

# 'SIT DOWN GIRLIE'

## Legal issues from a feminist perspective

### Seen and not heard; or Keep yourself nice: Part I

Many *Girlie* readers will be familiar with the helpful explanation that a certain NSW magistrate recently gave an anonymous survey about apprehended violence orders. He explained that 'women cause a lot of the problems by nagging, bitching and emotionally hurting men. Men cannot bitch back for "emotional reasons" like women can and often have no recourse but violence'. *Girlie* can only heave a sigh of relief that the record has been set straight and is grateful to the magistrate for clarifying that yet again any oppression women experience is their own fault and not to be attributable to those poor, vulnerable and much maligned men. *She* had been going around thinking it was something to do with misogyny. Silly *Girlie*, all she does is nag, nag, nag ...

### Asking for it

Not to be outdone by a NSW Magistrate, Justice Bailey of the Supreme Court Northern Territory recently held in *Northern Territory of Australia v Woodruffe* [1999] NTSC 102 that failure to report an incident of domestic violence or any other crime will disentitle a person to claim under the *Crimes (Victims Assistance) Act*. The applicant in this case sought compensation for injuries she had sustained in seven incidents of domestic violence over a five-year period. The Local Court found that under s.12(b) of the Act, a victim of crime would still be entitled to claim where there were circumstances which prevented the crime being reported to police. When the case came to the Supreme Court, the Territory argued that the section should be read to mean that if the crime was not reported to police, the victim could not claim under the Act at all. Justice Bailey felt that he should 'set boundaries to the benevolence which the Act distributes' and found that there was 'no basis for the Local Court to issue an assistance certificate where a relevant offence has never been reported to police'.

Justice Bailey set more boundaries to the benevolence of the Court by commenting on s.10 of the Act which allows the Court, in considering both the application for assistance and the amount of assistance to be granted, to have regard to the conduct of the victim and any other matters it considers relevant. Justice Bailey commented that 'it would seem to me that this provision is potentially relevant in the case of multiple applications of domestic violence ... whether the victim continued to live with the offender or made any effort to leave'. *Girlies* in the NT report suggestions that an application for compensation could be defended on the basis that the victim contributed to injuries sustained through domestic violence by remaining in the relationship (read, she was asking for it). *Girlie* suggests that the only people asking for it at the moment are certain elements of the judiciary ...

### Cleanliness is next to godliness

Looks like *girlies* around the country are causing all sorts of problems. Earlier this year two solicitors from a domestic violence legal service received a call from the Chief Magistrate requesting a meeting. There was some speculation about the purpose of the meeting but the solicitors decided that the Chief was taking the initiative to discuss important issues relating to the way the Court handled domestic violence issues. The solicitors eagerly prepared a list of issues to bring to the meeting. The list included the practical operation of the domestic violence legislation and inappropriate remarks made by magistrates in domestic violence proceedings (one magistrate was especially fond of that golden oldie 'Why don't you just leave him?').

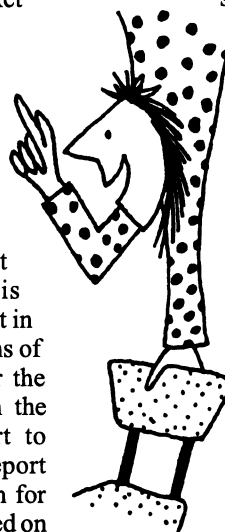
On the appointed day the Chief welcomed them and informed them that he wanted to discuss 'housekeeping'. The Chief and the Registrar then accompanied the solicitors to the waiting room of the Court's domestic

violence office. The Chief provided the solicitors with a comprehensive set of cleaning instructions for the waiting room. The Chief instructed 'the girls' to remove photos and posters advertising their and other services from the walls of the waiting room. The Chief pointed to a poster for a women's legal service and said words to the effect of: 'If a bloke was to come in and see this he would think he didn't stand a chance'. Apparently the cleaning exercise was an endeavour to make the waiting room look more like a court space.

*Girlie* is happy to report that all the photos and posters have been removed from the waiting room of the domestic violence court office. It definitely looks more like a court space now. Just a handy hint though for any other *girlies* out there who get a call from your Chief Magistrate requesting a meeting — remember to take an apron and a chux, just in case.

### Manners, ladies! or Keep yourself nice: Part II

*Girlie* has no doubt that she is not the only *Girlie* never to leave home without her *Guide to Etiquette and Modern Manners*, published in Britain by Debretts since 1769. This esteemed publication has just ruled that breastfeeding is *yesterday, darling*, saying it is 'bad manners to expel any liquid from any orifice in public, and breastfeeding is no different'. This is in spite of the World Health Organisation's recommendation that all babies be breastfed for at least a year (and a recent survey demonstrating a higher IQ score in breastfed children!). *Girlie* could delicately suggest that Debretts reminds her of a load of something expelled from a different orifice, but that just wouldn't be manners, now would it?



