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FEMINIST LAW BULLETIN

NEW ZEALAND AOTEAROA

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Why a Feminist Law Bulletin?

The Feminist Law Bulletin:

- Identifies when feminist issues arise in policy, legislative proposals, and the practice of law;
 - Provides an opportunity for exploration and discussion of some of these issues;
- Enables a general readership to gain an introduction to feminist analysis of the law.*

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Women's Groups Oppose APEC

The Asia Pacific Economic Co-operation (APEC) process has been the focus of a round of recent meetings in New Zealand. New Zealand is chairing this year's meeting of APEC the main event of which will be a leader's meeting in Auckland from 12-13 September. APEC was created to provide "free trade" and investment among Asia and Pacific Rim countries.

However, the APEC Monitoring Group (made up of diverse women from community groups, unions, local government, and Members of Parliament) oppose APEC. The Group says APEC is not good for women because:

- In most APEC countries women are the poorest and least powerful groups, and are unlikely to benefit from free market practices.
- APEC promotes a process of privatisation of assets and taonga to foreign companies who have no commitment to the future of Aotearoa/New Zealand.
- Experience has shown that women are disadvantaged by free trade philosophies with job losses in industries dominated

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by women, such as textiles, clothing and footwear. New Zealand was urged to assess the impact of free market legislation when it reported to the United Nations on the Convention on the Elimination of All forms of Discrimination Against Women.

- APEC promises much but will deliver little to most of the region's poor, the majority of whom are women.
- APEC means a free market experiment that creates hardship for Maori, Pacific Islands peoples, students, pensioners, single parents, and factory workers.

APEC women leaders recently held a four-day meeting in Wellington and were given a clear message that they needed to pay much more attention to the plight of women living in Asia and the Pacific Region. At the end of that meeting, the women leaders recommended that APEC countries develop an "ethical framework" for the disadvantaged in APEC.

Judge for Yourself:

- Is a recommendation for an ethical framework within APEC, an acknowledgement that the level playing field of the "free market" is tilted against women?
- If so, should APEC, and the free market philosophy, simply be disbanded altogether?
- Can an international ethical framework be legally binding or enforceable, given that APEC membership is voluntary and contains no enforcement mechanisms?
- If the proposal for an ethical framework is not adopted, where will this leave women in APEC countries?
- What other ways can be used to enhance the place of women in this economic region?
- What role, if any, should New Zealand play in APEC?

For more information on the APEC Monitoring Group write to them at PO Box 1905, Christchurch.

Adoption Law Review

The Law Commission is to review the law on adoption. The Minister of Justice has asked the Commission to review the major adoption laws: the Adoption Act 1955 and the Adult Adoption Information Act 1985. The Commission will also assess whether and how the legal system should be changed to better address today's social needs.

In 1997 there were 661 adoptions (compared to 540 in 1996, 640 in 1995, 683 in 1994 and 369 in 1993) excluding inter-country adoptions. In 1997, 131 of all adoptions involved children adopted by strangers. The majority, 342, were by family members (such as one parent and a spouse or relatives). A small minority, 28, were by foster parents. (New Zealand Year Book, 1998).

Adoption is a process where the biological relationships of a parent and child are changed at law. The legal parents of the child are deemed to be the person or persons applying for adoption. The rights of both the birth mother to custody of and access to the child, and the right of the child to have access to their birth mother, are extinguished.

Adoption laws have been under review for many years, but no concrete proposals have developed. Issues for women to consider include:

- Are adoption laws really needed anymore given the greater acceptance of single mothers and the human rights of women to choose when and whether they will have a child?
- Should guardianship and custody orders be used instead of formal adoption?
- Should a more child-centred approach be taken? If so, would a child-centred approach seek to maintain a child's links with their biological family and have laws which reflect and best meet the needs of children?

- Given the history of adoption as a legal device to protect primarily male rights of inheritance, is it in the best interests of women for adoption to remain as an option?
- If adoption laws remain, how can women ensure they retain control over the process of adoption?
- What measures are appropriate for Maori in terms of the Treaty of Waitangi?
- What measures are needed to take account of the needs of women from Pacific Islands and other cultural groups?
- Should same sex couples be allowed to adopt children?
- Should the information about adoption be a matter of public record from the outset, particularly given the high number of adoptions by family members and the low numbers by strangers?

The Law Commission intends to release a discussion paper for consultation by October this year. The final report, after public submissions, is due to be completed by 31 March 2000.

