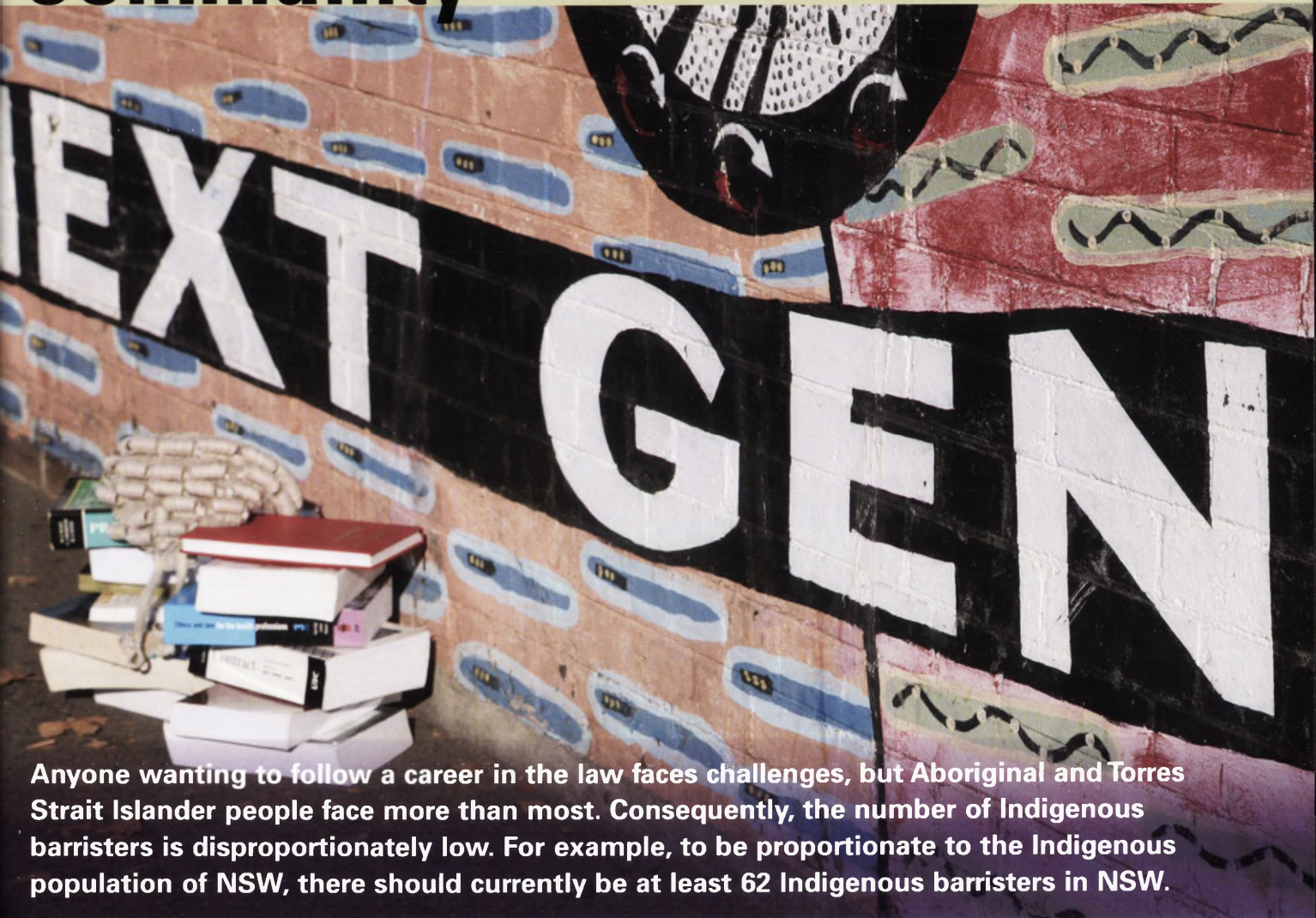


Making the NSW Bar more representative of the community



Anyone wanting to follow a career in the law faces challenges, but Aboriginal and Torres Strait Islander people face more than most. Consequently, the number of Indigenous barristers is disproportionately low. For example, to be proportionate to the Indigenous population of NSW, there should currently be at least 62 Indigenous barristers in NSW.

Photo © Ngaire Watson.

This article looks at what the NSW Bar Association is doing to help redress the under-representation of Indigenous people at the NSW Bar.

