
HOUSEWORK AND CONSORTIUM: CHANGING THE LAW

Women as property

Until recently a law in the Australian Capital Territory permitted a husband to recover damages for the loss of his wife's housework and sexual companionship (consortium) if she was negligently injured by someone else. The action for loss of consortium reflects the now outdated position in law of married women as their husbands' property.

The ALRC recommended in its report *Community Law Reform for the ACT: Second Report — Loss of Consortium and Compensation for Loss of Capacity to do Housework* (ALRC 32) that this law be abolished.

In 1990 the ACT Attorney-General asked the Community Law Reform Committee (ACTCLRC) to review ALRC 32. The Committee has now issued a report agreeing with the ALRC that the law should be abolished. It is seeking public comment. Copies of the report can be obtained from the ACTCLRC's Office in Canberra (06) 274 4324.

The South Australian and Queensland governments have extended the action so a wife can claim

damages if her husband is negligently injured by someone else. The New South Wales, Western Australian and Tasmanian governments have abolished the right to claim for loss of consortium.

Unpaid housework

Abolishing the action for loss of consortium leaves an important gap in the law. The action for loss of consortium is one of the few, inadequate, ways in which the loss of capacity to do housework can be compensated. The ALRC recommended covering this gap by amending the law to provide that, if a person is incapacitated from performing unpaid housework because of the negligence of another, the injured person should be properly compensated for that loss of capacity. The ALRC recommended that unpaid housework should be valued on the basis of gross median weekly earnings unless the parties can prove that a different rate should apply. The new Act (*The Law Reform (Miscellaneous Provisions) (Amendment) Act No 2, 1991*) leaves it to the courts to determine the appropriate level of compensation. □