent and for 2012 the percentage was 60.7 per cent. These figures line up roughly with the percentage of female admissions around that time.³⁶ Overall in 2010, 43 per cent of

³¹ Graduate Careers Australia Grad Stats: *Employment and Salary Outcomes of Recent Higher Education Graduates* (December 2012) <www.graduatecareers.com.au>.

³² The project followed the careers of graduates of leading business schools in the United States, Canada, Europe, and Asia. It reported on the recruitment, development, advancement, and retention of high-potential women and men and used this information to address a number of prevailing assumptions about gender inequality in the workplace. See <www.catalyst.org>. Founded in 1962, Catalyst is a non-profit membership organization expanding opportunities for women and business. It has offices in the United States, Canada, Europe, and India and more than 600 members, see <www.catalyst.org>.

³³ Nancy M Carter, Anna Beninger and Christine Silva *Global Research on High-Potential Employees: Summary of Findings* (Catalyst, 2013) <www.catalyst.org> [Catalyst High-Potential Employees study].

³⁴ Gill South has noted that formal statistics surrounding the attrition rates of women in New Zealand's legal profession are notoriously hard to find. She notes, however, that there appears to be agreement amongst members of the profession that substantial numbers of women choose to leave the profession every year: Gill South "Through the Glass Ceiling" *New Zealand Herald* (22 May, 2010). Professor Elizabeth McDonald has said that the question that the legal fraternity needs to ask is why so many women are leaving the legal profession. She notes that by the time women become eligible to be judges (seven years with a practicing certificate) the number of women have dropped from around 60 per cent to 30 per cent: Turei Mackey "Why are so Few Women in the Senior Levels of Law?" (2013) 828 *LawTalk* at 5. In the United States, research has been conducted with regard to the attrition rates of women in the legal profession. For instance: Mervyl McPherson *Workplace Age and Gender: Trends and Implications* (Equal Employment Opportunities Trust, Auckland, July 2009) refers to research undertaken in the United States which states that the loss of 50 per cent of women from the legal profession in their first five years can be attributed to the billable-hour system and long hours.

³⁵ South, above n 34.

³⁶ In 1980 there were 216 admissions, 23.2 per cent of which were female; in 1990 there were 293

practising lawyers were women. The percentage had increased slightly in March 2013 to just under 45 per cent.³⁷ So women make up a very significant percentage of the legal profession. This seems to suggest that, if women are leaving the profession, the rates are similar to those of men leaving.

The phenomenon whereby, after three to five years in private practice, women lawyers in New Zealand leave private firms to move to a corporate or public-sector law job does, however, appear to have validity.³⁸ In the 2012 Human Rights Commission survey it is noted that women comprise almost 60 per cent of in-house lawyers. In New Zealand, in-house lawyers comprise only 20 per cent of those holding practicing certificates.³⁹

It is also true that there are differences in the types of law women specialise in but the question may be whether this is really through choice or through stereotypes. For example, 70 per cent of family lawyers are women and 63 per cent of those in health law. By contrast, almost 70 per cent of those who specialise in banking and finance law are men and men make up 65 per cent of those who specialise in civil litigation and company and commercial law.⁴⁰

(d) *It is all to do with family responsibilities*

It has been suggested that women do not wish to advance because of child rearing responsibilities. A US study examined this argument by looking at the position of women who do not have children and the position of women who do aspire to advancement. They found that, even from the start of their career, these women still lagged behind men. Further, the gender gap increased as their careers progressed.⁴¹ Part of this may be an assumption that women do not wish for advancement. One US CEO⁴² has stressed the importance of asking women about their aspirations:⁴³

admissions, 42 per cent of which were female; in 2000 there were 429 admissions, 58.5 of which were female; and in 2012 there were 925 admissions, 61 per cent of which were female: Snapshot of the Profession 2012, above n 8, at 9.

³⁷ Both the 2012 and 2012 figures can be found in Snapshot of the Profession 2012, above n 8, at 6.

³⁸ Sarah Catherall "A rare breed of legal eagles" *The Dominion Post* (3 November 2007).

³⁹ There are 2313 in-house lawyers in New Zealand, compared with an overall 11,541 lawyers holding practicing certificates across the nation: Snapshot of the Profession 2012, above n 8, at 5 and 7.

⁴⁰ Women's Participation Census 2012, above n 2, at 75.

⁴¹ Catalyst MBA study, above n 28.

⁴² James S Turley of Ernst & Young quoted in Nancy M Carter and Christine Silva *Pipeline's Broken Promises* (Catalyst, 2010) <www.catalyst.com> at 5 [emphasis added].

