

Keynote Speech – DWL 2022 Mentoring Program Launch Event

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Sex, like race, has been made the basis for unjustified or at least unproved assumptions, concerning an individual's potential to perform or to contribute to society ...

These distinctions have a common effect: They help keep woman in her place, a place inferior to that occupied by men in our society.¹

Change is inevitable. We must make it work for us and in the interests of justice. We should seize the opportunities which now present themselves. We must refuse to be exploited, demeaned and humiliated. We need only dare to be different and have confidence in ourselves.²

Good evening all, I would like to begin this address by acknowledging the traditional owners of the lands on which we meet today and pay my respects to elders both past and present. I recognise the role which law played in the traditional societies of Australia's First Nations Peoples – the first legal systems of our country and acknowledge that sovereignty was never ceded. I acknowledge the importance of the Uluru Statement from the Heart.

The continued overrepresentation of First Nation's Peoples in Australian prisons cannot be ignored.³ The overrepresentation of First Nation's Peoples in Australian prisons was addressed by Chief Justice McCallum of the ACT Supreme Court in her recent swearing-in speech,⁴ where her Honour said:

* Resident Judge of the ACT Supreme Court. This speech reflects my personal views only. I would like to thank my Associates for their invaluable research assistance in preparing this speech. This is an edited version of a speech delivered on 31 May 2022 at the Diverse Women in Law Mentoring Program Launch event in Sydney, NSW.

¹ Ruth Bader Ginsburg, Submissions in Oral Argument, *Frontiero v Richardson* (1973).

² Justice Mary Gaudron, 'Speech to the Women Lawyers Association of NSW for the 50th Anniversary Gala Dinner' (Speech, NSW Parliament House, 13 June 2002).

³ See generally Stephane M Shepherd et al, 'Closing the (incarceration) gap: assessing the socio-economic and clinical indicators of indigenous males by lifetime incarceration status' (2020) 20 *BMC Public Health* 710; Australian Law Reform Commission, 'Pathways to Justice – Inquiry Into The Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (Report 133, 9 January 2018). This is not a new phenomenon: John Walker and David McDonald, 'The Over-Representation of Indigenous People in Custody in Australia' (Australian Institute of Criminology, Report 47, August 1995).

⁴ Speech Given at the Ceremonial Sitting for the Swearing In of Chief Justice McCallum, 8 March 2022, Supreme Court of the Australian Capital Territory

Addressing those issues is not something the Court can or should seek to achieve alone ... I am talking about the need for an exchange of ideas about the concept of moral culpability.

First Nations people have been wronged in a number of ways by the imposition on them of our rule of law. No longer can we suffer the administration of justice to be the instrument of injustice. The High Court has recognised in a series of decisions that offenders who have experienced a childhood of profound deprivation may on that account have a lesser moral culpability for the offences they commit. The logical corollary of that recognition is to embrace the proposition that we in turn have a moral responsibility to seek to identify and address the causes of profound deprivation. I believe it would strengthen, not weaken, our criminal justice system to take some of the fear out of our conception of criminals and address offending conduct as a broader social issue.

INTRODUCTION

It is a welcome change of events to be able to deliver this speech in person and I would like to thank the organisers of this event for bringing together such an impressive cohort of diverse women, participants, mentors, and other distinguished guests to launch the 2022 Diverse Women in Law Mentoring Program. It was a pleasure to be able to speak with some of you earlier this evening, and I hope to meet many more of you later this evening.

As I will come to later, programs such as the one being launched tonight have a crucial role to play in achieving greater diversity within the legal profession.

THE BENEFITS OF DIVERSITY

In discussing diversity, it is worth underlining that diversity and inclusion programs offer significant benefits to individuals, to the Australian economy and to Australian society more broadly. Analysis has consistently demonstrated that diverse companies that promote inclusive work practices outperform those that lack such policies. For example, companies in the top quartile for gender diversity are 25% more likely to have above-average profitability than companies in the lowest quartile (a trend that has increased since 2014). The statistics are even more compelling in relation to ethnic and cultural diversity, with companies in the

<https://www.courts.act.gov.au/__data/assets/pdf_file/0011/1964459/Ceremonial-Sitting-for-the-Swearing-In-of-Chief-Justice-McCallum.pdf>.

top quartile on those metrics being 36% more likely to have above-average profitability.⁵

Diversity works.

