

IBA, Law Society of NSW, & Law Council of Australia

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Launch

Us Too? Bullying and Sexual Harassment in the Legal Profession

CLOSING REMARKS

The Hon Justice Melissa Perry

In closing, I will take a step back and focus briefly upon how addressing bullying, sexual harassment, and other barriers to equality and inclusiveness, renders the legal profession the richer, and enhances the administration of justice.

In his inspirational autobiography *Call Me Emilios*,¹ Justice Emilios Kyrrou speaks of growing up in Melbourne as young migrant boy from a tiny village in northern Greece. All too often he was told to “*go back to your own country*” when passing strangers in shopping centres, on trains and buses, and in the park. He wished he was invisible. When children at his primary school pitched racist taunts because of his name, his hair cut, his homemade clothes, and the food in his lunchbox, he decided to adopt the “protection” of the Anglo-sounding name of John. Yet with time, he came to embrace his heritage, recognising the value of drawing upon the best of Greek and Australian culture, and reclaimed with pride his identity in asking people again to call him Emilios.

I also draw inspiration from the story of the Honourable Mary Gaudron, the first woman to sit on the bench of the High Court of Australia, among her many other “firsts”. Yet upon graduating from law school with a University Medal in Law, Justice Gaudron was initially prevented from buying into chambers at the Bar because she was a woman.² And when her Honour was appointed to the Conciliation and Arbitration Commission in 1974, the *Sydney Morning Herald* ran the headline: “*The Law and the Laundry. Australia’s youngest judge has no time for the ironing*”.³

¹ Emilios Kyrrou, *Call me Emilios* (Emilios Kyrrou, 2012).

² See Pamela Burton, *From Moree to Mabo: The Mary Gaudron Story* (University of Western Australia Publishing, 2010) 77-79. Eventually, her Honour shared Chambers with Janet Coombs.

³ Justice Margaret A McMurdo, “Speech Proposing a Toast to Retiring Justice Mary Gaudron” (Speech delivered at the Australian Women Judges Dinner, Sydney, 22 February 2003) 2-3.

What I draw from such stories is that it is only when we can take pride in who we are, and do not feel that we must be invisible, that we can achieve our true potential to the betterment of society and in pursuit of our own happiness. It matters not whether we are speaking of gender, sexual orientation, race, or any other aspects of who we are. The point is the same: we are better able to achieve all that we can individually, within the profession, and as a society, if we embrace and celebrate the rich diversity which comprises the communities of which we are part. In short, as Dr Rebecca Johnson, director of the Australian Museum Research Institute said, “[a]n ecosystem is nothing without its diversity ...”⁴

There is much research which bears out the many benefits to be gained from diversity in the workplace. A unique kind of learning takes place when people from different backgrounds come together which does not occur within homogenous groups.⁵ And diverse teams are better able to solve complex problems.⁶

Promoting diversity among those at partnership level in firms, in senior appointments at the Bar, and ultimately in judicial appointments is also important in that it promotes public confidence in the profession and the administration of justice generally. The appearance of justice, as well as its realisation, are equally essential and in this, diversity has a role to play. The profession and the judiciary should, in other words, be a microcosm of the wider community. Yet the loss of so many talented lawyers from the profession as a consequence of bullying and harassment highlighted in the IBA Report has the capacity to undermine these goals.⁷

In short, as Kieran Pender (the author of the Report) said at the start of this session, if we had a more diverse profession, we would have fewer of these problems. Conversely, we have these problems at least in part because we do not have a diverse profession.

The behaviour of bullies in the profession today, no less than those who picked on the young Emilios and discriminated against Mary Gaudron, is typically underpinned by ignorance and

⁴ Marcus Strom, “Science Week: UNSW Moves to Strengthen Women's Role in Science”, *The Sydney Morning Herald*, 16 August 2015 (online) <<http://www.smh.com.au/technology/sci-tech/science-week-uns-w-moves-to-strengthen-womens-role-in-science-20150814-gizhdx.html>>.

⁵ Australian Human Rights Commission, *Leading for Change: A Blueprint for Cultural Diversity and Inclusive Leadership* (Report, July 2016) 9.

⁶ See Diversity Council of Australia, *Capitalising On Culture over Time: A Study of the Cultural Origins of ASX Directors 2004-2013* (2013) <<https://www.dca.org.au/research/project/capitalising-culture>>.

⁷ International Bar Association, *Us Too? Bullying and Sexual Harassment in the Legal Profession* (Report, 2019) 32, 47.

subconscious bias. To counteract such behaviour, therefore, leadership, education, and mentoring each have a significant role to play, as the IBA's report recommends.⁸

- Leadership through words and by example is necessary to advance diversity as a moral and ethical imperative. True leadership involves valuing the people we work with and the contributions that they make. We work *with* others, in other words. They do not merely work *for* us.
- Equally essential is education and training to address the irrational and unconscious fears that drive prejudice and subconscious fears, as the Australian Human Rights Commission also explained in its *Leading for Change* report.⁹
- Finally, mentoring – not merely through formal schemes but informally, including in small actions and interactions. As to this, we should not underestimate the ripple effect of small changes and acts of kindness. From a personal perspective, I will never forget what it meant to me when, in the early days of appearing as a young junior in the hallowed and awe-inspiring presence of the High Court, Justice Gaudron (as her Honour then was) would acknowledge me as she took her seat on the bench with a nod and encouraging smile.

I warmly congratulate the IBA, the author of the Report, Kieran Pender, and those who worked with him, for shining a light on the extent of bullying and harassment that exists in the legal profession and upon its harmful impacts, and for identifying means of ensuring that conduct of this kind is no longer tolerated.

⁸ See *ibid* 16, 84, 107.

⁹ Australian Human Rights Commission, *Leading for Change: A Blueprint for Cultural Diversity and Inclusive Leadership* (Report, July 2016) 3.