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Older indigent women's economic crimes: Subsuming feminism in favour of a human rights explanation

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**Older Indigent Women's Economic Crimes:
Subsuming Feminism in Favour of a Human Rights Explanation**

This thesis is presented for the degree of
Doctor of Philosophy

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School of Arts and Humanities

2017

Abstract

Many people today believe the concept of gender inequality is outmoded, irrelevant and unnecessary in Western societies that are deemed egalitarian. As a consequence, feminism as a movement with gender equality at its core has often been proclaimed 'dead', a relic of the past. Feminist perspectives, nevertheless, have produced differing points of view about the sources of gender inequality affecting crime rates and criminal behaviour.

For the last 50 years or so, women and girls have been the subject of criminological research that has largely evolved from sociological perspectives and specifically from feminism. Although gender intersects with other social realities and disadvantages, it is a crucial factor in relation to offending behaviour. A substantial body of feminist literature confirmed that marginality and poverty are factors leading to female criminality.

Using a sequential explanatory mixed methods design, this research explores the consequences of gender inequalities affecting older indigent Australian women convicted of acquisitive crimes. This thesis argues that the term 'feminism', and feminist discourse and communications, ought to be abandoned in favour of advancing the human rights framework in the 21st century. Stigma associated with the feminist label has been detrimental. The most significant finding in this research is that financial need rather than greed was a precursor to older women's involvement in acquisitive crimes. Having primary custody of children after divorce and relying on welfare support were factors contributing to their impoverished status. The feminisation of poverty, the segregation of women into low-paid feminine occupations and an accumulation of disadvantages over the life course often contribute to women's impoverishment in their later years. Potentially, law-abiding older women are put at risk of transgressing the law for the first time later in their lives to alleviate their poverty.

From a human rights perspective, violations of the women's rights were factors contributing to their offending behaviour. Gender inequality, a condition that disadvantages women, however, is alive and well in Australia as confirmed here and is an unrelenting feature of many male-dominated social structures throughout the world today. Since a great deal of negativity surrounds the feminist label, it would be more pragmatic to abandon the feminist label and adopt a human rights approach.

Declaration

I certify that this thesis does not, to the best of my knowledge and belief:

- i) Incorporate without acknowledgment any material previously submitted for a degree or diploma in any institution of higher education;
- ii) Contain any material previously published or written by another person except where due reference is made in the text of this thesis; or
- iii) Contain any defamatory material.

Signature:

A black rectangular box redacting the signature of the author.

Date: 11/10/2017

Dedication

This thesis is first and foremost dedicated to my late paternal grandmother who always believed in my capabilities at a time when girls were not encouraged to aspire to a higher education. I also dedicate this thesis to the wonderful Xhosa and Bantu women of South Africa who became part of my life story, and who opened my eyes not only to the wretched injustices of racial discrimination, but to gender discrimination in their cultures and in my own.

Acknowledgments

First, I thank my husband and daughters for always supporting my decision to embark upon university studies as a mature age student, and being unwavering sources of support and encouragement, particularly throughout the highs and lows of writing this thesis. Second, this thesis would not have been possible without the persistent and constant encouragement and guidance of my supervisors, Dr Margaret Giles and Dr Ann-Claire Larsen, for whom I have the greatest admiration and respect. Finally, it is incumbent upon me to acknowledge that this thesis was edited by Elite Editing, and editorial intervention was restricted to Standards D and E of the *Australian Standards for Editing Practice*.

Table of Contents

Chapter 1: Feminism is ruled out in Abstract	i
Declaration	iii
Dedication	v
Acknowledgements	vi
Table of Contents	vii
List of Tables	ix
List of Figures	x
List of Terms Used	xi
Chapter 1: Feminism is ruled out in the 21st Century's Political Discourse	1
Gender Inequality is Alive and Well	2
Developing Theories Explaining Criminal Conduct	2
Gendered Disadvantage as a Pathway to Crime	3
Gender Inequality as a Human Rights Issue	5
Statement of the Problem	6
Purpose of the Study	6
Aim of the Study	7
Overview of the Study	8
Chapter II: Gender Inequality as an Intractable Problem	10
Patriarchy as Male Domination	10
Explaining Feminism	15
Distinguishing between sex and gender	15
Human rights: Women and the anti-slavery movement	25
Making women count	26
Positioning Women in Contemporary Society	29
Conclusion	31
Chapter III: Literature Review: A History of Feminism and Criminology	33
Bringing Gender Difference into Criminology	33
Equal rights: Liberal feminist criminology	35
Subordinating women in patriarchy: Radical feminist criminology	38
Capitalist mode of production: Marxist criminology	39
Patriarchal social system: Socialist feminist criminology	39
Ensuing Feminist Theories of Women and Crime	42
Histories of abuse and trauma	42
Marginality and poverty	43
The feminisation of poverty	49
Children of single mothers	52
Accumulating Poverty over the Life Course	54
Overlapping social identities: Intersectionality theory	63
Conclusion	64

Chapter IV: The Status of the Feminist Movement and Women Today	67
The Rhetoric of Equality and Inequality	67
Contemporary Views on Feminism and Gender Equality	68
High profile women and discussions about feminism	72
Provisions Against Discrimination on the Basis of Sex	76
Ageism as an Axis of Discrimination	83
Gendered ageism	86
Challenges of exiting the labour force	90
The right to earn a living	92
Surviving on the Age Pension	95
The Feminisation of Poverty of Older Women	100
Neoliberalism: A system for the common good?	105
Assimilating a Human Rights Framework in Feminist Criminology	107
Older women and breaches of human rights	112
Conclusion	115
Chapter V: Research Design	116
Rationale	116
Research Design	116
Choice of a mixed methods design	117
Sequential explanatory mixed methods design	120
Philosophical underpinnings	121
Positioning the researcher	121
Quantitative Data Collection	122
Qualitative Data Collection	123
Sampling strategy	123
Method	124
Ethics Declaration	126
Conclusion	127
Chapter VI: Research Findings	128
Phase 1: The Quantitative Study	128
Australian prisoner population	129
Persons in corrective services	135
Recorded crime	136
Estimated Australian population by age group	137
Phase 2: The Qualitative Study	139
Older female offenders: Case studies	142
Older male offenders: Case studies	153
Conclusion	158
Chapter VII: Discussion	161
Overview of the Australian Prisoner Population	161
Profile of the Older Australian Female First-time Property Crime Offender	162
Unpartnered mothers	162
Insecure employment	164
Welfare dependency	166
Participation in theft/fraudulent activities	171
Motivation	171

Female, Single, Old and Poor	174
Overview of the Older Australian First-time Property Crime Offender	176
Marital status	176
Employment status	176
Motivation	177
The Australian Criminal Justice System	177
Formal equality	179
Decisions to imprison	179
Offenders' Personal Circumstances and Sentencing Decisions	180
Limitations	183
Human Rights Violations as a Pathway to Older Women's Crime	183
Human Rights, Substantive Equality and Social Justice	188
Conclusion	195
Chapter VIII: Conclusion	197
Policy Implications	203
Limitations	204
References	205

List of Tables

Table 1. Sentenced and Un-sentenced Prisoners by Most Serious Offence and Sex 2015...154	154
Table 2. Sentenced Prisoners by Age Group and Most Serious Offence 2015.....155	155
Table 3. Female Prisoners by Aboriginal Status and Most Serious Offence 2015..... 157	157
Table 4. Acquisitive Offences by Sex 2008–09 to 2014–15 161	161
Table 5. Emergent Analytical Categories for Women’s Involvement in Crime 167	167

List of Figures

Figure 1. Distribution of Australians in Different Age Brackets as a Percentage of the Population in 2012	127
Figure 2. Prisoners in Australia 2015 by Age and Sex.....	156
Figure 3. Prisoners Incarcerated for Acquisitive Crimes by Age Group 2015.....	158
Figure 4. Prisoners Aged 45 Years and Over Sentenced for Acquisitive Crimes 2015	159
Figure 5. Prisoners Aged 20–44 Years Sentenced for Acquisitive Crimes 2015.....	159
Figure 6. Persons in Corrective Services Australia by Sex March Quarter 2016.....	160
Figure 7. Percentage of Female Recorded Crime by Age Group 2008–09 to 2014–15.....	161
Figure 8. Percentage Male Population by Age Group 2008 and 2015.....	162
Figure 9. Percentage Female Population by Age Group 2008 and 2015	163

List of Terms Used

Acquisitive crime:	Crimes for financial gain.
Criminology:	Studies of crime and criminals.
Feminism:	An interdisciplinary approach to generate females' social, political, economic and all other rights equal to those of males.
Gender inequality:	The unequal treatment of individuals based on gender.
Indigent:	Impoverished.
Neoliberalism:	The most recent form of capitalism adopted by many parts of the world today.
Patriarchy:	A structural system of male domination that limits the rights of women and other groups of individuals.
Property crimes:	Crimes for financial gain.

Chapter I: Feminism is ruled out in the 21st Century's Political Discourse

Many people today discount gender inequality as a problem in Western social systems, which are fundamentally male dominated, on the basis that political and economic changes have rendered social systems as egalitarian. At feminism's core is the concept of equality, and as a movement feminism has regularly been proclaimed dead (Redfern, 2013). For example, a report commissioned by the United Kingdom Equal Opportunities Commission and published on the 75th anniversary of women attaining equal voting rights revealed that feminism and the fight for gender equality were viewed as outdated concepts that had failed to address the tensions of modern women's lives (Doughty, n.d.; Ward, 2003). According to Redfern (2013), some sectors of the public viewed feminists negatively as solemn, pitiful women who adhered to old-fashioned ideas about men and women's unequal status (Redfern, 2013). However, gender inequality remains a source of social injustice in many parts of the world today.

Undeniably, over past decades, feminist movements have contributed greatly to discovering legal remedies, particularly in Western cultures, to redress gender inequalities. However, some women who have enjoyed positions of high status as beneficiaries of changes commissioned in the 1970s by second wave feminists reject the term 'feminist'. Government Minister Julia Bishop, for example, when she was the most senior woman in the Australian Government led by Liberal Prime Minister Tony Abbott, refused to describe herself as a feminist when addressing the National Press Club. One journalist asked Ms Bishop if she was a feminist, to which she responded "[Feminist] is not a term I find particularly useful these days ... get over it!" Ms Bishop went on to comment, "I recognise the role it has played, I certainly recognise the women's movement and the barriers they faced and the challenges they had to overcome" (as cited in Medhora, 2014). Further, earlier in the same year, Michaelia Cash, Minister Assisting the Prime Minister for Women

declared that although she believed in gender equality, she did not associate with the feminist movement (Medhora, 2014). This paradox demonstrates how contentious it has become to identify with the term feminism.

It is likely that many women today are unaware of how deeply gender inequality became entrenched in patriarchal social structures that severely curtailed women's rights, or of the long and arduous struggle of early feminist movements to acquire the semblance of equality modern women enjoy today. However, gender inequality is such an intractable problem that scant attention is paid to possible wholesale alternatives to male-dominated social structures.

Gender Inequality is Alive and Well

Some sectors of the public perceive gender inequalities are a relic of the past. The perception is a fallacy. Gender inequality, a condition that disadvantages women, is alive and well, as I investigate here. It is an unrelenting feature of many male-dominated social structures throughout the world today, including Australia. This is a problem for women because accumulated gender inequalities over the life course contribute to their risk of hardship and poverty in their later years, tempting some to transgress the law to supplement their incomes.

Developing Theories Explaining Criminal Conduct

In the wake of the Enlightenment era development of the scientific method and academic disciplines, criminology sought to apply scientific methods of studying criminal behaviour. As males were constantly over-represented in crime statistics, theories developed that were largely shaped by male understandings of the world to explain crime. Initially, mainstream criminologists attributed male and female crime to defects in offenders' physiological or biological characteristics (Goldsmith, Israel, & Daly, 2006; Knepper & Ystehede, 2013; Pollak, 1950; Smart, 2013). However, because of the belief that gendered

experiences were essential to understanding and explaining differences in criminal activity, feminist criminology evolved as a challenge to theories of crime by male scholars (Renzetti, 2013).

The inclusion of females in criminological research was propelled by the second wave of the feminist movement in the late 1960s and early 70s, and therefore is only around 50 years old (Heidensohn, 2012). A number of perspectives evolved, all falling under the feminist umbrella, with different points of view about the sources of gender inequality in relation to crime (Burgess-Proctor, 2006).

Later female scholars, however, recognised the shortfalls of gender as a single analytical category. In this regard, perhaps one of the most significant perspectives that arose from this recognition was intersectionality theory; it was argued that structural conditions and related histories informed how intersectional axes of discrimination were shaped (Henne & Troshynski, 2013). However, Potter (2013) observed that many criminologists have still failed to consider differences across and between gendered identities.

Gendered Disadvantages as a Pathway to Crime

With little regard for consequences, males and females commit a range of illegal activities for economic gain. Poverty and/or financial hardship, however, have been disregarded as an equal, if not a greater, antecedent to criminal behaviour for females than for males. As Bloom, Owen and Covington (2004) pointed out, like males, some females lacked adequate income, earning capacity or legitimate means of procuring an adequate living. However, the relationship between poverty and female crime has only been superficially dealt with by many mainstream contemporary criminologists.

Although gender intersects with other social realities, it is perhaps the most crucial factor in relation to offending behaviour (Belknap, 2007; Carlen, 1988; Chesney-Lind, 2006; Covington, 2007; Daly & Chesney-Lind, 1988; Kruttschnitt, 1980; Worrall & Gelsthorpe,

2009). Research examining the pathways of girls, adolescent women and young adult women into the criminal justice system has established that their trajectories differed significantly from their male counterparts. A substantial body of feminist literature confirmed that marginality and poverty were factors leading to female criminality (Carlen, 1988; P. Davies, 1997; Gilfus, 1993; Heidensohn, 1985; Holtfreter, Reisig, & Morash, 2004; Jensen & Kouri, 2011).

Consequently the term “feminisation of poverty” was advanced to refer to the predominance of single mothers, divorcees and widows among the poor (Schaffner Goldberg & Kremen, 1992). Research findings were that a number of factors in male-dominated social structures placed women in a position of financial disadvantage. This conclusion arose because, to varying degrees, it was found that many married and single women throughout the world were subjected to related gender pay gaps and the general inequalities of highly segregated labour markets (Schaffner Goldberg, 2010). These factors have detrimental financial consequences that accumulate over the life course; consequently, poverty is a social problem for many older females worldwide. In Australia, gender inequalities are still evident in the areas of unpaid domestic work, gender segregation in the labour market and the gender pay gap, all of which contribute to the impoverishment of older women. These issues are discussed more fully later in this thesis. In the workforce, married and single women are still subjected to the inequalities of segregated labour markets and unequal pay (Schaffner Goldberg, 2010). Ultimately, these conditions have detrimental financial consequences over the life course and consequently, the likelihood of poverty is a serious social problem for many females not only in Australia, but worldwide.

Research has established that social divisions and inequalities associated with gender divisions, ethnic/racial divisions, economic positions and age all played key roles in crime (Carrabine et al., 2009). Poverty or financial deprivation may cause difficulties for young

and old alike, but factors that contributed to, and increased the risk of poverty for individuals aged between 40 and 60 years in Australia was unemployment, underemployment, dependent family members and inadequate income support. An additional risk factor for women in retirement is lack of adequate superannuation because of lower wages, career interruptions due to child rearing and part-time and casual work (Commonwealth of Australia, 2004). Therefore, it is not inconceivable that due to desperate circumstances, some women may be compelled to transgress the law (commit economic crimes) to meet their day- to-day living expenses.

Gender Inequality as a Human Rights Issue

Indisputably, feminist movements have gone a long way in alleviating discrimination on the basis of gender, but full gender equality remains elusive. Human rights belong to all individuals without discrimination of any kind (Makkonen, 2002). However, Australia's Commonwealth Constitution does not guarantee equality of sex, gender or age. Rather, Australian federal anti-discrimination laws are ratified and based in part on human rights conventions (Hellum & Aasen, 2013). Submitted in 2010, Australia's combined sixth and seventh report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) for the period July 2003–2008 (Australian Government Office for Women [AGOW], 2008) confirmed that gender inequalities still persisted in the areas of unpaid domestic work, gender segregation, the gender pay gap and the accumulated financial disadvantage of older women.

Recently, Sex Discrimination Commissioner Kate Jenkins discussed the existing status of gender inequality with people from a diverse range of communities and individuals and organisations working to advance equality across many sectors (AHRC, 2017). From these discussions it became evident that gender inequalities as identified by AGOW for the period 2003–2008 were still prevalent at the end of 2017 March quarter.

Links to human rights were long seen as peripheral to the main concerns of criminology. For Indigenous peoples the world over, however, human rights have emerged as a fundamental global political discourse on the basis that some modern political states were built on human rights abuses of colonised and enslaved peoples (Cunneen, 2008). Historically, Indigenous peoples have indeed been subjected to gross human rights abuses, but so have women and other minority groups such as religious minorities, homosexuals and the physically and mentally handicapped. Thus, women's historical human rights injustices and their consequences are similarly deserving of inclusion in criminological inquiry.

Statement of the Problem

Accumulated gendered disadvantages over the life course contribute to the impoverishment of some women in their later years, potentially putting some previously law-abiding women at risk of transgressing the law for the first time later in life to alleviate their impoverished status. Although many people believe gender inequality is a relic of the past, evidence suggests that gender inequality persists to varying degrees throughout the world, including Western cultures. Explored here are the consequences of gender inequalities affecting older indigent Australian women caught up in the criminal justice system. However, feminism and its ongoing quest for attaining gender equality has become a term from which many people are eager to distance themselves. This is a problem because this aversion to and distancing from feminism is detrimental to the goal of pursuing full gender equality.

Purpose of the Study

Although the various strands of feminism have contributed greatly to alleviating women's disadvantaged status in Australia and elsewhere, current debate challenges the relevance of the term feminism. Full gender equality remains an elusive goal and progress is

likely hampered by negative connotations associated with feminism. To address this problem, Redfern (2013) suggested that the term be abandoned, but offered no suggestions for an alternative term.

Feminism's focus on equality not only for women, but for all disadvantaged groups, is inextricably linked with human rights conventions. In criminological literature examining the offending behaviour of Indigenous peoples, abuses of human rights have been acknowledged as contributory factors. The reality that historically, women have similarly suffered, and continue to suffer abuses of human rights that potentially contribute to their offending behaviour has mostly been overlooked. These issues are explored in Chapter IV.

Social and institutional arrangements in male-dominated social structures continue to place women in a position of financial disadvantage. My focus is not on criminal law or criminal justice systems. Rather, from a human rights perspective, this study seeks to examine how accumulated gendered inequalities over the life course might bring older women into the criminal justice system for crimes committed for financial gain, so-called economic crimes.

To achieve this objective, the study seeks to address the following questions:

1. What is the extent of Australian women's participation in crimes for financial gain in the 20–44 year age group and also in the 45 years and over age group, in comparison to men in the same age groups?
2. What factors related to gender inequality contributed to the participation of women aged 45 years and over in crimes for financial gain for the first time later in life?

Aim of the Study

The overarching aim of this research is to arrive at a more appropriate approach to addressing gender inequality in the 21st century criminological discourse.

Overview of the Study

Chapter I introduced the intractability of gender inequality and negativity surrounding the term feminism in the 21st century, highlighted the importance of Australian-based female-focused inquiry specifically from the perspective of historical human rights injustices, and then outlined the aim and scope of the research.

Chapter II proceeds by discussing gender inequality and an explanation of how patriarchal ideology serves to subjugate and maintain dominance over women and how the feminist movement arose as a challenge to gender male domination. Much of the focus is on the United Kingdom (UK) because it shares aspects of culture and history with Australia and is where most of the historical research originates. Gains achieved by feminist movements are discussed and the situation of women today in relation to these gains is examined.

Chapter III reviews literature on the development of male criminology to explain how gender inequalities were brought into criminological inquiry. It examines the development of four early key theories to explain female crime and the status of feminist criminology today, and introduces gender inequality within the framework of human rights.

Chapter IV reviews literature on the status of feminism and women in the 21st century, and introduces ageism as a neglected axis of discrimination. More particularly, it examines how gender inequalities accumulate over the life course, leading to the feminisation of poverty of many older women.

Chapter V provides the theoretical framework and research design. It puts forward justifications for assimilating a human rights framework for examining gender inequality from a human rights perspective. It includes an explanation for choosing a sequential explanatory mixed methods design and use of case studies sourced from court transcripts.

Following the development of the contextual, theoretical and methodological underpinnings of this thesis, Chapters VI and VII present the analysis of quantitative data on

the prisoner population, individuals in the corrections system and recorded crime, as accessed from the Australian Bureau of Statistics (ABS) and the qualitative data accessed from electronic court transcripts of Unreported Judgments.

Chapter VI characterises women's involvement in acquisitive crime and mature women's life experiences, prior to their involvement in crimes for financial gain for the first time later in life, compared to those of mature men. It then constructs profiles of the older Australian female and male offender.

Chapter VII discusses differences between older male and female offenders, highlighting gender inequalities in their prior life experiences and the reality of welfare dependency of lone parenting for women after divorce/separation, and examines how gender inequalities accumulate over the life course. It then examines the current practice of formal equality in the Australian criminal justice system as opposed to substantive equality as a means of attenuating histories of past disadvantage.

Chapter VIII reflects upon the analyses of mature women's involvement in crimes for financial gain presented in the preceding three chapters, finally making a recommendation to abandon the feminist label and adopt a human rights approach to gain greater support in the pursuit of gender equality.

Chapter II: Literature Review—Gender Inequality as an Intractable Problem

To provide context for this study this chapter begins by explaining patriarchy as a male-dominated social system that sanctions and perpetuates gender inequality. I go on to discuss the patriarchal structures Walby identified that addresses the historically informed way gender inequality has been and continues to be structured. I then explain what feminism is and discuss a range of theories that emerged to explain gender inequality and the activities of early feminist movements to redress gender inequalities. The chapter concludes with a discussion of women's positioning in contemporary society.

Confusion has arisen due to evolving trends in feminist movements; therefore, I consider what feminism actually is and how the movement began. I conclude the chapter by examining the status of women's position in contemporary society in light of achievements acquired under the feminist banner, and illustrate that full gender equality has not yet been achieved in male-dominated Western cultures.

Patriarchy as Male Domination

Ruling social systems embedding the concept of male superiority and ideologies are referred to as patriarchal social systems. Patriarchy's literal meaning is 'rule of the father' and it was initially articulated as a family structure where males were heads of households, with wives, children and domestic servants under their rule (Engels, 1977).

Historically, in positions of greater influence and authority, it appears that male power under patriarchal (male-dominated) social structures served to protect and privilege their interests at the expense not only of women but of other marginalised groups. Historicising patriarchy and its institutions reveals how women's lives in the UK and Australia were structured because of their shared history with the arrival of the First Fleet in 1788, when the new settlers brought to Australia their British culture and values.

Social divisions based on male superiority and female inferiority is one of the most

fundamental organisational bases of most patriarchal structures. Radoi (2012) defined gender inequality as “a concept which explains and evaluates the patriarchal domination and oppression of the society” (p. 6) that constitutes a social and structural problem that has served to disadvantage women.

Lerner (1986) defined patriarchy as the “manifestation and institutionalisation of male dominance over women, and children in the family and the extension of male dominance over women in society in general” (p. 239). More recently, Miller (2014) proposed that patriarchy may be understood as the deliberate form of government created specifically to maintain domination of women, or as a customary approach to motivating institutions that incorporate policies that maintain the domination of women. On the other hand, Butler (1985) and Repo (2014) claimed that whereas patriarchy may be used to denote social and cultural practices that put limits on women, it was not specifically designed to do so.

According to von Werlhof (2007), patriarchy shaped a political system based on the creation of the state that, for Foucault (1978), was the embodiment of power. Similar to the concept of patriarchy, a variety of meanings have been ascribed to the concept of power. An older definition of power, for example, referred to the control and domination of others, but a more recent definition described power as the asymmetric dependence between individuals (Magee & Smith, 2013).

Discussing patriarchy and power differentials, Rowan (2014) referred to “supremacy values” attributed to the fundamental assumption that “all things must be divided into superior and inferior and general supremacy given to what is superior” (p. 11). By way of explanation, Rowan suggested that supremacy values were a means of control that were presumed the only stable and natural method of social control. The manner by which decisions were made was by a power struggle that was the social relation of

domination most commonly supported by patriarchal social structures. Ultimately then, a defining aspect of governments, whether they are democratically elected or not, is the power to impose social control over their subjects to satisfy their own needs at a particular time and place (Rowan, 2014).

Patriarchal social systems are structured hierarchically. Walby (1990) provided the most helpful insights into patriarchal hierarchies in her list of structures that she claimed could be assessed from two different levels in a list of elements. Although she acknowledged that these elements varied over time and space and were analytically distinct, they “have effects upon each other, both reinforcing and blocking” (Walby, 1990, p. 20).

At the first level of analysis Walby (1990) maintained that patriarchy “exists as a system of social relations”, and at the second level, patriarchy is “composed of six structures: the patriarchal mode of production, patriarchal relations of paid work, patriarchal relations in the state, male violence, patriarchal relations in sexuality and patriarchal relations in cultural institutions” (Walby, 1990, p. 20). Overall, Walby’s analysis intimated that these separate and different but interconnected elements of patriarchy provided an analytical instrument to appraise the complex life realities of men and women.

The first element Walby (1990) identified as a social structure that supported patriarchal arrangements was how women typically spent disproportionately more time on unpaid care work than men. Men benefited from women’s unpaid care work because the gender division of labour imposed the primary responsibility for housework and child care upon women, irrespective of whether they were also employed in the work force.

The second element referred to patriarchal relations of paid work where women were segregated into lower-paid occupations and positions. For example, many women were

forced into menial or caring occupations (Harris, 2014) where the work undertaken was undervalued in the production of capital.

With regard to patriarchal relations in the state, Walby (1990) argued that social structures that supported a patriarchal social arrangement reflected “a systematic bias towards the dominant group’s patriarchal interests in policies and actions” (p. 21). For example, all decisions were made by men as heads of family units, heads of government and religious institutions.

Walby’s fourth element was male violence, which “is behaviour routinely experienced by women from men, with standard effects upon the actions of most women” (p. 21). According to Smuts (1995), the ultimate sanction underlying male control over females was the use of physical force, or violence, to inflict costs on females who resisted male control.

The fifth element of patriarchy that Walby (1990) identified was the key forms of maintenance of patriarchal relations in sexuality; that is, “compulsory heterosexuality and sexual double standards” (p. 21). As an example, women who were sexually active were condemned as whores, whereas men with many sexual conquests were admired.

The sixth and final element referred to patriarchal cultural institutions that “create the representation of women within a patriarchal gaze in a variety of arenas, such as religion, education and the media” (Walby, 1990, p. 21). The power of religious ideology that relegated females to an inferior status was evident in the deeply embedded socially prescribed traits, behaviours and patterns of behaviour that became entrenched in societal institutions that formed a society’s gender structure (Bloom, et. al., 2004; Renzetti, 2013). For example, in the late 19th century boys’ education focused on physical, technical and manual skills, whereas girls’ education focused on health and personal hygiene, domestic chores and infant care to become proficient in their duties in their allocated role as

housewives (Pilcher, 2007). Since educational systems limited girls' options their future financial dependence was reliant upon men, but marriage served to reinforce women's subjugation to men.

Together, these elements created a picture of, and highlighted the socially constructed standards of what it meant to be identified as a woman or a man and ultimately, maintained patriarchal structures that relegated women to an inferior or subservient status to men.

In the late 1960s and 1970s, the feminist concept of patriarchy evolved with the emergence of second wave feminists in Europe and North America (Acker, 1989). However, it declined by the mid-1980s to theorise gender inequality because of widespread criticism because no unified theory could connect the many competing hypotheses (Kandiyoti, 1988). Consequently, the term patriarchy was abandoned, but its meanings were masked in the literature by using terms such as male-dominated society, sexual inequality theory and feminist perspective (Hunnicut, 2009).

Nevertheless, despite feminists' efforts to disassociate themselves from the idea of patriarchal politics and practices (Wilson, 2000), the term still provides important insights into the reality of a world where women's roles are seen as subordinate to those of men and where their participation and decision making in highly rewarded roles is limited (Fuchs Epstein, 2007). Omvedt (1986) validated the importance of patriarchy as a term for use by women because it represents a structural system of male domination that limits women's rights, as well as the rights of other minority groups of individuals. Despite the variety of definitions, patriarchy is a term that enables us to relate women's present struggles to those in the past (Mies & Federici, 2014). Therefore, for the purpose of this thesis, I use the term patriarchy as a catch-all phrase for male-dominated social structures.

Discrimination conveys an overt message of difference and inferiority. Intentional or

direct discrimination often targets groups with visible traits such as race, sex, gender, disability and age. Indirect discrimination occurs where a procedure, practice or decision is discriminatory in its effect (Makkonen, 2002). Since oppressive conditions in social relationships are based on power dynamics (Association for Women's Rights in Development, 2004), it is important that they be considered within the context of criminology.

Explaining Feminism

Distinguishing between sex and gender. Jensen and Kouri (2011) described gender as a complex concept that, within social, historical and cultural contexts, shaped and stratified both social institutions and social life. Since the upper-most level of the gender hierarchy system disproportionately comprised of men, there was less chance that laws, allocation of resources and policies advancing women would be sanctioned. However, it cannot be implied that this was the result of individual men's actions. Rather, it was a system that was characterised by a lack of voices to convey women's experiences (Jensen & Kouri, 2011).

In gendered social structures, cultural supports helped provide the ideology critical to maintenance of gender inequality and relied heavily on essentialist gender assumptions. In other words, gender differences were due to innate, unvarying and biologically based attributes that for both males and females were considered 'natural'. These assumptions were based on the perception that women were 'naturally' nurturing and passive and that men were 'naturally' aggressive and unemotional (Jensen & Kouri, 2011).

The terms sex and gender are often used interchangeably. Since the 1970s, sociologists emphasised the distinction between sex and gender. Sex refers to the biological differences at birth that generally remain constant throughout the lifespan, whereas gender refers to the socially produced attributes of masculinity and femininity that vary across

time, ethnic group and social situations (Deutsch, 2007; Flax, 1987; Holmes, 2007; Mari, 2012; West & Zimmerman, 1987). Through socialisation processes, children learn the associated expectations of their sex.

Social learning theorists and social constructionists maintained that role models and imitation were extremely influential in shaping gender-typed behaviours, although not always equitable to both sexes (P. A. Adler, Kless, & Adler, 1992; Bandura, 1977; C. Beal, 1994).

From infancy, girls and boys are socialised to the prevailing gender roles that then became part of an individual's self-concept and personality (Heyck, 2008; Renzetti, 2013; Witt, 1997). Socialisation processes go a long way to explaining how behaviours are shaped from a gender binary concept. However, they fail to explain how the behaviours of individuals who do not easily fit into either category are shaped (Renzetti, 2013). More significantly, they fail to explain why, without question, females are continually socialised to not merely occupy, but accept positions of inferior status.

Socialisation processes alone, however, do not adequately explain differences in male and female behaviour. It is impossible to separate the influences of biology and culture (Renzetti, 2013), but as Simone de Beauvoir proposed in her ground breaking book *The second sex*, a female is not born a "woman". Rather, females become women as a consequence of external influences (De Beauvoir, 2010). Conversely, this also means males are transformed into men by the same external influences. According to De Beauvoir (2010), gender is not in an individual's essence, but is something individuals do in everyday social life.

For Agarawal (1997), gender relations referred to the relations of power between men and women that delineated the economic and socio-political aspects of societies at given times and locations. Gender relations were then mainly sustained through the

unquestioned acceptance of power. However, when not recognised as such, it served to maintain the status quo (Chant, 2008; Kabeer, 2005). For example, ideological or cultural norms may repudiate the existence of inequalities in power, or that they are discriminatory to others. Therefore, if discrimination was not recognised, subordinate groups would merely accept their positions in societal structures. This was particularly the case if contesting discriminatory practices did not seem possible or if it potentially involved substantial personal and social costs (Kabeer, 2005).

Although unwritten, gender norms were commonly understood as philosophies that defined appropriate conduct for males and females and were imposed socially and internalised by gender role socialisation (Jensen & Kouri, 2011). Norms of femininity were preoccupied with two principal concerns that encompassed femininity. First were their nurturing responsibilities. Women were generally expected to care for family members and to accede to a position of subservience or accommodation to the significant males in their lives and were encouraged to be more responsive to the needs of others (Jensen & Kouri, 2011). Closely related to gender norms was the aspect of moral development that inhibited women from exhibiting violence and criminal behaviour that was harmful to others (Jensen & Kouri, 2011).

The second principal concern surrounded women's physical beauty and sexual assets. Expectations of women were that they should be more vigilant about their sexuality and concerned with their physical appearance. Expectations of women were in direct contrast with those of men—that they should be more sexually adventurous or aggressive. Men were conditioned to pursue an ethic of independence that conditioned them towards status-seeking actions, even if at the expense of others. Further, men were socially rewarded for acting independently and being adventurous, competitive and unemotional (Jensen & Kouri, 2011).

According to Andersen (2005), the most important contribution of the “doing gender” approach was the potential of human agency to make choices. Andersen suggested that if gender was socially constructed, it was reasonable to expect that it could likewise be deconstructed if gendered institutions and the social interactions that supported them were changed by a process of “undoing gender”. Although this may be true, early patriarchal gendered institutions were fiercely resistant to change. Much has been achieved to redress gender inequalities but, from a retrospective stance, West and Zimmerman’s (1987) article has frequently been employed to argue that the more things change, the more they stay the same (Deutsch, 2007).

Some scholars suggested that feminist thoughts and activities dated back to early Christianity, the Middle Ages, the Renaissance and the Reformation (Le Gates, 2001; Lerner, 1993). Others contended that feminism began in the context of the French Revolution of 1789 and the American Revolution of 1776 (Mies & Federici, 2014). For example, during the French Revolution the principles of freedom, equality and fraternity were presented as basic human rights. Thus, this became the basis for the liberation of not only women, but other disadvantaged groups such as African slaves and people in colonised nations (Mies & Federici, 2014). The term feminism, however, was not used in the English language to denote a belief in, and advocacy of equal rights for women until after the First International Women’s Conference in Paris in 1892, following the French term *feministe* (Haslanger, Tuana, & O’Connor, 2015). Feminism as a paradigm and social movement did not emerge until around the turn of the 19th century (Mies & Federici, 2014; Van Gundy & Kappeler, 2013).

Evolving trends in the feminist movement have led to confusion about what feminism actually is. Over the centuries, women have spoken in various ways about their unequal status in male-dominated social structures—articulating their complaints, needs and

hopes (Walters, 2006). Thus, contemporary feminism and its concerns are rooted in history (Hannam, 2013). However, feminism is a term that defies simple explanation because feminism's complexity and diversity provides obstacles to people wanting to grasp a satisfactory understanding of its meanings (Walters, 2006).

Feminism is generally conceived by the general public as an umbrella term that incorporates various trends, such as the classic four theories—liberal, radical, Marxist and socialist feminism (Mies & Federici, 2014)—and trends that followed on from these earlier theories. Although there were divisions within feminist factions surrounding philosophical and political spheres, feminisms upheld three general ideologies: (1) to distinguish and disseminate the historical exploitation, devaluing and oppression of women; (2) to improve women's social standing, and work towards equality for all genders and disadvantaged groups; and (3) to actively criticise traditional intellectual pursuits and gender ideologies (Acker, Barry, & Esseveld, 1983; Singh, 2007). However, similar to divisions within feminist factions, there were also divisions among women: between first world and third world women, urban and rural women, housewives and employed women, and women activists and researchers (Mies & Federici, 2014). Consequently, labelling various trends in the feminist movement has led to confusion about what feminism is, what it stands for, and what its basic principles and strategies are (Mies & Federici, 2014).

Hannam (2013) provided a simple definition of feminism as “a set of ideas that recognise in an explicit way that women are traditionally subordinate to men and seek to address imbalances of power between the sexes” (p. 3). Bowden and Mummery (2009) suggested that feminism was perhaps best understood as “a dynamic, multifaceted and adaptive movement that has evolved and changed in response to the different practical and theoretical problems faced by women” (p. 8). Important tenets of feminism were the view that women's situations were socially constructed and therefore open to change (Hannam,

2013).

It is commonly held that feminism emerged in three waves. Most historians delineate the period 1830–1920 as the first wave (Renzetti, 2013). The first theory that focused on the significance of equality between men and women was liberal feminism (Mills, Durepos & Wiebe, 2010). Liberal feminists viewed men and women as equal, emphasised the similarities between them and argued that women were as capable and as rational as men. The underlying assumption was that if men and women were treated the same and were provided with equal opportunities, there would be no gender difference in behaviour or attitudes (Mills et al., 2010).

Sexism is a term that refers to discrimination and/or prejudice on the basis of perceptions of an individual's gender identity. Theorists such as Eisenstein (1979, 1999) and Messerschmidt (1986) argued that sexism cannot be understood with respect to how it affects our lives today without positioning it within the historical context of capitalist patriarchy. However, Farrelly (2011) cautioned that because it is not possible to examine all patriarchal institutions in all cultures in all historical periods, some abstraction is necessary to identify interconnections. Nevertheless, it is important to identify what happened in the past because it has a bearing on women's lives in many cultures throughout the world today (Farrelly, 2011).

Women are not a homogeneous group, so it is important to acknowledge that women's experiences of subjugation are not the same under all patriarchal social structures and do not mean that all men are oppressors at any given time (Bryson, 1999). Some individuals, both male and female, simultaneously occupy positions of dominance and subservience, such as employees. As Hunnicutt (2009) observed, men and women exercised varying types of power under patriarchal systems that varied across time, place and material contexts that changed in parallel with other social changes.

Liberal feminism did not view gender inequality as the product of general or systemic relations of oppression within social structures. Therefore, from this perspective, gender inequality did not require changing the structure of society (Mills et al., 2010). Further, this approach did not assume that men were responsible for women's injustices, or for sustaining their privileged position. Rather, emphasis was often placed on sex role socialisation as opposed to any inherent biological or psychological difference. Hence, a main emphasis of liberal feminism was to identify gender inequalities in all aspects of social and organisational arenas and to examine individual, social and organisational factors that maintained gender inequalities (Mills et al., 2010).

Developing at the same time as liberal feminism, radical feminism's theoretical and political perspective focused on men's domination of women. From this perspective, male domination was viewed as the most fundamental form of human oppression (Renzetti, 2013) that transpired in all societies, irrespective of class, race or ethnicity. Thus, radical feminism's emphasis was on patriarchal gender relations (Mills et al., 2010; MacKinnon, 1989; Walby, 1990). The radical feminist approach emphasised the importance of speaking out as women, and of recognising that women's experiences were universally shared (Mills et al., 2010).

The late 18th to mid-19th centuries reflected a significant period in history in that a relationship between patriarchy and industrial capitalism developed. In Marxist terms, capitalism sustained four separate classes: the bourgeoisie (capitalists), proletariat (workers), petty bourgeoisie (artisans, professionals and small business owners) and the lumpenproletariat (the impoverished, unemployed or sporadically employed) (Pakulski, 1993). The capitalist and working classes were central to the acquisition of profit and thus, patriarchy began to permeate the public sphere (Walby, 1989). According to Karl Marx, a proponent of labour power, individuals were only productive workers if they created surplus

financial value in the course of production. Thus, women who did not participate directly in capitalism by selling their labour power could not be classified as productive labourers.

Eisenstein (1999) theorised that the sexual division of labour of men and women into hierarchical sex roles and duties was essential to a capitalist patriarchal economy, where profit was the fundamental priority of the ruling class. Eisenstein chose the phrase “capitalist patriarchy” to describe the mutual dependence of the capitalist class structure and male supremacy. According to Eisenstein (1999), the sexual division of labour stabilised society through the family and organised a realm of domestic work, namely domestic labour that was unpaid (housewives), that attracted limited (paid domestic workers) or unequal pay (in the workforce). Accordingly, the combination of patriarchy and capitalism created an economy based on the double exploitation of women’s labour (von Werlhof, 2007). From this theoretical perspective, the capitalist mode of production ultimately disadvantaged women because they occupied the working class instead of the ruling class (Burgess-Proctor, 2006). Second wave Marxist feminists built on this perspective by emphasising that the work women did within the home, although unpaid, was a form of productive labour like men’s waged labour, arguing that domestic work should be respected within the capitalist hierarchy (Weeks, 2011).

