

report on training project no.13

WOMEN AS PARTICIPANTS
IN THE CRIMINAL JUSTICE SYSTEM

by

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australian institute of criminology



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Canberra 18-21 June 1975

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Introduction

The seminar on 'Women as Participants in the Criminal Justice System' was conducted by the Australian Institute of Criminology in conjunction with the Secretariat of International Women's Year at the Academy of Science, Gordon Street, Canberra City from 18 to 21 June 1975.

The seminar consisted of thirteen sessions, although one was cancelled following the illness of Senator Margaret Guilfoyle. Three of the sessions took the form of panel discussions and during one session, delegates were divided into small groups for discussion.

This report includes a session-by-session summary of the material presented by lecturers and of points which emerged during the course of discussion. The writer of the present report wishes to emphasise that the summaries should be treated as such: it is impossible to do full justice here to comprehensive papers. Readers who require further information concerning the subject matter covered by any of the lecturers, should request the Institute for a copy of the appropriate material.

Appendix I contains a summary of the resolutions carried.

Appendix II lists the names of the Visiting Experts, the lecturers and the official participants.

Appendix III sets out the detailed programme.

A major portion of the seminar was videotaped, including a complete coverage of the lecturers. This is to be edited to provide a record of the seminar of approximately 45 minutes duration.

Opening Session

Mr W. Clifford, Director of the Australian Institute of Criminology, welcomed participants on behalf of the Institute, and on behalf of the Secretariat of International Women's Year.

He said the Australian Institute of Criminology was greatly honoured and privileged by the distinguished guests and he made special reference to the fact that Professor Anttila had recently been appointed Minister for Justice of Finland. She is the first woman to occupy that post.

Mr Clifford hoped the seminar would be fruitful and successful. He proceeded to give some information about the Institute. The Australian Institute of Criminology is a comparatively new body - there are about 400 institutes of criminology around the world. The Australian Institute is involved in training and research, and is doing a certain amount of advising and technical assistance on special subjects. The Institute is proud to be part of the movement to give women their proper place in the criminal justice system.

In welcoming participants to the seminar, the second of two organised by the Institute of Criminology in conjunction with the Secretariat of International Women's Year, Miss Daunton-Fear said contributions were sought concerning the role of women in various aspects of the criminal justice system. Miss Daunton-Fear commented that Australia has been described as a 'man's country', implying that 'woman's place is in the home'. Further, it has been alleged a great many Australians thoroughly approve of this state of affairs. She went on to give examples of discrimination against women, but suggested that perhaps the legal profession does not represent the furthest extreme in discrimination against women. Miss Daunton-Fear mentioned some of the attempts to explain the lower incidence of crime amongst women than men, and the problems women encounter as victims of crime. She hoped delegates would consider the 27 resolutions from the earlier seminar on 'Women as Victims of Crime'.

Miss Daunton-Fear then introduced his Honour Mr Justice Murphy, of the High Court of Australia, Professor Inkeri Anttila, and Senora Patricia de Gamas, a lawyer and wife of the Mexican Ambassador to Australia.

In opening the seminar, Senora de Gamas said the origins of discrimination against women could be traced back a long way.

Because of his greater physical strength, primitive man took on the tasks of hunting for food and fighting. Women gradually came to accept a protected role. The main purpose of the International Women's Year Conference in Mexico is to develop ways to elevate the status of women.

Session 1

Chairperson Mary W. Daunton-Fear

Speaker The Honourable Mr Justice L.K. Murphy

In his address, his Honour said how fitting it was that two visitors, Professor Anttila and Senora de Gamas, should be present from countries which have shown an enlightened attitude to criminal justice.

In the field of criminal justice, his Honour considered Australia is backward, and it continues to neglect that field. He hoped the Institute would be able to improve that situation. He quoted the author of Women and Labour, wherein she stated that in her view women would not attain their full stature as human beings until they were free and equal, and neither would men, until they were free and equal.

However, his Honour considered that we are advancing, and work is being done which will lead to improvements in the system. He said the role of women in the criminal justice system in Australia is minimal. There are very few women in judicial positions and in the law enforcement area, only a minor role is being played by women.

