Do women need small government?

Marian Sawer

The opposition's Fightback! package will ensure Australia stays as two nations: men and second class women.

The aggressive title *Fightback!* alerts us to the masculinist character of this manifesto. What is this call to arms all about? We are told that Australians need more incentives to work harder and be rewarded for it. But women already work harder (or at least have less leisure) than men and apparently need so little incentive that a large part of their work is done for no financial reward at all.[1] Is this manifesto, then, of any relevance to women? The answer is clearly yes, not least because the incentives for male work are largely to be provided at the expense of women, through the cutting back of the public sector.

Women perform the bulk of the non-market work which constitutes the basis of the social economy. It has been calculated that the household work performed by women, without the benefit of financial incentives to make them 'work harder', is worth three times the output of Australian manufacturing industry.[2] But within a market economy it is the non-market work performed by women and their diverse caring responsibilities which make them economically vulnerable. *Fightback!* is blind to this gender-specific vulnerability, being geared to providing economic incentives for market men at the expense of the welfare state and regulatory agencies of which women have been the major beneficiaries.

The end of the Office of the Status of Women

The detailed recommendations of *Fightback!* display an almost ludicrous lack of knowledge of the policy mechanisms pioneered by Australia to render governments more accountable for their impact on women. For example, in relation to the Office of the Status of Women (OSW) *Fightback!* states that 'rationalisation' will occur to eliminate functions that can be reduced or absorbed into other departments:

> We believe that the principles currently guiding the Office of the Status of Women to ensure that the specific needs of women are incorporated into policy initiatives and programs are important, but should also be achieved within the various portfolio areas . . . For example, women's health needs would be more appropriately developed in the Department of Health with the Minister for Health directly responsible, rather than merely by the Department of Prime Minister and Cabinet. [p.272]

Of course OSW does not develop health programs for women, and the national women's health program was developed within the health portfolio with the Minister directly responsible (in fact both Commonwealth and State Ministers). OSW does not 'duplicate' such work but rather provides central co-ordination between Commonwealth departments and between levels of government as well as being the major channel through which Australia reports and contributes to international bodies responsible for promoting the status of women. The work of OSW includes monitoring of Cabinet submissions and savings proposals for their impact on women (the cumulative impact often crosses portfolio boundaries). OSW is also responsible for the preparation of the Women's Budget Statement — an Australian innovation which institutionalises recognition that all government activity is likely to have a differential impact on men and women due to the gender segregation of paid and unpaid work.

OSW also plays an important role in identifying new issues and developing initiatives to the point where they can be taken over by other portfolios — as with the affirmative action pilot program and more recently the integration of women's concern in the ecologically sustainable development process. (Can a more ecologically sustainable way of life be developed which does not disproportionately add to women's work, as in the debate over disposable nappies?)

Australia has already experimented with weakening the role of the central co-ordinating agency for women's policy — at the Commonwealth level from 1977 and in New South Wales under the Greiner Government. In both cases the effects have been highly deleterious. In New South Wales, the Women's Co-ordination Unit lost automatic access to Cabinet decisions as a result of being moved out of the Premier's Department and was no longer able to provide ade-

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quate support to departmental units. One of many consequences was that the Greiner Government embarked on its industrial relations legislation without any proper briefing on the likely impact on women of enterprise bargaining. There was no longer any guaranteed channel whereby such gender-specific advice could be incorporated into final decision making.

Women and discrimination

Regulatory agencies responsible for protecting and advancing equal opportunity represent another blind spot in the *Fightback!* document. The Coalition has tied itself up into knots in recent years on this subject — reflecting in part the struggles between small 'l' liberals who believe in equal opportunity and the market men for whom merit is equivalent to market outcomes. While there has been a continuing hit list of bodies to be abolished in the name of removing regulatory burdens, the names on the list have changed.

In 1986 (after a failed attempt two years before) the Federal Council of the Liberal Party resolved by 23 votes to 21 that a Coalition government should restrict the coverage of the *Sex Discrimination Act* 1984 to the Commonwealth Government and its instrumentalities — effectively rescinding the Act. The next day, the first National Liberal Women's Conference unanimously expressed support for the Act.

