EDUCATION; LAWS WHICH DISCRIMINATE AGAINST WOMEN; WOMEN'S ROLE AS LAW MAKERS

RECOMMENDATIONS

1. The overriding recommendation of the Sub-committee is that the State and Federal Government, adequately fund and assist the development of the Women's Legal Service of Western Australia, established in November 1993, and that the legal profession support this initiative.

2. Women's Role as Law Makers

That all political parties examine their selection procedures for systematic discrimination against women and consider and implement strategies to enable women to participate equally in the political process.

3. Legal Studies in School

It is recommended that a compulsory part of Curriculum throughout high school deal with the development of human rights and citizenship and that students be encouraged as part of their education about citizenship, to have an understanding of the role which gender and the law has had in society.

4. Gender Neutrality in the Language of the Law

That judicial officers, legal practitioners, prosecutors and others appearing in the Courts be scrupulous in using language which refers to men and women expressly, when it is appropriate that a gender reference be made and that otherwise, gender neutral language be used. That legislation which contained male pronouns without appropriate reference to female pronoun be progressively amended to make such references.

5. Legal Education at Tertiary Level

(1) That feminist legal scholarship be included within all compulsory introductory subjects in law programs such as Legal Process (UWA), Australian Legal Systems (Murdoch), Legal Framework (Curtin University of Technology) and Introduction to Legal Studies (EDU-Legal Studies). The aim of such inclusion is to introduce all students to the history and basic principles of feminist legal scholarship. The legal system's tolerance of and failure to deal with violence against women, should be included.

(2) That where appropriate feminist legal scholarship be integrated into all compulsory and elective subjects.

6. Industrial and Employment Law

That the State Government conduct a review of the effects of industrial relations laws upon women's position in the workforce, including the right to parental leave and permanent part-time work.

7. Sexual Vilification

The Subcommittee recommends that legislation be drafted extending the prohibition against sexual harassment and sexual vilification to beyond the workplace, along similar lines to racial harassment laws recently enacted.

8. Women, Workers' Compensation and Personal Injury

That a thorough review of laws relating to workers compensation and damages for personal injury be conducted in order to identify comprehensively those parts of the law which discriminate directly or indirectly against women, and to formulate recommendations which can lead to the necessary legislative changes.

9. Criminal Injuries

That a review be undertaken of gender bias in the criminal injuries compensation system, with a particular emphasis on the kinds of assaults suffered by women in the home.

10. Abortion

That Sections 199, 200 and 201 of the Criminal Code (Western Australia) be repealed. (H. Wallwork and R. Fitzgerald wish to record their opposition to this recommendation.)

11. Family Law and De Facto Relationships

That legislation to provided for recognition of de facto relationships be implemented as soon as possible and that such legislation make provision for support or maintenance rights as well as property entitlements.

12. Ex-nuptial Children

That means be found whereby the disadvantages of non-referral of power in relation to ex-nuptial children do not outweigh the perceived advantages of non-referral of power.

13. Violence in Family Law Cases

That there be Practice Directions issued by the Family Court requiring that notice of an abusive relationship be given, or confirmation that no allegation of violence is made, or could be made, before parties are directed to counselling or mediation. Further that moves to provide the Family Court with advice of Restraint Orders be formalised.

14. Prostitution

(1) That all provisions in the Criminal Code ("the Code") and the Police Act referring to prostitutes and related activities be repealed. That is, provisions relating to soliciting, living off the earnings, and keeping and maintaining premises should be repealed. In particular sections 191, 192, 194 (2) and (3), 195, 209 and 213 of the Code should be repealed together with Section s 59, 65 (8), 42, 76G, 76F, 76G (1)(a), 65 (7), 65 (a) of the Police Act. (H. Wallwork and R. Fitzgerald wish to record their opposition to the recommendation 14(1) - (5).)

(2) A new offence of procuring for prostitution by coercion, force or violence be legislated. It should be an aggravating circumstance if the offence involves procuration of a minor.

(3) That the provisions of the Local Government Act granting local councils power to prohibit prostitution be repealed. In particular, s206 of the Local Government Act be repealed.

(4) That premises having more than three sex workers working from them (including massage parlours and escort agencies) be categorised and zoning regulations for such premises be developed by the Department of Land Administration for establishment or continued operation of such premises. Such regulations might relate inter alia, to location and types of advertising signs on the buildings.

(5) The sex industry should come within the provisions of the Occupational Health, Safety and Welfare Act. Regulations, or a Code of Practice, should be enacted based on recommendations from a tripartite committee involving sex workers, managers or premises and the Department for Occupational Health, Safety and Welfare. Areas covered should include supply of condoms and sexual health information.

15. Women's Unpaid Work in Home

(1) The State and Federal Government undertake a joint project to assess the real value of women's unpaid work and consider the means to recognise and remunerate women who are currently denied pay and other conditions provided by the law as the minimum protection for "workers" in Australia; and

(2) Undertake a comprehensive study of State and Federal laws to identify those areas of the law where women as unpaid workers are denied protection or discriminated against because of their status as the unpaid working class.

16. Equal Opportunity and Discrimination Laws

That the Equal Opportunity act, 1984 (WA) be maintained in it's current form and the Commission be given adequate resources to administer the legislation.

CHIEF JUSTICE'S TASKFORCE ON GENDER BIAS

17. Following the establishment of the Chief Justice's Taskforce on Gender Bias in September 1993, sub-committees were established to consider discrete areas within the terms of reference. Rhonda Griffiths, Penelope Giles and Linda Savage Davis formed a Sub-Committee to consider the topics of "Education", "Laws which Discriminate against Women" and "Women's Role as Law Makers". The Sub-Committee has met on a number of occasions[22]. The three members of the Sub-committee expressed a common understanding of the history that has created a legal system which necessitates a Taskforce of this nature. That is that:

> "Legislation, laws and legal structures have been developed, implemented and maintained by a male dominated legal system. Consequently, the way laws are defined and legal needs perceived has been constructed essentially by male experience."[23]

18. Such a history invariably has excluded women's experience and point of view. As women and women lawyers have become more active and visible participants in society and have begun to voice their needs and assert their rights the legal system is under increasing pressure to respond. The Sub-committee believes this Taskforce is one small but important step in the process to create a legal system and laws both sensitive and relevant to women's needs.

19. Both the enormity of the subject and the paucity of both human and administrative resources has limited the amount of work that has been done.