For more information contact H Colebrook, Law Commission, PO Box 2590, Wellington.

Legislation Update

Constitution Amendment Bill

This Bill changes the law relating to judicial appointments, removal and immunity. The Bill makes the Attorney-General, rather than the Minister of Justice, the Minister who recommends judicial appointments to the Governor-General. The grounds for removal from judicial office are set out, although no clear procedure for removal is detailed in the Bill. The Bill extends the wide judicial immunity of High Court and District Court judges, but not Community Magistrates.

Submissions made on discussion papers prepared as part of the Women's Access to Justice project (lead by Law Commissioner

Joanne Morris) indicate a strong desire among women for clarity in judicial appointments and the means of judicial accountability. Women's groups have long demanded a more diverse judiciary.

The New Zealand judiciary has never been representative of the diversity of New Zealand society. However, the very credibility of the judiciary, and of those charged with their appointment, can be both seen in and measured by those persons who make up the judiciary and the processes by which appointments are made.

While the rate of appointment of women to judicial office has improved in recent years, more is needed. In 1998 there were just 23 women judges, four of whom were High Court judges, 19 of whom were District Court judges, and one of whom was a Master of the High Court. The ethnicity of judges is difficult to determine, but is clearly dominated by Pakeha, with a small number of Maori and a lesser number from other ethnic groups.

In 1998, the *Bulletin* estimated that at the current rate of appointment it would take 24 years to achieve an equal number of female and male members of the judiciary. Those making submissions on the Bill have urged that it go much further if there is to be real progress towards a sound gender and ethnic mix of judicial appointees in the foreseeable future.

One option would be for the Attorney-General to have a statutory duty consult with the Minister of Maori Affairs and the Minister of Women's Affairs before making any recommendations for new judges. Another option is to establish an independent Judicial Appointments Commission. A private member's bill on this is currently on the list of private members bills.

Submissions have closed and the Bill is to be reported back to Parliament 22 July 1999.

From the Net

Women's Webs

www.wave-network.org - This Austrian site offers an international website about violence against women and women's rights, including links to the United Nations institutions, documents and "women's watch."

www.austlii.edu.au/links/ - this site offers lots of free Australian legal resources and international links including for the Washington Feminist Faxnet a weekly newsfax from a non-profit, non-partisan organisation.

www.womens-health.org.nz - the site for New Zealand's "Women's Health Action."

<http://www.onelist.com/subscribe.cgi/acrossthemiles> "Across the Miles" is a moderated list for victims, survivors, friends, families and advocates associated with military personnel. The list will promote awareness, provide resources, furnish referrals and foster a network of advocacy on behalf of the population associated with the military.

<http://www.pilotonline.com/special/violence/index.html>
The United States Military has published a series of articles on domestic violence in the military. This one relates to the Navy

Rural Women

A new website, focusing on the interests, needs and opportunities for rural women has recently been launched. "Not just gumboots and scones" has been developed by a large number of groups and individuals to enhance communication and meet social and economic needs of rural women. The site is: www.notjust.org.nz

Legal Resources for Maori

Maori Search on the Knowledge Basket can be found at: www.knowledge-basket.co.nz/kete/nzsearch.html

Incorporate your company on the net

The New Zealand Companies Office now has an on-line service to allow a person to

incorporate their company within a few minutes. See: www.companies.govt.nz

Australian Law Reports

This site provides, free of charge, information from the Australian Law Reports and much more besides. <http://www.austlii.edu.au>

Online Safety for Women

If you are using the internet, here are a few tips for keeping yourself safe:

- Do not give out identifying information such as a home address, school name, or telephone number in a public place such as a chat group or bulletin board.
- Think carefully about using or revealing any personal information such as age, marital status, or financial information.
- Don't give out credit card details unless you are certain of the identity of the person who you are dealing with.
- People may not be who they seem as they may be using a fake identity.
- Be wary of offers that involve going to a meeting or having someone visit your house.
- Don't respond to message or bulletin board items that are suggestive, obscene, threatening, or that make you feel uncomfortable.
- Do tell your service provider and ask for their assistance if you or a family member receive a message that it is harassing, threatening, or of a sexual nature.
- If you become aware that child pornography is being viewed or sent, report this to the Censorship Compliance Unit, Department of Internal Affairs, PO Box 805, Wellington and your internet service provider.

(Thanks to the Rural Bulletin for material used in preparing this article).

