

# A LEADER IN THE STRUGGLE FOR JUSTICE<sup>1</sup>

THE HON CATHERINE BRANSON QC<sup>†</sup>

## I INTRODUCTION

Everyone of about my age has Don Dunstan memories. He seemed to arise out of nowhere in the late 1960s and change the very nature of politics. If, like me, you came from a conservative rural family there were plenty to tell you that it was not a change for the better. But for those of us just entering adulthood and interested in social issues, it seemed a liberating change, a timely break with the old politics of Tom Playford and Frank Walsh.

Don Dunstan was Premier when I joined the SA Public Service in January 1977 as a Temporary Graduate Officer (Legal). Looking back it must have been the following year that I was given the astonishing privilege of travelling with him to Canberra to what in those days was called a Premiers' Conference. Don treated me with courtesy and respect throughout the conference and if he was discomfited to find that his legal adviser was the Research Officer to the Solicitor-General rather than the Solicitor-General, as was the case for all other delegations, he disguised it well.

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<sup>1</sup> This is a revised version of the lecture of the same title, presented by the author at the Don Dunstan Oration 2015, Adelaide Pavilion on Thursday 22 October 2015.

<sup>†</sup> BA, LLB, LLD, DLitt; former Judge of the Federal Court of Australia (1994-2008); former President of the Australian Human Rights Commission (2008-2012).

Former Premier John Bannon has said of Don Dunstan that he marks the beginning of what we might call modern politics.<sup>2</sup> Nowhere is this more apparent than in his approach to discrimination.

## II DECRIMINALISING HOMOSEXUALITY

One of Don Dunstan's first initiatives on being appointed Attorney-General in 1965 was to secure Cabinet approval to decriminalise homosexuality. This was eight years after the publication of the *Wolfenden Report* in Britain, which recommended that homosexual behavior between consenting adults in private should no longer be a criminal offence, but it preceded any actual change to English or Australian criminal law.<sup>3</sup> Don then obtained the approval of the ALP Caucus to introduce the Bill. However, before the Bill was tabled, several Caucus members got cold feet. Don accepted that there was insufficient public support at that time for the reform.<sup>4</sup>

Attitudes were to change dramatically after 10 May 1972. Late in the evening of that day, Dr George Duncan, a lecturer at the Adelaide Law School, was on the banks of the Torrens at a place frequented by men seeking sexual contact with other men. Dr Duncan and two other men were attacked and thrown into the Torrens. Dr Duncan drowned. Three police officers were questioned about their presence in the area that evening while off-duty. They later resigned from the police force and refused to answer further questions.

This crime, which remains unsolved, shocked the South Australian community and highlighted the vulnerability of gay men to vicious physical attack. The Advertiser declared its support for

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<sup>2</sup> Memories of the Dunstan Decade, <[www.abc.net.au/7.39/content/2011/s3284837.htm](http://www.abc.net.au/7.39/content/2011/s3284837.htm)>.

<sup>3</sup> This had to await the passage of the *Sexual Offences Act 1967* (UK).

<sup>4</sup> Dino Hodge, *Don Dunstan, Intimacy & Liberty, a political biography* (Wakefield Press, 2014) 141.

decriminalising homosexuality in an editorial published less than two months later.<sup>5</sup>

Legislation soon followed — but the initiative was taken, unexpectedly, not by the ALP government but by Murray Hill, an LCL member of the Legislative Council. He introduced into the Upper House a private member's Bill that led to the enactment of a 'consenting adults in private' defence. That Bill had been drafted by Murray Hill's son, Robert Hill, then a young lawyer in the Crown-Solicitor's Office.<sup>6</sup> This Bill was substantially amended in the parliament and emerged with what we would now regard as significant defects — but when passed on 25 October 1972<sup>7</sup> it was an important first step in addressing discrimination on the ground of sexuality.

