

**AN ADDRESS AT THE TASMANIA UNIVERSITY LAW SOCIETY  
WOMEN IN LAW BREAKFAST BY  
HER EXCELLENCY THE HONOURABLE BARBARA BAKER AC,  
GOVERNOR OF TASMANIA  
HOBART, 10 SEPTEMBER 2021**

**Women in the Law in Tasmania**

Good morning. It is a great pleasure to speak with you for the Tasmania University Law Society, some eight years since I last spoke at this event. Then, I talked about changes for women in the legal profession since my admission to practise some thirty years before in 1983. I would like to reflect on that talk now, to assess how we are going.

I begin by paying my respects to the traditional and original owners of this land—the palawa people. I acknowledge the contemporary Tasmanian Aboriginal community, who have survived invasion and dispossession, and who continue to maintain their identity, culture and Indigenous rights.

May I acknowledge among you:

- The Honourable Justice Helen Wood, Supreme Court of Tasmania;
- Rosalie Woodruff MP; and
- Chief Magistrate Catherine Geason, and Magistrates Olivia McTaggart and Jackie Hartnett.

**The Issue**

Many women graduates of our Law School have made outstanding contributions as lawyers, judicial officers, public servants, academics and a good share of politicians. However, the number of women law graduates reaching senior positions in the legal profession in Tasmania is disproportionate to the significant number of women graduating from our Law School.

Progress has been made since the first woman graduated from our Law School in 1931, although some 38 years after the start of the Law School. Half a century later at my graduation ceremony in 1980, there were nine women of a total of 39 graduates (23 percent). Over recent years, the number of women graduates has outnumbered the men. From 2016 to 2020, the numbers have continued to be predominately female – 56 percent in 2020.

## **Some Background and Statistics**

When I was admitted to practise in 1983, there were only a handful of women practising as lawyers in Tasmania. There was no female judge, nor was there was any female magistrate. There were very few female partners in our law firms or in positions of seniority in our profession.

The first time that women practitioners became a majority in the Australian legal profession was in 2018.<sup>1</sup>

By October 2020, women made up 53 percent of Australia's legal profession.

In Tasmania, women align with this national 53 percent of practitioners with some 419 female of our 784 practising lawyers.

However, in private practice, only 51 females are Principals in law firms, compared to 153 males.

At our Tasmanian Independent Bar, there are nine Tasmanian female barristers and 32 Tasmanian male barristers. At the Bar, there is only one female Senior Counsel to eight male Senior or Queen's Counsel.<sup>2</sup>

There are seven judges of the Supreme Court. As of last week, two are female.

There are 15 Magistrates, five are female with one elevated to the Supreme Court last week.

We await the appointment of a female Director of Public Prosecutions, Solicitor-General, Chief Justice, or Director of the Legal Aid Commission. We have a female Chief Magistrate, a female deputy Director of Public Prosecutions and a female Secretary of the Justice Department. Our State Attorney-General is a female.

Our UTAS Law School has three female of seven professors.

There is still a long way to go to achieve equal numbers in the profession.

## **Some Questions**

My primary question is why are women still not achieving at similar numbers to men in positions of seniority? I would like to approach this by asking whether there are disparities in salaries? Secondly, whether a lack of promotional

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<sup>1</sup> Lawyer's Weekly 13 July 2021

<sup>2</sup> <https://tasbar.com.au>

opportunities arises from an authority gap? Thirdly, whether there is a lack of flexibility in work practices?

## **Salaries**

Let me first turn to salaries.

Recently, the Workplace Gender Equality Agency reported that there is now a pay gap of 14.2 per cent, women earning on average \$261.50 less than men per week.<sup>3</sup> Our women, on average, spend nearly 32 hours a week on household chores and caring for children compared with some 19 hours for men.<sup>4</sup>

In our Tasmanian legal profession, there is a gender pay gap. The last survey report for the years 2017-2018 indicated that the gender pay gap widens as the years of practice pass.<sup>5</sup> For example, in the first year of practice, the difference in annual median salary was \$500 in favour of men. After 5-7 years of experience, the difference was \$9,600. After 21 years or more, it was \$35,000.

## **The Authority Gap**

So why is there such a gender gap in income?

In the book, *The Authority Gap*, author Mary Ann Sieghart defines the “authority gap” as the way women are underestimated, talked over, ignored, patronised, and generally not taken as seriously as a man.

I am sure we all have our own stories about our own “authority gaps.” I have many. When I was the first and only female partner at Murdoch Clarke, I was asked by a lawyer, “how do you find partners’ meetings”? Before I could reply he quipped, “I suppose it doesn’t matter what you say, as no-one listens to a woman!”