In 2002, after a battle with the Australian Taxation Office for deductible gift recipient status,¹ the NSW Bar Association established the *Indigenous Barristers Trust: the Mum Shirl Fund* ('the Trust') to provide a pool of funds to assist Aboriginal and Torres Strait Islander people in coming to the NSW Bar. Meanwhile, the Indigenous Barristers Strategy Working Party focused its efforts on providing pathways to the Bar for

Aboriginal and Torres Strait Islander law students studying law at NSW universities. The Association maintains regular contact with all NSW law schools and provides information on its programs and conferences, funding opportunities when appropriate.

THE MENTORING PROGRAM

Since 2008, the mentoring program for Indigenous law students has run successfully and currently there are 31 barristers mentoring Indigenous law students in NSW. There >>

are a further 10 barristers who have continued to maintain regular contact with lawyers whom they mentored as law students. Indigenous law student part-time employment opportunities with barristers and chambers have been organised, with five students working for barristers in 2013.

Trish McDonald SC, who has been mentoring Merinda Dutton, a law student at UNSW, said:

'My impression on meeting Merinda for the first time was that she should be mentoring me – this has been confirmed over time.

During our mentoring relationship, we have discussed her university subjects, uni life, assignments, the pros and cons of subject options, commiserated on the difficult subjects, assessed possible internships, job opportunities and Merinda's future career.

We also discuss sport, gyms, films and life in general. We share Imelda Marcos's tendencies and recent shoe acquisitions are always compared.

During our relationship I have gained so much – I have learnt about Merinda's family, her culture and her background. As Merinda is very active in Indigenous affairs, I am now more knowledgeable about these issues.

Merinda has become an integral part of my life at the Bar, she comes to Chambers, has attended court with me and celebrated with me when I became senior counsel.

I have my fingers crossed that in the future I will be referring to "Merinda Dutton, Barrister".'

Ms Dutton is a Gumbaynggirr and Barkandji woman, who grew up on the north coast of NSW. In July 2013, she was in her final semester of a Bachelor of Jurisprudence (Criminology)/ Laws. About the mentoring program, she said:

'I have participated in the Bar Association's Indigenous Mentoring Program since my first year of uni, and was paired with Trish McDonald. As an Indigenous person, I am the first person from my family to enter the legal profession, and indeed, one of the first people in my family to study at university. Being paired with a barrister mentor offered me a unique and practical insight into a career at the Bar. Through participating in the Bar Association's Indigenous Mentoring Program, I was given the opportunity to network with various people in the legal profession, including barristers and judges. This is an opportunity which I would not have had otherwise.

Trish has been a great source of advice in both a professional and personal manner, and has been extremely generous in giving me an understanding of the practice of law. I am extremely grateful to Trish for her encouragement and for taking the time to have lunch or coffee with me despite her extremely busy schedule.

I think that through meeting people such as Trish, I have developed a keen interest in practising law as a solicitor and to consider a career as a barrister at the NSW Bar.'

RELATIONSHIPS, CONFERENCES AND PATHWAYS

The NSW Bar Association hosts social events to build relationships between Indigenous law students and lawyers and members of the Bar. In 2012, a successful night was

held at Circular Quay when attendees watched the Vivid light show and listened to the journey of leading Maori Judge, the Honourable Justice Joseph Williams.

The Trust has played a significant role in providing funding support for Indigenous law students and lawyers to attend national and international Indigenous conferences. The Association created the National Indigenous Legal Conference and held the inaugural conference in Sydney in 2006 and hosted the 2011 conference. This conference is now the premier Indigenous legal conference in Australia and provides an important networking opportunity and a focus on a wide range of Indigenous legal issues. The next conference will be held in Alice Springs in October 2013. The Trust funded 10 students and lawyers to attend the World Indigenous Legal Conference in September 2012 in Hamilton, New Zealand.

Since December 2002, the Association has hosted students participating in the Indigenous Pre-Law Course at UNSW. The course is a pathway to law school. During their visits, the students listen to barristers' war stories, visit chambers and sit in on a court case and then speak to the presiding judicial officer. The purpose of the day is to demonstrate the many aspects of the work of the NSW Bar and to encourage the students to consider the Bar as an option further in their career.

THE RECONCILIATION ACTION PLAN

In the next major step, the Association launched its Reconciliation Action Plan (RAP), which commenced on 1 January 2013.