## Pregnancy discrimination

Looks like it's thoroughly inconvenient to everyone for women to reproduce at all, from the findings of a report released in August by the Human Rights and Equal Opportunity Commission. The report, 'Pregnant & Productive' found that 15% of complaints to the Sex Discrimination Commissioner concerned pregnancy discrimination, women reporting that their hours are cut back, or being denied simple requests such as seating within the workplace. Noting that deregulation has exacerbated the problem, the report found that many women are delaying having children, or choosing not to have children at all because of the economic disadvantage it engenders. Starting with the lack of paid maternity leave available, the report found that child bearing costs the average woman \$336,000 in lost earnings over the course of her career! The report recommended the introduction of compulsory paid maternity leave, pursuant to an Article in the Convention on the Elimination of All Forms of Discrimination Against Women.

However, *Girlie* is not holding her breath that this will be forthcoming any time soon from the looks of Mr Reith's proposed industrial reforms. She is particularly alarmed at the answer by a government representative to a questionnaire distributed by the International Labour Conference on the subject of maternity protection at work. Asked whether 'when a woman is applying for employment, should employers be prohibited from requiring a test for pregnancy or a certificate of such a test, except for work which under national laws or regulations is prohibited or restricted for pregnant or nursing women or which is prejudicial to the health of the woman and child?' The reply came as follows:

No. A provision of this nature should prohibit discrimination on the basis of the manner in which the test is required or how the result of the test is used rather than hinge on the mere fact of the test being conducted. Many workplaces require potential employees to have a medical examination prior to being permanently appointed. That medical examination may include a pregnancy test to enable accurate interpretation of the test results. Where the test is taken with the employee's informed consent and done for bona fide purposes, it would be unnecessary to penalise the employer as no harm has been done to the employee in these circumstances.

Despite efforts made by vigilant girlies, there were no women included in the delegation to the conference. This was explained by the a spokesman for Mr Reith along the lines that 'you don't have to be pregnant to present a policy position'. You don't have to have any common sense or intelligence either, apparently, but then *Girlie* guesses nobody insisted on checking Mr Reith's tackle when he applied for *his* job ...

## OSW funding

Continuing its undisputed commitment to women's issues, the federal government announced the three NGOs to have received funding from the Office of the Status of Women. The decision ultimately belonged to Jocelyn Newman and John Howard, who outdid themselves by refusing to fund the Women's Electoral Lobby and the National Council for Single Mothers and their Children, but deciding to fund the Lone Father's Association to the tune of \$50,000, guaranteed for two years. *Girlie* readers may remember that the Lone Father's Association has been the subject of her attention on a number of occasions and she is flawed that any government can justify taking money from a budget intended to support and promote women's interests and giving it to such an inherently regressive organisation.

## A fine romance

The Chief Justice of the Family Court, Nicholson CJ, has expressed concern about the federal government's new legislation which allows, among other things, pre-nuptial agreements to be enforced once a couple is married and prohibits the Court from interfering with them. The agreements would resemble commercial contracts and do not require any disclosure of assets. *Girlie* is similarly concerned, considering the unequal bargaining power that many women experience in their personal relationships. Pre-nuptial agreements may well see women further disadvantaged in an increasingly privatised family law system.

## White man's ceremony

The Aboriginal Justice Advocacy Centre in Darwin has told *Girlie* of the amusement of three young Aboriginal women when confronted with the Anglo legal system for the first time. Having only seen their solicitor in a suit, they burst out laughing when he

emerged from the robing room, decked out in horsehair and swirling gown. They wanted to know what he was doing dressed as a woman. He explained that it was just a part of 'white man's ceremony' and they accepted it bemusedly. *Girlie* just wishes that the other aspects of white man's ceremony were so amusing.

## Dishonourable crimes

Women's groups in Jordan have recently launched a campaign to repeal Article 340 of the Jordan Penal Code, which permits men who kill female relatives to go free if the woman has committed 'adultery'. Each year 25-30 'honour' crimes come to trial, but experts believe that the number of killings a year is double that amount. Women deemed adulterous are often survivors of rape and recently included a 16-year-old girl who was raped and became pregnant by her younger brother, and was then killed by her older brother. Jordan's new monarch supports the repeal, but has to overcome Jordan's conservative political establishment.

## Election results

*Girlie* is thrilled to report a record number of women securing seats in the Victorian Parliament after the recent election, with 21 female members in the lower house and seven in the upper house.

This coincides with the release of a report from The Women's Audit Project, from the Centre for Public Policy at Melbourne University, which has analysed the results of an Audit of Government Spending on Social Expenditure. The Audit shows that rather than delivering a 'social dividend', Victoria's real spending per head of population on total social and community services has fallen by 10.7%. The impact of this reduction has, the report has found, fallen on women and the disadvantaged, who pick up the burdens of unpaid care and service needs. Hopefully with a few new faces and a new government this trend can be immediately reversed.

## Pill

After a nine-year campaign, the contraceptive pill has finally been made available in Japan, strangely coinciding with the introduction of Viagra!

**Fan C That**

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