

Women Lawyers' Association Dinner

18 October 2024

I acknowledge the Ngunnawal people, the traditional custodians of the Canberra region. I pay my respects to their elders past and present. I extend that respect to all Aboriginal people and Torres Strait Islander people with us tonight

I sincerely thank the AWL for this honour. I was flattered when my nominee asked if she could put me forward, but I have mixed feelings. I am a privileged person. So many opportunities have come my way. And I am wary of awards given to people for just doing their job.

On the other hand, my mother raised me to value women. She would never have called herself a feminist. But she lived as one. As a girl I saw her take genuine pleasure in the achievements of other women in private and public life. As a woman I have felt that same pleasure. So, an award from female colleagues has special meaning for me.

Like so many in Australia this week, I have been reflecting on the Voice Referendum. What I found devastating was the debate, which displayed our gross ignorance of our past and its legacy for First Nations people and for all of us as a nation.

I have turned to First Nations women for guidance and want to share some of what I have learned this year, through the voices of two women.

The first is Oodgerro Noonuccal, the legendary Quandamooka poet, who is well represented in this portrait gallery. She has deepened my comprehension of the enormous importance of the past to the present and our future.

But for the actions of another woman, Judith Wright, I would not have been able to learn this lesson from Oodgeroo, because I would not have been able to read her poetry. In the 1960s, over the opposition of her male colleagues, Judith Wright promoted publication of the poetry of Kath Walker, as she was then known. Her volume of poems, *We are Going*, published in 1964, was the first commercial publication of the creative writing of an Indigenous person in this country. It gives me great pleasure that it was two women who achieved that first. And the story will resonate with you as members and supporters of the AWL, because it is about a woman shining a light on the work of another woman. So let me turn to that work.

Oodgeroo opens her poem, *The Past*, with this line:

“Let us not say the past is dead. It is all around us and within.”

Let me explore what I think that means using the national disgrace of domestic and family violence. This issue is mostly discussed through a gender lens; from the perspective that gender inequality is the primary driver of men’s violence towards women.

But that fails to account for the experience of First Nations women, who are disproportionately affected. They are 32 times more likely to be hospitalised due to family violence and 11 times more likely to die due to an assault than non-Indigenous women. They comprise 3.3% of the Australian female population but represent 22% of domestic violence femicide victims.

The dominant policy response in this country has been called carceral feminism. That is, the use of criminal justice system to resolve gender-based violence and support victims. But the experience of domestic and family violence is not uniform, and the response need not and should not be. A policy that works well

for a white women may not meet the needs and could even compound the problem for a First Nations woman.

The evidence suggests our criminal justice response does not work for First Nations women. Recent research about the interactions with police by femicide victims prior to their death shows inadequate response to violent incidents. One study examined the history for 68 First Nations women who were killed by their intimate partner. 60 of them had interacted with the police before their death, most of them on multiple occasions. For three quarters of those women, there were prior episodes where the police did not enforce criminal laws or apply for DVOs even though the majority involved physical or sexual assault.

Sadly, negative experience with police is a common enough complaint for domestic and family violence survivors. But there is an extra element for First Nations people, that must be considered. There is evidence of racialized beliefs influencing the exercise of police discretion in their response to calls for help. And if the only response is criminal justice, and it is failing, who can these women turn to for support?

And then, there is the past.

The criminal justice system has not been a safe place for First Nations women. The legacy of policing to confine and control First Nations people is antagonism towards and mistrust of the police. We must understand that legacy to develop appropriate policy responses.

Oodgeroo closes her poem, the Past, with these lines:

“Let no one tell me the past is wholly gone.

Now is so small a part of time, so small a part

Of all the race years that have moulded me.”

As a nation, we are a long way from understanding what that means. I think it calls for a different approach. The statistics I cited require First Nations women to be at the centre of policy development, not the periphery. Governments at all levels have shown they are struggling with this idea. Alliances are critical. An organisation like this one can play a constructive role.

I was so pleased there was a First Nations session on the conference agenda. I want to acknowledge and thank Karly, Emma and Alinta for their presentations today. I hope this is a standing item for all conferences.

The AWL can elevate the perspective of First Nations women. It can champion approaches advocated by them. It can partner with First Nations organisations to provide support, and more importantly, to learn from them. For it must be First Nations women who lead. It is time to listen.

And that brings me to the second woman and the second lesson I want to share.

After the week of mourning last October, the Yes campaign, led by the inspiring Professor Megan Davis, forged a path forward. She reframed the conversation. She turned from the No and towards the Yes. Moving from grief and despair to hope and determination. And, most remarkably, to gratitude. Gratitude to the more than 6 million Australians who supported the Voice proposal.

I have had the good fortune to work with First Nations peoples and communities throughout my career. I have experienced their patience and generosity of spirit as I struggled with my cultural illiteracy. I believe they saw my good will and decided to nurture me.

Because of that experience, I am not surprised by this dignified response to a result that would demoralise and deter a lesser people.

The lesson I learned from Megan Davis this year is how to spin gold from straw.

It deserves a response in equal measure. If she has not lost hope. If she has not given up. Neither can I. Neither can you. Find a way to keep moving forward, with hope and gratitude...and determination. Try your hand at spinning gold from the straw.