Women as offenders form a small proportion of those who are subject to the system. During the last two calendar years (1973 and 1974) police, both Federal and State, had cause to investigate crimes of which the suspects were women in only 20 per cent of cases. In drug offences there are some rather curious changes in what is happening. While there has been a general increase in the total number of drug offences between 1969 and 1974, the number of drug offences by women is declining. Whereas the total number of drug offences has risen from 1369 in 1969 to 5600 in 1974, a declining percentage of these has been committed by women:

24%	in	1969
20%	in	1970
17%	in	1971
14.5%	in	1972
14%	in	1973
13%	in	1974

and so far this year, 13 per cent. This runs counter to what one might expect and a thorough examination of this situation might prove to be valuable.

His Honour said it would not be easy to bring about increased participation of women in the administration of criminal justice. It is clear, for example, that there has to be an induction period before judges are fit to be appointed. There is a great lag in the training of women as lawyers and would-be judges. However, problems are not insuperable. It is important for women, as well as men, to realise that they live in a system that has been made for the most part by people who are long since dead. That system does not suit our needs, but it can be changed. If women have the will and the enthusiasm to do it, they can change it. More than ever before, people around the world are realising that it is within their capacity to change matters - they can change them without violence. In most cases, they can change them democratically.

Session 2

PANEL DISCUSSION : DISCRIMINATION AGAINST WOMEN IN AUSTRALIA: SOME OR NONE?

Chairperson J. Pratt.

Panel H. Coonan, M. Sleeman,
M. Berg, B. Wurtheim.

Different views were expressed by panel members on the subject of discrimination in Australia. Although each member denied that she had personally been the victim of discrimination, there seemed to be a consensus of opinion that discrimination does exist. Indeed one member considered that discrimination is too bland a word to describe the existing social injustice to women. She believed that no amount of legislation can get to the roots of the problem: it is the socialisation process which produces the inability to forge ahead. At present, society does not believe that women have the same right to work as men. The care of the elderly, the sick and the handicapped generally falls on women whereas these duties should be accepted as a communal responsibility.

During the discussion which followed, a number of important points were made:

- . Could it be that women are their own worst enemies? They have it in their own hands to condition their young children differently. The speaker did not suggest that the conditioning process would lead mothers to 'feminise' their sons and 'masculinise' their daughters. Rather the conditioning of young children should be much more on uni-sex lines while they are small.
- . Education of women is not the total answer to discrimination. Educated women are still worse off than educated men.
- . Women must take care not to accept advantages they do not want. For instance, the legislative provision in Victoria which permits female first offenders a hearing in a closed court is undesirable. (However, this view was challenged by another speaker who felt that the topic of so called protective legislation for women could itself be the subject of a whole seminar. Some legislative provisions offer promotional opportunities for women and help to redress the general bias against them.)

Session 3

WOMEN OFFENDERS

Chairperson Margaret Brewster

Paper prepared by David Biles

Presented by Bruce Swanton

In his paper, Mr Biles offered some suggestions as to the reasons for the huge sex differences in criminality between men and women and he presented an outline of some of the main features of female criminality.

Mr Biles noted that although females proceeded against for serious crimes in 1972 accounted only for 12.11 per cent of the total number of persons, during the last five years, he estimated that serious crimes committed by women have increased by some 47 per cent.

Mr Biles said there are three possible types of explanation for the comparatively low level of female crime:

- . In some areas the law is biased in favour of women, for example, in the definition of homosexual offences.
- . Discretion is more likely to be exercised in favour of women by the police and by the courts. Juries are more likely to find women than men not guilty.
- . Women do in fact behave in a less criminal way than men. However on this last point, there was a suggestion that much male crime may in fact be 'inspired' by women. Also on this last point, Mr Biles, with the help of an anonymous member of the Canberra Women's Movement, speculated on the effect of the feminist movement on female crime rates. The member of the Women's Movement stressed that women do not want equality if that implies involvement in violence, crime, fighting, wars, power struggles, emotional suppression and competition.

As an exception to the general tendency, Mr Biles noted that females appear to have a special predilection for shoplifting, particularly in supermarkets.

Lastly, Mr Biles observed that women prisoners tend to be almost a totally forgotten class of people. Penal reformers rarely refer to the plight of the handful of women who languish in gaols.

Mr Biles concluded his paper by posing a number of questions:

1. Do we wish to re-write all legislation which discriminates on the basis of gender?
2. What steps can be taken to curb apparent recent increases in female crime?
3. Should victims, police and courts be encouraged to treat male and female offenders equally?
4. Would we like to see prisons cater for both sexes of offenders?