Recommendation 1

20. The overriding recommendation of the Sub-committee is that the State and Federal Government, adequately fund and assist the development of the Women's Legal Service of Western Australia, established in November 1993, and that the legal profession support this initiative.

21. A Women's Legal Service can provide not only legal services to women in an environment sympathetic to women, but also continue the research and lobbying necessary to bring about the changes recommended by the Taskforce. A Women's Legal Service can also serve as a centre, linked to similar services in other states to centralise information and form the basis for a national and co-ordinated approach to issues of national importance such as Domestic Violence.

22. The Women's Legal Service in Western Australia was established following a public meeting in August 1992 called by the Women's Electoral Lobby because of concerns of the failure of the legal system to address the needs of women. A Steering Committee was formed

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22 18th October, 26th October, 1st November, 15th November, 6th December 1993, 6th January, 16th March, 19th April 2nd May, 9 May, 16 May 1994. Acknowledgement and thanks to Sue Herd, Trish Drimatis for typing successive drafts.

23 Else Van Moorst & Kate Deverall "Justice for All: Women's Access to Legal Aid and Justice in Victoria", (1993) Australian Feminist Law Journal 147.

which drafted a Constitution and incorporated the service and called the meeting in November 1993 to adopt the Constitution and elect a Management Committee.[24]

23. The Sub-committee endorses the comments of the Australian Law reform Commission's Interim Report No. 67 "Equality Before the Law: Women's Access to the Legal System" which states that those few specialist women's legal services and centres in Australia are currently performing a vital function.[25] Only 3 States in Australia have a women's Legal Service. In Western Australia due to lack of funding it exists virtually in name only. the momentum created by the extremely important but small step this Taskforce on Gender Bias represents must not be lost.

Precis of Areas Considered:-

Laws which Discriminate against Women

24. The following areas have been considered;

Industrial and employment law
Workers' compensation and Personal injuries
Family law including 'de facto' relationships
Equal opportunity
Women's unpaid work in the home

25. Although this Subcommittee is concerned with civil law, several other issues connected with the Criminal Law have been considered. this has occurred because no other Sub-committee has directly addressed these areas and our Sub-committee has some experience in these areas.[26]

Criminal Injuries Compensation
Abortion
Prostitution
Sexual Vilification

Education

26. The role of education in countering the gender bias against women which can be found in the law was considered by the Subcommittee. The Subcommittee considered the policies adopted by the Ministry of Education for implementation in Schools, legal studies and gender neutrality in the language of the law.

Women's Role as Law Makers

27. The involvement of women in the making of laws and formulating of policy in government.

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24 Linda Savage Davis, a member of this Subcommittee was a member of that Steering Committee.

25 The Australian Law Reform Commission "Equality Before the Law: Women's Access to the Legal System" Interim Report No 67 released March 1994 p55.

26 In relation to Abortion and Prostitution, Linda Savage-Davis and Penny Giles respectively have prepared reports previously. The Committee acknowledges the contribution of Helen Prince.

Women's Unpaid Work in the Home

28. As the Australian Law Reform Commission has noted in its discussion paper "Equality before the Law", the failure to recognise the value of women's work in the home has a direct effect in many areas of law.

The recommendations and supporting text follow.

Women's Role as Law Makers

Recommendation 2

29. That all political parties examine their selection procedures for systematic discrimination against women and consider and implement strategies to enable women to participate equally in the political process.

30. Consideration of gender bias and women's equality before the law is meaningless without examining the means by which women can play a role in the formulating of laws. The law's failure to address the needs of women and sexist laws are in large part a reflection of the law-making process which has totally excluded women. Even now only very small numbers of women are involved in law-making as politicians[27] or as members of the judiciary. In Western Australia there are only 4 female members of the Parliament in the Legislative Council out of a total of 34 members, and in the Legislative Assemble there are only 10 women out to a total of 57.

31. The majority of law making is within the domain of parliament, and legislation can override case law and is binding on courts. The role of women within parliaments is the means by which gender sensitive and relevant legislation will emerge.

Education

32. It was agreed that 'Education' about gender issues was crucial to understanding the historical reasons why gender bias in the law and other institutions and practices of society exists. In gaining this understanding, it becomes obvious that gender stereotyping limits the life opportunities for women[28] and is reflected in gender bias against women in the law. Steps to overcome gender bias must be reflected in policies in schools and tertiary institutions. The policies developed by the ministry of Education set out in Social Justice in Education[29] are

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27 In April 1992 the House of Representatives Standing committee on Legal and Constitutional Affairs in its report of the Inquiry into Equal opportunity and Equal Status for Women in Australia "Half Way to Equal" at p.160 reported that in 1992 there were only 19 women in the Senate and 10 in the House of Representatives. Australia wide, there was in 1992 112 women out of 842 elected State and territory representatives in lower and upper Houses. This represents 13.3%.

28 There is evidence that the gender stereotyping which limits the life choices and opportunities of women and particularly young women also limits the choice for men, in particular, channelling young men into destructive behaviours and, in some cases, reducing their opportunities for learning.

29 Ministry of Education (Western Australia) 1991 9 ISBN o 7309, ISBN 7309 4155 8.

supported as are national initiatives such as the National Action Plan for the Education of Girls 1993-97.[30] The importance of such policies should not be underestimated.

33. The Subcommittee has given particular consideration to three matters under the heading of Education: gender neutrality in the language of the law, legal studies in school and legal studies at Tertiary level.

Legal Studies in School

Recommendation 3

34. It is recommended that a compulsory part of Curriculum throughout high school deal with the development of human rights and citizenship and that students be encouraged as part of their education about citizenship, to have an understanding of the role which gender and the law has had in society.

35. A study of the law within Primary Curriculum is provided for at Year Seven Level. An overview of the law gives students a basic understanding of the different levels of the courts and different categories of the law. The study provides for the reform of the law relating to rights to be discussed and the change in the position of females in society can thus be raised.

36. High School curriculum provides a specific unit of Legal Studies which is taught by commerce teachers, categorising it as associated with the business or commercial aspects of the law. Students studying Social Studies in lower High School and those in upper High School studying history or Politics should be exposed to discussion of the social change which has affected the patriarchal structure of society.

Gender Neutrality in the Language of the Law

Recommendation 4

37. That judicial officers, legal practitioners, prosecutors and others appearing in the Courts be scrupulous in using language which refers to men and women expressly, when it is appropriate that a gender reference be made and that otherwise, gender neutral language be used. That legislation which contained male pronouns without appropriate reference to female pronoun be progressively amended to make such references.

