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WOMEN LAWYERS' ASSOCIATION OF NEW SOUTH WALES

SYDNEY 18 JUNE 1997

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The Hon Justice Michael Kirby AC CMG

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A MAN'S VENUE

In my life in the Law Reform Commission and as a judge I have learned the importance of keeping up with legal and professional developments in the United States of America. Things tend to happen in that vibrant, restless society which find parallels in our own country a decade or so later. Sometimes we run neck and neck. Thus, Justice Sandra Day O'Connor was the first woman judge of the Supreme Court of the United States. She was appointed in 1981. Justice Mary Gaudron was appointed the first woman Justice of the High Court of Australia on 6 February 1987, nine years to the day before my appointment. We should reflect upon Justice Gaudron's decade of service in the highest court of our country.

* Justice of the High Court of Australia. President of the International Commission of Jurists.

Last week, I received from the United States a clipping from the *Washington Post*¹. The headline read "Women Are Still Not Well-Represented Among Lawyers Facing Supreme Test". The subheading declared: "Despite gains for female advocates, the High Court is largely a man's venue". The headlines said it all.

The news item concerned three women advocates who have appeared before the Supreme Court of the United States and their reflections on the special problems and difficulties they have faced in that role.

- * Kathryn Tucker was pictured with a dozen microphones outside the Supreme Court building in Washington immediately after she had argued what was described as "the biggest case before the Supreme Court this term". It was a case involving the question whether the terminally ill should have a legal right to physician-assisted suicide. Mark, if you will, the similarity of the issues which tend to face common law countries. Ms Tucker had to defend the decision below. As recounted, she rose to speak after the

¹ 27 May 1997 at A3.

Justices had proved "surprisingly receptive" to her opponents. They were arguing that the States should be able to outlaw the practice of medically assisted euthanasia. According to Kathryn Tucker, presenting arguments before the Supreme Court requires "a certain fearlessness". She said that she thought of it as being akin to white water kayaking. "You're in a small boat in big water. Any loss of aggression will cause you to falter, and faltering can mean disaster". She appeared *pro bono* in her case. The decision is awaited.

- * Professor Marci Hamilton of the Cardozo Law School described advocacy in the Supreme Court of the United States as "the gold ring" of legal practice. During the last term she argued an appeal concerning aspects of religious freedom. It was her first case before the Court. She described how she was repeatedly questioned by men: "Are you excited?" She said that she did not think that such a question would have been asked of her if she had been a man. She was treated as if she was going "to a prom ... I had this sense that there was a pervasive idea of this *girl* going to the Supreme Court".

- * Maureen Mahoney, a former Deputy Solicitor-General of the United States was also quoted. She is a former law clerk of Chief Justice William Renhquist. She went into private practice for a few years before being appointed a Deputy

Solicitor-General of the United States. In that role she appeared ten times before the Supreme Court, representing the Federal Government. Since returning to private practice four years ago she has had only one opportunity to argue a case before the Supreme Court. This is despite the fact that she is widely praised by the current Solicitor-General of the United States, Walter Dellinger and "other regulars at the Court". Admittedly, during her time as a Deputy Solicitor-General, things improved. From one woman on the professional staff of 20, the number has increased to five. However, the rate of change is slow.

The article in the *Washington Post* concluded with the statistic that of the 203 lawyers who had appeared before the Supreme Court of the United States in the 1997 Term, only 14%, ie about 30 lawyers, were women. It suggested that this would not change until, down the line, other things changed. At the moment, the clerkships of the Justices of the Supreme Court and of the Federal Courts in the United States are given to women law graduates in the ratio of only 1 to 4 for males. As I have said, in the top echelons of the Government's legal advisers, it is the same ratio. In the top posts in academe in the United States the position is no better. Yet getting the experience of arguing before the Supreme Court can be an important step in that country on the path to eventual appointment to judicial office. One person who knows that is Justice Ruth Bader Ginsburg, the second woman to be appointed

to the Supreme Court. She took her seat in 1993. As in Canada, there are two women judges of the ultimate Court - two out of nine: again roughly 1 in 4.