Session 4

FEMINISM - THE END OF PREFERENTIAL TREATMENT FOR WOMEN

Chairperson Deputy Commissioner of Police, Australia
Police (A.C.T. Region), B.A. Rochford

Paper by E. Barnett

Miss Barnett observed that research over the last 100 years has revealed little information regarding the criminality of women. Lack of uniform statistics between the States and indeed, statistics generally, hinders the study of women offenders. Much crime by women is undetected. Some is particularly difficult to detect such as larceny by temporary servants, blackmail and thefts by prostitutes. Some female crime is committed by subtle techniques, such as poisoning. Violence to children must be more widespread than it appears because there is a general reluctance to report and arrest female suspects. At the sentencing level, magistrates and judges tend to be more lenient with women offenders. A recent study in New South Wales showed that although there has been an increase in the proportion of violent female offenders, their long-term sentences have not increased proportionately. The non-parole period is usually shorter for women than for men. A reluctance is shown by the courts to take a woman away from her children.

Even today, women are sometimes released on bail after being charged with a major crime, whereas a man would probably be remanded in custody.

Miss Barnett quoted from an Honours thesis by Miss V. Hartstein at the Australian National University in which the view was expressed that although attitudes of courts have changed since the turn of the century, bias in favour of women still exists, particularly if there are children to be cared for. In the past, bias has operated in favour of the middle class woman or girl on two grounds. First, her class has militated in her favour, and secondly, she has had an advantage because of her sex. Now, however, magistrates seem more inclined to place middle class girls on probation than they have in the past.

The question is, will there be less bias in the future?
This a question that must be answered, particularly in view

of the fact that in Britain and other Western countries (statistics from the United States of America quoted) female crimes, and crimes of violence are increasing faster than the male rate. The sharpest increase in female crime is among girls of 18 years and younger. Causes of the increase are considered to fall roughly into three categories:

- . increased use of drugs;
- . the breakdown of social inhibitions in the so called permissive society; and
- . the influence of women's liberation.

Miss Barnett then considered the treatment of women in prisons. She did not believe women enjoyed the same freedom in gaol as did men. There were no open institutions for women in New South Wales, no work release scheme and no week-end detention for women although this is something which is sadly needed. Also there is no day release and women are not allowed out in groups to participate in sporting activities in the community as are some male prisoners. Some women, however, take part in a type of 'Outward Bound' activity. It is only in the last 12 months or so that women have been given far more educational activities within prisons and these are of a fairly high standard in New South Wales.

There are signs that the attitudes of law enforcement agencies will change. It is more likely that action will be taken against females in the future. Where women are more free to commit crimes, there must be equal freedom for the law to take its course. Preferential treatment must come to an end.

During discussion after the paper, Miss Barnett stated that she considered work release and week-end detention schemes are very suitable for women, but they are very expensive to establish and operate.

It was commented from the floor that a work release scheme had been operating for women in Western Australia for four and a half years. This appears to be quite successful. It operates from a separate section of the Women's Prison.

A delegate expressed the view that preferential treatment for women offenders must not be encouraged, but social conditions must be changed. The woman's situation is difficult. Child care is often seen as the woman's sole responsibility. Until men share more in child rearing, there will always be a need for preferential treatment for female offenders. The point was made that if a man with a family is imprisoned, it is the woman left at home who serves the sentence, in facing the problem.

A New South Wales representative quoted figures from New South Wales Bureau of Crime Statistics on drug offences, which she

thought reflected an unhappy situation:

Female offences	1972	-	138
Female offences	1974	-	286

The age group between 17 and 20 years accounted for 125 of these female drug offences.

The question was raised about the use of closed courts for first offenders who were female. Some delegates expressed a firm view that this so called privilege should not be available.

Session 5

WOMEN IN THE CRIMINAL JUSTICE SYSTEM IN FINLAND

LECTURE I

Chairperson M. Sleeman

Paper by Professor Anttila

Professor Anttila stated that although Finland has been heavily industrialised and there has been a general shrinking in the size of families, attitudes towards women still tend to be pre-industrial. The development of sex roles has not followed the general advances which have been made in society. There has been some progress but this is relatively recent. It was only at the turn of the century that unmarried women ceased to be subjected to guardianship. Only in 1930 were married women set free from representation by their husbands. However, women have had the vote in Finland since 1906.

Legislative provisions for equality are a first step towards breaking down the stereotyped roles, but on their own, legislative provisions are insufficient. One needs to know whether women are taking advantage of the increased opportunities which are available, and if not, to examine the reasons.

