

Women Lawyers and ‘Engagement’

Women Lawyers Association of New South Wales, Launch of 2015 Program
Union, University & Schools Club
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by

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Opening

In this little corner of Sydney, not far from the glorious waters of Sydney Harbour, may I begin by acknowledging the Gadigal people of the Eora nation, the traditional custodians of this land and pay my respects to elders past and present and give my warmest acknowledgment to Indigenous guests here this evening.

I note in attendance and in support of this evening, representatives of the Law Society of New South Wales, the NSW Bar and the judiciary.

I would like to pay a particular tribute to the fabulous Patron of NSW Women Lawyers, the Hon Jane Mathews AO, to the outstanding President, Lee-May Saw and Janet Coombs, a NSW ‘original’—glowing examples of everything that may be embodied by the idea and theme of ‘engagement’.

I am thrilled to be this evening’s speaker on the occasion of the launch of the 2015 program for NSW Women Lawyers.

WLANSW President, Lee-May Saw, set the tone for 2015 in announcing the program by saying it would be a year of exciting opportunities for women lawyers and wanting us to focus on finding ‘productive opportunities for women to rise to their best potential’.¹

The theme of engagement

I have been promoted in the flyer for this event as ‘in sync with the theme of engagement’. The theme certainly provided a most interesting challenge in writing my speech for this evening—especially as the one to begin the year.²

I love words. Each to me tells its very own story. And English is such a ‘macaronic’ language, as they say—the bits and pieces of its history are collected and retained in the ever expanding vocabulary drawn from its various roots. At one stage I imagined a research project that would write a history of law through the origins of its words—land law as the repository of French, the language of the Norman conquerors of the 11th century who plopped French through the language of land law (think ‘fee simple’, ‘estate’, although we speak these in an anglicised form, and words that look and sound a little more French like ‘profit a prendre’, ‘moiety’, ‘pur autre vie’); inheritance law as the repository of Latin through the

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¹ <http://www.womenlawyersnsw.org.au/home> at 25 February 2015.

² The speech I wrote on the occasion of celebrating the appointment of women judges in New South Wales (in July 2010) was a little easier — I did a rewrite of Shakespeare’s ‘Seven Ages of Man’ as the ‘Seven Ages of Woman’. The *Bar Review* later published this — to their enormous credit!: ‘The Seven Ages of Woman’, (Summer 2012–2013) *Bar News* 93.

ecclesiastical law of the church that administered the goods and chattels of the deceased—legacy, testator and executor, for example.

So in reflecting on what to say this evening, I headed for the dictionary!

‘Engage’ is an interesting word. It is another of those words that have found their way into English via French. And like so many English words it has several nuances of meaning:

- to hire—as in engage an employee
- to bind as a pledge—as in engage to marry
- to occupy attention, to attract or please —(both of which I hope I am doing right now!)
- to bring or come into conflict—as in engage in war
- to become interlocked—as in gears

Interestingly, the last meaning listed in the Macquarie Dictionary is ‘(of a foetus’s head) to drop down into the mother’s pelvis, in preparation for birth’. I guess this is related to the previous meaning, like gears. There is certainly the same kind of ‘crunching’ going on!³

In German—that plainest of sources of the English language—there is a word for every nuance of ‘engage’. For example, the flyer for this evening’s event billed me as ‘an engaging speaker’. In German, the adjective could be *bezaubernd* (charming), *fesselnd* (engrossing) or *angenehm* (pleasant)—each would be fine! (In another random aside there is a wonderful online German dictionary where you can click on an audio which gives the pronunciations).⁴

As a concept, ‘engagement’ is such an *embracing* one. I note here all the aspects included in the WLA list (abbreviated below):⁵

- engaging in debate and discussion on issues affecting women lawyers and women in the law;
- engaging with lawyers across various sectors of the legal profession;
- WLANSW members, partners, and friends engaged at WLANSW functions and events in networking and informal mentoring;
- engagement between an energetic Executive Committee and members through functions, events and initiatives;
- engagement of WLANSW with its partners and sponsors in furthering the objects of association and in the interest of WLANSW members and women lawyers;
- engagement with our male colleagues on issues impacting on workplace culture, flexibility in the workplace, part-time work, parental leave, and remuneration; and
- engagement of WLANSW with an awareness of current market trends, including trends within the legal profession for solicitors and young lawyers.

This is a focus that is multi-layered and inclusive. It is quite a different focus—and word—from one like ‘networking’, which is peculiarly associated with business. That ubiquitous reference tool, Wikipedia, defines networking as ‘a socioeconomic business activity by which groups of like-minded business people recognize, create, or act upon business opportunities’. Referring to networking techniques, the helpful entry says: “‘Schmoozing’ or ‘rubbing

³ In flicking through dictionaries I should note that there is always a danger of being distracted. For information, as I can see no directly relevant other reason for telling you this, the word before ‘engage’ was ‘Engadine’, and the word after, ‘Engels’!