As our then 98 years old law firm approached its centenary, it was also a challenge trying to suggest changes to the work practices among my eight male partners. I like to believe that I managed to steer changes in attitudes towards female employees, more flexible work practices and more female partners. I did manage to introduce a sexual harassment policy.

The “authority gap” opened again when I was about to be appointed a Federal Magistrate in 2008. Then, two members of the profession complained

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<sup>3</sup> <https://www.wgea.gov.au/publications/australias-gender-pay-gap-stat> at page 2.

<sup>4</sup> *Our Watch Quick Facts*, citing Wilkins, R. and Lass, I *The Household Income and Labour Dynamics Australia: Selected findings from Waves 1 to 16*. Melbourne: Melbourne Institute: Applied Economic & Social Research, University of Melbourne.

<sup>5</sup> Profile of the Legal Profession 2017-2018 The Law Society of Tasmania Figure 9 at page 17

to me, “a skirt will get the job.” The rather obvious implication being that they would not be appointed because they were male.

Recently as my appointment as your Governor, I received some delightfully patronising “authority gap” comments by members of the legal profession. One mused, “I hope you can do speeches. My Governor learned his speeches off by heart because he had a barrister’s brain!” I am not sure about the schedule of the Governor in the 70s and 80s, but now hundreds of speeches are made each year. Another notch was scored with, “I hope Don (my husband) will let Barbara shine.”

I have many other quips and stories, but there is not time today.

Mary Ann Sieghart describes the authority gap as “the mother of all gender gaps,” because if women are not taken as seriously as men, they are going to be paid less, and promoted less.<sup>6</sup>

She argues that much of the authority gap is due to unconscious bias, ingrained into both men and women within our families and childhood culture.

In her last chapter, titled *No Need To Despair*, she proposes many individual, organisational and legislative changes to close the gap, including better representation of women as CEOs and on Boards, more transparency about pay and promotions in the workplace, affordable child-care, and flexible workplaces. She also implores us to notice and call out men, if a woman is being interrupted or ignored in meetings. We need to make it normal for women to be in positions of authority. With each woman in a leadership position, it becomes easier for the next, as we get used to the idea.<sup>7</sup>

### **What about workplace practices in the legal profession?**

One of the long-standing barriers to women’s equitable participation in the legal profession has been the conflict between work and family.

In 1990, when I gave birth to my second daughter I was in private practice. I was given six weeks’ sick leave. Birth was regarded as a sickness! It was expected that I return to work and on a full-time basis after a short period of part-time work.

We have moved forward and most Tasmanian law firms today have a flexible workplace and negotiate flexible work hours for women with children.

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<sup>6</sup> Ibid page 3

<sup>7</sup> Ibid page 306.

It is encouraging to see that 74 percent of all respondents for the 2017-2018 Law Society Survey, reported that their firm or agency had a culture that supported flexible workplace practices.

49 percent reported they had flexible start and finish times, 14 per cent worked part-time due to family commitments and 32 percent had the ability to work from home.

Whilst there has been some progress in flexibility in the workplace since my admission, taking time out of practice to care for children or working part-time can put promotion on hold and can result in departure from practice. Access to affordable child-care and opening hours can also cause difficulties.

In respect of harassment in the workplace, the Australian Bar Association acknowledges that harassment, including sexual harassment is a widespread problem in the profession and that it can only be tackled by all parts of the profession working together to eradicate such behaviour. The Law Society of Tasmania conducted a survey in 2019 about bullying and harassment and found that this behaviour is prevalent. Simply, workplace bullying and harassment towards women should not be tolerated.

The Law Society's *Employment, Diversity and Inclusion Committee* will be conducting a new survey this year about pay, workplace policies and harassment. The answers will no doubt inform the Law Society, law firms and agencies of policies about education and training and best practice complaints procedures.

Workplace support for women's progression to senior roles is essential and ranges from childcare reform to ensuring respectful and safe workplaces.<sup>8</sup>

May I conclude by asking:

### **What can we do to support women to stay in and advance in the profession?**

Women lawyers' associations can provide support. Tasmanian Women Lawyers provides a network for women to exchange information and experiences, to mentor junior members, and to encourage women into the profession and their advancement. It actively champions improvements in the structure of the legal profession and in the law in general, particularly as it affects women.<sup>9</sup>

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<sup>8</sup> Chief Executive Women, Talking Points, CEW Senior Executive Census 2021 Key Messages.

<sup>9</sup> <https://womenlawyers.org.au>, accessed 18 August 2021

Mentoring provides access to career advice. So, it is important for senior women to encourage and mentor young women to ensure that they continue in practice and achieve senior roles.

In conclusion, we should all strive to achieve equality of gender and of senior positions in the legal profession. That means that we should also target to end the gender pay disparity and harassment and bullying in the workplace.

May I take the opportunity to give my best wishes to all students here in your chosen careers and in working to close the authority gap.