



**Judicial Conference of Australia**

**Media release**

**Alleged systemic racism in courts**

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President of the Judicial Conference of Australia  
1 July 2020**

In an article in the *Sydney Morning Herald* on 10 June 2020 (page 19), Teela Reid, described as a lawyer and Wiradjuri/Wailwan woman, wrote (among other things): “We need systemic change to eliminate institutional racism within the courts.”

The Judicial Conference of Australia (JCA) takes issue with the assumption behind this statement – that there is in fact, institutional racism within the courts in this country and suggests, with respect, that it is irresponsible for a lawyer to state in an article in a major newspaper that there is, without citing any evidence for the proposition. Such statements have a tendency to improperly undermine public confidence in the courts.

The article was chiefly about the possibility of establishing Walama Courts in New South Wales “designed to divert Aboriginal people away from the criminal justice process and reduce police contact by involving Aboriginal elders in the

decision making process”, something that has been done here in Australia as well as in New Zealand and Canada with some success. It also referred to the overrepresentation of Aboriginal people in prison in New South Wales, which is duplicated in other Australian jurisdictions, and which most people consider to be unacceptable and a blight on our society.

However, to ascribe the overrepresentation of Aboriginal people in our prisons to “institutional racism” in Australian courts is not just simplistic, it is plain wrong. The sad fact is that there are too many Aboriginal people in prison because there is too much crime committed by Aboriginal people in our society – especially violent crime, usually, but not always, committed by Aboriginal men.

To quote figures from a jurisdiction with which I am familiar, the Northern Territory has by far the largest percentage of Aboriginal people of any State or Territory; indigenous people make up about 30% of the population of the Northern Territory, but more than 80% of the prison population. A large proportion of these prisoners have been sentenced for crimes of violence and the commonest victims of this violence are indigenous women – often the partners or other family members of the perpetrators.

The tragic story of Aboriginal men in prison is mirrored by the tragic story of Aboriginal women in hospitals and morgues. Indigenous women are approximately 10 times more likely to be the victim of an assault (usually

inflicted by an indigenous man) than non-indigenous women, and the assaults they suffer are more serious. An indigenous woman victim of assault is 35 times more likely to end up in hospital than a non-indigenous woman victim. (These figures are taken from a paper entitled *Law and Disorder in Aboriginal Communities* presented by the then Territory DPP, Richard Coates at the CLANT Conference in Bali in 2011. The figures are from 2010. The situation has not improved since then.)

The situation is not vastly different in Aboriginal communities elsewhere in Australia, in particular in North Queensland, Western Australia and Western New South Wales.

The causes of this epidemic of violent crime are multiple and complex, prominent contributing factors being unemployment and passive welfare dependency; lack of employment opportunities; lack of access to adequate education, health and mental health services; lack of adequate housing and consequent overcrowding; substance abuse; dispossession and loss of culture; consequential despair and the 'rivers of grog' that run through our communities. (Dispossession and loss of culture loom larger in many other States. Owing to the unique situation of the Territory, dispossession has not been as complete as elsewhere and in many communities culture is strong and traditional languages flourishing.)

These are the things that need addressing to meet the problem of the overrepresentation of Aboriginal people in prison. To blame the problem on “institutional racism” in our courts is inaccurate and mischievous.

Judith Kelly

President

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*The Judicial Conference of Australia is the professional association of judges and magistrates in Australia.*

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The President of the JCA is not available for broadcast or television interviews on this matter.