The reasons underpinning the outperformance is varied, but as a general comment, promoting diverse and inclusive workplaces improves employee wellbeing and productivity and creates a workplace environment where employees are not afraid to speak out when they see that improvements can be made. Such a workplace will, as a result, be more adaptable and innovative as it accommodates a wider array of perspectives and voices, in turn improving efficiency. Surely improved performance is what we want for all our institutions.

What has been done to date to promote diversity and inclusion within the legal profession in Australia? What is yet to be done?

Diversity in the law is not something that women alone must fight for. Rather, diversity should be viewed as an ideal that benefits our society as a whole; it must be viewed as a strength. In particular, it is only through a diverse profession that the ranks of judicial officers can reflect the community, and only through a diverse profession that we will achieve the depth of talent needed to respond to emerging challenges. The responsibility for pushing for change cannot and should not rest solely with women.

Justice McHugh, as far back as 2004, commented in a speech on the benefits of a diverse judiciary, stating:

Others have said that the judiciary should be seen to be representative because, if it does not reflect the diversity of society at large, it will lose the confidence of the public upon which its authority ultimately rests. I think this is true. This is not to say that appointees should be advocates for any particular 'interest' such as sex, race or religion. **Rather, when a court is socially and culturally homogenous, it is less likely to command public confidence in the impartiality of the institution.**⁶

⁵ Sundiatu Dixon-Fyle, Kevin Dolan, Vivian Hunt, and Sara Prince, 'Diversity wins: How inclusion matters' (Report, 19 May 2020) <<https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-wins-how-inclusion-matters>>. McKinsey has produced similar reports since 2015, with those reports accessible through the above link.

⁶ Michael McHugh, 'Women Justices for the High Court' (Speech delivered at the High Court dinner hosted by the West Australian Law Society, 27 October 2004) (emphasis added)

The bottom line is that a lack of diversity undermines our institutions. Programs such as DWL mentoring are essential to progress.

MERIT AND PATRONAGE

Allow me to address merit, or the fiction of “merit”, at the outset. It is sometimes said that truly talented individuals will “pull themselves up by their bootstraps” and, as such, any programs that encourage diversity will result in a less talented profession. On the evidence, such arguments can be readily dismissed. On this point I would encourage everyone to read the *Tyranny of Merit* by Michael Sandel.⁷ By way of a quick summary, the principles advanced in favour of “merit” effectively disregard the impact that socio-economic privilege has on individual achievement. People do not achieve their positions solely through their own talent. Rather we all stand on the shoulders of those that have come before us. Individuals can overlook the assistance or privilege they relied on to reach their goals (be it financial, cultural or otherwise). If we as a society fail to recognise this fact, and focus on so-called “merit” we will fail to address the barriers that many individuals face that prevent them from achieving their best.

It is apposite to refer to what Australia’s first female Justice of the High Court of Australia, The Honourable Justice Mary Gaudron, had to say some 20 years ago on the topic of merit and patronage.

The merit fiction is by no means the sole deterrent to women’s success at the bar. Perhaps the most significant barrier is patronage. Patronage still governs who gets the chambers and where; it still governs the passing of briefs, the selection of juniors and, to the extent briefing patterns result from recommendations, briefing itself.

On another occasion, I explained to the New South Wales Bar what is wrong with patronage. I will do it again. Patronage is about creating people in one’s own image, about perpetuating the status quo, securing conformity, protecting the prevailing ethos and stifling originality of thought. Patronage means that merit is not the sole criterion for success; it explains why, for

<http://www.hcourt.gov.au/speeches/mchughj/mchughj_27oct04.html> (emphasis added). On the benefits of diversity within the judiciary more broadly and for commentary on the importance of looking beyond traditional demographic identifiers in promoting diversity within the judiciary see: Rachel Cahill-O’Callaghan and Heather Roberts, ‘Hidden depths: diversity, difference and the High Court of Australia’ (2021) 17 *International Journal of Law in Context* 494.