Kathryn Tucker said that seeing Justice O'Connor and Justice Ginsburg on the Bench which she had to address was reassuring. Justice Ginsburg had been an advocate before the Court in six discrimination cases before her first judicial appointment. The educative video which the Supreme Court of the United States has produced quotes her as saying²:

"The first time I argued a case here I didn't have lunch ... because I didn't know whether I could keep it down. I was initially terribly nervous, and after about two minutes into the argument I looked up at these guys and I said, 'I have a captive audience. They have no place to go for the next half hour. They must listen to me'. And it was a feeling of power. And then there was the challenge of rolling with the waves, sometimes the punches".

Anyone who has met Justices O'Connor and Ginsburg or Justices L'Heureux Dubé and McLachlin of Canada or Justice Gaudron in our own country will have no doubt that they can roll with the waves and with any punches that may come.

2 *Ibid.*

CHANGING TIMES - BUT SLOWLY

I put this news item from the United States down wondering whether things were very different in Australia. Leave aside the highest Court, appointment to which is bound to involve many chance factors. What about the position further down the line? What about the advancement of women to partnerships in law firms, to the rank of professor and in the Bar, which is the usual highroad to judicial appointment? Other United States publications show that, in the 500 major law firms of that country only about 14% of the partners are women. The highest proportion in the country in female partnerships is in Denver where they have risen to 21%. The proportion of staff attorneys in the big 500 who are women is 39%. The proportion of summer associates appointed who were female was 43%³. Every lawyer knows that Justice Gaudron is the only woman Justice of the High Court of Australia. But how are women performing elsewhere in the Australian profession⁴?

3 "Women in Major Law Firms", *ABA Journal*, March 1997 at 14.

4 M Thornton, "Dissonance and Distrust: Women in the Legal Profession", OUP, Melbourne (1996) esp 189-201.

To find the answer to this question I opened the growing body of literature which analyses the suggested gender bias of the legal profession of New South Wales⁵ and of other States⁶, and of Australia more generally⁷.

The position in New South Wales is probably better than in most parts of Australia. But progress is slow. True, there have been important developments since the first woman law graduate emerged, testamur in hand, from the University of Sydney in 1902. True, there has been progress since the first woman was admitted as a legal practitioner in New South Wales, following legislative amendment to permit that course, in the 1920s. The proportion of women law graduates has gradually risen over the past 20 years. In 1984, the percentage in New

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- 5 Keys Young, *Research on Gender Bias and Women Working in the Legal System*, Report (6 March 1995) (hereafter "Keys Young"); NSW Government, Department for Women, *Response to Gender Bias and the Law - Women Working in the Legal Profession in NSW* (October 1995) (hereafter "Response"); NSW Attorney-General's Department, Department for Women, *Gender Bias and the Law: Women Working in the Legal Profession - Report of the Implementation Committee*, 1 October 1996 (hereafter "Implementation Committee").
 - 6 Tasmanian Women's Consultative Council, *Women and Justice - Tasmanian Women's Access to the Legal System* (1995). Western Australia, *Report of the Chief Justice's Taskforce on Gender Bias* (June 1994).
 - 7 Australian Law Reform Commission, Report No 69 Part II, *Equality Before the Law - Women's Equality* (1994).

South Wales was 33%. In 1990, it had risen to 46%. Now, it hovers at 50%⁸. This change in the gender composition of the legal profession promises, ultimately, a remarkable change in its self-image and in the way it goes about its work.

The same percentages are reflected in the admissions to the College of Law. In 1984 it was 36%. In 1990, 47%. In 1994 it reached 50% for the first time⁹.

In seventy years, the proportion of women actually admitted to the legal profession in New South Wales has gone up most significantly. In 1920 it was 0%. In 1984, it was 31%. In 1990 it was 43%. Now, as with legal graduates, it hovers at 50%¹⁰.

Interestingly, there is a shift in the sectors in which women lawyers are working. In 1984, 79% were employed in the private sector of the legal profession. This had dropped to 72% in 1988. In 1994 it was fewer than 69%¹¹. The fall in such

8 Keys Young Table 1 at 10.

9 *Ibid*, Table 2 at 11.

10 *Ibid*, Table 3 at 12.

11 *Ibid*, Table 5 and Table 6 at 14.

employment was largely compensated by a rapid rise in the number of women lawyers finding work in private corporations. This raises questions as to the attitudes of people in the corporate sector and their capacity to make adjustments which the practising legal profession has found it difficult to make.

