

**Address to Queensland Women Judicial Officers and Barristers Annual
Cocktail Function
Banco Court precinct, Level 3, Supreme Court of Queensland
Friday 20 March 2015**

The 2015 Report Card on Gender Equality at the Queensland Bar and Bench

***The Honourable Justice Margaret McMurdo AC
President, Court of Appeal****

Fellow judicial officers and members of the Bar.

I begin by acknowledging the traditional owners, the Turrbal people here on the north side of the Brisbane River on land once known as Meeanjin, and on the other side of the Brisbane River, the Jagera people. I honour their elders past and present. I respectfully note the recent passing of Mornington Island elder and highly acclaimed artist, Sally Gabori, whose stunning mural, *Dibirdibi Country*, takes pride of place in our Banco Court.

Not all co-hosts could be here this evening. I note the apologies of:

- Justice Anthe Philippides and Justice Roslyn Atkinson AO;
- Judges Julie Dick and Fleur Kingham;
- Magistrates Jennifer Batts, Kay Ryan and Donna McCallum;
- Principal Registrar, Angela Filippello;
- Deputy President, Deidre Swann;
- Commissioners Susan Booth and Paula Spencer; and
- Patricia Hanley.

* I gratefully acknowledge the assistance of my Associate, Anne Crittall LLB (Hons) for her research and editing assistance and my Executive Assistant, Kelly Morseu, for her typing and editing assistance.

In addition to the co-hosts featured on your invitations, I add Judge Julie Ryrie, Magistrate Christine Roney and Commissioner Minna Knight from the QIRC, who are all present this evening.

It is an understatement to say that a lot has happened since we last met in March 2014! Most importantly, the following women have been admitted to the private Bar in Queensland:

- Carolyn McKeon;
- Bridget O'Brien;
- Stephanie Williams;
- Sarah Christie; and
- Tracy Thorpe.

Please join me in warmly welcoming them and in wishing each of them a long, enjoyable and successful career.

You will recall that last year we welcomed only one new woman judicial officer, Magistrate Penelope Hay. This year I am delighted to acknowledge:

- Justice Anthe Philippides' appointment as a Judge of Appeal;
- The appointments to the District Court of Judge Helen Bowskill QC and former solicitor, Judge Suzanne Sheridan;
- The appointment of Magistrate Leanne O'Shea as Deputy Chief Magistrate; and
- The appointment of Magistrate Cathy McLennan, a former barrister.

Please join me in congratulating these talented judicial officers.

The Bar Association of Queensland's current Queensland based membership is 1,265, of whom 932 practice at the private Bar. Of those barristers in private practice, only 19.7% are women. Of those practising at both the private and employed Bar who are members of the BAQ, 21.6% are women. The percentage of women members of the Bar Association of Queensland who are at the employed Bar rises significantly to 34.2%. Queensland women silks comprise 9.2% of Queensland's Senior and Queen's Counsel, a modest improvement from last year. And there are four women on the Bar Council, 23.5% of Council membership, comparable to last year. The women Bar Council members this year are Sue Brown QC, Jacoba Brasch QC, Ruth O'Gorman who is also Assistant Honorary Secretary, and Cairns-based barrister, Tracy Fantin. Importantly, the Chief Executive of BAQ is Robyn Martin, a former practising barrister and a great champion of gender equity at the Queensland Bar.

Since we met last year, Jacoba Brasch and Cate Heyworth-Smith have been appointed Queen's Counsel. We warmly congratulate them on this significant honour and wish them continuing success in this new stage of their careers as leaders of the Bar.

I regret to report that in the last financial year the percentage of female counsel appearing in cases in the Queensland Court of Appeal, has decreased from 14.7% in the 2012-2013 year to 11.85%. Although this is still a pleasing increase from 5.4% back in the 2005-2006 year, the noticeable fall in the percentage of female counsel appearing in the Queensland Court of Appeal is concerning.

I have another concerning statistic relating to the Commonwealth Attorney-General's Department. Its Annual Report for the last financial year states that throughout Australia it externally briefed only 31 female counsel in the 2013-2014 year compared to 63 female counsel in the 2012-2013 year. In the 2012-2013 year, its briefs to external male counsel totalled \$1,104,860.90 and its briefs to external female counsel totalled \$1,301,611.07. That is, the total value of external female counsel briefs exceeded the total value of external male counsel briefs by almost \$200,000. But in the 2013-2014 year the total value of external male counsel briefs more than doubled to \$3,517,712.96 compared to a modest increase in external female counsel briefs which totalled \$1,492,144.39. In other words, in the 2012-2013 year women received 54% of the total value of external briefs but in the 2013-2014 year this fell to 29%.