Women in the Law

The Victorian Women Lawyers Association has released its draft report, *Taking up the Challenge: Women in the Legal Profession*. The Report found that in the Australian state of Victoria:

- Women are seriously underrepresented at the partner level in law firms.
- There is no support for the proposition that with the passage of time and sufficient numbers, women will achieve equitable status with men in private law firms.
- Levels of satisfaction are highest among women who are partners and lowest among women who are employees.
- 30% of all lawyers are considering leaving their position.
- More flexible work practices lead to higher productivity.

The Report challenges law firms to see the issues facing women in the legal profession for what they are (discrimination) and promote and implement positive changes. The Report also encourages the development of alternatives to traditional law firm structures, as the partnership model is not seen as conducive to lawyers who have interests outside the practice of law.

Report on Violence and Child Access

The Ministry of Justice has released a report evaluating the operation and impact of new supervised access provisions in the Guardianship Act and the Domestic Violence Act. *The Domestic Violence Legislation and Child Access in New Zealand*, looks at whether these Acts promote the welfare of the child and are meeting their objective of protecting children from violent parents who have access agreements. Based on a study of 558

cases and interviews with a range of people, the research found that:

- Non-custodial parents were said to be safe with children in 40% of cases.
- Violence was occurring during access arrangements in a significant proportion of cases.
- In 58% of cases where there were allegations of violence and children were involved there were no directions for access.
- 12% had directions for access.
- 12% had no directions for access.
- There was a lack of information available to the Court to assess the risks to children in access arrangements.

The Report recommended further protections for children through:

- Better safety outside supervised access centres.
- Funding supervised access centres.
- Improving the quality of professional services to parents.
- Improving access to appropriate support services for Maori parents.
- Improving the information available to the Courts about children's safety.
- Shortening the time taken to finalise cases.

Principal Family Court Judge Mahony recently released a practice note for lawyers in supervised access cases. The practice note recommends that whenever the use of supervised access becomes necessary, the Family Court Judges makes referrals to the New Zealand Association of Children's Supervised Access Services Inc. if at all possible.

A conference on children and Family Violence was to be held by the Family Violence Taskforce in early July. For further information on that conference contact the Taskforce at PO Box 4092, Wellington or e-mail anne@psychology.org.nz

Lesbians and the Law

The Minister of Justice has indicated that a discussion paper on same sex couples and the law is to be released later this month.

The discussion paper follows a range of issues raised in submissions on the De Facto Relationships (Property) Bill introduced last year. That Bill appears to have been delayed indefinitely.

The discussion paper follows the release by the Prime Minister earlier this year of a report on public policy responses to same sex couples in other countries. That paper shows that there are four broad public policy approaches to laws for same sex couples.

First, a policy of not enacting legislation and leaving it to the courts to make decisions in test cases (used in some states of the United States of America and Israel).

Second, a policy of specific legislation to exclude same sex couples from marrying, but which does not prevent other benefits accruing in line with test cases (used in various states in the United States of America).

Third, a policy of specific laws to recognise same sex couples on the basis of cohabitation (Sweden and proposed law in Finland).

Fourth, a policy of laws that allow same sex couples to register their partnerships, with the same legal effect as heterosexual marriage, and with limited exceptions to the rights conferred (Denmark, Norway, Netherlands, Iceland, and Greenland).

The Ministry of Justice discussion paper is expected to consider the status of same sex couples in legislation and to seek views on policy options in light of the Human Rights Act 1993.

Paid Parental Leave Bill

This Bill (promoted by Alliance MP Laila Harre) was reported back to the House on Friday 25 June. The Bill, which would introduce 12 weeks paid parental leave, was referred to a Select Committee.

A majority of the Select Committee recommended that the Bill should not proceed, with Mauri Pacific MP Anne Batten abstaining from the vote.

Members of Parliament will now have to vote on whether or not to accept the Select Committee's recommendation. That vote, and the debate on it, is likely to be on Wednesday 21 July 1999.

Upcoming Issues

The next issue of the Feminist Law Bulletin will have a special feature on the recently released report by the Law Commission on Maori Women's Access to Justice and, if released in time, the Women's Access to Justice report.

Other topics for future issues of the Bulletin include legal issues for older women and a review of the policies for women (if any) of major political parties before the 1999 general election

Subscriptions are due

We are delighted that once again subscription rates for the Bulletin can remain the same (\$25 for individuals and community groups and \$50 for government departments and corporates). If you have not already paid your subscription for 1999/2000 an invoice will have been sent to you with this issue. Please make sure you let us know of any changes of address.