ADVANCING WOMEN IN LEADERSHIP: MULTI-LEVEL TARGETS AND MANDATORY QUOTAS IMPACT ON CULTURAL CHANGE

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Abstract

The developing worldwide movement for gender equality has focused in recent years on the participation of women at the pinnacle of organisations, in boards of directors and senior executive ranks. A recurring question is whether this will fundamentally change the position of women in work, or simply enhance the career structure of a few fortunate women? This paper contributes to the literature by taking the analysis beyond the form of regulation used by governments, to the behavioural changes they hope to effect. The paper informs regulatory theory by exploring the potential effects of voluntary self regulation compared to mandatory regulation. Following an analysis of the case for and against quotas and targets, we argue that if the regulatory objective is to stimulate cultural change within corporations, a flexible, voluntary regime could in some circumstances be more effective than a mandatory quota system. Yet no approach is likely to be effective unless there is in place a solid platform of provision for women's continuing participation in the labour force including affordable and accessible child-care, supportive taxation measures, and equal opportunity policies.

Keywords:

Women in Leadership / Quotas and Targets/ Regulation and Cultural Change

Advancing Women in Leadership: Multi-Level Targets and Mandatory Quotas Impact on Cultural Change

Introduction

The developing worldwide movement for gender equality has focused in recent years on the participation of women at the pinnacle of organisations, in boards of directors and senior executive ranks. The introduction in Norway of quotas for women on corporate boards has had great impact internationally, with advanced industrial countries either legislating quotas or opting for significant and strategic voluntary targets for women's participation on corporate boards (Machold et al 2013 Teigen 2012a). A recurring question is whether this will fundamentally change the position of women in work, or simply enhance the career structure of a few fortunate women (Seierstad and Opsahl 2011). Since it appears the Norwegian quota for board members is having little impact on the number of female CEOs in Norway, there is a need for deeper analysis and explanation of the causes of women's continuing lack of presence in senior management ranks which relate to the unique social and economic role women predominantly occupy in contemporary society.

This paper uses the example of soft regulatory intervention in Australia and evidence relating to its effect on corporate behaviour to add to the debate on women's participation in corporate leadership. It contributes to the literature by taking the analysis beyond the form of regulation used by governments, to the behavioural changes they hope to effect (Aguilera et al 2007). Do we simply want more women in leadership or do we want to encourage cultural change within the business sector? The research presented in this paper explores both the top-down and bottom-up cultural and organisational processes that can be triggered in corporations by the introduction of regulation to improve gender diversity in corporate leadership. It informs regulatory theory by exploring the potential effects of voluntary self regulation compared to mandatory regulation. We argue that if the regulatory objective is to stimulate cultural change within corporations, a flexible, voluntary regime could in some circumstances be more effective than a mandatory quota system. Yet no approach is likely to be effective unless there is in place a solid platform of provision for women's continuing participation in the labour force including affordable and accessible child-care, supportive taxation measures, and equal opportunity policies.

The first part of the paper examines the problem that recent regulation is attempting to solve – the lack of women on corporate boards and in senior executive teams. It draws on relevant literature, the quantitative findings of the Australian Census of Women in Leadership and qualitative data obtained in interviews with female company directors to explore the reasons behind the low levels of female corporate leaders. It provides a reminder of the economic and business case for improving the number of women in corporate leadership. Our evidence confirms that the lack of women at the top of the corporation is caused partly by the continuing disappearance of women lower down in the corporate hierarchy. This suggests that any government intervention ought to be targeting, or at least taking into account, the reasons for women's departure from mid-management and not focusing solely on leadership positions. The second part of the paper explores the potential solutions to the lack of women in leadership. Many governments in Europe have put in place mandatory quotas for women on corporate boards backed by legal sanctions. Others have taken a softer voluntary approach by recommending that companies set targets and/or disclose policy on gender diversity. The paper reviews the advantages and disadvantages of these different regulatory mechanisms including a close look at the Australian approach. Again, it draws on relevant literature, the Australian Census of Women in Leadership and interview data.

Theory: The Complex Inter-relationships of Regulation and Institutional and Cultural Change

This paper addresses the complex inter-relationships of regulation and institutional and cultural change with regard to increasing the number of women in corporate leadership. Successive waves of the feminist movement in the 20th century successfully dismantled the most evident barriers to the economic progress of women including securing access to birth control, the right to vote in national elections, access to higher education and the professions, and eventually the right to equal pay and paid maternity leave. Certainly women progressively made successful assaults in the battle of ideas and raised awareness, and Australian women have contributed to this with Carmen Calil forming the first feminist publishing house Virago in 1973, following Germaine Greer's publication of *The Female Eunuch* in 1970. As long ago as 1946 the United Nations created the Commission on the Status of Women, and in 1979 adopted the Convention on the Elimination of Discrimination Against Women (never ratified by the United States). In the UK the Equal Pay Act (1970) and Sex Discrimination Act (1975) were passed by Barbara Castle the resolute UK Minister for Employment (following a prolonged strike for equal pay by the women workers of a Ford (UK) motor plant that was recently portrayed in the BBC feature film *Made in Dagenham* (2010)), and similar legislation has been in force in many other industrial countries for many years. Why then has there been so little impact upon the male domination of senior positions in corporate leadership after four decades of continuous regulatory efforts to create equal opportunity internationally?

Regulatory intervention across many economic and social policy issues has tended to become more prevalent in recent decades, even as governments have placed more emphasis on market mechanisms (Baldwin, Cave and Lodge 2010). Julia Black defines regulation as "The intention to use authority to affect behaviour of a different party according to set standards, involving instruments of information gathering and behaviour modification (Black 2001).

Whilst in the past regulation was often perceived in very hierarchical terms as stemming directly from government authority, more recently forms of responsive regulation have emerged (Braithwaite 2008). This type of regulation involves restorative justice whereby all stakeholders investigate and come to an understanding of the reasons behind past injustice or harm and agree on a set of reforms to prevent recurrence and instigate repair (Braithwaite, 2012). Four approaches to regulation are recognised by Lodge and Hood: hierarchical – originating with government and other powerful authorities; random – based on standards which are subject to change; mutual – agreed by all the affected parties; and rival – standards prompting competition with incentives to gather information (2010:599). Board quotas and targets have different elements of these regulatory approaches: quotas are reinforced by the law but are supported by policies which may change over time. In contrast targets are often proposed by more representative bodies, are usually associated with a degree of mutual acceptance, and often do lead to rivalry in terms of achievement.