38. The importance of language in defining our world has been explored and established. As is commented in a publication of the Ministry of Education discussing the use of language in education:

> "the subtle and sometimes hidden bias in our language ... can unconsciously denigrate students on the basis of race, gender, culture or disability"[31]

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30 Australian Education Council 1993 ISBN 1 86366 180 8.

31 Margaret Nadebaum, Chief Executive Officer Foreward to A Fair Say Guidelines for the use of bias-free language (Second Edition) Ministry of Education (1991) ISBN 7309 4099 3.

39. The law has played a significant role in defining the place of women as being different from and subordinate to men. A seminal work on the law, Blackstone's Commentaries on the Laws of England published in 1765 is still referred to by Courts determining the common law today. The Commentaries record the definition of women under the common law. Women had no legal personality of their own, they could own no property or be sued in their own right, their legal person being subsumed at law into that of their husband.

40. Although it has become accepted that legislation should refer to each gender when gender reference is required and otherwise that gender neutral language should be used, there is much legislation which remains drafted in terms which require the female pronoun to be 'included' in the use of the male pronoun. Judicial officers and legal practitioners may still find it convenient to refer to a male actor rather than using the more wordy "he or she". Against the background of the history of the common law, the law cannot be seen to deal equally with women unless they are referred to as befits equal members of the society. Accordingly it is recommended that judicial officers and legal practitioners be scrupulous in using language which expresses the equal position of men and women before the law. Further, that out-moded language contained in legislation be comprehensively up-dated and acknowledged as anachronistic in the meantime.

Law Schools and Legal Education at Tertiary Level - The role of a Feminist Analysis of Law

Recommendation 5

41. (1) That feminist legal scholarship be included within all compulsory introductory subjects in law programs such as Legal Process (UWA), Australian Legal Systems (Murdoch), Legal Framework (Curtin University of Technology) and Introduction to Legal Studies (ECU-Legal Studies). The aim of such inclusion is to introduce all students to the history and basic principles of feminist legal scholarship. The legal system's tolerance of and failure to deal with violence against women, should be included.[32]

(2) That where appropriate feminist legal scholarship be integrated into all compulsory and elective subjects.

42. Western Australia law schools reflect national figures with virtually equal numbers of male and female students[33]. As yet this equality is not reflected in staff particularly at senior level[34]. Since 1992 Murdoch School of Law has offered "Feminist Legal Theory" as an elective and has expressed its commitment to integrating the contribution of feminist legal scholarship in both compulsory and elective subjects offered.

43. In 1994 the Law School of the University of WA will offer a 1 semester elective entitled "A Feminist Analysis of Law". The Law School has indicated that it believes issues relating to

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32 The Australian Law Reform Commission Equality Before the Law: Women's Access to the Legal System Report No. 67 Interim p.1 which the has found violence underwrites women's inequality before the law.

33 Law School - University of Western Australia - More than 50% of student body is female. School of Law - Murdoch University - 48.72% of students are women. Legal Studies - Edith Cowan University - Approximately 85% of students are women. School of Business Law - curtin University of Technology - figures provided indicated male/female distribution was roughly 55%/45%.

34 See in particularly correspondence received from Law School (UWA) School of Law (Murdoch)

women are considered where they arise naturally from relevant subject matter and as teachers see it is appropriate to raise them.

44. The Subcommittee is of the view that an understanding of feminist legal scholarship constitutes fundamental and essential basic knowledge necessary to equip any students undertaking law studies. The Subcommittee considers it essential that law students and others taking law units understand that the bulk of legal scholarship represents a male perspective.

45. Feminist legal scholarship is grounded in women's lives and experiences and cannot therefore be easily defined by a global definition. As Regina Graycar and Jenny Morgan in The Hidden Gender of Law point out their purpose is to apply the insights of feminist theoretical work to the concrete instances of women's encounters with the law. Theory is made relevant by application in practice. As Catherine McKinnon has explained:

> Feminism is not a monotonic, uni-dimensional, geographically bounded map of a sector of society, albeit a huge and neglected one. It is not a new partiality claiming universality. It is a multi-faceted approach to society as a whole, an engaged discipline of a diverse reality with both empirical and analytical dimensions, explanatory as well as descriptive aspirations, and practical as well as theoretical ambitions. Because it must consider not only existing law and reality, but women's exclusion from life and scholarship, and because nothing that happens to a woman or a man is presumed exogenous to it, feminism is perhaps less about "one thing" than any other approach to legal scholarship.[35]

46. According to the American Association of Law Schools in 1972:

> "Basic substantive courses in the law school curriculum traditionally have omitted materials respecting the legal status of women. It is not surprising that many law students erroneously assume that men and women are treated equally by the law. The fledgling lawyer, whether male or female, comes out of law school unprepared to grapple with problems of sex discrimination in the law or even to recognise them. Unless information on the legal rights and disabilities of women is included in the most basic law course, the nation's law school graduates will continue to have scant understanding of the legal restrictions under which 53% of the population lives.[36]

Industrial and Employment Law

Recommendation 6

47. That the State Government conduct a review of the effects of industrial relations laws upon women's position in the workforce, including the right to parental leave and permanent part-time work.

48. This is an area of the law which has a shared responsibility between State and Federal Governments. The State Government has recently undertaken major reforms in the State

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35 quoted in The Hidden Gender of Law by R Graycar and J Morgan Federation Press 1992 p.7

36 The Hidden Gender of Law The Federation Press 1990 p.23

Industrial Relations system, represented by three pieces of legislation proclaimed on December 1 1993: The Workplace Agreements Act 1993, the Industrial Relations Amendment Act 1993 and the Minimum Condition of Employment Act 1993. As these Acts have only recently been enacted, their effect on the system, and on women workers is unclear. However, it is expected that their long-term effects will be substantial.

49. The Federal Government Industrial Relations Reform Act, 1993 which has recently been proclaimed introduced important new rights for unfairly dismissed employees and prohibits dismissal on the ground of sex. Again, the effect of this legislation on women workers will only be clear after some time.

50. Women still earn significantly less than men, and are concentrated in few industries, in which part-time and casual work predominate, skill levels are low and promotional opportunities limited. Women often have disrupted career patterns tending to leave their employment for periods during the working life for child caring and rearing responsibilities. There is a very gradual movement of women into more senior positions in the workforce, although it is well recognised that a "glass ceiling" prevents women from gaining equal access to promotional opportunities. Women are still vastly under-represented in senior management in government and in business.