⁴³ Christine Silva and Nancy Parker "New Research Busts Myths about the Gender Gap" (6 October 2011) Harvard Business Review Blog Network <blogs.hbr.org>.

When I hear someone say that the woman doesn't want that job promotion, I cringe. Most times they're wrong. Did she really say it? Or did someone *say to her* that she doesn't want it? There's a huge difference between 'do you want this job?' and 'you don't really want that job, do you?' Or, even worse, the question isn't even asked. It's a silent problem. Asking begins to address the problem, and *how* we ask matters.

(e) *Mentoring is the key*

Over recent years, there has been a real effort to mentor and develop women. It has been suggested that this, while very laudable, does not suffice. A US study⁴⁴ of the career progression of recent MBA graduates shows that, while men and women are just as likely to receive mentoring and will both benefit from this in terms of job placement and compensation, the benefit that men gain from mentoring is significantly greater. On average, men are 93 per cent more likely in their first post-graduation job to be placed at a mid-manager level if they are mentored; the figure for women is only 56 per cent. Men will receive an average additional \$US6,726 if they are mentored, while mentored women will only receive an additional average \$US661. Men with mentors will on average be paid \$US9,260 more in their first job than women with mentors.⁴⁵

One explanation for the differential between men and women with mentors may be that men's mentors tend to be higher placed in an organisation.⁴⁶ The US Study found that women with high profile mentors were promoted at the same rate as men with the same level mentors, though women did receive less compensation.⁴⁷

Commentators have noted that what women really need are sponsors at a high and influential level who will advocate for them when advancement decisions are being made.⁴⁸ The US study found that having a mentor in a high position in a company increased career development. Women, however, tend to be over-mentored and under-sponsored relative to their male peers.⁴⁹

⁴⁴ Nancy M Carter and Christine Silva *Mentoring: Necessary but Insufficient for Advancement* (Catalyst, 2010) <www.catalyst.org> [Catalyst mentor study].

⁴⁵ Catalyst mentor study, above n 44, at 3.

⁴⁶ More men than women have a mentor at the CEO or senior executive level (62 per cent of mentored men versus 52 per cent of mentored women): Catalyst mentor study, above n 44, at 4.

⁴⁷ Catalyst mentor study, above n 44, at 5.

⁴⁸ Catalyst mentor study, above n 44, at 1.

⁴⁹ Herminia Ibarra, Nancy M Carter and Christine Silva "Why Men Still get More Promotions than Women" (September 2010) Harvard Business Review <hbr.org>.

(f) *Women should network more*

The Old Boys Club is certainly alive and well. Women have been fighting back with their own networks. These can be valuable (and very supportive) but not at the expense of keeping up general cross-gender networks.

It has even been suggested by one commentator that initiatives aimed at women are doing nothing to advance gender balance.⁵⁰ She says that women's networks are popular both with women and men. Women often feel more comfortable with other women and men enjoy feeling that they have given women equal opportunities, even if separate. She suggests that these types of initiative "confirm in everyone's minds that the lack of balance is because of women and their choices. The reality is that the lack of balance is usually because of the mind sets and cultures introduced and maintained by the majority currently in power". Unless these prevailing views are confronted, in her view women's clubs will do little to reduce gender inequality in any material way.⁵¹

(g) *It is all about merit*

Let us look at the issue of merit through a medium divorced from the law: orchestras. Clearly you want the best musicians for an orchestra, right? You are auditioning for talent. Orchestras, in the past, have however, traditionally been predominantly male. Comments had been made to justify this by prominent conductors: for example women have "smaller techniques" (whatever that means).

In the 1970s, there were around 10 per cent female members of US orchestras. This had increased to 35 per cent in the mid 1990s. Why the increase? The acquisition of "larger techniques" by women musicians you venture? Not at all - the increase has been attributed to the introductions of musicians auditioning behind a screen so that the gender of the players was unknown.⁵² This story shows that our perceptions of merit can be influenced by our subconscious biases.

⁵⁰ Avivah Wittenburg-Cox "Three Diversity "Best Practices" that Hurt Women" (12 November 2012) Harvard Business Review Blog Network <blogs.hbr.org>. See also Avivah Wittenburg-Cox *How Women Mean Business* (John Wiley & Sons Ltd, West Sussex, 2010).

⁵¹ Wittenburg-Cox "Three Diversity "Best Practices" that Hurt Women", above n 50. This is an extreme viewpoint but it nevertheless draws attention to an important point. Women cannot do it all on their own.