Why then does regulation have such limited impact? Firstly there is the issue of regulatory effectiveness, and the question of whether it is possible to regulate cultural change. In practice, institutional and cultural embeddedness impacts heavily on the interplay between regulatory authority and regulatory responses. The fact that change takes place through institutional arrangements must be recognised in the development of regulation and control (Pegrum 1965:45). Faced with the persistent failure of regulatory effectiveness Braithwaite (2013) calls for a new effort at transformative change based on restorative justice. Braithwaite (2002) argues that it is a mistake to have undue reliance on either fundamentally rules based, or overwhelmingly principles based regulation: rules are required for specificity, and principles are necessary to prevent gaming of the rules. However what is most important are overarching principles of restorative justice that promote ethical deliberation among stakeholders. This theoretical and policy perspective may translate into some of the events following the passing of the Norwegian legislation on achieving 40% women membership on corporate boards. This was remarkably effective rules based legislation that not only achieved its ambitious goal in Norway on time, but sent shock-waves around the industrial world, and left both legislators and industrialists scrambling for an early response in their respective countries to this dramatic and unprecedented initiative.

Yet the Norwegian legislation was not fully accompanied by a holistic set of principles of restorative justice that inescapably promoted fundamental ethical deliberation among stakeholders. A consequence of this was that while Norwegian boards of directors secured a major improvement in gender balance, little was achieved in the improving the representation of women in executive ranks. It is possible that this pattern of regulatory compliance but cultural stasis will occur also in other countries adopting mandatory quotas. Yet in countries where companies have responded to the introduction of quotas in Norway by establishing targets for women on boards, it is possible that as in Australia, this is driven by some fundamental debates on holistic principles (often more based on the economics of neglecting the talent of half of the workforce, than on ethical matters). This development in Australia at least, has allowed for a translation into a major campaign by business leaders to increase the percentage of women in executive ranks to 50% (Shepherd 2013).

This leads to the question of the often intractable nature of culturally embedded values and practices when confronted by legislative change. Becker (1982) conceives of culture as a set of shared understandings that permit a group of people to act in concert with each other. Corporate culture reflects complex interactions between networks of communities. Hall and Soskice conception of culture is "a set of shared understandings and available 'strategies for action'" which are developed over time, "what leads the actors to a specific equilibrium is a set of shared understandings about what other actors are likely to do, often rooted in a sense of what is appropriate to do in such circumstances" (2001:13). Succeeding with regulatory policies aimed at cultural change is at best challenging. The response of the regulated will invariably depend upon their existing understandings, and the capacity of the regulator to convince the regulated not only to comply, but to understand fully the reasons for compliance. This approach often breaks down because the regulated normally have far greater resources to shape discourses of legitimacy, to influence and inhibit the impact of implementation, and to divert the objectives of the regulation (and sometimes to capture the regulator). Perhaps much of the history of equal opportunity policy reflects this pattern of ostensible compliance, while subverting the policies' ultimate intent. Similarly well-intentioned initiatives in the management of change, run into the ground in the sands of the indifference of the majority to what is being proposed.

However targets, while involving soft regulation, have a potent element in their capacity to facilitate change – the idea of corporate strategic choice and action (Child 1972). The miserable performance of almost all corporations on achieving a greater degree of female participation in the boardroom is surrounded with what Alvin Gouldner once described as "the metaphysical pathos of much of the modern theory of group organisation....that of pessimism and fatalism" (1955: 498). In contrast to this organisational paralysis, strategic management suggests strategic choice is very real: "Strategy can be defined as the determination of long-term goals and objectives of an enterprise and the adoption of courses of action and the allocation of resources necessary for carrying out these goals" (Chandler 1962:13). The fact is that corporate leaders (male or female) can effect strategic change in the participation of women in leadership if they are convinced of the need to do this and devote the required time and resources (Aguilera et al 2007:844).

What is remarkable about the current initiatives for promoting the participation of women in the leadership of Australian corporations is that they are coming from the CEOs of the largest corporations (AHRC 2013), and the heart of the Australian business establishment (BCA 2013). These initiatives go far beyond the meritocratic rhetoric of the past that was a tool to maintain the male hegemony of executive ranks. They include ambitious targets, top level intervention, interconnecting actions to support women executives' progress, and insistence that suppliers achieve gender balance. For the first time in Australia it appears there is a genuine commitment from CEOs to drive change. These developments will need to be continuously monitored closely to discover the extent of their substance over time. Yet returning to Braithwaite's call for transformative change based on restorative justice: incongruously it does appear that a regulatory initiative in one country (Norway) has provoked the profound ethical debate concerning restorative justice among the business elite of another country (Australia) that has committed to radical change (if only to avoid the passage of legislation, and to remain in control of the agenda). This paper examines evidence relating to these theoretical propositions, but the real test will be whether they lead directly to substantial, measurable and continuous improvement in the participation of women in the leadership of Australian corporations.

Data, Methodology and Limitations

This paper draws on three different types of empirical data to inform the debate on how best to encourage women in leadership through regulatory means: quantitative data presented in the Australian Census of Women in Leadership; qualitative interview evidence from a sample of nine very senior female company directors; and qualitative statements made by companies in their annual reports in response to the ASX Corporate Governance recommendations on diversity. By triangulating these different forms of data, collected via different methods, we aim to reduce some of the limitations of each data source. The Australian Census of Women in Leadership uses a methodology developed by Catalyst in the US, which involves gathering data from publicly available annual reports to survey the amount of women in leadership.

While this quantitative method provides an accurate snapshot of female representation in board and executive positions,[1] its limitations include the fact that it cannot delve more than speculatively into the reasons behind the statistics.

Interviews can resolve this data limitation by revealing, albeit subjectively, some of the reasons behind the statistics. The interview data presented in this paper was obtained on two occasions – the first was an International Colloquium on Diversity on Boards at the New South Wales State Library in February 2010, at which seven high profile women ASX 200 directors (and three men) were interviewed by a panel of researchers. Interviews were semi-structured and lasted about one hour. The second event was a public panel discussion on women in leadership held in March 2013 hosted by the UTS Sydney. The panel comprised two female directors, one female politician and one female policy-maker who were interviewed in an open discussion format by a female journalist.