There is now a wider representation of women in Parliament than before. Ten years ago, 10 per cent of the Members were women. Now the percentage is 19 per cent. The percentage of female students in Finnish universities has risen as high as 50 per cent but women tend to go into the humanities rather than for other subjects. However, about 33 per cent of the law students are female. Women do not now drop their careers as often as they used to, following marriage and the birth of children.

There are a number of prejudices and suspicions which have contributed to the slow increase of women as participants in the criminal justice system:

- . It is argued women are not strong enough physically.
- . Women's sexuality tends to be questioned if they take up such careers and there is always a danger that those who

take them up will suffer a feeling of sexual insecurity.

- . It is argued that women are unable to understand male criminality.

Professor Anttila considered the ways in which women's participation in criminal justice can be increased:

1. By legislation Where it is necessary that this be passed to enable women to enter such careers, it must be done.
2. By education and vocational training Women must be eligible for suitable education and training.
3. By altering professional aspirations The social climate must be such that women are motivated to take up such careers. Professor Anttila referred to certain types of career motivation which tend to preserve the traditional sex roles:
 - (a) girls who enter careers because they see it as a security against non-marriage or divorce.
 - (b) girls whose choice of career is based on a sort of mother-ideology. They look to their career as a means of teaching their children.
 - (c) girls whose choice of career is based on a sort of dual-role ideology. They look to their career as equipping them better for certain home duties, such as nursing, domestic science, child care.

Session 6

CAREER OPPORTUNITIES FOR WOMEN IN THE CRIMINAL JUSTICE SYSTEM

Chairperson Detective Sergeant P.J. Kelly

Panel J.L.A. Griffiths, E.C. McGuire,
 E. Barnett, M.E. Carpenter.

The view was expressed that in the New South Wales Police Department at least, career opportunities for women are now increasing. Women now attend in-service training courses, train as police prosecutors and hand-writing experts. Previously the role of women police tended to be restricted to such tasks as the obtaining of statements of young women and girls who were victims of sex offences and to the general counselling of juveniles. It is only during the last 10 years that women police have been admitted to the superannuation scheme. However, women police in New South Wales have always received equal pay.

There was some discussion concerning the practice of making 'token' appointments of women. Different views were expressed on this subject. One view was that 'token' appointments, at least at certain levels, are welcome if this is the only way that women can gain admission to various types of work. However, the opinion was also expressed that 'token' appointments should not be made in respect of some senior positions. For example, appointments should only be made on the basis of merit to higher judicial positions.

In one Department of Corrective Services, gradual appointments of female staff, according to one view, had avoided industrial turmoil. It was suggested that women psychologists may have a special role to play and may be able to help male prisoners to understand their own feelings of hostility towards women. A woman in such a position can become a mother substitute figure and may be able to help a male prisoner learn what society expects of him.

In reply to a question from a delegate from Singapore concerning appointments of women after marriage and whether marriage in Australia could be regarded in itself as a career, the following general points were made:

- . In the professional fields, there is not much discrimination against women in employment opportunities or in security of employment after marriage. In less skilled areas, there is discrimination.
- . Idealistically marriage is still sometimes regarded as a career. But women in Australia tend to be in a position of conflict. They want both marriage and a career. One view was expressed from the floor that if marriage is to be regarded as a career, it should be so regarded for two people, the man and the woman.

One member of the panel thought that women in Australia had done themselves a disservice by exploiting the maternity leave provisions. Employers are less inclined to appoint females because of this type of exploitation.

Session 7

WOMEN IN THE CRIMINAL JUSTICE SYSTEM IN FINLAND

LECTURE II

Chairperson G. Johnson

Paper by Professor Anttila

During her second lecture, Professor Anttila reported the results of a survey she has made concerning discrimination in Finland. She sought the views of 93 women who are involved in the criminal justice system as judicial officers, practising lawyers, parole officers or psychologists. They were asked to reply to a questionnaire which was designed to elicit their views on a number of potential areas of discrimination. Although the details of the questions are too complex to summarise, perhaps Professor Anttila's most significant finding was that only 6 per cent of her respondents considered the sexes equal in Finland.

She described women in the criminal justice system as marginal in the sense that they fall between the stereotyped roles allotted to men and women. There are a number of ways in which women react to the problem of being marginal and strive to reduce marginality:

- . by giving up the fight for their careers;
- . by symbolically giving up sex in the hope that men will treat them as equal;
- . by re-defining social statuses so that it is no longer assumed that as a general rule, for instance, a man is a doctor whereas a woman is a nurse;
- . by keeping the marginal group distant by, for example, building up professional women's societies.