⁵² See Claudia Goldin and Cecelia Rouse "Orchestrating Impartiality: The Impact of "Blind" Auditions on Female Musicians" (2000) 90 Am Ec Rev 715.

There have been other studies showing the same phenomenon. For example, in a study conducted in 2012, science faculty members from top universities in the US were asked to rate applications for a laboratory manager position. Identical applications were randomly assigned either a male or female name. The male applicant was rated as significantly more competent and hireable than the (identical) female applicant. Participant faculty members also selected a higher starting salary and would have offered more career mentoring to the male applicant.⁵³

Our views of merit can also be influenced by our views of what qualities a job needs and our stereotypes of male and female characteristics. In 2007, two psychologists undertook research on gender discrimination and other challenges faced by professional women.⁵⁴ A key finding of their research was that people associate men and women with different traits and link men with more of the traits that connote leadership (at least the old-fashioned view of leadership). Women are associated with communal qualities, which convey a concern for the compassionate treatment of others.⁵⁵ By contrast, men are associated with qualities like assertion and control.⁵⁶

Women cannot win, however. If they show more aggressive traits, they can suffer prejudice because they are acting outside the traditional role.⁵⁷ One study undertaken at Columbia Business School had students scrutinise two CV's: one for Howard Roizen and one for Heidi Roizen. The CV showed that Howard/Heidi had worked for Apple, launched his/her own software company and been a partner in a venture capital firm. He/she was outgoing, an incredible networker (Bill Gates was a personal friend) and described by colleagues as a "catalyst" and "captain of industry". The CV's were exactly the same, apart from the name. When asked to judge Howard, the students judged him to be effective and likeable. When it came to Heidi, although they also judged her competent, they thought her aggressive and

⁵³ Corinne A Moss-Racusin and others "Science Faculty's Subtle Gender Biases Favour Male Students" (2012) 109 PNAS 16474.

⁵⁴ Alice Eagly and Linda Carlii "Women and the Labyrinth of Leadership" (September 2007) Harvard Business Review <hbr.org>. The full research is published in Alice Eagly and Linda Carlii *Through the Labyrinth: The Truth About How Women Become Leaders* (Harvard Business Press Books, Boston, 2007).

⁵⁵ Eagly and Carlii "Women and the Labyrinth of Leadership", above n 54, at 4–5.

⁵⁶ Eagly and Carlii "Women and the Labyrinth of Leadership", above n 54, at 5. See also *Realising the Opportunity: Addressing New Zealand's Leadership Pipeline by Attracting and Retaining Talented Women* (Ministry of Women's Affairs, September 2013) at 4–6.

⁵⁷ See Jennifer Whelan "The Barriers to Equality of Opportunity in the Workforce: the Role of Unconscious Bias" in CEDA report, above n 13, at 96. See also *Realising the Opportunity: Addressing New Zealand's Leadership Pipeline by Attracting and Retaining Talented Women*, above n 56, at 5.

would not want to work with her.⁵⁸ Similar responses were received from both female and male student participants, showing that gender stereotypes are internalized by both sexes.⁵⁹

Another, more extreme example, is the media treatment of ex Australian Prime Minister Julia Gillard, which shows that vilification of women who do not fit stereotypical ideas of how women should behave is alive and well.⁶⁰ Margaret Thatcher, Israel's first Prime Minister Golda Meir, and India's first Prime Minister Indira Gandhi, were subjected to similar vilification.⁶¹ New Zealand examples of this are not unknown.

Perceptions of what makes a good leader, however, are changing. The irony is that the so called 'female characteristics' that have often been viewed in a negative light are now understood to be highly beneficial in leadership roles. It has been suggested that women are more likely than men to bring a more complete range of the qualities needed by modern leaders, including self-awareness, emotional attainment, humility and authenticity.⁶² This is a reflection of how men have adapted in response to a culture that judges them by their ability to project strength and confidence.⁶³

It is important, however, that decision-makers identify and rely on the strengths that particular candidates actually possess (whatever their gender), rather than relying on stereotypes.

⁵⁸ Cited in Hannah Piterman "Diversity and Gender: Realities for Growth in the Global Economy" in CEDA report, above n 13, 99 at 105. See also the discussion and assessment of the study in Sheryl Sandberg *Lean In: Women, Work, and the Will to Lead* (Knopf, New York, 2013) at 39–42.