The development of the RAP is important not only because it ensures that the Association's efforts are consistent with national efforts towards reconciliation, but also because it documents the Association's responsibility to ensure that the NSW Bar reflects the values of equity and diversity.

Reconciliation Australia has endorsed the Association's RAP. Leah Armstrong, the CEO of Reconciliation Australia, has written:

'The Association has a long history in engaging with Aboriginal and Torres Strait Islander communities – working with Aboriginal and Torres Strait Islander lawyers and law students since 1998 to assist them in developing and advancing their careers. In launching its RAP, the Association is continuing its commitment to improving educational pathways and the career prospects for Aboriginal and Torres Strait Islander lawyers in NSW.

I encourage all Aboriginal and Torres Strait Islander law students and lawyers to make contact with the NSW Bar Association to take advantage of the opportunities available. It is through building these relationships that the Association will realise its goal of increasing the number of Aboriginal barristers practising at the NSW Bar.'

Justice Michael Slattery, a long-serving trustee of the Indigenous Barristers' Trust and a former Association President, said:

'The RAP demonstrates the leading role played by the NSW Bar in working with Indigenous communities especially in NSW to provide career development

opportunities for Indigenous law students and lawyers. With barristers actively working with the students and developing close personal and professional relationships, the reality of reconciliation is reflected in the contact and benefit to all parties. Many barristers report that they fear the relationship is more beneficial for them than the student in light of the exchanges between them. Barristers can assist the student with their studies by providing guidance on essay writing, studying tips and effective ways to organise their studies. The students attend court and have an opportunity to review the brief and assist in research when they are more senior students. This means that the judgments they study at law school come to life and have more depth as they better understand the processes involved in successfully bringing a claim to court. To assist their future career development, the barrister is able to provide a reference when the student is seeking employment as a new solicitor and provide all important contacts to open the doors to future prospects.

These are just some of the practical ways that the Association continues to work with Indigenous law students and lawyers to ensure an increase in the participation rate of Aboriginal and Torres Strait Islander lawyers in the legal profession in NSW.

The RAP is an important document as it brings all the Association's programs and policies together in one coherent document and the annual review mechanism ensures that the RAP will remain fresh and relevant in the future.'

The RAP clearly sets out the Association's goals for the coming years and the way that those goals can be achieved. In doing so, the Association is building on more than 15 years' experience in creating pathways for Aboriginal and Torres Strait Islander people to the NSW Bar.

The RAP focuses on:

- Building relationships with the Indigenous Lawyers and Law Students Association of NSW, law schools, the Law Society, the Law Council of Australia, Aboriginal Legal Service, the Association's Committees and celebrating National Reconciliation Week.
- Building respect by engaging in cultural learning, acknowledgement of country, continuing professional development and participation in NAIDOC Week.
- Providing opportunities for Aboriginal and Torres Strait Islander people by supporting the *Indigenous Barristers' Trust: the Mum Shirl Fund*, promoting participation in the Indigenous Barristers Strategy Working Party, promoting the Indigenous mentoring and employment schemes, hosting a seminar for the pre-law Indigenous students at UNSW, supporting the National Indigenous Legal Conference and engaging with Supply Nation (formerly Indigenous Minority Supplier Council).

CONCLUSION

While the number of Aboriginal and Torres Strait Islander people at the NSW Bar remains disappointingly low, some of the brightest and best are currently honing their advocacy skills as solicitors in the NSW court system with plans

to join the NSW Bar within the next five years. This new generation, which will make a substantial contribution to the NSW Bar, provides an example of the benefits of effective reconciliation and long-term, careful career planning.

The NSW Bar Association remains concerned about the under-representation of Aboriginal and Torres Strait Islander people practising at the NSW Bar and will continue to aim for a legal profession in NSW that demonstrates equality and an absence of any discrimination, while reflecting the cultural and racial diversity of the NSW community. ■


Information about the Indigenous Barristers Strategy Working Party, the *Indigenous Barristers' Trust: the Mum Shirl Fund* and the Association's Reconciliation Action Plan can be found on the Association's website. Enquiries may be directed to Ms Ronalds or Ms Black.

Note: 1 *Trustees of the Indigenous Barristers' Trust v Commissioner of Taxation* [2002] FCA 1474, (2002) 127 FCR 63.

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