In 1987 the Shadow Cabinet decided to oppose a Government Bill extending the requirement for EEO programs to various large Commonwealth trading authorities such as Telecom, Australia Post and the Commonwealth Bank. Only the previous year the Shadow Minister had moved, on behalf of the Opposition, an unsuccessful amendment to the Government's *Affirmative Action Bill*, extending the requirement for affirmative action, then being introduced for the private sector, to these same Commonwealth authorities. This *volte face* was too much for the Liberal Shadow Minister, Senator Peter Baume, who promptly resigned from the front bench and later led seven Liberal Senators to cross the floor and vote with the Government on the Bill.[3]

While *Fightback!* has little to say on equal opportunity, there is a commitment to reduce expenditure on the Human Rights and Equal Opportunity Commission (HREOC) through the use of 'alternative dispute resolution procedures such as private arbitration outside the Commission' (p.245). This is a shift from John Howard's 1988 *Future Directions* which promised to abolish HREOC immediately on taking government (and with it, presumably, Australia's anti-discrimination legislation which it administered). HREOC was listed with other statutory bodies which 'derive little or no revenue for the services they deliver'; it is not clear whether the Coalition in its zeal for the market actually believed that citizens should be charged on a 'user pays' basis to have their human rights protected.

Since 1989 the House of Representatives Standing Committee on Legal and Constitutional Affairs (now chaired by Michael Lavarch) has been examining the effectiveness of current sex discrimination and equal opportunity legislation, including administrative arrangements. The Lavarch Committee has paid considerable attention to 'alternative dispute resolution procedures', which are central to the administration of Commonwealth anti-discrimination legislation and a mandatory part of the handling of all complaints. Between 95% and 97% of complaints have been settled in this way (or through the dropping of the complaint), with only 5% going forward to formal hearings in the last reporting year.[4]

Differing views on this 'cheap' method of resolving complaints have been put forward during the Lavarch Committee inquiry. While the majority of submissions were on balance favourably disposed towards this non-adversarial and non-threatening method of dispute resolution, others believed that because the conciliator plays a neutral role, trying to reach a mutually agreed solution through helping the parties to appreciate each other's views, the right not to be discriminated against might, in effect, be negotiated away. While conciliators employed by HREOC are sensitive to the need for agreed outcomes to be consistent with the standards set out in the *Sex Discrimination Act* and not to condone unlawful behaviour, 'private' arbitrators would not necessarily have an equivalent knowledge of, or commitment to, the legislation (if they did they would be unlikely to be 'cheaper' than salaried conciliators).

Another concern raised during the Lavarch Committee inquiry has related to the typically unequal power of the parties involved in complaints under anti-discrimination legislation and the effects of this power imbalance on the conciliation process. This makes discrimination complaints quite different from the kind of neighbourhood disputes characteristically dealt with by forms of alternative dispute resolution. In recognition of the unequal power of the parties to a discrimination complaint, proposals have been made during the inquiry for various kinds of advocacy assistance for complainants. However, among the hundreds of submissions to the inquiry, and the many recommendations for improvements to the *Sex Discrimination Act* and its implementation, not one concurred with the *Fightback!* proposal.

The major problem with the administration of Commonwealth anti-discrimination legislation is not an over-reliance on expensive legal procedures, as this is not the case. Rather the major problem

has been, on the one hand, the unenforceability of decisions made in the small proportion of cases which reach formal hearings, and on the other hand, the drastic cuts to the budget from the mid-1980s which have meant a lack of resources for community education or research. Rights are only of value if citizens are aware of them and if employers and providers of services are aware of their responsibilities. *Fightback!* proposes yet further cuts to a budget which is already insufficient and ignores the problem pinpointed by many community organisations of the lack of designated staff and budget for the sex discrimination function.[5]

Anti-women public sector cuts

Fightback! also says a Coalition government would immediately implement user pays and contracting out principles for the delivery of legal services to the Commonwealth (p.246). The implications of 'user pays' principles for human rights areas are extremely negative. 'User pays' means 'user chooses' and Commonwealth departments are unlikely to pay for advice concerning unwelcome human rights obligations; if they do pay, it is likely they will pay outside sources in order to get the advice they want to hear. In this way the 'user pays' principle undermines both government policy on human rights and international treaty obligations.