All interviews and the panel discussion were transcribed and the content was coded by grouping statements according to identified themes. These statements, drawn from the directors' own experience in corporate leadership, provided a rich source of ethnographic data which we draw on in this paper to inform our discussion of women in leadership. The interview evidence offers insights into the views of female company directors on both the reasons for low levels of women in leadership and the potential solutions. As the interviewees come from the same population of directors that was surveyed in the Census, the interview data triangulates the quantitative findings of the Census. The sample of nine senior women directors is too small to be representative of the whole population of Australian women

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[1] Accuracy is limited when it comes to the figures on senior executives because there is no formal definition of 'senior executive' against which companies must report. This is why since 2010 the Census has used the definition of 'key management personnel' defined by Australian accounting standards as "persons having authority and responsibility for planning, directing and controlling the activities of the entity" used in companies remuneration reports (EOWA 2013:23).

directors but the combination of sources adds validity to our findings. The third source of data comprised the statements made by ASX 200 companies in their annual reports for the 2011 financial year in response to the new ASX recommendations on diversity, particularly their disclosures against recommendation 3.3. Recommendation 3.3 suggests that companies establish and disclose measurable objectives for achieving gender diversity, as well as progress towards achieving those objectives. We created a database of these statements by copying them from annual reports. We used content analysis to explore common themes in companies' statements in order to gain an idea of the early impact of this new regulation. Again because it is drawn from the same population of companies, this data triangulates the other two sources of data.

Part One: The Lack of Women in Leadership

Since 1989, there have been more females entering higher education in Australia than men (Australian Bureau of Statistics 1998). In addition more females complete their degrees successfully than men (Olsen, 2011). This is also the case in other developed countries such as the United Kingdom and United States (Fairfax 2006; Teasdale et al. 2012) For many years it was expected that these women would rise to senior leadership positions over time. However research has shown that despite girls' and women's achievement in education, there has not been a proportionate increase in women attaining senior career success (Sealy and Vinnicombe 2012:331). This is the case even in countries where women have made up nearly half of the labour force for over a decade (Fairfax 2006: 585). The block in the pipeline appears to be somewhere at mid-management level, for example, the number of women in managerial positions in the US went up from 17% in 1972 to nearly 43% in 1995, but in 1998 women still held only 5% of senior executive positions (Ragins et al. 1998).

Catalyst regularly takes data from surveys done in 44 countries across the world and as at mid-2013 the median percentage of women on boards was approximately 8.4% (Catalyst

2013a). Norway has the highest percentage of 40.9% as a consequence of being the first country to implement a quota. However Sweden and Finland are next (both around 27%) despite not having legislated quotas for private companies– both countries have taken action through corporate governance codes rather than hard law although Finland has tougher regulation for state-owned companies (European Union 2012a). At the lowest end of Catalyst's scale, with less than 2% female board representation, are Japan, South Korea and most Middle-Eastern countries. What is very clear is that the under-representation of women in boardrooms is a reality worldwide (European Union 2012b:12).

Successive surveys in Australia revealed no substantial increase in female board representation over eight years from 2002 to 2010 with the percentage of women on boards consistently hovering around 8.5%. It was only in 2012, in the wake of the move towards mandatory quotas in Europe, and following heightened lobbying by interest groups and changes to the ASX Corporate Governance Principles, that this percentage increased to 12.3% placing Australia 14th in Catalyst's world rankings. The Australian Institute of Directors (AICD) has been measuring real-time female appointments to boards and in October 2013, the figure for the percentage of women on the boards of ASX 200 companies had continued to increase to 16.6% (AICD 2013).

This positive increase in women on boards has not been mirrored in the senior executive ranks of Australian corporations with the percentage of women in executive management teams of ASX 200 companies remaining at around 10.0%, as has been the case since surveys started in 2002. Although we are beginning to find a way to tackle the lack of women on boards, it seems we have not yet got to this stage for senior executives. There is a similar situation in other countries, with Catalyst figures showing that female executive officers have remained around 14% in the Fortune 500 for several years (Catalyst 2010; Catalyst 2012).

Indeed, the most recent UK report reveals a drop in the percentage of women on executive committees from 18.1% to 15.3% since 2009 (Sealy and Vinnicombe 2013: 7). The situation is worse when looking at the number of women holding the top executive positions in corporations. The 2012 Census showed that of the 278 executive directors in the ASX 200, only twelve individuals (4.3%) were women and only seven of these were CEOs. Among ASX 500 companies there were a total of 731 executive directors and of these only 28 were female (3.8%) and 12 were CEOs (2.4%) This compares to a US figure of only 28, or 5.7%, of Financial Post 500 CEO's being women (Catalyst 2013b). In the UK the FTSE 250 has 32, or 5.4%, of executive directorships held by women (Sealy and Vinnicombe 2013). It is therefore not surprising that recent increases in female board members can be mostly put down to increases in the number of female non-executive directors rather than executive directors.

This is a situation also commented upon in academic research, "almost 50 percent of the firms in the Fortune 1000 had no women as top executives as recently as the year 2000" (Helfat et al. 2006). Daily et al. (1999) reviewed female board members and CEOs over the decade from 1987 to 1996 and found greatly increased representation on corporate boards and no increase in CEOs. Daily et al concluded there was virtually no likelihood of short-term future increases in the female CEOs because the pool of female executives from which they might be chosen had shrunk rather than expanded (1999:97). As mentioned above the Norwegian quota requiring 40% women on boards has been met almost entirely through appointment of non-executive directors with the percentage of female CEOs still at only 2%. The European Women's Lobby is concerned: "If progress is confined to non-executive positions, are we in danger of creating a two-speed system, where one half of boards meet demands for gender balance and the other half run the companies?" (2012:16)

The reasons for lack of women executives

One explanation for the lack of substantial increase in female executives, as compared to the increase of women directors on boards, is that the recent focus of attention on women in leadership has been directed at boards rather than executives, particularly in terms of regulatory initiatives. As overseas experience and past Australian Censuses have shown, without this regulatory push there is very little change. Another reason may be that it is harder to secure executive positions from other fields. Although it is possible to secure a non-executive board position by having demonstrated ability in other organisations and activities (law, academia etc.) senior executives normally need to have worked their way up the executive ladder. Daily et al comment that "successor CEOs are overwhelmingly selected from high-ranking executives of the focal firm" (1999:94). The pipeline for senior executive positions is therefore narrower than for board positions and it will take time to channel more women through it.