⁵⁹ Research has shown that both men and women internalise gender bias: B A Nosek and others "National Differences in Gender-Science Stereotypes Predict National Sex Differences in Science and Math Achievement" (2009) Project Implicit < www.projectimplicit.net>; M Heilman, R Martell and M Simon "The Vagaries of Sex Bias; Conditions Regulating the Undervaluation, Equivaluation, and Overvaluation of Female Job Applicants" (1998) 41 *Organisational Behaviour and Human Processes* 98.

⁶⁰ Gillard was subjected to verbal abuse from politicians and media such as "ditch the witch" and "a lying cow" and "political slut". Her integrity and her status as single and childless were also targeted. For example, she was referred to as "deliberately barren" by Senator Bill Heffernan: see Piterman, above n 58, at 106–107.

⁶¹ Margaret Thatcher was derogatorily called "Attila the Hen", Golda Meir was referred to as "the only man in cabinet", and Indira Gandhi was called an "old witch": Sandberg, above n 58, at 40–41.

⁶² Tony Schwartz "What Women Know about Leadership and Men Don't" (Harvard Business Review Blog Network, 20 October 2012) <blogs.hbr.org>. See also Paul Taylor and others *A Paradox in Public Attitudes: Men or Women: Who's the Better Leader?* (Pew Research Centre, 25 August 2008) <www.pewsocialtrends.org>. For a discussion of the attitude that traditional female qualities run directly counter to the objectivity needed in the judiciary, and the arguments dispelling these views see: Schulz and Shaw, above n 8.

⁶³ Tony Schwartz "What Women Know about Leadership and Men Don't" (Harvard Business Review Blog Network, 20 October 2012) <blogs.hbr.org>.

(h) *Women need to employ the right strategies to succeed*

A couple of years ago, I spoke at a seminar for young lawyers and one of the other speakers spoke of the “good girl” syndrome whereby young women think that just performing well is all that matters. The speaker told the participants that they had to do more self promotion. Certainly that was good advice, but the more I think about it, the more I have been asking myself why just doing a good job is not enough. Surely those looking for candidates to promote should search out talent and quality and not be taken in by empty hype.

In any event, a recent US study found that high potential women and men employ very similar tactics to get ahead. The strategies just paid off for men more than they did for women in terms of pay and advancement.⁶⁴

This myth also provides an example of why one writer has said that achieving workplace equality is the ultimate chicken and egg situation. The ‘chicken’ approach is that women will tear down external barriers once they are in positions of leadership from which they can effect change. The ‘egg’ approach is that these external barriers need to be eliminated first to enable women to get into those positions of leadership.⁶⁵ The writer argues that battles need to be waged on both fronts simultaneously.

The view that women simply need to be more strategic or promote themselves more overlooks the fact that women who do so are often viewed in a negative light.⁶⁶ As demonstrated by studies such as the Howard/Heidi Roizen experiment discussed above, self promotion may even prejudice career progression. Until gender stereotypes and unconscious biases are overcome, women will struggle to make it to the top, regardless of the strategies they employ.⁶⁷

(i) *We are doing you a favour*

Ensuring gender equality in the work place is far from providing a favour to the female population. To the contrary, it is economic commonsense. As was noted in an article in *The Economist*, the increase in female employment in the modern developed world has been the

⁶⁴ Catalyst High-Potential Employees study, above n 33, at 2.

⁶⁵ Sandberg, above n 58, at 8–9.

⁶⁶ Sandberg, above n 58, at 39–42.

⁶⁷ See *Realising the Opportunity: Addressing New Zealand’s Leadership Pipeline by Attracting and Retaining Talented Women*, above n 56, at 4–9.

main driving force of growth in the past couple of decades. The surge in female employment has also contributed more to global GDP growth than new technology or the new global powers, China and India.⁶⁸

A number of studies now also confirm that companies with a gender balance perform better.⁶⁹ Where there is a critical mass of more than two or three⁷⁰ women are on a board, improvements are seen in the ethical practice and accountability, scrutiny and unity, and transparency of a company.⁷¹ Companies with high levels of gender diversity also outperform others in their sector in terms of stock price growth, return on equity and operating result.⁷² Even if not causally linked to the presence of women as such (and some say it is), the better performance of more diverse companies may just be because they are not wasting talent.

Diversity at senior levels may also lead to greater understanding of the client or customer base in many organisations. The customer base of the vast majority of businesses reflects the diversity of the general population. It is important that there are people placed in management roles who understand and can respond to each of the specific sub-groups and markets within a company's customer base. For example, women account for a large percentage of consumer purchasing decisions. One study showed that women are the driving force behind more than 70 per cent of household purchases.⁷³ This is a large market to tap. Indeed, having the ability to understand their entire client base may be one of the reasons why companies with diversity within their boards excel.⁷⁴

There is, however, also an ethical case for diverse workplaces, based on our commitment to

⁶⁸ "The Importance of Sex" *The Economist*, (United States, 12 April 2006) <www.economist.com>.