51. The extent to which industrial relations laws contribute to these inequalities has not been the subject of detailed examination to date. Moves away from award regulation and toward enterprise bargaining and individual bargaining have been seen by some as a backward step for women because women tend to suffer more than men from the inequality of bargaining power between employee and employer. The award system which has dominated the industrial relations system for the last ninety years, is seen as a means of preventing the exploitation of this inequality by employers.

52. One major improvement in the last twenty years has been the institution of maternity leave provisions across the workforce, and a recent extension in some sectors of these rights to all parents, men and women. This is recognised in the Minimum Conditions of Employment Act, 1993 which includes parental leave as a minimum condition of employment. However, one major area of concern is the exclusion of casual employees from the Minimum conditions of Employment Act. Women predominate in the casual workforce, and their exclusion from the protection offered by this Act will impact unfairly upon them. This and other questions about the effects of individual bargaining on women require further examination.

Sexual Vilification

Recommendation 7

53. The Subcommittee recommends that legislation be drafted extending the prohibition against sexual harassment and sexual vilification to beyond the workplace, along similar lines to racial harassment laws recently enacted.

54. Women are frequently subject to conduct at home, work or going about their daily lives which is offensive, intimidating or threatening to them but is not adequately dealt with by any area of the law. This conduct includes offensive advertising, poster, unwanted physical contact

and comments and suggestions which may have a sexual connotation offensive to many women or it may be directed at an individual woman.

55. When such conduct occurs in the workplace it can sometimes be dealt with by equal opportunity laws either as sexual harassment, sex discrimination or victimisation (Horne and McIntosh -v- Press Clough Joint Venture Nos 28 and 30 of 1992 delivered 21 April 1994 unreported decision of the Western Australian Equal Opportunity Tribunal).

56. Minor unwanted physical touching or threatening or offensive comments are unlikely to be acted upon by police even though this behaviour may constitute a technical assault. Published material which depicts violence against women or against particular kinds of women (for example feminists) is lawful unless it offends laws against obscenity or occurs in the workplace and can be caught by Equal Opportunity Laws.

57. Arguments about "freedom of speech" will doubtless arise in public debate about the need for sexual vilification laws. However the freedom of speech of some, needs to be tempered by the rights of others, to be free from harassment, intimidation and offensive words and images.

58. Recent legislation of the State Government in amending the Criminal Code (Chapter X - "Racial Harassment") provides a model for legislation of this type. These provisions prohibit publication, distribution or display of material intended to create racial hatred (sections 77 - 80 Criminal code of Western Australia). Provisions in the New South Wales Anti-Discrimination Act make any public act unlawful which incites "hatred towards, serious contempt for, or severe ridicule of, a person on the ground of that person's race" (section 20C).

59. Such legislative provisions will no doubt be welcomed by people of non-English speaking descent, who are frequently subjected to highly offensive racist taunts and images. The subcommittee can see no reason why women who, after all, constitute more than 50% of the population, should not be granted the same or similar rights to quiet enjoyment of their daily lives without constant harassment.

Women, Workers' Compensation and Personal Injury

Recommendation 8

60. That a thorough review of laws relating to workers compensation and damages for personal injury be conducted in order to identify comprehensively those parts of the law which discriminate directly or indirectly against women, and to formulate recommendations which can lead to the necessary legislative changes.

61. The effect on women workers of the workers compensation system is little studied, but has been of concern to many women for some time. The system of compensation is predicated largely on a male experience of work and industrial accident or injury and is inadequate to cope with the types of injury suffered by women, in particular soft tissue injuries and stress claims. Further concerns have arisen with the enactment of the Workers' Compensation and Rehabilitation Amendment Act 1993.

62. One major concern lies with subsections 4(3) and 13(3) of the Act, both of which limit the recovery of common law damages except in circumstances where certain threshold requirements are met. An injured worker is required to establish future economic loss of $100,000 or $25,000, depending on the date on which his or her disability occurred, in order to recover common law damages. Alternatively, an injured worker must show that his or her disability constitutes 30 per cent of bodily impairment or more.

63. The introduction of a monetary threshold will deprive many injured workers on low levels of earnings of a common law claim. Injured workers on low levels of earnings (the majority of whom are women) will be significantly disadvantaged in meeting the Act's monetary threshold because their future economic loss, or loss of future wages, will obviously be less than that of higher earning workers. Women make up the majority of low income earners in Western Australia, due largely to the fact that almost half of employed women work on a part time basis.

64. According to the Australian Bureau of Statistics' 1991 Census of Population and Housing (WA), 44% of employed women worked less than full-time hours and more than 60% of employed women earned $16,000 or less. Conversely, some 85% of employed men worked on a full time basis and 62% of employed men earned more than $16,000.

65. The average weekly earnings for men employed on a full-time basis (ie about 85% of them) is approximately 35,000.00 per annum.

66. The average weekly earnings for women employed on a full-time basis (ie almost half of them) is approximately $8,000 per annum.

67. 70% of part-time workers are women.

70% of full-time workers are men.

68. Women's ability to meet the threshold requirements may be further impaired by their "marriageability". If a court considers that an unmarried woman's future earnings would be reduced if she married and stayed home to care for children, then it may reduce the amount that it considers a woman's future earnings will amount to, regardless of whether the woman worker intends to marry or stop working, or not.

69. The 30% disability requirement raises concern, in that neither Schedule 2 of the Act nor the AMA Guides, according to which the degree of an injured worker's disability is to be assessed, provide for injuries specific to women, such as loss of or damage to a pregnant worker's foetus. Further, the Sub-committee is concerned that the emphasis on "disability" will affect women workers' disability ratings for injuries involving the loss, impairment or disfigurement of women's breasts. The American example suggests that breast loss or damage has not been considered as a serious injury, particularly after child bearing age, because their only function is for breast feeding. This attitude fails to take into consideration the emotional distress and disfigurement involved in this type of injury. One of the principal sources for the AMA Guides was the US (American Medical Association) Guides, so we do not believe that we are being unfairly pessimistic in this regard.

70. It has been suggested that the Act breaches the provision of Part II, Division 2 of the Equal Opportunity Act 1984. This is because a female worker in Western Australia is required to comply with a requirement or condition in relation to employment injuries with which a substantially higher proportion of men comply or are able to comply, which is not reasonable having regard to the circumstances of the case and with which many female workers are not able to comply. (s8(1) of Equal Opportunity Act)

71. The restrictions on damages for gratuitous provision of home care services whilst probably not a breach of the Equal Opportunity Act clearly devalues the support usually provided by women to injured family members. The observation is included in our submission to highlight the generally discriminatory context within which the legislation has been drafted.