Thus, the lack of women senior executives also explains the low number of women on boards because it is from the ranks of senior executives that board members have traditionally been drawn: "Because corporations rely on the executive pipeline to fill their board's seats, women's failure to achieve meaningful representation within the top levels of corporate America hampers their progress onto corporate boards" (Fairfax 2006: 579) Elizabeth Bryan, Chair of Caltex Australia, has often said in the media that we are focusing on the wrong stage of the female career: "What I argue is that the focus on boards is inappropriate because if you want women everywhere with influence and in the power structure, you need them in the executive teams." (UTSpeaks 2013) Female directors interviewed in 2010 raised the same issue: "I think there is a very fundamental issue and it's not really the board – it's at the mid and senior executive ranks – the workplace environment, particularly in Australia, is not particularly friendly for women. I think that's an area where we really need to focus, because you're not going to have the women who are board-ready, unless you've actually got women coming through the senior executive ranks." (Female director, 2010) However to regulate around the issue of executives is seen as interfering too far into a company's affairs. The European Union proposals only apply to non-executive directors "so as not to interfere with the freedom to conduct a business" (BBC 2012)

Also not all executive positions are equal in terms of the prospects of advancement to the most senior position of CEO. As in previous years, the 2012 Australian Census found that women senior executives are more likely than men to be in support rather than line roles. Of all female executives 50% were in line positions and 50% in support, however for men the situation was very different with 84% in line positions and 16% in support. Taking all executive positions this amounted to only 6% of all line positions being filled by women as compared to 22% of all support roles (EOWA, 2012:24). The importance of this distinction is that experience in line positions, where the individual has direct responsibility for profit and loss or client service, is seen as essential for rising to the most powerful positions in the company (Fairfax, 2006). Although women can rise to very senior levels working in support roles such as legal counsel or head of human resources, they are unlikely to then progress to be a CEO. Elizabeth Bryan explains: "[At] Caltex, we need people who can manage fuel supply chains and drums, petrol, pipelines, ships. You have to have people who've done that. It is seriously difficult to find women who've had a successful career there. So there is a very practical element in putting together a team around a board table. If you've only got seven people and you have to encompass CEO and senior line management experience - which you do have to - you will mostly be drawing from a male pool because of this problem… with women in our companies." (UTSpeaks 2013)

The problem that Bryan refers to is the loss of female talent at middle and senior-management level. The lack of women in leadership stems from problems much further down in the workplace hierarchy, which impede progress in the early stages of women's careers and from which most women never recover in career terms. Spender suggests: "women must have already attained elite positions in order to be within the purview of [board] nominating committees and search firms" (2012:23).

Although the obvious biological causes - child bearing and rearing in contexts with inadequate provision of child care - are an important contributor to the striking loss of women from mid-management, they are not the only reason. The most common factors for the under-representation of women at board level cited by the UK Davies report (2011) were issues with work-life balance and workplace culture. Although also important, the issues of lack of opportunity or bias in recruitment came lower in the list (Davies 2011: 30). A recent Australian report lists the following as barriers to gender equality: "The failure of meritocratic processes due to unconscious bias, gender stereotypes and the reinforcement of those stereotypes, the way we have historically designed and organised work without much thought to non-work responsibilities, lack of mentoring and role models, and the prohibitive cost of childcare are all barriers to gender equality in the workplace." (CEDA 2013:19)

These different reasons for the lack of women in leadership are important to understand. There are many women who would like to further their corporate career but who meet discrimination or barriers in the workplace. However there are also some women who actively choose to move away from corporate careers because of conflict - practical or ideological - with the culture, the long hours and lack of flexibility. Often a mix of these factors will be at play. Lyness and Thompson studied matched samples of male and female executives and found women reported greater barriers to advancement than men: "…the female executives reported that lack of culture fit, being excluded from informal networks, and difficulty getting developmental assignments and geographic mobility opportunities were greater barriers to advancement than did the male executives". (2000:97) The ascent through executive ranks often requires time and availability commitments that conflict with family and other social commitments. Gundlach and Sammartino found a substantial personal barrier hindering women in roles involving international engagement was managing family/caring roles (2013: 38). The same hurdle was reported as the number one barrier to women's progression in Rindfleish's study, with the 'old boys' network' a close second (Rindfleish and Sheridan 2003).

Some have coined the term 'maternal wall' as a barrier hit by many women long before they get anywhere near the 'glass ceiling' (Williams 2004). If this is truly the case, no quota or target would draw out enough suitably qualified women in the long-term. The ASX's approach of instigating more substantial changes to support both men and women in managing their career and domestic responsibilities is likely to be more effective. Voluntary action on the part of corporations needs to be supported by government policies on childcare, taxation and equal opportunity. Steibler and Haas (2012) analyse the micro-economic explanations for the cross-country variation in the employment of women. Some theorists focus on economic rationalities in an institutionalist approach linking national differences in women's employment to different degrees of state support for continuous female employment (Lewis 1992; Siim 2000). Other researchers place the emphasis more on normative rationalities in women's approach suggesting that cultural values influence work and care practices (Steibler and Hass 2012:348; Kremer 2007; Pfau-Effinger 2004). Daley et al. (2012) place support for female employment as one of Australia's economic reform priorities. Only 55% of employed women work full-time as compared to 85% of men in Australia. These rates are substantially lower than in many other OECD countries. In Canada female workforce participation rose substantially after introduction of subsidised childcare and reduced tax rates for second income earners.