The critical second step, the one that we are particularly focusing on this afternoon, came on 17 September 1975 when Peter Duncan, a young ALP backbencher, secured the passage of a further private members Bill.<sup>8</sup> This legislation made South Australia the first jurisdiction in Australia to decriminalise male homosexual acts. It ensured equality of treatment in the criminal law between homosexual conduct and heterosexual conduct including with respect to the age of consent. A bold step at the time. Although significant credit for this initiative must be given to Peter Duncan, without the support of Don Dunstan the Bill would not have become law. It appears that it was Don who persuaded the then Attorney-General, the Catholic Len King, to join him in supporting Peter Duncan's efforts and Don's leadership that encouraged other parliamentarians to support the Bill.<sup>9</sup>

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<sup>5</sup> On 1 July 1972.

<sup>6</sup> Confirmed by Robert Hill in a private conversation with me in 2014. Robert Hill served as an Australian Senator between 1981-2006, Minister for Defence 2001-2006 and Permanent Representative of Australia to the United Nations 2006-2009.

<sup>7</sup> Hodge, above n 4, 150.

<sup>8</sup> *Criminal Law (Sexual Offences) Amendment Act 1975 (SA)*.

<sup>9</sup> Hodge, above n 4, 154.

### III ANTI-DISCRIMINATION LEGISLATION

Don Dunstan's leadership in the struggle against unjust discrimination was not limited to decriminalising homosexuality. Early in his time as Attorney-General, Don Dunstan secured the passage of Australia's first ever anti-discrimination legislation, the *Prohibition of Discrimination Act 1966* (SA). This Act made race discrimination in circumstances such as the provision of food, drink, services and accommodation and in the termination of employment a criminal offence. It is remembered today as achieving little, possibly because of its criminal standard of proof. However, its passage was a milestone because it introduced discrimination as a legitimate area of public policy concern in Australia.

Don Dunstan's role in the passage of Australia's first Sex Discrimination Act was also an important one — although again the first parliamentary initiative was taken not by the ALP but by Dr Tonkin, the conservative member for Bragg. Dr Tonkin had witnessed the difficulties faced by his widowed mother in trying to provide for her family. In 1973 Dr Tonkin introduced into the Parliament a private members Bill for a Sex Discrimination Act. However, the Bill that eventually passed was not Dr Tonkin's Bill but rather Don Dunstan's. As Premier he introduced a government Bill in June 1975 modeled in large part on the Bill introduced into the United Kingdom Parliament earlier that year. We are now aware of the deficiencies of this Act and of early discrimination legislation generally. However, we can be proud that in 1975 our State once again led the way in legislating for the advancement of women.

As this brief review of the early history of our anti-discrimination legislation shows, Don Dunstan was a leader in this important area of the struggle for social justice. Don Dunstan's political achievements, as is well known, extend well beyond the struggle for equality. However, my theme today is the struggle against discrimination and that struggle, of course, is ongoing. For this reason I propose now to turn from Don Dunstan's legacy and address more contemporary discrimination issues.

## IV SAME-SEX MARRIAGE

Our focus this afternoon on the 40<sup>th</sup> anniversary of the decriminalisation of homosexuality suggests same-sex marriage as a relevant contemporary issue. However, despite the ongoing public controversy about same-sex marriage, I don't see it, of itself, as a challenging issue any longer. Rather, same-sex marriage seems to me to be an equality measure whose time has come. We know that the Commonwealth Parliament has the power to authorise same sex marriage.<sup>10</sup> It seems to me that it will almost certainly do so, probably following the foreshadowed plebiscite to be held after the next federal election. The following factors explain my confidence in this regard.

First, public attitudes towards same-sex marriage, both in this country and elsewhere, have changed dramatically in recent years. Presently 14 countries allow same-sex couples to marry.<sup>11</sup> These countries include Belgium, Canada, France, Norway, Spain and Sweden. Certain jurisdictions within another six countries also allow gay marriage.<sup>12</sup> These six countries include Denmark, New Zealand (within mainland New Zealand), the United Kingdom (within England and Wales) and the United States. A similar law in Finland is not yet in force.