Criminal Injuries

Recommendation 9

72. That a review be undertaken of gender bias in the criminal injuries compensation system, with a particular emphasis on the kinds of assaults suffered by women in the home.

73. The statutory right to compensation for persons who have been assaulted has existed in Western Australia since 1970. It is designed to compensate the victims of crime for the loss and injury they have suffered as a result of criminal offences.

74. The first Act, the Criminal Injuries Compensation Act, 1970 enabled the victims of assaults to apply for compensation to the courts. The maximum awards of compensation were very low ($2,000 per offence increased to $7,500 per offence in 1976). In 1983 this system was replaced with the creation of the office of the Assessor of Criminal Injuries Compensation. This created an investigative process the aim of which is to determine applications for compensation without the need for complicated, lengthy and expensive court proceedings. This Act was repealed and replaced with another similar Act in 1985. The maximum available to an applicant under the Act is now $50,000 per offence. Since 1983, there has been a limitation period of three years.

75. The central problem with the legislation from the point of view of women is that it is predicated on male experiences of assault and does not take account of the difference types of assaults which women are likely to experience. The areas in which this is most obvious are violence in the home, sexual assault generally and in particular sexual assault of children.

76. Some of the factors which are peculiar to assaults experienced by women are that they are:

- More frequently in private and in particular in the home, rather than in a public place where there are likely to be witnesses.

- Women are much more frequently assaulted by family members than are men.

- Assaults against women, particularly of a sexual nature, tend to be not reported to the police at the time, because of the relationship between the victim and perpetrator, or a

belief that the police will not act, and also the trauma involved in relating the circumstances of the offence.

- Women are much more likely than men to experience many assaults committed by the one person over a period of time. This is particularly the case in child sexual abuse cases, and domestic assaults by a spouse.

77. All these factors, which are peculiar to women's experience of assault, militate against them being able successfully to claim compensation. This is particularly the case where an assault occurs in a domestic situation and the woman fails to take action immediately after the assault. She may fail to do so because she is in fear of her life; but because she has not made any contemporaneous complaint, it is often difficult for her to prove that the assault took place, or to satisfy the Assessor that she has done everything reasonable necessary to assist in the apprehension of the offender, which is a requirement under the Act.

78. A further difficulty exists with persons who were assaulted prior to the creation of the Assessor of Criminal injuries Compensation in January 1983. If a person was assaulted between 1970 and 1983, that person may apply for compensation but must do so pursuant to the legislation in force at that time, which required an application to be made to a court. Those matters which come before the courts now under this legislation mostly relate to child sex abuse where the offender is finally convicted many years after the event and the victim decides to seek compensation. Some of the difficulties experienced by women in making these applications are:

- It has been held in some cases that in order to successfully obtain compensation it is necessary for the applicant to detail with some particularity the offences against them. This can be very difficult where a child has been subjected to regular sexual assault over a period of years. It is often very difficult for them to remember precise or even imprecise dates, times and places of offences.

- The Crown usually adopts the approach in framing its prosecutions of choosing a representative sample of offences. This creates difficulty in a subsequent compensation application because the applicant needs to show which offences she is seeking compensation for where a person has been tried and those offences where no person has been tried. Different legal tests apply depending on which category she is applying under. This can create enormous difficulty and complexity. There is no provision in the Act of offences which are part of a pattern of conduct and have persisted over a period of time.

- These proceedings can be highly adversarial in nature, unlike proceedings before the Assessor. Victims of child sex abuse, who frequently suffer enormous trauma in later life as a result of the abuse are often intimidated by the prospect of these proceedings.

- The amounts of compensation available under this legislation ($2,000 per offence between 1970 and 1976, and $7,500 per offence between 1976 and 1983) are extremely small and cannot in any way reflect the damage done to these particular applicants.

Abortion

Recommendation 10

79. It is acknowledged that there have been strong differences of opinion on this issue, however it was accepted by a majority of the executive that these recommendations should be made.

80. That Sections 199, 200 and 201 of the Criminal Code (Western Australia) be repealed. (H. Wallwork and R. Fitzgerald wish to record their opposition to these recommendations.)

81. Each year in Western Australia more than 8,000 abortions are performed.[37] Australia wide it is estimated that between 65,000 and 80,000 abortions are performed annually.[38] For most women control of their fertility is fundamental to their ability to develop other aspects of their lives and enjoy the children they choose to have. Justice Elizabeth Evatt, President of the Australian Law Reform Commission has recently written,

> "If equity and independence for women were highly valued, access to fertility control, to contraceptive and abortion services at reasonable cost, would also be a high priority. And yet it has been a continuing struggle for women to gain and to keep the right to choose freely whether and when to have children."[39]

82. For many women, therefore, abortion will be a part of their reproductive experience.

83. In Western Australia the Criminal Code 1913 (WA) in Sections 199-201 make it an offence for any person unlawfully to perform, undergo or assist in abortion. It seems to be generally accepted that abortion is not unlawful if performed by an appropriately qualified medical practitioner for the preservation of the mother's life, if the termination of pregnancy is "reasonable having regard to all the circumstances of the case."[40]

84. Discussions of these sections of the Criminal Code usually begins with the English case from the 1930's where a 15 year old girl had been raped by seven Coldstream Guards and became pregnant. A surgeon subsequently performed an abortion. In that case the Judge said that it may be reasonable to perform an abortion to preserve the life of a mother if it is honestly believed by the doctor that continuing the pregnancy will make the woman a physical or mental wreck.[41]

85. Cases in Australia have supported this wider idea of women's health including psychological as well as physical health. In this context, it has been argued that proof beyond reasonable doubt that a qualified doctor lacked the required and honest belief that the abortion

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37 Correspondence from then Health Minister Ian Taylor attached.

38 Natasha Cica "The Inadequacies of Australian Abortion Law"
Australian Journal of Family Law
Vol. 5 No. 1 March 1991 P. 37 opcit p.48

39 Foreword by Justice Elizabeth Evatt
Hidden Gender of the Law
Regina Graycar and Jenny Morgan Federation Press 1992.

40 Criminal Code 1913 (WA) Section 259

41 R v Bourne (1983) ALL er 615

was required for the preservation of the mother's life would be difficult for the prosecution to make out.