Although it is wrong to imply that all women are held back by their mothering duties, the debate about women in leadership cannot be entirely decoupled from the fact that the vast majority of women who do not work or only work part-time have children. The campaign for more women in leadership seems to have become unhinged from the more basic campaign for equal opportunity for women in the workplace and society (CEDA 2013). The supply of women through to senior executive ranks will never be fully realised until these fundamental issues are fixed. Wendy McCarthy (an Australian company director) states: “The child-raising years are still associated with a dramatic drop-off of women from the management career pipeline and the way back is tough. We cannot participate effectively if our children are not cared for. The cost, the lack of flexibility, outdated models based on a 9-to-5 system, rigid and confusing funding systems, poorly trained staff, and a corresponding lack of status and pay all seem intractable... We cannot continue to assume it is okay for people working with our young children to be unqualified and inadequately compensated. Our children need professional educators.” (2013)

Recent research suggests that lifting the proportion of women in the workforce by 6% could increase Australia’s GDP by around $25 billion (Daley et al, 2012). McCarthy rightly points out that this is impossible without better childcare: “Childcare policy affects our international competitiveness. Australian women are ranked number 44 in workforce participation, and yet are number one in education and achievement.” The fact that many women feel impelled to reject corporate careers is less discussed than issues of equal opportunity, perhaps because it is a more complex problem to solve and because any suggestion that there is a lack of motivated female candidates does not help the argument for change. What needs to be emphasized is that women do want challenging corporate positions but perhaps not if they are tied to certain entrenched attitudes and behaviours that are not entirely necessary for job performance and incompatible with family life. For example research has shown that the 24/7 culture that has sprung up in highly competitive industries does not always improve team work processes or client service (Perlow 2012).

Even if there are some talented women rejecting corporate careers, the pool of women who are searching for such positions is still large enough to permit an immediate increase in numbers in leadership in both executive positions and board roles. In the UK Sealy and Vinnicombe identified a pool of 2551 women in pipeline executive positions and suggested that if only 200 of these women found their way onto FTSE 100 boards it could transform the landscape of women directors (2012: 330). A survey by GMI Ratings regarding newly appointed female directors in France found that most were highly qualified professionals, many new to board service in France and most serving only on one board: "…the French experience seems to be validating the theory of many diversity advocates: there are many women who are well-qualified to serve as public company directors, but who are not routinely recruited" (Gladman and Lamb 2013: 12) Bryan however feels that policy change must move its focus to the lower levels of the corporation if it is to benefit more than a small minority of women: "If we get flexibility in companies, then most of the women who graduate from universities - tens of thousands of us will have a career. If we don't focus on that and we puddle round with this obsession that we've got about getting women on boards, then we might actually get some nice jobs for another 250 of us." (UTSpeaks 2013)

The distinction between women who reject corporate careers and those who are forced out is not clear cut. Several studies have found that in male-dominated work environments, the lack of successful female role models directly affects women's levels of ambition (Sealy and Singh 2010; Peters et al 2010). If women cannot identify with those working above them or cannot reconcile their own values and needs with what they see, their career progression inevitably stalls. Instead women choose to set up their own small businesses, or move to the public sector, academia or not-for-profits as these sectors tend to have more flexible work arrangements and values based more on output than desk-time (Slaughter 2012). There has been a substantial increase in the number of Australian women who branch out alone to run their own businesses: a 21.7% increase since 2000, compared to 8.2% for men (Australian Bureau of Statistics 2012). Recent research suggests that "it may be that senior roles in corporations serve as a pathway to entrepreneurial endeavours, with highly successful, but disaffected, women leaving corporate Australia to set up their own business" (Gundlach and Sammartino 2013:19). And it is not always child-rearing that causes women to come to this revelation. There are plenty of younger and older women rejecting corporate culture. Gundlach and Sammartinno reported that more than half of small businesses are set up by women of over 50 years of age (2013:9).

Part Two: Regulatory solutions: Quotas or Targets?

To resolve the low level of female representation on corporate boards, the two most discussed forms of regulatory intervention are to set gender quotas or targets. These can be imposed as mandatory by law with sanctions if they are not achieved, for example, Norway's quota of 40% women on boards. Alternatively they can be softer in nature, for example the UK's recommendation of a target of 25% women on boards which has raised expectations even though adoption is formally voluntary. The international debate regarding the need for and the relative benefits of quotas and targets in achieving gender diversity on boards has proved hotly contested over the last decade. Storvik and Teigen (2010) discuss the arguments for and against quotas that were aired in Norway before legislation was introduced. Regulation in this area challenges established principles of autonomy based on ownership, namely shareholders' rights, but can be justified in terms of social justice, use of skills and more gender-equal participation in economic decision-making (Storvik and Teigen 2010:6-7). Terjeson et al (2013) discuss the institutional factors that influence a country's approach including its welfare policies, political tendencies and history of equality initiatives. To some extent the argument surrounding regulatory action to increase the number of women on corporate boards has already been aired in the context of gender quotas for national parliamentary seats. This again is a relatively recent phenomenon with most countries that have parliamentary gender quota laws having introduced them since 1991 (Baldez 2006:102). Parliamentary gender quotas are becoming increasingly popular in much of the international community despite being almost vilified in the United States after years of rolling back affirmative action policies (Baldez 2006: 103). As Baldez says, “their appeal derives in part from the failure of more gradual efforts to change the masculine culture of politics” an argument that also rings true when it comes to big business. Equal opportunity legislation has been in place in Australia and most developed countries for a long time, reducing overt discrimination but failing to place men and women on equal footing.

Quotas aim to secure substantial change through compliance to a defined timescale, while targets may encourage more flexible but slower change through strategic initiatives. Spender, citing Seierstad and Opsahl (2010), succinctly lays out the terms of this debate: “Debates about women on boards have focused on measures designed to achieve equality of access and across countries governmental approaches may be categorised as ‘hard’ or ‘soft’. Hard strategies involve more coercive means of achieving equality of *outcomes* such as legislation for affirmative action and quotas. The soft strategies involve persuasion of market actors to achieve equality of *access*.” (Spender 2012:23) Whelan and Wood (2012) neatly summarise the arguments for and against the use of quotas including the fact that they force organisations to look harder for qualified women but on the other are said to undermine the principle of merit and cause women to be viewed as tokens. They are often seen as a last resort, with gender targets the more acceptable alternative. Targets provide companies with the flexibility to set their own timescales and achievable goals and can be applied both at board and management levels as part of an organisation-wide gender diversity strategy. They encourage positive commitment rather than compliance meaning they can be owned by the company rather than imposed upon the company. Quotas, to date, have only been applied at board level and although they have been very effective at raising the numbers of female directors in Norway, there has not been a follow-through effect with the numbers of female senior executives still low – only 2% of CEO's are female which is below the EU average (European Women's Lobby 2012).