Fightback! is silent about equal employment opportunity (EEO) in public sector employment except to say that it will absorb the Merit Protection and Review Agency into the Public Service Commission and make further cuts to the latter. Abolition of the Public Service Board, 'devolution' of management responsibility and 'mainstreaming' without the means to ensure it occurs, have already gutted much of the EEO effort in the Commonwealth public sector. This was illustrated by the failure in 1991 of the Public Service Commission to include any mention of EEO in the selection criteria for positions in its EEO Unit — supposedly the main source of expertise for the whole of the Commonwealth public sector.

Affirmative action (AA) in the private sector has had, by contrast, a relatively high profile over the last year. Much of this is due to the existence of a relatively independent and expert agency (the AA Agency) responsible for administering the relevant Act. In 1990 the 'Coalition Answers for Women' stated: 'We will maintain and improve the existing Affirmative Action Agency by giving particular emphasis to the evaluation of programs'. *Fightback!* on the other hand, promises to abolish this agency but to do so without 'in any way impacting on the legislative guarantees of equal opportunity'. There is no way in which AA legislation could continue to be effective without an agency to underpin it (compliance would become completely 'voluntary').

The five-year review of effectiveness of the legislation has shown that the agency and its reporting process are critical to the implementation of the legislation and could in no way be replaced by a 'monitoring' unit within the Department of Industrial Relations. The current review has shown a high degree of support for the AA agency and its ability to focus attention on 'best practice'. Criticism has been more in the realm of the resourcing afforded the agency and the need for sanctions for non-compliance.[6]

The Coalition has also promised cuts to the Department of Industrial Relations on a scale which would entail the demise of the Equal Pay and Work and Family Units — thereby avoiding the embarrassment of official monitoring of the effects of enterprise bargaining on equal pay and on measures to provide equal opportunity to workers with family responsibilities. In New Zealand, under the *Employment Contracts Act*, enterprise bargaining has had its first visible effects on the wages and conditions of women and young workers in the service sector. Globally, the greatest gender gap in wages generally occurs in countries such as the USA, Canada and Japan, where wage bargaining is decentralised to enterprise level and the smallest gap in the earnings of men and women is in countries such as Sweden, where wage-fixing is highly centralised.[7] The reason is that women characteristically have weak industrial bargaining power and are therefore vulnerable to exploitative contracts in decentralised systems. Furthermore, 'productivity', a key factor in enterprise bargaining, is hard to measure in feminised sectors of the labour market such as human services.

Why women will lose

Women have little to gain from the small government and 'self-reliant' families offered by *Fightback!*. Women have increasingly indicated that they do not wish to be trapped in failed and sometimes violent relationships by economic dependence on a family breadwinner. Single mothers with children over 12 will become less self-reliant, being forced onto Job Search Allowance which is much more punitive in relation to part-time earnings than the pension, as well as losing their fringe benefits. Up-front fees for health and higher education will disproportionately affect women as will the extension of the user pays principle in other areas. Small government means a reduction in the government services for which women have struggled throughout the century and which are also an important source of employment for women. The conditions which women have slowly been gaining in public sector employment will be put in jeopardy by contracting out and labour market deregulation.

Fightback! places supreme confidence in the market — but the market has always failed women, whether as purchasers of adulterated or unsafe products, as exploited workers in the secondary labour market, as residents of 'dormitory' suburbs without transport or community services or as direct or indirect victims of the commercialisation of sex and violence. The progress made by women over the last century has not come from the operation of the market, quite the reverse. The market appears to have a 'taste for discrimination' and has resulted in outcomes unacceptable to women as the primary carers of society. It is women, after all, who will be expected to pick up the pieces and clean up the mess.

References

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