Socialist feminism combined radical and Marxist perspectives. Most social feminists agreed on the general definition of patriarchy as a system of male control and rejected biological explanations of the subjugation of women. Rather, the subjugation of women encompassed factors such as male power arising from violence and roles in capitalist production (Omvedt, 1986). To account for the reality of women’s lives, socialist feminism expands upon archetypal Marxist analyses of the realm of capitalist production, to that of reproduction. This involved an examination of not only how women were oppressed in their roles as mothers, wives and caretakers, but also how their sexuality was

commercialised (Mills, et al., 2010).

Second wave feminists named the problems many women confronted under male-dominated social hierarchies in different ways: chauvinism, inequality, exclusion, misogyny, oppression, patriarchy and phallism. All of these terms related to constraints associated with women's social opportunities (Mies & Federici, 2014). 'Exploitation' was another term used to describe women's positions. However, Marxist socialist feminists usually did not use this term in relation to women's problems because from this standpoint, exploitation was a premise exclusively assigned to Marx's economic exploitation of the waged worker. For Mies and Federici (2014), the term exploitation had a much wider interpretation; namely, someone profiting by robbing someone else or living at the expense of someone else:

If we do not talk of exploitation when we talk of the man–woman relationship, our talk about oppression, or subordination hangs somewhere in the air, for why should men be oppressive towards women if they had nothing to gain from it? Oppression or subordination, without reference to exploitation, becomes then a purely cultural or ideological matter, the basis of which cannot be made out, unless one has recourse to the notion of some inborn aggressive or sadistic tendencies in men. (p. 36)

Ultimately, however, what is important is that all of the terms used to explain women's disadvantaged position in male-dominated societies related to systems and methods of controlling women that perpetuated their disadvantage.

Betty Friedan's book *The feminine mystique*, published in 1963, is often accredited with instigating the second wave feminist movement. Friedan was a white suburban American housewife who claimed that many of her peers were generally dissatisfied with their lives because of the mismatch between their personal needs and aspirations, and the

role of wife and mother to which society had ascribed them. Friedan referred to this as the “problem without a name” (Friedan, 1963). However, as Hooks (1984) pointed out, Friedan was not speaking for either working class women or women of colour.

Following suit, black feminist scholars criticised white/Western feminism for its implication that the disadvantages women suffer, or have suffered, appeared to suggest that women as a group, irrespective of differences between them, all suffered the same injustices; similarly, the implication was that men as a group, irrespective of differences between them all acquired the same advantages (Mies & Federici, 2014). This was a perfectly valid criticism because not all women experience the same injustices and not all men acquire the same advantages in male-dominated social structures. The emergence of the third wave feminist movement in Europe and the United States in the 1990s has been ascribed to women of colour’s critiques of the white women’s movement.

Third wave feminism challenged the notion of universal womanhood by arguing that groups of women faced multilayered intersections of gender, sexuality, race, class and age (Crenshaw, 1991; Krolokke & Sorenson, 2005; Rubin & Nemeroff, 2001). Although third wave feminism continued the efforts of second wave feminism to create conditions of equality, it utilised a different set of tactics for achieving those goals (Snyder, 2008).

Third wave feminists claimed they differed from second wave feminists by their emphasis on personal politics: enacting personal resistance in everyday life was a key form of third wave feminist politics; for example, discerning and challenging practices of sexism and discrimination where it occurred in conversation with friends and acquaintances, in their families and on the streets (Fixmer & Wood, 2005). Krolokke and Sorenson conjectured that third wave feminisms were not defined by common and theoretical and political standpoints because they responded to a fragmented postmodern world that had moved beyond the classic feminist theories (Snyder, 2008).

Overall, despite similarities and differences in their specific objectives, feminist philosophies have acknowledged the existence of male-dominated social hierarchies that disadvantage women. Feminists have challenged the collusion of silence and inaction about the unequal gender relations between men and women with the fundamental objective of bringing about gender equality in the social, political and economic arenas (Mies & Federici, 2014).

Human rights: Women and the anti-slavery movement. British anti-slavery was one of the most significant reform movements of the late-18th and 19th centuries. It has been estimated that British merchants transported almost three million Africans across the Atlantic between 1700 and 1810 (Oldfield, 2011). This was perhaps women's first involvement in a human rights issue. Women were not permitted to vote, and thus had little influence in the political arena. However, many women participated in the campaign to abolish slavery; they were not direct activists, which fitted neatly into the dominant view that women were a moral, not a political force (Crawford, 2011).

In 1788, the Abolition Society had 206 female subscribers who were wives and daughters of merchants, professionals, manufacturers and shopkeepers and were mainly drawn from Quaker, Unitarian and Evangelical families. They were not permitted to be officers of the society, nor were they encouraged to sign the thousands of petitions it organised. Eventually, almost 20 years later, the *Abolition Act 1807* was finally passed in the United Kingdom (as cited in Crawford, 2011).

The next step was to abolish slavery in the British colonies and throughout the world. Among its targets were British India and Ceylon, a clampdown on the Brazilian and Cuban slave trades, and, increasingly after 1850, the abolition of slavery in the US (Oldfield, 2011). In 1823, the Anti-Slavery Society was formed and women again took part, but there was a slight cultural change at the time that permitted women to sign petitions. In 1833, anti-

slavery petitions carried the signatures of 298,785 women. Women also joined the British and Foreign Anti-Slavery Society, but they were not accepted as officials, nor were they allowed to speak at mixed public meetings (Crawford, 2011).

In 1840, the British and Foreign Anti-Slavery Society organised the first World Anti-Slavery Convention in London. Among the American delegates were social activist Elizabeth Cady Stanton and Quaker activist Lucretia Mott. They, and all the other women who attended, were not allowed to participate (Crawford, 2011). When women presented themselves at the meeting they were obliged to sit in the balcony behind a curtain where they could listen to the proceedings, but were silenced and hidden from the men. An extremely indignant Stanton and Mott decided to hold a women's rights convention on their return to the US (Young Bennett, 2014).

Many women by this time had come to recognise the injustices they faced as women, and likened their condition to that of African slaves (Wollstonecraft, 2015). Thus, abolitionism provided an impetus for the women's rights movement. After women established their own movement, they separated from abolitionism, which then led them down a road faced with unrelenting obstacles to overcome.

Making women count. Early 20th century feminist action was geared towards making women count literally and figuratively as much as men, by acquiring the right to vote. However, this was perhaps the longest and most arduous struggle. In the United Kingdom, Emmeline Pankhurst became one of the driving forces in the women's suffrage movement; in 1902, she formed a society of women called the Women's Social and Political Union (WSPU) (Krolokke & Sorenson, 2005). Suffrage societies used methods established during anti-slavery campaigns, such as producing propaganda articles for sale in shops, organising bazaars to raise money for their cause and encouraging consumer boycotts to persuade shopkeepers to vote against the government (Crawford, 2011).

Despite unwavering and concerted efforts, WSPU members eventually became despondent and frustrated by years of lack of progress. As a consequence, the WSPU decided to change tactics to a policy of militancy (Crawford, 2011). This policy escalated into arson and window breaking, with some of its members forced to endure imprisonment for acts of vandalism (Pankhurst, 1914) and what was considered ‘unfeminine behaviour’ (Krolokke & Sorenson, 2005). Evidently, men at the top of the gender hierarchy were mortified that women had the effrontery to challenge their superior status

When confronted as the leader of the movement and asked to explain its actions, Pankhurst argued that members were merely using tactics that men used to achieve their objectives. She pointed out the double standards applied to the actions of men and women where the violent militant acts of men attracted honour and respect, and that women in the movement had not caused anyone physical harm. However, her argument fell on deaf ears.

Over the next few years, Pankhurst herself was imprisoned and like other women of the movement who had been imprisoned, went on a hunger strike, leading to violent force feedings (Pankhurst, 1914). When World War I broke out in 1914, the suffrage movements were suspended, still not having acquired the right to vote. In 1918, women over the age of 30 who were property owners were allowed to vote. In real terms this meant very few women. Subsequently, in 1928, all women over the age of 21 were granted the right to vote (United Kingdom Parliament, n.d.). The double standards applied to men and women were extremely difficult to overcome in the struggle against gender inequality.

Increasing poverty in the UK in the 18th century was accompanied by overcrowded prisons. As a way for the justice system to deal with the problem, the *Transportation Act 1718* allowed courts to sentence convicts to seven years’ transportation to the US as an alternative to the death penalty (as cited in Australian Government, 2008). At the outbreak of the war with the US, this option was suspended but returned in 1787 with Australia as

the new destination (Emsley, Hitchcock, & Shoemaker, 2013). Records indicated that at least 24,960 women, of which 64.7% were under the age of 34, were transported to Australia (Australian Government, 2008).

Of note is that the scold's bridle was also used on 'troublesome' female convicts on board ships to Australia (NCCL, 2014). Most (91.2%) of the female convicts transported to Australia had committed crimes related to theft of items that could be traded for money, not necessarily theft of food. Many were first-time offenders; whereas their male counterparts were more likely to have been repeat offenders (Australian Government, 2008). Thus, it appears that double standards were mirrored in the criminal justice system at this time.

In the Australian context, the establishment of penal colonies was understandably attended by British customs, values, beliefs and laws, including the exclusion of women from the political sphere. Unsurprisingly then, Australian suffrage campaigns met with similar opposition to efforts in the UK. Some measure of success was achieved when, in 1900 and 1901, Bills granting women's enfranchisement were passed by the Lower House (Legislative Assembly) of the federal parliament. However, they were defeated in the Upper House (Legislative Council) where Member Samuel Charles argued "It is unnatural ... if a woman is married her first duty is to try to make her husband and home happy ... and if she does her duty she will have no time for politics" (as cited in Parliament of New South Wales, n.d.).

One year later, in 1902, the federal parliament did pass a universal suffrage law that allowed women to vote. Note that Australian aboriginal men and women did not get this until 1962. The states brought in their own laws with South Australia being the first state to grant women the right to vote in 1894 and Victoria being the last in 1908.

Media representations of feminists continued to be similarly derisive. For example, in South Australia they were labelled as the "shrieking sisterhood" and men who supported

them were accused of being illogical and absurd. Cartoonists joked about “who would cook the tea” if women entered public office (Government of South Australia, 2014). This demonstrates the male way of thinking that women of the time were up against.

Australia was actually the second nation in the world to grant women the right to vote—after New Zealand in 1893 (Australian Electoral Commission, 2011). However, the States of Queensland and Western Australia did not allow any Indigenous and/or Torres Strait Islanders to vote and even threatened to retreat from the new Federation of Australia if they were enfranchised (Oldfield, 2005). Australian feminists were subsequently criticised by later feminists for disregarding the inequalities experienced by other groups.

Although some women achieved suffrage, it took almost 20 years for a woman to be elected to parliament. Western Australia was the first to elect one, Edith Cowan, in 1921 (Fitzherbert, 2004). The initial media response to her appointment was demeaning and sexist with cartoons in an eastern newspaper, *The Bulletin*, suggesting that her participation in parliament was merely interference by a woman with ‘housewifely instincts’.

Despite this, Edith Cowan went on to make significant advances in women’s rights, migrant welfare, infant health care centres, sex education in state schools and the introduction of the *Women’s Legal Status Act 1923* that enabled women to practice law (Fitzherbert, 2004). According to Fitzherbert, there was little mass feminist activity, most likely due to the Great Depression of the 1930s and Australia’s involvement in World War II between 1939 and 1945.

Positioning Women in Contemporary Society

Although substantial progress in women’s rights has been made in many contemporary societies, even where the most progress has been achieved men continue to occupy key positions of power (L. F. Miller, 2014). Some women have achieved high political status, such as Sirimavo Bandaranaike who in 1960 became the first female prime

minister of Ceylon (now Sri Lanka) and the first female prime minister in the world. Other examples of first female prime ministers of their individual parliamentary democracies were Indira Gandhi (India), Golda Meir (Israel), Margaret Thatcher (United Kingdom) and more recently in Australia, Julia Gillard. Although women have managed to secure higher positions in government, they remain in the minority.

An overview of international trends in female participation in parliaments revealed that less than one in five were women; at all levels, women were significantly under-represented in decision making and leadership roles (McCann, 2013). Female representation in Australian parliament as at February 26th, 2015 was greater than the 2013 world average: 30.9% of Upper and Lower Houses combined; Lower House 28.8%; and Upper House 36.4% (Vallee, Gobbett, & McCann, 2015). Nevertheless, although the situation has improved, equal representation in Australian parliament has not yet been attained. Similarly for senior positions in the federal, state and territory government bureaucracies.

Some late 19th century philosophers such as Auguste Comte envisaged that over time, religion would lose its' cultural and social significance and be replaced by science and rationalism (Hadden, 1987). To date this has not eventuated, and most continue to emphasise masculine interests (Darroch, 2008; Fiorenza, 2013; Scovill, 1994; Wojtczak, 2009), although reconstruction and reformation of some of the world's religions is underway (Scovill, 1994).

Using data from three *World values surveys* that included 65 societies and 75% of the world's population, Inglehart and Baker (2000) found evidence of immense cultural change, but that the cultural heritage of a society, irrespective of religious affiliation, left an indelible impression on values that endured despite modernisation. J Fox (2006) argued that since little had changed over centuries, it was reasonable to assume that religion would endure as an important political and social influence in the 21st century. In Western liberal

democracies, the relationship between religion and the state is not recognised, or is overlooked as a challenge to women's right to equality (Stopler, 2005). Therefore, as AF Miller (2013) concluded, a feminist challenge to religion as a source of the subjugation of women is a logical one.

Conclusion

Under patriarchal social systems, men and women exercise varying types of power as power relations change in conjunction with other social changes. Patriarchy is an important concept to examine the status of women because it represents a structural system of male domination that limits the rights of women, as well as the rights of other groups of individuals. Historically, religion played an extremely influential role in the subjugation of women. Since there has been little change over the centuries, religion is likely to endure as an important political and social influence in the 21st century.

Marriage served to reinforce women's subjugation and financial dependence on men. Although traditional gender roles in marriage have become less rigid today, they have not been totally eliminated. The participation of women in the paid workforce has increased, but the sexual division of labour in unpaid housework remains a problem for women. Job segregation and low pay were persistent features of early capitalist patriarchy and remain so today.

Violence against women by men was an unchallenged and accepted mode of social control. Despite legislation prohibiting violence against women in the majority of Western countries, in the 21st century it is widely recognised as a national and global issue.

As a woman aged she became an invisible member of society and this devaluation spilled over into the workforce. Gendered ageism in the workforce meant many older working class women, particularly those who were single, were condemned to suffer impoverished circumstances.

Contemporary feminism and its concerns are rooted in history, but its complexity and diversity provides obstacles to people wanting to grasp a satisfactory understanding of its meanings. The women's movement began with the right to suffrage and since then, substantial progress in women's rights has been achieved. However, in many contemporary societies, even where the most progress has been accomplished, men continue to occupy key positions of power.

III: Literature Review—A History of Feminism and Criminology

Bringing Gender Difference into Criminology

As illustrated in Chapter II, abuses of women's human rights in the United Kingdom in the 18th and 19th centuries became deeply entrenched in law, custom and religious tradition in ways that men's were not (Rose, 1999). This literature review seeks to demonstrate the absence of appeals to human rights in the development of feminist criminology. Feminist scholars challenged gender-neutral theories of behaviour based on the premise that because of the prevailing social orders and structures, crime could be highly gendered.

The next section first discusses the four key feminist theories of criminology that evolved explaining gender inequality: liberal, radical, Marxist and socialist feminist. This is followed by a discussion of ensuing theories for female crime and what is touted as the most notable modern contribution to female scholarship, that is, intersectionality theory that addresses social inequalities that women endure on the basis of overlapping social identities. Notably, none of these theories specifically address gender inequality and discrimination as a human rights issue.

I go on to examine how gendered inequalities over the life course accumulate, putting some older women at risk of financial hardship or poverty and at risk of committing crimes for financial gain. The chapter concludes by questioning the universality of patriarchy in contemplation of the possibility of alternative social structures where men's and women's contributions are equally valued and respected.

Mainstream criminological gender-neutral theories were incomplete in that they clearly did not consider gender, and therefore overlooked the uniquely female causes of crime. Feminist scholars challenged gender-neutral theories of behaviour based on the premise that because of the prevailing social orders and structures, crime could be highly

gendered. For example, it was held that although men and women lived in the same communities, to some degree they led separate, but overlapping lives. Therefore, because daily patterns of interaction differed by gender it was concluded that general causes of crime may not apply in the same way or to the same degree, depending on gender (Jensen & Kouri, 2011).

Since general criminological theories were developed and shaped by male understandings of the social world, feminist scholars have pointed out that no general theory of criminology may ignore half of the population (Belknap, 2007; Daly & Chesney-Lind, 1988; Flavin, 2001) because gendered experiences were crucial to understanding and explaining different patterns of male and female criminal activity. Thus, feminist criminology evolved as a challenge to theories of male crime by male scholars. Renzetti (2013) defined feminist criminology as:

A paradigm that studies and explains criminal offending and victimisation, as well as institutional responses to these problems, as fundamentally gendered, and that emphasises the importance of using the scientific knowledge we acquire from our study of these issues to influence the creation and implementation of public policy that will alleviate oppression and contribute to more equitable social relations and social structures (p. 13).

The inclusion of women and girls in criminological research was driven by the second wave of the feminist movement in the late 1960s and early 1970s and therefore is barely 50 years old (Heidensohn, 2012). The general aim was to incorporate gender difference into criminological inquiry (McLaughlin & Newburn, 2010). Thus, feminist scholars began to consider the impact of living in a gendered social system. They examined how females' place in society affected how crimes were defined, how motivations were understood and society's responses to their crimes and other acts defined as deviant (Jensen

& Kouri, 2011).

A substantial body of literature emerged in feminist criminology centring on issues of power and the distribution of economic and social resources in the oppression of women (Carlen, 1988; Daly & Chesney-Lind, 1988; Messerschmidt, 1986; Naffine & Gale, 1989; Van Gundy & Kappeler, 2013; White & Haines, 2008). A number of perspectives fell under the feminist umbrella with different points of view about the sources of gender inequality (Burgess-Proctor, 2006). Some of the most influential early theories in the study of female crime were liberal, Marxist, radical and socialist feminism. However, whereas most advocated equal rights in some form, there was a distinct absence of appeals regarding women's human rights.

Equal rights: Liberal feminist criminology. Liberal feminism, with an emphasis on equal rights, stemmed from the work of women such as Wollstonecraft. Apparently, in the 1970s, women's arrest rate for property crime increased (F. Adler, 1975; Simon, 1975). Field (1990) described crimes for gain as those committed directly or indirectly for economic benefit, commonly described as property crimes. Property crimes are crimes where property can be sold on for money or bartered, theft of money, shoplifting, cheque or credit card fraud, social security fraud and drug selling (Field, 1990; White & Perone, 2010). In criminological literature property crimes are often referred to as crimes for financial gain or acquisitive crimes. Therefore, for the purpose of this research the terms are used interchangeably.

Both Simon and Adler considered the women's liberation movement as the likely cause of the increase, blaming feminism for creating opportunities for women that had previously been unavailable to them (Renzetti, 2013). Adler (1975) predicted that with women's increased participation in the workforce, men and women's crime would converge over time. However, more recent research did not substantiate this hypothesis

(Steffensmeier, Schwartz, Zhong, & Ackerman, 2005; Steffensmeier, 1978).

Two alternative explanations were put forward for increases in women's arrest and incarceration rates. The first was an increased willingness by the criminal justice system to arrest, prosecute and punish women. Alternatively, the economic marginalisation and victimisation experiences of some groups of women propelled them along pathways to offending (Renzetti, 2013). Ultimately, liberal feminist criminology failed to consider the structural inequalities entrenched within the dynamics of patriarchal capitalist societies.

Unlike predictions during the women's movements of the 1970s that men and women's crime would converge over time, women were disproportionately under-represented in offending in all but the most passive and customarily likely types of female crime. Men, on the other hand, predominated in the most serious and harmful crimes. This distinct pattern was a clear reflection of the different realms that men and women inhabited (Jensen & Kouri, 2011).

Socioeconomic contexts inevitably shape people's lives. With this in mind, Steffensmeier, Allan and Streifel (1989) examined relative measures of educational attainment, economic wellbeing, delayed marriage and childbearing, employment in traditionally male jobs and the gender gap in crime for 69 countries over six years to ascertain whether there were any changes over time. The authors concluded that females who engaged in crime were characteristically those who lacked legitimate opportunities to sustain their economic wellbeing. More specifically, women's crimes did not reflect liberated role patterns; rather they were extensions of established gender role activities (Steffensmeier et al., 1989).

More recent formulations of liberation theory accounted for some of the critiques of Simon's and Adler's hypotheses. For example, Schwartz and Rookey (2008) proposed that more permissive gender roles and expanded opportunities to commit crime, coupled with

mounting strain stemming from the feminisation of poverty might affect women's tendencies to commit crime. Furthermore, against the reality of the persistence of gender stratification, women were more likely to experience role strain from balancing work and family commitments.

Economic marginalisation theory contended that as women become increasingly marginalised, crime rates reflected their attempts to create an income (Van Gundy & Kappeler, 2013). The authors suggested that if women had adequate and equal access to financial resources they would be less likely to be involved in acquisitive crime.

Feminist scholars such as Ferraro and Moe (2003) recognised that women were often caretakers for children, the elderly and the sick. They found that the responsibilities of child care, coupled with the burdens of economic marginality and domestic violence, led some women to choose economic crime as an alternative to hunger and homelessness. For all women with children, mothering embodied the strains of both the burdens of an unequal sexual division of labour, and opportunities for resistance to marginalisation and feelings of hopelessness (Ferraro & Moe, 2003; Green & Rodgers, 2001; Hagan, Simpson, & Gillis, 1987). Thus, economically marginalised women in caretaker roles were more at risk than other women of transgressing the law for financial gain.

Not all women commit crime for financial gain motivated by economic necessity. A number of scholars have pointed out that women also commit offences motivated by greed (Kruttschnitt & Carbone-Lopez, 2006; J. Miller & White, 2003; Mullins & Wright, 2003), for example as a desire for material possessions or increased wealth. Mullins and Wright (2003) found that an array of offences such as assault, burglary, robbery, involvement in the sex industry and drug sales were instigated by women for a variety of reasons (Mullins & Wright, 2003). In an increasingly consumer-based society it is possible that some women, like some men, are similarly increasingly motivated by the lure of material possessions.

Subordinating women in patriarchy: Radical feminist criminology. Radical feminism developed at the same time as liberal feminism and began with the assumption that gender inequality was the most fundamental form of oppression (Renzetti, 2013). It was held that patriarchy permeated all social, political and economic institutions. McLaughlin and Muncie (2001) explained that radical feminism “offers a systematic analysis of the nature of women’s oppression, including the ways it is sustained through law and criminal justice processes” (p. 232). Radical feminism informed criminology and jurisprudence through its analysis of law as a patriarchal institution that reflected and reproduced male dominance. For example, “man-made law was exposed and shaped by male norms and interests and circumstances they, rather than women, commonly encounter” (p. 233). Ultimately the law created a façade of fairness and impartiality to conceal its inherently masculine nature (McLaughlin & Muncie, 2001).

Radical feminism’s analysis locates female oppression in patriarchy as preserved by compulsory heterosexuality and the threat or use of violence (MacKinnon, 1989; McLaughlin & Muncie, 2001; Walby, 1990). It significantly impacted on criminology by revealing the victimisation of women and children and by improving the treatment of survivors of violent relationships and rape by police and criminal justice processes. As a central concept of radical feminism, women throughout the world have organised in a variety of ways to highlight and respond to sexual violence (McLaughlin & Muncie, 2001)

Radical feminism was often conceptualised in terms of gender relations. By referring to the conventional concept of patriarchy as ‘rule by the father’, McLaughlin and Muncie (2001) proposed that radical feminism’s gender aspect facilitated an understanding of the power of men over women. This provided a framework for understanding difference and change of the generational element of power hierarchies through time, and between and within societies.

One criticism of radical feminism was its major focus on women as victims of crime, predicting a causal relationship between patriarchy and female crime. Apart from its exclusive focus on patriarchal male dominance, another criticism of radical feminist criminology was that it characterised all men as dominant and oppressive, and conversely, all women as subordinate to and victimised by men (Renzetti, 2013). Despite significant achievements, violence against women has not been eliminated and criminal justice systems still fail to effectively sanction or prosecute this violence or, afford effective protection for many victimised women and children (McLaughlin & Muncie, 2001).

Capitalist mode of production: Marxist feminist criminology. The bulk of Marx's vast body of work did not concern itself with crime (McLaughlin & Muncie, 2001). However, Marxist feminist criminology emphasised the capitalist economy as the key determinant of class and gender relations. It was theorised that the capitalist mode of production ultimately disadvantaged women because they occupied the working class instead of the ruling class. It was further argued that women's subordinate class status may compel them to commit crime as a means of supporting themselves financially (Burgess-Proctor, 2006). However, Marxist criminology failed to consider women's exploitation within the dynamics of the capitalist mode of production.

Patriarchal social system: Socialist feminist criminology. Socialist feminist criminology combined radical and Marxist perspectives. It began with a partial acceptance of class oppression (Omvedt, 1986). Most social feminists agreed on the general definition of patriarchy as a system of male control and rejected biological explanations of the subjugation of women. Rather, social feminists viewed patriarchy as a combination of factors that included biological factors, male power arising from violence and roles in overall production; but the system was the problem, not men as such (Omvedt, 1986).

Socialist feminist criminologists not only examined how social class inequality and

gender inequality combined in relation to the crimes women commit, but also to the crimes men commit (Renzetti, 2013). Widely accredited for his formulation of socialist feminist criminology, Messerschmidt (1986, 1993) maintained that explanations for men's and women's crime could be found by analysing gender socialisation and the division of labour in the public and private spheres.

According to Messerschmidt (1986), capitalist patriarchy created a powerless group comprising women and the working class, and a powerful group comprising men and the capitalist class. Class and gender structures shaped possibilities and opportunities, leaving individuals to formulate solutions to act upon their particular circumstances (Messerschmidt, 1986). However, the ways in which individuals were affected by their position in interaction with others creates minoritised sub-groups within and across the two overarching groups.

Messerschmidt (1986) further argued the patriarchal and capitalist nature of the state was evident in the criminalisation process as it disproportionately criminalised the powerless. Since the powerful—generally men—predominated in legislative processes, patriarchy reflected their interests rather than those of the powerless (Messerschmidt, 1986). For example, powerful politicians, business leaders and high-level bureaucrats generally had the opportunity to commit numerous and large-scale crimes (Karstedt, 2007). Since the powerful were more successful at evading prosecution, attention was diverted to the crimes of the powerless who were then seen as a threat to society; thus, the patriarchal social order was reproduced (Messerschmidt, 1986).

Messerschmidt (1986, 1993) contended that socialist feminist criminology required a thorough understanding of the criminality of the powerful and powerless—in other words, an understanding of how social control by the powerful within the framework of capitalist patriarchy affected human behaviour. In addition, he stressed the importance of

understanding power, in terms of gender and class, in relation to serious forms of criminality.

For example, wealthy men in powerful positions in the government and economy were situated to commit more serious and harmful crimes against society and the environment, including human rights violations (Messerschmidt, 1986, 1993). In other words, because men had more opportunities to obtain higher-quality education, more lucrative jobs and higher social status than women, they also had greater opportunities than the powerless to engage in criminality more often and in a way that was more harmful to society (Messerschmidt, 1986).

As for working class and poorer men, the classed social system excluded them from positions of power. Since working class and poor men did not have similar opportunities to commit corporate and political crimes, their opportunities limited them to engaging in traditional street crime such as theft, robbery, drug dealing, fencing stolen goods and assault (Messerschmidt, 1993).

Socialised conceptions of femininity, coupled with their social and economic positions in society, limited women to specific crime types and ways they committed crime (Messerschmidt, 1993). Their crimes also reflected their social class position in capitalist society. Therefore, from a socialist feminist perspective, class and gender socialisation processes in capitalist societies explained differences in opportunities, and the types of crime men and women committed.

Positions of power and powerlessness in the gender hierarchy resulted in different types and degrees of criminality; likewise, different opportunities for engaging in them (Messerschmidt, 1986). Thus, Messerschmidt concluded that criminality was strongly related to capitalist patriarchy, the structural possibilities this interaction created and the distribution of power within the division of labour in the market and at home.

Messerschmidt's work triggered a great deal of socialist feminist criminological research. A central concept of socialist feminist analysis was the exploitation of women's labour (Froines, 1992). From this perspective, gender inequality stemmed from the intersection of capitalism and patriarchy where gender relations formed an important structural source of the unequal gendered division of labour (Burn, Aboud, & Moyles, 2000; Calasanti & Bailey, 1991; Ehrenreich, 1976; Eisenstein, 1999, 1979; von Werlhof, 2007).

Socialist feminists sought to gain recognition that women's work in the home, although unpaid, was real work that helped human reproduction. Social feminists' scholarly work also attended to women in their position as workers amid the restraints of the gendered division of labour because it had become necessary for a vast majority of women to engage in paid labour to contribute to the family income. However, by 1980, socialist feminist activism declined (Froines, 1992). In fact, contemporary writing on the history and potential of women's studies rarely mentions socialist feminism (Kennedy, 2008). However, these understandings about women's work remain dynamic and salient concepts.

Ensuing Feminist Theories of Women and Crime

Histories of sexual abuse, violence and trauma. Robust research established that gender was a crucial factor in relation to pathways to offending (Belknap, 2001; Chesney-Lind, 2006; Covington, 2007; Daly & Chesney-Lind, 1988; Kruttschnitt, 1980; Worrall & Gelsthorpe, 2009) and new theories emerged. For example, the pathways perspective attended to macro-level issues such as race, gender inequality and class, whereby some women's offending was a product of a history of physical and sexual violence, trauma and drug addiction (M. Brown, 2006; Chesney-Lind, 1997; Daly, 1992). Although male offenders might experience similar problems, Owen (1998) claimed their lives were less

likely to be defined by histories of violence or exploitation. This was because men's lives were not marked in the same way as were women's by omnipresent sexism and patriarchal oppression. Therefore, one reason women's pathways into crime differed was their differential positioning in society.

Marginality and poverty. Poverty has a long history, but interpretations of what constitute poverty vary greatly over time and place. One definition of poverty is the pronounced deprivation of wellbeing, or the inability to satisfy basic needs. Another term that relates to financial hardship is relative deprivation, which refers to the proportion of households that lack items that a majority consider essential (Australian Council of Social Service [ACOSS], 2014). Most studies of poverty in developed countries conceptualise poverty as relative deprivation.

In the UK in the late 18th and early 19th centuries, many individuals were propelled into a life of increased poverty during the transition from the old rural society to industrial capitalism. Many people were turned away from farms where generations of families had earned a living for centuries, and their supplementary means of survival was also taken away (Lea, 2004). For example, a long-standing custom was that working people were permitted to hunt game on what was designated "common land" and to take a portion of crops harvested for their own use. However, in the increasing quest for capital gain, farmers soon realised that these customs reduced their profit. Consequently, these customary practices were redefined as poaching and theft and became subject to criminal punishment. Ultimately, this led to an increase in the number of 'criminals' among the working class poor (Lea, 2004).

Families from rural areas eventually became the poverty-stricken majority when they were forced to move to urban areas to find work. In the newly established urban areas, they lived in impoverished, overcrowded and unhygienic living conditions (Lea, 2004). The wealthier minority began to fear residents of these communities, and decided that they

needed to be watched and their activities regulated. Passing of the *Vagrancy Act 1824* gave police the right to arrest people for “loitering with intent”, but police activity focused attention on ale houses and streets where the poor lived, not on individuals who had actually committed crimes (as cited in Lea, 2004). Thus, criminal legislation increasingly targeted the poor.

When they had little regard for consequences, men and women were involved in a range of illegal activities. However, research has revealed that the majority of people accused of property crime—that is, theft of goods that can be sold on for money—were perpetrated by members of the vast population of working class poor (Lea, 2004). These findings suggested that involvement in property crimes by the poor was motivated by financial need.

According to de Pennington (2011), a specialist in 19th century social history, the UK at the time was divided into two distinct realms: the rich and the poor. These were differentiated by breeding, diet, different social decorum and how the realms were regulated in law. Apparently the two groups lived so separately that they actually knew very little about each other. The rich had little sympathy for the poor and judged them as deserving of their impoverished circumstances, and thus treated them with contempt (Higginbotham, 2013; Mack & Lansley, 1985). The prevailing belief of the wealthier minority was that poverty was an individual choice. It was mostly self-inflicted and reflected deficiencies in moral character (Gregory, 2008). There was no consideration that structural and economic factors attributed to poverty.

Acknowledging that poverty had become a social problem, in 1815 the British government enacted the *Poor Law 1815* (as cited in BBC, 2014). It required individual parishes to look after their own poor by donating money from the taxes paid by middle and upper class people to those who struggled to support themselves. However, this caused a

great deal of resentment among the wealthy; to appease them, the *Poor Law Amendment Act 1834* instead placed workhouses at the heart of poor relief (as cited in BBC, 2014).

Workhouses were run like prisons with stringent rules and regulations where it was compulsory for individuals to undertake work in the workhouse or elsewhere, in return for assistance with basic necessities such as food, shelter and clothing (Higginbotham, 2013). Entry into workhouses was based upon the “less eligibility” principle, which held that conditions of the able-bodied pauper should be lower than the lowest living standards of a labourer (de Pennington, 2011; Gregory, 2008).

Shame and stigma was also a central doctrine of both the 1815 and 1834 versions of the *Poor Law*. For example, men who had previously met the property threshold for voting rights lost this right because full citizenship was considered incompatible with any type of dependence on the state or a charity (Gregory, 2008). In other words, workhouse principles were designed to render this option as a course of last resort for those desperate enough to apply for assistance (Higginbotham, 2013, Mack & Lansley, 1985).

Formal admission into workhouses was made by voluntary application. Admission was authorised by the Board of Guardians after consideration of an applicant’s circumstances (Higginbotham, 2013). Official records substantiated that a high proportion of women were compelled to resort to workhouses (de Pennington, 2011). However, some women were declined entry.

For some women, obtaining admission was laden with obstacles. For example, legislation defined women as “dependent non-workers” and men as “able-bodied” workers (K. Abbott & Chesney, 2007). The patriarchal concept of male breadwinner and dependent female failed to account for the absence of a male breadwinner if a woman was, for example, widowed or deserted by her husband. Archival data revealed that because women were defined as dependent non-workers, agents of poor relief authorities expected women

of all ages and marital status to work to avoid destitution. Consequently, assistance was often refused or was given reluctantly (Hetherington, 2009). Therefore, out of desperation, some poor women had no alternative but to seek alternative means of survival such as prostitution, begging or theft.

Economic vulnerability meant that family support was critical for a woman's survival. This was particularly true for single women who were dependent on their own resources for survival (Stearns, 1980). Court records of the Old Bailey attested that a significant proportion of acquisitive (property) crime in London in the late 18th and early 19th centuries was committed by women (Beattie, 1974). Their transgressions predominantly related to pickpocketing, shoplifting, receiving stolen goods, and theft from lodging houses in which they resided, or from homes where they worked as domestic servants. A similar picture of female property crime was described in Stafford between 1880 and 1905 (Turner, 2011).

Offences by married and single women alike related to theft of food, linen or clothing from vendors and employers and prostitutes who stole from clients. Other offences related to breaches of welfare and health legislation. Another factor that might have led some into transgressions of the law was the major change in consumption that accompanied the emergence of the capitalist market economy. Exposed to trappings of the wealthy minority there was increased temptation for the poorer majority to have what others had and as more shops opened, there were more opportunities to steal (Styles & Vickery, 2006).

Research shows that women were prosecuted for shoplifting more frequently than men. Between 1890 and 1940, *The Times* reported on 284 prosecutions for shoplifting (Meier, 2011a). Of these, only nine were male offenders. The majority (69%) was under the age of 35. Where women's occupations were identified, 29 were employed in the clothing trade and 23 in domestic service (Meier, 2011a). Details of items stolen were not provided

so it not possible to attribute motivations to the theft of these items, but what is of note is that most of the women involved were situated in lowly paid work.

As people grew older, a factor that contributed to their impoverishment was that employment opportunities diminished, as demonstrated by data collected in the census years 1881, 1901 and 1921 (Benson , 2003). The data reflect that a disproportionately large number of people between the ages of 45 and 64 years worked as street-hawkers or peddlers. The numbers exceeded the proportion of the population belonging to this age group in each of the census years in question. For some other individuals, scavenging, pilfering and similar illegal activities were crucial for survival (Benson, 2003). Without employment, this meant many individuals would likely re-offend.

At the end of the 19th century, more than 25% of the population was living at or below subsistence level, of which around 10% could not afford even basic necessities such as adequate nourishment, and between 15% and 20% had just enough money to survive. At the beginning of the 20th century, 25% of the population was still living in poverty. However, by 1950, absolute poverty—not having enough money to provide an adequate diet or sufficient clothing—had almost disappeared from the UK because particularly post-war, there was sufficient employment (Lambert, 2013). Overall, the UK briefly saw a reduction in poverty.

In Australia, Aboriginal and/or Torres Strait Islanders have suffered a long history of inequality and marginalisation. Processes of colonisation employed in Australia and Canada were similar and have produced similar results. Although Indigenous people in the two countries had distinctly different cultures and histories, colonisation produced their socioeconomic and political marginalisation (Nielsen & Robyn, 2003). For example, Aboriginal and/or Torres Strait Islanders were imprisoned at a rate of around 12 times that of the rest of the Australian population (Australian Institute of Criminology, 2013) and in

Canada, the Indigenous incarceration rate was 10 times that of non-Indigenous adults (Office of the Correctional Investigator, 2013). Tellingly, one of the most damaging aspects of the ongoing cycles of Indigenous marginalisation was evidenced by the similarities in their persistent over-representation in criminal justice systems in each of these nations.

Reasons for Aboriginal and/or Torres Strait Islander over-representation in Australian criminal justice systems were disputed. For instance, Blagg, Morgan and Cunneen (2005) have suggested that the courts prosecuted Aboriginal and/or Torres Strait Islanders more harshly, whereas other researchers argued that their over-representation is in fact largely due to their high rate of involvement in crime (Snowball & Weatherburn, 2006; Weatherburn, Fitzgerald, & Hua, 2003). Although social marginalisation and economic disadvantage are linked to much offending behaviour, it is important to consider the significant impact of damage to cultural identity, trauma and grief, in relationship to Aboriginal and/or Torres Strait Islander offending behaviour (Aboriginal and Torres Strait Islander Social Justice Commissioner, 2002). It is also important to recognise that Aboriginal women likely face additional discrimination based on their sex.

Currently, the primary means of poverty relief is the social welfare system whereby Centrelink provides funds to means-tested persons who are assessed on their income and assets to ensure that—like entry into workhouses—only those who are in dire need of assistance qualify (McDonald, 2013). During his campaign launch for the 1987 federal election, former Prime Minister Bob Hawke promised that by 1990, no Australian child would be living in poverty. Although he failed in his promise, Hawke's idea that poverty could be eliminated was important (Roskam, 2007).

Poverty is a serious social problem for many females worldwide. Some women lack adequate income, earning capacity or legitimate means of securing an adequate living, as do some men. It is important to note that Western societies have grown richer and become

more consumer oriented. In line with the consequent general improvement in living standards, the minimum acceptable standard of living has changed (Wilkins, Warren, Hahn, & Houg, 2010). A vast body of literature substantiated that marginality and poverty are factors that lead to female criminality (Carlen, 1988; P. Davies, 1997; Gilfus, 1993; Heidensohn, 1985; Holtfreter et al., 2004; Jensen & Kouri, 2011).