The apparent trend for western developed countries to move to authorise same-sex marriage tells us something about current attitudes within such countries both towards organised religion and towards marriage itself. Ireland was the first country in the world to say 'yes' to gay-marriage by popular vote.<sup>13</sup> Many in Ireland saw the referendum outcome as a manifestation of a social revolution against the Catholic Church fed by the revelations of paedophile behaviour by

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<sup>10</sup> *Commonwealth of Australia v Australian Capital Territory* [2013] HCA 55.

<sup>11</sup> Argentina, Belgium, Brazil, Canada, France, Iceland, Ireland, Luxembourg, Norway, Portugal, South Africa, Spain, Sweden and Uruguay.

<sup>12</sup> Parts of Denmark, Mexico, the Netherlands, New Zealand, the United Kingdom and the United States.

<sup>13</sup> Referendum held on 22 May 2015.

serving clergy and other scandals touching on the Church.<sup>14</sup> Similarly damaging revelations against the Catholic Church have, of course, been made in this country and they are being given renewed publicity by the *Royal Commission into Institutional responses to Child Sexual Abuse*.

Another thing that Australia and Ireland share is increasing numbers of their populations reporting that they have no religion.<sup>15</sup> In Australia this phenomenon has increased substantially over the past 100 years, reaching 22 percent of the population in 2011, with the sharpest increase being reported between 2001-2011.<sup>16</sup> Incidentally, similar trends have been observed in New Zealand, England and Wales, Canada and the United States.<sup>17</sup> In Australia the rising trend of reporting no religion is driven by younger people, and as the tendency is for religious affiliation to remain stable, Australia will almost certainly become more secular in the future.<sup>18</sup>

Moreover, reporting a religious affiliation is not the same as actively participating in religious activities. In 2010 only 15 percent of Australian men and 22 percent of Australian women aged 18 years and over said that they actively participated in a religious or spiritual group.<sup>19</sup> As it seems reasonable to assume that the influence of organised religion will be strongest on those who actively participate in religious activities and less strong on those who do not, this suggests that a relatively small proportion of the Australian population is likely to be strongly influenced by religious convictions.

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<sup>14</sup> See, eg, Tim Stanley, 'Ireland has said 'yes' to gay marriage and 'no' to Catholicism', *The Telegraph* (online), 23 May 2015 <[www.telegraph.co.uk/News/Religion](http://www.telegraph.co.uk/News/Religion)>.

<sup>15</sup> Australian Bureau of Statistics, *Losing My Religion?* (Australian Bureau of Statistics, November 2013).

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

It also seems clear that the attitudes towards marriage in developed western countries have changes significantly over the years. Marriage was once seen primarily as a means of perpetuating the family line and of cementing alliances between families. If you belonged to the propertied classes it was also a means of determining how property was to be inherited. If you belonged to the labouring classes it was a means of producing additional tied labour. Marriage has only relatively recently been seen as a sexually exclusive romantic union between one man and one woman.<sup>20</sup> Modern western societies today tend to understand marriage as a bond between equals that is based on love and companionship. It is not uncommon even for younger married couples to choose not to have children and many marriages are entered into by older couples who have neither the intention nor the ability to procreate. Those who argue that marriage is fundamentally concerned with procreation and the raising of a family are increasingly seen as out of touch with the reality of modern marriage.

In a very real sense, then, modern attitudes towards marriage have opened the door to same-sex marriage. Importantly, this has happened at the same time that society as a whole is becoming less attached to formal religion and therefore less likely to regard its approach to the issue as compelling. Additionally, the Catholic Church, the strongest organised Christian voice against gay marriage, is currently rendered less powerful than it might otherwise be by reason of the damaging revelations concerning it that are being given ongoing prominence.

For all of these reasons, it seems to me that Australia will join Ireland in voting in favour of same-sex marriage when the foreshadowed plebiscite on the issue is held. I do not regard it as politically feasible for the Commonwealth Government, should the popular vote favour same-sex marriage, to do other than move to legalise it.

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<sup>20</sup> Stephanie Coontz, *Marriage, a History, How Love Conquered Marriage* (Penguin Books, 2006).

