

AFFIRMATIVE ACTION: A NEVER-ENDING
STORY?

by

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ABSTRACT

Affirmative action addresses the phenomenon of historical and present disadvantage for groups including racial minorities and women within societies around the world. The thesis interrogates the concept of affirmative action in employment in three jurisdictions: the United States, Canada and Australia. It focuses on how these countries construct, measure and determine limits for specific affirmative action programs at the workplace.

The thesis begins with a critical investigation of the meaning of affirmative action, followed by an analysis of its theoretical justification by various scholars. International guidelines of the *Convention on the Elimination of All Forms of Racial Discrimination* (CERD) and *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) are considered for the national implementation of affirmative action in the comparator countries.

The thesis outlines affirmative action in the three key jurisdictions noting differences in their approach to implementation. These analyses lead to the conclusion that there are two types of affirmative action, of which the first addresses equality of opportunity and the second equality of outcome. Both types of affirmative action require different methods of implementation. Whilst the first type is more effective through the application of pro-active permanent strategies, the second type should be based on specific targets and temporal limits, which need to be reassessed after their deadlines have been reached. At this point, either the latter type of affirmative action should be ended or readjusted to meet the challenges of multi-cultural societies today.

It is concluded that affirmative action is theoretically justifiable and has an important role in the achievement of equal opportunities and equality of outcome. However, its justification is reliant on it being appropriately limited in time or limited to the achievement of specific outcomes. The thesis ends by offering an analysis of the different ways of limiting affirmative action, and suggests what limits are most appropriate and effective.

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DECLARATION

This work contains no material which has been accepted for the award of any other degree or diploma in any university or other tertiary institution to Nicole M. Lederer and, to the best of my knowledge and belief, contains no material previously published or written by another person, except where due reference has been made in the text.

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