With the retirement of Justice Margaret Wilson from the Queensland Supreme Court, the percentage of female Queensland Supreme Court Judges has fallen from just under 30% to 25%. But in the Court of Appeal Division, Justice Anthe Philippides' appointment again brings the number of women Court of Appeal judges to that magical 50%. The percentage of District Court Judges has risen from 20.5% last year to 22%. The percentage of women Magistrates has remained steady at 34%. There have been no changes to the number of Queensland-based women judges in Commonwealth jurisdictions with women comprising 17% of Federal Court judges, 33% of Family Court judges and an impressive 46% of Federal Circuit judges.

In summary, the percentage of Queensland women judicial officers has remained generally steady this year, as has the percentage of women at the Bar, in leadership roles on the Bar Council and as silks. But the number of women barristers appearing in the Queensland Court of Appeal has noticeably decreased, as has the percentage of the total value of external briefs to female counsel throughout Australia from the Commonwealth Attorney-General's Department.

Presently the Queensland Department of Justice and Attorney-General does not publish figures as to the number of women it briefs or the total value of its briefs to female counsel. For many years the Queensland Government adopted the Law Council's 2004 Equal Opportunity Briefing Policy, rebadged in 2009 as the Equitable Briefing Policy. I need hardly remind this audience that there is nothing radical about the Equitable Briefing Policy. It is not affirmative action. It should be embraced by all lawyers, including male barristers. It requires nothing more than that those briefing barristers consider whether there is a female barrister who would be the best person to brief in the particular case and to keep and to annually review statistics as to the briefing of women barristers.

Unfortunately, the previous State Government abandoned the Policy. It may be that this is reflected in the fall in the number of women barristers appearing in the Court of Appeal. I am hopeful the present Attorney- General may remedy this.

The Equitable Briefing Policy has been adopted by the Bar Association of Queensland for many years but the BAQ does not brief barristers.

Many Queensland solicitors' firms have also adopted the Policy. As I apprehend it, however, none publish an annual report with statistics as to the number of women briefed and the value of those briefs. I would like to see our professional organisations, QLS, BAQ and WLAQ, encourage those who have adopted the Policy to publish their statistics. I would also like the professional organisations to publicly acknowledge through awards those who have demonstrated a commitment to the implementation of the Policy.

I again emphasise that the under-representation of women at the Queensland Bar is not a discrete women's issue; it is an issue of concern to the whole Bar and to all members of the community, men and women. It is an issue about which leading male jurists are concerned, including former High Court Judges the Honourable Michael McHugh AC¹ and the Honourable Michael Kirby AC CMG.² Most recently, the Chief Justice of South Australia, the Honourable Chris Kourakis, in response to the under-representation of women at the South Australian Bar, has created an additional special position of Supreme Court Judges' Associate to be filled by a woman solicitor planning to go to the Bar. It is anticipated that this *Step Up to the Bar* initiative will help practising female solicitors gain the experience and confidence needed to become barristers and, ultimately, judges.

When we met last year, I foreshadowed that I would be meeting with the women then on Bar Council (Elizabeth Wilson QC, Jacoba Brasch and Ruth O'Gorman), together with then President, Peter Davis QC, then Vice-President, Shane Doyle QC and BAQ Chief Executive, Robyn Martin, to encourage BAQ to develop policies to address the concerning issue of the under-representation of women at the Queensland Bar. We met a few days after my address to you last March. It was a promising meeting but in light of the tumultuous events for the Queensland legal profession and judiciary which preceded and followed that meeting, you will not be surprised to hear that those policies were not developed. I am optimistic, however, that I will have more positive outcomes to report next year.

¹ The Honourable Justice Michael McHugh AC, "Women Justices for the High Court" (Speech delivered at the High Court Dinner hosted by the Western Australia Law Society, 27 October 2004).

² The Honourable Justice Michael Kirby AC CMG, "Women in Law – Doldrums or Progress?" (Speech delivered at Women Lawyers of Western Australia, Perth, 22 October 2003); The Honourable Justice Michael Kirby AC CMG, "Women Lawyers – Making a Difference" (1998) 10 *Australian Feminist Law Journal* 125; The Honourable Justice Michael Kirby AC CMG "Women in the Law – What Next?" (2002) 16 *Australian Feminist Law Journal* 146

My thanks to Judge Helen Bowskill. Without her reminding me of the pressing need for this function, this evening would not have happened.

I also thank all my co-hosts for their continuing magnificent contribution to Queensland's justice system. The life of a judicial officer is not easy. It is even harder when lived under the public spotlight, something I apprehend happens more often in Queensland to women judicial officers than to their male counterparts.

And I sincerely thank the women barristers present, both junior counsel and silks, for your important contribution to Queensland's democracy by ensuring access to the rule of law for all and the maintenance of the separation of powers and the independence of the legal profession and the judiciary. I especially acknowledge Elizabeth Wilson QC who courageously stood for the position of Vice President of BAQ last year in support of high principle. I look forward to congratulating a woman President of BAQ before too long.

Tonight provides an unmissable opportunity for women judges and barristers to renew old friendships, make new ones and for mutual support and encouragement. In that spirit, I encourage you to enjoy the remains of the evening.