

a frustrating feature of the fix we are in is that on paper, we're headed in the right direction: both the NT government and youth justice sector workers appear to support the nine recommendations enunciated in the Carney Report⁷, as well as those set out in the Vita Review.⁸

The trouble is, however, that roughly thirty per cent of youths under justice system supervision in the Northern Territory are in detention. That is twice the national rate.⁹

Vita's findings are in equal measure straightforward and chilling:

Youth detention facilities in the Northern Territory are struggling to maintain service level standards in the absence of a coherent operating philosophy, staff training, direction, appropriate infrastructure, leadership and resourcing.¹⁰

In this rudderless environment, the youth detention system is particularly vulnerable to the encroachment of poor and even dangerous practices. Furthermore, the recent demonisation of young offenders both by politicians and sections of the media serves to lend a patina of legitimacy to increasingly punitive responses by custodians reacting to persistently provocative and defiant behaviour by detainees. Features of this vicious circle include: extended periods of isolation and lockdown in dilapidated cells; the use of force restraints (handcuffs, shackles, the cutting off of clothing, dogs, and in at least one incident, tear gas); the limitation or withdrawal of educational, recreational and other rehabilitative programs; the increased use of adult prisons to detain youths; and the abandonment of individualised case management.¹¹

Despite the enormous challenge to get this drifting, overloaded and leaky boat back on course, it

can—it must—be done. The Carney and Vita recommendations need implementation, with sufficient resources dedicated to get the job done properly. An Independent Custodial Inspector should be appointed, as has been done in Western Australia. The government should release the findings of the inquiry conducted by former Children's Commissioner Howard Bath into the major security breach in August 2014, and its aftermath.¹² More supported and supervised accommodation for young people on bail should be established, to reduce the completely unacceptable levels of youth detainees on remand (about seventy-five per cent of the detention centre population, compared to fifty per cent nationally). Much has been achieved in establishing a culture of restorative youth justice in community-based programs. It is now high time to import that ethos into our youth detention centres as well.

Over the last five years we have somehow managed to increase the rate of incarceration of our young people by an astonishing 50%: from an estimated 12 per 10 000 to 18 per 10 000,¹³ bucking the national trend, which declined from 4 to 3.5 per 10 000 over the same period.¹⁴ The NT trend is disturbing. Even more importantly, it is simply unsustainable.

If we don't reverse it quick smart, then there's no two ways about it: we'll also need to build ourselves a new youth detention centre. That would set us back by about \$150 million.

Let's leave the last word to a usually surly thirteen-year-old who recently graduated from the NT's fledgling Early Intervention Youth Boot Camp Program, about which he encouragingly reported to his lawyer as follows:

- It was good
- It was really fun
- We did lots of hiking
- And rock climbing
- Really, lots and lots of hiking
- We saw kangaroos, camels, wallabies and cows
- There were about nine kids
- All my age
- And five adults
- There were some sessions
- We learnt about spiders webs and how spiders live
- We did talk about getting into trouble and how to stay out of trouble
- I don't want to get into trouble anymore

Amen to that!

Please find all the footnotes to this article on page 38.

PATRON'S DRINKS

Northern Territory Women Lawyers Association (NTWLA)

Brenda Monaghan

President
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The annual NT Women Lawyers 'Patron's Drinks' has become a bit of an institution in the legal calendar and this year's record attendance of over eighty guests was testament to that fact. Our patron, Justice Jenny Blokland hosted the function at sunset on Friday 10 July on the Judges' balcony. It was a chance for women lawyers and their colleagues to socialise and perhaps take on a little wisdom from the bench. Our guest speaker, Justice Judith Kelly, provided us with a fascinating potted history of women in the profession in Australia and also reflected on her own work-life experiences and those who have inspired her. For those of you unable to attend the event, some extracts from Justice Kelly's talk are shared below:

"I was told to give a short speech on 'the topic of my choice'. That is kind of hard. I've been reading some very interesting books lately about the latest developments in neuroscience which I thought would be a very interesting thing to talk about but (you can relax) given the nature of the gathering Women Lawyers' Association drinks hosted by our patron Bloklers J, I thought I might say a few things about 'success' – and how women have achieved it.

I thought I'd start with an outstanding example of a successful woman in Australia, Gail Kelly recently retired CEO of Westpac, a position she occupied from 2008 until February this year. I looked her up on Wikipedia (or rather Lizzie did—more about the virtues of a great PA later).

Gail Kelly switched careers to banking in 1980 after having been a Latin Teacher. Thereafter, she went up the banking hierarchy like a rat up an aqueduct. Get this: (I am quoting from Wikipedia): "She started an MBA in 1986 while pregnant with her oldest daughter and graduated with distinction in 1987. In 1990, she became head of human resources at Nedcor Bank (after having given birth to triplets five months earlier)." I'm going to say that again: ... "after having given birth to triplets five months earlier!"

The article goes on to relate how she came to Australia and her rise through the banking industry to become CEO of Westpac. I can only assume she originally came from the planet Krypton.



In any case, week after week there she was in the Newspapers—her smiling face above articles on international finance, and on trends and predictions about the Australian economy and the global economy in which her opinion had been sought or she had been quoted. There are three very important things about this:

- the face above the articles is not wearing a suit and tie—it is wearing lipstick and earrings; and
- the articles are not about fashion or make up—they are about global finance; AND
- to girls and young women (and possibly just as importantly, to boys and young men) reading the newspapers—THIS IS NORMAL.

This would not have been normal when I was a girl or even a young woman. We have come a long way.

In our profession the first woman law graduate in Australia was a woman called Ada Evans who enrolled in the Law School at the University of Sydney in 1899. She only got in because the Dean of the Law School was away overseas at the time. When he got back he told Ada that “she did not have the physique for law and would find medicine more suitable.” (All those heavy briefs you understand—or heavy cheques maybe.) Ada ignored him and graduated in 1902 but she was never permitted to practise, a fact that makes me want to weep.