Some argue that quotas can have negative effects. Successive Australian Censuses have shown that women are more likely to have multiple directorships than men. In 2012, among the ASX 200 companies, 27.5% of women but only 13.5% of men had more than one directorship. This trend was also found in ASX 500 companies where 23.3% of women had more than one directorship as compared to only 14.3% of men (EOWA 2012: 15). This suggests that when looking for female directors, companies ask existing proven female directors to take on more directorships rather than searching for new female talent. Anecdotal evidence from female directors supports this phenomenon, but others suggest that it is only an initial response to regulatory pressure with development of new female talent the next stage in fulfilling quotas: "I think because now I've been okay, because I am on a few boards – there are lots of invitations to join boards – really it is no reflection on me other than the fact that I've been tested and I'm female." (UTS Colloquium 2010)

There is evidence from Norway that when pushed to find female directors, boards do initially look to the existing pool of female directors but that this may only be a temporary effect. Women who as a result of the quota are now members of the boards of up to eight or nine Norwegian companies, have been referred to as "gullskjørtene," or "golden skirts" (Seierstad and Opsahl 2010:14). Other possible dangerous consequences of quotas have been raised. Elizabeth Bryan described her concern that relatively inexperienced women may find themselves taking on the risk and potential liability that directorship brings, especially in smaller companies: “The quotas are going to be forced down into the smaller end of the market where they don’t have the resources, which is the most dangerous place to be on a board..” (UTSpeaks 2013)

The ASX approach can be viewed as a broader movement to provide and maintain access for women to senior management careers, which will set them on the pathway to leadership. This can be done by the provision of more flexible working conditions, training and mentoring schemes and more conducive working environments. This is in contrast to suddenly parachuting women onto the boards of potentially risky and inhospitable small companies and which may amount to setting them up to fail. The approach of the Australian Government is that mandatory quotas can create a compliance mentality:“WGEA does not believe quotas are the silver bullet to deal with this issue. Regulation of this nature often leads to a “tick a box” mentality which does not promote the necessary cultural and structural change to ensure sustainable improvement.” (Australian Government 2013) Equally there are strong arguments that may be formulated both for and against the use of targets, as there are with quotas. Gender diversity targets may become embedded in the strategic goals of corporations, providing the impulse to both discover and develop women leaders. Alternatively targets can be marginalised and unrealised and lack the firmness and predictability of a quota.

Review of action internationally

Examination of international policies on board diversity illustrates the fact that many countries are now adopting strong policies based on either targets or quotas (Table 3). The most substantial and rapid change in the participation of women on boards is associated with the introduction of quotas. For example in Norway, women’s participation in boards increased from 25% in 2005 to 40% in 2009 following the introduction of legislation with enforceable sanctions for non-compliance. France, Italy and Belgium have also enacted quota legislation that includes sanctions to propel participation from dismally low levels. France has now increased its participation of women on boards from 8% in 2008 to 18.3% in 2013 (Gladman and Lamb 2013). Italy and Belgium have enacted their measures more recently which hopefully will improve the level of female board representation from 8.2 % in 2012 in Italy, and 7.7% in 2012 in Belgium. Spain's quota is much softer, framed as a recommendation without formal sanctions. Nevertheless female participation has increased from 6.2% in 2006 to 9.5% in 2013 (Gladman and Lamb 2013).

Good results have also been achieved in countries taking a voluntary approach towards encouraging women's participation on boards. The European Women's Lobby reports that "new clauses on gender equality in Corporate Governance codes have, on average, produced an increase of around two percentage points in the two years following the adoption of the Code" (2012:16), but larger increases are also evident. For example Australia amended its 'comply or explain' corporate governance code in 2010 to encourage companies to set their own targets. Female board participation in the ASX 200 increased from 8.4% in 2010 to 15.9% in 2013 (Australian Institute of Company Directors 2013). In the UK a voluntary target of 25% was recommended for FTSE 100 companies in and female directors increased from 8.4% in 2010 to 17.3% in 2013 (Sealy and Vinnicombe 2013). Sweden and many other European Countries have amended their corporate governance codes to varying extents to encourage gender diversity. In Sweden female board representation rose from 22% in 2010 to 27% in 2013 (Gladman and Lamb 2013).

In both the United States and European Union there has been a long series of profoundly contested policy initiatives that have resulted in measures that lie somewhere between quotas and targets. In the United States the Securities and Exchange Commission has introduced a code requiring disclosure on how board nomination committees consider diversity; while the *Dodd-Frank Act* implements rules to ensure the fair inclusion of women and minorities in all firms that do business with government agencies. In Europe, following a protracted controversy involving countries ready to accept quotas and countries determined to oppose them, a proposed Directive of the European Parliament and Council was published on 14 November 2012. This would impose a "binding objective of at least 40% of board members of each gender by 2020 for non-executive directors" (European Union 2012b:8). It seems this is effectively a mandatory target – companies must attempt to reach this target by introducing "pre-established, clear, neutrally formulated and unambiguous criteria in selection procedures for those positions in order to attain that objective".

The drafting appears to have quelled the opposition of the United Kingdom and other opponents to a mandatory approach by the European Union, suggesting that they consider it as a target rather than a quota (Herbert Smith 2012). The proposal will be considered by the European Parliament and the European Council and further amendments may clarify these issues or they may remain purposely vague. Whether there is really a difference between a "binding objective" and a quota will ultimately depend on how each country implements the directive and the sanctions that they put in place for not achieving the target by the start of 2020. However it will be difficult to achieve consistent reform across Europe with some countries not committing as wholeheartedly as others, and the European directors association expressing a preference for voluntary approaches (ecoDa 2013). Questions remain as to whether a European Union directive with a 'comply or explain' basis and without sanctions will be enough to encourage universal change (Thorburn 2013).

Australia's Approach

In July 2010 the Australian Securities Exchange's Corporate Governance Council amended its Corporate Governance Principles and Recommendations to include new recommendations regarding diversity on boards. The inclusion of these recommendations was triggered due to a congruence of factors: the drop in women in leadership recorded in the 2008 Women in Leadership Census which resulted in calls for action by groups such as Chief Executive Women, Women on Boards and the Sex Discrimination Commissioner; the recommendation by the 2009 CAMAC Report on Diversity on Boards that the ASX Corporate Governance Council ought to take action; research demonstrating the economic case for gender diversity by Goldman Sachs (2009), McKinsey (2007;2008) and Catalyst (2010; 2012); and international developments such as the introduction of quotas for women on boards in Norway. The new ASX Recommendations on diversity suggest that all listed companies:

- establish a diversity policy and disclose a summary of that policy (recommendation 3.2);
- set and disclose measurable objectives for achieving gender diversity and report on progress in achieving them (recommendation 3.3); and
- measure and disclose the number of women on the board, in the senior executive team and throughout the whole organisation (recommendation 3.4) (ASX 2010).

