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# Legal Profession

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## Other Developments

### International Association of Young Lawyers

The 18th Congress of the Association (Philadelphia, 2 - 6 September 1980) adopted two resolutions one of which was :-

(ii) Resolution on the Rights and Duties arising out of Co-habitation

The AIJA proposes:

1. that countries where sexual relations between un-adults of the opposite sex is still a criminal offence should be urged to abolish it as such;
2. that the courts that refuse to apply normal rules of civil law to people living together outside marriage but condemn such a situation as immoral, should be urged to adopt a neutral approach in future and not to impose their own subjective standards; and
3. that lawyers should be urged to advise unmarried couples living together of their economic rights and obligations and in particular to advise the use of contracts drafted according to the normal civil law dealing with the particular situation.

(C.L.B. April 1981 pp.714-715)

### Women lawyers as partners - a legal remedy for discrimination by law firms?

For women lawyers, sex-based discrimination is not a new subject. But a recent decision by the US Supreme Court raises the possibility that women who believe that their advancement in a law firm has been delayed or denied because of discrimination may seek a legal remedy.

In the American case, Elizabeth Hishon, who was for seven years an associate with the blue-chip Atlanta firm King & Spaulding, sued the firm under a section of the US Civil Rights Act barring discrimination in employment by firms with more than 15 employees. Hishon was required to leave after she was twice considered and rejected for partnership.

King & Spaulding, which has been described as an archetype of the white, male-dominated large urban law office, did not admit its first woman partner until 1980, after Hishon had initiated her suit.

Two lower courts had held that U.S. anti-discrimination laws do not apply to partnerships. But the U.S. Supreme Court unanimously disagreed, holding that if the firm pledged to consider all associates

for partnership, then Federal law required that those decisions be made without regard to sex. The merits of Hishon's claim against King & Spaulding were not before the court but the decision means that she will be able to proceed with the suit.

(C.L.B. October 1984 p.1772)

AUSTRALIA

### Women Judges

Mr Justice Murphy, a member of the High Court of Australia and a former Federal Attorney-General, has criticised what he says is discrimination against women and ethnic groups in the selection of judges in Australia.

Speaking on an Australian Broadcasting Commission television programme, Mr. Justice Murphy said there had never been a woman judge in the High Court or Federal Court of Australia and out of more than 100 Judges in Australian State Supreme Courts there was only one woman.

He said that the restrictions on the selection of judges in Australia had been taken too far, eliminating solicitors, almost all government lawyers and about 90 per cent of barristers. "We have gone to extreme lengths in restricting appointments to the Bench. You have only to look at the people who are there to see that the most glaring discrimination is against women all through the judiciary ..... equally so if you look at the people that are described as ethnics. It is a terrible word but again they are dreadfully unrepresented in the ranks of the judiciary." he said.

(C.L.B. January 1983)

CANADA - ONTARIO

### Women seek admission in greater numbers

The February 1982 issue of the National notes an increase in the proportion of women being admitted in Ottawa from one in 54 to about one in 3 in just ten years. A recent survey shows that 90 per cent of practising women lawyers in Canada in 1979 had graduated within the past five years. The articles also shows that women have done disproportionately well in collecting academic honours.

(C.L.B. April 1982 p.727)

NEW ZEALAND

### Discrimination in the legal profession against women practitioners

At the 19th Conference of Law Societies held in Surfers Paradise earlier this year, the Society's President, Bruce Slane, reported on the position of women in the legal profession in New Zealand.

Since November 1982 there has been in New Zealand an amended Rule 3 of the Code of Ethics which now reads -

3.1.1.

A practitioner shall treat professional colleagues with the utmost courtesy and fairness.

3.1.2.

A practitioner shall not discriminate against nor treat any practitioner unfairly by reason of the colour, race, ethnic or national origins, sex, marital status, or religious or ethical belief of that other practitioner.

In addition, the New Zealand Law Society's Council adopted a guidance note indicating its special concern as to the position of women.

A report from the Committee on Women in the Profession, established by the Auckland District Law Society, has observed that -

(1) Sexual discrimination is a form of discrimination which has been demonstrated to exist within the profession. Women practitioners were facing significant difficulties in certain areas.

(2) The numbers of women are increasing to the point where they represent a substantial proportion of the profession. Women currently holding practising certificates account for over 8 per cent of practitioners in Auckland City. That proportion seems likely to increase given the almost equal division of the sexes in the Auckland Law School.

(3) The perception of discrimination by the large number of women polled should also be a matter of concern. Significant numbers of women within the profession did not feel fully accepted and were looking for a firm indication that they in fact belong.

(4) The injustice of discrimination on the basis of sex is not as widely acknowledged as other forms of discrimination. For some reason discrimination on the basis of race or religion is much less readily condoned than discrimination on the ground of sex.

(C.L.B. January 1984 pp.368-369)

## Articles

### UNITED KINGDOM

Barristers and gentlemen: a critical look at sexism in the legal profession (Rose Pearson and Albie Sachs) (1980) 43 Modern Law Review 400

"The law as a sex-typed profession" (D. Podmore and A Spencer) (1982) 9 Journal of Law and Society 21

"Who is my client? husband and wife as clients" (Alec Samuels) (1983) 80(No.4) Law Society's Gazette 223