86. In 1972 in a case in New South Wales, the Judge went so far as to allow social and economic considerations to be taken into account in deciding whether an abortion was illegal or not.[42]

87. Although it is believed to be likely that these interpretations would be followed in WA, the Supreme Court has not had the opportunity to consider the question. However, as has been pointed out belief is only that - a belief, and it is not impossible to imagine a more literal interpretation of the words "for the preservation of the mother's life", as others such as the Coalition for the Defence of Human Life have argued it should be understood.[43]

88. What is clear is that the law does not allow for abortion on the request of the pregnant woman in the first trimester, as many people seem to believe.

89. In January 1990, the report of the ministerial Task Force to review Obstetric, Neo Natal and Gynaecological Services in WA made the point referring to termination that "Clarification of the present legal status urgently required..."[44]

90. The confusion and differing interpretation was graphically illustrated recently by conflicting headlines in the West Australian newspaper. On September 30, 1991, the Minister for Health, Keith Wilson was reported as saying abortion was illegal in WA. A few days later, Professor Richard Harding of the Crime Research Centre at the University of WA responded in an article in the West Australian under the heading "Wilson Wrong on Law on Abortion."[45]

91. The current situation creates uncertainty and the real fear that at any time abortion services currently available could be curtailed.

92. Access to safe and legal abortion should be a right available to all women in Australia. The failure of law makers to reflect in the law the views of the majority of the population that women have access to safe and legal abortion denies women the recognition that they have the right to control their own lives. It also fails to reflect the views of a majority of the public.[46]

93. Associate Professor Rebecca J Cook of the University of Toronto believes that the neglect of womens reproductive health, perpetuated by law, is part of a larger, systematic discrimination against women. She argues that laws that obstruct women's access to reproductive health services violate their basic rights.

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42 R V Wald (1972) 3 DCR 25

43 West Australian May 18, 1993. See also Elizabeth Handsley's comments in a paper presented to the Women and Justice Seminar January 1993 titled "Comments on Aborition Law in Western Australia."

44 Volume Two, P.376

45 West Australian October 2, 1991

46 See results of Westpoll July 24 1989 quoted in the West Australian
In Britain see British Medical Journal Vol. 305 24 October 1992 p.967 quoting Harris Research Centre Poll which found that 4 out of 5 British adults support women's rights to choose on aboriton int he first 3months of pregnancy.

94. Australia is a signatory to the UN Convention on the Elimination of All Forms of Discrimination Against Women (the Women's Convention). The Convention obliges countries to eliminate discrimination against women - in particular in the field of health care including family planning.

95. National protection of human rights as defined by international treaties derives its legal force from the incorporation of those treaties into domestic law. In Australia the States have an obligation to ensure laws do not violate the Women's Convention.

96. Sections 199, 200 and 201 of the WA criminal Code impair women's right to control their fertility and therefore exacerbates inequality and restricts freedom of choice. These sections of the Criminal Code are a violation of the UN Women's Convention.

97. The definition in Article 1 of the Women's Convention reads:

> "... the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

98. Article 16 sets out the right of women "... to decide freely and responsibly on the number and spacing of their children...".

99. Articles 14 and 16 enshrine the right to information and counselling on health and family planning.

100. When the State denies women access to means of fertility control, it risks her life and health and it violates her personal integrity.

101. There is a strong argument that the abortion laws in Western Australia violate the UN Women's Convention and perpetuate gender bias and discrimination against women.

Family Law and De Facto Relationships

Recommendation 11

102. That legislation to provide for recognition of de facto relationships be implemented as soon as possible and that such legislation make provision for support or maintenance rights as well as property entitlements.

103. Unlike other States, Western Australia has a State Family court which has exercised both federal and state jurisdiction since 1976. This has enabled the resolution of all disputes relating to children in one court which is especially provided to deal with families at times of conflict. The Court has facilities such as counselling and a child-care centre which have proven essential for the proper running of the court.

104. However, where couples have been involved in a "de facto" relationship, disputes over property acquired during their relationship must, under present law, be determined in the Supreme Court, or in the case of other disputes between such couples, in the District or local Courts.

105. The general law of property does not regard domestic contributions made by partners to a de facto relationship in the manner which is provided for in the case of a married couple under the Family Law Act. The law in these circumstances, greatly disadvantages women in a de facto relationship, since it is their contribution as care-givers to children of the couple or as home makers generally which is not recognised or adequately[47] recognised under the general law of property. Women are more likely than men to be dependent on their partner for support and when the relationship breaks down, a woman in a de facto relationship has no right to support for herself, regardless of the circumstances of the relationship, that it may have existed for many years.

106. Where a woman has employment outside the home, her domestic responsibilities may affect the kind of work she takes, resulting in her seeking part-time or other less remunerative employment and preventing her making the same financial contribution as that of her partner.

107. Reform of the law in New South Wales, allows for limited maintenance or support entitlements and property entitlements. Reform in Victoria, allows only for property entitlements but not support or maintenance. Western Australia is also moving down the path of reform in relation to de facto relationships. The Legislative Council Report of Select Committee on De Facto Relationships 1990 recommended recognition of de facto marriage relationships and provision for resolution of property between partners of such relationships. Both Government and Opposition are presently working on reforming legislation.

108. Submissions have been made pointing out the importance of providing for a maintenance or support entitlement in such legislation.[48] It is especially women who will be disadvantaged if there is no provision for support. Experience with the operation of the Family Law Act has shown that although both parties in a failed relationship may wish to sever their financial relationship on breakdown, the weaker party financially may become reliant on social security for support, or otherwise experience a much lower standard of living than that of their partner.[49] Giving the Court power to adjust financial resources between the parties in income terms as well as property will enable a more equitable outcome.

109. The Federal Government Joint Select Committee (the McTiernan Report) has recommended legislative reform and the referral of powers by the States to the Commonwealth, in order to have uniform legislation in relation to de facto relationships, as where partners are married to one another.

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47 Recognition of domestic contribution has been made to a limited extent in cases like Baumgartner & Baumgartner (1987) 164 CLR 137

48 The Family Law Practitioners Association of Western Australia.

49 Settling up McDonald 1986. Prentice-Hall; Sydney

Ex-nuptial Children

Recommendation 12

110. That means be found whereby the disadvantages of non-referral of power in relation to ex-nuptial children do not outweigh the perceived advantages of non-referral of power.