So far as partnership status is concerned, an analysis of employment in the private legal profession in 1993 showed that, in New South Wales, 13% of women legal practitioners were partners compared to 44% men. Thirteen percent of sole practitioners were women compared to 23% men. Twenty-nine percent of employed solicitors were men whilst 73% of women were engaged as employees¹². The percentage who have made it to partnership status almost exactly parallels that of the 500 big firms of the United States. Are we doing better? Or is there the same barrier which women lawyers wherever they are must still break through?

That there is a barrier in respect of the top legal appointments seems beyond doubt. An analysis of the employment of women lawyers in government posts in New South Wales showed that 13% of all male employees had made

¹² *Ibid*, Table 9 at 17.

it to the top grade, only 5% of women made that grade. Sixty seven percent of the women find themselves at the bottom grade whereas only 45% of men are there¹³. The same pattern appears in the appointment of academics in New South Wales. Sixteen percent of all male academics have professorial or equivalent rank. Yet only 6% of women have attained that position. The proportion is reversed at the lowest (tutor or associate lecturer) status: 16% of women and only 5% of men¹⁴.

As to the top of the pile - the judiciary - the situation is even less encouraging. In 1970 the statistic was an easy one to remember. The proportion of women in judicial office in New South Wales was zero percent. In fact, it was not until 1962 that a women (Miss Roma Mitchell of Adelaide) was appointed to the rank of Queen's Counsel. It was not until 1965 that the same woman was appointed to judicial office in the Supreme Court of South Australia. In 1970, Justice Mitchell was still the only woman judge appointed to a superior court of our country. The career of Dame Roma Mitchell remains a beacon of hope, encouragement and example.

¹³ *Ibid*, Table 11 at 20. See also Table 12 at 21.

¹⁴ *Ibid*, Tables 13 and 14 at 23.

The position has improved somewhat in the intervening quarter century. In 1980, in New South Wales 2%, of judicial officers were women. Now the percentage is getting closer to 10%¹⁵. According to the Australian Law Reform Commission, the position across Australia is marginally worse. At the time of its analysis in 1994, about 7% of all federal judgeships were held by women. About 6% only of State judicial officers nationwide were women. The position has changed a little with the recent appointment of the first women judges to the Supreme Courts of Victoria and Western Australia. But there are still many courtrooms in our country where women advocates must go and, unlike Kathryn Tucker in the Supreme Court of the United States, they cannot look up to the bench to find the reassurance of a woman holding judicial office and exercising it with professionalism and skill.

SPEAKING PARTS

Even more telling than the statistics which I have recounted are the extracts from interviews conducted by the State and Federal inquiries into gender bias in the legal

¹⁵ *Ibid*, Table 17 at 26. See also ALRC 69 at 201 (par 9.39).

profession of Australia. They record many unhappy instances of stereotyping, prejudice, harassment and plain unfairness which does little credit to lawyers who have such an influential role in society and who are privileged to play a leading part as guardians of the rule of law and fundamental human rights. Of course, the cited instances represent only a small proportion of the profession. They offer only snippets and then one side of the story. There may be improvements on the way. But the number and consistency of the complaints are disturbing. They should make us determined, as a profession and as individuals, to improve our outlook and our performance. No lawyer should ever accept discrimination or avoidable injustice. I have never forgotten words I first heard in Canada from Justice Louise Arbor, a Judge of the Ontario Court of Appeal. She told a conference of Canadian judges in my presence:

"Never accept the injustice of sexism. Never accept it in your courtroom. Don't accept it from witnesses. Don't accept it from advocates. And don't accept it from your colleagues".

Justice Arbor is now on leave from judicial office, acting as the Chief Prosecutor before the International Criminal Tribunal for the Former Yugoslavia at the Hague. Like so many women in leadership positions in the law, it has been her burden to carry the mantle of a role model. This she does, and not only for women lawyers.

But how do we compare in Australia two decades after women began to come in large numbers into our law schools and two decades after the first equal opportunity legislation was enacted? The answer, viewed from a seat on the bench of the High Court of Australia, is: not very far.

I pondered upon the statistic of women advocates before the Supreme Court of the United States recorded in the *Washington Post*. I compared it to my own experience since my appointment to the High Court eighteen months ago. In a year and a half of cases before the Court I have seen, I suppose, hundreds of barristers and heard from at least 200 of them, exercising a "speaking part" before the Court. Yet in that time I have only seen and heard from six women advocates. There have been a few more juniors - but six have risen to the podium. So in terms of numbers (for our case load is about the same as the Supreme Court of the United States) the proportion of women appearing as counsel before the High Court of Australia and speaking to the Court is much lower than the United States - probably as low as 2 or 3%.