Assuming that women do 'break through' into full representation in the criminal justice system, will they change the world? Are there real differences between the sort of decisions reached by men and women?

Professor Anttila accepted that it is very hard to speculate, but she suggested the following:

- . In abstract cases, women often adopt a more negative attitude towards crime. In particular, they are likely to adopt more negative attitudes towards offences against morality and violent offences.
- . In concrete cases, women are often more lenient than men in their attitudes towards crime.
- . Attitudes of young women are closer to those of men.
- . Attitudes of trained women are closer to those of men.
- . Because of training and because of the significance of tradition in the legal profession, women in court are likely to reach the same sorts of decisions which men reach.

In conclusion, Professor Anttila was prepared to speculate that the more women are involved in decision-making, the closer we shall be towards having an equal society.

Session 9

WOMEN AS VICTIMS OF CRIME, AND SOME PERSONAL COMMENTS

Chairperson B. Wurtheim

Paper by The Honourable Justice E.A. Evatt

Justice Evatt said her approach to the topic was not as one who had participated a great deal in the actual administration of criminal justice. Rather, she approached the topic as a lawyer interested in reform and in her capacity as Chairman of the Royal Commission on Human Relationships. Her Honour noted that the only areas in which women are the major victims of crime are rape, sexual assaults and assaults between husband and wife. Justice Evatt expressed interest in the findings from the previous seminar on 'Women as Victims of Crime'. She said the findings raised a good many further questions, such as:

- . Is there an increase in the incidence of rape and other offences against women?
- . If so, what are the reasons?
- . What preventive measures can be taken?
- . Are the legal definitions of offences in need of reform?
- . What kind of people are involved in rape?
- . How common is violence in the commission of rape?

Some evidence had been given to the Royal Commission on the 'dark' figure of rape. One witness had claimed that the ratio of unreported to reported cases is something like 15 or 20:1. Also, it has been stated that only one in three of the reported cases results in conviction.

Although attention must be directed towards possible ways to reduce the incidence of rape, attention is also required to ensure that when it does occur, it is dealt with appropriately. Procedure is now oriented against the victim. It is interesting to compare the events which follow a serious assault with the

events which follow a road accident. In the latter case, the victim is taken to hospital and is given treatment. In the former case, the victim does not receive immediate medical attention unless there is serious physical injury. The victim's injury may well be psychological rather than physical. Yet it is difficult to see how the case against the defendant is prejudiced if the victim is treated as a patient in the first instance.

Her Honour mentioned a number of problems which are presently confronting the Royal Commission:

- . Should a husband be able to commit rape on his wife?
- . What should the law be with regard to consent? It must be recognised that an acquittal usually carries with it stigma against the victim because the case generally rests upon her consent.
- . How should examination and cross-examination be conducted and what evidence should be admissible against the defendant and the victim? One witness before the Royal Commission had stated that the after-effects were worse than the actual rape. The interviews with the police and the conduct of the case in court were far more traumatic than the commission of the offence.
- . What sort of corroborative evidence should be required to obtain a conviction?
- . Should the present definition of rape be abolished and should it and other types of assault be replaced by those which do not carry the same sexual overtones?
- . What pressures contribute towards the incidence of the battering of wives and children?

During discussion after the paper, her Honour was asked to express her view as to whether the victim should have separate legal representation. Her Honour stated that if the prosecution does its job properly, it should represent the interests of the alleged victim.

A view was expressed from the floor that although the police have set up rape crisis centres in some cities and they are staffed entirely by women, women are still reluctant to go there. No firm views were given by the Judge or other delegates on this point but it was agreed the situation required further investigation.

In reply to a question concerning the need for women on juries in rape cases, her Honour said every jury should have a proportion of women.

A delegate from India enquired about the reaction of an Australian husband whose wife has been raped and the prospects of marriage of a single girl who has been raped. Her Honour doubted that the consequences of such events in Australia would be so extreme as they evidently are in India.

A view was expressed from the floor that there are a number of basic causes of rape. An obvious one is male aggression and another is the cult of virility. Further, in our society, the female is conditioned to be sexually attractive for certain reasons. She does this partly for economic purposes and partly for emotional reasons. Her signals are not always correctly interpreted by the male. He takes them as an invitation to sexual relations. The basic problem between them is lack of communication and the situation will not be improved until women are economically independent and equal.