⁶⁹ See: Georges Desvaux, Sandrine Devillard-Hoellinger and Pascal Baumgarten *Women Matter: Gender Diversity, a Corporate Performance Driver* (McKinsey & Company, 2007) <www.europeanpwn.net> [McKinsey study] at 12–14; Nancy M. Carter and others *The Bottom line: Corporate Performance and Women's Representation in Leadership* (Catalyst, 15 October 2007); N Barnett, K Morley and H Piterman *Gender Agenda: Unlocking the Power of Diversity in the Boardroom* (Insyc Surveys and Gender Worx, 2010) all cited in Piterman, above n 58, at 103.

⁷⁰ Different studies suggest that two or three women board members are needed for any effect to be felt. This will clearly depend on the size of the board itself: compare: McKinsey study, above n 69, at 12; Piterman, above n 58, at 103.

⁷¹ Piterman, above n 58, at 103.

⁷² McKinsey study, above n 69, at 14.

⁷³ McKinsey study, above n 69, at 10. These figures are from a study conducted in Europe. In the US the figure is over 80 per cent: McKinsey study, above n 69, at endnote 14. The same argument applies to ensuring the workforce reflects the makeup of society generally.

⁷⁴ Business New Zealand, The Institute of Directors in New Zealand, and the Ministry of Women's Affairs *Women on Boards: Why women on company boards are good for business* (2009) <mwa.govt.nz> at 8.

human rights. The right to equality, reflected in the right to be free from discrimination, is contained in the New Zealand Bill of Rights 1990,⁷⁵ the Human Rights Act 1993⁷⁶ and in a number of international instruments to which New Zealand is a signatory.⁷⁷ The same arguments can also be made for maintaining diversity generally within the workplace and board room.⁷⁸

(j) *Women do not help other women get ahead in their careers*

The argument here is that those few women who make it to the top view other upcoming women as a threat and may even actively keep them down to ensure that their own position is not challenged.⁷⁹ Certainly there are instances where this occurs.

However, a recent Catalyst study found that this, as a general phenomenon, was not correct. Women are actually more likely than their male counterparts to assist the development of others, especially other females.⁸⁰ I suggest that this myth may be attributable to unrealistic expectations of how much even those women who are in senior positions can do to close the gender gap without structural changes.

(k) *Prejudice is a thing of the past*

People may now be more wary of expressing prejudice. They may even think they have none. The Harvard Implicit Association Testing (IAT) tests, however, show that it is alive

⁷⁵ Section 19.

⁷⁶ Section 22.

⁷⁷ For example the Universal Declaration of Human Rights, preamble; International Covenant on Civil and Political Rights, art 3; Convention on the Elimination of Discrimination Against Women, art 2 and 11; Convention on the Rights of the Child, art 2.

⁷⁸ For example, ethnic diversity and for the disabled. See the International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Rights of Persons with Disabilities; and the Declaration on the Rights of Indigenous Peoples. Diversity generally also makes business sense for the reasons discussed earlier in this section.

⁷⁹ See for example Holly Ranson "The Young and the Restless: Gen Y and the 21st Century Barriers to Women in Leadership" in CEDA report, above n 13, 65, at 72-74. Ranson cites a study by the Workplace Bullying Institute that found that women were more likely to bully other women (71 per cent) than men were to bully other men (54 per cent). The methodology of the study is not discussed, however, and I have not had access to the study to be able to opine on how its results might compare to the Catalyst research. For example the following questions might arise: What was the definition of bullying? Was it self-reported? Were young women more likely to admit to being bullied than young men? Was the same behaviour perceived as bullying when done by women but not by men? Did men in positions of authority bully or harass young women at a similar rate?

⁸⁰ Catalyst High-Potential Employees study, above n 33, at 3. This assistance may, however, not be as valuable as it could be if the women mentors are not in a position to be sponsors.

and well and translates into actual discrimination and stereotyping.⁸¹ Such prejudice is in many ways more difficult to combat as by definition it is hidden and unconscious.

What can be done?