111. In Western Australia, unlike other States of the Commonwealth, State law provides that mothers of ex-nuptial children have statutory custody of their children.[50] Fathers of ex-nuptial children have no rights in respect of their children until a Court Order confers such rights. This is a gender bias which ostensibly favours mothers. To the extent that the law treats men and women differently, this is a gender bias which reinforced stereotypes. The reinforcement of stereotypes has historically prejudiced women.

112. In all other States of the Commonwealth, the mothers of ex-nuptial children have the same rights to seek child support and have the payment reviewed through the Child Support Agency as do mothers of children of a marriage. In Western Australia, parents of an ex-nuptial child in relation to whom Child Support is payable, must apply for a review of child support to the Family Court. As mothers care for ex-nuptial children in vastly higher numbers than do fathers, this is an anomaly which impacts hardest on women.

113. It has been a policy of successive State Governments of Western Australia to decline to refer power to the Commonwealth in relation to ex-nuptial children, since it has been considered that such a step was unnecessary, since the State Family Court already has jurisdiction in relation to all children within the State. The matters referred to above however, show that anomalies have arisen which have serious consequences. As women are proportionately the more predominant sex who head sole-parent families, such anomalies affect them more than men.

Violence in Family Law Cases

Recommendation 13

114. That there be Practice Directions issued by the Family Court requiring that notice of an abusive relationship be given, or confirmation that no allegation of violence is made, or could be made, before parties are directed to counselling or mediation. Further that moves to provide the Family Court with advice of Restraint Orders be formalised.

115. In rejecting earlier divorce regimes which required findings of matrimonial fault, the legislature has directed the Courts to focus on circumstances which do not relate to the personal failings of parties to Court proceedings before it, unless such personal failings are directly relevant.

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50 All other states and territories have referred power in relation to ex-nuptial children to the Commonwealth, in order to give the Commonwealth power to make uniform laws in relation to all children, whether ex-nuptial or not.

116. In cases where violence has been a factor in the matrimonial relationship, the manner in which the parties conduct themselves in the course of Court proceedings will be affected by such circumstances.

117. In the counselling, arbitration and mediation procedures which are favoured as an alternative to adversarial hearings, the unequal position of parties who have had an abusive relationship may be overlooked.

118. Customarily, women in an abusive relationship seek protection by way of Restraint Orders from the Courts of Petty Sessions, Courts exercising state jurisdiction. Notice of the granting of such Orders are not customarily advised to the Family Court which exercises Federal jurisdiction.

119. The Family Court may issue directions concerning matters of practice and procedure. The Family Court of Australia has issued guidelines concerning the placing of notices advising parties coming to the Court of steps which can be taken to protect them should they be in fear of their partner. These guidelines are expected to be adopted in the Family Court of Western Australia.

120. It is the view of the Subcommittee that the placing of notices concerning personal safety may not be adequate to protect parties who may be afraid to voice their concerns without more specific direction. There should be provision for enquiry in relation to an abusive relationship specific to each case, without the necessity for the pleadings to deal with such matters unless such matters are otherwise relevant.

Prostitution

Recommendation 14

121. That all provisions in the Criminal Code ("the Code") and the Police Act referring to prostitutes and related activities be repealed. That is, provisions relating to soliciting, living off the earnings, and keeping and maintaining premises should be repealed. In particular sections 191, 192, 194 (2) and (3), 195, 209 and 213 of the Code should be repealed together with Section s 59, 65 (8), 42, 76G, 76F, 76G (1)(a), 65 (7), 65 (a) of the Police Act. (H. Wallwork and R. Fitzgerald wish to record their opposition to these recommendations.)

122. A new offence of procuring for prostitution by coercion, force or violence be legislated. It should be an aggravating circumstance if the offence involves procuration of a minor.

123. That the provisions of the Local Government Act granting local councils power to prohibit prostitution be repealed. In particular, s206 of the Local Government Act be repealed.

124. That premises having more than three sex workers working from them (including massage parlours and escort agencies) be categorised and zoning regulations for such premises be developed by the Department of Land Administration for establishment or continued operation of such premises. Such regulations might relate inter alia, to location and types of advertising signs on the buildings.

125. The sex industry should come within the provisions of the Occupational Health, Safety and Welfare Act. Regulations, or a Code of Practice, should be enacted based on recommendations from a tripartite committee involving sex workers, managers or premises and the Department for Occupational Health, Safety and Welfare. Areas covered should include supply of condoms and sexual health information.

126. The act of prostitution is not in itself criminal. Prostitution is controlled through criminalising surrounding conduct such as soliciting, living off the earnings and keeping premises for the purpose of prostitution.

127. The WA Police force recognises that prostitution is a fact of life. A decision was made not to direct police efforts to stamping out a victimless crime. Instead a policy of "containment" was set in place whereby the police decline to enforce the latter to the law but control the sex industry (prostitution) by having sex workers register with them, undergo health checks and notify them of any change of address.

128. Containment does not work. It is discriminatory and is yet another example of gender bias in the law:

(1) Allegations or corruption within the police force are widespread amongst the sex industry.

(2) The law is enforced against workers who decline to come within containment or who work in premises which are outside containment whilst the same conduct is tolerated in others who accept containment.

(3) In maintains the situation whereby workers (the majority of whom are women) are required to undergo intrusive health checks on a weekly basis whilst clients (the majority of whom are men) go without such checks.

(4) Workers who register are subjected to routine checks and harassment by police eg being accused of failing to notify changes of address.

(5) Once a worker is registered it is difficult to retrieve records once she leaves the industry resulting in a constant fear of future exposure.

129. The present law is discriminatory in respect to soliciting offences:

(1) Relates to conduct by female sex workers whereas such conduct by male sex workers is not criminal.

(2) Controls the conduct of female sex workers but does not criminalise the conduct of (usually male) clients 'picking up' the women, and engaging in curb crawling.

130. Soliciting in an offensive manner can be more than adequately dealt with under the present provisions for disorderly conduct in the Police Act.

131. Families supported by women participating in the sex industry run the risk of prosecution for living off the earnings as do women themselves.

132. Minors can be adequately protected from participation under the relevant provisions of the Child Welfare Act.

133. Coercion can be dealt with under the provision in the Code for deprivation of liberty and kidnapping. The field can also be covered by the creation of a new indictable offence set out in Recommendation 2 above.

134. The law as it presently stands prevents sex workers being covered by basic occupational health and safety standards (which should include the mandatory use of condoms and providing only "safe sex" to clients). Neither do sex workers have any entitlements under the general and specific laws relating to employment history eg holiday and sick leave, workers compensation and superannuation.