Some scholars have maintained that poverty has been disregarded as an equal, if not greater antecedent to criminal behaviour for females than for males (Bloom et al., 2004). For example, in reviewing 26 text books published in the United States between 2001 and 2008 that included 10 on the subject of criminology, 8 on juvenile delinquency and 8 on criminology theory, Wozniak (2008) found that poverty was discussed only generally, as a possible correlate of specific forms of crime. Thus, it would appear that the relationship between poverty and crime remains under-theorised.

The feminisation of poverty. The term “feminisation of poverty”, first coined by Diana Pearce (Schaffner Goldberg & Kremen, 1992), has earned a distinguished position within international discourses on the predominance of women among the poor. The feminisation of poverty referred to the extent to which single women predominated and the more general potential poverty of many partnered women among various groups (Schaffner Goldberg & Kremen, 1992).

Albeit to differing degrees, married and single women everywhere were subjected to related gender gaps and general inequalities of highly segregated labour markets (Schaffner Goldberg, 2010). As principal caregivers, married women suffered disadvantages in the labour market that reduced their earnings, acquisition of skills and occupational mobility. Further, a wife’s small income can become a path to her poverty if she had to support herself as a divorcee or widow (Schaffner Goldberg, 2010). Consequently, the threat of poverty hangs over many women, which might lead single mothers to earn an income

through illegal means to support their families.

Unemployment was often linked to poverty. An early qualitative study of white working class women involved in crime revealed that poverty was a significant motivation (Carlen, 1988). However, Carlen clarified that unemployment per se was not necessarily the direct cause of their poverty; rather, it was an integral feature of their lives.

Undeniably, women's participation in the labour force has increased, and many occupy positions equal to those of men. However, this factor appears to have eclipsed both women's unequal participation in, or exclusion from, the labour force and wage inequality. Sampson and Laub (2005) argued that poverty, one determinant of social class, was unimportant because "bad actors" would not abstain from crime if they were in gainful employment. This viewpoint resonates uncomfortably with the notion of the 'born criminal'.

Australia is a wealthy, resource-rich and developed economy; therefore, it might be concluded that none of its people experience poverty. However, this is an erroneous assumption. If the poverty line is set at 50% of the median income, 13.9% of people lived below this line in 2011–12 compared to 11.0% in 2006, after taking into account housing costs (ACOSS, 2011, 2014). The most recent available data revealed that females represented 52.6% of people living below the poverty line and the proportion of children in all lone-parent households increased from 36.8% in 2012 to 40.6% in 2014 (ACOSS, 2016). A number of social security payments fell significantly below the poverty line. Long-term analysis of data indicated an overall trend of persistent and entrenched poverty over the preceding decade. Internationally, despite Australia's relative wealth, the poverty rate remained above the Organisation for Economic Co-operation and Development (OECD) average (ACOSS, 2016).

Poverty rates were higher for Aboriginal and/or Torres Strait Islanders (19.3%) than

for the total adult population (12.4%) in 2014 (ACOSS, 2014). Women (14.7%) were significantly more likely to experience poverty than men (13.0%) in 2011–12 (ACOSS, 2014). This outcome was because women tended to have lower employment outcomes, earned lower wages, were in unpaid caring roles and had lower investment incomes in retirement. Sole parents were at a particularly high risk of poverty (33%). Significant factors were low rates of employment, especially with young children and low levels of social security payments for these families. Compared to all other age groups, children (17.7%) and older people (14.8%) were at higher risk of poverty.

Around 1900, Australia was known as the social laboratory of the world, partly based on the wide-ranging and generous welfare benefits introduced by state Labor governments (Huo, 2006). The social security safety net was designed to assist people who lost their job, fell ill, had a disability, separated or divorced, or retired (ACOSS, 2014). These are common life events. Of the 2.55 million people living in poverty in 2011–12, over 30% came from households where the main form of income was from wages, demonstrating that even having paid work does not protect people from poverty (ACOSS, 2014). In 2014, there were 2.99 million people living below the poverty line (ACOSS, 2016). In absolute numbers, people living below the poverty line increased.

Beneficiaries of welfare assistance are mainly women with children requiring a supportive lifeline (Jensen & Kouri, 2011). Jensen and Kouri argued that governments that do not include equal representation by gender—and therefore, most likely do not view these programs as a priority—may restrict or even deny financial resources that improve not only women's lives, but those of their children. The ripple effect of restrictions in public funding includes an increase in financial necessity and hardship. This situation is exacerbated by economic systems that place many women at a relative disadvantage to men with regard to access to and remuneration from the workforce (Jensen & Kouri, 2011).

Research has consistently highlighted the structural and cultural elements associated with gender systems. Structural aspects pertain to the availability of opportunities for men and women in the institutions of government, law, education and the workforce, which have historically disadvantaged women with respect to equality in power and resources (Jensen & Kouri, 2011). This does not apply to all women everywhere, but it remains a problem in many societies throughout the world. In addition, it does not necessarily mean that all disadvantaged women resort to crime.

Children of single mothers. Although not part of this study, it would be remiss to disregard factors that potentially have a detrimental effect on the lives of children of single mothers. A number of scholars have suggested that marital status was a marker for several family factors that contribute to the development of behaviour problems in children and adolescents (Barber & Eccles, 1992). Literature on this topic suggested that the link between parental status and externalising behaviour problems may be explained in terms of family processes that included parental supervision (Patterson & Stouthamer-Loeber, 1984) and disciplinary practices (Turner, Irwin, & Millstein, 1991); family warmth and cohesion (Friedemann & Andrews, 2009); and the presence of a positive male role model (Brody & Forehand, 1993).

A pivotal part of the social bonding process between children and parents is parental control and supervision (Gottfredson & Hirschi, 1990). This requires a significant amount of time; time that, given the competing demands that single parenthood brings, single parents struggle to find (Rankin & Wells, 1990). Research indicated that because some single mothers were less adept at maintaining an appropriate mix of control and autonomy-granting behaviour, this explained to some extent why adolescents in single-mother families were more likely to participate in disruptive, impulsive or self-destructive behaviour (Turner et al., 1991; Van Voorhis, Cullen, Mathers & Garner, 1988). Conversely, other single mothers were

more authoritarian (Kelley, Power, & Wimbush, 1992), and yet others were more permissive. These findings suggested that patterns of interaction such as these facilitated the development of antisocial behaviour in children (Patterson & Stouthamer-Loeber, 1984).

Other scholars held that the poor quality of the bond between single mothers and their children helped explain some the problems observed among children and adolescents with a single parent (Bank, 1993; Brody & Forehand, 1993; Friedemann & Andrews, 2009; Laub & Sampson, 1988). Brody and Forehand (1993), for example, found that differences in the level of drug/alcohol use between adolescents in single-mother and two-parent households were mainly produced by differences in the degree of mother–adolescent conflict and maternal acceptance.

There was also evidence to suggest that some of the problems associated with single motherhood were directly related to the absence of a secondary caregiver, rather than being a manifestation of family dysfunction (Zimmerman & Salem, 1995). However, children who maintained a positive relationship with non-custodial fathers appeared to be at lower risk for behavioural/emotional problems than children who did not (Brody & Forehand, 1993; Zimmerman & Salem, 1995).

Over recent decades, family structures have changed significantly due to factors that include high rates of divorce, single-parent households, stepfamilies and cohabitation (Kennedy & Bumpass, 2008). A quite extensive body of criminological literature has documented a connection between family structure and delinquency, where findings revealed that children from non-intact families, including stepfamilies and cohabiting families were more likely to engage in delinquent activities than children from intact families (Canter, 1982; Demuth & Brown, 2004; Griffin, Botvin, Diaz, Miller & Scheier, 2000; Lynskey, Winfree, Esbensen, & Clason, 2000; Maccoby, Buchanan, Mnookin, & Dornbusch, 1993; Mackey & Coney, 2000; Manning & Lamb, 2003; O'Brien & Stockard,

2003; Osgood & Chambers, 2000; Rebellon, 2002). Most studies found that family dissolution was associated with juvenile delinquency ranging from minor property crime and substance abuse (Anderson, 2002; Apel & Kaukinen, 2008) to truancy, running away from home, violating curfew, and general ungovernability to interpersonal violence (Rebellon, 2002) and even homicide (Schwartz, 2006). This body of research provided compelling evidence that juvenile offending was significantly higher when one biological parent was absent.

Whereas research shows that single parenthood was a key contributor to juvenile offending, Demuth and Brown (2004) found that children in single-father households were involved in significantly higher rates of juvenile crime than those in single-mother households. Other research intimated that children from blended families tended to be more delinquent than in any other family structure (Flewelling & Bauman, 1990; McCarthy, Gersten, & Langer, 1982). Overall, however, the evidence suggested that children from broken families experienced significant disadvantage in comparison to intact families.

Accumulating Poverty over the Life Course

Across various disciplines, older adults have generally been portrayed as individuals who are fearful of crime. More particularly, women were stereotyped as victims of criminally inclined individuals (Beaulieu, Leclerc, & Dubé, 2004; Clarke & Lewis, 1982; Lagrange & Ferraro, 1987, Pollack & Patterson, 1980; Rypi, 2012). Dunlop, Entzel and Rothman (2000) proposed that irrespective of its prevalence or incidence, criminal activity by older adults was likely to be, in part, a manifestation of underlying structural problems within society.

Criminologists have placed immense emphasis on the age of onset and attendant risk factors for involvement in criminal activity. Age of onset is defined as the age at the first known offence. Adult onset means there were offences in adulthood, but not in childhood or

adolescence (Eggleston & Laub, 2002). Studies examining the age of onset of female criminal involvement have predominantly focused on the lower end of the age spectrum: juveniles and young adults. One of the most enduring theories on lifespan patterns of criminal offending is Gottfredson and Hirschi's (1990) general theory of crime.

Gottfredson and Hirschi's (1990) general theory of crime posited that the relationship between age and offending was constant across age groups of individuals because self-control was a trait customarily formed by social and familial attachments in early childhood. Widely accepted conclusions about criminal careers were that most offenders first offend between the ages of 8 and 14, peaking in the late teenage years, with most desisting from crime between the ages of 20 and 29 years (Farrington, 1986; 2003; Piquero, Farrington, & Blumstein, 2007). However, as Farrington (2003) observed, these conclusions were predominantly based on data for male offenders. According to this theory, the age-crime pattern was a reflection of the universal biological ageing process, which precluded late-onset criminal activity in later years and therefore, according to Gottfredson and Hirschi (1990), it was not necessary to examine offending over different stages of the life course.

Adult-onset offending is infrequently studied and is usually limited to juveniles and young adults (Eggleston & Laub, 2002), dispelled as a myth (Dunlop et al., 2000) or dismissed on the premise that it is so rare that it does not warrant attention (Moffitt, Caspi, Rutter, & Silva, 2001). However, Aday (1994) identified three types of older offenders, based on an analysis of older male prisoners. There were those who age in prison due to long sentences committed at earlier ages; habitual prisoners who offend and re-offend throughout their lives; and late-life first-time offenders.

Older offenders, who were predominantly male, have been the focus of only a small body of research. For example, data from the FBI's UCR showed that 10,795,869 individuals

aged 50 years and over were arrested in 1987 (Kratcoski & Pownall, 1989). Although this constituted less than 5% of the total arrests, as cautioned by Kercher (1987), concentrating on relative rates can give the impression that the issue is too trivial to warrant attention.

Although the data in Kratcoski and Pownall's study were not disaggregated by gender, they confirmed that older people do transgress the law.

Just over a decade later, a similar study was conducted in Canada to provide a comprehensive profile of older prisoners in federal and community settings. The purpose of the study was to determine the needs of older offenders that set them apart from their younger counterparts (Uzoaba, 1998). This study revealed that a large proportion (72.8%) of prisoners were individuals aged 50 years and over, and incarcerated for the first time in life. Again, data were not disaggregated by gender, but this study also substantiated that older people were convicted of transgressions of law for the first time later in life.

Australia conducted its own study of older inmates to determine the implications for correctional management (Grant, 1999). Of the total inmates admitted to correctional centres in 1997, 73.8% (or 19,082) were over the age of 50 and 66.5% (12,689) were imprisoned for the first time. Gender was considered to a degree in this study, which mentioned that 95.0% of older inmates were males and that the ratio of male to female inmates over 50 years of age had remained stable over time (Grant, 1999). It was suggested that an understanding of the physiological and societal differences between older and younger individuals was needed for the development and implementation of programs for older inmates. However, this suggestion implied that older male's and female's needs were identical.

Attempts to explain the offending behaviour of older females are rare. Granted, older females represent a small proportion of female offender populations—however, their actual numbers are not insignificant and thus they warrant criminological attention. Eighteen years

ago, Codd (1998) pointed out that although older women were subjected to a wide range of criminal sentences, little interest had been shown in their offending.

Older female offenders have attracted minimal interest. Lindsay (1996) suggested that some important factors in any age group engaging in criminal behaviour were relevant to the study of older offenders; for example, low social status, poverty, environment, substance abuse, and lack of work responsibilities and structured time (Lindsay, 1996). Evidence suggested that adult onset was more common among women than men (Block, Blokland, van der Werff, van Os, & Nieuwbeerta, 2010; Eggleston & Laub, 2002; Gomez-Smith & Piquero, 2005). However, research examining adult-onset offending was generally concerned with females who had reached adulthood (generally age 18 or 21 years).

For many women, ageing means entry into a marginal, culturally unstable and economically precarious stage of life (Cole, Achenbaum, & Carlin, 2008). Although differences exist among older women on the basis of a variety of sociocultural categories such as ethnicity or migrant status, social status tends to diminish as individuals reach older age (Mazerolle, 2008). As noted by Chaney (2013), the discrimination faced by older people is unique because in contrast to other social categories, barring premature death all people, men and women alike, will eventually transit into this group. Following Barbara Macdonald's (1989) call for the inclusion of older age in feminist studies, Krekula (2007) also highlighted neglect of the intersection of gender and age as a form of inequality.

Intersectionality theorists recognise that people can belong to several disadvantaged groups simultaneously, but older age as it intersects with gender is neglected. For example, in a discussion of the variables of Aboriginality in *Less than equal: Women and the Australian legal system*, ethnicity, disability and sexuality in older age was not considered by Easta (2001).

In the main, criminological inquiry into older female offenders has been overlooked.

The exclusion of age and ageing as a source of inequality renders older women invisible. While women generally have been the subject of inquiry, they have not been included in theories that lead to understanding how the intersection of age and gender shapes women's experiences in later years (Browne, 1998; Burgess-Proctor, 2006; Calasanti, 2005, 2008; Calasanti & Slevin, 2001; Calasanti, Slevin, & King, 2006; Krekula, 2007; Twigg, 2004).

A number of studies have shown that late-onset criminality is not such a rarity. Not only does late-onset offending occur, it is more prevalent among females than males (Bergman & Andershed, 2009; Block et al., 2010; Chung, Hawkins, Gilchrist, Hill, & Nagin, 2002; DeLisi, 2002). Block et al.'s (2010) longitudinal study of a large sample of male and female offenders in the Netherlands found that girls and women were much less likely to participate in crime than were boys and men. Overall, property crimes predominated for women, irrespective of the total number of lifespan convictions, but this was not true for men. Prevalence peaked in the late teenage years for males but not for females. Therefore, it appears that one of the widely accepted conclusions of the developmental lifespan literature that offenders leave behind criminal behaviour as they age is true only for males (Block et al., 2010).

Other key findings included that the age of offending, no matter how measured, was older for females than males (Block et al., 2010). Significant differences were found in the age of onset for males and females: the peak age of onset was 29 years for females and 22 for males. Nineteen % of women with one conviction were 45 years or older at registration for that offence and 6.2% of females with more than one conviction were 45 or older at registration for the earliest conviction. Significantly more females than males began offending at age 45 years or older, even when controlling for the number of lifetime offences. Further, property crimes increased with age for women, but not for men (Block et al., 2010).

As Block et al. (2010) noted, first arrests or convictions may have been preceded by unrecorded arrests or convictions. Alternatively, there could be gender differences in criminal justice responses to early offences. Nonetheless, the findings could be interpreted in two ways: women became greedier than men as they get older, or they became poorer than men as they get older.

A study that specifically included the participation of older females focused on instances of serious fraud involving over AU\$100,000 in Australia and New Zealand. The cases of 43 females and 122 males presented in courts during 1998 and 1999 were examined (Goldstraw, Smith, & Sakurai, 2005). Mean ages for males (42 years) and females (43 years) were similar. Almost 70% of the females committed offences during the course of their employment (Goldstraw et al., 2005). Almost half (i.e., 20) of the females committed offences in conjunction with a male co-offender. However, in this study, females constituted a lower proportion of first-time offenders. Overall this study revealed that serious and large-scale frauds were not purely the domain of men.

In the Goldstraw et al. (2005) study an analysis of trial judges' sentencing remarks, defence counsel arguments and pre-sentence reports revealed that both males and females cited greed as their primary motivation, and gambling as their secondary primary motivation. Pleasing others, such as by buying gifts for significant others was an explanation reported by a proportion of twice as many females than males. As a mitigating factor, personal hardship was raised more often by females. Males cited physical and mental health problems more than twice as often as females. Conversely, females raised old age as a mitigating factor more often than males (Goldstraw et al., 2005). However specific factors relating to personal hardship and old age were not expanded upon and, therefore, warrant further examination.

In a recent study examining late-onset crime and delinquency in incarcerated females

over the age of 18, out of the 30 participants interviewed, 8 (aged between 32 and 50 years of age) were identified as first-time offenders (five African American and three white women). Their crimes included felony-theft, embezzlement, armed robbery and shoplifting. Two of the offenders were over 45 years of age (Carr & Hanks, 2012). Two conceptual categories linked to the motivations for all of the women's offending were drug addiction, and economic or social caretaking of others.

The economic disadvantages of women follow them into old age. Although some aspects of the lives of older male offenders have been explored, offending later in life is still an under-researched topic (Barak, Perry, & Elizur, 1995; Brank, 2007). However, generalising findings from older male offending to older female offending is problematic because their gendered life experiences differ over the life course.

In Australia it has been reported that compared to men, women were less likely to have superannuation and more likely to have lower superannuation savings (AGOW, 2008, para. 11.36). Consequently, more women than men rely on the Age Pension. Of 1,952,686 people paid the Age Pension in 2006–07, just over half were women (AGOW, 2008, para. 11.13).

Populations aged 65 years and over have increased markedly over the past few decades in all OECD countries, both in size and as a percentage of the total population (OECD, 2011). In 27 of 30 OECD countries, women were at greater risk of poverty than were men in 2013. Relative to other groups, income poverty rates were higher for single older people in Australia, Japan, Mexico and the United States. Of the OECD countries, only Korea (45.6%) had a higher level of old age poverty than Australia (35.5%) (OECD, 2013). Cross-national studies of developed nations found that compared to all elderly women, elderly men or the elderly as a group, elderly women who lived alone had higher poverty rates; and their prevalence within the elder population is likely to rise significantly

over the next decades (Schaffner Goldberg, 2010; Smeeding & Sandstrom, 2005).

Following the onset of the Global Financial Crisis (GFC) in late 2007, Australian superannuation balances declined by 25% but are now beginning to recover (National Seniors Productive Aging Centre, 2012). However, research has shown that women, older 'baby boomers', retirees, low-income earners and those in poor health were most affected by the GFC, suggesting that financial security in later years is intricately linked to levels of socioeconomic status (National Seniors Productive Aging Centre, 2012).

Many of the baby boomer generation—5.5 million people in Australia, born between 1946 and 1965—began to turn 65 years old (National Seniors Productive Aging Centre, 2012). Most social and economic debate about issues with ageing for this group has focused on the cost of health care and the possibility of a shortage of labour to meet future demands in the production of capital. To address governmental concerns about the ageing population, the solution imposed was to increase the age at which the Age Pension can be accessed (Australian Government, 2013). Potentially, for older Australians, this means that they will be at risk of poverty for a longer period of time.

Although increases in the single rate of the Age Pension might have alleviated poverty slightly, it was anticipated that one in three retired females receiving this rate would remain in poverty (Tanton, Vidyattama, McNamara, Quoc, & Harding, 2009). It was likely that retired females were less able to maintain home ownership or afford rental accommodation, placing them at risk of homelessness (McFerran, 2010).

In a study of homeless women in New South Wales, the single largest age group was women in their 50s (58%) followed by women in their 60s (22%) (McFerran, 2010). A more recent study found that the number of homeless women was increasing nationally. Factors contributing to older women's homelessness included the death of a partner, divorce and separation and the inability to accumulate adequate superannuation (Faulkner,

2014). Social and economic disadvantage potentially differentiates the ageing experiences of older women and men, demonstrating the feminisation of poverty of older women.

Another factor that economically disadvantaged older people was access to participation in the workforce. Age discrimination was identified by the AHRC (2009) as the principal barrier to workforce participation by older individuals. Currently, there is no legally binding international human rights instrument that specifically addresses the rights of older women; thus, they remain invisible in the application of human rights law (Begum, 2011). The gap in international legal recognition for older people intimates that their rights are less important than those of other groups and consequently, increases the invisibility of their vulnerability as a group (Begum, 2011).

Two decades after adopting the *Sex Discrimination Act 1984* (Cth) ('the SDA'), Australia accepted that gender experiences throughout the life course shape the experiences of older women, when the *Age Discrimination Act 2004* (Cth) ('the ADA') came into force. Although the International Covenant on Economic, Social and Cultural Rights (1976) and the International Covenant on Civil and Political Rights (1966) (United Nations Human Rights) provide the right to be free from discrimination, there is no binding international agreement that deals specifically with the rights of older people (Healey, 2013a). The *Sex and Age Discrimination Legislation Amendment Bill 2010* (Cth) contained amendments to the SDA to strengthen protections under the legislation, and amendments to the ADA. The purpose of these amendments was to streamline anti-discrimination legislation in response to the National Human Rights Consultation (Law Council of Australia [LCA], 2010). However, gendered experiences over the life course still serve to disadvantage some women in later years.

Factors that increased the risk of poverty for people aged between 40 and 60 years in Australia were unemployment, underemployment, dependent family members and

inadequate income support (Commonwealth of Australia, 2004). Additional risk factors for women in retirement included lack of adequate superannuation because of lower wages, career interruptions and part-time or casual work. For people aged 65 years or over, risk factors may also include increased housing costs, ill health and disability (Commonwealth of Australia, 2004). Thus, the need remains to explore older women's involvement in crime.

Overlapping social identities: Intersectionality theory. Some feminist scholars acknowledge the inadequacies of gender as a single analytical category. Theories of intersectionality evolved in the United States within the framework of black feminist standpoint theory in the second wave of feminism. In 1970, Francis Beal drew attention to the fact that since the beginning of the slave trade and colonisation in many countries, black women (and men) endured multiple forms of oppression (as cited in Potter, 2013). In particular, Beal noted how African-American women were particularly burdened by their disadvantaged status based on the intersection of gender and race—and were economically exploited. African-American women endured particular forms of discrimination not experienced by African-American men or white women (Makkonen, 2002). Subsequently, legal scholar Crenshaw (1991) coined the term intersectionality to encompass the overlapping social identities and systems of oppression to which women are subjected.

In the intersectionality debate it was recognised that structural conditions and related histories imparted how intersectional axes of discrimination take shape (Henne & Troshynski, 2013). Understanding the context of structures of power is crucial to understanding axes of discrimination in relation to female crime (Chesney-Lind & Morash, 2013).

Many feminist scholars now favour intersectionality as a theoretical model to address social inequalities (Association for Women's Rights in Development, 2004; Belkhir & Barrett, 2001; Cho, Crenshaw, & McCall, 2013; E. R. Cole, 2009; Krekula, 2007; Lykke,

2010; McCall, 2005; Metcalfe & Rees, 2010; Ontario Human Rights Commission, n.d.; Patil, 2013; Samuels & Ross-Sheriff, 2008; Verloo, 2006; Walby, Armstrong, & Strid, 2012; Winker & Degele, 2011; Yuval-Davis, 2006). Similarly, intersectionality has found favour as a theoretical tool with feminist criminologists to critically examine the impact of various interconnected female identities (Baskin-Sommers, Baskin, Sommers, & Newman, 2013; Bell, 2013; Burgess-Proctor, 2006; Crenshaw, 1991; Erez & Berko, 2010; Henne & Troshynski, 2013; Potter, 2013). However, Potter observed that many criminologists still failed to consider differences across and between gendered identities.

However, intersectionality theory was not without its critics. Some scholars have questioned whether the profusion of differences among women might be intersectionality's weakness (Ludvig, 2006), whereas others questioned the use of categories at all (McCall, 2005). Yet other scholars expressed concern that it produces divisive and exclusionary 'identity politics' because it assumed that only individuals who shared the same marginal position can truly understand it (Renzetti, 2013; Hancock, 2011). Yuval-Davis (2012) rejected this position, claiming that it was the message that counted, not the messenger; Hancock (2011) claimed that intersectionality theory could lead to various groups competing for recognition as the most oppressed.

Despite its critics, intersectionality was touted as one of the most notable contributions to feminist scholarship (Davis, 2008). However, it is somewhat surprising that since intersectionality theory evolved from recognition of the multiple forms of discrimination endured by African-American men and women after slavery, this discrimination was not articulated as resulting from abuses of human rights.

Conclusion

Feminist scholars challenged gender-neutral theories of behaviour based on the premise that because of the prevailing social orders and structures, crime could be highly

gendered. Whereas developing theories of feminist theories advocated equal rights in some form, there was a distinct absence of appeals to women's human rights.

There is some evidence to suggest that children from single-parent homes experienced significant disadvantage in comparison to families with two parents. The absence of a positive role model as secondary caregiver, and single mothers who are less adept at maintaining an appropriate mix of control and autonomy, help explain why adolescents in single-mother families were more likely to participate in disruptive, impulsive or self-destructive behaviour. Whereas a significant body of research found that single parenthood was a key contributor to juvenile offending, other scholars found that in single-father headed households, there were significantly higher rates of juvenile crime than in single-mother households.

Intersectionality theory was touted as one of the most notable contributions to feminist scholarship. Although it evolved from recognition of the multiple forms of discrimination that African-American men and women endured after colonisation, intersectionality was not articulated as resulting from abuses of human rights. Seldom are abuses of human rights considered relating to women's positioning in Western male-dominated cultures or indeed, as factors that contribute to women's criminal behaviour, such as a history of violence, or factors that contribute to women's marginality and poverty as antecedents to their criminal behaviour.

Some females lack adequate income, earning capacity or legitimate means of procuring an adequate living. Both males and females commit crime for financial gain, but research consistently demonstrates that females commit more property crime than do males. A problem for women is that gendered disadvantages follow them into old age. Additional risk factors for women in retirement include lack of adequate superannuation because of lower wages, career interruptions and part-time or casual work. Evidence

suggests the possibility that more egalitarian structures where men and women's rights were equally respected and protected existed in the past. In modern times, however, despite intensive endeavours, the goal of achieving full gender equality has not yet been realised under the feminist banner.

Chapter IV: Literature Review—The Status of the Feminist Movement and Women Today

Since significant social, economic and political gains for women have already been achieved, many scholars are concerned about the status of the feminist movement today (Aronson, 2003; Hall & Rodriguez, 2003; Huddy, Neely, & Lafay, 2000; Peltola, Milkie, & Presser, 2004). This chapter begins by discussing how the rhetoric of equality and inequality, although useful concepts, fails to describe or explain women's suppression adequately. I then explore contemporary views on feminism and gender inequality. Next, discuss provisions against discrimination on the basis of sex and how these rights are protected in human rights documents. I examine ageism and gendered ageism as axes of discrimination, challenges of older women exiting the workforce and how neoliberal policies affect some women's financial wellbeing in later life. I conclude the chapter by discussing the feminisation of poverty of older women within in the context of breaches of human rights.

The Rhetoric of Equality and Inequality

The rhetoric of equality and inequality is a useful concept to frame and raise awareness of women's political and legal claims. Feminists have developed various concepts to explain manifestations of gendered disadvantage, but as Lacey (1998) argued, matters that disadvantage women are often not easily framed in terms of gender inequality. For example, where disadvantages were most persistent, societies and courts tended to see them as 'natural' on the one hand or as a consequence of individual choice on the other (Lacey, 1998).

Regrettably, such a simplistic understanding of choice avoided problems encompassing women's disadvantages in male-dominated social systems. Among the various feminist concepts developed to explain gendered disadvantage, there was little

acknowledgment of gender equality as a human right.

Contemporary Views on Feminism and Gender Equality

What is often referred to in academic literature as the “woman question” frequently evokes highly emotional responses from some men and women (Walters, 2006). One reason is that the feminist movement focuses on the mutually dependent and intimate relationships between women and men, with a view to changing them. According to Walters (2006), taking sides in the debate is a process that most men and women try to avoid. She reasoned that by allowing the woman question to infiltrate their consciousness and understanding the unequal male–female relationship, people would have to acknowledge that they were partners in the system of exploitation and oppression. The author suggested that this perhaps invoked anxiety in both men and women at the thought of overturning their highly ingrained roles in male-dominated social systems (Walters, 2006).

Research has demonstrated the unwillingness of many people to identify as feminists. By throwing negative dispersions on feminists, many women and men who supported the basic concepts of feminism were inclined to renounce the feminist label (Beck, 1998). For example, an American public opinion poll in 1998 examining whether impressions of feminists were favourable or unfavourable revealed that both men and women felt the term feminist was an insult (Huddy et al., 2000). However, the authors did not explain why the comment was considered insulting.

The majority of studies examining what the concept feminism means are dominated by samples taken from tertiary students. A study of American college students revealed that 63% of a sample of 94 female and 47 male American students aged between 17 and 50 years of age did not identify as feminists (Williams & Wittig, 1997). Similarly, Burn et al. (2000) found in a study of 181 female and 95 male American college students in the same age group as Williams and Wittig’s sample that only 29% self-identified as feminist.

However, in both studies, although the majority of students were disinclined to identify with the feminist label, most indicated that they agreed with the core principles of feminism.

A later comprehensive qualitative and quantitative study of 157 female, 112 male American students and one student of unspecified sex was undertaken to determine the extent of feminist identification and their perceptions of a feminist (Shannon & Carter, 2008). Participants' ages ranged from 18 to 53. Overall, 30.0% of the respondents identified as feminists and 70.0% as non-feminists. Of the female respondents, 36.3% self-identified as feminists, but a greater proportion (63.7%) self-identified as non-feminists, and males identifying as non-feminists comprised 78.6% (Shannon & Carter, 2008). More than a decade on from Williams and Wittig's studies, American college students were still reluctant to identify as feminist.

A particularly revealing and somewhat surprising aspect of Shannon and Carter's (2008) study was the various meanings the student participants ascribed to feminism. Their responses fell into three broad categories: attitudes and beliefs; actions; and personal characteristics. Beginning with 148 students who defined feminists in terms of attitudes and beliefs, the most common definition (73.0%) was one who supported gender equality. The second most common was one who believed that women were or should be superior to men, or women who disliked men (29.1%). The third most common definition was that a feminist rejected traditional gender roles (16; 14.8%) and a minority (4.7%) that a feminist was either a woman who did not respect women, or opposed women's rights (Shannon & Carter, 2008). Although there was no significant difference between feminists and non-feminists in how they defined feminists, (2.6%) students who identified as non-feminists were more likely to define feminists as individuals who opposed, rather than supported women's rights. The significance of these findings, as the authors noted, was that college

students could so greatly misunderstand the term feminist (Shannon & Carter, 2008).

The most common definition among students who defined feminists in terms of action was a person actively engaged in activities to further gender equality 89.0% (Shannon & Carter, 2008). There was no statistically significant difference between feminists (50.0%) and non-feminists (42.6%) in choosing this definition. Statements describing feminists included “women marching with signs ... someone who overly stands up for women’s rights” and “extreme person seeking equality between genders” (Shannon & Carter, 2008, p. 248). The second and third most common definitions in terms of action were that a feminist was an individual who discriminated based on gender (11 of 136; 8.1%). Some non-feminists (9 of 188; 4.8%) were more likely to describe feminists as “bra burners” (Shannon & Carter, 2008, p. 249). These somewhat disparaging definitions of a feminist perpetuate negative stereotypes. Perhaps the most perplexing of all was students’ definitions of feminists in the context of personal characteristics. The predominant explanation was that a feminist was a woman or a female (59 of 100; 59.0%) (Shannon & Carter, 2008). This implied a perception that only women can be feminists.

Negative personal characteristics were the second most common definition of feminists (44.0%). Non-feminists were more likely than feminists to cite negative characteristics (21.3%) using descriptions such as “violent crazy women”, “raging women burning bras”, “not willing to compromise”, “man-hating woman” and “bitch in a suit” (Shannon & Carter, 2008, p. 249). Another definition of feminists was that they were lesbian or butch women (26.0%). Non-feminists (12.2%) were more likely to define feminists as lesbian or butch, using statements such as “femi-nazi”, “man-hater”, “big burly lesbian”, “big, fat, butch-type female”, “pissed off woman” and “uptight lesbian women that don’t look good” (Shannon & Carter, 2008). Although the findings of this study are not generalisable to students everywhere, these accounts are indicative of why some individuals

were reluctant to self-identify with feminism. Lee (2015) suggested that the stigma attached to feminism is entrenched in the common perception of feminism as a radical concept because it challenges the status quo of a patriarchal world order.

In the introduction to her book *Feminism: A very short introduction* (Walters, 2006) noted conversational anecdotes of an unidentified number of university-educated and working British women aged in their early 20s when asked if they identified themselves as feminist, or had any interest in feminism. Most replied in the negative. One woman claimed that feminism sounded stuffy and out of date and suggested that it was merely a playground for extremists. Walters pondered whether these women would perhaps feel differently when they were 10 years older, after having juggled family, housework and paid work, but hoped by that time they would not need to.

According to feminist scholar Schaffer (1998), feminism became a “scare word” in Australia. To determine whether journalists resisted or rejected the terms feminist and feminism in the context of the newsroom, North (2009) undertook a qualitative study of eight male and nine female Australian journalists. Although an array of positions on the terms was taken up by male and female participants, the dominant theme was one of hostility towards feminists generally, both within and outside the industry (North, 2009). Feminists were variously described as overly emotional; angry and extreme in their actions; having psychological problems; and pushing their politics too far. Some of the female journalists tended not to support or be associated with feminism in newsroom politics (North, 2009).

Prior research found that in the Australian context, the repercussions for public disclosure of self-identification as a feminist in the media industry has been known to hinder careers (Yallop, 2004). Thus, in some instances, identifying as a feminist can lead to adverse consequences. In 2002, Kim Gandy, president of the National Organization for

Women, and author Rene Denfeld entered into a debate about the relevance of feminism today. Gandy pointed out that girls were still being harassed and assaulted by boys; pop culture and advertisers indoctrinated girls to be thin, pretty and sexy, irrespective of their career aspirations; women were still paid less than men for the same jobs; and few women ran major corporations (Gandy, 2002). Gandy, therefore, concluded that feminism was still relevant.

Denfeld (2002), on the other hand, argued that feminism was no longer relevant. She argued that the vast majority of young women today would say no if asked if they were feminists, despite believing in equality. She went on to suggest that there were far more serious issues in America than gender, citing racism, poverty, and child abuse and neglect. Denfeld argued that it was time to put an end to gender inequality, but submitted that gender equality would not be achieved while leaders of the feminist movement alienated the very women they needed (Denfeld, 2002). This comment implies that Denfeld was suggesting that although feminist issues were still relevant, the feminist label was a problem.

High profile women and discussions about feminism. The phenomenon of celebrity status has a long history. According to Furedi (2010), the term celebrity is not only a noun that refers to a famous person, but is an adjective signifying the quality of attracting attention. In earlier times, members of royalty, artists and scientists were likely ascribed celebrity status. However, celebrity status has been transformed through technological innovations such as the cinema, popular press, television, social media and popular culture (Furedi, 2010). The ascendancy of the celebrity is one of the distinctive features of late 20th and early 21st century Western culture. Early radical feminists linked gender inequality in patriarchy to women's sexuality (A. I. Green, 2013). Heterosexual relations were viewed as a complex set of ideologies, institutions and social arrangements that bound women's bodies, sexuality and domestic labour to men (Pateman, 1988; Walby, 1990) and the

repression of women's sexuality was conceived as the basis of patriarchy (Vance, 1984). However, some scholars have argued that many women today have adopted a pro-sex stance that unites a conventionally feminine appearance (e.g. cosmetics, revealing clothes) and a proactive sexuality with empowerment (Evans, Riley, & Shankar, 2010; Tasker & Negra, 2007).

For Hakim (2010), proactive sexuality is a personal asset that can be actively pursued to achieve a woman's objectives. According to Hakim, erotic capital, or sex appeal, was a personal asset that comprised interpersonal skills, beauty and sexual skills that gave power to those who had it, but more particularly women. She postulated that erotic capital was achievable by women of all age groups and socioeconomic status through training—for example, by reading self-help guides, having plastic surgery, consulting makeover experts and fitness trainers, using tanning beds, dieting, having cosmetic dentistry, wearing wigs, weaves or hair extensions, and utilising any other practices that enhance appearance (Hakim, 2010). In other words, women should aspire to conform to sexually-based male patriarchal values.

Hakim justified her theory on the basis that erotic capital was an increasingly important asset in modern societies that should be exploited for economic and social benefits (Hakim, 2010). Indeed, it could be inferred that many females and men have exploited their erotic capital to gain celebrity status. Today, celebrity status is linked to virtually every profession and thus, there are not only pop stars, film stars and sports stars, but there are celebrity doctors, chefs, psychiatrists, diets, workouts and so on (Furedi, 2010). The relevance of celebrity status is that some celebrities have the ability to influence other people's opinions and beliefs. However, celebrities' influence can be negative or positive on society in general (Furedi, 2010).

Since celebrities and the media have the ability to influence other people's opinions

and beliefs, I conducted a Google search of news media and identified a range of posts that related to high profile women's views on feminism. Beginning with an Australian article, Tanya Plibersek who as Deputy Opposition Leader at the time, reported that she was a feminist for a number of reasons (Plibersek, 2014). For example, she understood the gender pay gap was not because women were less competent at work than men, knew that the number of older women retiring with less superannuation than men was not because they were worse savers, and that one in every five Australian females would experience sexual assault and one in three females, domestic violence. She concluded by recognising that the struggle of previous generations of feminists had given her these opportunities (Plibersek, 2014). Although significant issues that females continue to endure were recognised, they were not discussed within the context of abuses of human rights.

The author of an article in *The Telegraph* (UK), as the third ever female political editor of a national newspaper in Britain as she pointed out, reported that today's feminists were out of touch with how most women lived (Hartley-Brewer, 2015). She argued that many of the key feminist causes were not women's issues at all, claiming that childcare was a parental issue, and rape and domestic violence were not crimes against women, they were just crimes. Hartley-Brewer conceded that in developing countries there were concerns such as female genital mutilation, forced marriage and lack of access to education for many girls and women. However, by claiming that women in 21st century Britain's lives were not so bad, the inference was that human rights abuses against women in developing countries should merely be taken for granted.

New York Magazine reported on an interview with Jessa Crispin, author of the book *Why I am Not a Feminist* (Evans, 2017). Apparently Crispin did not reject feminism entirely, but did not think it stood for much any longer. She was of the opinion that feminist literature over the past five years had been shallow and focused on self-

empowerment, claiming that this was divorced from women's real problems and that self-empowerment was just another expression for narcissism (Evans, 2017).

On the issue of self-empowerment, author of the book *America the anxious: How our pursuit of happiness is creating a nation of nervous wrecks*, Ruth Whippman, held that empowerment did not mean a material gain in status or influence; it was merely a sensation of inner potency. She argued that as the mainstream rallying cry of modern feminism, self-empowerment was a consolation prize for the gender that continued to be excluded from actual power (Whippman, 2016).