A delegate from South Australia, with experience of social work in hospitals, commented that in at least one large hospital in the United States, a manual has been prepared concerning the treatment available for victims of rape cases. This could be most useful: rape victims are often brought into the casualty section of hospitals when only junior staff are available. Junior staff may not be equipped to handle the enquiries and the anxieties which are common amongst victims of sexual assault.

Session 11

OVERSEAS VIEWS ON THE ROLE OF WOMEN IN SOCIETY

Chairperson A.H. Calderwood

Panel M.F.J. Campbell, A. Dambui, G. Nugawela
 R. Paul, B.C. Sekhar, M. Sovaki.

All panel members said that personally they had experienced little or no discrimination in their careers. Most members indicated that women in their countries had 'come a long way' in a relatively short space of time. Ms Nugawela said that the problem in her country was not so much a struggle for equality with the men but rather to persuade the women to take an active part in society. Ms Campbell said that in her country women are still regarded generally as inferior to men although there is little prejudice against women in professions. However, there does appear to be reluctance on the part of women to undertake tertiary education and this may well be because of fear among their families that they will become pregnant or wish to marry some unacceptable person.

The Chairperson observed that women police in Hong Kong are not allowed to carry batons or weapons on duty and this may appear discriminatory to some people, although Ms Calderwood did not support this view. A delegate from the floor stated that in France about 20 per cent of the lawyers are women and in 1969, 8 per cent of the magistrates were women. Four women had just been accepted as police chiefs and three women, all of whom are involved in the criminal justice system, currently hold ministerial positions in the Government.

Ms Calderwood probably summed up well the spirit of the session when, following Samuel Johnson, she said 'much may be criticised. Much also has been accomplished'.

Session 12

CAN YOU LEGISLATE FOR EQUALITY?

Chairperson J. Dahlitz

Paper by David Partlett

In his paper, Mr Partlett addressed his mind to a number of issues:

- . Is equality a desirable social goal?
- . If so, is legislation an appropriate means of achieving it?
- . What form should the legislation take?
- . What collateral factors need to exist to ensure the success of the legislation?

Mr Partlett noted that it is highly appropriate that these issues should be considered now in view of the fact that the English Sex Discrimination Bill has just passed through the House of Commons.

Mr Partlett had no difficulty in answering his first question: equality is a desirable social goal. He expressed the view that while legislation is a necessary condition to ensure there is equality, it is not sufficient. Some people argue that law should only reflect de facto power. Others argue that it cannot affect attitudes. Mr Partlett expressed the view that sex discrimination legislation would have a direct impact on overt conduct but only indirectly can it reduce prejudice. People tend to abide by the law and gradually habits which are induced by the law can affect one's beliefs.

Mr Partlett thought that anti-discriminatory legislation should not be a manifesto on women's rights. Such legislation should only refer to such types of conduct which can be the subject of enforcement. The areas in which he thought legislation would be valuable are education, employment, the supply of services including finance. Legislation could also be used to proscribe sexually discriminatory advertising.

Mr Partlett doubted that a Conciliation Tribunal would be useful but he referred to the Equal Opportunities Commission which has been established under the English legislation.

The speaker expressed the firm view that legislation needs to be supported by collateral factors. The social climate must be receptive to the legislation. In order to ensure that the social climate is receptive, there should be suitable educative programmes. Education is especially important because of the unconscious and widespread assumptions which exist about the roles of men and women in society.

Session 13

IS THERE A SPECIAL ROLE FOR WOMEN IN A JUVENILE COURT?

Chairperson J. Dahlitz

Paper by Judge A. Demack

Judge Demack noted that ideally all people should participate in all activities in the community, according to their interest and ability. However, so many areas, including the criminal justice system, have been male dominated and there is an urgent need to adjust the balance. The Judge selected a number of areas within the criminal justice system in which women may have special roles to play.

Some general comments about the development of Juvenile Courts in Australia were required to indicate the context in which women may have special roles. The Judge referred to two basic approaches which are theoretically possible. First, there is the 'legal' approach which sees people as responsible for their actions and therefore accountable. This approach pays special regard to the preservation of the individual's rights by the rules of evidence and procedure. Secondly, there is the 'welfare' approach which sees young people as the products of the family and community environment, and in varying degrees, as not accountable for their actions. The 'welfare' approach may lead to the adoption of certain measures for the 'good' of the child but his 'rights' may not be greatly cherished. Juvenile Court legislation in Australia is more dominated by the 'welfare' approach than by the 'legal' approach. The emphasis is away from the charging of children with offences except in very serious cases, and towards the use of the court process to bring children within administrative care and control. The Judge did not pass an evaluative comment on the trend of the legislation. Rather his aim was to describe the situation so that he could examine the role of women within the existing context.