⁷ Michael J Sandel, *The Tyranny of Merit* (Penguin Books, 2021).

some, mere incompetence is no handicap and, for others, outstanding ability is no guarantee against failure. Patronage is, thus, inequality; patronage is discrimination and, ultimately, patronage is contrary to the interests of justice, And if it works for women, it works only for those who are prepared to be moulded by their makers.⁸

Further, Justice Gaudron went on to state:

There is a more worrying conclusion to which I am driven. It is this: women simply cannot rely either on their legal talent or on the goodwill of enlightened men in the profession – and there are some – to achieve the measure of success that they deserve and that the interests of justice demand. If we are to achieve the measure of success we deserve and make our own distinctive contribution to the law and justice, we must do it ourselves. We must assert our difference. We must reject patronage and professional structures and create new ones. And I believe we can.

These comments underline the importance of organisations such as DWL.

It is also worth noting in this context, that in Australia, for example, access to the top law schools is generally limited to students who achieve very high Australian Tertiary Admission Ranks, a significant factor in which is parental socio-economic status. In particular, schools from higher-socio-economic areas consistently outperform their counterparts nationally.⁹

Where, for example, clerkship offers for top firms, or positions as judges' associates continue to flow to students from Group of Eight universities, the opportunities afforded to students who originate from more privileged families results in a concentration of those individuals at the top of our profession.

⁸ Justice Mary Gaudron (n 2).

⁹ See generally Anthony Manny, 'Socio-Economic Status and the ATAR (University Admissions Centre, Report, February 2020) <<https://www.uac.edu.au/assets/documents/atar/SES-and-the-ATAR-report.pdf>>. The results once students are able to attend university are however more mixed and are also affected by the calibre of school that students attend: see generally Patrick Lim et al, 'The impact of school academic quality on low socioeconomic status students' (Longitudinal Surveys of Australian Youth, Report 63, 2013); Ian Li and Alfred M Dockery, 'Does school socio-economic status influence university outcomes?' (2015) 18(1) *Australian Journal of Labour Economics* 75. I also note that additional barriers to entry exist beyond achieving the required entry rank. In particular, students from regional areas face significant barriers in terms of moving and living expenses matters for which academic commentators have proposed practical measures in response: Robyn Eversole, 'We can put city and country people on more equal footing at uni — the pandemic has shown us how', *The Conversation* (online, 28 July 2021) <<https://theconversation.com/we-can-put-city-and-country-people-on-more-equal-footing-at-uni-the-pandemic-has-shown-us-how-164492>>.

GENDER DIVERSITY AND BEYOND

In discussing diversity, it is also important to acknowledge diversity does not end with gender alone. I underline the recent comments of Justice Yehia, the chairperson of DWL that for true diversity to be achieved it must be considered at its broadest level.¹⁰ It is appropriate at this juncture that I also acknowledge the enormous contribution of the founder of DWL Ms Keerthi Ravi.

The focus of many diversity initiatives to date have focused primarily on gender equality alone. While such a focus is an important first step, there is more work to be done.

There is much still to be achieved. First nations women, women from diverse cultural backgrounds, women who have caring responsibilities, women for whom English is not their first language, women from lower socioeconomic backgrounds, women who are part of the LGBTIQ+ community and women living with a disability are all part of the rich diversity of women lawyers. This is why DWL is so important. DWL's target audiences self identify as women from these unrepresented communities.

GENDER AND LAW: A SHORT HISTORY

You are all of course aware that the first woman to graduate from an Australian law school, Ada Evans, graduated from the University of Sydney in 1902. On hearing of Ada Evans' enrolment at Sydney Law School, the Dean at the time is recorded as having thrown what can only be described as a tantrum featuring "doors slamming, chairs banging on floors and bells ringing", Ada's acceptance (by his deputy) having occurred while he was away on university business.¹¹

Ada's application to be admitted as a student-at-law, the pathway to being admitted as a

¹⁰ Judge Dina Yehia SC, 'Speech – International Women's Day' (NSW Bar Association, 8 March 2022) <<https://www.diversewomeninlaw.com.au/s/International-womens-day-speech.docx>>. On the topic of intersectionality and its importance, see, eg, Carolyn D'Cruz, *Democracy in Difference: Debating key terms of gender, sexuality, race and identity* (2020, La Trobe University Publishing) 157-159 <https://library.latrobe.edu.au/ebureau/pdf/LaTrobe_Ebureau_DemocracyInDifference_HR.pdf>.