The truly challenging issues concerning same-sex marriage, I believe, will arise from the sense of threat that organised religion will feel as a result of the passage of this legislation. Indeed, only last week the Catholic Archbishop of Sydney delivered a lecture entitled: *Democracy and the Right and Limits of Religion and Conscience in Contemporary Australia (Should Bakers be Forced to Bake Cakes for Same Sex Weddings)*.<sup>21</sup> We are bound to see more claims that people with religious objections should not be compelled to participate in acts that might be said to validate or celebrate same-sex marriage.

## V ORGANISED RELIGION AND DISCRIMINATION LAW

Disputes of this kind will be part of a broader struggle by organised religion against what it believes are unjustifiable intrusions by discrimination law into its spheres of operation. The kinds of arguments that are likely to be advanced can be identified from submissions made to the Australian Law Reform Commission during its current 'Freedom' Inquiry. These submissions advance two key arguments: The first is that faith-based organisations should have the right to select staff who fit with the values and mission of the organisation. They argue that selection on the basis of 'mission-fit' (ie by reference to rules of inclusion rather than exclusion) is not discrimination. I do not propose here to debate the extent to which faith-based organisations should be able to recruit by reference to 'mission-fit'. To some extent it is plain that they must. My immediate concern is with the suggested distinction between 'mission-fit' and discrimination, with the suggested difference between rules of inclusion and rules of exclusion.

Let me illustrate the point that I wish to make with a short story. When I decided to leave the position of Crown Solicitor to begin

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<sup>21</sup> Archbishop Fisher, 'Should Bakers be Forced to Bake Cakes for Same Sex Weddings?' (Speech delivered at the 2015 Acton Lecture, The Centre for Independent Studies, 14 October 2015) <[www.cis.org.au](http://www.cis.org.au)>.

private practice as a barrister I applied to join an existing set of barristers' chambers. The chambers had never had a female member. I later learned that my application had caused considerable discomfort to a number of chamber members. It was not that they disliked me. It was not that they objected to female barristers. It was just that they wanted to maintain the existing values and culture of the chambers. Those values and that culture, they believed, were inherently male in character. For this reason they wanted all of their colleagues to remain male. In short, they believed that I would not bring 'mission-fit' to the chambers. I tell this story to illustrate that, except perhaps in a rare case, 'mission-fit' is not the antithesis of discrimination. Rather, the search for 'mission-fit' is discrimination. Rules of inclusion are not something different from rules of exclusion. Rather they are rules of exclusion looked at from a different angle.

The second key argument being advanced by faith-based organisations is that the definition of 'discrimination' in Commonwealth laws should be amended to exclude 'anything reasonably capable of being considered appropriate and adapted to the protection, advancement or exercise of another human right'.<sup>22</sup> The human right at the forefront of the mind of those advancing this submission is plainly freedom of religion. This proposal is astonishingly broad. It overlooks the powerful reasons why the *International Covenant on Civil and Political Rights* (ICCPR) acknowledges only five absolute rights. Rights inevitably come into conflict and, where they do, a balance between them must be found.

The contention, in effect, that freedom of religion should be allowed to trump all other rights cannot be accepted. While everyone is entitled to believe what he or she wishes, there is no absolute right to act out or manifest all that one believes. This is recognised by art 18 of the ICCPR. It is not hard to see why this is so. After the American Civil War there were religious congregations for whom white supremacy was a fundamental tenet. Around the world today people

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<sup>22</sup> Australian Law Reform Commission, *Traditional Rights and Freedoms – Encroachment by Commonwealth Laws*, Interim Report No 127 (2015) [4.61].

are justifying by reference to religious beliefs practices that in the Australian context can only be seen as barbaric.

The truth is that every society has social and other values that it holds dear. Precisely what they are and how they are to be protected will change over time — but no modern society, and certainly not one within an ostensibly secular state, is likely to be willing to abdicate to religion the right completely to disregard those values within its own areas of operation.

