
OPINION

Problematic laws

Problematic laws is the theme for this edition; a theme suggested by one of the authors when I was discussing the articles we had received. It seems particularly appropriate because there are a number of articles in the edition which explore the problematic omissions and inclusions in various laws.

In Victoria, Margaret Thornton's brief discusses the implications of changes to the public sector. Her analysis of the *Public Sector Management and Employment Act 1998* suggests that this law will have far reaching ramifications for Victoria. In a New Zealand article, Andrew Alston discusses the 1992 *Housing Restructuring Act* highlighting the apparent contradictions in the objectives of the Act.

Other articles in this edition deal with issues associated with child abuse laws, sexual harassment cases and the rights of individuals incarcerated under State laws. All of these articles highlight problems in various areas of law and suggest possible reforms.

Australia wide, the article by Sarantakos on 'Legal Recognition of Same-Sex Relationships' explores another problematic area of law. This article discusses the various ways in which same-sex relationships could be recognised and importantly provides a survey of the views of cohabiting gays and lesbians on this issue. The survey demonstrates the advantages and disadvantages associated with the various options available and the wide range of views held by the gay and lesbian community on this issue.

And in Western Australia, one problematic law may result in teachers being prosecuted for speaking positively about homosexuality to their students. In 1989, the WA

Government introduced the Criminal Code Amendment (Decriminalization of Homosexuality) Bill. The Bill was ultimately passed as the Law Reform (Decriminalization of Sodomy Act) and resulted in a number of amendments to the State's Criminal Code. The Bill's aim was to legalise consensual same sex sexual activity. What should have

served as a source of liberation in that the law now legalised homosexual relations has been undermined by the fact that the preamble to the legislation stated that that parliament disapproved of homosexual relations between persons of the same sex and did not wish to create a change in community attitude to homosexual behaviour. This view was reinforced by s.24 which provided that it shall be 'unlawful to promote or encourage homosexual behaviour as part of the teaching in any primary or secondary educational institution'.

In this edition of the *Alternative Law Journal*, 'Teen Suicide, Sexuality and Silence' explores this problematic law. It argues that this act and in particular s.24, seriously impedes educators ability to talk to

students about lesbian and gay sexuality and may also limit their ability to discuss issues relating to HIV/AIDS transmission. It suggests that failure to deal with these issues may result in increased rates of youth suicide and also may result in an increased incidence of HIV/AIDS transmission. The article highlights the potential risks educators may run if they speak positively about homosexuality to students and the potential risks to students if they do not. One can only hope that increasing community awareness of this and other problematic laws may lead to change.

Sonia Walker

Sonia Walker teaches law at Murdoch University, Western Australia