A number of high profile women either rejected feminism outright, or disassociated themselves from the term. For example, according to former singer, model and French-first lady (between 2007 and 2012), Carla Bruni-Sarkozy, her generation did not need feminism and that a woman's place was in the home (Nolan, 2012). Gerri Halliwell, former member of the 1990's Spice Girls pop group, described feminism as very unglamorous bra-burning lesbianism and that she would like to see it rebranded (Moorhead, 2007). Marissa Mayer, Yahoo Chief Executive Officer, did not consider herself a feminist although she believed in equal rights because she did not have the militant drive, or chip on the shoulder that comes with it. She concluded that feminism has become a negative word (Woodruff, 2013).

Similarly, actress, Sarah Jessica Parker claimed that she believed in gender equality, but was not a feminist. In a previous interview Parker identified herself as a humanist, suggesting that women would be enormously powerful if it were a humanist, rather than a feminist movement. She joined a number of other high profile women who distanced themselves from the term feminist, such as Madonna, Kendall Jenner and Demi Moore (Saul, 2015). Madonna, Demi Moore and Meryl Streep, for example, also preferred to call themselves humanists (Child, 2015; Dries, 2013). Harry Potter and Disney film actress Emma Watson, when asked why some women distanced themselves from the word

feminism, said people often wrongly associated feminism with hating men (Saul, 2015).

Although the views on feminism of these high profile women varied, what was evident was the controversy and negativity the term evoked. Some appeared to believe there was no longer a need for feminism; others preferred to refer to themselves as “humanists”. Humanism has an extensive and complex history and there are a wide range of possible meanings and contexts (P. Davies, 1997). In other words, there is no simple definition of humanist ideology. However, what is important in terms of this thesis is that one aspiration of humanists is to identify human rights (and to foster progress through the use of reason rather than God or nature) (Mann, 2016).

Provisions Against Discrimination on the Basis of Sex

Women’s disadvantaged financial situation accumulates over the life course relative to that of men and is important for understanding women’s involvement in acquisitive or economic crimes, or crimes for financial gain for the first time later in life. Therefore, this section examines provisions against discrimination on the basis of sex.

In most human rights documents there is a provision against discrimination on the basis of sex, with the ostensible assumption that rights should be extended to women. However, Fredman (2013) argued that this does little to address the gendered nature of social institutions and structures (Fredman, 2013). Constitutions are the foundations of legal systems around the world and form the parameters for judicial interpretation and the protection of rights (Anagnostou, 2013). Theoretically, the rights of all women and men should be equally protected by constitutional rights.

Motivated by experiences of preceding world wars, the Universal Declaration of Human Rights (UDHR) was adopted by the General Assembly of the United Nations (UN) on December 10th, 1948 (Australian Human Rights Commission [AHRC], n.d. a). This treaty defined basic rights and fundamental freedoms to which all human beings were

entitled, including civil and political rights, and economic, social and cultural rights. A number of the 30 Articles of the Declaration are particularly relevant to breaches of human rights for the purposes of this thesis (UDHR, 1948).

- Article 1: All human beings are born free and equal in dignity and rights.
- Article 2: Everyone is entitled to all the rights and freedoms ... without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status...
- Article 3: Everyone has the right to life, liberty and security of person.
- Article 5: No one shall be subjected to torture, or cruel, inhuman or degrading treatment...
- Article 22: Everyone ... has the right to social security ... and resources of each State, of the economic, social and cultural rights indispensable for his dignity...
- Article 23: (1) Everyone has the right to work ... and to protection against unemployment. (2) Everyone, without any discrimination, has the right to equal pay for equal work. (3) Everyone who works has the right to just and favourable remuneration ensuring for *himself* and *his* [italics added to highlight the gendered language of the document] family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- Article 25: (1) Everyone has the right to a standard of living adequate for the health and well-being of *himself* and of *his* family, including food, clothing, housing and medical care ... and the right to security in the event of ... lack of livelihood in circumstances beyond *his* control. (2) Motherhood and childhood are entitled to special care and assistance (UDHR, 1948).

Although women's human rights were persistently compromised by law, custom and religious tradition, seldom were abuses of human rights considered to relate to

women's positioning in Western male-dominated cultures, or indeed, as factors that contributed to women's criminal behaviour such as histories of violence, or to women's marginality and poverty as antecedents to their criminal behaviour.

In 1979, the UN General Assembly adopted the Committee on the Elimination of all forms of Discrimination Against Women's (CEDAW) international treaty governing the welfare of women throughout the world (Šimonović, 2017). The preamble to this convention focused on the need to establish equal rights for men and women. It acknowledged the existence of economic, social, cultural, civil and political discrimination against women and declared that this form of discrimination violated the principles of gender equality and fundamental respect for human dignity. Additionally, it stated that to maximise the full potential of a country, women must be included in all forms of economic, social, cultural and political development (Šimonović, 2017).

There is no general constitutional guarantee of equality, or of sex or gender equality in the *Constitution of Australia* (Hellum & Aasen, 2013) so Australian federal anti-discrimination laws were based in part on human rights conventions. After Australia signed the UNs' international CEDAW treaty in August 1983, the SDA came into force (Hellum & Aasen, 2013), committing Australia to being a country that promoted equality between men and women. One recommendation of the LCA was that the SDA be interpreted with respect to gender equality in accordance with international conventions such as the International Covenant on Economic, Social and Cultural Rights and relevant international Labour Organization Conventions that Australia had ratified, including CEDAW (LCA, 2010). However, more than 68 years after the UDHR attested that all human beings were born free and equal in dignity and rights, and more than 30 years after Australia's ratification of CEDAW; many women's rights are not protected in the country.

CEDAW obliges state parties to submit a report to the Secretary-General on the

legislative, judicial, administrative or other measures adopted to implement the convention within a year after its entry into force and at least every four years thereafter, or whenever requested by CEDAW (Hellum & Aasen, 2013). In 2010, Australia submitted (late) a combined sixth and seventh report (AGOW, 2008). Although a number of positive outcomes were reported, there were still a number of important areas where gender inequalities persisted:

- It was reported that women continued to undertake more unpaid domestic work than men. The 2006 Census demonstrated that men were more likely than women to spend less than five hours per week in unpaid work, whereas women were 4.5 times more likely than men to spend 30 hours or more per week in unpaid work (AGOW, 2008, para. 3.3).

Unpaid care work was persistently undervalued. It was reported that whereas the Australian government respected the choices of Australian parents about decisions to work or stay at home to care for family members, Australia must value the unpaid care work predominantly done by women (AGOW, 2008, para. 9.1).

- Women continued to take on a significant proportion of caring responsibilities for children and adults, which continues to affect their capacity to participate in economic life to the same extent as men (AGOW, 2008, para. 11.4).
- The Australian workforce was segregated by gender. In May 2008, men comprised 86% of total employment in the non-service-based industries of construction, mining and electricity; gas; and water supply. Women comprised nearly 80% of total employment in health and community services, and 70% of total employment in education. Nearly 60% of employed women worked in the service-based industries of health and community services, retail trade, property and business services, and education (AGOW, 2008, para. 9.7).

- The gender pay gap persisted. The Australian full-time average weekly ordinary time earnings in February 2008 were \$1,202.70 for men and \$1,008.10 for women, which represented a gender pay gap of 16.2% (AGOW 2008. Para. 9.9).

The gender pay gap was also evident among top earners. In January 2008, the Equal Opportunity for Women in the Workplace Agency released the first Gender Distribution of Top Earners report, which showed that women occupied 7% of the top-earner positions (80 positions out of 1,136) in the top 200 companies on the Australian Stock Exchange, and in CEO positions, a female earned two-thirds of her male counterpart's salary (AGOW, 2008, para. 9.10). More recent data revealed that in 2016 little had changed with women key management personnel (KMP) working full-time earned on average \$100,000 a year less than male KMPs. WGEA data showed an average total remuneration of \$244,569 for women at KMP level, compared to \$343,296 for men (WGEA, 2016).

- The labour force participation of Aboriginal and/or Torres Strait Islander women was low. However, it was recognised that in many communities, many Aboriginal and/or Torres Strait Islanders were unable to access job opportunities (AGOW, 2008, para. 9.42). The 2014–15 National Aboriginal and Torres Strait Islander Survey revealed that people living in non-remote areas were more likely than those in remote areas to be employed (49% compared with 36%) (ABS, 2016d).
- More women relied on the Age Pension than men. Of 1,952,686 people paid the Age Pension in 2006–07, over half were women (AGOW, 2008, para. 11.13).
- Older women were more financially disadvantaged than older men. Compared to men, women in Australia were less likely to have superannuation or more likely to have lower superannuation savings (AGOW, 2008, para. 11.36).

The Australian government apparently discounted all of the above gender

inequalities as sources of poverty. Based on a survey in 2005 that found women in Australia were over-represented in groups displaying lower levels of financial literacy, it was concluded that this was the reason for lower retirement savings (AGOW, 2008, para. 11.39). To improve financial literacy and supposedly increase women's retirement savings, in 2008 the Financial Literacy Foundation and the AGOW produced a free booklet to help women of all ages and income levels to improve their financial management skills. Topics included budgeting, investing and making the most of superannuation (AGOW, 2008, para. 11.40).

In Western Australia, the government undertook a survey to identify priority issues facing women. Life-long security was a key theme women wanted addressed. In response, a booklet entitled *Superwoman, women and superannuation—securing your future* was produced to help women determine the lifestyle they wanted; calculate how much money they would need; and help develop an action plan for their financial future (AGOW, 2008, para. 11.44).

Taking measures to address women's financial literacy cannot alone address the problem of their financial security. Measures need to also address the economic disadvantages related to unpaid care work, gendered occupations and the gender pay gap. Only when the sex discrimination inherent in these issues is addressed will women have equal opportunity to accumulate adequate resources for their financial security in later years.

The Australian government's Workplace Gender Equality Agency (WGEA) (2016) described the gender pay gap as the difference between women's and men's average weekly full-time equivalent earnings, expressed as a percentage of men's earnings. For the past two decades, the gender pay gap has fluctuated between 15% and 19% and is currently 16.2%. The WGEA confirmed that this was due to a number of interconnected work, family and societal factors, including stereotypes about the types of work in which

women and men 'should' engage. Other factors that the WGEA reported as contributing to the gender pay gap included:

- industrial segregation and occupational segregation where historically, female- dominated industries and jobs have consistently attracted lower wages than male- dominated industries and jobs
- the lack of women in senior positions together with a lack of part-time or flexible senior roles; women are more likely than men to work part-time or on a flexible basis because they still undertake most of society's unpaid caring work
- women's uncertain attachment to the workforce, largely due to their unpaid caring responsibilities
- differences between men and women in education, work experience and seniority
- direct and indirect sex discrimination.

Sex Discrimination Commissioner Elizabeth Broderick reported that in 2014, Australian women were earning 18% less than their male counterparts (AHRC, 2014), reflecting an increase in the gender pay gap of 1.8 percentage points over a relatively short period of time. Even in the range of top earners, women continued to be paid significantly less than their male counterparts (AHRC, 2010). Although Australia was ranked number one internationally in 2014 with regard to women attaining education, it was ranked only 55th on the wage equality scale (AHRC, 2014). Despite ongoing efforts, little has changed in the past 20 years with regard to gender pay inequality in Australia (AHRC, 2014).

Across G20 countries and beyond, it was found that women were on average paid less than men and it was predicted that gender pay equality would not be achieved for another 75 years at the current rate of decline in wage inequality (Oxfam Australia Media, 2014).

Admittedly, women's status in the workforce has seen some improvement, but a disproportionately small number of women occupy managerial or other positions of power in

companies. For example, at the end of 2009 there were only 15 women at the head of American Fortune 500 companies (Wolfe, 2010). At the end of 2015, this number increased slightly to 23, representing only 4.6% of all CEO positions (Catalyst, 2016).

The most recent Australian data revealed that women in management ranks were paid less than their male peers and for the first time revealed how the gender pay gap existed at every level of management across the WGEA's reporting population of over 11,000 employers covering 3.9 million employees across Australia; around one-third of Australia's total labour force (WGEA, 2016). Based on full-time total remuneration, the largest gender pay gaps were evident in key management positions at 28.9%, followed by other executives/general managers at 27.5%, other managers 24.6% and senior managers 23.5%.

The data also revealed that pay inequity persisted below management ranks with pay gaps favouring men. Further, even in female-dominated roles such as community and personal service work and clerical and administrative roles there was a gender pay gap in favour of men (WGEA, 2016). When more women experience financial hardship, especially when they have to support children and families, inequalities in the gendered social structure increase the number of women who may engage in criminal activity as the only available alternative. Necessity is an important motivation for property crime (Jensen & Kouri, 2011).

Ageism as an Axis of Discrimination

Despite legislation against age discrimination, ageism is a factor that often has a negative effect on the situation of some older individuals. Ageism is "the ultimate prejudice, the last discrimination, and the cruellest rejection" (Palmore 1999, p.3). Age, like race and sex, is an attribute over which people have no control. However, there is no precise definition of when one becomes old; rather, old age is a cultural and social construction with fluctuating

boundaries (Iversen, Larsen, & Solem, 2009). Like racism and sexism, ageism is a location of discrimination based on difference.

Compared to sexism and racism, research on ageism has been neglected; the primary focus has been on the causes, consequences and prevention of ageism (Iversen et al., 2009). Ageism is not a new phenomenon and is deeply entrenched in institutions, popular culture, political processes and social justice policies. RN Butler (1969) first coined the term ageism and defined it simply as prejudice by one age group towards other age groups. Since then, scholars have revised old definitions and presented new ones on the premise that the complexity of the conceptual aspect was overlooked by Butler (R. N. Butler, 1975; Bytheway, 2005; Bytheway & Johnson, 1990; Cohen, 2001; Tornstam, 2006).

Consequently, several less general definitions of ageism have emerged. Based on an analysis of various definitions of ageism in the literature, Iversen et al. (2009) presented an alternative definition of ageing as follows:

Ageism is defined as negative or positive stereotypes, prejudice and/or discrimination against (or to the advantage of) elderly people on the basis of their chronological age or on the basis of a perception of them as being 'old' or 'elderly'. Ageism can be implicit or explicit and can be expressed on a micro-, meso- or macro-level (p. 15).

This definition incorporated three classic social psychological components: cognitive (stereotypes); affective (prejudice); and behavioural (discrimination) (Iversen et al., 2009). Further, it included both positive and negative aspects of ageism that can operate consciously or unconsciously. Finally, the definition recognised that ageism can operate on three levels: the individual (micro-level); in social networks (meso-level); and on institutional and cultural levels (macro-level) (Iversen et al., 2009). An important

dimension highlighted in this particular definition of ageism was that discrimination could be negative or positive.

Negative and positive discrimination can be directed towards older people and, indeed, younger people. One example of positive discrimination towards youth is that it is generally associated with greater productivity. Palmore (1999) identified a number of positive stereotypes associated with older people, which included political power, freedom, happiness, kindness, wisdom, dependability and affluence. Harmful negative stereotypes included mental decline and mental illness, impotency, isolation, dependence, ugliness, uselessness and poverty (Palmore, 1999). Iversen et al. (2009) argued that negative ageism towards older people was fundamentally different to negative ageism towards younger people because older age was associated with deterioration and death, as opposed to the developmental potential of youth. Though younger and older people both might at times enjoy the benefits of positive discrimination, there is a delicate balance of positive and negative discrimination across the life course (Macnicol, 2010). However, negative discrimination throughout the life course on the basis of gender is intensified by age discrimination.

Some scholars have claimed that ageism was just as discriminatory as racism and sexism (R. N. Butler, 1975; Bytheway, 2005; Cuddy, Norton, & Fiske, 2005; Nelson, 2005). However, other scholars contended that ageism was fundamentally different to racism and sexism. For instance, it was argued that age is a relative characteristic through which all people transit, not one into which they are born; whereas sex and race, on the other hand, are largely innate unchangeable characteristics (Powell & Wahidin, 2008). Another argument was that since ageism did not have a historical legacy as did racism and sexism, it was not as discriminatory (Macnicol, 2010).

However, there are substantial differences between ageism, racism and sexism. One

major difference is that in contrast to derogatory racist or sexist remarks, there are no social sanctions against people who express negative prejudices against older people (Iversen et al., 2009). Another important difference is that pre-judging, stereotyping and discrimination against older people is generally accepted, and often occurs unnoticed and unchallenged (Cuddy et al., 2005). From this perspective, ageism is more discriminatory.

Palmore (1999) recognised that age discrimination was not only a social problem, but was a problem that violated basic democratic and ethical principles, arguing that judging people on the basis of assumed group characteristics was illegal. Australian federal anti-discrimination laws are based in part on human rights conventions (Healey, 2013a). The International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966) provide the right to be free from discrimination. However, there is no binding international agreement that deals specifically with the rights of older people (Healey, 2013a).

Age discrimination was identified by the AHRC (2009) as the principal barrier to workforce participation of older individuals. The gap in international legal recognition for older people intimates that their rights are less important than those of other groups, which increases the invisibility of older people's vulnerability as a group (AHRC, 2009).

Gendered ageism. Although negative ageism may be detrimental to older individuals generally, men and women's experiences differ. Cultural standards at given times and places determine how women should look to appeal to the male gaze and, accordingly, determines their social status. Physical attractiveness counted more for women than it did in a man's life because the single most important standard of beauty for women in Western cultures was a youthful appearance (Sontag, 1984).

In her renowned essay, Sontag (1984) proffered that Western society was more tolerant of ageing men and offered fewer rewards to older women than it did to older men.

Characteristic male attributes such as competence, autonomy and self-control that defined masculinity were not compromised by the disappearance of youth. On the other hand, as women aged, the value of their characteristic sexually based attributes diminished steadily. Visible signs of ageing such as wrinkles and lines on a man's face were viewed as depicting character, whereas on a woman's face, they were merely signs of old age (Sontag, 1984). For women of any age, their social value was contingent upon how they managed to maintain, or simulate, the appearance of youth. Thus, women faced the double discrimination of age and gender (Sontag, 1984).

In a speech before the annual conference of the National Women's Studies Association in 1985, Barbara Macdonald (1989) addressed the issue of ageism, stating that:

From the beginning of this wave of the women's movement, from the beginning of women's studies, the message has gone out to those of us who are over 60 that your 'Sisterhood' does not include you, that those of you who are younger see us as men see us—that is, as women who used to be women but aren't any more. You do not see us in our present lives, you exploit us, you patronise us, you stereotype us. Mainly you largely ignore us (p. 47).

The inescapable centrality of physical appearance has implications for both young and old females and males. A commonality between the young and old is that physical changes occur. Adolescents are expected and encouraged to be interested in, accept and embrace their body changes. In an ideal world, the same would apply to older people because age is a characteristic over which people have no control (Hillyer, 1998; Powell & Wahidin, 2008). Changes in skin texture, muscle tone and hair tone are just physical changes, not necessarily signs of social adequacy or inadequacy (Hillyer, 1998). However, in Western societies, visible signs of ageing are generally perceived as an inadequacy, and thus as socially unacceptable.

Physical appearance remains a predominant factor in determining the social currency of women generally. Specifically, pervasive cultural norms in Western societies denigrate old age, particularly the ageing female body. As in the past, older women are perceived as unappealing, asexual and unworthy of notice because sexual desirability is equated with the physical state of a young, slim, toned and wrinkle-free appearance (Calasanti, 2005; Calasanti et al., 2006; Hurd Clarke & Korotchenko, 2011; Slevin, 2010).

Although this is not new, what is new is the billion dollar anti-ageing industry, anticipated to reach US\$114 billion annually in the US alone, aiming to delay or eradicate socially undesirable signs of old age (Crary, 2011). Women, and to a lesser extent men, are constantly bombarded with lucrative marketing offensives to reduce the appearance of wrinkles, disguise grey hair or undergo the more pervasive option of cosmetic surgery (Canham, 2009). The message to women is that they need to mask signs of ageing to better please society (Rostosky & Travis, 2000). The persistent promotion of youth and beauty as the most important aspect of a woman's value at increasingly earlier ages could lead to negative age discrimination at earlier ages.

In a world where physical facades are all important, men are not entirely immune from external pressure to conform to culturally prescribed ideals. Cosmetic products and surgical procedures are increasingly available, and are promoted and used by an increasing number of men to ward off ageing. Another strategy for men is medication to maintain sexual performance and virility (Canham, 2009). However, men's external appearance is not a significant determinant of social currency to the same extent as it is for women. For some older men, wrinkles and grey hair in some instances are beneficial in that they are perceived as distinguished, worldly and powerful, but this is a situation that is seldom the case for older women (Canham, 2009). Thus, although men and women both face discrimination based on physical appearance as they age, it is likely that their experiences

differ.

Undeniably, the most immediate perception of someone's age is garnered from their physical appearance, and society holds certain expectations for the behaviour of people at different ages. Laws (1995) reasoned that ageism, as a collection of social practices based on common assumptions related to the ageing process, is fundamental to understanding the way in which people of different ages are treated. A disproportionate amount of social merit is placed on the youthful appearance of women compared to men across different cultures (Calasanti, 2005; Calasanti, Slevin, & King, 2006; Calasanti & Zajicek, 1993; Hatch, 2005) Lauzen & Dozier, 2005). However, in Western societies, prejudice on the basis of age as it intersects with gender has changed little over the past few centuries.

The experiences of former Australian Prime Minister, Julia Gillard, are prime examples of 21st century gendered ageism. For example, journalist Anita Quigley wrote an article headlined "Julia Gillard needs a new stylist", which was published in *The Daily Telegraph* (Quigley, 2006). The article made a number of sexist and ageist remarks: first, that it was to Ms Gillard's detriment that she was over 40 years of age; second, that women should not be satisfied with how they look in this era; and finally, that Ms Gillard should get a stylist of her "own age". These comments posed a number of questions. In the first place, why should women not be satisfied with how they look? Is there a universal benchmark for looking good? Is a woman's value worth nothing more than physical appearance? Why does the process of ageing continue to disparage women? More disturbingly, is 40 years of age the new benchmark for transition into old age? Comments such as these propagate gendered ageism via the persuasive power of the media.

Rarely has the physical appearance of male officials in high office been the subject of such public scrutiny. Imogen Lamport, an image consultant, publicly chastised Ms Gillard for purchasing and wearing ill-fitting 'off the rack' clothes that, according to

Lampport, did not suit her skin tone (Toohey, 2010). She stated that she could improve Ms Gillard's image with outfits that would cost approximately AU\$70,000 per annum.

Although her comments could have merely been a ploy to acquire personal profit and prestige, more ominously, she might have had a political agenda to deliberately deflect the public's interest from the more important qualities that situated women in high-status positions.

The attacks did not end. In addition to Lampport, racehorse trainer, Gai Waterhouse, also took it upon herself to publicly comment on Ms Gillard's wardrobe and hair, suggesting that she needed a "makeover" (Chisholm, 2011). Ms Gillard was photographed on a visit to the tsunami-ravaged town of Minami Sanriku in Japan, where 10,000 people were dead or missing. Bearing in mind the background of the destruction caused, Waterhouse bizarrely, and derisively, pronounced that Ms Gillard's appearance was more horrific than the carnage depicted in the photograph.

Perhaps the most disappointing attack on Ms Gillard's physical appearance was made by feminist icon Germaine Greer. Australian-born, Greer authored the international best-seller *The Female Eunuch*, where she depicted marriage as a patriarchal prison devised to repress women's sexuality and oppress them via motherhood (Greer, 1971). After having previously defended Ms Gillard against denigration for her wardrobe choices, in the Australian television show "Q and A", in 2012 Greer disparaged her for wearing unflattering jackets and having a "big arse" (Devine, 2012). Despite years of feminist consciousness raising, that women both younger and older than Ms Gillard attacked her for their appearance is a disturbing reflection of the pervasiveness and depth of patriarchal capitalist values.

Challenges of exiting the labour force. Some, if not many, women are likely to face significant financial challenges when exiting the labour force. To address the income needs

of the ageing population, in 1992, under the *Superannuation Guarantee Charge Act 1992* (Cth), Australia introduced a system of compulsory employer contributions to individual retirement accounts for employees. Underpinning this system was the assumption that all individuals had equal capacity to accumulate sufficient retirement funds via employment over the life cycle. As the *Superannuation Guarantee Charge Act* is tied to employment, individuals who earn less than a full-time wage, have irregular and discontinuous employment, or ambiguous employment arrangements, are disadvantaged by an inability to build up adequate contributions (O'Brien & Burgess, 2004). Pension system policies place women in a relatively disadvantaged position with respect to retirement incomes because women predominate in these working conditions (Calasanti & Zajicek, 1993).

The Association of Superannuation Funds of Australia acknowledged these restraints in a recent report on account balances by age and gender, but expected that average balances would grow in future as the system matured (Clare, 2015). In 2013/14, the average balances for all persons over 15 years of age increased by 20% from 2011/12 levels, to \$82,615 for men and \$44,866 for women. For individuals aged between 30 and 34 years, it was reported that the balances were “well up” on the average balances for men and women two years earlier (Clare, 2015). However, two years earlier there was a difference of \$6,000 between men's and women's balances but by 2014/15 this difference had grown by 80%—to \$10,850.

Assuming retirement ages between 60 and 64 years and average balances of \$292,500 for men and \$138,150 for women (Clare, 2015), the system does not appear to serve women well as it creates a large gender gap in retirement incomes and the likelihood of poverty and financial hardship for women in retirement (ACOSS, 2011; AHRC, 2009; Jefferson & Preston, 2005; Olsberg, 2004; Onyx & Benton, 1996; Saunders, 2007; Tanton et al., 2009).

However, Clare (2015) maintained there were policies in place that would likely assist in increasing the share of superannuation held by women.

First, the rate of employer superannuation contributions was legislated to increase to 12%. In 2013/14 the rate was 9.25%, but this was paused at 9.5% until 2021. It was suggested that this measure would benefit women particularly because they were less likely to receive higher than minimum contributions from their employer (Clare, 2015). However, the employment of women in part-time or lower-paid occupations is likely to continue.

A second, tentative proposition was that contributions should be paid in regard to parental leave (Clare, 2015). If this did come into effect, it would represent a positive step forward. However, the proposed abolition of the government's Low Income Superannuation Contribution payment would represent a step backwards. According to Clare (2015) this was because substantially more women than men benefitted from this payment.

The right to earn a living. Another significant challenge for women is the opportunity to continue to earn an adequate income up to retirement age. Feminist activity during the 19th and 20th centuries led to legislation protecting against discrimination on the basis of race, sex and disability in Australia. Sitting alongside this legislation, the ADA in 2004 made it unlawful to discriminate on the basis of age. However, research shows that age discrimination manifested at all levels in the workforce: in redundancy and early retirement incentives; re-entry, recruitment and selection processes; training and promotion; and in terms and conditions of employment (AHRC, 2009; Bennington, 2001; Weller, 2007).

Factors other than age discrimination have been put forward as the cause of problems experienced by older people in the workforce. For example, it was argued that in a productivity-based society, economic efficiency or economic restructuring were the causes. This explanation, however, is somewhat contradictory because older people are

generally the target of such practices (Macnicol, 2010). Further, underlying this explanation was the ageist assumption that all older people are less productive than their younger counterparts. Ageism in the labour market violates the law, as well as causing older people social and economic disadvantage.

Many women are employed in interactive service jobs that have been socially defined as “younger women’s jobs” (Weller, 2007). Research has shown that women entering the workforce after child rearing or job loss had limited prospects of returning to occupations they took up at younger ages (Calasanti et al., 2006). A notable example was when, after the collapse of Ansett Airlines in 2001, of 75 female applicants—aged between 35 and 56—for employment with Virgin Blue Airlines, only one was employed (Weller, 2007).

As part of the Virgin Blue interview process, all applicants were required to sing and dance to show that they had what was referred to as “Virgin flair” (Weller, 2007). Subsequently, a group of experienced female flight attendants lodged a complaint with the Queensland Anti-Discrimination Tribunal claiming that the recruitment process was ageist, implying that older women cannot sing and dance as well as younger women. The complainants maintained that Virgin Blue placed undue emphasis on a work culture that equated the ability to “have fun” with youth, with its outward physical manifestations (Weller, 2007). During this process, it was discovered that up until the end of 2002, Virgin Blue had never employed a flight attendant over the age of 36 (Anti-Discrimination Board, 2006). The tribunal ruled in the complainants’ favour.

Requiring applicants to sing and dance was an extreme measure to weed out potentially undesirable employees in the Virgin Blue recruitment process, but discrimination on the basis of age can be obtained by more subtle means. The first point of discrimination in the workforce lies in the recruitment process. An example of techniques used by

employers to circumvent contraventions of the ADA was the use of ambiguous terminology in the recruitment process. Words such as “fun”, “dynamic”, “energetic” and “junior” in job advertisements replaced defined age limits, but such words still projected clear messages about preferred age categories (Bennington, 2001).

A vast body of literature has substantiated that older women were more likely than men to suffer age discrimination in the workplace (Bennington, 2001; Duncan & Loretto, 2004; Granleese & Sayer, 2006; Gringart & Helmes, 2001; Handy & Davy, 2007; Hatch, 2005). Gringart and Helmes (2001) submitted 452 fictitious accounting assistant resumes to a number of companies in different industries in Western Australia. All job-relevant information was similar except for gender and age, which were 32 or 57 years. There were responses to 202 resumes from 154 companies, and these demonstrated that younger applicants received a greater number of positive responses and fewer negative responses than older applicants, but older women were the most discriminated against (Gringart & Helmes, 2001). Although this study was restricted to a small sample of accounting assistants and is now somewhat dated, it is indicative of the difficulty that older women might face in actually getting to the interview stage.

Statistically, the participation of older females in the workforce has increased. A study of the labour force participation of women over 45 in Australia revealed that the total hours worked increased from 6% in 1979 to 15% in 2009 (Gillfillan & Andrews, 2010). However, the authors acknowledged that this could be a reflection of the changing demographic of the population. Compared to men, women in the 45–54 year age group were under-represented significantly more than were men in the paid workforce.

Overall, proportionally fewer older females participated in the labour force than older males, or older females in similar OECD countries. A number of females who were not in the Australian labour force stated that they preferred not to work (Gillfillan & Andrews, 2010).

More than half (51.8%) of women aged 45 – 54 years reported home duties as the major reason for non-participation in the labour force. The other main reason cited for non-participation was a long-term health condition or disability (17.5% for women aged 45 to 54 years, 14.9% for women aged 55 to 59, and 12.8 per cent for women aged 60 to 64 years) (Gillfillan & Andrews, 2010). Apparently the reasons for older females' non-participation in the labour force vary.

Many women undertake paid employment because they like to work, or to supplement family incomes. However, it is unreasonably assumed that they can accrue sufficient income and pension entitlements to sustain themselves in old age (Arber, Andersson, & Hoff, 2007). Lower workplace earnings and unpaid domestic work exacerbate income inequalities later in life (Arber et al., 2007; Calasanti & Zajicek, 1993). The endurance of a gendered division of paid and unpaid work, coupled with age discrimination, creates a significant barrier for some women to become financially autonomous citizens in their later years

Surviving on the Age Pension. The main objective of the Age Pension was to provide a basic standard of living after retirement age; it has been a feature of the Australian income support system for the last 100 years (Harmer, 2008). Unfortunately, for some people, taking into account the potential for unemployment, the Age Pension is more assured than labour market income (Wilkins et al., 2010). Although the Age Pension's objective was to provide a basic standard of living, many older Australians receiving the Age Pension are at an elevated risk of poverty.

Borrowing by states and territories for infrastructure drove Australian finances backwards from \$37 billion in the black in 2006, to \$69 million in debt in 2013. Expenditure on health care and the Age Pension increased by around \$40 million per year over the previous decade (Daley & McGannon, 2013). Older people are widely portrayed as

a homogenous population of unhealthy citizens who incur huge costs in health. However, the increased spending on health was not caused by the ageing population. Rather, people overall consulted doctors more frequently, took more prescription medication and underwent more tests and operations (Daley & McGannon, 2013). The obvious solution, perhaps, would be to cut spending on infrastructure as this was the major cause of budget deficits. However, the Grattan Institute recommended cutting spending on older people by increasing the pension age and reducing tax concessions on superannuation (Daley & McGannon, 2013). According to Walker (2012), in political discourse, neoliberalism and ageism have unified into a dialogue warning that older people were a major threat to economic futures.

Access to the Age Pension in Australia is currently scheduled to increase from the age of 65 to the age of 67 in 2023. The Grattan Institute proposed that the pace of increase be doubled in 2017 until it reaches the age of 70 in 2035 and thereafter, progressively lifted in line with increases in lifespans with no ultimate limit (Daley & McGannon, 2013). Changes have also been made with regard to the access age for superannuation funds. Currently the age of access is set to climb from 55, to 60 years of age by 2024 and it was proposed that this age also be increased by six months each year from 2015 until it reaches age 70 in 2035. Thereafter, the index age is set to rise automatically (Daley & McGannon, 2013). The consequences of these policies will likely put increased numbers of older people at risk of poverty.

Neoliberal policies divide older people into those who can fully provide for themselves and those who cannot. Neoliberal tenets endorse individual agency, independence and liberty, yet exclude the wherewithal of many females to achieve this (Polivka, 2011). On the basis that the government understood the challenges facing many older Australians, and that the Age Pension was for some individuals their only means of

subsistence, the 2014/15 Budget proposed that changes to age 70 for access to the Age Pension would not commence until 2017 (Australian Government, 2014). However, this does not remove any of the barriers that many people face in attaining adequate retirement funds.

Some people may not be able to work until the age of 70. Life expectancy for Australian women born today is around 84.8 years and Australian men, 80.6 years (Australian Government, 2014). Further, as previously discussed, age discrimination in the labour force is problematic and more pervasive for women aged 45 and over than it is for men. However, irrespective of sex, people aged 45 and over who are unable to acquire employment to sustain themselves for 25 years before qualifying for the Age Pension at 70 will have no alternative but to rely on social support. In addition, they will lose out on 25 years of superannuation contributions. Many people, and more particularly older women, will face added income uncertainty in later life, and for longer.

Populations aged 65 years and over have increased markedly over the past few decades in all OECD countries, both in size and as a percentage of total populations (OECD, 2011). Figure 1 shows the distribution of Australians in three different age categories as a percentage of the population in 2012. Males aged 65 and above represented 6.5% and females 7.6%—a total of 14%—of the overall population. People in the 45–64-year age group totalled 25.0% (ABS, 2012a). In light of neoliberal policies and age discrimination, this means that an overlooked population of men (12.4 %) and women (12.6%) were potentially at risk of escalating poverty during the years until reaching the pensionable age.

Source: ABS 3101.0, Australian Demographic Statistics, June 2012.

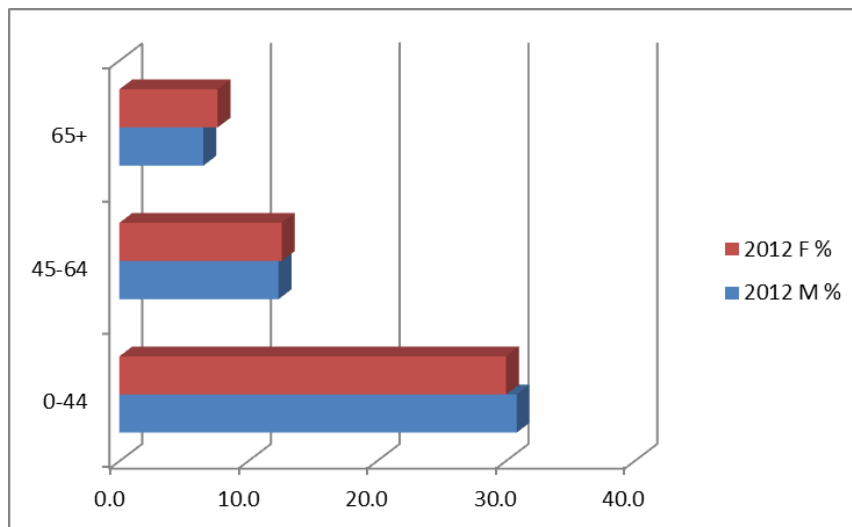


Figure 1. Distribution of Australians in Different Age Brackets as a Percentage of the Population in 2012.

Australia is a country of considerable wealth so it would be a reasonable assumption that older people are generally well off. However, in 2010, Australians had low average incomes and high income poverty rates (Yates & Bradbury, 2010). Income poverty relates to individuals living in a household with an income of less than 50% of the median equivalised disposable household income (Marks, 2007). The average poverty rate for OECD countries was 15% for women and 11% for men (OECD, 2011). In 2013, in 27 of the 30 OECD countries, women were at greater risk of poverty than were men. Income poverty rates were higher for single older people in Australia, Japan, Mexico and the US. Only South Korea (45.6%) had a higher level of old age poverty than Australia (35.5%) (OECD, 2013). It is extremely important that younger people, and more specifically younger women, do not discount or underestimate the potential for economic difficulties in their later years.

Home ownership was a significant factor that reduced living costs in retirement. Older Australians who did not own their own homes were disadvantaged in multiple ways because they had lower non-housing wealth, lower disposable incomes and higher housing costs in

retirement (Yates & Bradbury, 2010). However, housing affordability has declined since the mid-1970s, and under current conditions it is likely that many will be unable to buy their first home after reaching the age of 40 (Yates & Bradbury, 2010). Therefore, future generations of Australians are at risk of poverty in old age. More particularly, due to systemic gender inequalities over the life course, impoverished circumstances may await many older women.

Although inadequate income can lead to financial difficulty it is important to acknowledge that some people with adequate income experience budgeting problems (Wilkins et al., 2010). However, the Task Force on Education and Gender Equality (TFEGA) identified three primary reasons why older women were at risk of poverty (United Nations Development Programme, 2005). The first was the legacy of greater gender gaps in education, literacy, savings and pension coverage. Gender gaps in education have decreased in Australia, but this does not equate to equality in earnings. As noted by Chant (2008), in light of decreasing inequalities between male and female opportunities for education and employment, the widening of gender gaps in income poverty was contrary to what one would expect. Education has transformed the position of many younger women in the 21st century information age. However, education was generally not available to young women of previous generations so they were increasingly left behind (Walby, 2000).

The second reason for older women being at risk of poverty was the greater probability that older females than older males would be widowed, and/or live alone. For instance, the median age of men granted divorces in 2012 was 41.0 years of age; for women it was 44.6 years of age (ABS, 2012b). ACOSS (2011) reported that the number of single older women at accommodation risk was increasing. However, many no longer fitted the profile of single older individuals customarily accommodated in support services. For example, they may be devoid of histories of mental illness, cognitive impairment, alcohol or

substance abuse or an extensive history of homelessness as were those who would normally receive support service accommodation (ACOSS, 2011). This is a problem because, according to Walby (2005), when poverty leads to homelessness and is associated with inability to engage in productive employment, or when poverty leads to despair, criminality might be considered the only solution.

The third reason identified by the TFEGA for why older women were at risk of poverty was their greater likelihood of social and economic discrimination than younger females or their male peers (United Nations Development Programme, 2005). Indisputably, an array of historic socioeconomic and cultural factors has served to maintain women's financial dependence on others. The cumulative effects of gender discrimination over the life course, coupled with gendered age discrimination that leads to reduced employment opportunities, rendered women vulnerable to financial hardship and impoverishment in later years. Labour market reforms compelled older people to remain in the labour force by extending the qualifying age for pension, but if employers continue to discriminate against older people who are able or wish to continue working, extending the qualifying age for pensions may only lead to engagement in criminal activities (Machin & Meghir, 2004; Machin & Olivier, 2006; Phillips & Votey, 1984; ACOSS, 2011; Tanton et al., 2009; Wilkins et al., 2010).