¹¹ Joan M O'Brien, 'A History of Women in the Legal Profession in New South Wales' (MA Thesis, University of Sydney 1986) 12 <<https://womenlawyersnsw.org.au/wp-content/uploads/History-of-Women-in-Legal-Profession.pdf>>.

lawyer, was rejected by the New South Wales Supreme Court solely on the basis of her sex. Her correspondence indicates that the Court told her that legislative reform was needed to admit a woman into the profession, however, the precise legal basis for that requirement was unclear.¹²

It was not until some 19 years later in 1921 that Ada would be admitted in New South Wales. She would never enter the legal profession. So much for equality before the law.

Subsequently, the rules governing the legal profession across Australia were changed to expressly permit women to enter the profession.¹³ Despite these reforms however, few women enrolled in law school, and fewer still graduated and went on to practice. Law remained a space dominated by men. Notably, nearly three decades after Ada's admission in 1950, women made up only 5% of enrolled law students.¹⁴ Progress remained slow. However, the 1970s led to significant advances towards women's rights,¹⁵ and by 1980 35% of graduating law students were women,¹⁶ today the figure is closer to 60%.¹⁷

Reflecting this change, female graduates now outnumber their male counterparts at a rate of approximately 2-1 nationally. Women now also make up 60% or greater of solicitors admitted for 1 year or less, 2 to 5 years, 6 to 10 years and 11 to 14 years.¹⁸

These are commendable gains, and the world of Australian law schools today is one that would have been incomprehensible to female law students 120 years ago, or even when I was studying law in the early 80s.

The changing composition of the legal profession is a welcome shift from earlier decades and is one that is slowly leading to broader cultural change within the profession. For example,

¹² Ibid.

¹³ Ibid.

¹⁴ Jennifer M Jones and Josie Castle, 'Women in Australian Universities 1945-1980' (1983) 26(2) *Vestes* 16 <<https://files.eric.ed.gov/fulltext/EJ291805.pdf>>.

¹⁵ See, eg, Rhoda E Howard-Hassmann, 'Universal Women's Rights Since 1970: The Centrality of Autonomy and Agency' (2011) 10(4) *Journal of Human Rights* 433.

¹⁶ Jones and Castle (n 14).

¹⁷ Law Society of New South Wales, '2020 National Profile of Solicitors' (Report, 1 July 2021)

<<https://www.lawsociety.com.au/sites/default/files/2021-07/2020%20National%20Profile%20of%20Solicitors%20-%20Final%20-%201%20July%202021.pdf>>.

¹⁸ Ibid 21.

academic consideration of the speeches given at swearing-in ceremonies for women judges noted a shift from a focus on women judges' roles as mothers and caregivers towards the trailblazing contribution that they have made to the profession.¹⁹ More recent speeches also focused on the importance of mentoring in promoting diversity within the profession.²⁰

Despite these successes, there are areas for improvement. At the Bar, while gains have occurred in relation to gender diversity, female barristers continue to lag their male counterparts both in terms of the number of briefs they receive but also, perhaps more concerningly, in terms of the fees they receive. While initiatives such as the *Equitable Briefing Policy* are leading to some improvement, data from the latest available reporting period indicated that women received only 23% of the reported fees, despite being briefed in 31% of matters.²¹

The lack of diversity at the Bar flows through to a general lack of diversity in the judiciary. While again progress has been made in recent years, only two Supreme Courts the NT and the ACT have achieved gender parity, with the Victorian Supreme Court very close at 47.7%.²² In contrast, 29.6% of Federal Court, 20.5% of NSW Supreme Court, 16.6% of NSW Court of Appeal, 31% of QLD Supreme Court, 16% of the QLD Court of Appeal, 36% of the SA Supreme Court, 20% of the SA Court of Appeal, 28% of TAS Supreme Court, 42.8% of the WA Supreme Court, and 33.3% of the VIC Court of Appeal judges are women.²³ From the broader perspective of diversity, there are very few judges appointed in Australia from such backgrounds. The appointment of Justice Lincoln Crowley to the Supreme Court of Queensland, the first First Nations superior Court Judge is a step in the right direction. The appointment of Justice Anthe Philippides in 2014 was, as I understand it, only the first female

¹⁹ In particular a shift was noted from speeches in the 1990s to those made following 2010: Heather Roberts, 'Telling a History of Australian Women Judges Through Courts' Ceremonial Archives' (2014) 40(1) *Australian Feminist Law Journal* 147.