Like most of Australia's corporate governance regulation, the recommendations on diversity apply to listed companies on a 'comply or explain' basis. This gives companies the flexibility to either adopt the recommendations or explain why it is not appropriate for the company to do so. This style of voluntary regulation, enforced by market expectations, has been found to be very effective both in Australia and in the UK, and is thought to be less costly than US-style prescriptive regulation. Although the recommendations were not formally in force for all companies at the time of the 2012 Census, their adoption was widespread with 61.8% of the

ASX 200 adopting all three recommendations in 2011, even though the recommendations were in force only for the 17% of companies with a December year-end. Our review of ASX 200 company disclosures for December year-end companies indicated that companies had relatively little difficulty developing or adopting a gender diversity policy (76.5% adoption rate), or reporting on the numbers of women across the organisation (79.4% adoption rate). The main reason for companies being only partially compliant with the ASX recommendations was the comparatively low percentage of disclosures against the recommendation to set measurable objectives for achieving gender diversity (only 26.3% set numerical targets). This is the most interesting aspect of the new recommendations and worthy of further examination as it effectively asks companies to set their own gender diversity targets. Indeed as a package, the ASX recommendations incorporate many of the key tenets of a change management process: analysis of the need for change (measuring women); strong leadership; implementation and institutionalisation of success through formal policies, systems and structures (Todnem 2005: 376).

ASX Recommendation 3.3 Measurable Objectives

Recommendation 3.3 suggests that companies establish and disclose measurable objectives for achieving gender diversity, as well as progress towards achieving those objectives. There is little guidance on what is meant by this and early interpretation by companies was very varied. Although the hope was that companies would set themselves clear numerical targets for gender diversity, the 2012 Census data showed that the majority of companies did not do so. In the ASX 500, of the December-end companies, 16.0% set a numerical target, and of the non-December-end, 11.7% adopted this recommendation early in the form of a numerical target. Accounting firm KPMG was commissioned by the ASX to review the disclosures of all listed companies with a December-end financial year and revealed similar findings, commenting that: “Consideration should be given to whether it was the intention of the CGC that all entities have numerical targets or is it appropriate to set objectives relating to implementation of initiatives.” (KPMG 2012:13)

This suggests that the more favoured approach was to introduce practical measurable objectives in the areas of training, selection processes and equal opportunity, often involving implementation of aspects of the diversity policy. 40.7% of the December-end ASX 500 companies chose to adopt the recommendation in this manner and of the non-December end companies, 18.3% adopted the recommendation early in this way.[2] As the KPMG report comments: “The robustness of objectives set will become clear in the next reporting season when entities will be required to report progress of achievement against them” (KPMG 2012:13). Nevertheless in the ASX 200 just over half of all companies made some attempt at setting measurable objectives. Of the 34 companies with a December-end financial year, 28 or 93% had set measurable objectives. All six companies that had not set measurable objectives explained why this had not been possible;[3] or why they thought it was inappropriate; and/or explained that they were still developing objectives. By making these ‘why not’ statements all companies formally complied with the ASX Principles. Of the companies with a non-December end financial year, the percentage choosing to adopt measurable objectives early was much less at 44.6%.

For 20% of the ASX 200 companies the measurable objectives included one or more defined numerical targets for increasing the number of women. Many had set targets for several years ahead, 2015 was common, and had set separate targets for women on the board and in senior executive positions. Table 4 shows the range of numerical targets set by ASX 200 companies

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[2] Some of these companies may have also introduced numerical targets.
[3] For example, two companies had been dealing with a major acquisition or sale.

for women on the board in 2011 annual reports. It is not a comprehensive set of targets but it gives an illustration of the range.

Table 1: Numerical targets for female board directors set in 2011 annual reports

43% in next 3-4 years (Billabong)
35% by 2015 and 50% by 2020 (Mirvac)
33% by 2015 (Woolworths)
30% by 2014 and 33% by 2016 (Coca Cola Amatil) 30% by 2015 (Brambles) 30% by 2013 (Telstra) 30% by 2015 (NAB)
25% in next 2 years (BHP Billiton) 25% by 2014 (Envestra) 25% by 2013 (Virgin)

It is worth bearing in mind that the average board size for the ASX 200 is 7.2 members (EOWA 2012: 18). A board of this size could meet a target of 25% by having two women on the board, a small board of four would need only one woman to meet this target whereas a large board of nine members would need three women. This is important when considering the critical mass of three women required to impact on decision making (Konrad et al 2008; Torchia et al 2011). The 2012 Census found that only seven ASX 200 companies had more than three female board members; there were 30 companies where women made up 25% or more of the whole board; and three boards where women made up 50% or more of the board.

Table 5 shows a range of targets set for senior executive positions. More companies set targets at this level of the organisation than at board level. This is a significant finding as there was no specific requirement to do this and yet companies had recognised this as an area where action was necessary. The lack of a precise definition of senior executive was apparent resulting in widely varying terms used and some companies setting several targets at different levels of management as well as for their graduate intake or entire workforce. Although this means that targets cannot be compared across companies it demonstrates how flexible regulation permits the tailoring of targets to the needs of the company and innovation on the part of implementers Majumdar and Marcus 2001).