The Feminisation of Poverty of Older Women

As discussed in Chapter III, the feminisation of poverty refers to the predominance of women among the poor. Schaffner Goldberg (2010) conducted a cross-national study to determine whether the phenomenon of the feminisation of poverty occurred in other rich countries. Lone elderly women were defined as women without partners who lived alone. Completed just prior to the GFC of 2009 the study investigated the situation of women in Canada, France, Germany, Italy, Japan, Sweden, the UK and the US. The study was

extended to an inquiry into the feminisation of poverty over the life course to determine whether the poverty of lone elderly women was also feminised.

Schaffner Goldberg (2010) observed that focusing only on single women failed to accommodate for the gender-related poverty of some married women, the possibility that many would be positioned in the ranks of the poor if they were on their own, and whether others that were already poor would likely become more so if they became single. The economic disadvantages that follow women into old age are exacerbated by the probability of being single and alone, and for a longer time than men because of sex differences in longevity. Examining the disadvantages of lone elderly women underscored the impoverished circumstances that await many older women.

Poverty rates in Sweden, classified as a social democratic regime, have not been of particular concern because policies surrounding gender equality, particularly in relation to the plight of single mothers, have worked (Schaffner Goldberg, 2010). However, the findings suggested that Sweden was at a crossroads as the financial situation of single mothers had deteriorated slightly.

The poverty rates of both single men and women in Sweden were high, but more elderly women were single. In the mid-2000s, the disposable income of single elderly women and single mothers was between 50% and 70% of average incomes. The most significant finding was that in Sweden, an impending prospect was the ethnicisation, rather than the feminisation, of poverty (Schaffner Goldberg, 2010).

In France in 2004, 29% of poor families with children were headed by single parents and of these, 92% were single mothers (Schaffner Goldberg, 2010). The findings suggested that single mothers' poverty stemmed from occupations in the workforce, often as low-skilled workers or in blue-collar positions that were more likely to be under precarious conditions. However, poor single mothers also tended to have lower levels of education.

It was also found that senior workers in France were vulnerable to unemployment (Schaffner Goldberg, 2010). Due to forced early retirement, the risk of poverty for aged people has continued to increase since the 1990s. For example, when workers around 50 years of age lost their jobs, their chances of returning to the workforce were particularly weak. The level of pension for women was half the mean pension for men the same age, with the gap stemming from differences in their working careers (Schaffner Goldberg, 2010).

Explaining single mothers' high poverty risk in Germany, Schaffner Goldberg (2010) highlighted factors such as unemployment, lack of public child care, insufficient income from work and insufficient parental and welfare state support. Divorced elderly women had worse economic status than widows and never-married women, but the differences were small. However, there was an indication that the situation for elderly women might change for the worse with the decreasing stability of marriage and future cuts in the public pension system (Schaffner Goldberg, 2010).

Similar to France and Germany, in the UK, insufficient income from work, particularly part-time work, was a factor that contributed to many single mothers' poverty (Schaffner Goldberg, 2010). Single mothers were concentrated in occupations in public administration, education, health, hotels and catering. In 2008, half of the women employed in part-time jobs were receiving the national minimum wage. Another factor contributing to single mothers' poverty was deficiencies in payments of child support from former partners. Child support payments rarely made up a substantial proportion of single mothers' income (Schaffner Goldberg, 2010).

With regard to lone elderly women in the UK, the government introduced measures to keep them above the poverty line. However, robust policies on individual provision for pensions meant that women who had breaks in employment or reduced employment because

of family responsibilities were more likely to be at risk of poverty in old age (Schaffner Goldberg, 2010).

By 2007, the likelihood of poverty for single Canadian mothers had declined to 24% from almost 50% in 1997. Although fewer lone mothers were poor, the depth of their poverty was greater. Increased employment helped to lessen the vulnerability of single mothers to poverty, but available paid work was becoming less certain because it was part-time, low-paid work (Schaffner Goldberg, 2010).

From the worst poverty rates among the elderly in OECD rankings in 1980, Canada has risen over the last 30 years to be ranked as one of the best. However, the risk of poverty remained much higher for lone older women. Further, growth in immigration, ethnic minorities and Aboriginal people means that women in these groups are subjected to discrimination in work and elsewhere, and it is likely that more single mothers will be represented in the ranks of the poor and in retirement (Schaffner Goldberg, 2010).

The nature of Italian women's poverty was related to the more blatantly patriarchal character of labour relations that tended to exclude women from the labour market or confine them to low-paid precarious jobs (Schaffner Goldberg, 2010). In 2006, Italy was the developed country with the lowest rate of female labour force participation of all OECD countries, at 50.8%. In addition, the burden of domestic work appeared to have a strong effect on women's participation in the workforce, particularly for those with low levels of education. However, the poverty rate among single-parent families did not exceed that of other family types. This was partially explained by the fact that divorced or separated women were well integrated and supported within family networks and in receipt of support from non-cohabitant fathers. Up until 2010, when the age of eligibility was phased to increase to age 65 years from age 60 years by 2020, the Italian social security system protected most elderly women, although some did not receive sufficient benefits to escape

poverty. In this situation too, family solidarity helped some women out of economic hardship (Schaffner Goldberg, 2010).

The Japanese company society formed by large corporations after World War II was based on a system that incorporated seniority-based wages for male breadwinners and a dependency allowance for their full-time housewives and children. At the same time, welfare systems developed that were designed to meet the various demands of employees' needs at different stages of their lives, such as financing for homes, provision for children's education and provision for employees' retirement (Schaffner Goldberg, 2010). These factors contributed to the strict division of labour that shaped the Japanese family structure.

In the 1990s in Japan, a recession that resulted in the reduction of company personnel, business failures, bank bankruptcies and a radicalised review of the seniority-based personnel system led to an increase in female employment. However, women were employed as temporary workers from staffing agencies and contract workers in positions that attracted limited earnings and lower pay (Schaffner Goldberg, 2010). In turn, this led to the development of policies that promoted gender equality. However, these policies were unfavourable to single mothers working mainly in low-paid, part-time employment. Unemployed, lone elderly women had the highest rates of poverty among the elderly, indicating a clear feminisation of elder poverty.

Finally, in the US, most single mothers were breadwinners and providers of care with little state support for their dual role. Further, despite women's increased participation in the workforce, a gender gap in employment persisted (Schaffner Goldberg, 2010). Part-time employment by women was more than double that of men and women predominated in low-paid temporary employment. Taking a range of other factors into consideration, Schaffner Goldberg concluded that the feminisation of poverty in the United States, from

where the term emerged, was still prevalent. Marital status and race/ethnicity were sources of difference among single-mother families where divorced single mothers had the lowest poverty risk and never-married mothers were most prone to poverty. Although white single mothers had the lowest poverty rate in all marital statuses, non-marriage involved a higher poverty risk for white rather than for African-American and Hispanic divorced or widowed mothers. Schaffner Goldberg (2010) also concluded that elder poverty in the US was even more feminised than family poverty where the majority of elderly women were poor.

Overall, Schaffner Goldberg's study of poor women in rich countries revealed a number of similarities in the socioeconomic status of women. Although all of the countries examined had diverse institutional policies, in most of the countries the feminisation of poverty, and the feminisation of poverty for older women, was clearly evident. In a number of instances it was considered that this situation was likely to deteriorate even further.

Neoliberalism: A system for the common good? Over the years, economic structures change cross-culturally according to priorities at given times (Farrelly, 2011). In response to pressure from capitalist states and international fiscal institutions such as the International Monetary Fund and the World Bank, neoliberal capitalism is the newest economic form adopted by many parts of the world today (Li, 2004). Proponents of neoliberalism suggested that it was a system devised for the common good of the majority because this model generated sustained economic, employment and income growth. Two key strategies endorsed by neoliberalism were that citizens were independent individuals whose best interests were met when they were free from state intervention, and that free market economies foster individual independence (Western et al., 2007). In other words, under neoliberalism it was assumed that every person had equal opportunity and capacity to look after themselves for the duration of their lives.

An alternative view of neoliberalism was that the model was fundamentally opposed

to historical welfare systems, seeking to reduce public investment in a high quality of life for the majority of citizens in areas such as physical, educational and health care infrastructure (Polivka, 2011). Critics contended that despite assurances that neoliberal reforms would foster economic growth, rising living standards and material wealth; conversely it has brought about a slowing and stagnation of the world economy. Neoliberalism has produced income inequality, impoverished cultures and, consequently, quality of life (Li, 2004; Newman, 2013; Passas, 2000; Walby, 2011; Western et al., 2007). Overall, for these reasons, it appears that the neoliberal model has failed to deliver a system for the common good of the majority.

It has been suggested that because neoliberal policies were prioritised over social policies, measures to reduce gender inequality and poverty have decelerated, or even reversed (Cox, 2014; Huo, 2006; Li, 2004). Australian data belie the neoliberal assumption that every individual has equal opportunity and capacity to look after themselves for the duration of their lives. It is predominantly paid work that facilitates the acquisition of financial resources to pay for life requirements (Jensen & Kouri, 2011). Consequently, under these policies it appears that financially and socially disadvantaged groups are again redefined as a social problem (Cox, 2014) and more than likely, as deserving of their circumstances.

Neoliberal strategies have fostered increasing casualisation of paid work. It was reported that Australian women were the largest group employed on a casual or part-time basis (Van Gellecum, Baxter, & Western, 2008). In 2007, for example, 47% of employed females worked part time compared to 17% of males (Wilkins et al., 2010). Although this could partly be attributed to child care responsibilities, some of the lowest-paid industries tended to employ the highest proportion of casual or part-time female employees. In 2013, 61% of employees in Accommodation and Food Services were employed on a casual or

part- time basis, 48% in Arts and Recreation Services and 34% in the Retail Trade (ABS, 2013b). Underemployment and casualisation of paid work have added particularly to the difficulties of single women striving to support themselves and their families (Bowden & Mummery, 2009).

Particularly relevant in the global neoliberal capitalist economy is the outsourcing of production and tasks to other countries, as this practice provides opportunities to sidestep national and international criminal law, human rights laws, and the procedural rules of criminal justice (Karstedt, 2007). For example, the garment ‘sweatshops’ of the late 18th and 19th centuries typically employed women and children at very low wages, working long hours in unsafe or unhealthy working conditions. Sweatshops were increasingly viewed by middle class reformers, feminists, social workers and progressive politicians as the most abhorrent forms of industrial abuse (Fraser, 1999; Powell, 2014; Radin & Calkins, 2006). However, little has changed: sweatshops continue to flourish in the 21st century because in certain places and for some people, poor working conditions are preferable to no job at all (Radin & Calkins, 2006).

According to Jensen and Kouri (2011), poverty and globalisation have pushed women towards crime as a way to ‘make ends meet’. The feminisation of poverty results in different life choices for women. Although women who commit crime can be conceived as victims, domestic laws define them as offenders (Jensen & Kouri, 2011).

Assimilating a Human Rights Framework into Feminist Criminology

More recent strands of feminism have confirmed earlier feminist findings about the sources of gender inequality. For example, feminist political and legal theorists clarified how the divisions of labour and unequal power relations in the public and private spheres affect women’s autonomy and ability to claim human rights. They also established how women’s subordination in the private sphere shapes labour markets in ways that

disadvantage and discriminate against women in education and employment; factors that reinforce their subordination in the public sphere (True, 2014). More importantly perhaps, feminist political and legal theory provided the gender perspective for the women's human rights movement and for making visible the violence against women in the private sphere. However, it also tended to disengage violence against women from the broader struggle for social and economic equality with the social and human rights movements (True, 2014).

Feminist political economy theorists recognised that all forms of power were based on material relations of inequality. For example, investigations of the interconnections between the economic, social and political realms revealed that power operated not only through direct coercion, but also through the relations of production and reproduction. These structures controlled the distribution and use of resources, and allocation of benefits, privileges and authority not only within the home, but in transnational society at large (Whyte, 2009). In short, feminist political economy highlighted the masculine nature of the integrated political– economic authority structure (True, 2014).

Okin (1989) likened caring professions in the paid workforce to the unpaid care work women traditionally did in the home that was, and continues to be, devalued as a result of gender structures. Capitalist global competition encouraged companies to seek cheap sources of labour. The integration of attitudes, values and standards regarding labour associated with care giving and domestic roles extended this division of labour internationally as women from poorer, developing countries migrated to provide care services for families in wealthier countries (True, 2014).

Hundreds and thousands of women from Eastern Europe, Asia and South America migrated to centres of the wealthy world and entered into domestic service to support their families. Many worked for women who needed help coping with the double burden of family and career (Lutz, 2002). However, it is not unlikely that they worked for women in

wealthier countries who could afford the services of a domestic servant to undertake menial domestic household chores. In 2002, it was estimated that one-quarter of the 70 million inhabitants of the Philippines were supported by women working overseas (Lutz, 2002). Neoliberal policies might have led to the expansion of women's employment, but it has also intensified their workload in the market and at home, and the feminisation of poverty, especially among unskilled and marginalised poor women (True, 2014).

Women's labour has become part of competitive globalisation markets that in many instances prefer to hire women over men because their labour is cheaper as a consequence of prevailing gender structures and ideologies. The relocation of industries to countries to take advantage of cheap labour has disrupted local economies and has attracted women from developed and developing societies into low-paid insecure jobs (True, 2014).

For a long time, potential associations with human rights were overlooked in mainstream criminology. However, it appears the concept of human rights has since been adopted by some researchers. For example, some progress has been made in examining victims of human rights violations, such as those of incarcerated women (Van Gundy & Baumann-Grau, 2016) and people held in Australian immigration detention centres (Lambert & Pickering, 2001).

The focus on human rights violations that potentially contributed to offending concentrated on violations experienced by Indigenous people (Parmentier, Weitekamp, & Deflem, 2007; Van Gundy et al., 2016). As a consequence, human rights emerged as a fundamental and global political discourse providing a platform for expression of Indigenous people's demands, largely through international bodies (Cunneen, 2008). From these developments, three points of understandings of Indigenous people and human rights emerged. First, it was recognised that Indigenous peoples throughout the world were victims of profound historical injustices and abuses of human rights. Secondly,

contemporary justice systems in some parts of the world were viewed within the context of abuses of their human rights. Lastly, claims to specific Indigenous rights impacted prevailing criminal justice processes and likely progressed understandings of reform and change (Cunneen, 2008). In Australia, against the backdrop of increasing rates of imprisonment of Aboriginal and/or Torres Strait Islanders in New South Wales, understandings of these issues resulted in developments in common law sentencing principles.

The New South Wales “Fernando principles”, for example, outlined specific considerations when sentencing Aboriginal and/or Torres Strait Islanders from disadvantaged communities and how their past may be pertinent in mitigation (Anthony, 2013). Many are from disadvantaged communities where socioeconomic hardship, violence and alcoholism are common (Manuel, 2009). The Fernando principles recognised the disadvantages associated with offenders’ Aboriginal and/or Torres Strait Islanders status and that sentencing decisions should recognise a defendant’s social disadvantage that preceded the commission of a crime. In other words, consideration of how an offender’s background has affected their life and contributed to the offending provided a relevant context for mitigating the offence, including reducing their moral culpability. The Fernando principles further recognised that imprisonment aggravated an Aboriginal and/or Torres Strait Islander offender’s social disadvantage by perpetuating the cycle of poverty, subordination and marginalisation. This allowed discretion to promote sentencing outcomes that addressed these circumstances through more appropriate non-penal orders (Manuel, 2009).

The LCA’s Background Paper to its *Policy Statement on Indigenous Australians and the Legal Profession* recognised that “Indigenous Australians have been subject to significant dispossession, marginalisation and discrimination, and continue to experience widespread disadvantage, including in the areas of housing, health, education, employment, access to

justice, and participation in the political, economic, social and cultural life of the nation” (LCA, 2010, para. 2). It further recognised that “Indigenous Australians, like all Australians, have a right to equality before the law and to be free from discrimination of any kind, in particular that based on their Indigenous origin or identity” (para. 7).

In working in partnership with Indigenous Australians, the LCA committed to “Promoting substantive equality for Indigenous Australians before the law, including effective measures to ensure continuing improvement of their economic and social conditions...” (LCA, 2010, para. 13). The concept of substantive equality is addressed more fully in Chapter VII. Briefly, however, substantive equality is distinguished by its focus on contextual and asymmetrical structures of disadvantage. This framework does not merely consider differential treatment but rather, seeks to determine the effects of particular measures on vulnerable or disadvantaged groups. Substantive equality also calls for special measures of protection for those with differential characteristics in order to correct for inequalities (Broderick, 2015). The LCA also committed to “Challenging legislation, policies and practices that discriminate against and violate the human rights of Indigenous Australians, and impede substantive equality before the law” (para. 15). It also committed to “Promoting implementation of the United Nations Declaration of the Rights of Indigenous Peoples and awareness of its provisions amongst members of the legal profession...” (para. 16).

Cunneen (2008) argued that modern political states were built on the human rights abuses of colonised and enslaved peoples. Undoubtedly, some modern political states were built on the human rights abuses of Indigenous people, but a factor that is mainly overlooked is that they were also built on the human rights abuses of females. Thus, women’s historical human rights injustices and their consequences similarly deserve criminological inquiry and consideration in common law sentencing principles.

Older women and breaches of human rights. In his 1994 autobiography, *The long walk to freedom*, Nelson Mandela admonished that “A nation should not be judged by how it treats its highest citizens, but its lowest ones” (p. 174).

Australia was a founding member of the UN and one of eight nations involved in drafting the UDHR. In 1948, Dr HV Evatt, a federal Member of the Australian Parliament, became President of the UN General Assembly and in the same year oversaw the adoption of the UDHR (Jones, 2013). According to Jones (2013) there were two important understandings of human rights among political philosophers. These moral claim rights gave rise to corresponding duties on others to ensure that their rights were protected and promoted. The political conception, on the other hand, was that human rights must be understood in terms of their functional role within international political orders where, for example, human rights are protected in terms of treaties such as the UDHR (Jones, 2013). Expressed more simply, human rights should be understood as “basic protections for the interests connected to our equal status as human beings” (Jones, 2013, p. 59).

Histories of past disadvantage shape the experiences of older women, but they have largely been ignored in academic enquiry. This is despite the fact that for almost 40 years the UN and other intergovernmental agencies have emphasised that the situation of older women is a matter of concern. The situation of older women was first recognised at the World Conference of the International Women’s Year, held in Mexico City in 1975. Since age and gender inequalities are linked with poverty, the focus was on unequal and inadequate access to wealth, property and resources in developing and developed countries. Apparently, however, the situation of older women apparently appeared to be disregarded. This was substantiated by the fact that again in 1982, the World Assembly on Ageing recommended that particular attention be paid to the situation of older women in its *International Plan on Ageing* (Secretary-General, 1999).

To emphasise his concerns, in a follow-up report to the Fourth World Conference on Women, the Secretary-General (1999) reported that older women generally were more likely to live in poverty than older men. He rationalised that the poverty of women stemmed from experiencing multilayered inequalities throughout their lifetimes resulting from their gender, class, race, ethnicity and marital status. More importantly, he recognised that the socioeconomic status of older women was partially ingrained in the gendered division of labour, meaning that throughout their lifetime, women performed most of the unpaid household and caregiving work and in the workforce, earned less than men (Secretary-General, 1999). Given these circumstances, it is inevitable that women accumulate poverty over the life course.

Over the years, the situation of older women continued to be on the agenda of international agencies, culminating in 2008 with CEDAW's *Proposal for a general recommendation on older women: Strengthening the protection of the rights of older women*. Its emphasis was on how older women experienced ageing differently to older men, highlighting that women's experiences were often intersectional in that older age compounded other forms of discrimination based on gender and other minority categories (CEDAW, 2008). Recommendation No. 27 of the proposal was reached because CEDAW recognised that the different stages of women's lives affected their enjoyment of human rights when they become older women.

CEDAW's Recommendation No. 27 obliged state parties to facilitate the participation of older women in paid work by ensuring that they were not forced into early retirement, monitoring gender pay gaps of older women, determining they were not discriminated against in pension benefits, and providing access to adult education and life-long learning opportunities (Begum, 2011). State parties were also obligated to submit a report to the Secretary-General on the legislative, judicial, administrative or other measures

adopted to implement CEDAW within one year after its entry into force and then, at least every four years thereafter or whenever requested by CEDAW (Hellum & Aasen, 2013). Despite 187 states ratifying Recommendation No. 27 on the protection of human rights of older women, older women's rights were apparently not systematically addressed in many state reports and therefore, the situation of older women remained and continues to remain invisible.

Historically, women have predominated in crimes for financial gain to make ends meet (Jensen & Kouri, 2011; Steffensmeier & Allan, 1996; L.M. Williams, 2004), or to adapt or conform to capitalist values of wealth and status in society. As discussed in Chapter II, it appears that gender inequalities in Western male-dominated social structures have persistently continued to contribute to women's financial disadvantage. Financial disadvantage puts some women at risk of transgressing the law for financial gain to alleviate their impoverished status. An additional problem is that gender inequalities accumulate over the life course as discussed in Chapter III, potentially leading previously law-abiding women into transgressions of the law for the first time later in life due to desperate circumstances.

Discussing human rights violations in Australian immigration detention centres, Lambert and Pickering (2001-2002) argued that:

The power of international human rights discourse is when it is given domestic expression and that we need a human rights framework that recognises these international human rights ... and clearly provides for their implementation including mechanisms for adjudication and remedy and redress in cases where rights have been found to be breached (p. 220).

According to Lambert and Pickering (2001-2002), one problem with international human rights discourse is that it often falls short of encapsulating the experiences of people. Given that criminology's primary interest lies in examinations of justice and injustice as it

operates in society (Pickering & Lambert, 2001-2002), criminologists are able to make important contributions to understanding what breaches of human rights mean structurally and individually. The authors cautioned that although human rights discourse does not hold all the answers, it is a field into which criminologists should be deployed.

Conclusion

Equality and inequality are useful concepts to frame women's political and legal claims. However, of the various feminist concepts to explain gendered disadvantage, few conceptualise gender equality as a human right, despite their similar objectives. Many people today are unwilling to identify as feminist because of negative stereotypes of feminists, although they support the basic concepts of feminism. Although feminist issues are still relevant, the literature strongly suggests that the feminist label is not particularly useful. In most human rights documents there is a provision against all forms of discrimination on the basis of sex. Unpaid care work, gender segregation in the workforce, the gender pay gap and gendered ageism all constitute acts of discrimination against women and violate their human rights. Since many people today shy away from the term feminism, it may be time to promote gender equality through a human rights framework, which might be more acceptable to people today.

Chapter V: Research Design

First, this study sought to establish the extent of women's participation in crimes for financial gain in the 20–44 year age group and also in the 45 years and over age group, in comparison to men in the same age groups. Secondly, it sought to examine what factors related to gender inequality contributed to the participation of women aged 45 years and over in crimes for financial gain for the first time later in life.

The chapter begins with the rationale for the study. Then the research design is discussed and choice of a sequential explanatory mixed methods design. This is followed by a discussion of my position as researcher and the followed by the research design. The study aims to consider women's participation in acquisitive crime from a human rights perspective. Breaches of human rights bring individuals into the criminal justice system as both victims and offenders. Therefore, the overarching aim of this research was to arrive at a more appropriate approach to addressing gender inequality in the 21st century criminological discourse.

Rationale

Accumulated gendered disadvantages over the life course contribute to the impoverishment of some women in their later years, potentially putting some previously law-abiding women at risk of transgressing the law for the first time later in life to alleviate their impoverished status. The various strands of feminism that have developed since women's movements first began have made significant advances in redressing gender inequality, but full gender inequality has still not been achieved under the feminist banner.

Research Design

Approaches to examining social problems are numerous and varied and each has strengths and weaknesses. For example, quantitative methods have been criticised for their

inadequacy to address the integrative and complex nature of identity. On the other hand, qualitative methods have been criticised for being difficult to interpret and lacking in explanations for how particular elements converge (Bowleg, 2008; Dhamoon, 2011; Hancock, 2007; Trahan, 2011).

Choice of a mixed methods Design. In recent years, more social science researchers have utilised mixed methods for their studies (Ivankova, Creswell, & Stick, 2006). Using a mixed methods approach in social research is increasingly utilised as an intentional combination of different types of data and analysis techniques as a different methodological approach to mono-method approaches (Creswell & Plano Clark, 2007).

Mixed methods designs involve collecting, analysing and assimilating quantitative and qualitative data in a single study at some stage of the research process to gain a better understanding of the research problem (Creswell, 2003; Johnson, Onwuegbuzie, & Turner, 2007; Tashakkori & Teddlie, 2010b). Researchers use this design when there is a research problem that needs more explanation. Others employed a combination of quantitative and qualitative methods to compensate for the weaknesses in one method by incorporating the strengths of another (Flavin, 2001). For example, in the context of intersectionality, the combinations of quantitative and qualitative methods complement each other. This allows for a more robust analysis by maximising and balancing the limitations of each strategy (Greene, Caracelli, & Graham, 1989; Johnson et al., 2004; Onwuegbuzie, 2012; Tashakkori & Teddlie, 2010a; Trahan, 2011) and has the capacity to generate rich insights to the questions being asked and the purpose of the inquiry (K. A. Griffin & Museus, 2011).

Since the early attempts to triangulate research findings, attempts to establish mixed methods as a discrete methodological tradition have come a long way (Mason, 2006). Mixed methods approaches are not without criticism, however. Some scholars

have argued that combining different methods and data types is philosophically incomprehensible, while others disagreed about what constitutes valid mixed methods research (Tashakkori & Creswell, 2007). However, the mixed method approach is increasingly used in the social sciences to gain a greater understanding of complex phenomena from multiple perspectives (Creswell & Plano Clark, 2007). Inevitably, each approach has its criticisms. Nonetheless, I believe that a mixed methods approach is best suited to answer the research questions being investigated in this research.

The types of crimes older females commit depend on social and institutional discriminatory practices where gender issues intersect with age. To some degree, utilising court transcripts provides an unobtrusive method of obtaining information about offenders and their circumstances. Cunliffe (2007) cautioned that court records, constrained by the extent to which they conform to multiple legislative, administrative and judicial directives, are oriented towards substantiating the appropriateness of institutional actions as confined by the limits of legal inquiry. However, it is important to recognise that court records cannot provide access to the subjective experiences of offenders (Cunliffe, 2007).

Case study methodology was chosen because of its potential for identifying a new or under-researched group, and to discover the differences and complexities of experience in a particular social framework. More particularly, this approach has previously been used to address new research questions (McCall, 2005). Since the theme currently under examination in this study is under-researched, I considered it was an appropriate methodology for the qualitative stage of the analysis.

A further reason for the choice of case study methodology was that individual identities are formed by the intersection of multiple dimensions of social disadvantage and privilege that are interrelated and interactive. According to McCall (2005), purely

quantitative studies are not well suited to studying multiple dimensions of disadvantage because these constructs shape people's experiences within the criminal justice system and other social structures.

Case studies have been used particularly in sociological studies as this is an ideal approach when a holistic, in-depth investigation is desirable (McCall, 2005). According to Yin (2003) and Stake (1995), in all types of case studies there can be single-case or multiple-case applications. However, selecting cases must be done so as to maximise what can be learned in the time available for the study (Stake, 1995; Yin, 2003).

Case studies tend to be selective, focusing on one or two issues that are fundamental to understanding the system being examined. The unit of analysis in a case study could be an individual, a community, an organisation, a nation-state, an empire or an entire civilisation. (Stake, 1995; Yin, 2003). Documentation and archival records are included as primary sources of evidence for case study research (Yin, 2003).

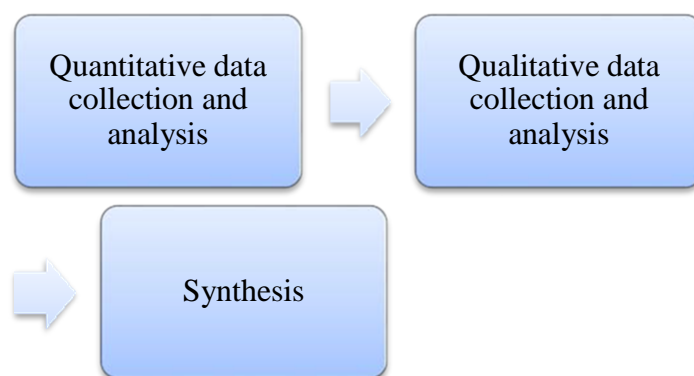
Sociological studies using a purely case study methodology have been utilised by various scholars. For example, Adib and Guerrier (2003) examined the interlocking of gender with nationality, race, ethnicity and class from the narratives of women in hotel work. Moore (2009) examined age as a factor defining women's experience of labour market participation. Healy, Bradley and Forson, (2011) examined intersectional sensibilities in public sector organisations. Examples of scholars using a mixed methods design include Boogaard and Roggeband (2010) on inequality in the Dutch police force, and Farrell, Ward and Rousseau (2010) studying the intersections of gender and race in federal sentencing.

In feminist research, using quantitative and qualitative designs in tandem provides a mechanism for testing theories and placing women's lived experiences in a broader socio-political context. (Hesse-Biber, 2010). Yin (2003) described a case study as an empirical

inquiry where the focus is on a contemporary phenomenon within its real-life context and where the boundaries between them are unclear.

Sequential explanatory mixed methods design. In a sequential explanatory mixed methods design, a researcher first collects and analyses the quantitative (numeric) data; the qualitative (text) data are collected and analysed second. The rationale for this approach is that the qualitative data and their subsequent analysis provide an explanation for the quantitative results (Ivankova et al., 2006). Therefore, for this study I elected to adopt a sequential explanatory mixed methods design.

The design consisted of an initial phase of quantitative data collection and analysis. According to Tashakkorie & Teddlie, (1998) the goal in quantitative research is to obtain large, representative samples and to generalise findings to populations. Building on these results, the second phase consisted of qualitative data collection and analysis to explain and enrich the initial quantitative findings (Creswell, 2003; Plano Clark & Creswell, 2008; Tashakkori & Teddlie, 1998). The two phases were then integrated to investigate the results in more depth (Tashakkori & Teddlie, 1998), as follows:



As discussed in Chapter III, prior research and findings of this study have demonstrated that gender inequality still exists and leads to financial disadvantage for many older women. Therefore, the aim of the first phase of the quantitative stage of the

study was to determine the extent of Australian adult women's involvement in acquisitive crime in the age group 20–44 years in comparison to women in the older age group. The second phase of the quantitative analysis aimed to determine the extent that adult women aged 45 years and over committed acquisitive crime for the first time later in life and comparative results for men and women. The purpose of the qualitative stage of the analysis was to examine if there was a difference in participation by the older and younger age groups in this crime category.

Philosophical underpinnings. As Creswell (2003) cautioned, the foundations of scientific research are grounded in particular philosophical suppositions about worldviews that define the conduct and outcomes of research. For instance, classic pragmatists held that although objective reality might exist, Cherryholmes (1992) argued that the human mind is incapable of the objectivity required to discern such a reality. It has been argued that pragmatism settles philosophical disputes about truth and reality, and accepts that singular and multiple realities are open to empirical inquiry (Creswell & Plano Clark, 2007; Johnson & Onwuegbuzie, 2004). Rather than a concern with disputes about truth and reality, pragmatism focuses on the problem to be researched and the consequences of the research. A pragmatic perspective encourages the use of inductive and deductive logic to gain a holistic understanding of social phenomena (Johnson et al., 2007; Plano Clark & Creswell, 2008; Tashakkori & Teddlie, 2010a). One of the main principles of pragmatism is that quantitative and qualitative methods are compatible, whether collected simultaneously or sequentially, to better understand the research problem (Tashakkori & Teddlie, 1998).

Positioning the Researcher

I have approached this research from a feminist theoretical lens. Smith (1987) highlighted the importance of creating knowledge based on the standpoint and experience

of women. According to Harding (2004) because of their situation within the division of labour and their experience of oppression, women had greater insights as researchers into the lives of other women. However, I also recognised that I must be cognisant of the biases I may have from this position as a twice-married mother of two adult children and as a woman who falls into the older age category as defined in this study. Therefore, throughout the study, I was mindful of my subjectivity and strived to present an insightful account.

Quantitative Data Collection

The aim of the quantitative phase of this study was to investigate the extent of younger male and female (aged between 20 and 44 years) and older male and female (aged 45 years and over) imprisonment for acquisitive crime in 2015. For the purpose of this stage of the analysis, acquisitive crimes that included crimes for financial gain or property crimes, consisted of (a) robbery, extortion and related offences; (b) unlawful entry with intent/burglary, break and enter; (c) theft and related offences, and (d) fraud, deception and related offences. The ABS statistical data did not distinguish between prisoners incarcerated for drug use and those incarcerated for the sale and supply of illicit drugs. Therefore, prisoners incarcerated for illicit drug offences were excluded from this phase of the analysis. I elected to define younger females and males as those between the ages of 20 and 44 years. I defined older females and males as those older than the age of 45 years commensurate with the ABS definition of mature age workers as employed people aged between 45 and 64 years (ABS, 2005) and a study of homelessness and older women in New South Wales that used 45 years and over as the benchmark age for becoming an older woman (McFerran, 2010) in line with that used in the *Personal safety survey 2005* (ABS, 2006).

Qualitative Data Collection

The aim of the qualitative phase of the study was to examine the life circumstances of mature women who committed an acquisitive crime for the first time later in life. More specifically, I sought to determine what circumstances potentially put them at risk of committing a crime for financial gain for the first time later in life. In this regard, Strange (2010) found that legal records held the potential to explore lives from the perspective of cultural, social and political history in that they provided evidence to situate women and men in wider areas of experience and meaning. As Silverman (2011) held, it was possible to construct identities through documentation. Moreover, Glaser and Strauss (1967) argued that documents should be regarded as sociologists' interviewees in sociological investigation. However, Graycar (1996) stressed that this approach was inhibited by limits created by legal categories within which understandings of legal systems and the stories told are evaluated.

Sampling strategy. Obtaining qualitative sample data for female offenders aged 45 years and over was difficult. After a guilty plea has been entered, magistrates and district courts may request a pre-sentence report (PSR) in consideration of an appropriate sentence (Government of Western Australia, 2013). Information included in PSRs includes the personal circumstances and history of a defendant, as well as matters relating to physical or mental health. I anticipated these data would contain essential information of factors surrounding the lives of the women in the proposed sample. Accordingly, I submitted an Expression of Interest to conduct research with the Western Australian Department of Corrective Services. However, I was advised that the Department of the Attorney General does not keep PSRs on file for adult offenders in magistrate courts. With regard to district courts, there was the problem of small numbers of women aged 45 years and above; however, a more significant barrier was the amount of legislated confidentiality around

PSRs, which restricted access to copies to prosecutors and offenders only.

In light of the above, data for this study were drawn from a purposeful sample of Unreported Judgments throughout Australia available to the general population from the website LexisNexis.com.au. In selecting a purposeful sample, the researcher establishes parameters to delimit the specific cases that will be assessed relevant to the research question (Tashakkori & Teddlie, 2010a). Unreported Judgments are court decisions that have not been published but, from the late 1990s became available online by territory. These transcripts provided verbatim account of judges' statements. A court must, on sentencing defendants, state the sentence it is imposing for the offence/s, reasons for imposing the sentence, and any reasons why a sentence that would otherwise have been imposed for the offence/s has been reduced (Government of Western Australia, 2013). Court transcripts often contain some of the information that is typically contained in the PSRs where it is relevant to the penalty handed down (J. Endersbee, personal communication, September 28th, 2011).

Method. The first step was to locate and identify cases based on the predetermined criteria; namely offenders with no prior criminal history aged 45 years and over involved in property crime, because the generalisability of case studies can be increased by the strategic selection of cases (Flyvbjerg, 2013).

All available cases across all Australian states and territories between 1998 and 2011 were accessed ($n = 2,483$) with a view to identifying female and male offenders aged 45 and over convicted of an acquisitive crime. The next step was to eliminate offenders younger than 45 years by using the search term "45 years." A total of 53 offenders aged 45 years and over convicted of crimes for financial gain were identified (32 males; 21 females). These Unreported Judgment transcripts were printed and scrutinised to identify how many of the offenders lacked prior convictions. After this process 11 older females and 9 older

males were identified as first-time offenders. Copies of these 20 transcripts were placed into computer files named cases males and cases females.

By a process of reading and re-reading computer copies of the 20 transcripts, text relating to the offenders' personal circumstances was highlighted by a colour coding process, guided by the following questions:

1. Are there common themes between offenders' age and amount involved?
2. Are there common themes in offenders' educational status?
3. Are there common themes in offenders' marital status and parenthood?
4. Are there common themes in offenders' occupation and type of employment?
5. Are there common themes in experiences of abuse, trauma and addictions?
6. Are there common themes in offenders' financial circumstances at the time of offending?
7. Are there common themes in the subsequent consequences of offenders' criminal acts?
8. What personal circumstances of offenders did judges consider in determining sentences?

Pink	Age and amount involved
Pale blue	Education
Yellow	Marital status and children
Green	Occupation and type of employment
Grey	Abuse, trauma, addictions
Dark blue	Financial situation
Red	Subsequent consequences
Purple	Sentence and sentencing remarks

Using the copy and paste function, by individual case, highlighted information was transferred to an Excel spreadsheet. Once this was complete, on a separate Excel spreadsheet I compiled a table (Table 5) that showed, by sex, frequencies for marital

status, children, employment status, offence and primary motivation. This process allowed for composites of older male and female first-time offenders. These spreadsheets were also utilised to discuss the case studies.

Throughout the entire research process I maintained a journal. This journal contained my notes, experiences and observations about the data collection and analysis process allowing me to reflect upon potential bias concerns. A key strategy to address researcher bias is reflexivity. This means that the researcher actively engages in critical reflection about his or her personal biases (Burke Johnson, 1997). I also enlisted the assistance of a former fellow student to verify the numeric data extracted from various ABS reports and categories/themes and frequencies highlighted in the transcripts. Any disparities were subsequently addressed.

This study design is not without limitations. First, the sample size for the qualitative phase of the study was small and therefore those results cannot be generalised to other populations. Secondly, the utility of court records do not provide an understanding of female offenders' subjective daily life experiences in the male-dominated Australian social structure. No new information was available and therefore, analysis only utilised the court transcripts.

Ethics Declaration

This research did not involve the use of human participants as no interviews were conducted. All of the data used were publicly available, which meant there was no risk that any person in the cases examined would be affected by this research. An Ethics Declaration form was completed in accordance with Edith Cowan University policy and was formally approved on 27 April, 2011, ethics number 6458.

Conclusion

This chapter explained the justifications for using a mixed methods research design and a sequential exploratory analysis of the data. I explained the philosophical underpinnings of the study and stated my own position in relation to the research process before summarising how the quantitative and qualitative stages of the analysis were conducted and the sampling strategy determined.

Chapter VI: Research Findings

This study first sought to establish the extent of women's participation in crimes for financial gain in the 20–44 year age group and also in the 45 years and over age group, in comparison to males in the same age categories. To gain an understanding of the Australian prisoner population and recorded crime rates I examined relevant ABS statistical reports and then, by age group and sex, their involvement in acquisitive crimes. Secondly, it sought to examine what factors related to gender inequality contributed to the participation of women aged 45 years and over in crimes for financial gain for the first time later in life.. Before analysis each transcript was given a personalised identification number. Each designation began with the letter “F” for female and “M” for male, followed by a number. Narratives of each of the case studies of are provided, grouped by sex. Analysis of the cases was limited to those aspects considered relevant to the research question under the main categories Marital Status, Children, Employment Status, Criminal Act and Primary Motivation and from which, common themes emerged.

Phase 1: The Quantitative Study

The aim of the quantitative phase of this study was to determine the extent of the involvement of older women (aged 45 years and over) in acquisitive crime in comparison to a younger group of women (20–44 years) and to males in the same age categories. For this purpose, I accessed relevant Excel spreadsheets of statistical data from the ABS. To acquire an understanding of Australian prisoner population the first step involved determining by sex, the total number of all prison detainees in 2015 by most serious offence, both sentenced and unsentenced. Unsentenced prisoners are individuals accused of a crime and awaiting sentencing. The next step involved assessing sentenced prisoners by most serious offence and Aboriginal and/or Torres Strait Islander status. I then sought

to determine the number of prisoners aged 45 years and over and sentenced for acquisitive crimes. Since imprisonment is only one of the options open to judicial officers to obtain a clearer understanding, I sought to determine the number of female offenders serving community-based sanctions. This was followed by an analysis of male and female offenders' overall participation in acquisitive crime, and then female participation by age group. Finally, to provide further context to the study, I examined changes in age and sex demographics in 2015 and changes from 2008 to 2015.

