It is surely remarkable and ironic that our unique and precious heritage of community-based women's health services (a vital part of its overall network of community health services) was jeopardised by the operations of the *Sex Discrimination Act*! One might well wonder about a legal definition of discrimination that would permit women's health services to be found discriminatory even though — as Wilson acknowledges — men suffer no detriment from their activities. Women's health workers are correctly outraged at the diversion of their time and energy into the case, and they ask how the case can have escalated as far as it did. That is a good question for law reformers!

The decision does not make clear why s.32 was applied to the ACT Women's Health Service, but not to the Canberra Women's Health Centre. Nor is it apparent to the lay reader why the argument about women's distinctive health needs (which forms the basis of Wilson's decision to accept s.32) was not applied to the fundamental question of discrimination. The apparent inconsistency reinforces the impression that the Act's definition of discrimination is flawed.

Reliance on s.33 to protect women's services, although effective at the moment, must leave one with a sense of unease. During the hearing, the complainants harped constantly that services women said they wanted were merely to meet 'subjective' and not 'real' needs. The recent report of the House of Representatives Standing Committee on Legal and Constitutional Affairs acknowledges that women's needs should be defined by women themselves (p.248), but in its recommendations, it merely suggests that the Attorney-General's Department consult with HREOC to 'determine if an amendment is necessary to s.33' (p.265). After Proudfoot, one would think an additional inquiry was superfluous! When other affirmative action initiatives (such as the ANU's special admission scheme for Aboriginal students) are being dismantled, one is prompted to wonder how durable a s.33 exemption will be, and on what basis it might be terminated.

Most of the people at the hearing were women. However, all but one of the women were literally and formally peripheral. The exception was one barrister. It was not women, but an inner circle of men who were in authority, who did the talking and who stage-managed the proceedings. A man initiated the legal action, two of three barristers were men, a man presided and wrote the decision. If his decision were appealed, more men would sit in judgment.

Nothing unusual in a male-dominated legal setting, you remark, and of course you are right. What distinguished this case from many others in which men call the legal tune was that this time, the case was about women's bodies — not the body of an individual woman as with rape, but the female body as an object of the male gaze, medical manipulation and legal definition. At stake was the future of women's health centres, potentially of other women's services and perhaps targeted services to other disadvantaged groups. Our modest but precious accomplishments, hard won by decades of struggle, were on the line, threatened by the law's unwillingness to recognise that the body of the legal 'person' is actually a male body. The case shows yet again that if we rely on a formal, sexless concept of equality, we stand to lose as often as we gain.

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CONSUMERS

Consuming futures

GRAEME WIFFEN looks at the movement of which all of us are members, although some are more so than others.

Is the consumer movement still moving, or is it *passe* — a bit too 60s? Two recent conferences attest to the movement's vitality, but raise the issue of the direction it might take in the near future.

'Consuming Futures' was the title of the Biennial Conference of the Australian Federation of Consumer Organisations (AFCO) held in Canberra on 15-17 May 1992. 'Consumer Power in the Nineties' was the more aggressive title of the 13th World Congress of Consumer Unions (IOCU), in Hong Kong in July 1991.

AFCO describes itself as the peak body of Australian consumer organisations. It represents some 56 diverse groups, from those with a general focus, like the Consumers Association of South Australia and the Country Women's Associations, to those with a focus on a single issue. Prominent among the latter are the consumer credit and credit counselling groups, and the many home economics groups. Almost a separate category of its own is the Sydney-based publisher of *Choice*, the Australian Consumers Association, which, while a member, is far greater in size than the peak group.

The International Organisation of Consumer Unions is a federation of national consumer groups and includes among Australian members, both the Australian Federation of Consumer Organisations and the Australian Consumers Association.

BRIEFS

IOCU was the big event. The Congress was attended by 450 delegates from 58 countries, 20 of whom were Australian. As a congress not a conference, delegates were drawn from a very wide spectrum. Academics, the mainstay of most conferences, were well represented, but were joined by delegates from governments, from prestigious international agencies, particularly those under the United Nations umbrella, from national and international non-government organisations and from national consumer groups. A feature was the large number of delegates from the third world, and a small number from the former second world of the communist block.

IOCU themes

'Consumer Power in the Nineties' was obviously a very broad charter. An idea of its breadth can be gauged from the titles of the plenary sessions:

consumer power in a changing world,

- consumers in poverty — generating power,
- consumer power in a 'free' market, and
- consumers and the environment — the emergence of green consumerism.

Incoherence was not the result, even at such a huge gathering. There were strong links — emotional, but also theoretical — between the issues of poverty and the environment, and strongly, if less clearly worked out, between both these and the idea of consumer rights.

In the face of the enormity of the first two issues, however, those speakers, usually from Britain and Northern Europe, who concentrated on the traditional consumer issues of western countries, like product testing, quickly lost the attention of their audience. This was particularly the case if their messages were laced with a dose of western economic rationalism — 'first year economics' was the put-down of one African delegate. Relevant consumerism was protection for new consumers, and the passing on of the skills of battle-hardened warriors to those in new fields.

Juxtaposing the allied interests of poverty and the environment against dominant 'free market' theories was a fruitful topic for discussion. A further variation on these themes was provided by delegates from Eastern Europe who also saw themselves as first time consumers. They added extra poignancy, as, like the delegation from Slovenia, some were still not even sure of their national status.

The contribution of western skills and experience to new problems was evidenced in our own region. Two New Zealanders, one a Maori, supported by a small but timely grant from the Australian Federal Bureau of Consumer Affairs, are fostering consumer programs in the island states of the Pacific. While assiduously grounding their work by means of wide contact with local groups, they are also marshalling foreign lawyers to propose and draft model consumer laws for those countries.

With the perhaps jaundiced tone which opened this piece, I wondered if at a more theoretical level the consumer movement has, or needs, a unifying theory on which consumer protection laws may be based. This issue is addressed in the journals and one writer, John Goldring has misgivings as to the need.[1]. For example, what do the third world non-government organisations concerned with issues of poverty and the environment gain from adding the word consumer to their titles? Is it more than tactical?

I found that these thoughts were out of temper with the prevailing spirit of the Congress, where the connection between western consumption and third world poverty, the connection of both to environmental degradation and the issue of how developing countries could improve the living standards of their populations without exacerbating these problems made the inter-relatedness of these issues seem obvious to the delegates.

AFCO themes

These themes, domesticated, reappeared at the other event, the conference of AFCO. There the main sessions were entitled:

- consumers and government,
- consumers and industry,
- experiences from the environment movement.

The last two picked up some of the themes from Hong Kong. In 'Consumers and Industry' John Braithwaite, without flirting with the ideas of economic rationalism, as did some of the Hong Kong speakers, helped to orient his listeners to life in the new age, where even fewer of the meagre crumbs from the table of government regulation might fall to consumers and the consumer movement. He spoke of targeting companies rather than bureaucrats, trying to sell more acceptable consumer behaviour as a competitive tool. This strategy if successful, could then permeate through the rest of the relevant industry.

In 'Experiences from the Environment Movement' the advice was largely tactical from the recently more successful movement to the consumer movement. The feeling in Hong Kong that the two movements were allied, if not joined, was not as strong in Canberra.

These two events attest to the continuing vitality of the consumer movement in Australia and world-wide, and its capacity to formulate and adapt to generously expansive new visions of its role.

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Reference

1. Goldring, John, 'Consumer Law and Legal Theory: Reflections of a Common Lawyer' 1990 (13) J of Consumer Policy, 113.