Table 2: Numerical targets for female senior executives/management set in 2011 annual reports

50% managerial level by 2015 (Ardent Leisure)
40% management by 2012 (ANZ) 40% senior leaders by 2015 (GPT) 40% executives by 2016 (Leighton Holdings) 40% senior management in next 5 years (Stockland) 40% executives by 2014 (Westpac)
38% senior management by 2015 (Perpetual)
35% senior executives and 43% middle management by 2015 (AMP) 35% senior management by 2014 (CBA) 35% CEO-3 level from FY 2012 to FY 2014 (Goodman) 35% senior executives by 2015 (Mirvac)

Twenty-four companies in the ASX 200 (12.0%) simply stated that their objective was to achieve an increase in the numbers of women on the board and/or in senior management without specifying any particular quantum, for example: "the Board has set initial measurable objectives in relation to gender diversity, aiming to increase the level of participation of women throughout the organisation, with particular regard to professional roles in the three layers of the Company below the role of the MD/CEO." (Transfield 2011) The most common approach taken by 54 companies in the ASX 200 (27.0%) was to set measurable objectives that involved practical measures only (without a numerical target). These measures often involved implementation of aspects of the diversity policy, for example:

- Altering recruitment and selection processes, for example, to ensure women on the selection panel or in shortlists and to reduce unconscious bias;

- Implementing skills development and training programs, particularly for women in the lower levels of management to ensure they are not lacking in the experience needed for promotion;

- Reviewing and changing leave and flexible work policies to better accommodate employees with carer responsibilities;
- Training and awareness surrounding the diversity policy;
- Setting up a council or committee to lead and monitor implementation of the diversity policy;
- Support and sponsorship of women's networking schemes;
- Reviews of gender pay parity;

All of these things are included in the recommendations of a recent report on understanding and closing the gender gap in Australia (CEDA 2013). This is positive in the sense that both the corporate response to regulation and the economic case for action appear to be converging. Many companies combined these approaches by setting a numerical target or an objective of increasing numbers, while amalgamating these with initiatives which would include some of the practical measures listed above. This demonstrates how flexible regulation such as the ASX Corporate Governance Principles can work to promote innovation and company-specific initiatives to achieve measurable progress. Some targets such as developing or reviewing a policy are relatively easily achieved and hopefully only a first step towards setting numerical targets in future annual reports. Other objectives were not easily 'measurable' and demonstrate at best a modest commitment to embrace change, for example:

- Spark Infrastructure's commitment to "encourage the appointment of women at senior executive level as circumstances allow".
- Lynas Energy's commitment to "ensuring that recruitment of employees and Directors is made from a diverse pool of qualified candidates. Where appropriate, a professional

recruitment firm shall be engaged to select a diverse range of suitably qualified candidates"

In its report for the ASX on companies with end-December financial years, KPMG commented that for some of the objectives that involved practical measures: "There will be a challenge for entities to make these objectives measurable and demonstrate to stakeholders clear progress against them over time. Further guidance from the CGC on what constitutes a "measurable objective" may assist entities in setting more definitive measures."[4]

The commentary to the ASX recommendations suggests that companies should consider tying measurable objectives to executive remuneration. Only four companies included mention of remuneration-dependent key performance indicators (KPIs) in their annual report disclosures and only two actually stated that KPIs had been linked to diversity objectives, as opposed to this possibly happening in future. It seems from this review of annual reports that few companies have gone this extra step of rewarding executives for achieving diversity objectives, although a review of full disclosure policies and remuneration reports would be required to be sure of exact numbers. Even if targets were tied to executive remuneration, research suggests there may be little transparency of the dollar amounts involved and whether they would amount to any real incentive (Klettner et al. 2012). Nevertheless the changes to the ASX Corporate Governance Principles requiring gender diversity disclosures will hopefully provide a sound base for future action to increase the number of women in leadership both at board and executive level, and accelerate the previous glacial rate of progress (Blackrock 2012). By recommending companies measure the number of females across their organisation and set measurable objectives, the Principles will unearth valuable information necessary for better understanding of the issues at stake; and will encourage

[4] KPMG (2012) 'ASX Corporate Governance Council Principles and Recommendations on Diversity': Analysis of 31 December 2011 year end disclosures' ASX, July 2012

companies to test some of the possible solutions. In another important development in Australia, in December 2012 the Australian Parliament passed the *Workplace Gender Equality Act 2012* that requires all non-public sector organisations with 100 or more employees to report to the Workplace Gender Equality Authority (WGEA) on a range of ‘gender equality indicators’ including the gender composition of their workforces. Although the indicators are yet to be finalised, this legislation will apply much more broadly than the ASX Corporate Governance Principles and will be mandatory rather than voluntary.

Table 3 Key Findings

<table>
<tr><th>Lack of Women in Leadership</th><th>Potential Regulatory Solutions</th><th>Change for Equality</th></tr>
<tr><td>Female board members increasing slowly</td><td rowspan="4">Board quotas

Board targets

Senior executive targets

Workforce targets

Social policies</td><td>Non-executive directors recruited from outside the firm</td></tr>
<tr><td>Female executives not increasing

Loss at mid-management level</td><td>Schemes to retain and develop internal executives
Mentoring and networking schemes
Changes to remove unconscious bias from selection and promotion processes</td></tr>
<tr><td>Cultural conflict demonstrated through e.g. inflexible hours or a focus on face-time</td><td>Change from the top through diversity, flexible work and leave policies</td></tr>
<tr><td>Expensive childcare, high taxation</td><td>Government policy on subsidised leave, childcare, tax</td></tr>
</table>

Conclusions

Our conclusion is that regulatory mechanisms should be assessed, not only in terms of their direct or immediate effects on the numbers of women in the workplace but in terms of their ability to support a process of organisational and cultural change . As Aguilera et al comment ‘Government action – both enacting laws and enforcing them – is an important factor influencing firms to implement CSR initiatives and so become agents of social change” (2007:848). This research shows that in companies that are taking the issue of diversity seriously, social change may be occurring.

Our aim in this article was to put forward an argument that any regulation on the topic of women in leadership needs to target the barriers facing women at all stages of their career and not focus solely on corporate boards of directors. We present evidence suggesting that voluntary self-regulation can encourage companies to resolve some of these issues through innovative processes and strategic target-setting at all levels of the organisation. By asking companies to publically measure gender diversity and disclose progress against their self-set targets, the ASX Corporate Governance Principles may promote a process of cultural change more readily than quota systems. Admittedly, it is too early to show sustained and significant change within Australian corporations. Over time we may find that progress slows or is seen only in sectors that can more readily see competitive advantage in improved diversity. Nevertheless, early indications are that the Australian approach has been successful in achieving a significant degree of change in policy, attitudes and practices. This is evidenced not only by a significant increase in female board members since 2010, but also in the development of mentoring and networking programs, professional training schemes and changes to recruitment processes and leave policies, all designed to counter the subtle discrimination that remains in business culture today, and thereby improve equal opportunity.

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