The Judge considered women can play a valuable role as advocates. Advocacy in criminal courts has traditionally been the preserve of men but he found it impossible to believe there is only one successful mould for a successful advocate and that this mould automatically rejects women. In the expansion of the legal aid services, Judge Demack saw a special role for women, particularly in advising girls. Often allegations are made such as the girl was 'exposed to moral danger' or 'was likely to fall

into a life of vice and crime'. Frequently it must appear to such a girl that all authority figures are full of criticism of her life style but no-one is really interested in her point of view. There are notoriously 'difficult girls' and it may be easier for a woman to gain their confidence than for a man. Judge Demack did not mean to imply that women advocates should always act as defence lawyers: there is a role also for them as prosecutors and with the increasing recruitment of female police officers, he thought there would necessarily be a greater number of women prosecutors.

It was also envisaged by the Judge that women should be appointed as judicial officers. The criminal justice system relies heavily on the accumulated wisdom of generations of lawyers and this has been drawn predominantly from the experiences of men. Once the typical roles which men and women play in society have become less rigidly structured, the women's role will not be special, but that is in the future. Until such structures are broken down, women have a special role so that their experience of life can be used to give a broader dimension to the court's capacity in determining facts of particular cases. There is, of course, no jury to assist judicial officers in Juvenile Courts.

The Judge considered that women should be employed more frequently as court officials. He said a magistrate who tries very conscientiously to make the court experience meaningful for the defendant can have his efforts frustrated if the court staff appear bored, uninterested, overbearing or discourteous. Court officials need to have the capacity to deal with confused and distressed parents and children as well as arrogant and indifferent ones. Many women, out of various experiences in life, develop a warm and sympathetic interest in people and those with such personalities are well suited to be court officials. Also there is no reason why a roster basis should not accommodate women who are only available to work part-time.

In conclusion, there are some places, according to the Judge, in which women can fairly be said to have special roles and throughout the Juvenile Court system, a great deal of thinking, energy and enthusiasm can be injected by women.

Appendix I

RESOLUTIONS

- Resolution 1: That all Ministers of Justice be requested to initiate amendment of the law of evidence to prevent cross-examination of witnesses in proceedings relating to rape on the prior sexual experience of the alleged victim with persons other than the accused.
- Resolution 2: That the appropriate Ministers in all States be requested to initiate reforms to ensure that alleged victims of sexual offences are given appropriate supportive treatment and in particular when the alleged offence is first reported and throughout subsequent evidentiary examinations.
- Resolution 3: That all Ministers of Justice be requested to introduce legislation with sanctions to prevent discrimination against persons on the basis of sex.
- Resolution 4: That the rules of evidence on consent as a defence to rape be amended in line with the following principles:
1. that subjective intent of the alleged victim be evaluated according to objective criteria of words and actions signifying consent;
 2. that the interpretation of such signals by the accused be judged according to the customary test of reasonable inference.
- Resolution 5: That the present law as it stands, pertaining to the definition of 'rape' should not be altered.
- Resolution 6: That there is a need to abolish committal proceedings in matters of rape and that rape cases should have priority listing in the superior courts.
- Resolution 7: That there is a need for medical examination of rape victims in appropriate cases to be carried out without undue delay and before a formal statement is taken by police; and that such victims should be offered the opportunity of preventive medication against pregnancy and venereal disease.

- Resolution 8: That attention of the State Police Commissioners should be drawn to the need for the establishment of special training courses so that sex offence units could be set up with a mandatory component of women police.
- Resolution 9: That there is a need for the appointment of more women police in Police Services and that this need should be drawn to the attention of the Police Ministers and Police Commissioners in Australia.
- Resolution 10: That this Conference endorses resolutions numbers 1-4 pertaining to social environment as decided upon in Training Project No. 11 'Women as Victims of Crime' and adds the rider: that there is a need to promote the right of all persons to commute with safety at all times.
- Resolution 11: That attention should be paid to the welfare rights of women who are the indirect victims of crime, i.e. the wives of prisoners and that this should be done by the development of appropriate self-help groups rather than through the formal welfare system.
- Resolution 12: That this being International Women's Year the Government should be urged to introduce legislation to end discriminatory practices against women in accordance with the United Nations Declaration on Human Rights.
- Resolution 13: That education concerning family life and the problems of world population should be compulsory for all school children.
- Resolution 14: That women should be encouraged to seek placement within the existing structure of the judicial system and that where necessary, they should be encouraged to enrol for educative programmes to lead to such placement.

