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# Gender Bias in the Law

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# OVERVIEW

Chapter 5: Victims of Crime

Chapter 6: Restraining Orders

Chapter 7: Education; Laws which Discriminate Against Women; Women's Role as Law Makers

Chapter 8: Women and Criminal Laws

Chapter 9: Women and Punishment

Concluding Thoughts

# Chapter 5: Victims of Crime

*Key focus to build on existing systems to assist victims of crime and keep them informed*

2014 Report contains recommendations dealing with:

- waiting areas in courts for victims of crime, their families or supporters
- evidence of a complainant's sexual reputation/disposition/experience in non-sex offence cases
- court experience of victims giving non pre-recorded evidence
- content and use of victim impact statements
- information given to victims of crime regarding court process and court outcomes
- limitations upon cross-examination of a 'protected witness' by an unrepresented accused be extended to a 'special witness'
- information given to victims by police/DPP during investigation and prosecution phases about the prosecution process/decision to prosecute
- better enforcement of prohibition against the public naming of victims

# Chapter 6: Restraining Orders

*Key focus on improving access to Restraining Orders for all victims*

2014 Report contains recommendations dealing with:

- The primary responsibility of police for restraining orders
- Police reports providing reasons for request to complainant to leave their home following a FDV incident
- Police reports regarding non-action following a FDV incident to be provided to parties and the court
- Court use of these police reports in RO applications
- Police station staff training re victim interactions
- Registered police orders deemed interim RO
- Extending the availability of Misconduct RO to persons in family and domestic relationships

# Chapter 7 - Education; Laws which discriminate against women; Women's role as law makers

*1994 Report was concerned with many disparate issues of women's interaction with the law and the legal system*

It dealt with:

- legal services for women
- women's role as law makers in the Parliament
- education about women's rights at schools and university
- gender neutrality in the language of the law
- participation and promotion of women in the workplace
- sexual vilification of women
- personal injury/workers compensation /criminal injuries compensation laws that discriminate against women
- abortion laws
- family law and de facto relationships
- ex-nuptial children
- women's unpaid work in the home
- equal opportunity and discrimination laws
- prostitution

# Chapter 7 - Education; Laws which discriminate against women; Women's role as law makers

2014 Report deals with many of the above issues and also some new issues however the chapter 7 recommendations concentrate on:

- women's role as law makers in the Parliament and participation in the political process
- legal studies at secondary and tertiary levels
- equal opportunity and discrimination in the workplace
- law reform in relation to sexual vilification
- criminal injuries compensation
- abortion
- access to public housing
- child exploitation

Other chapters of the 2014 Report make recommendations dealing with legal services for women and review/reform of current prostitution laws

# Chapter 8: Women and Criminal Laws

*Key focus is on whether gender bias exists in connection with particular criminal laws*

1994 Report recommended reform to the laws of homicide and evidence (propensity and relationship evidence/expert evidence) and recommended the introduction of new laws to criminalise stalking and female genital mutilation.

Many of these 1994 recommendations were implemented. The law in WA was improved to protect women against certain criminal conduct, to better recognise how women who kill respond to violence and to facilitate the course of evidence in criminal prosecutions of crimes committed against women.

The 2014 Report reviewed the above reforms and the current operation of various criminal laws including also the laws regulating/criminalising prostitution and the recent introduction of new laws of identification regarding the removal of religious face coverings.

# Chapter 8: Women and Criminal Laws

*2014 Report contains recommendations dealing with:*

- amendments to the laws of stalking regarding definition of offending conduct
- amendments to laws dealing with female genital mutilation, improving enforcement of current laws and consideration of legal/policy position on female genital cosmetic procedures
- review of current prostitution laws including alternative regulatory models and discrimination against sex workers
- amendments to the laws of homicide dealing with self defence
- the use of non-homicide laws to prosecute offenders for the unlawful deaths of female spouses and intimate partners and increased penalties for its use in FDV cases
- amending new identification laws requiring removal of face coverings so that women affected by the laws are afforded reasonable privacy and appropriate respect and the penalties for non-compliance when request refused are commensurate with seriousness of suspected offence

# Chapter 9: Women and Punishment

*Key focus on significant lack of attention to causes of women's offending and treatment needs of women offenders; special issues concerning Aboriginal women offenders.*

2014 Report makes recommendations dealing with:

- content of pre-sentence reports and training for PSR authors
- sentencing of Aboriginal offenders and operation of Aboriginal Community Courts
- family responsibilities as relevant factor in sentencing of women
- enhancing the use of non-custodial sentencing options for women
- legal representation of women offenders and access to legal resources when in prison
- encouraging further research into the sentencing and punishment of women
- staffing at women's prisons

# Chapter 9: Women and Punishment

- improving access to and availability of appropriate correctional programs for women offenders
- recognition and treatment of high incidence of mental health issues for women offenders
- improving the social and family visits facilities at maximum prison
- improving access to the minimum security prison for a broader range of female prisoners, particularly Aboriginal women who need greater support when re-entering the community
- parole system as it applies to women
- improving the supports for women as they transition from prison to community eg. mentoring and transitional accommodation
- re-instating the Women's Services Directorate in DCS
- establishing a Women's Justice Advisory Group to co-ordinate, develop and drive strategies to deal with women's offending, finding alternatives to imprisonment for women offenders and reducing the rate of imprisonment of women offenders

# Concluding thoughts

## *Change, Challenge, Achieve*

Where to from here ?

- RECOMMENDED **CHANGE**
- SPREAD THE WORD
- **CHALLENGE** TO STAKEHOLDERS
- MONITORING RESPONSES
- IMPLEMENTATION
- **ACHIEVE** GENDER EQUITY FOR ALL

Reflections

- on the Gender Bias Project
- how we got here/where are we going
- feminism, girl power and he for she