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Friday 24 May 2024

Submission to Inquiry on Justice Responses to Sexual Violence

Feminist Legal Clinic Inc. is a community legal service established to advance the human rights of women and girls.

While we welcome the opportunity to make a submission to this inquiry, as an unfunded service operated by volunteers we are currently overwhelmed by the demand for our assistance and do not have the capacity to adequately respond to even a fraction of the questions raised. We will therefore just share a few observations.

The Issues Paper states: *"The vast majority of adults in Australia who have experienced sexual violence were assaulted by a male."* This is the only time the word 'male' appears in the entire document. The words 'female', 'woman' and 'man' do not appear at all in the Issues Paper and the words 'men' and 'women' appear only a handful of times and not at all after the discussion on page 4 about 'the nature and extent of sexual violence'.

In contrast the word 'person' appears 32 times and the word 'people' appears 45 times. It is therefore quite clear that care has been taken to draft the document using gender neutral language, even though this is one of the few topics in which the sex of the parties must be central to any consideration of the issues.

According to the Australian Bureau of Statistics 97% of sexual offenders are male.¹ Therefore, any earnest consideration of reform must be informed by a feminist perspective that recognises the biological reality of sex and does not minimise the stark disparity between male and female sexual offending.

¹ <https://www.abs.gov.au/media-centre/media-releases/97-cent-sexual-assault-offenders-are-male>

Another disturbing statistic recently reported is that 'one in five Australian men reported sexual feelings towards children and/or have sexually offended against children'.³ And indeed this is reflected in the startling report by the Australian Institute of Health and Welfare that records:

Based on national data on crimes reported to police, most recorded sexual assault victims (59%, or about 18,900 victims) in 2022 had an age at incident of under 18 years. Of these victims: 71% (or about 13,400) were aged 10–17 years. about 5 in 6 were female (79%, or about 15,000) (ABS 2023b).⁴

Research on the production of child sexual abuse material by Michael Salter reports:

Men were offenders in 90% of cases, and girls were victims in 84% of cases. Boys were victimised in one-fifth of cases, with multiple children abused in some cases. The victim's biological father (58%) or stepfather (41%) were most likely to be the offender.⁵

In view of this, it is essential that more is done to recognise and fortify the safeguarding role of mothers. Instead we are seeing domestic violence and family laws, as well as the Hague Convention against Child Abduction, being used against mothers who attempt to protect their children from sexual offenders. Far too often distraught mothers contact our service because the Family Court is handing their sexually abused children over to the care of the perpetrator, and they have been left too impoverished by the legal process to do anything effective about it.⁶ Unfortunately, we are unable to meet this demand or find an adequate referral for them in most cases.

With unlimited time we would like to answer the questions about improving access to the justice system, increased police responsiveness, training for judges, a better trial process, specialist courts, protection of counselling records, adequate provision of interpreters, jury directions and more. However, while our patriarchal legal system continues to be dominated by those who are too often themselves complicit in abuse, it will be difficult to secure real change.

³ <https://www.humanrights.unsw.edu.au/sites/default/files/documents/Identifying%20and%20understanding%20child%20sexual%20offending%20behaviour%20and%20attitudes%20among%20Australian%20men.pdf>

⁴ <https://www.aihw.gov.au/family-domestic-and-sexual-violence/types-of-violence/child-sexual-abuse>

⁵ <https://www.unsw.edu.au/newsroom/news/2021/02/new-research-shows-parents-are-major-producers-of-child-sexual-a>

⁶ <https://onlinelibrary.wiley.com/doi/full/10.1002/ajs4.171>
<https://www.abc.net.au/news/2022-03-31/police-misidentifying-domestic-violence-victims-perpetrators/100913268>
<https://www.hague-mothers.org.uk/>

Feminist Legal Clinic would be more than happy to expand on any point raised in this short submission if required.

Yours faithfully

[Redacted Signature]

Anna Kerr
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Feminist Legal Clinic Inc.
Organization in Special Consultative Status with the Economic and Social Council (ECOSOC) since 2023.