FEMINIST JURISPRUDENCE

Critical theory asserts that social and political issues are integral to the law and need to be taken into account for sufficient legal analysis.

→ This gave rise to the development of Feminist Jurisprudence.

"Feminism is a movement to end sexism, sexist exploitation and oppression".

→ Bell Hooks, Feminism is for Everybody: Passionate Politics (South End Press: 2000) 1 Sexism can attach to age, race, class and physical capacity.

It is evident feminism has **evolved and changed overtime** – the idea of equality is becoming more prevalent.

→ This is evident due to the enforced Sex Discrimination Act 1984.

Liberal Feminism

Radical Feminism

Focuses on individual liberties and freedoms and argues that rights and privileges for men should also be afforded to women. This is faithful to the general liberal idea of freedom and equality.

Associated with an agenda in law reform that focuses on rights – it is the main vehicle to ending sexism.

Contains more of the critical theory and looks at the theory that underlies feminist beliefs/the root of the problem.

Claims that **liberal feminism** is telling women to aspire to the circumstances liberalism has already held out for men, and questions whether this is **masking the issue**.

→ From a critical point, the radical feminist approach makes more sense in regards to resolving an issue. It proposes addressing what alternatives could be developed does this.

Critiques (as illustrated in a Margaret Davies, Asking the Law Question (Lawbook Co, 2008) 236-239

- Liberal feminism does not confront the liberal world-view itself, and the way society is accordingly organised.
- Thought to be blind to harm perpetuated in private
- "Merely enshrining a principle of equality in the law will not solve the much more profound inequalities entrenched in cultural perceptions, economic status and biological difference"

These do not invalidate the liberal feminist approach. "The process of questioning and discussion of conflicting views provides the general environment in which positive reforms can be made and their effects evaluated."

Is Intention Necessary for Sexism?

Sexism does not necessarily have to be intentional – bias may be based on the stereotypes an individual has been exposed to instead of what their conscious ideas about a particular group are.

Critiques

• The impact of the law regarding feminism does not necessarily take into account aspects such as race and religion. E.g. the impact of the law for a Caucasian may be different to that for a non-Caucasian.

STATUTORY INTERPRETATION

Identifying Ambiguity

Semantic Ambiguity

- E.g. go to the bank
 - o Unclear as to where to go. Could be riverbank, Commonwealth Bank etc.

Syntactic Ambiguity

- E.g. drives the vehicle, in a public place, in a race between vehicles
 - o Relationship between the words and clauses of a sentence

Contextual Ambiguity

- E.g. it is unlawful to kill any Australian magpie that has attacked or is attacking any person.
 - How close does the bird need to be for it to be regarded as 'attacking'? This
 is subjective