Some women advocates are truly outstanding. I would certainly include amongst these Christine Wheeler QC. She

appeared as a leading counsel for the State of Western Australia in several major cases involving constitutional challenges and in the *Wik* case which was of such importance for our country¹⁶. It was a source of great regret to us when she was appointed the first woman judge of the Supreme Court of Western Australia. We rejoiced in her appointment. But it was a big loss to advocacy before the High Court.

In a couple of cases women have appeared in the interests of the Crown. I refer to Shauna Deane QC in Western Australia and the Crown Advocate of New South Wales, Megan Latham. Shauna Deane argued two special leave applications and an appeal with great skill. Megan Latham showed the subtlety and forbearance expected of Crown Counsel in a proceeding which came before me as duty judge in the practice list of the High Court. I am now the seventh Justice out of seven. I get my fair share of the practice work. One would think that, at least there, one might see more women advocates with speaking parts. But in my experience to this time, it has not been so.

Add to the foregoing, two women advocates in a special leave hearing in Adelaide involving a Family Court case and a silk

¹⁶ *Wik Peoples v Queensland* (1996) 71 ALJR 173.

in Brisbane who argued a special leave application, and there you have it. Six women with speaking parts in nearly 18 months. It is a small number. It is an even smaller proportion. Unless something is done to correct it, following the appointment to the Bench of Christine Wheeler, it is possible that I will go through the next eighteen months without seeing a woman advocate at the central podium in the grand courtroom in Canberra. More important than buildings and furniture by far is the reality of full participation in the workings of justice.

I asked myself, why this should be so? Why are there so few women advocates before the High Court? A few reasons sprang to mind:

- * The Court tends to see the same top performers in many of the cases that come before it. They are very good. They happen to be male. I am sure they would not like to think of themselves as relics of a past era: sounding, nowadays, like a "voice from another world"¹⁷. Their world is still very much with us. It seems remarkably resistant to change.

¹⁷ Lord Cross in *R v Boardman* [1975] AC 421 at 458 commenting on Lord Sumner's observations about homosexuality in *Thompson v The King* [1918] AC 221 at 235. See McHugh J in *Pfennig v The Queen* (1995) 182 CLR 461 at 526-527.

- * There is always a risk with top women advocates that they will be quickly identified and appointed to judicial office. This happened with Justice Wheeler. Before that, it happened to Justice Gaudron, Justice Beazley and many of the women now holding senior judicial positions in Australia. Women who shine as advocates are soon identified and quickly appointed, even before their full potential as counsel is reached.
- * In terms of the Bar, which still provides the great bulk of advocates in the High Court, it is often difficult to achieve change. This is because the Bar is no monolithic corporation. It is a collection of individuals, fiercely independent and highly competitive with each other. It is difficult to change the ways of such a professional group, even with good will which, I believe, has been there at least in the past decade.
- * The cases in the High Court necessarily represent the big league in litigation. The instructing practitioners who choose counsel tend to be the most senior in their firms. Perhaps their notions of leading counsel were fixed in their minds in the days of their articles of clerkship when women's faces and voices in the courts were few indeed.

- * Then, we are told, there are client attitudes which solicitors have to consider. This is not a problem confined to Australia. In the United States, Kathryn Tucker recounts the difficulty for women getting the most prestigious work because of suggested client hesitation. I sometimes think that this hesitation may itself be a reflection of stereotyped perceptions. In other professions, notably medicine, the consumer will ordinarily go to the best person, recommended on strictly merit. Is it some idea of aggression that fits uncomfortably with preconceived notions of gender that makes it difficult, even for some senior women solicitors, to brief female advocates?

- * There is the inescapable fact that many women interrupt their professional career for reasons of childbirth and family obligations. Although women now occupy increasing numbers of key professional positions in the law, many of them are still expected to maintain their family obligations: preparing the meals, washing the clothes, helping with homework and doing the ironing. Yet this cannot be a full explanation. For decades there have been single women and women without children or with help practising as advocates. Blaming family burdens and career interruptions

sounds a little like the excuse of the lack of toilets which was once suggested as a principal barrier to the achievement of equal opportunity in employment¹⁸.