²⁰ Ibid 160. In particular, Associate Professor Roberts pointed to the example of the speech given at Perry J's swearing-in which recognised that her Honour had been: '[a] fantastic mentor for women, your Honour has demonstrated real generosity of spirit, actively promoting the interests of women ...'.

²¹ Law Council of Australia, 'Equitable Briefing Policy – Annual Report' (Report, 2019-2020 Financial Year) <<https://www.lawcouncil.asn.au/files/web-pdf/EBP%20Annual%20Report%202019-2020.pdf>>.

²² Australian Association of Women Judges, 'Statistics 2021' (Report, May 2022) (document on file with author). Statistics current as of May 2022 and do not account for recent appointments or announced appointments.

²³ Ibid.

Australian Court of Appeal Judge from a culturally and linguistically diverse background.²⁴ In the ACT, we are fortunate to have a First Nations' Magistrate Louise Taylor.

It is appropriate that I note that Her Excellency the Honourable Margaret Beazley AC KC was appointed as the first female President of the NSW Court of Appeal in 2013. In terms of NSW trailblazers, it is important to also acknowledge President Julie Ward the second female President of the NSW Court of Appeal and the Honourable Patricia Bergin AO SC who was the first female Chief Judge in Equity on the NSW Supreme Court, being appointed to that position in 2009.

I interpolate to note the role of women judges, the importance of diversity and the work done to support women judges flee from the Taliban by the Australian Association of Women Judges²⁵ (AAWJ) was explored in two recent episodes on the Law Report.²⁶

Similar trends have been seen within private practice. With the number of women in senior leadership positions lagging their male counterparts. Again, while there has been some positive change in recent appointment rounds at law firms, the broad trend of women outnumbering men at the lower levels of the profession but being significantly outnumbered at the top has continued.²⁷

Such patterns are, of course, not limited to the legal profession and can be seen across other sectors of the Australian economy. For example, in those areas that are traditionally viewed as female dominated industries (for example nursing and teaching) wages continue to lag those in traditionally male dominated areas.²⁸ This shows a tacit continuation of a lack of

²⁴ See also Andrew Leigh, 'Why has no person of colour ever served on the High Court?', *The Australian Financial Review* (online, 21 December 2021) <<https://www.afr.com/politics/federal/why-has-no-person-of-colour-ever-served-on-the-high-court-20211221-p59j8x>>.

²⁵ I note in particular, the work of President Fleur Kingham and Judge Robyn Tupman.

²⁶ ABC Radio National, 'Why gender diversity on the bench is important' (19 April 2022) <<https://www.abc.net.au/radionational/programs/lawreport/judiciary-gender-equality/13845770>>.

²⁷ In particular, of Australia's 49 largest law firms only 31% of their partners are women (although recent appointments are closing in on a 50/50 gender split): Hannah Wootton and Edmund Tadros, 'Women grab record half of new law partner promotions', *The Australian Financial Review* (online, 9 December 2021) <<https://www.afr.com/companies/professional-services/women-grab-record-half-of-new-law-partner-promotions-20211130-p59dda>>. It is worth noting (of course) that we would expect women to hold ~60% of senior position, reflecting the breakdown in the wider profession.

²⁸ See generally Jessica Schieder and Elise Gould, "'Women's work' and the gender pay gap' (Economic Policy Institute, Report, 20 July 2016) <<https://www.epi.org/publication/womens-work-and-the-gender-pay-gap-how-discrimination-societal-norms-and-other-forces-affect-womens-occupational-choices-and-their-pay/>>. For the latest Australian statistics see: Workplace Gender Equality Agency, 'Australia's gender equality scorecard'

appreciation for the value of work performed by women.

This is not the occasion to reflect on the impact of reduced wages on women not just in their working life, but also in their retirement with significant gaps between the amount of superannuation on average a man will retire with on average as compared to a woman of a similar age,²⁹ or else this will turn into an economics paper rather than a legal diversity mentoring speech.

BROADER DIVERSITY: DATA AND POLICY

We are yet to see significant improvement in relation to the broader categories of diversity.

I spoke earlier as to issues in terms of the failure to gather accurate data to inform policies or changes. This can be demonstrated from law school enrolment data³⁰ through to representation of diverse women in the judiciary. Consistently and across the board, we lack clear statistics.