So what can we do? Well we can do the things that have been suggested today – overcome hesitations, put ourselves forward, do more self promotion, do not wait until we are 100 per cent qualified before applying; make like the men and apply at 60 per cent qualified.⁸² But the main task is for the chaps. At the centre of the issue is a disproportionate amount of men in senior positions. Accordingly, any real change will require those males at the top to commit to ensuring that the playing field is levelled.⁸³ And it will be our task to encourage, cajole, persuade and finally to insist that they do so.

In this regard, I note a very encouraging new initiative in Australia, facilitated by the Sex Discrimination Commissioner, Elizabeth Broderick.⁸⁴ Over 20 corporate and government chief executives, non-executive directors and department heads in Australia recently signed up to a new initiative called “Male Champions of Change”. This collaboration between public and private sector leaders includes members representing Qantas, Treasury, IBM, Citi, the Australian Public Service Commission, Telstra, and KPMG among others. The initiative’s goal is to achieve significant and sustainable increases in the representation of women in leadership in Australia. In 2013 they released a report outlining strategies for bringing this about, which emphasises the role that men must play in achieving workplace

⁸¹ For example the Implicit Association Testing has found implicit stereotypes associating science with males more than with females. The project report suggested that implicit stereotypes were contributing to the persistent gender gap in science engagement: Brian A Nosek and others *National Differences In Gender–Science Stereotypes Predict National Sex Differences In Science and Math Achievement* (2009) 106 PNAS 10593. IAT has, however, been subject to criticism. It has, for example, been criticised for its potential to assess familiarity, or cultural knowledge or salience asymmetries contained in the test as bias: Hal R Arkes and Philip E Tetlock “Attributions of Implicit Prejudice, or ‘Would Jesse Jackson ‘Fail’ the Implicit Association Test?” (2004) 15 Psychological Inquiry 257; K Rothermund and D Wentura “Underlying processes in the implicit association test: dissociating salience from associations” (2004) 133 J Exp Psychol Gen 139. Other studies, however, suggest that these concerns are overstated and IAT testing is still valid: Scott A Ottaway, Davis C Hayden and Mark A Oakes “Implicit Attitudes and Racism: Effects of Word Familiarity and Frequency on the Implicit Association Test” (2001) 19 Cognition 97; LA Rudman and others “Measuring the automatic components of prejudice: Flexibility and generality of the Implicit Association Test” (1999) 17 Social Cognition 437.

⁸² According to an internal Hewlett-Packard survey: Georges Desvaux, Sandrine Devillard-Hoellinger and Mary C Meaney “A Business Case for Women” (September 2008) The Mckinsey Quarterley <www.mckinseyquarterley.com> cited in Sandberg, above n 58, at 62.

⁸³ See the discussion of the importance of obtaining the support of leadership in Wittenburg-Cox *How Women Mean Business*, above n 50, from 97.

⁸⁴ See <www.humanrights.gov.au>.

equality.⁸⁵

Another initiative worth mentioning is one carried out by the Harvard Business School.⁸⁶ The initiative was in response to difficulties in attracting and retaining female professors, discrepancy between tenured female and male professors and a trend of female students arriving with similar grades to their male counterparts but falling behind as they progressed. Over a two year period the School gave itself a “gender makeover” changing its curriculum, rules and social rituals to foster female success. This included installing stenographers in the classroom to guard against biased grading and providing private coaching to untenured female professors. By graduation, the school had become a markedly better place for female students, according to interviews with more than 70 professors, administrators and students, who cited more women participating in class, record numbers of women winning academic awards and a much-improved environment.⁸⁷

It has been suggested that a number of steps should be taken within organisations to facilitate more diversity at the higher levels of employment. Action must be targeted and strategic. Raising awareness of the issues, while important, must be coupled with strategic process and systemic changes. If firms want to harness the financial and strategic benefits of greater gender diversity, they will likely need to make sustainable modifications.

Avivah Wittenburg⁸⁸ has suggested a four-part strategy for achieving gender balance in businesses. First, the firm should carry out a ‘gender audit’ to assess the gender balance within the firm, compare it with other similar organisations and assess the impact that this has on the firm’s image. This will provide a foundation on which to build awareness and obtain buy-in from those in leadership.

Second, a firm must undergo an ‘awareness phase’ which requires bringing home the importance of gender balance issues to those in leadership positions. It is important here that attention is drawn to the psychological drivers of prejudice toward female leaders so that

⁸⁵ *Accelerating the Advancement of Women in Leadership: Listening, Learning, Leading* (Male Champions of Change, November 2013) <www.humanrights.gov.au> [Male Champions of Change report].

⁸⁶ Jodi Kantor “Harvard Business School Case Study: Gender Equity” (7 September 2013) *New York Times Online* <www.nytimes.com>.