Australian prisoner population. Analyses of *Prisoners in Australia* data (ABS, 2015) are presented in Tables 1–3 and Figures 2–5. In 2015, the proportion of male prisoners (92.0%) far exceeded the proportion of the prisoner population that was female (8.0%). Table 1 shows that the greatest proportion of the male prisoner population was incarcerated for acts intended to cause injury (21.4%), followed by illicit drug offences (12.7%) and sexual assault and related offences (12.1%). Similar to the male prisoner population, the majority of the female prisoner population was also incarcerated for acts intended to cause injury (19%), followed by illicit drug offences (18%).

Table 1. Sentenced and Un-sentenced Prisoners by Most Serious Offence and Sex 2015

Most serious offence	Males	% Males	Females	% Females
Homicide and related offences	2,743	8.3	259	9.0
Acts intended to cause injury	7,105	21.4	546	19.0
Sexual assault and related offences	4,026	12.1	40	1.4
Dangerous or negligent acts endangering persons	987	3.0	72	2.5
Abduction, harassment and other offences against the person	451	1.4	39	1.4
Robbery, extortion and related offences	3,054	9.2	188	6.5
Unlawful entry with intent/burglary, break and enter	3,779	11.4	281	9.8
Theft and related offences	1,213	3.7	266	9.2
Fraud, deception and related offences	643	1.9	227	7.9
Illicit drug offences	4,210	12.7	519	18.0
Prohibited and regulated weapons and explosives offences	456	1.4	9	0.3
Property damage and environmental pollution	427	1.3	45	1.6
Public order offences	199	0.6	28	1.0
Traffic and vehicle regulatory offences	765	2.3	64	2.2
Offences against justice procedures, government security/operations	3,041	9.2	290	10.1
Miscellaneous offences	83	0.3	7	0.2
Total	33,182	100.0	2880	100.0

Table 2 demonstrates the overall number of sentenced prisoners by age group and most serious offence in 2015. The greatest proportion of the prisoner population aged 20–44 years was incarcerated for acts intended to cause injury (23.5%), followed by unlawful entry with intent/burglary, break and enter and illicit drug offences in equal proportions of 12.6%. The greatest proportion of prisoners in the older age group (45 years and over) were incarcerated for sexual assault and related offences (27.1%), illicit drug offences (16.6%) and homicide and related offences (15.1%).

Table 2. Sentenced Prisoners by Age Group and Most Serious Offence 2015

Most serious offence	20–44 years	% 20–	45 years and over	%
		44 years		45 years and over
Homicide and related offences	1,857	6.7	1115	15.1
Acts intended to cause injury	6,506	23.5	888	12.0
Sexual assault and related offences	1,911	6.9	1995	27.1
Dangerous or negligent acts endangering persons	899	3.2	140	1.9
Abduction, harassment and other offences against the person	422	1.5	67	0.9
Robbery, extortion and related offences	2,835	10.2	213	2.9
Unlawful entry with intent/burglary, break and enter	3,487	12.6	352	4.8
Theft and related offences	1,259	1.5	173	2.3
Fraud, deception and related offences	536	1.6	330	4.5
Illicit drug offences	3,477	12.6	1226	16.6
Prohibited and regulated weapons and explosives offences	424	1.5	50	0.7
Property damage and environmental pollution	432	1.6	69	0.9
Public order offences	170	0.6	46	0.6
Traffic and vehicle regulatory offences	644	2.3	175	2.4
Offences against justice procedures, government security/operations	2,780	10.0	495	6.7
Miscellaneous offences	60	0.2	38	0.5
Total	27,699	79.0	7372	21.0

Consistent with empirical findings that men were responsible for more crimes than women, Figure 2 demonstrates that younger aged males represented the majority of the prison population (73%) in 2015 and older males (19%). Females represented 8% of the total prison population and with 7% of the prison population being younger females and 1% being older females.

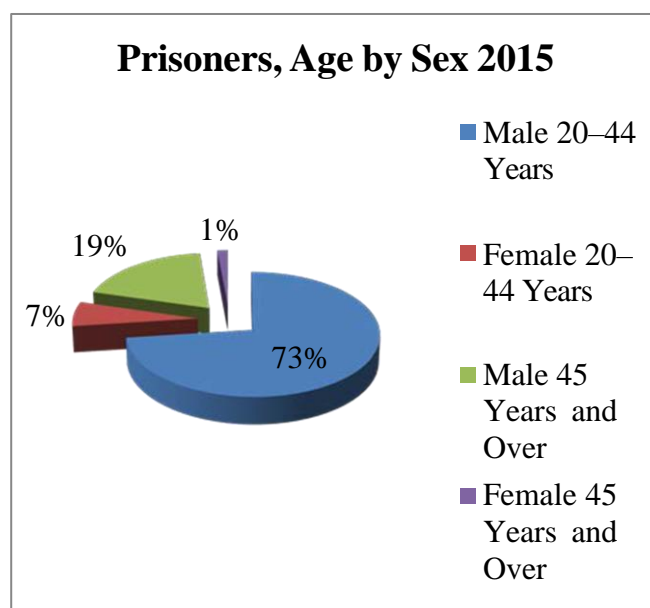


Figure 2. Prisoners in Australia 2015 by Age and Sex

The proportion of non-Indigenous female prisoners aged 20 years and over in 2015 (64.3%) exceeded that of Aboriginal and/or Torres Strait Islander female prisoners (35.7%). Table 3 demonstrates that the majority of non-Indigenous female prisoners were incarcerated for illicit drug offences (25.8%) whereas the majority of female Aboriginal and/or Torres Strait Islanders were incarcerated for acts to cause injury (31.2%). It is important to note, however, that in 2015, Aboriginal and/or Torres Strait Islanders comprised only 3% of the Australian population (Australian Institute of Health and Welfare, 2015), but accounted for 27% of the prisoner population.

Table 3. Female Prisoners by Aboriginal Status and Most Serious Offence 2015

Females by most serious offence	Aboriginal and/or Torres Strait Islander	% Aboriginal and/or Torres Strait Islander	Non-Indigenou s	% Non-Indigenou s
Homicide and related offences	64	6.3	191	10.4
Acts intended to cause injury	319	31.2	222	12.1
Sexual assault and related offences	4	0.4	35	1.9
Dangerous or negligent acts endangering persons	37	3.6	37	2.0
Abduction, harassment and other offences against the person	14	1.4	20	1.1
Robbery, extortion and related offences	74	7.2	111	6.0
Unlawful entry with intent/burglary, break and enter	145	14.2	133	7.2
Theft and related offences	89	8.7	172	9.3
Fraud, deception and related offences	35	3.4	191	10.4
Illicit drug offences	45	4.4	475	25.8
Prohibited and regulated weapons and explosives offences	3	0.3	10	0.5
Property damage and environmental pollution	16	1.6	24	1.3
Public order offences	13	1.3	15	0.8
Traffic and vehicle regulatory offences	29	2.8	39	2.1
Offences against justice procedures, government security/operations	135	13.2	158	8.6
Miscellaneous offences	0	0.0	9	0.5
Total	1,022	35.7	1842	64.3

Figure 3 demonstrates that involvement in acquisitive crimes was greater in the younger than the older age group in 2015.

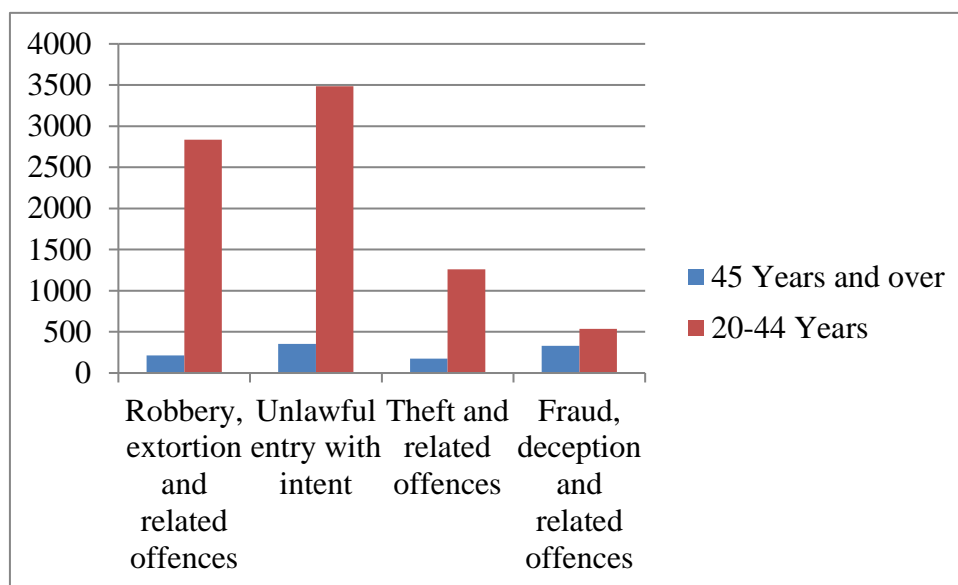


Figure 3. Prisoners Incarcerated for Acquisitive Crimes by Age Group 2015

Figures 4 and 5 show the proportion of prisoners in the most serious offence category for male and female prisoners (45+ years), and for male and female prisoners in the younger (20–44 years) age groups. It can be seen that the proportion of prisoners imprisoned for unlawful entry with intent/burglary, break and enter is smaller for the older age group (33%) than the younger age group (43%). A greater proportion of prisoners aged 45 years and over was imprisoned for fraud, deception and related offences (31%) when compared to the younger age group (7%). The proportion of prisoners in the younger age group incarcerated for robbery, extortion and related offences (35%) exceeded that of the older age group (20%). The proportion of older prisoners incarcerated for theft and related offences (16%) was similar to that of the younger population (15%).

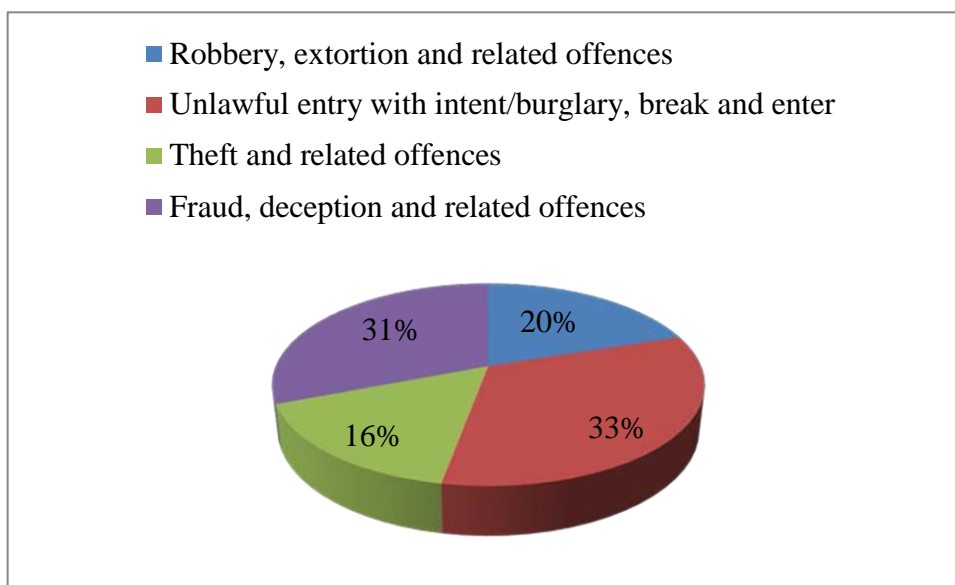


Figure 4. Prisoners Aged 45 Years and Over Sentenced for Acquisitive Crimes 2015

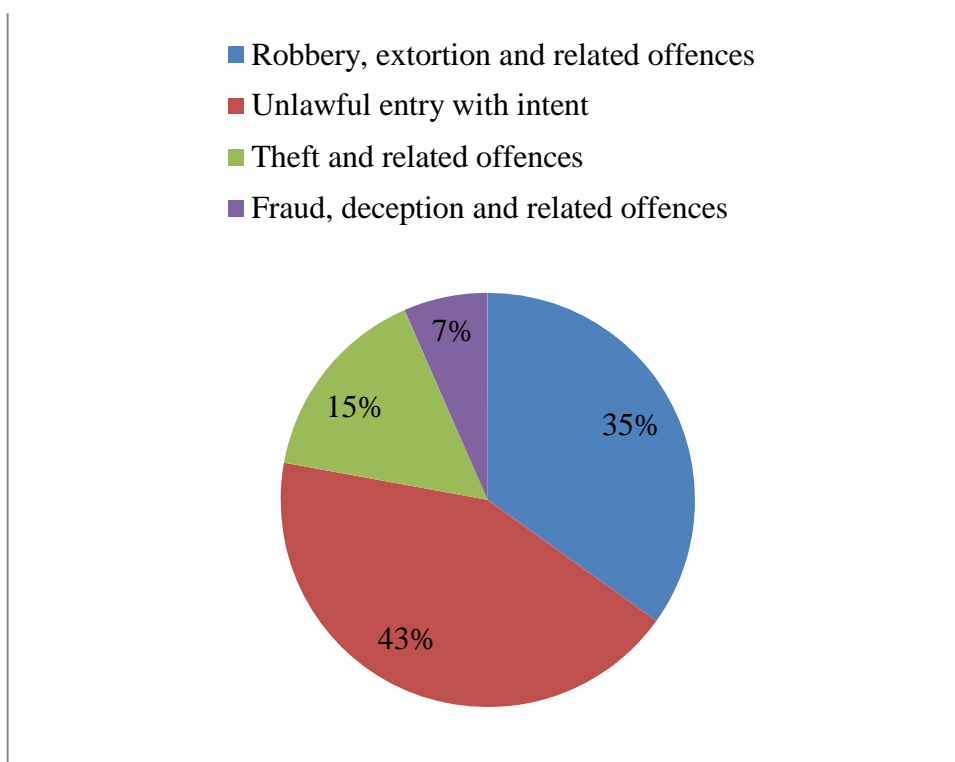


Figure 5. Prisoners Aged 20–44 Years Sentenced for Acquisitive Crimes 2015

Persons in corrective services. Imprisonment is only one of the options open to judicial officers in certain situations. Community corrections comprise a variety of non-custodial programs that impose restrictions on an individual's freedom of movement in the community. In 2011/12, 65% of all offenders were in corrections' programs and 35% were

in prison. In the same period there were 54,996 offenders serving community-based sanctions. Eighteen % of the average community corrections population was female (Australian Institute of Criminology, 2014). As shown in Figure 6, this was 19% in 2016, reflecting a slight increase from 2011/12 (ABS, 2016a). However, these data were not segregated by age group.

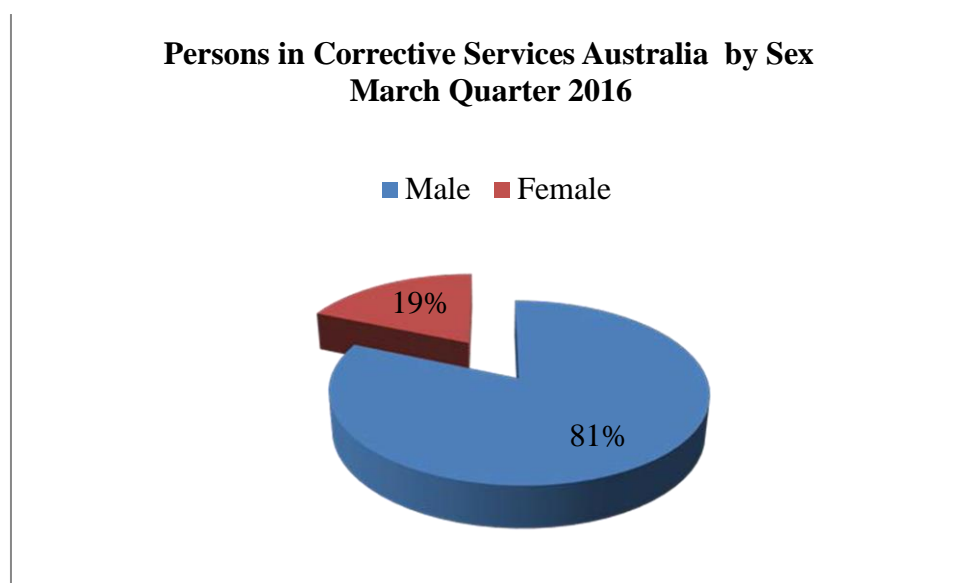


Figure 6. Persons in Corrective Services Australia by Sex March Quarter 2016

Recorded crime. Using ABS statistical data based on police records for 2008–09 to 2014–15 (ABS, 2016c), I compared male and female offenders' participation in acquisitive offences. Table 4 demonstrates that males featured proportionally more than females, the proportions generally remained constant over this period, with only a slight increase in 2014–15. Female participation in acquisitive crimes, on the other hand, reflected a gradual decrease over the same period.

Table 4. Acquisitive Offences by Sex 2008–09 to 2014–15

	2008–09	2009–10	2010–11	2011–12	2012–13	2013–14	2014–15
Female	29,350	31,856	29,920	28,643	27,384	28,289	28,296
Male	58,859	61,615	60,884	59,011	58,429	62,672	66,117
Total	375,593	391,248	383,147	376,449	391,184	404,701	411,686

Female %	7.8	8.1	7.8	7.6	7.0	7.0	6.9
Male %	15.7	15.7	15.9	15.7	14.9	15.5	16.1

The final part of this stage of the analysis involved an examination of female involvement in recorded crime by age group. As Figure 7 demonstrates, females in the age group 20–44 years decreased gradually by 4.3 percentage points over the period 2008–09 to 2014–15. Conversely, the proportion of females aged 45 years and over showed an increase of percentage points over the period (ABS, 2016c).

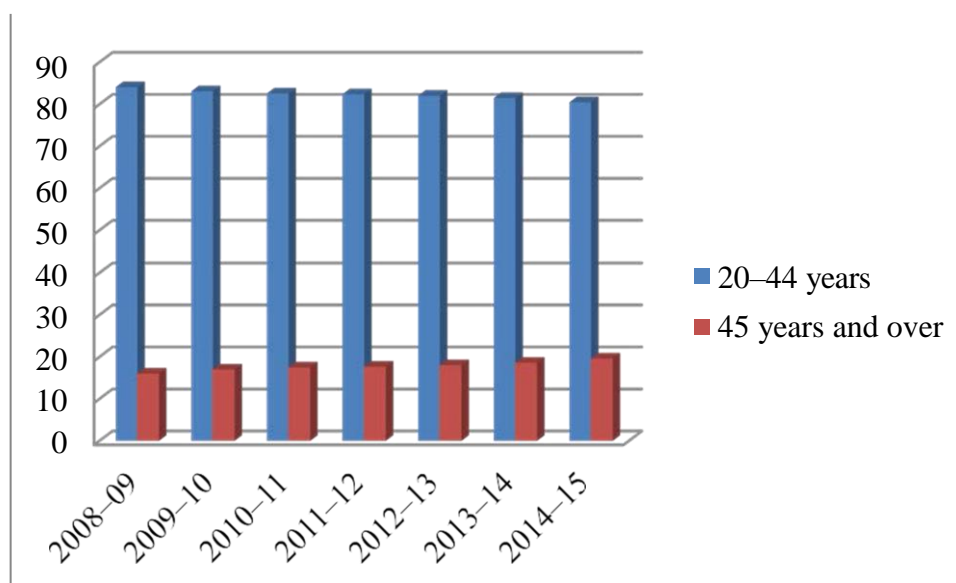


Figure 7. Percentage of Female Recorded Crime by Age Group 2008–09 to 2014–15

Estimated Australian population by age group. Figures 8 and 9 indicate the proportion of females in the age groups 0–19, 20–44 and 45 years and above in 2008 and 2015 (ABS, 2016b). Figures 8 and 9 indicate the male and female population ratio by age group between 2008 and 2015. The proportion of males in the 20–44 years of age group was similar in 2008 (35.9%) and 2015 (35.7%). The proportion of males aged 45 years and over increased slightly, by 1.4 percentage points, from 37.0% in 2008 to 38.4% in 2015. The proportion of females in the 20–44 years of age group was also similar in 2008 (35.3%) and 2015 (35.0%). In 2008, the proportion of females in the 45 years and over

age group exceeded that of males by 2.4% at 39.4%, and in 2015, by 1.4% at 40.8%.

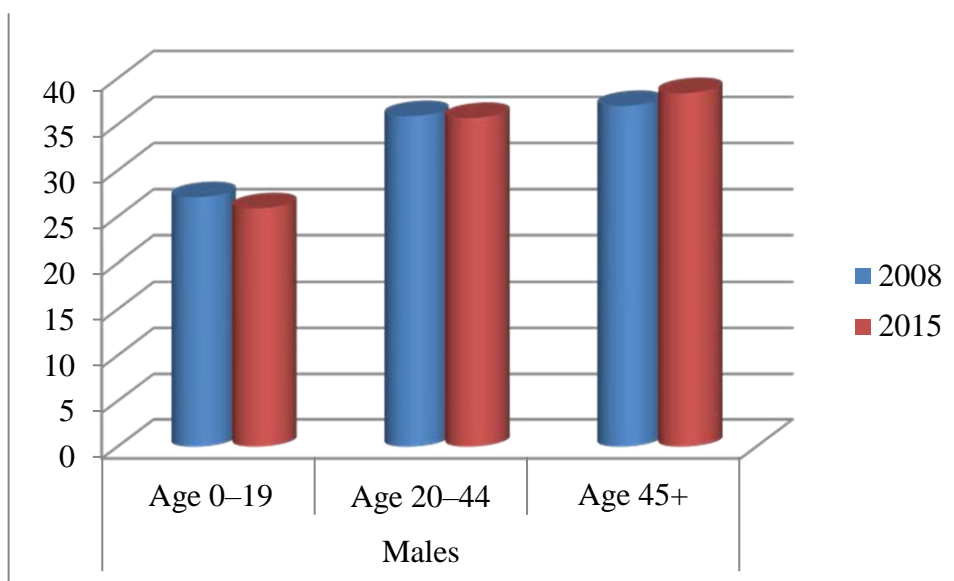


Figure 8. Percentage Male Population by Age Group 2008 and 2015

In 2008, the proportion of females in the 45 years and over age group (39.4%) exceeded that of males in this age group (37.0%) by 2.4%. In 2015, the proportion of females in this age group (40.8%) exceeded that of men (38.4%) (ABS, 2016b). This reflected an equal increase of 1.4percentage points from 2008 to 2015 for both men and women.

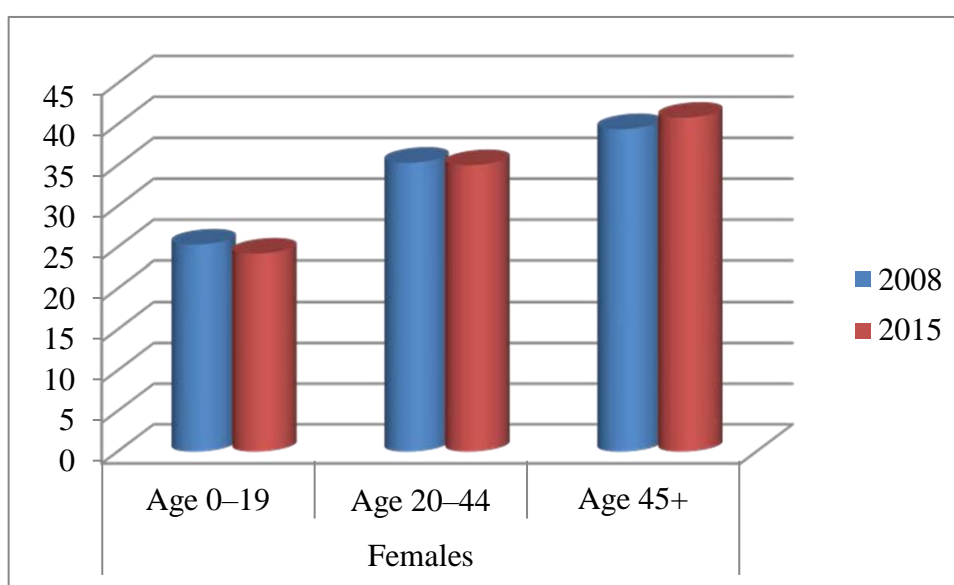


Figure 9. Percentage Female Population by Age Group 2008 and 2015

Overall, in 2015 significantly more males than females were incarcerated in Australian prisons. Both males and females were predominantly incarcerated for acts to cause injury, followed by illicit drug offences. More non-Indigenous females, however, were incarcerated for illicit drug offences than Aboriginal and Torres Strait Islanders who predominated in acts to cause injury.

Participation in acquisitive crimes was greater by individuals in the 20–44 years age group than those in aged 45 years and above. There was more involvement by the younger age group in unlawful entry with intent/burglary, break and enter than the older age group who showed greater involvement in fraud, deception and related offences. However, participation in theft and related offences was similar in both age groups.

Recorded crime statistics show that male participation in acquisitive crime generally remained constant from 2008–09 to 2014–15, whereas female participation reflected a gradual decrease over the period. However, whereas participation by females in the 20–44 years age group decreased, participation in acquisitive crime by females in the 45 years and above age group increased. Given that the proportion of females in this age group in the Australian population has increased and that gender inequalities serve to impoverish some women, it is possible that participation in acquisitive crime will similarly continue to increase.

Phase 2: The Qualitative Study

The court transcripts provided the initial demographic characteristics of the first-time offenders identified. The ages of the 11 female offenders ranged from 45 to 84 years, and the ages of the 9 male offenders ranged from 47 to 79 years. From the transcripts it was not possible to determine whether any of the offenders were Aboriginal and/or Torres Strait Islanders and therefore, was not represented in this sample. The aim of the qualitative analysis was to determine what experiences over the life course might have

contributed to older women's participation in acquisitive crimes to ascertain whether these differed from the experiences of older male offenders.

Beginning with the female offenders, I provide a brief overview of each of their personal life circumstances up to the onset of offending, the type of crimes committed and the sentencing outcomes. It is imperative that the stories of older female offenders who are brought into the Australian criminal justice system are articulated. To provide a greater understanding of their experiences in criminal court proceedings, I highlight what particular personal life circumstances were taken into account in the sentencing decisions of judges/magistrates.

Information for this study was drawn from 20 Unreported Judgment Transcripts of cases involving acquisitive crime by males and female offenders aged 45 years and over between 1998 and 2011 in Western Australia, South Australia, Queensland, New South Wales, Victoria and Tasmania. The transcripts were first colour coded guided by the eight questions discussed in the previous chapter from which five major themes emerged; namely, marital status, children, employment status, criminal act and primary motivation for the criminal act. This information was recorded on an Excel spreadsheet as reflected in Table 5.

Table 5. Analytical Categories for Older Offenders' Involvement in Acquisitive Crime

	Female	Male
Marital status:		
Divorced/separated/widowed	7	1
Married	2	5
Undetermined	2	3
Children:		
Yes	8	5
Undetermined	3	4
Employment status:		
Full time	4	2
Part time/casual	4	0
Own business	0	3
Unemployed	2	1
Undetermined	1	3
Criminal act:		
Theft/fraud	3	3
Centrelink fraud	6	0
Drug offences	1	6
Primary motivation:		
Greed	0	6
Living expenses/family debts	6	0
Addictions gambling/alcohol	3	2
Undetermined	2	1

From the analysis it was evident that the majority of the first-time older female offenders were previously partnered women who had raised children. It was determined from the major category employment status that most of the women did not enjoy the benefits of full-time employment as a means of securing a living and thus, were reliant upon Centrelink. Furthermore, the majority of criminal acts the older women engaged in were fraud, but more particularly Centrelink fraud and where their Primary Motivation

was to pay for living expenses. This demonstrates what factors related to gender inequality contribute to the participation of women aged 45 years and over in crimes for financial gain for the first time later in life.

Older female offenders: Case studies.

Case study F1 (Visser v. Smart, 1998) age 50 years. This 46-year-old offender's personal circumstances up to the time of her offending appeared to be relatively stable and uneventful. She left school at the age of 16 and promptly entered the workforce; by today's standards, she was apparently under-educated. A few years later she married, had three children and was employed for most of her adult life. Apparently her life remained fairly stable until the death of her father. Shortly thereafter, she began gambling on the one day of each week her husband was away from the family home. All was well until she suffered a loss; to recoup her loss, in her position of accounts clerk/secretary she began stealing from her employer. By the time she was caught some 39 months later, the total stolen amounted to \$128,641.13. As a consequence, she lost her job and almost her marriage, as her husband had been unaware of her activities. She was sentenced to 22 months' imprisonment with 16 months suspended for a period of 3 years.

At sentencing, the magistrate expressed understanding of the circumstances that led to her offending behaviour by remarking that: "It's evident ... that the circumstances of your life led you into a prolific gambling habit". He acknowledged that the offender had "taken positive steps ... to control your life, having banned yourself from the casino" and that in addition to the substantial loss to your employer you have also suffered, as I understand it, financially and socially from this wrongdoing". (*Visser v. Smart, 1998, para. 9*). Similar to the Fernando principles in sentencing Aboriginal and or/Torres Strait Islands, apparently in this case the magistrate, in mitigation of sentence, accepted that the death of her father instigated this offender's problems.

However, the Crown appealed the sentence on the basis that it was manifestly inadequate. Consequently, the suspended portion of this offender's sentence was overturned and she was re-sentenced to serve 22 months' imprisonment. One reason proffered to justify this decision was that "Circumstances which commonly apply to a youthful offender and which dictate the suspension of all or part of a sentence of imprisonment, do not apply here" (*Visser v. Smart*, para. 18). According to Healey (2013b), juveniles (aged between 10–17 years and 10–16 years in Queensland) differ from adult offenders in a variety of ways, such as risk-taking behaviour and immaturity.

Case study F2 (*Jackson v. R*, 2011) age 51 years . This offender's earlier years appeared to be chequered with periods of instability. For example, she attended a number of different schools and completed her secondary education at the age of 17. After leaving school, she commenced studies at teachers' college but unfortunately, was unable to complete her studies due to an unstipulated illness. Again, by today's standards, she was apparently under-educated. She went on to marry and have two children, but subsequently separated from her spouse. At the time of separation, she discovered that her husband had amassed significant debts using their family home as collateral. To repay these debts it was necessary to sell the family home. Apparently her drinking and gambling activities then increased and when she was 45 years of age, she began to commit credit card fraud. At the time of sentencing she was living in a house provided by a church organisation. In effect, she had no permanent place of residence.

This offender appealed her sentence of 44 months' imprisonment with a non-parole period of 27 months. The Court of Appeal modified her sentence to 41 months' imprisonment with a non-parole period of 24 months. With regard to circumstances that were favourable to her in consideration of the appeal, the court held that she was:

Facing her first term of imprisonment at 51 years of age, that she did not appear to

have amassed significant assets from her offending, and that the pattern of offending appeared to have involved excessive use of alcohol and was linked to a gambling problem. (*Jackson v. R*, 2011, para. 23)

Although prior adverse personal life circumstances in mitigation of her sentence were taken into consideration by the Appeal Court, they did not hold much sway by way of reduction in sentence.

Case study F3 (Evans v Commonwealth Services Delivery Agency, 2009) age 49 years. This offender's story likely personifies the struggles of many women after divorce or separation. The 48-year-old offender experienced ongoing health problems from an early age. While still pregnant with the only child of her marriage, she returned alone from the United States to Australia where she raised her daughter without financial or other support from her husband. Consequently she relied heavily on Centrelink parenting payments and rent assistance to provide for herself and her child. To supplement her income she worked as a kitchen hand on a casual basis, but it was discovered that over an 18-month-period, she had failed to accurately declare her income to Centrelink and thus gained \$4,174.29 in payments to which she was not entitled. However, throughout the period in question, although she inaccurately declared her income to Centrelink, she continued to fully declare her income to the Commissioner of Taxation. From this, it could be inferred that inaccuracies in reporting income to Centrelink were not deliberate. For example, inquiring why people have difficulty correctly reporting income to Centrelink, Lee Moerman, currently Associate Professor in the accounting discipline at the University of Wollongong, explained that it was due to a combination of factors. Factors included navigating terms such as cash accrual, and net and gross income, as well as difficulties in ascertaining whether the period worked corresponded with the due date of the benefit (Australian Broadcasting Corporation National Radio, 2011).

The sentence imposed on this defendant was 5 months' imprisonment with release upon entering into a good behaviour bond for 15 months, as well as reparation. At sentencing the magistrate remarked that:

I do not consider that you qualify to be treated with any special consideration as far as not recording convictions is concerned. I take into account, not only the period over which the fraud was perpetrated but also the total amount you received by overpayment. (*Evans v. Commonwealth Services Delivery Agency*, 2009, para. 8)

This defendant also appealed her sentence and the Appellate Court adjusted her sentence to immediate release upon entering into a good behaviour bond of \$500 for 18 months on the basis that:

This was not, as is so often the case, a well-planned systematic fraud on the social security system ... (para. 19) ... The appellant's personal circumstances ... in this case there is room for the exercise of mercy and leniency. (para. 25)

Whereas the sentencing judge in the case was apparently oblivious of the gendered life circumstances as precipitating factors in her offending, the Appellate Court took a more considered approach by reducing her sentence.

Case study F4 (*Young v. Marszalek, 1988*) age 45 years. Although this particular case involved a woman who began offending at the slightly earlier age of 44 years and was sentenced at age 45 years, I felt it was important to include her case in the older women category because many women share similar experiences of the difficulties of almost single-handedly supporting their families. For example, this offender married at an early age and raised six children. At the time of offending, her husband was unable to work because of a serious alcohol problem; consequently, she was subjected to substantial pressure to support her family and more than likely, fund her husband's alcohol addiction.

Although her occupation was not stated, her work was intermittent and variable;

therefore, it could reasonably be assumed that she was lowly paid in a characteristically feminine occupation. As a chronic alcoholic, her husband's financial contribution to the welfare of the family was funded by government unemployment benefits. Her defence was that due to family financial pressures she failed to disclose her work-related income and obtained \$6,404.76 government benefits to which she was not entitled.

For her digressions she was sentenced to 76 days' imprisonment with release after serving 28 days on entering into a good behaviour bond of \$1,000 for 12 months, as well as reparation. The offender appealed the sentence imposed upon her, but the motion to review was dismissed on the basis that:

In my opinion, that although many of the cases dealing with sentencing for dishonesty differentiate between an offender who commits a crime for "need" rather than "greed", is not always possible or desirable to characterise a particular offence as falling neatly into one category or the other. It is plain that the learned magistrate did not regard this case as one involving desperate need, although he did consider the applicant's financial circumstances and the factors which had created those circumstances (*Young v. Marszalek*, 1988, para. 5).

Although the judge did not expand further, although he acknowledged the factors that created this defendant's financial difficulties, he dismissed them as matters of no consequence in relation to her transgressions.

Case study F5 (R v. Townsend, 2007) age 84 years. This case was somewhat different from the other cases examined so far in that it involved an 84-year-old woman who defrauded the social security system over a long period (30 years). The total amount involved was \$90,000 (which equates to \$3,000 per year or \$250 per month over the 30-year period). There is no doubt that this was deliberate fraud. However, there was no discussion regarding a possible motivation for her transgressions.

Evidently, the sentencing hearing occupied more than the usual period because the defendant's legal counsel was determined to fully inform the presiding judge of her personal prior life circumstances. These circumstances were not reiterated at the Appellate Court hearing and I did not have access to the information recorded in previous hearings. For her crimes, she received a 5-year suspended sentence of imprisonment. At sentencing the judge remarked that he did not believe it would be fair to impose a term of full-time custody because of her age and serious health issues. However, the Crown was dissatisfied with the outcome and appealed the sentence, seeking full-time custody.

The Appellate Court was not inclined to imprison the defendant and dismissed the appeal on the basis that "The personal circumstances are so significant that in my view the only course is to dismiss the Crown appeal" (*R v. Townsend*, 2007, para. 8).

Case study F6 (*R v. Docherty*, 2009) age 58 years. This woman married at a very young age, ostensibly to escape familial violence and sexual abuse. The couple had two children, but like many others, the marriage did not last. After the marriage ended, she became involved in a long-standing de facto relationship.

Somewhere along her life path this offender qualified as a registered nurse and subsequently worked for many years in the health industry; eventually owning and running a weight loss business. In due course the de facto relationship also came to an end, and to pay off credit card debts, general living expenses and the drug debts of a "person" (most likely her partner) in danger from a bikie gang, she was compelled to sell her business quickly, and suffered a financial loss. Her de facto partner was a known drug user and gambler who had depleted all of their combined capital to sustain his habits.

After the relationship ended she took care of a terminally ill aunt for one year, after which she acquired employment with a nursing agency in the position of carer. Reportedly, one day on the spur of the moment she stole a ring that belonged to a client's wife and sold

it to a jewellery dealer for \$33,500 (unaware of its true value, which was \$292,100). She was sentenced to 36 months' imprisonment with parole after 12 months.

At sentencing the judge remarked that he "took into account what the psychologist had said about her de facto relationship and its consequences, and a threat that caused her to pay drug debts" (*R v. Docherty*, 2009, para. 8). However, he "rejected a submission that a sentence should be imposed which involved no actual time in custody" (para. 9). He concluded by remonstrating "that age was not to be regarded as a reason for regarding offending as risk-free" (para. 9).

On appeal, however, the court held that strong mitigating factors, including "her poor health, and the personal circumstances in which she committed the offence – should be recognised by fixing a parole release date after 6 months" (para. 9).

Case study F7 (*R v. Huntman*, 2007) age 80 years. This case reflected a story of intense difficulties from youth to adulthood. The offender was born in the Netherlands in 1934; living through World War II and the German invasion of her country. When she was 10 years old, her family was trapped in an air raid shelter during a bombing raid by the United States Air Force. After emerging from a bomb shelter, she witnessed the destruction of her entire neighbourhood and learned that most of her friends and neighbours had been killed.

In 1958, her family migrated to Australia where they were placed in an immigrant camp in the Wollongong suburb of Fairy Meadows where conditions reportedly were particularly unpleasant. She soon met another Dutch immigrant who promised that if she agreed to marry him, he would take her away from the camp and support her. However, once they were married he displayed his violent side.

She was beaten regularly and on one occasion, her husband pushed a heavy wardrobe on top of her, causing damage to two discs in her back and resulting in ongoing

back pain and mobility problems. In addition, his controlling behaviour was so ruthless that the only time she was allowed to leave the house was to take their two children to and from school. As a consequence her English was very limited and together with ongoing pain and mobility problems her husband caused, this affected her ability to take care of herself financially. This woman suffered not only physical abuse but also emotional abuse by her husband. She endured the marriage until her children were adults and then separated from her husband and spent a great deal of time caring for three grandchildren.

Around 2000, a neighbour took her to a gambling club and taught her how to play poker machines. This woman felt she was living for the first time in her life and so continued gambling regularly. At first, her gambling was successful and from the proceeds she bought gifts and clothes for her grandchildren and sent money to her youngest son in Morocco. Her winning streak, however, came to an end and she began to lose money.