The first woman QC in Australia—also the first woman judge—was Dame Roma Mitchell from South Australia. She was born in 1913; eleven years after Ada successfully graduated and was locked out of the legal profession. Roma Mitchell QC (as she then was) was a leader of the South Australian commercial bar when she was appointed as a Judge of the Supreme Court of South Australia in 1965. She was still the only female judge in South Australia when she retired in 1983. (Though by then there were two—only two—women Federal Court Judges).

Dame Roma did not marry and did not have a family. That was the price women paid for success in the professions in her day.

In 1987, the Hawke Government appointed Mary Gaudron QC as the first woman Judge on the High Court of Australia, Australia’s Highest Court. Mary Gaudron graduated from the University of Sydney in 1965 (the year Dame Roma was appointed as a judge). She graduated with a Bachelor of Laws with first-class honours and a university medal.

The next conventional step to becoming a lawyer was to obtain articles of clerkship. Firms would normally queue up to sign on a university medallist, but Mary could not get articles. She later said (when speaking at an International Women’s Day breakfast), “Many distinguished lawyers took a lot of trouble and effort to explain to me that it was not their policy to take on women as articulated clerks.”

Unable to get articles with a private firm, Mary took a job with the Australian Public Service. Mary Gaudron was not required to make the kind of choice between family and a career that Dame Roma had to make—she married twice and had three children but the first time she married, as a young woman in the 1960s, public service regulations required her to resign on her marriage. [My mother, who is 92, was a teacher, and is still fiercely resentful of the fact that in her day women were dismissed from the teaching service when they married. They could re-apply for their jobs but were employed on a ‘temporary’ basis and sacked at the end of each term—which meant that (unlike their male colleagues) they were not paid during the school holidays.]

In any case, despite such setbacks (which included being black balled from the first set of chambers she applied to join because she was a woman) Mary Gaudron went on to have a brilliant career at the bar, was later appointed a Federal Court judge and then of course to the High Court.



Patron's Drinks

Mary was always very supportive of women in the profession. There is an institution in the legal profession called the new silks dinner. In January each year, all the people who have been appointed as Senior Counsel during the year before (QC or SC as the case may be) go to the High Court to 'take their bows'. The president of the bar association or Solicitor General from their state announces the new silk's name to the Court, the CJ asks, "Do you move?" and the new silk bows. (Some people might think this is all rather silly, but it is a moving occasion [pardon the pun] for the new silks.) Then there is a big dinner that evening in the foyer of the High Court. Mary Gaudron instituted the custom of inviting the new women silks only to her chambers for drinks after the bowing ceremony—a custom that Justice Hayne took on after she retired—and Mary used to attend when she could even after her retirement. She was not only brilliant, but a much loved figure with her hearty laugh and perennial glass of white wine in her hand.

When I was growing up and going to primary school then high school in the 60s, we knew what lawyers looked like. They did not look like Mary Gaudron: they were blokes. Judges were blokes. We knew what business executives looked like—they were blokes; secretaries were women. When we thought of doctors, the mental image was still of a man; nurses were women; teachers were women; bank tellers were women (in each case, usually young women)—bank managers were men.

We all unconsciously absorbed these images but growing up, it never once occurred to me that these stereotypes applied to me and I suspect many if not most of my generation were the same. Our mental image of ourselves was as potential lawyer, doctor or what have you (in my case as a little girl it was an astronaut)—despite the fact that we had also absorbed the cultural image of a professional as a bloke in a suit. I guess it was a kind of induced cultural schizophrenia.

Then, when we got to University—and this was in the decade after Mary Gaudron—we just did it.

Of course we met with sexism and prejudice on the way. I remember, for example, when I was a partner in a law firm, talking to a client on the phone who asked to speak to my boss, on the (to him) natural assumption that whether I was a secretary or junior solicitor, in the natural order of things I must have a male boss. I remember also thinking (just after I hung up which is always the way) of what I would do next time that happened. I would pause, just long enough to indicate wounded feelings and make the man feel ill at ease, and then say (quietly), "It's because I'm black, isn't it?" I've always regretted not having the opportunity to use that one. Feel free if the opportunity ever comes your way.

But by and large we simply ignored such sexism as did come our way, and by and large, it went away. Why? Because women of Mary Gaudron's generation and the men who had come to agree with them had been there first. They were the generation then in power and they were passing Anti-Discrimination laws and just generally overturning society's values. Racism, sexism, and homophobia were all once solid mainstream values right up to the 60s and into the early 70s. They're all now not only unacceptable—they're illegal. It used to be illegal to practise homosexuality; now it is illegal to discriminate against someone on the grounds that they do so. It is difficult to imagine a more profound revolution in cultural values than that which has taken place in our society over the last forty to fifty years.

What does this have to do with women and success? Well—a lot.

Success in the public world used to be all but impossible for women, except for a very few who by marriage (think the Byzantine Empress Theodora), or birth (Queen Elizabeth 1) along with exceptional circumstances (and character) managed to get into a position to wield power.

Then it became merely supremely difficult, as for Dame Roma, then as a result of the efforts of pioneering women—just very hard. Now it is still hard but achieving success is hard for men too and women can and do expect to be able to achieve success in the public sphere without sacrificing home and family, the way men have always been able to do. It takes hard work, some sacrifice, some talent, some luck but we can and do get there.

Another small digression; when I say "it used to be all but impossible", I am only talking about recent history of course, just the last 10 000 years or so. Before that, by all accounts, there was no real differentiation between the public and private domains and success was measured by simply staying alive and raising live children. Then

