

Won't somebody please think of the children?



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The national spotlight was shining on domestic and family violence when the Northern Territory legal profession came together for the opening of the legal year in February 2015. Against the backdrop of worsening incarceration rates and the widening justice gap, a key aspect of the addresses given by the Chief Justice and Julian Burnside AO QC was the alarming social and economic costs of the federal government budgeting for further funding cuts to the legal assistance sector.

When combined with \$60 million cut from the sector since January 2014, the proposed additional cuts meant that many frontline services in Northern Territory cities and regions would be forced to cease from 1 April 2015. With that, some of the most vulnerable and disadvantaged members of the community would be rendered unable to access vital legal services.

In the following weeks, the impact of the cuts on the justice system and the false economics of the policy was the subject of a united, national campaign that called upon the federal government to respond to the crisis in legal assistance funding.

By late-March 2015, the strategically targeted advocacy of many groups, including the representative bodies of the legal profession and state and territory Attorneys-General, resulted in the federal government announcing a reversal in the proposed further cuts.

Whilst it is important to recognise the great success of that campaign, it is very much a stopgap and the legal assistance sector remains vulnerable in government budgets. Further, the withdrawal of all funding for the Environmental Defenders Office was not reversed, despite the Productivity Commission recommending in December 2014 that there are strong grounds for funding to undertake strategic advocacy, law reform and public interest litigation in relation to environmental matters.

The budget also fails to account for the Productivity Commission's recommendation that an interim funding injection of \$200 million per year (with 60% to be contributed by the federal government) is required to maintain existing frontline services and broaden the scope of legal assistance services. As such, whilst restoring some of the funding has

rightly been heralded as a success, there is a critical need for the advocacy on this issue to continue with a future focus so that the growth of the justice gap can be curtailed and so that organisations such as the EDO are able to continue to do the important work that they do.

Law Society Northern Territory (Society) is also concerned to bridge the diversity gap within the profession and in March and May 2015 the Society participated in the Law Council of Australia's (LCA's) National Attrition and Re-engagement Strategy workshops. The purpose of the workshops was to develop initiatives that can effect change in areas such as unconscious bias, workplace culture, return to work and flexible workplaces practices and equitable briefing. Whilst the strategies are primarily focused on gender inequality, the Society sees its commitment to diversity as encompassing a very wide variety of demographics.

Across Australia, a range of innovative practices such as certainty in sitting hours policies and the use of desktop audio visual links for certain court appearances have been adopted in

some courts, as all of the stakeholders in the justice system have a role to play in being part of the solution to enhance and promote diversity. On 30 April 2015 the Society's Council resolved to approve and adopt the Celebrating Diversity Strategy which aims to complement a range of pre-existing initiatives and further marks the Society's commitment to widely address and promote diversity issues in the legal profession.

Diversity was a divisive subject earlier this year when the federal government tabled in parliament the Australian Human Rights Commission's November 2014 report of the inquiry into children in immigration detention entitled *The Forgotten Children*. When the report was tabled, the government attacked the Commission and its President, Professor Gillian Triggs; this included the Prime Minister labelling the report a "blatantly partisan politicised exercise" and a "transparent stitch-up" and the Attorney-General stating that Professor Triggs had made a "catastrophic error of judgement."

The sustained and personal attacks on the Commission and Professor Triggs by the government's senior ranks drew swift condemnation from within Australia and around the world. Groups such as the LCA and the Australian Bar Association and leaders from the political, legal, academic and business sectors and the international humanitarian sector all expressed public concern that Commission's statutory independence was being compromised, undermined and intimidated.

The ensuing stoush about the Commission's role raised arguments on both sides that necessarily apply to every independent statutory office and their ongoing tensions with governments in relation to their independence. Although it is true that independent statutory offices do not enjoy the absolute, constitutional protection that the judicature does, this fails to address, much less justify, the sheer nature and degree of the government's public interference with the Commission's domain in this case.

Doing so protracted an ugly period for the government, which included the Attorney-General becoming only the second Attorney in the parliament's history to be censured by the Senate. On an important humanitarian level, while the government and the Commission squared off against each other in public, the focus was completely taken away from the primary evidence in the report and the important finding that immigration detention is physically and mentally harmful to children.

As I watched the sorry saga unfold, the more flippant side of my mind kept wanting to see the cartoon character Helen Lovejoy of *The Simpsons* fame appear and cry one of her trademark "won't somebody please think of the

children?!" lines. It wasn't Helen Lovejoy, but the wider public who implored the government to take heed of the findings in the report. The lesson to come out of this case must be that irrespective of their lack of true constitutional independence, statutory offices must be permitted to work genuinely independently within their prescribed limits for the greater good. In what turned out to be a deeply unpopular time for the government, it is clear that these are not matters to be trifled with either.

For a time the Commission's description of immigration detention as a dangerous place for children dominated the national discussion, but Federal Court Justice Shane Marshall spoke of a very different type of danger when he said "I think the court room still isn't totally a safe place in which to do work unfortunately." His Honour's comment came as part of a revealing interview about the pressures of legal practice and his own depression, including experiences of stigma and his failure to seek help.

Never before has a sitting member of the bench spoken publicly about their personal struggles with mental health and his Honour's courage in doing so is a watershed moment in the development of the cultural shift that has been taking place within the legal profession in relation to this extremely important issue. As we all see and experience, legal practice can be greatly fulfilling but the statistics are alarming when they draw attention to the fact that one in three lawyers suffer depression.

Justice Marshall has suggested that mental wellbeing should be taught to law students as part of the solution. However greater outcomes are achieved, his Honour's story identifies the need for us to better understand the prevalence of depression in the workplace, the need for us to be self-aware and aware of others and the importance of incorporating pressure relievers into our work.

Personally, I really enjoy the discipline and wide benefits of following a running program and working towards a fixed goal, which is currently the Melbourne Marathon on 18 October 2015. I am well into my training program which has me seeing about four sunrises each week from the track, the park or the pavement and I think it's really good for body and soul. If you don't already have an outlet, maybe you should consider looking for one that might work for you. If that happens to be going for a bit of a trundle then maybe I'll see you out there.

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You can also follow me on twitter: @LSNTPresident