⁸⁷ The School also, however, experienced a backlash with some students wearing “Unapologetic” T-shirts protesting what they called intrusive social engineering.

⁸⁸ Wittenburg-Cox *How Women Mean Business*, above n 50, at 8–14.

steps can be taken to address and dispel these perceptions.⁸⁹ Compulsory unconscious bias training for those in management positions, for example, can better equip persons in decision-making roles to self-reflect and recognise bias in their attitudes.⁹⁰ Holding workshops where participants from all levels in an organisation discuss probable causes of and strategies to combat inequality has also proved effective.⁹¹

The third of Wittenburg's phases is the 'alignment phase' where awareness is translated into the processes systems of the firm. Ways that this could be done include:

- Using open-recruitment tools, such as advertising and employment agencies, rather than relying on informal social networks and referrals to fill positions.⁹²
- Drafting recruitment criteria in a way that encourages women to put themselves forward and to ensure that women are not unconsciously 'written out' of executive aspirations by the organisation or by themselves.⁹³
- Changing the long-hours norm, so that the prime indicator of someone's worth to an organisation is not hours spent at work but objective measures of productivity.⁹⁴
- Ensuring that recruitment, appraisal and career management systems do not hold women back. For example, not excluding those who are working to a different time frame because of maternity leave.⁹⁵ Also, ensuring that recruitment and promotion decisions are based on respective gender neutral

⁸⁹ CEDA report, above n 13, at 8 and 108.

⁹⁰ One of the strategies discussed in the Male Champions of Change report was compulsory unconscious bias training: Male Champions of Change report, above n 83, at 10–13. Recently, the Business Council of Australia released a radical set of guidelines for its members, including recruitment short-lists containing at least 50 per cent women and unconscious bias testing for CEOs: Fiona Smith and Tony Boyd "Chief Executives Advance 'no women no work' Policy" *Sunday Star Times* (New Zealand, November 10 2013) at D3.

⁹¹ Deloitte's Australian offices recently launched an inclusive leadership program, which was then extended to a firm nation-wide roll-out: Male Champions of Change report, above n 83, at 12.

⁹² Eagly and Carlii "Women and the Labyrinth of Leadership", above n 54, at 8–9.

⁹³ One pilot initiative found that replacing the term "overseas experience" with "overseas mindset" as a threshold requirement for senior leadership increased the pool of women candidates for leadership roles. This was because long-term local employees with partners and/or caring responsibilities were less likely to have had significant experience working overseas. As a result the overseas experience requirement inadvertently created a male-dominated pipeline: Male Champions of Change report, above n 83, at 25.

⁹⁴ Eagly and Carlii "Women and the Labyrinth of Leadership", above n 54, at 8–9.

⁹⁵ McKinsey study, above n 69, at 21.

measures of merit.⁹⁶

- Promoting alternate career paths and committing to later entry for high level positions such as legal partnership.⁹⁷
- Unambiguously encouraging women to return to work after taking time off to raise a family.⁹⁸
- Establishing family-friendly human resource practices: these may include flexi-time job sharing, part time work, shorter hours,⁹⁹ telecommuting, term-time working,¹⁰⁰ and in some cases on-site child care.¹⁰¹ Interestingly, a study carried out by Catalyst showed that women and men both valued flexible work practices and that, this applied both to those with children at home and those without. It is not just the Millennials¹⁰² who value this opportunity. Catalyst found that the mean age of high potential employees who reported flexibility was very important to them was 41 years old.¹⁰³
- Making sure that women are not channelled from early in their careers into particular career trajectories where promotion will be difficult. Instead, ensure that they are given access to the experience and opportunities needed to

⁹⁶ CEDA report, above n 13, at 8.

⁹⁷ *Setting the Agenda for Change* (International Women in Law Summit 2012, 8 March 2012) <www.timberlakepublishing.com> at 20.

⁹⁸ Male Champions of Change report, above n 83, at 34. See also Jamie Atkinson “Do Women Returning to Work Following Maternity Leave have Access to Quality Part-Time Work?” (2013) 34 *Business Law Review* 130 at 132–133.

⁹⁹ Sandberg, above n 58, at 127–133.

¹⁰⁰ For a discussion of a wider range of flexible work arrangements as well as a discussion of some of the arguments against these see: *Realising the Opportunity: Addressing New Zealand’s Leadership Pipeline by Attracting and Retaining Talented Women*, above n 56, at 14–19.

