

A Tragedy of Dumb Politics: Does Mandatory Sentencing Cause Fundamental Damage to the Legal System?

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Introduction

Ladies and Gentlemen, honoured guests, and Mr Elliott Johnston and Mrs Elizabeth Johnston, I would first like to acknowledge the Kaurna – traditional owners of the land on which I am speaking today. I make that acknowledgment as a tribute to their tenacity and survival and also to their humbling hospitality.

I thank traditional owner Mrs Josie Agius for her welcome.

I am grateful to the staff of the Yunggorendi First Nations Centre for Higher Education and Research at this University, especially my colleague, Mr Lester Rigney. I also thank the Law School of the Flinders University and, in particular, Dr Heather McRae.

Elliott Johnston is a beautiful man. If he were the Prime Minister of this country, I would not be giving this speech. If he were the President of the Republic of Australia, people like myself or any other person who cannot be silent about the injustice of mandatory sentencing would not be referred to as 'un-Australian'.

I reported to Elliott Johnston from 1989 to early 1991, for a total period of less than 18 months, when he was the National Commissioner of the Royal Commission into Aboriginal Deaths in Custody. He received reports from me and the staff of the Northern Territory Aboriginal Issues Unit with great interest. He asked questions, probing questions, but always in the most gentle and compassionate way. He spoke to Aboriginal people wherever he went with apparent and real concern for their views to be heard and understood. I know that Elliott Johnston would understand my distress and the concern of many others who have observed the results of the mandatory sentencing laws. Under his guidance, the Royal Commission recommended imprisonment as a last resort. Our nation has turned its back on that recommendation, and in two jurisdictions mandatory sentencing has become law.

Mandatory Imprisonment: A Breach of Accepted Standards

Those who support mandatory imprisonment have been fed a diet of sensationalist, terrifying and false statistics on crime, criminals, punishment,

* This lecture was delivered in 2000. This chapter is an edited version of the written lecture text.

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