Appendix II

LIST OF PARTICIPANTS

PROJECT DIRECTOR

Mary W. Daunton-Fear Senior Criminologist (Legal)
Australian Institute of Criminology

VISITING EXPERTS

Professor Inkeri Anttila Director
Research Institute of Legal Policy
Ministry of Justice
Helsinki, Finland

The Honourable Mr Justice L. Murphy of the High Court of Australia

LECTURERS

E. Barnett Senior Executive (Liaison Bureau)
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Australian Institute of Criminology

His Honour Judge
A. G. Demack Chairman
Commission of Enquiry into Youth
Brisbane

The Honourable Justice
E.A. Evatt Chairman
Commission on Human Relationships
Sydney

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Lecturer, Faculty of Law
Australian National University

PARTICIPANTS

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G. Brebner	Police Officer (Retired) Victoria
M. Brewster	President Women Lawyers Association of New South Wales, Sydney
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M. Godrich	Matron Women's Prison Brisbane, Queensland
M. Goh	Assistant Superintendent of Police Singapore Police Force Singapore
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Victoria Police Department
Melbourne, Victoria

S.R. Wilson
Commonwealth Teaching Service
Angurugu via Darwin, Northern Territory

B. Wurtheim
Secretariat for International
Women's Year
Canberra

Yap Siew Yong
Legal Officer
Public Trustee/Official
Assignee's Office
Singapore

WED 18 JUNE

THURS 19 JUNE

FRI 20 JUNE

SAT 21 JUNE

9.30
a.m.

SESSION 3 'Women Offenders'
Chair: M. Brewster
Paper prepared by D. Biles
Presented by B. Swanton

SESSION 9 'Women as Victims of
Crime and Some Personal Comments'
Chair: B. Wurtheim
Speaker: The Hon. Justice
E.A. Evatt

SESSION 13 'Is There a Special Role
for Women in a Juvenile Court?'
Chair: J. Dahlitz
Speaker: His Honour, Judge
A. Demack

11.00
a.m.

SESSION 4 'Feminism - The End of
Preferential Treatment for Women
Offenders?'
Chair: Deputy Commissioner
B.A. Rochford
Speaker: E. Barnett

SESSION 10 GROUP DISCUSSION

RESOLUTIONS
CLOSING SESSION
W. Clifford

11.15
a.m.

12.00
noon

SESSION 5 'Women in the Criminal
Justice System in Finland'
Chair: Lecture I - M. Sleeman
Speaker: Professor Anttila

1.00
p.m.

LUNCHEON

LUNCHEON

LUNCHEON

LUNCHEON

2.15
p.m.

WELCOME: W. Clifford
P.B. de Gamas

SESSION 1 INTRODUCTION
Chair: M.W. Daunton-Fear
Speaker: The Hon. Mr Justice
L.K. Murphy

SESSION 6 PANEL DISCUSSION
'Career Opportunities for Women
in the Criminal Justice System'
Chair: Det. Sgt. P.J. Kelly
Panel: J.L.A. Griffiths,
E.C. McGuire, E. Barnett
M.E. Carpenter

SESSION 11 PANEL DISCUSSION
'Overseas Views on the Role of
Women in Society'
Chair: A.H. Calderwood
Panel: M.P.J. Campbell,
A. Dambui, G. Nugawela
R. Paul, B.C. Sekhar,
M. Sovaki

4.00
p.m.

SESSION 2 PANEL DISCUSSION
'Discrimination Against Women
in Australia: Some or None?'
Chair: J. Pratt
Panel: H. Coonan, M. Sleeman
M. Berg, B. Wurtheim

SESSION 7 'Women in the Criminal
Justice System in Finland'
Chair: Lecture II - G. Johnson
Speaker: Professor Anttila

SESSION 12 'Can You Legislate
for Equality?'
Chair: J. Dahlitz
Speaker: D. Partlett

8.00
p.m.

SESSION 8 was cancelled

SEMINAR PROGRAMME

APPENDIX III

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