¹⁰¹ A study of 72 large US firms showed that family-friendly HR practices instigated in 1994 increased the proportion of women in senior management over the subsequent five years: George F Dreher “Breaking the glass ceiling: The effects of sex ratios and work–life programs on female leadership at the top” (2003) 56 *Human Relations* 541. See also Male Champions of Change report, above n 83, at 34–36.

¹⁰² Members of generation Y. They are young employees, born roughly in the period between the 1980s and 2000s.

¹⁰³ Anna Beninger and Nancy M Carter *The Great Debate: Flexibility vs Face Time Busting the Myths Behind Flexible Work Arrangements* (Catalyst, 8 July 2013) <www.catalyst.org> at 3. See also *Setting the Agenda for Change*, above n 97, at [1.4] and Male Champions of Change report, above n 83, at 27–31. A recent study carried out by the former Department of Labour found that only a small majority (55 per cent) of requests for flexible work arrangements related to caring responsibilities: Ingrid Squire “From the Law Society” (2013) 825 *LawTalk* at 2.

advance to management positions.¹⁰⁴

- Using soft regulation or diversity targets¹⁰⁵ to encourage more gender diverse appointments.¹⁰⁶
- Sustaining gender diversity by creating ownership and imposing responsibility on individuals for the maintenance of diversity practices. For example, by adding gender diversity policies to performance indicators.¹⁰⁷
- Adopting a framework for reporting women's advancement into senior leadership positions.¹⁰⁸
- Establishing supplier commitments that use the risk of losing business either to impose or encourage diversity guidelines for suppliers.¹⁰⁹

Wittenburg's final stage is 'sustainability'. True change can take decades and momentum must be maintained. Further, not all techniques and initiatives will work for every workplace. It is a matter of trialling strategies, testing results and ensuring that there is an open dialogue within the institution where experiences can be shared.

¹⁰⁴ The Australian Treasury found that it was creating a pipeline issue with early inadvertent streaming. At the graduate level, women were perceived to be more capable of taking on stakeholder engagement and networking roles. As a result, more men were directed to analytical roles. Then, at more senior levels women were penalised for having insufficient time in analytical roles: Male Champions of Change report, above n 83, at 26.

¹⁰⁵ ANZ and Telstra in Australia trialled a 'Plus One' initiative, where they set as an annual goal for all their branches a goal of hiring a minimum one female into a position of senior management. This was based on a previous initiative by Citi Group. Citi had found that 75 per cent of its businesses achieved the goal with a 9 per cent year-on-year increase in women Senior Vice President roles and above. Momentum continued with a 24 per cent year-on-year increase in 2012: Male Champions of Change report, above n 83, at 17–18.

¹⁰⁶ It has been argued that imposing mandatory quotas can be viewed as harmful. They are seen as heavy handed and may result in tokenism, which would hamper progress. These concerns, however, may be overstated. Tokenism is unlikely given the sheer number of experienced and qualified women in the business sector: Fox, above n 22, at 28–29. For statistics of a survey taken by the International Women in Law Summit in 2012 regarding the value of targets see: *Setting the Agenda for Change*, above n 97. The survey found that just under 32 per cent of participants thought quotas were necessary, 23 per cent were neutral and just under 45 per cent were against or strongly against them. Interestingly there was stronger support for quotas amongst 18–34 age groups and a bias against quotas in 44–60 age groups.

¹⁰⁷ CEDA report "Executive Summary", above n 13, at 8.

¹⁰⁸ One of the initiatives adopted by the male Champions of Change in their 2013 report, involved adopted a framework for greater transparency in reporting the advancement of women into senior leadership positions within their organisations for their next reporting period: Male Champions of Change report, above n 85, at 15–17.

¹⁰⁹ In 2013, 14 organisations including Treasury, Telstra, ANZ Banking Group, Commonwealth Bank of Australia, Telstra, Qantas, and Woolworths associated with the Male Champions of Change signed up to a supplier commitment that affects about \$AU30 billion in procurement spending. Conditions for suppliers include equal pay and parental and carers' leave provisions. The commitment also records that a database of female-owned businesses will be made to facilitate increased procurement from those businesses: Smith and Boyd, above n 90.

Dr Judy McGregor in the 2012 Human Rights Commission report¹¹⁰ refers to a recent World Bank YouTube campaign *Think Equality for Women and Girls*. The video, at the end, after asking “What can I do?” runs through a list that includes “discuss, debate, yell, speak, fight, vote, demand, change”. Let’s do it.

¹¹⁰ Women’s Participation Census 2012, above n 2, at 6.