What is required is a careful balancing of the various rights involved — a balancing that is respectful of religious freedom but respectful also of other human rights such as the right not to be discriminated against. If we, as a society, are to get this balance right we need all those whose rights are involved to engage in a *bona fide* way in community debate about how that correct balance is to be achieved. This can only happen if everyone involved accepts the true nature of the necessary exercise and additionally accepts that some degree of compromise will be required from all involved.

## VI GENDER EQUALITY

The second contemporary issue that I wish to address is gender equality. I have chosen this area not only because of its inherent importance but because it is a good proxy for the consideration of discrimination issues more broadly. In particular the history of legislative attempts to address gender equality, which I propose to look at first, shares a number of features of the history of attempts to address other forms of discrimination. For this reason, I have interpolated some references to discrimination on other grounds into my consideration of the history of gender discrimination legislation.

The first stage of the legislative endeavor to achieve gender equality was the enactment of legislation removing formal barriers to

female equality. Those barriers included the exclusion of women from the suffrage and other prohibitions on women participating in public life such as the proscriptions on women receiving university degrees and practicing in professions such as the law. The equivalent barriers in the area of race discrimination included the measures that underpinned the White Australia Policy<sup>23</sup> and the criminal laws that proscribed ‘consorting with Aborigines’.<sup>24</sup> So far as homosexuality was concerned the principal barrier to equality was the criminalisation of male homosexual conduct.

The next stage after the removal of formal barriers to female equality was the enactment of laws proscribing discrimination on the ground of sex<sup>25</sup> (I will call this ‘second stage legislation’). The equivalent legislation in the area of race discrimination was, of course, laws proscribing discrimination on the ground of race, colour and ethnic origin<sup>26</sup> and, so far as homosexuality was concerned, the laws that proscribed discrimination on the ground of sexuality.<sup>27</sup>

Although much was expected of the second stage sex discrimination legislation, it did not lead to the degree of change that many had both hoped for and expected. In retrospect it can be seen that this ought not to have caused surprise. The principal aim of that legislation was to ensure that women were treated in the same way that men were treated. That was the injustice that women had experienced — being excluded from certain types of work simply because they were female.<sup>28</sup> For this reason it was unrealistic to expect that the second stage legislation would ensure substantive equality for women. It did little to remove the structural barriers in the way of women

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<sup>23</sup> Starting with the *Immigration Restriction Act 1901* (Cth).

<sup>24</sup> The *Police Act 1869* (SA) not relevantly amended until 1958 apparently due to the influence of Don Dunstan. See SA Health, *South Australian Aboriginal History Timeline* <[www.sahealth.sa.gov.au/resources](http://www.sahealth.sa.gov.au/resources)>.

<sup>25</sup> See, eg, *Sex Discrimination Act 1975* (SA); *Sex Discrimination Act 1984* (Cth).

<sup>26</sup> See, eg, *Prohibition of Discrimination Act 1966* (SA), *Racial Discrimination Act 1975* (Cth).

<sup>27</sup> See, eg, *Equal Opportunity Act 1984* (SA).

<sup>28</sup> For more details see Honourable Justice Catherine Branson, ‘Equal Opportunity: The Next Twenty Years’ (Speech delivered at the Mitchell Oration 1995, Equal Opportunity Commission of South Australia, 6 October 1995).

competing with men in public life on an equal basis. It principally assisted women who for one reason or another were not filling the traditionally female roles of bearing and nurturing children and caring for family members. This illustrates what we know to be true — if you treat equally those who in a significant respect are not equal, you will not see equality of outcomes.

In the area of race discrimination, experience has been much the same. The figures concerning Aboriginal and Torres Strait Islander social disadvantage are well known and distressing. Perhaps less well known are those concerning Muslim Australians. Emeritus Professor Riaz Hassan of Flinders University has written of Australian Muslims:

Educationally they are high-achievers. Twenty-one per cent of adult Muslim men have a university degree compared with 15 per cent of non-Muslim Australians, yet their age-specific unemployment rates are two to four times higher than those of non-Muslim Australians. On other indicators of socioeconomic well-being they fall into a very disadvantaged category. For example their rate of home ownership is half the national average; 40 per cent of Muslim children are living in poverty, which is twice the Australian average; only 25 per cent of Muslim households have above-average household income while the corresponding figure for non-Muslim households is 34 per cent. These indicators suggest that a significant proportion of Muslim Australians occupy, both socially and economically, a relatively marginal position in Australian society. This marginalisation is conducive to the intergenerational transfer of disadvantage. It may also contribute to their alienation from Australian society and its values and, in addition, make them vulnerable to religious and non-religious radicalism.<sup>29</sup>

If Professor Hassan's statistics were limited to those Muslims whose families came to Australia from the Middle East (ie if they excluded, in particular, those whose families came from Pakistan and India) it may be assumed that the figures would be even more troubling.

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<sup>29</sup> Riaz Hassan, 'Social and Economic Conditions of Australian Muslims: Implications for Social Inclusion' (Research Paper Vol 2 No 4, National Centre of Excellence for Islamic Studies, 2009) 1, based on 2006 Census.

The third stage in the enactment of legislation intended to achieve equality between men and women has been the passage of legislation to address the particular difficulties that women face in accommodating work and family responsibilities. This legislation includes legislation that provides for maternity leave, including in recent times paid maternity leave with employment status protected, and subsidised child-care. It also includes legislation that provides for increased flexibility in the terms and conditions of work.

In a sense the provisions of the Commonwealth Race Discrimination Act concerned with racial vilification and racially motivated abuse<sup>30</sup> can be seen as third stage legislation in the area of race discrimination. There is nothing equivalent to third stage sex discrimination legislation in the areas of discrimination on the ground of sexuality or gender diversity.

Yet, even with the passage of third stage sex discrimination legislation, the achievement of true equality between men and women continues to bedevil us. You do not need me to rehearse the sorry statistics. Their content is adequately conveyed by the recent observation of the former Sex Discrimination Commissioner that fewer big Australian companies are currently run by women than by men called Peter. This is the outcome after we have removed formal barriers to women entering paid work, after we have enacted laws proscribing sex discrimination and laws providing for maternity leave and subsidised childcare and as we are starting to attend to the workplace consequences of domestic violence.

It is now recognised that working-women are a national productivity imperative. They should not face serious financial and other penalties for also undertaking the caring work that is vital to our society. So what is to be done? We tend to think of the fight against

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<sup>30</sup> *Race Discrimination Act 1975* (Cth) s 18C.

discrimination as a fight for equality. In one sense, of course, it is but more fundamentally it is a fight for justice.<sup>31</sup>

We accept in many areas that the national interest is advanced by laws that impact differently on those whose circumstances are not the same. Few object to the rich and the poor paying income tax calculated at different rates; few complain that veterans and their dependents enjoy favorable medical and social security benefits when compared with the general population; few argue against businesses being required to make reasonable adjustments to employ persons with disability. We see the justice of these measures even though they depart from strict equality.

We need to be alert to the need for other departures from strict equality in the interests of justice. If the levels of participation of women in the public and economic life of the nation cannot be significantly lifted it may be necessary (despite the persuasive arguments that can be made against them) for mandatory quotas to be introduced in areas of critical importance. Measures to ensure that financial protections such as those provided by superannuation better serve female workers may also be necessary. Others will be better equipped than me to think of the full range of potential initiatives that might be valuable in the struggle to achieve equality for women. What ever those initiatives are identified as being, further third stage legislation is likely to be needed to implement them.

We need also to remember that as society changes perceptions within that society about what constitutes justice will also change. One important change in our society is the increasing involvement of men in their children's upbringing. Some men are becoming primary caregivers but more are truly sharing family responsibility with their partners or former partners. Some, perhaps many, men would be happy to play a larger role in the home.

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<sup>31</sup> See Julius Stone, 'Justice in the Slough of Equality' (1978) 29 *Hastings Law Journal* 995.