From the time her marriage dissolved, by falsifying information she received social security benefits in three separate names and accumulated a total amount of \$372,619.30 to which she was not entitled. The judge imposed a sentence of 18 months' imprisonment, with release after 7 months and reparation. Although this offender deliberately fraudulently amassed a large amount of money from Centrelink, the judge expressed great empathy towards her prior and future life circumstances, remarking:

I am mindful of her health and age, and of the difficulties that have followed her throughout her life (*R v. Huntman*, 2007, para. 69). The circumstances of this case incline me to think that if home detention had been available, I would have ordered that she be assessed for suitability to serve her sentence in this way. Unfortunately, the residents of rural New South Wales are discriminated against in this way, and the option is not available. I am not prepared to suspend the sentences wholly as, in my view, the interests of justice, considering the particular circumstances of this

offender, would not be properly served if she was not required to spend a relatively short time, at least, in full-time custody. (*R v. Huntman*, 2007, para. 71)

Case study F8 (*Newton v. R*, 2010) age 53 years. This 53-year-old widow was a disability support worker employed on a part-time basis. Her husband died in 1995 from asbestosis when she was around 32 years of age and she was left to raise three children to adulthood alone. To add to this difficulty, one of her daughters suffered from cystic fibrosis and died in 2008. She committed social security fraud by failing to declare income over a period of four years, to the value of \$50,379.62, which was used for her day-to-day living expenses. However, the sentencing judge said that “he was satisfied that because of the amount involved and the period of time over which the offences were committed that imprisonment was the only appropriate penalty” (*Newton v R*, 2010, para. 38). She was thus sentenced to 24 months’ imprisonment with release after 5 months upon entering into a good behaviour bond of \$2,000 for 2 years.

This offender also appealed her sentence. One of the Appellate Court judges stated that:

One can always sympathise with those convicted of this kind of offence. They are invariably lowly paid and poorly skilled members of society for whom life is a struggle and who succumb to temptation to lighten the financial burdens they daily face. (para. 7)

However, he went on to state that “Offences against the welfare system leads to public loss of confidence in the integrity and worth of the social security system and creates a risk of demonising the genuine and needy who require assistance” (para. 7). Leave to appeal the sentence was granted: “Only to the extent of ordering that she be released after serving three months imprisonment” (para. 58).

Unfortunately, however, although she was then released immediately, she had

already served more than 3 months in prison.

Case study F9 (*Ut Thi Nguyen v. R, 2009*) age 53 years. The woman in this matter became involved in the sale and supply of heroin along with other close family members, one of whom was her estranged husband. At the time of her involvement she was experiencing unspecified health problems and financial difficulties and was coping with the drug addiction of at least two of her six children. The money was used to pay debts. The judge imposed a prison sentence of 41 months, remarking that “She had spent most of her life raising and caring for her children” (*Ut Thi Nguyen v. R, 2009*, para. 30). He was not persuaded that he should suspend the sentence, even though he accepted that her personal circumstances were “compelling” and could “excite considerable sympathy” (para. 35).

Case study F10 (*R v. Campbell, 2007*) (Age 61 years). Little was revealed in the court transcript regarding this 61-year-old offender’s prior life circumstances other than that she had been diagnosed with cancer. A fellow patient informed that cannabis would help with the pain. Initially she grew plants for her own use, but then sold some to make extra money. She was sentenced to 9 months’ imprisonment, suspended for 36 months.

Case study F11: (*Carter v. Western Australia, 2010*) (Age 45 years). This case involved a disturbing string of events that led to “criminality”. At the time of the offence this 45-year-old woman was going through a relationship breakdown. To cope with the situation and subsequent depression she worked extra shifts as a carer for intellectually disabled people to keep herself occupied, sometimes working up to 16 hours a day.

If she incurred expenses during the course of her duties, she was entitled to reimbursement from a petty cash float. On two occasions, however, she failed to keep the original receipt for money spent, so claimed for an unrelated receipt of her own for an amount approximately the same. It was later discovered that on dates that she claimed reimbursement of \$12.40 and \$16.45 for money spent, she had not been at work. On

another occasion she bought a mug on behalf of a resident at the hostel, but when she submitted the receipt for reimbursement, overlooked an amount of \$4.80 for a cup of tea on the same receipt. This resulted not only in instant dismissal, but her employer reported the matter to the police and she was charged with making three false entries in a record.

At the hearing, her attorney appealed for a spent conviction order in view of the fact that convictions would affect her ability to work as a carer in the future. An important benefit of a spent conviction is that it is not necessary to disclose the conviction for employment or other purposes. The request was denied and she was ordered to pay a fine of \$1,000, costs and restitution. At sentencing the judge stated that:

The exercise of the discretion to grant a spent conviction order is not enlivened unless the court considers an offender is unlikely to commit such an offence again ... It is difficult in circumstances such as this to come to any positive conclusion about the likelihood of committing such an offence again, by reason of the deliberate nature of the conduct in question on three separate occasions. The victims of these offences were of extreme vulnerability, so much so that they could never have questioned the claims made upon their funds ... to protect such citizens from potentially significant harm outweighed the matters raised on behalf of the accused, and I'm not persuaded that it is appropriate to make a spent conviction order (*Carter v. Western Australia*, 2010, para. 9).

This judge's inference was that the offender had breached the trust of her charges rather than the trust of her employer. Her motivation to submit receipts for like amounts was merely to recoup the trivial amounts actually owed to her. Overlooking an amount of \$4.80 on a receipt for reimbursement hardly constitutes a serious criminal offence. This woman was treated harshly first by her employer and then by the criminal justice system in its refusal to grant a spent conviction order.

An Appellate Court judge, however, had an entirely different view to the sentencing judge, stating:

It is not altogether clear that the individual residents suffered loss or any other type of damage (*Carter v. Western Australia*, 2010, para. 12). I am satisfied that Ms Carter is unlikely to re-offend and ... there are grounds for believing that she should be relieved of the adverse effects that conviction would have upon her (para. 23). Her personal circumstances at the time of offending were such as to suggest that she was vulnerable and her judgment impaired. I am satisfied that it would be just for such an order to be made in the present circumstances (para. 24).

Older male offenders: Case studies. Overall, there was a marked difference in the details provided in the court documents about the earlier lives of the older men than there was for the older women. There was also a marked difference in the details provided in the court documents about the earlier lives of the older men convicted of fraud and theft offences (case studies M1–M3) than the older men convicted of the sale and supply of drugs (case studies M4–M9); for example, their education, histories of abuse/trauma, parenting responsibilities, or occupational status. Their cases served to highlight differences, with respect to the older female offenders, in their prior personal circumstances, the types of crimes they committed and their motivation.

Case study M1 (*R v. Bernstein*, 2008) age 67 years. This case involved a married man who began offending at age 60 years. As a solicitor, he owned and operated a practice and misappropriated client funds totalling \$230,850. He was given a sentence of 3 years' imprisonment, suspended for 3 years. At sentencing the judge remarked:

There is no direct evidence as to what motivated you to steal the money ... it is not improbable that your motive was greed. But, since I am not satisfied of that beyond reasonable doubt, I exclude it from consideration. (*R v. Bernstein*, 2008,

para. 24) He went on to comment that:

Sixty seven is hardly old, especially for a lawyer ... does mean that you are likely to suffer more from the effects of prison than the majority of the prison population ... There remains a need for just punishment ... to deter other persons ... (para. 46)

I have taken into account the shame and loss of profession which you have suffered ... But other things being equal, I would imprison you now for being the thief that you are. It is only because of your age and mental condition that I am persuaded that a suspended sentence is in the interests of justice. (para. 56)

In this case the judge demonstrated a lack of sympathy towards an older male offender whose prior personal circumstances offered little in the way of mitigation of his offending behaviour.

Case study M2 (R v. Slattery, 2008) age 61 years. As an infant, this offender was placed in foster care with a couple he believed were his parents, but when he was six years old he was unexpectedly returned to his biological parents. Unfortunately, both he and his mother experienced physical abuse at the hands of his father. When he was 16 years old he witnessed and intervened when his father attacked his mother with a knife. At this point he and his mother left the family home.

Despite these problems, he went on to become an extremely accomplished man with a successful career in the Royal Australian Air Force, while simultaneously undertaking a law degree. He married early in his Air Force career and had two children, but the couple later divorced and he subsequently remarried. In 1990, he set up a practice that specialised in family law. In 1997, one of his clients was murdered by her husband close to the Family Court, causing him to suffer post-traumatic stress disorder. At the age of 54, he began misappropriating client funds that reached a value of \$75,000.

Having lost his license to practice law, he acquired employment with a strata management company. In awareness of his legal issues, continuation of his employment was assured. The judge imposed a sentence of 18 months' imprisonment, suspended for 2 years, commenting that:

There is no question of you gaining financially from this and I accept that one of the reasons these offences were committed by you was financial stress ... your early life was difficult ... your practice was failing and your ability to cope with the pressures had diminished dramatically (*R v. Slattery*, 2008, para. 19).

The judge acknowledged this offender's early life difficulties albeit that he had gone on to have a successful career. Apparently, however, the financial stress experienced by an older offender in the legal profession evoked considerable sympathy from the judge.

Case study M3 (*R v. Talia*, 2009) age 53 years. In this case, the offender began offending at the age of 47 years. He left school at the age of 16 and was under-educated by Australian standards. However, he worked hard and successfully from then onwards, eventually becoming a real estate agent. He was married with two children. In 2002, he defrauded an ailing elderly man by purchasing his property at below market value. The property was the victim's insurance for a comfortable life in old age. The offender was sentenced to 3 years' imprisonment, with 1 year suspended.

The judge remarked that the offender had done this "motivated by breathtaking greed" ("*R v Talia*", 2009, para. 8). He further commented that "You will likely suffer professionally and commercially and that will affect not only you, but also your family ... I agree that imprisonment will be harder for someone like you than for many others" (para 9.18). The judge did not elaborate on why prison would be harder for this offender than for others. Therefore, it is likely that this comment was an instance of an implicit criminal stereotype.

Case study M4 (Mauceri v. R, 2007) age 67 years. Apparently, little was known about this offender's background other than that he owned and operated a furniture business. He was convicted of conspiring to import a commercial quantity of methylenedioxyamphetamine (MDMA), more commonly known as 'ecstasy'. For his role in the importation, the offender was to receive \$100,000. He was sentenced to 8 years' imprisonment with a non-parole period of 5 years. The judge concluded that the offender was "purely motivated by financial gain" (*Mauceri v R, 2007, para. 9*).

Case study M5 (Chen v R, 2006) age 52 years. In this case, the offender owned and operated an importation business. His first marriage ended in divorce and he subsequently became involved in a 10-year de facto relationship. This relationship also failed, causing him considerable distress and depression; disputes over property from the domestic partnership eventually resulted in his withdrawal from the business. It was also reported that the offender had no relatives in Australia. His parents were said to be very ill in a hospital in Shanghai and caused the offender to experience depression and anxiety.

For the sale and supply of a commercial quantity of MDMA he was sentenced to 14 years' imprisonment with a non-parole period of 10 years and 6 months. A PSR revealed that he displayed little insight into his offending behaviour as he maintained that he had done nothing wrong. A psychiatric evaluation found that he had a relatively low level of cognitive functioning; his intelligence was between low average and extremely low average. He was also diagnosed as suffering a major depressive disorder and generalised anxiety disorder. The psychologist report concluded that the offender's criminal conduct revealed that there appeared to have been little thought given to that an association with illicit drugs potentially lead to serious charges.

The sentencing judge noted that this offender had no previous criminal convictions, but pointed out that in drug supply offences, that circumstance was of

limited significance. He further remarked that he had referred to the psychological report, but found it to be of little value. First, because it failed to provide the bases for the opinions expressed and secondly, with regard to the offender's anxiety and depression, the judge did not deem there was any causal connection with the commission of the offences.

Case study M6 (R v. Pajic, 2008) age 61 years. After meeting some Asian men at a market this ex-Croatian disability pensioner accepted an offer to make easy money by growing cannabis plants at his home. The value of the crop discovered was estimated at somewhere between \$167,000 if sold in one-kilogram lots and \$1 million if sold in one-gram lots. The judge acknowledged that he had recently separated from his wife and the two properties they owned were the subject of restraining orders obtained by the Director of Public Prosecutions under the Confiscation Act, which meant he would forfeit his interest in both properties as a consequence of this offence. At sentencing, the judge stated: "I give the fact that you will suffer such forfeiture some, but not substantial, weight" (*R v. Pajic*, 2008, para. 26). He was sentenced to 3 years' imprisonment.

Case study M7 (Samuel v. Western Australia, 2004) age 47 years. This offender was a married man with two children and although not a drug user himself, was convicted for the possession of methylamphetamine, commonly known as 'ice', with intent to sell or supply. Counsel told the sentencing judge that he did not want to discuss his personal circumstances because his family was not aware of this matter. The judge acknowledged that the offender had significant periods of employment and was close to his family. However, he failed to understand the offender's reason for committing the offence. He received a 2-year suspended sentence. At sentencing the judge remarked: "At your age there is, as your counsel indicated, not much reason to obtain a pre-sentence report" (*Samuel v Western Australia*, para. 15).

This comment appears to reflect an ageist attitude by both the offender's counsel and the judge. An attitude such as this has the potential to deny older offenders the opportunity to put forward circumstances that might merit reductions in their sentences.

Case study M8 (R v. Koumis, 2008) age 57 years. Although not a drug user himself, this offender became involved in the trafficking of a commercial quantity of heroin and MDMA to the value of approximately \$200,000 to sustain his gambling activities. The offender himself was not a heroin addict, but was a heavy gambler and reportedly he had entered into drug operations to support his gambling addiction. The judge, however, found "that the 'lure of financial reward' was the primary motive" (*R v Koumis*, 2008, para. 5). For this crime, he was sentenced to 7 years imprisonment with a non-parole period of 4 years and 6 months. No reference was made to his personal circumstances.

Case study M9: (R v. Whiting, 2005) age 50 years. The final case also involved drug offences. In this instance the offender had a history of drug use. He was sentenced to 4 years' imprisonment with a non-parole period of 2 years for the sale and possession of MDMA. The sentencing judge referred to the circumstances of the offender's childhood and his schooling, circumstances that were not elaborated upon, and took into account the fact that the offending occurred in the context of the offender's personal drug dependence.

Conclusion

The most surprising and unexpected finding of this research was that in 2015, similar to the Australian male prisoner population, the majority of the Australian female prisoner population was incarcerated for acts to cause injury, followed by illicit drug offences. Based on prior research findings it would be reasonable to assume that the majority of the Australian prisoner population would more likely be incarcerated predominantly for property crimes. The majority of non-Aboriginal female prisoners were incarcerated for illicit drug offences, whereas the majority of female Aboriginal and/or

Torres Strait Islanders were incarcerated for acts to cause injury.

Males and females aged 20–44 years comprised the majority of the overall Australian male and female prisoner population, respectively. The greatest proportion of prisoners in the 45 years and over age group was incarcerated for violent offences. Involvement in acquisitive crimes was greater in the younger than the older age group, but a greater proportion of prisoners aged 45 years and over was imprisoned for fraud, deception and related offences compared to the younger age group. The proportion of older prisoners incarcerated for theft and related offences were similar to that of the younger population.

In 2016, reflecting a slight increase from 20011/12, the average community corrections population was female. The analysis of female involvement in recorded crime by age group demonstrated that the proportion of females in the age group 20–44 years decreased by 3.6 percentage points whereas conversely, the proportion of recorded crime for females aged 45 years and over showed an equal 3.6 percentage points increase by 2014–15.

Australian demographic estimates indicated that in 2008 and 2015, the proportion of females in the 45 years and over age group exceeded, but reflected an equal percentage increase of 1.4 percentage point increase for both men and women in this age group. Therefore, changes in demographics cannot be attributed to the increase in recorded in the recorded crime rates of older women.

A composite drawn of the older female first-time offender involved in crime for financial gain revealed that she was an unpartnered mother who was welfare dependent and was more likely to commit Centrelink fraud to pay for living expenses. A composite drawn of the older male first-time offender involved in crime for financial gain revealed that he was a married man who was financially independent and was more likely to be involved in

selling drugs to acquire money over and above that necessary to meet living expenses.

The amounts involved in the cases of the two male offenders who avoided imprisonment for defrauding individuals were \$230,800 and \$75,000. On the other hand, female Centrelink fraud offenders, for example, were imprisoned for amounts as little as \$4,174.29 and \$6404.76. Perhaps one difference was that the male offenders had made retribution as a consequence of the Legal Professional Tribunal's proceedings against them.

Most of the older females received sentences of imprisonment against the social security system, ostensibly because the community deserved protection from such offenders. The older men in case studies M1, M2 and M3 defrauded individuals in their positions of trust, but it appeared that it was deemed necessary to protect the community from two of these offenders, as evidenced by the imposition of suspended sentences.

Chapters VII and VIII provide a discussion and conclusions to this research.

Chapter VII: Discussion

The preceding chapter presented the quantitative and qualitative research findings. As discussed in Chapter V, the sample size for the qualitative phase was small and the analysis was limited to the use of court transcripts as no new information was available. This chapter first provides an overview of the Australian prisoner population. It continues by discussing factors identified that potentially place older women at risk of involvement in crimes for financial gain for the first time later in life. Although hampered to a large extent by the paucity of details for males from the court transcripts, I highlight differences in the prior personal circumstances of nine older Australian male first-time offenders in comparison to those of the older female offenders. This is followed by a discussion of the sentencing decisions of judges and specific personal circumstances considered. Finally, I discuss current practices in the Australian criminal justice system and how adopting a substantive equality approach would better attend to gender differences and their effects in particular social contexts that include histories of past disadvantage.

Overview of the Australian Prisoner Population

Analyses of ABS (2015) statistical data revealed that the highest proportion of the total male and female prisoner population was incarcerated for acts intended to cause injury, followed by illicit drug offences. The greatest proportion of prisoners in the older age group was incarcerated for violent offences. Males and females in the younger age group represented a greater proportion of the prisoner population. Overall, by offence, a greater proportion of the female Aboriginal and/or Torres Strait Islanders than the non-Indigenous Australian female offenders were incarcerated for acts to cause injury and for non-Indigenous Australians, most imprisonments were for illicit drug offences.

The majority of the total prisoner population in the older age group was less likely

than the younger age group to be incarcerated for unlawful entry with intent/burglary, break and enter, but more likely to be incarcerated for fraud, deception and related offences. The proportions of the older and younger group of prisoners were similar for theft and related offences.

The proportion of Australian female prisoners aged over 45 years increased at a greater rate than that of male prisoners in this age group. However, increases in the proportion of female prisoners aged over 45 years cannot merely be attributed to increases in the general population. Based on evidence that increases in the number of older populations generally in New Zealand, the United States and the United Kingdom, Baidawi, Turner Trotter and Browning (2011) examined issues surrounding the management of older prisoners, costs of responding to rising healthcare needs, as well as issues surrounding accommodation and correctional programs for older prisoners.

Profile of the Older Australian Female First-time Property Crime Offender

Five key themes related to gender inequality emerged that potentially placed older women at risk for acquisitive crimes for the first time in their life: unpartnered mothers, insecure employment, welfare dependency, participation in theft/fraudulent activities and motivation for involvement in acquisitive crimes.

Unpartnered mothers. Not surprisingly, most of the women in this sample married young and had children. However, most of the marriages did not last. Some of the offenders' lives had been affected by domestic violence within relationships. One woman in this sample married early to escape domestic violence (F6), and one became a victim of domestic violence when they married (F7). Although the significant personal circumstances of the offender as referred to in case study F5 were not disclosed in the Appellate Court hearing, it is reasonable to assume that they also involved abuse and/or trauma.

In case study F6, it appeared that the offender had contributed financially throughout

a long-standing de facto relationship. However, all of their income was used to sustain her partner's drug and gambling habits, forcing her to sell her business at a loss. A victim of familial violence and sexual abuse in childhood and of domestic violence in a previous relationship, it appears that this woman went on to suffer financial abuse at the hands of her latest partner.

The studies discussed above indicate that some men maintain power and control by violent and abusive means. From at least the 16th century women have suffered violence by males because it was socially and legally sanctioned. Explanations for the unrelenting persistence of this phenomenon were that male-dominated structures perpetuated gender-specific roles for men and women (Renzetti, 2011) where, because of their higher relative status, they influenced the power structure within personal relationships. In some male-dominated structures, male aggression towards women was seen as an acceptable tool to achieve men's goals (Campbell, 1993). Findings of this study indicate that gender inequality in the form of violence and other forms of abuse against women continues to persist and contributes to their disadvantage and risk of participation in crimes for financial gain for the first time later in years.

At the time of their first offence most were single as a result of divorce, separation or widowhood. It also appears that most had primary care of the children after divorce. Unpaid and undervalued care of children is demanding work. Although caring for a child is time consuming and socially beneficial, it does not bring any form of long term financial benefit. Schemes like the baby bonus do not contribute much toward the total cost of raising a child to adulthood, thought to be about A\$812,000 for two children in 2012 (NATSEM 2013).

Divorce is a stressful life-changing event and is beset with challenges for men and women alike. For many women, however, the challenges are generally more burdensome

when they attempt to juggle family work and paid work. Since men generally have higher incomes after divorce, they usually experience less financial stress than women (Gähler, 2006). Further, without a partner to share the work involved in caring for children, it is much more difficult to juggle the double workload of paid and unpaid work (Grace, 2001). In other words, single mothers are more likely to experience greater parental strain than men due to this combination of caregiving, unpaid domestic work and paid work (Lorenz, Wickrama, Conger, & Elder, 2006).

It is likely that some of the women in this sample had been financially dependent upon husbands due to staying at home to raise children. Fineman (2000) argued that women's caring work within families leads to "derivative dependency", which in turn, inhibits women's ability to provide for themselves and their children financially. Research shows that women who were previously financially dependent upon men considerably increased the numbers who lived in poverty (Lorenz et al., 2006; Moghadam, 2005). This is a problem for many women because in June 2012, single-mother families made up the vast majority (780,000, or 81%) of single-parent families in Australia (ABS, 2013).

It is important to note, however, that single mothers are not a homogenous group; some mothers are more vulnerable than others. On the other hand, population rates of single-parent families and mother-headed families are increasing because of rising divorce rates. Single-parent families are vulnerable to poverty, especially when dual earners have become the norm for two-parent families (Schaffner Goldberg, 2010).

Insecure employment. Once they married and had their first child, women of the generation to which the sample of older offenders belong were expected to leave the workforce to take care of their husbands and families. Although some women born in this era did work to contribute to the family income, this was predominantly in low-paid female-centred occupations (Strachan, 2010).

The women in this sample who were employed occupied positions such as kitchen hand, carer, accounts clerk, secretary and nurse. This finding was consistent with Chesney-Lind and Pasko (2011) who described how the feminisation of poverty and the segregation of women into lowly paid customarily female occupations led to women's involvement in crimes such as welfare fraud. Thus, by current Australian standards, most of the women were under-educated.

However, most of the women in this sample were born in the 1950s and 1960s at a time when, similar to their 18th and 19th century British predecessors, they were not encouraged into higher education. Australian females were predominantly socialised and educated to occupy positions as wives and mothers. Times have changed, but according to theories of modernisation, despite economic and political changes, traditional values are resistant to change (Dahl, Shapiro, & Cheibub, 2003).

Most of the women in this research were employed on a part-time or casual basis, but superannuation was only paid to full-time, part-time and some casual employees who were paid \$450 or more per month before tax (Fair Work Ombudsman, n.d.). Similar to findings in this study of older women's participation in crime for the first time later in life, other Australian research found that unemployment and underemployment were factors that led some women to commit welfare fraud. For example, in Hui, Moerman and Rudkin's (2011) study of Centrelink prosecutions in Wollongong NSW, there was evidence to suggest that most of the offenders' employment was on a precarious and inconsistent casual basis. Another study of women in Southeast Queensland prisons found that 76% were unemployed before their incarceration (Kilroy, 2000). Their financial means of survival were through a combination of Centrelink benefits, prostitution and crime. Circumstances that led to their imprisonment included the use of alcohol or drugs, domestic violence and a need for daily living expenses. At the time of their release, 53% of women were still in debt (Kilroy, 2000),

with little prospect of resolving the financial difficulties that led them into transgressions of the law. Overall, it appears that gender inequality in employment puts some women at risk of participation in crime for financial gain.

Welfare dependency. In this sample, most of the women had at some time relied on government income support to raise their children. There are historical continuities in welfare legislation and policy (Chunn & Gavigan, 2004). For example, welfare policy has always been grounded on the separation of the ‘deserving’ from the ‘undeserving poor’. Social support in Australia continues to be based on the United Kingdom’s *Poor Law Amendment Act 1834* principle of less eligibility, whereby welfare recipients should not receive more money than the lowest-paid worker in the labour force.

Many women are forced to rely on government income support. Similar to findings in this study, in the United States a lower proportion of female arrestees reported having full-time employment and more reliance on government welfare benefits than their male counterparts (Lo, 2004). Overall, research findings suggested that female offending occurs within the contexts of restricted resources and limited choices (Byrne & Trew, 2008); however, this contradicted Broidy and Agnew’s (1997) contention that females were less susceptible to the economic pressures that males experience.

The ideological shift from welfare liberalism to neoliberalism has seen a huge expansion in the category of ‘undeserving poor’ (Chunn & Gavigan, 2004). With its emphasis on economic participation, where individuals are expected to fulfil family and community responsibilities, the primary responsibility is to the economy and the state (Wolfinger, 2015). For example, in 2006, the Australian government introduced its *Welfare to Work* policy for single parents (Australian Government, 2005). However, Grahame and Marston (2011) submitted that the *Welfare to Work* regimen was premised on the erroneous assumption that unpaid care work is not economically productive. Unpaid care work,

predominantly the domain of women, ultimately serves to disadvantage them financially over the life course.

Single mothers in receipt of government income have been consistently stigmatised. In the 1980s, moral judgments were made about the single mother's character. Although judgments such as this are less acceptable now, stigmatisation of single mothers persists by constructions that portray them as flawed economic citizens (Wolfinger, 2015). According to Murphy, Murray, Chalmers, & Martin (2011), *Welfare to Work* policy discourse also embodied the assumption that income support beneficiaries do nothing, were dependent and unproductive and therefore were not to be respected. *Welfare to Work* policy devalued caring work by assuming that it was economically unproductive; thus, single mothers were considered undeserving of a corresponding right to a fair share of community resources (Grace, 2001).

Previously, single parents could receive income support while fulfilling their unpaid care responsibilities without having to seek paid work until the youngest child turned 16 years of age (Russell, 2008). Now, recipients are required to look for and accept between 15 and 25 hours paid hours work per week once the youngest child is seven years old—or six years old for new claimants—in return for income support (Russell, 2008). Since a child's loss of parental care was not deemed economically significant, it was not a consideration in *Welfare to Work* policies (Grahame & Marston, 2011).

Returning to work is often not financially viable for some single mothers. For example, the gross cost of child care has increased by almost 10% per annum in the past decade. This increase represented a 150% price hike in just 10 years, from around \$30 per day in 2003 to \$75 per day in 2013 (Australian Mutual Provident Society & National Centre for Social and Economic Modelling [NATSEM], 2014). However, the Australian government subsidises the cost of child care for eligible families through the Child Care

Benefit and the Child Care Rebate, which has helped offset the rising cost. Child care costs have increased by 44.2% in the past five years and, in the absence of additional government assistance, out-of-pocket expenses for a parent have risen at the same pace (NATSEM, 2014). Child care costs, therefore, reduce the amount of disposable income available.

For a low-income single mother working part time (20 hours), around 45% of her gross disposable income is reduced by tax, loss of government benefits and covering the cost of child care (NATSEM, 2014). This means she would keep only \$9.09 of her \$16.37 per hour minimum wage. If she worked full time (40 hours), she would lose almost 62% of her pay and would keep just \$6.25 of her hourly wage. If a single mother working 20 hours per week part time decided to increase her hours to 40 per week, she would lose around 80% of her wage and her hourly rate. For the additional 20 hours she would keep only \$3.44 per hour (NATSEM, 2014). Thus, whether working or not, many single women are enmeshed in a cycle of poverty.

Alternatives to the use of formal care are grandparents, relatives and friends. Reportedly this informal arrangement is the most used form of child care in Australia (AMP. NATSEM, 2014). Research shows grandparents provide 23% of all hours of child care. Non-resident parents provide only 27% of all hours of child care. Since it is likely more children live with their mothers after divorce/separation, their opportunities to escape financial hardship are restrained by decisions around whether to work or not.

For single females, living on income support is not easy. As this study precluded interviewing participants, to gain a better perspective of the daily lives of women living on welfare, I drew on an Australian study undertaken by Murphy et al. (2011). This study consisted of in-depth interviews with 37 single mothers in receipt of income support. The authors found that those in the best position had pre-existing assets, low housing costs or other sources of income support. A few were more proficient at budgeting (Murphy et al.,

2011). However, a number of themes emerged among those who fared less well. The emergent themes most likely relate to the challenges faced by single mothers on income support in this study. These factors related to gender inequality clearly demonstrate how single mothers of all ages could be tempted into participation in crimes for financial gain.

Under the Medicare system, most basic health care was not a particular issue, but the study participants could not afford some medications or specialist treatment for themselves or their children. Dental care was the most prominent area where single mothers missed out. For one participant (age 42) the poor condition of her teeth was such a source of embarrassment that when attending job interviews, she made a concerted effort not to smile. To receive treatment for toothache, some women reported that they were forced to join long waiting lists (6–24 months) at dental hospitals, which meant they simply had to endure pain and discomfort in the meantime (Murphy et al., 2011).

Most of the participants reported that their income was inadequate. One single mother (age 35 years) with three children reported that she managed to pay for food, shelter and bills. However, she had no financial reserves for additional or unexpected expenses (Murphy et al., 2011). Some participants were unable to provide healthy diets for their families; for many others, food was not a fixed budget item and stories of skipped meals were not uncommon. As one participant (age 48 years) recounted, she frequently spent the last few days prior to her next payment barely eating anything at all (Murphy et al., 2011).

Other participants reported that inadequacy of income meant they fell behind in payments for basic necessities such as rent, utilities, telephone and car insurance (Murphy et al., 2011). Most participants could not afford to buy new clothes so they mainly bought cheap clothing at second-hand stores and opportunity shops. For their children, many mothers relied on handed down casual clothing, but it was particularly hard to meet the expense of school uniforms and apparel for sporting activities. Also, children often missed

out on extracurricular activities and school excursions. Most of these women could not borrow money to meet their expenses: borrowing money was out of the question because of their inability to pay it back (Murphy et al., 2011).

A disturbing statistic is that in 2012, women represented approximately two-thirds of convicted welfare fraud offenders in Australia (Prenzler, 2012). The media plays a powerful role in informing, raising awareness and shaping public attitudes towards social issues. The role that gender inequality plays in impoverishing many women is largely overlooked. To this end, Wilcock (2014) examined official discourses of the 'welfare cheat' in press releases issued by Australian government and Centrelink representatives between 1997 and 2014 to explore the significance and utility of the welfare cheat identity and how this helps to legitimise the prosecution of women, particularly for this offence.

Wilcock (2014) found that while the discursive presentation of welfare fraud offenders was often gender neutral, there was an unrelenting and insidious line drawn between women, criminality and welfare dependence in many accounts. For example, there were suggestions of incompetence as a mother. Rarely, if ever, was incompetence as a father directed at male welfare fraud offenders. Such characterisation of female welfare fraud draws upon historical representations of 'bad women'; excluding discussions of poverty unless to preclude them from the status of being in need (Wilcock, 2014).

In the 2012–13 Commonwealth Government Budget the Labour Gillard government introduced single-parent welfare cuts that affected thousands of women more particularly, since most recipients were single mothers. As reported by the Australian Associated Press (2013), this policy was highly criticised by the United Nations in a letter to the Australian government, and that this policy may violate human rights to social security, an adequate standard of living, rights of the child and the elimination of discrimination against women (Australian Associated Press, 2013).

Another criticism was that women might be less likely to leave abusive relationships if they could not financially provide for themselves or their children, or alternatively may return to abusive relationships (Wolfinger, 2015). Despite these warnings, however, the reforms were introduced by the Commonwealth Government on 1 January, 2013.

Participation in theft/fraudulent activities. Five of the women in this sample were convicted of social security fraud offences. These findings support prior research that shows women typically commit offences that include fraudulent claims for welfare benefits and theft (Byrne & Trew, 2008; Chesney-Lind & Pasko, 2011; Feldmeyer & Steffensmeier, 2007; Shichor, 1985).

Similarly, Australian research found an over-representation of women in social security fraud cases in the region of Wollongong NSW (Hui, Moerman, & Rudkin, 2011). That pilot study of Centrelink fraud cases between 2008 and 2010 revealed that whereas male offenders dominated in civil cases (62%), female offenders dominated in criminal cases (57%) (Hui, Moerman, & Rudkin, 2011). These findings suggested that gender bias applied in decisions to prosecute more men civilly, and more women criminally, for Centrelink fraud.

Motivation. In this sample, older women's motivations to commit acquisitive crimes were mixed. For the majority ($n = 5$), the motivation was financial need, followed by gambling problems ($n = 3$); for the remaining three women, their motivations were unclear. Most were convicted of fraud/theft offences; predominantly Centrelink fraud. Prior research revealed that female property crimes, particularly, tended to coincide with the onset of personal and financial problems (Byrne & Trew, 2008) and women were more likely to engage in fraud as a consequence of financial need (Jensen & Kouri, 2011). According to Steffensmeier and Allan (1996), economic pressures on females tended to be intensified by divorce and the consequent building pressure to commit acquisitive crimes.

Thus, criminality is entrenched in the conditions of women's lives and attempts to struggle for survival (L. M. Williams, 2004).

A secondary motivation for participation in acquisitive crime was gambling. For example, three of the older women's offending behaviour was precipitated by a gambling problem. Gambling has recently been identified as another pathway into poverty and, consequently, criminal activity. Australian, New Zealand and North American research has indicated that approximately half of all problem gamblers participated in income-generating crime either to fund gambling, or to pay off gambling debts (Brown, Killian, & Evans, 2005; Goldstraw et al., 2005; Thompson & Schwer, 2005; Wheeler, Round, & Wilson, 2011). According to Hallebone (1999), whereas some Australian women bought lottery tickets and played bingo for entertainment or to generate income, considerably more played casino table games and electronic gaming machines. Ultimately, this likely led to the greater impoverishment of some women as a consequence of gambling.

Electronic gaming facilities were increasingly installed in hotels and licensed clubs, and represented one of the most predominant and accessible forms of gambling (Wheeler et al., 2011), especially for women (Hallebone, 1999) and for different reasons. Brown and Coventry (1997) identified a number of reasons for women's gambling; such as gambling as a means of independence, an escape from the monotony of their daily lives, feeling safe in a male-dominated recreational environment or feelings of equality with their male counterparts. However, gambling can lead to financial difficulties.

Australian financial counselling and emergency relief services documented that over 25% of their clients disclosed that when gambling became a problem they entered into illegal activities. Research has consistently shown that criminal offences committed to recoup losses or continue gambling range from tax and social security fraud, theft from family and friends, and embezzlement from employers (K. Abbott, McKenna, & Giles, 2000; Blaszczyński &

McConaghy, 1994; Centre for Criminology and Criminal Justice, 2000; Productivity Commission, 1999). However, gambling problems might be greater than documented because many clients with financial problems might be embarrassed to admit to gambling as a cause of their difficulties.

In New Zealand, Abbott et al. (2000) surveyed 357 male prisoners and MW Abbott and McKenna (2005), 94 female prisoners, to examine the relationship between gambling and criminal activity. Nine percent of the male prisoners had received a conviction for gambling-related offences, whereas 26% of the female prisoners reported they had at some time committed a crime to allow them to gamble, or to pay gambling debts. Fraud was mentioned by 14% of the women, burglary by 5%, shoplifting 3% and robbery 2% (Abbott et al. 2000; Abbott & McKenna, 2005).

Although these studies did not aim to examine the socioeconomic status of the prisoners, there was evidence to suggest that both men and women had low household incomes and low educational qualifications. The biggest difference between male and female prisoners was women's lower participation in paid employment prior to imprisonment (36%) compared to men (55%) (Abbott et al., 2000; Abbott & McKenna, 2005). Therefore, a tentative inference from these studies was that there was a correlation between lower socioeconomic status and crime as a consequence of gambling, particularly for women.

In a later study, Wheeler et al. (2011) examined the relationship between money spent playing electronic gaming machines by problem gamblers, and various types of acquisitive crime in 1996, 2001 and 2006 in Victoria, Australia. Problem gamblers were defined as individuals who experienced severe or moderate problems because of their gambling addiction. Crimes for financial gain were defined as fraud, breaking and entering, larceny and robbery. It was hypothesised that greater levels of expenditure on electronic

gambling machines would lead to increases in crime in the areas where gaming machines were located. Findings indicated that a relationship between gaming expenditure and income-generating crime was consistently significant and positive from 1996 to 2006 (Wheeler et al., 2011). Although that study demonstrated a link between gambling and acquisitive crime, because males and females were lumped together it was not possible to establish whether men or women were more prone to become involved in criminal activity as a consequence of their gambling habits. In this study, however, more of the older women's criminal offences for financial gain were linked to gambling than were the older men's.

The link between gambling and crime is complex and the research community is only beginning to understand it (Ferentzy & Turner, 2013). Addiction to gambling was diagnosed as a psychological problem and included as a mental disorder in the Diagnostic and Statistical Manual (DSM) IV. In this version, a significant diagnostic indicator of pathological gambling included whether a gambler had committed an illegal act such as theft or fraud to finance gambling or gambling debts (Ferentzy & Turner, 2013). However, the "illegal acts" criterion was removed from the DSM V because, according to Ferentzy and Turner, it was the least frequently reported symptom in treatment settings. However, the authors held that removal of this criterion from the scale was premature and deduced that gambling was more common among people in correctional facilities.

Female, Single, Old and Poor

In the Murphy et al. (2011) study of women living on welfare, some participants reported that they were concerned about their future. They feared that their inadequate income status would continue, rendering them unable to meet daily living expenses, or ultimately, become homeless. For example, one participant (age 45 years) was concerned that she would not have financial, housing or medical security in her later years. Other

participants worried about their long-term health and capacity to earn an income and some wondered if there would even be an Age Pension to fall back on, and that their superannuation would be inadequate to sustain themselves in later years (Murphy et al., 2011).

Under neoliberalism it was assumed that every person had equal opportunity and capacity to look after themselves for the duration of their lives. However, as discussed in Chapter III, neoliberalism has produced income inequality, impoverished cultures and consequently, poorer quality of life (Li, 2004; Newman, 2013; Passas, 2000; Walby, 2011; Western et al., 2007). Neoliberal strategies have fostered increasing casualisation of paid work; in 2008 van Gellecum, Baxter and Western (2008) reported that Australian women were the largest group employed on a casual or part-time basis than men. Employment-linked benefits are only paid to full-time, part-time and some casual employees. Therefore, it is more than likely that many older women will face greater financial hardship than men in their later years. Consequently, more older women than older men may be tempted to commit crimes for financial gain due to financial hardship.

The topic of older people's crime is an issue that envelops a variety of social science and policy arenas, particularly the effects of social and economic developments on the elderly population, and their criminality (Feldmeyer & Steffensmeier, 2007). Baidawi et al. (2011) stressed that in the Australian context, attention needed to be paid to both Aboriginal and/or Torres Strait Islander offenders and female prisoners within the older inmate population. Marginalisation increases with age, but people vary along a range of criminogenic variables (Feldmeyer & Steffensmeier, 2007). However, scant attention has been paid to factors that see older females imprisoned for the first time later in life.

The feminisation of poverty over the life course extends to the poverty of lone elderly women. Australian women in retirement were more likely to have lower levels of

employment-linked superannuation balances (AGOW, 2008) due to career interruptions, child rearing, and part-time and casual work. Economic disadvantages that follow women into old age are exacerbated by the probability of being single and alone, and for a longer time than men because of sex differences in longevity. A major trend in pension reform across nations has seen policymakers reducing the amounts of public resources devoted to retirement incomes. In Australia and most countries of the world, the feminisation of poverty of older women was prevalent and it was predicted that this situation was likely to deteriorate further. The feminisation of poverty results in different life choices for women.

Profile of the Older Australian Male First-time Property Crime Offender

In the areas where there was sufficient information in the judgments for comparison, the profile of an older Australian male first-time offender differed from that of an older female first-time offender in four distinct areas: marital status, employment status, criminal act and motivation.