- * Finally, there is the often mentioned element of the "ethos" or "culture" of the Bar. Any professional group which, for 700 years, has comprised solely men is bound to have inherited attitudes which may sometimes seem unwelcoming to some new entrants. Unwelcoming to people who do not share precisely the same background attitudes and assumptions. Women lawyers. Aboriginal lawyers. Lawyers from non-Anglo Celtic backgrounds. Gay and lesbian lawyers. Lawyers with absolutely no family or other connection with our profession. Just as our country is changing, so too is its legal profession. It is inevitable that the new entrants will alter the ethos and the culture of the legal profession. But it will take time. The road will often be rocky for those who set out to forge the changes. It will be a serious mistake if they sink their own personalities by copying precisely what has gone before. Women have unique things to offer to legal practice. They should not hold back from their own special contribution.

¹⁸ J Grant, "The Legal Family - Tensions Between Practice and Parenthood" (1997) 17 *Proctor* (Jl Law Soc Qld) 24.

PROGRESS

It is proper to acknowledge the progress that has been made. I have seen it during my service as a judge which now extends over 23 years. But more needs to be done.

- * The Bar should increase its efforts to recruit more women barristers at the law schools and to help them to negotiate the very difficult passage which is involved in the acquisition of chambers and the setting up of an advocate's practice. Particularly in Sydney - more than other capitals - this is enormously expensive. It may even be more difficult for women because of attitudes of banks and other lenders.
- * Judges should accept, as I have for at least fifteen years, a duty of providing strict equal opportunity in the recruitment of personal staff. I recruit one male and one female associate. Leaving aside the High Court, the gender balance in Australia in that regard has often been remarkably similar to the 1:4 ratio of judicial clerkships in the United States courts. Judges, above all, should practise the principles of non-discrimination. They tend to be people aware of symbols. This is symbolism with substance.

- * The Bar Associations and the Law Societies should continue their efforts to help reduce attitudes of stereotyping amongst their members, to redress complaints of discrimination and harassment and generally to educate the profession in the removal of false assumptions and preconceptions. I can tell you, having seen men and women advocates in the most complex appellate cases over more than 13 years, that gender, as such, is neither qualification nor disqualification. It is, and should be, completely irrelevant to a person's capacity to communicate and to persuade. The examination results of law schools throughout this country clearly demonstrate that gender is irrelevant to intellectual capacity. If anything, the top graduates in law today tend to be women. So far as commonsense and practical nous are concerned, women can certainly bring a new dimension.

- * The Crown should continue the policy which has been fostered in New South Wales by successive governments. It should ensure an equitable provision of briefs to women advocates. In New South Wales, about 28% of Crown briefs are reportedly assigned to women¹⁹. Mostly, they

19 Implementation Committee, above n 4, 20.

are as juniors without "speaking parts". But this is the vital training ground of the leaders of the legal profession in the future. It will be important that the future is not too long delayed.

- * In the contracting out of Crown legal work to the private profession, principles of equal opportunity should be written into the contracts. Work should be withheld from those who clearly practise discrimination in their assignment of briefs or advocacy work or in their employment policies and practices.
- * In the palaces of marble and glass in which so many members of the legal profession now carry on their work, it should be possible for lawyers to provide childcare facilities for those who need them. I recently visited the new Richard Casey Building of the Department of Foreign Affairs and Trade in Canberra. I was pleased to see two entries on the noticeboard. The first referred to the whereabouts of ASIS, our secret intelligence organisation. Any country with such an upfront secret service is much blessed. But the building also contained childcare facilities. If it can be done by diplomats, it is equally appropriate for advocates and other lawyers.
- * There should be more solicitor advocates whose firms can make the adjustments necessary to accommodating their

professional skills and their family obligations in a way that often seems to elude the Bar.

- * There should also be more willingness to accept part-time work as a viable professional alternative. The old notion that the lawyer must sit steadfastly in his office to await the telephone call from a client ignores the revolution of information technology which is now upon us. In many instances the lawyer could just as readily be in her home.

MAKING A DIFFERENCE

But does all this matter? Does the slow progress being made by women in the Australian legal profession present us with a real problem? In my view it does. I would mention three reasons:

- * The law is just not another business. The courts are not just another workplace. We are participants in a branch of government. The courts are just as much part of the government of our country as the parliaments and the offices of the Executive. When, together with my colleagues, I attended the opening of the new Federal Parliament in Canberra in March 1996, I was struck by the transformation of the Parliament with the advent of so many elected women. Whatever one's views concerning precise equality in gender representation may be, it is clear

that the other branches of government are rapidly changing. So must the law and the courts. Perhaps more so because their mission is justice, not expediency.