Let me tell another personal story. I married, for the first time, at about the same time as one of my female friends. Neither of our households had much money. The four of us decided that a capital expenditure that we could ill afford could be avoided if, rather than buying washing machines, we used the local laundromat. It was agreed that for six months my friend and I would meet each Saturday morning at the laundromat and that the men would do the same over the following six months. What happened? My friend and I did as agreed and precisely six months and one week later each household took possession of a washing machine. The point of this story is, of course, that priorities and outcomes change when problems once seen as women's problems become men's problems.

If we really want gender equality we must stop thinking of work-life balance as a women's issue. We must stop thinking of family responsibilities as women's responsibilities. We need to learn to value workplace leadership and caring equally; to think that managing a business or practice and managing a household full of other human beings are equally valid and valuable occupations.<sup>32</sup> If we want justice for women in the workplace what we need is significant numbers of men making the case that justice for them requires that they be able to spend time caring for their families without significant cost to their careers and to their long-term financial security. Once work-life balance is seen as a men's issue then, and I suspect only then, will we see the sorts of changes that will ensure justice — for both men and for women.

## VII CONCLUSION

I will close by drawing on a theme that I have already hinted at. Anti-discrimination legislation is one tool at our disposal in the fight for justice but, as our fight for gender equality has shown, there is a limit to what legislation can achieve.

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<sup>32</sup> See Anne-Marie Slaughter, *Unfinished Business: Women Men Work Family* (Penguin Random House, 2015).

At the heart of all discrimination legislation is a search for justice; a recognition that every individual has the right to be judged on his or her individual merits and not by reference to stereotypes. But none of us is immune from the influence of stereotypes. Stereotypes tend to reflect our perceptions, in many cases unconscious perceptions, of who constitutes the ‘we’ in a particular context, and who is ‘them’, the ‘outsiders’. Over time some groups will move from being ‘outsiders’ to being part of the mainstream — as has largely, but far from completely, happened with women in senior employment.

It is imperative if we are to maintain a socially just Australia that we learn to enlarge the ‘we’ and embrace a more flexible view of what it is to be Australian. We must avoid what in Norway has been described as ‘generous betrayal’:<sup>33</sup> anti-discrimination laws, social benefits and well-intentioned rhetoric serving as stand-ins for more meaningful acceptance.

In Australia we tend to think of ourselves as generous, fair-minded and democratic. No doubt this is in large measure true — but, despite some evidence of a growing openness to change, our national ethos, our national mythology, has focused on the heroic white male and been touched with more than a little misogyny, xenophobia and homophobia.

I was impressed by an article that I read recently written by Stan Grant following the change of leadership of the Liberal Party.<sup>34</sup> Let me read to you part of what he said. After referring to the serious and entrenched disadvantage suffered by Indigenous Australians, Stan concluded:

All of the words, the ideals, the leadership, still we fall short. I know it is complicated, that the web of our past entangles us still. Yet I also know, deep down I know, that if we wanted to cure it, we would cure it, just like

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<sup>33</sup> Unni Wikan cited in Hugh Eakin, *Norway: The Two Faces of Extremism* (New York Review of Books, March 2015) Vol LXII No 4, 57.

<sup>34</sup> Stan Grant, ‘Tony Abbott, the prime minister for Indigenous affairs, never fully appreciated our culture’, *The Guardian* (Australia), 15 September 2015.

we cured polio. The great Scottish poet Robbie Burns said: “if I could write all the songs, I would not care who wrote the laws”. Politicians write the laws and the laws are inadequate. The song: that is ours and only we a people — beyond prime ministers — can complete it.<sup>35</sup>

The insight captured in the words of Robbie Burns quoted by Stan Grant is relevant to the struggle against all unjust discrimination. Stan is right. If we are to win that struggle, we need to change the nature of the songs that we sing in Australia. We need an Australian culture and mythology that celebrates diversity in all of its manifestations — a culture and mythology which does not exclude women or those who are gay or gender diverse and which embraces Aboriginal and Torres Strait Islanders and other people of colour as well as those whose religion, if they have one, is not Christianity.

While legislators must play their part, this is really up to us. If we are to have a socially just Australia in this sense, the future lies in our own hands.

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<sup>35</sup> Ibid.