Marital status. Unlike their female counterparts, most of the men were married at the time of offending. Therefore, unlike the female offenders, they did not have sole care of children. They had partners who, more than likely, bore the major responsibility for their care even if they too worked.

Employment status. One offender left school at the age of 16 years of age and was under-educated by Australian standards. Where it was possible to determine employment status, compared with females, more males were in high-status, full-time occupations suggesting that they were better educated than their female counterparts. For example, two of the males were solicitors, one was a real estate agent and two owned and operated their own businesses. In contrast, the females occupied positions as kitchen hand, carer, accounts clerk, secretary and nurse. This is not unusual because in the generation to which the older men belong, boys were educated and socialised to occupy the role of family breadwinner,

and girls were educated and socialised to occupy caring and nurturing roles.

Motivation. Given the amounts of money involved in each case, the acquisition of wealth, over and above what one might need to meet day-to-day living expenses, repay a gambling debt, or feed a drug habit appeared to be the primary motivation for the majority of the older male offenders. The monetary value acquired from fraud/theft offences by the male offenders was considerably higher in most instances than that by the female offenders. This finding is consistent with prior literature.

Research has shown that men who embezzled were likely to be in positions of higher authority and power (Jensen & Kouri, 2011). Messerschmidt (1986) theorised that positions of power and powerlessness in the gender hierarchy resulted in different types and degrees of criminality and different opportunities for engaging in them. Further, criminality was strongly related to capitalist patriarchy, the structural possibilities it created and the distribution of power within the division of labour in public and private spheres (Messerschmidt, 1996; Jensen & Kouri, 2011) where women were exploited and suffered violations of their human rights. Findings of this study support Jensen and Kouri, and Messerschmidt's hypotheses as demonstrated by the motivations and types of crimes for financial gain by older men and women.

The Australian Criminal Justice System

The qualitative findings of the current study revealed five key themes related to gender inequality that contributed to the participation of women aged 45 years and over in crimes for financial gain for the first time in life. The older female first-time offender is an unpartnered mother in insecure employment who receives welfare support. To supplement her inadequate income she is likely to defraud the welfare system in order to meet daily living expenses. When she is brought into the criminal justice system she is unlikely to avoid a term of imprisonment, despite the accumulated gender inequalities that led to her impoverished status.

The criminal justice system has long been utilised as a method of social control, and more significantly perhaps, one which reflects and enforces attitudes and values that are not part of the letter of the law (Visher, 1983). For many centuries, privileged white men in Western power structures have populated the profession of law. Consequently, maleness, whiteness and heterosexuality were defined as what Scales (2006) referred to as the “human norm.” Smith (1987) conjectured that power played an important role in establishing not only how differences were defined, but also which differences were important (Smith, 1987).

Until well into the 20th century, women were not permitted to practice law in Australia; thus, the principles that developed and categories into which women were positioned were constructed by predominantly white men, in relation to their own experiences (Graycar, 1996). As a consequence, their experience and understanding of the world were also established as the legal norm: universal, neutral, objective, inevitable and complete (T. Davies, 1996; Finley, 1989). Since law was built around the white male legal norm that reflected their understandings of the world, women have struggled to realise legal subjectivity (Munro & Davies, 2016). Thus, the law has served to formulate and sustain differences between men and women. The vast majority of judges and magistrates ruling on these cases were male. Therefore, it is not improbable that sentencing decisions were influenced to some extent by subconscious gender bias.

According to Jensen and Kouri (2011), another important flaw in the process of defining women’s criminality was the focus on the individual rather than consideration of historically gendered social systems that affect women’s lives. Irrespective of whether the focus was on accrediting a woman’s crime to mental illness, or whether she was portrayed as greedy or evil, motives for the commission of a woman’s crime were generally diverted from the influences of the larger social forces. Thus, emphasis was placed on the individual, playing down such influences (Jensen & Kouri, 2011). Graycar and Morgan (1996)

suggested that as long as structural barriers remained in place, the narratives of women would continue to be minimised or ignored. On the other hand, if heard, their stories would only have limited impact in sentencing decisions.

Formal equality. The Australian criminal justice system aspires to the principle of equal treatment (Bartl, 2012); in other words, formal equality. Formal equality mandates that women and men be treated the same on their merits, regardless of gender. It only requires that two similarly placed individuals be treated in a similar way (Fredman, 2013). However, exclusion from legal subjectivity has devalued women by its failure to take into account the causal structures that differentiate and disadvantage women (Anagnostou, 2013). Inevitably, these social structures shape their lived reality and experiences. However, there was a tendency to consider these factors as irrelevant to a range of non-criminal law issues (Graycar, 1996). Treating gender as irrelevant ignores the intractable disadvantages and harms experienced by many women (Fredman, 2013).

Decisions to imprison. Over centuries and decades, prisons have served a number of social and political functions. As a way of keeping society safe, particularly from violent offenders, incarceration has been a constant. However, which non-violent crimes warrant incarceration, the duration of incarceration and the functions that incarceration should serve have changed over time and across jurisdictions (Trestman, 2014). Currently, the *Standard Minimum Rules for the Treatment of Prisoners* (UN, 1977) sets out what is generally accepted as good principle and practice. Rule 58 decreed that the purpose and justification of imprisonment was ultimately to protect society against crime: “This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life” (UN, 1977). It is likely that many individuals with criminal records, however, are precluded from leading self-supporting lives because of employer

discrimination.

Ward and Donnelly (2007) argued that there were two central positions towards crime and individuals who commit crimes. On the one hand they claimed that individuals who commit crimes were dismissed as alien others or moral strangers who did not warrant consideration; thus, their interests were of minor concern when sentencing them to imprisonment. On the other hand, they were accepted as fellow human beings who were deserving of a chance to redeem themselves and live worthwhile lives (Donnelly & Ward, 2008). Both positions penetrated the core of containment and rehabilitation policies (Andrews, Bonta, & Wormith, 2006). From the court transcripts examined in the current study, it appeared that both positions were reflected by judges in the cases.

According to some feminist scholars, legal judgments in imposing sentences ineffectually reflect the reality of women's lives in comparison to men's (Graycar, 1996; Sarma, 1993–1994) because legal categories and legal fact findings are both vulnerable to biased reasoning (Cunliffe, 2007). Further, Casey and Rottman (2000) concluded that the strict adherence of rules to the facts of a case may lead to legally relevant but ineffective decisions.

Offenders' Personal Circumstances and Sentencing Decisions

Only one female avoided imprisonment because of her advanced age, ill health and dire personal circumstances. In most instances it appeared that women's financial hardship or the consequences that led to their financial hardship were not considered sufficient reasons to escape a period of imprisonment. Imprisoning financially disadvantaged women does little to address their problems. Rather, imprisonment is more likely to further exacerbate their financial hardship and future prospects of employment.

In case study F4, although the magistrate reported that he had taken her financial circumstances and factors that created them under consideration (an alcoholic husband

unable to work, her own intermittent and variable work, and pressures arising from family debts), he did not regard her case as one involving desperate need. Case study F8 involved a widow who worked as a part-time disability worker to help pay for daily living expenses. The Appellate Court judge conceded that individuals convicted of this type of offence are customarily low-paid and poorly skilled members of society for whom life is a struggle; nevertheless, the judge considered imprisonment the only appropriate penalty.

None of the older male offenders were involved in offences involving Centrelink fraud. Thus, it was not possible to determine whether they, like women, would similarly have attracted imprisonment sentences. Nonetheless, in instances of fraud/theft crimes, it could be inferred that judges demonstrated a gender bias in sentencing some female individuals. For example, in case study M1, the judge claimed that since there was no direct evidence of the motivation for his crime—although it was not improbable that his motive was greed—he excluded it from consideration in sentencing. However, there was certainly no evidence suggesting the contrary. Considering a term of imprisonment the judge appeared to focus on the offender's professional status as a solicitor by remarking that "for a lawyer, 67 years was hardly old, but does mean that you are likely to suffer more from the effects of prison than the majority of the prison population" ("*R v Bernstein*", 2008, para. 46) and imposed a suspended sentence of imprisonment. It appeared that in comparison to male offenders, female offenders fared poorly in the criminal justice system.

In sentencing the offender in case study M2, the judge acknowledged that the reasons for committing these offences were related to financial stress and that his ability to cope with such pressures had markedly diminished. Unlike the majority of women in this sample whose offending was motivated by difficult circumstances and financial stress and who were imprisoned for their transgressions, this offender was also granted a suspended

sentence.

Case study M3 also involved a man who took advantage of a client in his professional position of trust as an estate agent. In this instance, the offender was sentenced to a term of imprisonment. However, the judge remarked that, "Imprisonment will be harder for someone like you than for many others" ("*R v Talia*", 2009, para. 18). What these three offenders had in common was that they all occupied higher status work occupations. Consideration of what imprisonment would mean was not directly stated as a consideration for the financially disadvantaged older women in this sample.

The circumstances leading to the criminalisation of the offender in case study F11, where the defendant submitted personal receipts of a similar value to claim \$28.85 owed to her, and overlooked \$4.80 for a cup of tea and was refused a spent conviction order were particularly disquieting. This judge's inference was that the offender had breached the trust of her charges rather than the trust of her employer. As if instant dismissal was not sufficient punishment for such minor misconduct, criminal charges were laid by her employer. Irrespective of the total amount in question (\$33.65) and from a legal perspective, although she had technically submitted false receipts, there was no apparent motive (need or greed) to defraud anyone. In effect she was punished twice. This case study represents an example of how poorly some women are treated in the Australian criminal justice system.

In case studies F11 and F5 the judges refused spent conviction orders. In all probability a criminal record would have affected the women's ability to acquire work. According to the AHRC, Australians who have a criminal record often face significant barriers in finding a job even though they have paid their debt to society. The Human Rights Equal Opportunity Commission has received a number of complaints from people with a criminal record who believe they have experienced discrimination in employment because of this record (AHRC, n.d. b). Further, according to Rule 58 of the UN's (1977) *Standard*

Minimum Rules for the Treatment of Prisoners, the protection of society against crime can only be achieved if imprisonment is used to ensure that offenders are not only willing but able to lead a law-abiding and self-supporting life. Employer discrimination against people with a criminal record, and age discrimination against older people in the labour force often preclude this option.

Limitations

Similar to all research this dissertation addressed a gap in the research. One limitation of the qualitative component of the study was the small sample size that was restricted to using Unreported Judgment transcripts that likely did not reflect the true extent of older female offenders convicted of acquisitive crime for the first time later in life. Therefore, these findings cannot be generalised to other populations. Secondly, the utility of court records did not provide an understanding of offenders' subjective daily life experiences in the Australian male-dominated social structure.

Human Rights Violations as a Pathway to Older Women's Crime

People who transgress the law come to the attention of criminal justice systems not only because of what they do, but as a consequence of a range of personal social, economic, and political susceptibilities (M. Brown, 2006). Although domestic laws define women who commit crime as offenders, in many instances they can be conceived of as victims (Jensen & Kouri, 2011). More specifically, many women are victims of the male-oriented nature of society that discriminates against them. Discrimination is an insidious violation of human rights. However, in the criminal justice system, how violations of women's human rights might factor into their disadvantaged position and subsequent criminality are disregarded.

Human rights law refers to a recognised body of law that is distinct from other legal and political measures to protect rights. Although human rights are embedded in law at every level—international, regional and national—effective implementation is often

inadequate (Morison, McEvoy & Anthony, 2007).

This study examined the prior life circumstances of 11 older women prior to transgressing the law for the first time later in life. From a human rights perspective, it could be argued that violations of their rights were factors that contributed to their offending behaviour.

First, financial hardship was a common theme among this group of women. The *Montréal principles on women's economic, social and cultural rights* (International Federation for Human Rights, 2002) held that economic, social and cultural rights have a distinct significance for women because as a group, they were disproportionately affected by poverty and by social and cultural marginalisation. According to the International Federation for Human Rights (2002), women's poverty was a central manifestation and direct result of women's lesser social, economic and political power that reinforced their subordination and inhibited their enjoyment of other rights.

With regard to social and economic rights, Article 22 of the UDHR promised resources and services from states to meet the needs of all members of society to enable them to live a decent life. Economic deprivation, or lack of income, is a standard feature of most definitions of poverty. However, this does not explain or account for the social, cultural and political aspects of the phenomenon.

Human rights approaches define poverty as a structural deficit and public responsibility, rather than misfortune or individual failure. Perhaps the most common way that poverty is framed in the West is through the lens of charity where it is presented as a personal predicament, and solutions arise from gifts and donations rather than institutional changes. However, charitable strategies depoliticise the issue and stigmatise the poor. Further, providing charity fails to adequately address the issue of poverty (Chong, 2010).

Article 23(2) of the UHDR mandated that everyone had the right to equal pay for

equal work, but this was not the case in Australia and other parts of the world as was discussed in depth in Chapter IV. Article 23(3) referred to the right for sufficient remuneration to ensure a family existence worthy of human dignity.

The feminisation of poverty means that women are more likely to be beneficiaries of social assistance. Often, however, the assistance to single mothers is inadequate. Articles 25(1) and 25(2) of the UHDR provided for the right to a standard of living adequate for the health of a family, and that motherhood and childhood were entitled to special care and assistance. If mothers on welfare were unable to provide adequate nutrition it could be argued that this contravened their rights and those of their children.

Although it was not possible to identify ageism experienced by women in the study sample, this is a significant issue that affects women's ability to provide for themselves financially. A significant constraint for older women who want or need to work is gendered ageism by employers. Article 23(1) of the UDHR, which concerns the right to work, was highly contested (Cooper, 2009). By many, it was viewed not merely as an economic means, but as a fundamental right and precondition for attaining social justice. An approach that acknowledged that the right to work was a human right appreciated not only the economic and social costs of unemployment, but also the positive effect on an individual's feelings of self-worth (Cooper, 2009). It could be argued that barriers to employment contravene Article 2 of the UDHR, which mandated that everyone is entitled to all rights without distinction of any kind.

Sexual and physical abuse at the hands of men was another issue that arose for some women in this group of offenders. MacKinnon (2011–2012) described domestic battering as a gender crime and the foundation of male dominance as a substantive system. Article 5 of the UDHR decreed that no individual should be subjected to torture, or cruel, inhuman or degrading treatment. Gill and Anitha (2011) argued that this included physical harm; intense

physical or mental suffering; conduct that humiliated an individual; conduct that showed lack of respect for an individual or diminished human dignity; and conduct that aroused feelings of fear, anguish or inferiority. Articles 1 and 3 of the UHDR also referred to rights to dignity and security of person.

Gender-based violence affects women disproportionately. Some battered women avoid testifying against their abusers for reasons that include fear for their and their children's lives and security. Another reason is loss of economic support in the absence of sustainable economic options as women in the paid workforce. For women who take steps to testify against their batterer in court, this is when their lives become most unsafe (MacKinnon, 2011–2012). Gender-based physical violence not only results in women's death in many instances, but as was evidenced in case study 7, can result in ongoing pain and mobility problems. Emotional abuse can be just as crippling. Although adult men are subjected to abuse by women it is to a much lesser degree. Laws designed to protect women from domestic violence, like other laws against discrimination, have failed to adequately address the problem.

According to Gill and Anitha (2011), applying a human rights framework can bring about tangible protection for victims of domestic violence and is capable of empowering women. However, when Britain's executive and judiciary discussed the issue of domestic violence, there was a marked absence of reference to human rights. Consequently, Britain's 2006 guidelines on sentencing similarly made no reference to human rights (Gill & Anitha, 2011). Disregarding the salience of women's human rights is a reflection of the widespread acceptability of violence against women.

Not everyone has faith in human rights approaches in the quest for equality. According to Douzinas (2013), human rights are perhaps the most important liberal legal institution. However, liberal jurisprudence and political philosophy have failed dismally in

their understanding of rights. He pointed out that never before in peacetime conditions had so many men, women and children been subjugated, starved or exterminated. Thus, for Douzinas (2013) this meant that human rights have no common meaning.

Douzinas' (2013) view was that natural rights were declared on behalf of the universal "man"; they did not pre-exist, but were rights created by the UDHR. Thus, the sovereign nation emerged and the universal humanity of liberal constitutions became the normative ground of division and exclusion. National citizens became beneficiaries of rights, but the "rights of man" materialised without gender, colour, history or tradition and allowed him to claim legal subjectivity. The empirical man who belonged to the community of the powerful epitomised a prosperous, heterosexual, white urban male. Thus, mankind excluded women, racial, ethnic and sexual minorities (Douzinas, 2013).

The contemporary history of human rights reflects an ongoing, but always failing struggle to close the gap between the abstract man and the actual citizen; since this has not yet transpired, it is unlikely to be achieved through human rights measures (Douzinas, 2013). Douzinas reasoned that since liberal equality has failed to close the gap between the rich and the poor, human rights could contribute little to the struggle against capitalist exploitation and political domination.

In Douzinas's (2013) view, laws hinder the advancement of human rights. By way of explanation he argued that laws and rights construct a formal structure where individuals are allocated to a place in a matrix of relations that are resolutely indifferent to the needs or desires of flesh and blood people. Therefore, legal rights offer the minimum recognition of abstract humanity. Further, when a state assumes universal human rights, it will interpret and imply them, if at all, in accordance with local legal procedures and moral principles (Douzinas, 2013). While much of what Douzinas claims might be true, human rights discourses add value and condense feminist approaches.

Human Rights, Substantive Equality and Social Justice

In the modern world there are very few places in the world where women share equal social and economic rights with men (Apodaca, 1998). Thinking about women's human rights, violence against women is usually the first issue that comes to mind; not poverty, education, unemployment, housing, water, food, security and social rights issues (Programme on Women's Economic, Social and Cultural Rights, 2010). It is important to accept that social injustices emerged historically that remain directly connected to the lived realities of many people today and to continuing movements for social justice (Grove, 2014).

Social justice is based on the principle that all individuals should benefit from equal basic rights, protection, opportunities and social benefits. It provides a basis for moral and political validity because "Human rights advocacy confronts unequal social relations, economic conditions and political structures" (Grove, 2014, p. 173) that disadvantage vulnerable groups, including the elderly.

In international human rights law, the conceptual understanding of equality and substantive equality developed and has expanded over recent decades. As conveyed in provisos in domestic constitutions and international instruments, "equality before the law" is a term associated with a Western model of liberal democratic authority and originally referred only to the right to be subject to the same laws (Goonesekere, 2014).

Subsequently, the term was extended to refer to "equal protection of the law" and involved the existence of a legal system that did not permit discrimination in the content of the law. Where only the phrase "equal protection of the law" was used, national jurisprudence expanded to include equality before the law (Goonesekere, 2014). However, international human rights bodies responded to the actuality of discrimination, including gender-based discrimination, and called for interventions that go beyond those purely based

on law to achieve what was described as “substantive equality”. The concept of substantive equality has been incorporated into the work of CEDAW.

First, in its transformative form, substantive equality requires social institutions to change as opposed to expecting individuals to conform (Hellum & Aasen, 2013). Second, substantive equality takes into account existing power structures and the role within them. Substantive equality does not aim at equal treatment; rather, where equal treatment leads to disadvantage for women, it may be necessary to treat women differently to achieve equalities of outcome. Third, substantive equality is not equal in outcome on the premise that equality cannot be achieved by treating all equally badly or by removing benefits from more privileged classes. It is substantive in the sense that it advances individuals as opposed to ensuring only consistency (Hellum & Aasen, 2013).

Albertyn (2007) argued that the assumption of states is that their only legitimate role is to stop discrimination, rather than requiring measures to be taken to remedy disadvantage. In support of her argument she held that “In most societies, poverty and subordination are the results of a legacy of social relations, shaped by power, that have become so encrypted within social institutions and policies that they are no longer visible” (Albertyn, 2007, p. 209).

According to Albertyn (2007), substantive equality presents ideas of economic inequality as a social disadvantage. With regard to the neoliberal policy of personal responsibility her view was that simply attempting “to address gender inequality by encouraging greater participation by women in paid work can entrench inequality unless attention is paid to the distribution of work in the home, equal pay for work of equal value, and other recognition issues” (p. 210).

Economic inequality is not the only social disadvantage: many women are subjected to violence by men. However, rather than a shortfall of law, the insecurity of women’s

person because of their sex is still widely regarded as a fact of life (MacKinnon, 2011–2012). When women are abused, seldom are the acts, or the systemic failure to prevent and sanction them, found to discriminate based on sex. The dominant perspective from the top of the inequality hierarchy dictates what constitutes reality, how it is seen and how it is dealt with (MacKinnon, 2011–2012).

As an example of the application of the substantive equality perspective, MacKinnon (2011–2012) discussed prostitution in the US. From the substantive equality perspective prostitution was a gendered activity that was fundamental to male dominance and treated people, mostly women, as objects for sexual use, making them social inferiors and stigmatising them as human dirt. Conversely, laws against pimping were largely unenforced and laws against buying sexual services, an activity usually engaged in by men, were largely non-existent. The absence of laws and law enforcement against those who exploited people in prostitution was substantive sex discrimination, as was the pattern of criminalising prostituted people. According to MacKinnon (2011–2012) a substantive sex equality approach would decriminalise females who sold sexual services in a subordinate position and criminalise those who bought and pimps that sold their services, a substantively male-dominant behaviour. However, because many women would be economically disadvantaged by any laws that affected this gendered industry, it might still constitute discrimination. This quandary reflects some of the complexities surrounding the attainment of full gender equality.

In short, substantive equality aims to assuage the effects of formal equality by recognising that all individuals are socially situated and that their abilities and opportunities are defined by their relationships with other people (Lacey, 1998). In law this means remedying the primary sources of discrimination to foster greater equality of outcomes by reflecting on gender inequalities that are entrenched in supposedly neutral laws and

institutions (Anagnostou, 2013). Rather than by reference to abstract legal norms differences and their effects should be considered in particular social contexts that include histories of past disadvantage, which may still have symbolic, economic or social consequences for a disadvantaged group (Anagnostou, 2013)?

Just as there are problems with formal equality, there are also problems with substantive equality. Equality began to be understood as substantive in 1989 when the Aristotelian approach of treating “likes alike and unlikes unlike” was repudiated for the first time in history and replaced with a substantive test of historical disadvantage (MacKinnon, 2011–2012). Attempts to address substantive equality using legal means were confronted (India, Canada, South Africa, Ireland, United Kingdom) by reluctance from legislatures and courts to acknowledge the justiciability of social rights (Goonesekere, 2014). However, inherent tensions flow from the essentially comparative nature of the claim that a woman was treated unequally because of their gender. According to Munro and Davies (2016) this was because equality claims could not be detached, at least in legal contexts, from questions of ‘equal to whom?’ and ‘which women?’ Thus, Munro and Davies (2016) concluded that the formulation of new descriptions, concepts and legal rules would avoid debates around whether or not women were similarly situated to men. Fredman (2013) argued that to fully address gender-specific factors that cause women’s disadvantage, rights must be infused with substantive equality.

Countries with similar histories to Australia of Western colonisation, such as Canada and South Africa, are regarded as having progressive legal systems that are committed to a substantive understanding of equality (Munro & Davies, 2016). However, feminist scholars have shown that courts in these countries were unresponsive to claims against gender inequality (Brodsky & Day, 2005; Jagwanth, 2005) and that they very often failed to understand and apply substantive equality correctly and consistently (Graycar & Morgan,

2004).

In South Africa's Constitutional Court, for example, Bonthuys (2008) found that gender equality claims characteristically succeeded in relation to domestic violence and reproductive rights. However, using formal equality reasoning, judicial responses to sex workers, women's claims in family law and socioeconomic rights were frequently rejected (Albertyn, 2007). Gender inequality claims were often sidestepped by adopting a liberal view of society where individual women's life choices were impervious to their social, economic and cultural contexts (Fudge, 1987).

The effective application of substantive equality in courts has met with a number of difficulties. A number of explanations have been put forward for courts' inadequate application of substantive equality. Smart (1992) argued that substantive equality runs counter to their understandings of what is legally relevant (Smart, 1992). According to Munro and Davies (2016), courts failed to understand substantive equality, issues inherent in the concept, and limitations imposed by the nature of law and the legal process. Graycar and Morgan (2004) argued that because judges and legal practitioners generally did not read academic literature, their understandings of the substantive equality perspective were impeded, so complex and sophisticated feminist analyses were not as easily understood as the more familiar concepts of formal equality. The implication here was that substantive equality has not moved on from the academic literature and human rights conventions, or legal policies. Alternatively, some judges and legal practitioners may be convinced that women have already achieved equality and thus, assume that formal equality is appropriate (Graycar & Morgan, 2004).

The subject of equality, however, is open to discussion. A substantive equality perspective begins by asking, what is the substance of a particular inequality and are the facts an instance of that substance? The Canadian Supreme Court and the South African

Constitutional Court both understand that equality and the prohibition of discrimination need to be founded on human dignity; therefore, there was a tendency to reduce the concept of the substantive equality perspective to a single dimension such as dignity (Hellum & Aasen, 2013).

Deprivation of dignity, for example, is often a powerful dimension of the substance of inequality (MacKinnon, 2011–12). The concept of dignity is particularly susceptible to culturally based differences, but according to MacKinnon “If inequality were understood in terms of its specific hierarchical substance, which is virtually always, material as well as dignitary, all this would not be covered up” (p. 11). The substantive approach recognises that inequality is always a social relation of rank ordering, characteristically of a group or categorical basis where inequalities often intersect and overlap. According to MacKinnon (2011–2012), the hierarchy itself is at the core of the inequality problem.

Equality of opportunity alone is also too vague to serve as a legal constituent of the substantive equality perspective. For example, it may be possible to remove barriers at the point of entry, but this will not necessarily guarantee that women are in a position to avail themselves of opportunities; additionally, it will not transform arrangements that lead to inequality in the first place (Hellum & Aasen, 2013). For example, the option to work part time might make it possible for more women to enter the workforce, but the preponderance of women in part-time work is unlikely to change and, unless the division of labour in the home alters and men take on more responsibility, it is likely to increase women’s burden of combining paid work with family work. To better address the core of the substantive equality perspective, Hellum and Aasen (2013) argued that it should be regarded as having four facets.

The first dimension referred to was that the substantive equality perspective concentrates on resolving disadvantage both materially and socially. Therefore, the

substantive equality perspective aims to redress disadvantage in its gendered context in relationships of power that include women's subordinate position in the family and reproduction, and in paid work. More particularly, substantive equality perspective envisaged different treatment to redress disadvantage (Hellum & Aasen, 2013).

The second dimension of the substantive equality perspective that Hellum and Aasen (2013) proposed was that of respect, recognition and dignity. The concept of 'recognition' was based on the view that identities were constructed, in part, in terms of the ways in which others regarded us and included stigma, stereotyping, humiliation and violence on the basis of gender. These wrongs could be experienced by anyone, irrespective of socioeconomic disadvantage. The authors argued that it was important to recognise this need as a separate facet, in addition to the redistributive dimension Hellum and Aasen (2013).

The third facet of substantive equality was the way in which it dealt with the detriment that was attached to difference (Hellum & Aasen, 2013). Instead of expecting women to conform to entrenched male norms, substantive equality required transformation of existing male-oriented institutions and social structures. It required recognition of the ways in which not only imbalances in power in the family can reinforce power imbalances in the public sphere and vice versa, but also accommodation of differences between women and men (Hellum & Aasen, 2013).

Finally, substantive equality requires hearing and responding to women's voices rather than imposing top-down decisions (Hellum & Aasen, 2013). Conveying women's interests from a gendered perspective requires closer attention to the diversity of women's voices. Women's voices should be heard in engendering socioeconomic rights but according to Hellum and Aasen (2013), socioeconomic rights are necessary to give women the capability of conveying their standpoints.

MacKinnon defined women as "a social group formed by gender inequality in all of

its substantive domains, which are sexual and economic, among others” (2011–2012, p. 13). All humans are equal and no group difference makes one social group inferior or superior to another group. Everything makes everyone different from everyone else in social groups, but no group characteristic makes everyone in one social group more or less valuable than every individual in another group (MacKinnon, 2011–2012). However, the reality is that the international social system founded on the lie of male superiority and female inferiority perpetuates an apparently intractable problem.

Conclusion

The preponderance of fraud and deception found among the older female offenders in this sample is consistent with the idea that gendered disadvantage financially impairs women in later life. Five key themes based on gender inequality emerged that potentially contributed to placing older women at risk for acquisitive crimes: unpartnered mothers, insecure employment, welfare dependency, participation in theft/fraudulent activities and motivation. However, regardless of the historical discriminatory practices that lead to women’s restricted resources and limited choices under the male-oriented social system, financial hardship was not deemed sufficient justification by judges for older women to avoid serving terms of imprisonment.

This study suggested that the prior personal circumstances of older male first-time property offenders differed from older female first-time property offenders in the areas of education, marital status and motivation. A significant finding was that contrary to older female offenders whose primary motive was economic necessity, financial enrichment was the predominant motivation of the older male offenders. Analysis of judges’ sentencing decisions within the same legal parameters demonstrated how judges’ thought processes differed, causing them to arrive at different conclusions. This emphasises that even if all judges were aware of, and understood, the concept of substantive equality it was still likely

to be inconsistently applied. Since the Australian criminal justice system recognises that social and economic disadvantage are linked to the offending behaviour of Aboriginal and/or Torres Strait Islanders, the same considerations should be given to female offenders.

Many women become victims of the male-oriented nature of society that discriminates against them, which is a violation of their human rights. Histories of discrimination are connected to their lived realities, resulting in different life choices for many women. The concept of substantive equality has been incorporated into the work of CEDAW as a means of assuaging the effects of formal equality. Substantive equality recognises differences and their effects, particularly social contexts that include histories of disadvantage. This thesis argued that violations of women's human rights were factors that contributed to their offending behaviour.

Chapter VIII: Conclusion

The first question this thesis sought to address was the extent of Australian women's participation in acquisitive crimes in the 20–44 years age group and the 45 years and over age group, in comparison to men in the same age groups. The second question this thesis sought to address was: what factors related to accumulated gender inequalities over the life course potentially contributed to the participation of women aged 45 years and over in acquisitive crime for the first time later in life?

Findings from the quantitative data revealed that in 2015, overall imprisonment rates for involvement in acquisitive crimes were greater in the younger male and female age groups than the older male and female age groups. The proportion of female prisoners aged 45 years and over increased at a greater rate than that of male prisoners in this age group. Increases in the proportion of female prisoners in this age group cannot merely be attributed to increases in the general population. Overall, female participation in acquisitive crimes reflected a gradual decrease between 2008–09 and 2014–15. However, participation in acquisitive crime by females in the 45 years and above age group increased over the same period.

The research examined a range of factors from which five major themes related to gender inequality emerged: marital status, insecure employment, welfare dependency, predominance of involvement in fraud/theft motivated by a need to pay for daily living expenses. Findings suggested that having the main custody of children after divorce was a factor in the women's offending behaviour. Divorce is beset with challenges for men and women alike, but for many women the challenges are more burdensome when they attempt to juggle family work and paid work. Factors impeding some women's ability to earn an adequate income included job segregation into low-status and low-paying jobs. The

casualisation of paid work adds to the difficulties of single women striving to support themselves. These findings are consistent with prior research where it was held that the feminisation of poverty and the segregation of women into lowly paid, female-dominated occupations led to women's involvement in crimes such as welfare fraud.

Most of the women in the study relied on government income support. Since more children live with their mothers than their fathers after divorce/separation, women's opportunities to escape financial hardship are constrained by decisions regarding whether or not to work. However, returning to work is often not financially viable for some single mothers because income tax deductions, loss of government benefits and the cost of child care reduce the amount of disposable income available. Thus, whether working or not, many single women are enmeshed in a cycle of poverty.

For single females, living on income support is not easy. Prior research revealed that many female welfare recipients reported that their income was inadequate. Difficulties encountered included having no financial reserves for additional expenses after paying for food, shelter and bills. Others were unable to provide adequate nutrition for their families; for others, skipped meals were not uncommon. Children also suffered because mothers could not meet the expense of school uniforms or sporting apparel, or extracurricular activities and excursions. Therefore, the responsibility of poverty was placed onto mothers.

At the time of offending most of the women who were employed were employed on a part-time or casual basis in traditionally female occupations such as kitchen hand, carer, accounts clerk and nurse. Employment-linked superannuation benefits are only paid to full-time, part-time and some casual employees paid \$450 or more per month. This puts many women particularly at risk of financial hardship in later years.

The majority of women in the sample were convicted of fraud/theft offences, but predominantly Centrelink fraud. Prior Australian research findings suggested that gender-

bias applied in decisions to prosecute instances of fraud as evidenced by the over-representation of women in criminal court cases compared with male offenders. Male offenders were more likely to dominate in civil cases for the same offence. The media played a powerful role in informing, raising awareness and shaping public attitudes towards social issues. In the discursive presentation of welfare fraud by Australian government agencies, an insidious line was often drawn between women, criminality and welfare dependency. Australian media news reports on the other hand, were mostly sympathetic towards single mothers' impoverished circumstances. However, an evaluation of the causes of single mothers' poverty was largely absent from the content.

Neoliberalism's focus on personal responsibility for individuals' financial circumstances imposes more regulations upon welfare recipients. A disproportionate focus is placed on welfare fraud even though savings acquired from tax initiatives preventing tax evasion far outweighed those from policing welfare fraud compliance. Rather, the messages about welfare fraud that idealised the goal of economic efficiency took precedence over examining and taking measures to alleviate the causes of poverty.

Research has established that over their lifetime, women generally were less well off than men. Coupled with job segregation, lower wages, discontinuous employment, unpaid caring work and the casualisation of labour, many women were disadvantaged by an inability to build up adequate superannuation retirement funds. However, it is still assumed that all people have equal capacity to accumulate sufficient retirement funds via employment contributions over the life cycle. To avoid destitution, all people are expected to work, but negative age discrimination against older people in the labour force often precludes this option. Therefore, due to systemic gender inequalities over the life course, impoverished circumstances may await many older Australians, particularly older women.

The most significant finding of this study was that overall, financial need was a

precursor to older women's offending whereas men's offending was related to the desire for money, or greed. The monetary value acquired by males in their fraud/theft offences was considerably higher in most instances than that by the female offenders. This study was also consistent with prior research that women predominated in fraudulent activities and that the amounts stolen were generally low. Similarly, the current research findings were consistent with those from prior research showing that more women's embezzlement occurred in positions of relative lower power and status compared to men, and that women were more likely to engage in fraud as a consequence of financial need.

Gambling arose as a precipitator for some female offenders' participation in crimes for financial gain. Gambling has recently been identified as another pathway into poverty and, consequently, criminal activity. In interviews, female prisoners mentioned fraud, burglary, shoplifting and robbery. Previous Australian and New Zealand studies tentatively indicated a correlation between lower socioeconomic status and crime as a consequence of gambling, but more particularly for women. Other factors attributed to women's gambling were as a means of independence, an escape from the monotony of their daily lives, feeling safe in a male-dominated recreational environment or feelings of equality with their male counterparts.

This offender cohort was born and raised at a time when girls were socialised and educated to occupy designated positions in patriarchal capitalist society as subservient wives and mothers, and boys as dominant breadwinners. According to modernisation theories, however, deeply ingrained traditional values are resistant to change, despite political and economic changes.

Overall, financial hardship was a common theme among this group of women. This thesis examined older female participation in crimes for financial gain for the first time later in life from a human rights perspective where it could be argued that violations

of their rights were factors that contributed to their offending behaviour. For example, Article 22 of the UDHR relates to social and economic rights. Freedom from poverty was enshrined in Article 25 of the UDHR. Article 23(2) mandates that everyone has the right to equal pay for equal work and Article 23(3), the right for sufficient remuneration to ensure a family existence worthy of human dignity. Articles 1 and 3 also refer to rights to dignity and security of person. Articles 25(1) and 25(2) provide for the right to a standard of living adequate for the health of a family, and that motherhood and childhood are entitled to special care and assistance. Article 5 of the UDHR refers to torture, cruel, inhumane or degrading treatment.

The question of whether domestic violence could fall within the ambit of human rights violations was settled by the European Court of Human Rights Australia's judicial system, which mandates that women and men be treated the same on their merits, regardless of gender. However, treating gender as irrelevant ignores the intractable disadvantages and harms experienced by many women. Social injustices emerged historically and remain directly connected to the lived realities of many women today.

Some women are treated unfairly throughout their lifetimes in male-dominated social systems by policies that constitute breaches of human rights. Poverty is the plight of many women today, but when brought into the criminal justice system, again they fare poorly. They are punished for the circumstances that gender inequality contributes to the criminal acts of some women rather than finding solutions to redress gender inequality.

In comparison to the female offenders, this research found that the male offenders differed in three significant areas. First, at the time of offending, most of the male offenders were married and it was determined that at least some had children. Secondly, their employment was in higher status, higher paid positions. Apparently, none of the male offenders were reliant upon welfare payments. Finally, there was no evidence to suggest

that any of the male offenders' motivation to commit acquisitive crimes was due to a need to pay daily living expenses. Rather, the primary motivation was purely the desire for money over and above their daily living expenses, also known as greed. However, they were less likely to receive terms of imprisonment for theft/fraudulent activities than were their female counterparts.

The concept of substantive equality has been incorporated into the work of CEDAW. It is substantive in the sense that it advances individuals as opposed to ensuring only consistency. Substantive equality aims to assuage the effects of formal equality by recognising that all individuals are socially situated and that their abilities and opportunities are defined by their relationships with other people. In law this means remedying the primary sources of discrimination to foster greater equality of outcomes by reflecting on gender inequalities that are entrenched in supposedly neutral laws and institutions. To fully address gender-specific factors that cause women's disadvantage, rights must be infused with substantive equality.

As discussed in Chapter IV, confusion surrounded the term feminism due to evolving trends in the feminist movement. Consequently, various negative statements have been expressed regarding its meaning, ranging from "women marching with signs" to an "individual who discriminates based on gender", from "bitches in suits" to "uptight lesbian women who don't look good" and "pissed off women". Expressed definitions commonly included that a feminist was a female, indicating a common perception that feminism was the preserve of females.

Many people were reluctant to identify with the feminist label even though they agreed with the core principles of feminism. In the Australian context, potential repercussions for public disclosure of self-identification as a feminist in the media industry have hindered careers. Celebrities have the ability to influence other people's opinions and

beliefs, either negatively or positively. Some high profile women's views on indicated that they were compelled to disassociate themselves from the term. Others appeared to believe there was no longer a need for feminism, whereas others preferred to refer to themselves as humanists.

If women globally were totally free from the injustices of discrimination, feminist concepts would most certainly become obsolete. However, gender inequality is omnipresent, and the negative stereotypes of women who strive for gender equality present a significant challenge to the term feminism.

Liberal feminist criminology embraced equal rights and radical feminism, gender inequality. Socialist feminism held that men in powerful positions were situated to commit more serious and harmful crimes, including human rights violations. They also embraced the exploitation of women's labour, the gendered division of labour and women's work. The pathways perspective attributed histories of violence and sexual abuse to certain crimes and intersectionality, overlapping social identities. Underlying all of these theories explaining gender inequality, were issues that could be considered violations of human rights.

In conclusion, it is now time to abandon the feminist label and adopt a human rights approach that adds value and condenses feminist approaches, thereby gaining greater support in the pursuit of gender equality. Further, if substantive equality was incorporated into Australian domestic laws instead of women being expected to conform to entrenched male norms, this could lead to the transformation of existing male-oriented institutions and social structures.

Policy Implications

Findings from this dissertation have important implications for policy and practice as the qualitative component of the study revealed. One way to eradicate social harms such as

women's disadvantages based upon gender inequality requires dismantling the prevailing ideologies and systems of discrimination that underlie them. Eradicating gendered disadvantages promotes equality, but given that social systems fostering gender inequality have historically been resistant to change, this is not likely to happen in the foreseeable future.

This dissertation generated opportunities for further research. The topic of older indigent women who resort to acquisitive crime for the first time later in life in order to meet daily living expenses could be explored in future qualitative analysis of offenders' narratives. Breaches of human rights that contribute to women of all ages underwrite their impoverishment and subsequent criminality.

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