Beyond data, however, is the need for effective policy to help combat broader barriers that women from diverse backgrounds face in entering and then succeeding in the legal profession. This starts in law schools, with a need for a review of enrolment at our top-tier universities to ensure that students from lower-socio-economic backgrounds are not missing out. Such measures must focus on first, ensuring that admission pathways are available but also in terms of ensuring that appropriate financial support can be available to students who need to relocate to study.

(Report, February 2022) <https://www.wgea.gov.au/sites/default/files/documents/2020-21_WGEA_SCORECARD.pdf>. A further trend that has been observed (generally) is that as women begin to enter male-dominated fields the pay drops within that field: Claire Cain Miller, 'As Women Take Over a Male-Dominated Field, the Pay Drops', *The New York Times* (online, 18 March 2016) <<https://www.nytimes.com/2016/03/20/upshot/as-women-take-over-a-male-dominated-field-the-pay-drops.html>>. Such a trend will need to be carefully monitored in the context of a growing shift in the Australian legal profession.

²⁹ See, eg, Ross Clare, 'Superannuation account balances by age and gender' (Association of Superannuation Funds of Australia, Report, October 2017) <https://www.superannuation.asn.au/ArticleDocuments/359/1710_Superannuation_account_balances_by_age_and_gender.pdf.aspx>.

³⁰ For discussion and the need for the collection of such data see, eg, Andrew Henderson, 'The Hidden Curriculum' (Doctoral Thesis, Australian National University, 2021) (unpublished, paper on file with author).

In law school and as diverse women enter the profession there is an increasing recognition of the importance of mentoring programs such as this one. It is still a profession where who you know can matter just as much as what you know and how skilled you are.

DIVERSE TRAILBLAZERS

In taking part in programs such as this it is worth reflecting on the career trajectories and achievements of those who have come before us and, in particular, those from diverse backgrounds.

I first want to discuss, two famous US jurists, the late Justice Ruth Bader Ginsburg and Justice Sonia Sotomayor. “RBG” was the Brooklyn born daughter of working-class Russian–Jewish immigrant parents. In 1956, when her daughter was one year old, RBG enrolled at Harvard Law School where she was one of nine women in a class of about 500. She graduated from Columbia Law School equal first in her class. She was a champion of human rights and gender equality throughout her professional career.

It is worth remembering what Ruth Bader Ginsberg of the US Supreme Court had to say when asked in 2015 what she would like to be remembered for. RBG replied that she would like to be remembered as:

Someone who used whatever talent she had to do her work to the very best of her ability. And to help repair tears in her society, to make things a little better through the use of whatever ability she has.

Justice Sotomayor was born in 1954 just before RBG enrolled in Harvard Law School in New York, her parents having emigrated to the United States from Puerto Rico. Her father did not speak English and died while she was a child. Sotomayor performed well in her schooling years and received a full scholarship to study at Princeton University. Sotomayor has described her receipt of the scholarship as a result of her school results and the affirmative action policies in place at the time, with the purpose of such policies being:

to create the conditions whereby students from disadvantaged backgrounds could be brought to the starting line of a race many were unaware was even being run.³¹

Justice Sotomayor has been a staunch defender of affirmative action policies throughout her career and as a Supreme Court Judge writing in dissent (with Justice Ginsburg agreeing) in *Schuette v. Coalition to Defend Affirmative Action, Integration & Immigration Rights*³²:

We are fortunate to live in a democratic society. But without checks, democratically approved legislation can oppress minority groups.

...

As members of the judiciary tasked with intervening to carry out the guarantee of equal protection, we ought not sit back and wish away, rather than confront, the racial inequality that exists in our society. It is this view that works harm, by perpetuating the facile notion that what makes race matter is acknowledging the simple truth that race does matter.

...

Diversity ensures that the next generation moves beyond the stereotypes, the assumptions, and the superficial perceptions that students coming from less-heterogeneous communities may harbor, consciously or not, about people who do not look like them. Recognizing the need for diversity acknowledges that, “[j]ust as growing up in a particular region or having particular professional experiences is likely to affect an individual’s views, so too is one’s own, unique experience of being a racial minority in a society, like our own, in which race unfortunately still matters ...³³

Let’s also consider the story of Mary Gaudron, a story which echoes in part those stories of RBG and Justice Sotomayor. Mary was born to a working class family in 1940s Moree.