- * The legal profession is the source of the people who serve as members of the courts and tribunals of Australia. Inevitably, appointments to the top courts usually comprise, correctly in my view, those lawyers who have achieved excellence and have been tested in the hard and very public school of courtroom advocacy. Unless women can break through the barriers which seem presently to limit their participation as advocates before the highest courts, it is likely that they will continue to be under-represented in judicial appointments, particularly at or near the top²⁰. Given the ways in which lawyers come to such appointments in Australia, it is very important that there be more opportunities for women to make their mark and so to win their places with full professional approbation.
- * Judges making their decisions often have choices. It is those choices which mark out the limited, but very real, role of judges as law-makers. A choice does not appear in

²⁰ D O'Sullivan, "Gender and Judicial Appointment" (1996) 19 *Uni Qld LJ* at 107.

every case. In the Court of Appeal I used to think that the opportunity and obligation of judicial choice arose in about a third of the cases coming before the Court. In the High Court it is probably greater. It arises, as we know, from the ambiguities of the Constitution and other legislation. It arises from the process of analogous reasoning which judges necessarily use in the application and development of the common law. Because there are choices, it is inevitable that the values, attitudes and experience in life of judicial officers affect the way in which they make their choices. As the scales have fallen from our eyes and as we realise the historical reality and legitimacy of such judicial choices, it becomes imperative that we also recognise the consequences of this for the composition of the judicial branch of government. There are many cases which could be cited to illustrate the choices which judges make affecting the position of women²¹. There are many and painful reminders in the case books which demonstrate

21 See eg *Yerkey v Jones* (1939) 63 CLR 649 at 685; *Mercantile Mutual v Gosper* (1991) 25 NSWLR 32 at 35-36; *CES v Superclinics (Australia)* (1996) 38 NSWLR 47; *Singer v Berghouse* (1994) 181 CLR 201 esp 228 per Gaudron J (dissenting) ["The tendency of the courts to overlook or undervalue women's work, whether in the home or in the paid workforce, has often been remarked upon. To my mind, that is what is involved in the failure to acknowledge the significant contribution when a wife gives up paid employment to be with and look after her husband".]

that the approach of some male judges to legal problems concerning women can involve a perspective quite different from that which a woman judge might bring. Women lawyers are not simply male lawyers in skirts. They have had a different experience of life. They sometimes see issues, including issues of legal theory and practice²², from a different perspective. That perspective has a legitimacy which should find greater reflection in the judiciary²³. A judiciary which offers that reflection will tend to be more alert to discrimination and stereotyping in all of their manifestations.

I am constantly told: Be patient. Things are changing. There is an inevitable time lag. Rome was not built in a day. Now, I have saintly patience. I have waited and continue to wait, quietly confident of change. But the change, at least where I operate, is very slow in coming. There does, after all,

22 See eg R Graycar, "The Gender of Judgments: Some Reflections on 'Bias'", Amie McDonald, Longstaff Lecture, unpublished (Nov 1996) and D G Réaume, "What's Distinctive About Feminist Analysis of Law", *Legal Theory* 2 (1996) 265; S H Williams, "A Feminist Reassessment of Civil Society" 72 *Indiana LJ* 417 (1996).

23 A similar analysis has been offered in relation to the United Nations and its appointments. See A Gallagher, "ending the Marginalisation: Strategies for Incorporating Women into the United Nations Human Rights System" (1997) 19 *Human Rights Quarterly* 283 at 289.

seem to be a ceiling. It may even be made of something more resistant than glass. Six "speaking parts" before the highest court of Australia in the space of a year and a half - two only in substantive appeals - is simply not good enough. There should be a greater sense of urgency for change to redress the gender problem of the Australian legal profession. Hope and prayer have their part to play in securing change. The commitment to excellence must remain undiminished. But effective measures to redress imbalance may also be needed. This Association should lift the voices of women lawyers and their friends. The foundation of argument, as in all good advocacy, is empirical data of the kind which I have attempted to present. We have a problem. We know it. We must turn our considerable talents, as a profession, to finding and implementing the solutions.

I hope to hear more women's voices in the High Court in the years ahead - kayaking with the cases, "rolling with the waves, sometimes with the punches".