Acknowledgments

135. This report acknowledges the work done in previous reports and inquiries into the sex industry in Western Australia:-

(1) Discussion Paper No 8 "Prostitution and Human Rights: A Western Australian Case Study" Human Rights commission June 1986.

(2) "Prostitution in WA The Case for Change." Western Australian Women's Advisory Council 1988.

(3) "The Final Report of the Legal Working Party of the Inter governmental Committee on AIDS" Department of Health, Housing and Community Services November 1992.

136. We also acknowledge the assistance of Ms P Lyall, Executive Director of SIERA (Inc) and the staff of SIERA.

Women's Unpaid Work in Home

Recommendation 15

137. (1) The State and Federal Government undertake a joint project to assess the real value of women's unpaid work and consider the means to recognise and remunerate women who are currently denied pay and other conditions provided by the law as the minimum protection for "workers" in Australia; and

(2) Undertake a comprehensive study of State and Federal laws to identify those areas of the law where women as unpaid workers are denied protection or discriminated against because of their status as the unpaid working class.

138. The failure of society to recognise and value the work of women as homemakers and carers fundamentally distorts and prejudices women's position as members of society. Dr Duncan Ironmonger of Melbourne University has estimated the contribution of homemakers to

be worth $90 billion per year.[51] The Australian Bureau of Statistics in "Women in Australia" estimated that the ratio of value of unpaid work equals around 52%-62% of the gross domestic product.[52] The report of the Australian Bureau of Statistics "Women in Australia" 1993, estimates that women do more than two thirds of unpaid domestic work.[53]

139. In terms of the law it operates to:

(1) Exclude them totally, or to some extent, from the protection and advantages of certain areas of law. For example women as unpaid workers are excluded totally from Workers Compensation and Superannuation. As the Australian Law Reform Commission has noted it also has direct effects in areas such as compensation for injury at common law, distribution of matrimonial property and industrial awards.[54] When acting as jurors housewives, who may be responsible for children, are grouped with the unemployed for the purposes of remuneration for their time.

(2) Because of the resulting economic disadvantage they face renders them unable to even afford to access the legal system at all.

140. There is now a large body of literature and research that identifies this massive unrecognised and unpaid contribution by women and points out that failure to recognise it effectively renders invisible a very significant part of women's life and experience.[55]

Equal Opportunity and Discrimination Laws

Recommendation 16

141. That the Equal Opportunity Act, 1984 (WA) be maintained in it's current form and the Commission be given adequate resources to administer the legislation.

142. The introduction of State and Federal legislation making discrimination on various grounds unlawful has provided a welcome avenue of legal redress to many women. The right to complain about sex discrimination, pregnancy, marital status, sexual harassment and discrimination on the grounds of family responsibility in the workplace has made an enormous impact on many women, and on behaviour in many workplaces. The existence of the laws and the Commission which administers them is also important in changing behaviour and expectations in the community.

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51 Half way to Equal p.40

52 ABS Women in Australia National Capital Printing Canberra 1993, p152

53 ABS Women in Australia 1993, p152 table 5.20

54 See Australian Law Reform Commission Equality Before the Law Discussion Paper 54 July 1993 Chapters 8, 9, 11

55 Regina Graycar and Jenny Morgan The Hidden Gender of Law The Federation Press (1990) Part 2
Marilyn Waring Counting for Nothing
Allen and Unwin (1990)
Half Way to Equal
Report of the Inquiry into Equal Opportunity and Equal Status for Women in Australia House of Representatives Standing Committee on Legal and Constitutional Affairs, April 1992 Chapters 3, 5 and 7
Juggling Time How Australian Families use time Office of the Status of Women Department of the Prime Minister and Cabinet (1991)

143. The Equal Opportunity Act, 1984 (WA) has, generally been kept well up-to-date with rational standards. The only area in which it lags behind is that it does not prohibit discrimination on the ground of sexual preference. This denies gay women a right to complain about discrimination and is an anomaly which should be corrected.

144. One of the strengths of the system is its role in conciliation of complaints. As with most litigation the vast majority of complaints settle. In the Commission however, this role is given paramount importance. As a consequence of the confidentiality of the process and it's informality, matters may be relatively quickly resolved with a minimum of expense to the parties. This process needs strengthening and supporting as it provides an excellent mechanism for the settling of complaints.

145. Some delays have in recent times been experienced in processing of complaints. This appears to be a problem of lack of resources, during a period of substantial expansion of the jurisdiction by the addition of impairment, age, and family responsibility discrimination.

146. The complaint and conciliation process is currently under review and the recommendations of this report are imminent. While there may be some areas identified as being in need of adjustment, the Sub-Committee believes the retention and strengthening of the Equal Opportunity jurisdiction is crucial to the promotion of equality between women and men in our society. The reality is that the common law simply does not provide adequate, gender-neutral processes or remedies for women who suffer discrimination.

12 JAN 1993

MINISTER FOR HEALTH
WESTERN AUSTRALIA

31806

11 JAN 1993

Ms T White
President
WA Women's Advisory Council to the Premier
5th Floor
May Holman Centre
32 St George's Terrace
PERTH WA 6000

Dear Ms White

Thank you for your letter of 20 November 1992 regarding terminations of pregnancy in Western Australia.

As I am sure you are aware, there is no comprehensive source of statistics on terminations of pregnancy in Western Australia. Data, therefore, have to be obtained either by special survey or from databases that provide contributory information.

Dr Judith Straton carried out a survey in 1985 and estimated there to have been 6693 terminations in Western Australia in that year.

The number of terminations being performed at present can be estimated by adding together the number of Medicare claims and the number of terminations carried out on public patients in public hospitals. This method provides the following information:

Number of terminations of pregnancy	July 1989-June 1990	July 1990-June 1991
Medicare claims[1]	7,384	7,624
Public patients in public hospitals[2]	827	939
Total	8,211	8,563

[1] Source: Chan A and Taylor A. Medical termination of pregnancy in South Australia - the first 20 years 1970-1989. South Australian Health Commission, December 1991.

POSTAL ADDRESS: P O BOX 8172 PERTH, STIRLING STREET, WESTERN AUSTRALIA 6849

[2] Source: Hospital Morbidity data system of the Health Department of Western Australia.

I trust this information is adequate for your purposes.

Yours sincerely

Ian Taylor MLA