It was a bleak time for women. There were no women in Parliament, women were required to resign from the Commonwealth Public Service when they married, and there were certainly no women judges.

Mary won a university scholarship and during her final year of university, had her first child. She graduated with first class honours and the University Medal in Law. She was called to

³¹ Sonia Sotomayor, *My Beloved World* (Vintage Press, 2013).

³² 572 US 291 (2014).

³³ Ibid citations omitted.

the bar in 1968. Despite an outstanding academic result, other barristers refused to sell chambers to Mary because of her gender.

Mary did not forget the prejudice that she had experienced in her early professional life. She did much to address discrimination against women in the legal profession. When she was solicitor-general, she advocated for an equitable briefing policy at the NSW Crown Solicitors Office.

In 1987 at the age of 43, Mary Gaudron was the first woman to be appointed to the High Court of Australia.

Finally, let us consider the story of Bob Bellear. He was one of nine children. He was raised near Mullumbimby in northern NSW, the grandson of a Vanuatu sugar-cutting slave and a Noonuccal woman from Stradbroke Island. As a child, he saw poverty, hunger and alcoholism in his community. He left school early to obtain work, and joined the Royal Australian Navy.

Then he decided to study law. He was inspired to do so because he had seen firsthand the systematic brutality and harassment then used by some police against the Redfern Aboriginal community.

Aged 27, he returned to High School, then enrolled in law at university. He was only the third Aboriginal or Torres Strait Islander person to be admitted as a barrister in NSW. He was counsel assisting the Royal Commission into Aboriginal Deaths in Custody.

In 1991, he was appointed a Public Defender in NSW and that is where I met him, when I was appointed as a Public Defender in 1995. He continued to work once a week as an overnight volunteer at the Matthew Talbot Hostel for homeless men.

In 1996, Bob Bellear was appointed as a judge of the District Court of NSW, the first Aboriginal or Torres Strait Islander person to be appointed to an intermediate court in Australia.

SUCCESS AND FAILURE

All of you here today, can take guidance from RBG's legacy of doing whatever you can, to the best of your ability, to make things a little better for whom ever comes your way. Doing so may not always be easy, and may take courage. And it certainly requires dealing with failure. To fail is essential to success. Perseverance and resilience are critical. And here I will quote from the former President of the USA, Barack Obama:

Making your mark on the world is hard. If it were easy, everybody would do it. But it's not. It takes patience, it takes commitment, and it comes with plenty of failure along the way. The real test is not whether you avoid this failure, because you won't. It's whether you let it harden or shame you into inaction, or whether you learn from it; whether you choose to persevere.

MENTORING

I turn now from considering the stories of those that have come through the ranks of the legal profession to our future, those of you sitting before me. You have all clearly recognised the importance of mentoring programs which can help women to achieve their goals and aspirations by providing guidance and support as they move through the various stages of their careers.

So for those mentees here tonight, I offer the following advice: seize every opportunity made available to you, you will not always know what may come from what appears to be an innocuous (or chance) meeting or opportunity.

For those mentors here tonight, I wish to express my gratitude and appreciation to you directly. It is not always easy finding the time to support initiatives such as this one, and it is something that (I hope) more people in the profession begin to recognise as an essential part of growing and supporting the community that is the law.

CONCLUSION

I will leave you with my ten tips to life and the law (other than the obvious work hard!):

1. Delegate as much as you can, time is limited.

2. Laughter is important, appreciate the absurdity of life.
3. Say no when you need to.
4. I believe in the Latin maxim *mens sana in corpore sano* – a healthy mind in a healthy body, always make time for exercise and sleep for that matter!
5. When your child wants your time, for example, playing Minecraft together; do it. Even though my son is very unimpressed with how hopeless I am at Minecraft.
6. Be present when you are at home with the people you love.
7. Choose to be positive.
8. Be generous.
9. Insecurity is a waste of time.
10. Back yourself.

Finally, for any of you that has felt the sting of being underestimated as a woman in the legal profession, just think to yourself: “underestimate me, that will be fun”.

Live long and prosper.³⁴

³⁴ Star Trek, Spock.