⁴ <http://www.dict.cc/?s=engagement> accessed 19 February 2015.

⁵ <http://www.womenlawyersnsw.org.au/> accessed 19 February 2015.

elbows” are expressions used among business professionals for introducing and meeting one another in a business context, and establishing business rapport’.⁶

What do you think of when you hear the word ‘networking’? Golf? Drinks after work? Adventure team-building exercises?

‘Engagement’ is a very nuanced word, where ‘networking’ is a much more straightforward word.⁷ Perhaps, in an evening talk such as this, I might even suggest that ‘networking’ is a rather *masculine* thing—no foetal heads in pelvises here!

Engagement is an excellent word for us!

The facts of ‘engagement’ measured in stats—women in the legal profession

The New South Law Society has been particularly good at tracking data about solicitors, especially about women, with an annual survey that started in 1993–1994. The 2013 *Profile of the Solicitors of NSW*, published in Dec 2013,⁸ reveals that, as at 1 October 2013, 47.8% of solicitors were women — almost double the percentage in 1994. On its face these are healthy numbers.

But unpeeling the stats:

Women solicitors tended to be younger than males, and females outnumbered the males in the younger age groups—up to the age of 39. 58.1% of those entering the profession were women. From age 40 the stats do a remarkable *volte face*, so that, eg, in the 50–59 age group there are almost twice as many male practitioners as female; and in the 60–69 age group, almost three times as many males as females.⁹

The bottom line is that, by their early 40s, women are leaving in droves—certainly private practice. I also note here the observations of Helen Conway, the director of the Workplace Gender Equality Agency, in an article in this month’s *LawyersWeekly*, of the ‘long-standing problem’ of not seeing ‘enough women move into equity partnerships’.¹⁰

There are lots of reasons that explain data like these—and particularly for women from their late 30s:

- They have more sense.
- They find better things to do.
- They find work in other ways—like government or in-house roles, that is more compatible with their lives once children enter the equation.¹¹
- There are also issues of ‘structures’, and ‘cultures’, which may get in the way.

That’s where the theme of ‘engagement’ is spot-on. It is so positive; so *affirming*.

Engagement for me

I found a role that I loved in teaching law students. It was utterly engaging and opened up endless possibilities for mentoring young women—and men—both as students and then later

⁶ http://en.wikipedia.org/wiki/Business_networking accessed 19 February 2015.

⁷ In German, too, it is a plainer — as a noun, *Vernetzung*; and as a verb, *vernetzen*.

⁸ 2013 *Profile of the Solicitors of NSW, Final Report*, December 2013, prepared by Urbis for the Law Society of New South Wales: <http://lawsociety.com.au/cs/groups/public/documents/internetcontent/823347.pdf> accessed 19 February 2015.

⁹ 2013 *Profile of the Solicitors of NSW*, 4, Table 2.

¹⁰ ‘Law’s disappointing gender report card’, *LawyersWeekly*, February 2015, 16.

¹¹ 2013 *Profile of the Solicitors of NSW*, 13, Table 10, shows that, while private practice accounted for 69.8% of solicitors, 19.3% worked in the corporate sector and 10.9% in government. In the corporate sector, 56.6% are women, and in the government sector, 63%. Trish Hyde suggested that in-house work provides a better work-life balance: T Hyde, ‘Go in-house for work-life balance’, *LawyersWeekly*, February 2015, 15.

as we kept in touch over the years. Each new role I have held has only added a richness to this.

It was somewhat of an accidental career path. I had planned to be a barrister, like my father (later a judge) but by the time I was admitted as a legal practitioner I was six months pregnant. When my daughter was born I was utterly clueless—I didn't know what to do about a baby, let alone about a career with a baby!

When my daughter was nearly a year old I applied for a position in teaching at Macquarie University. I got it. Curiously, what secured me the teaching position, at the age of 27, was none of the things that a career path would have mapped out. Not a higher degree — I hadn't even thought about that one yet, the PhD would come later, although I did have an Honours degree in History which evidenced research ability; not publications — yet. But I did have teaching experience — in music. (I had been a professional musician around the edges of my law studies). I had taught a residential summer school in early music, with a group aged from 17 to 70. It was a great background for teaching distance students, who came in for weekends at a time on campus. It was quite an enlightened approach to appointments by then Profs Jack Goldring and John Peden, both sadly departed from this world.

I took to the teaching like a duck to water. I loved it.

So I accidentally got on another track and it opened up a whole new career path: 25 years. Then I had the opportunity to move into new role in early 2007 in the Australian Law Reform Commission. Since the end of 2009 I have been its President. It has been a career with only a brief moment in private practice and all mainly in the academic and government worlds.

I still love my music, though. I love choral singing and still sing with the Bar Choir—always looking for new recruits I might add—and I am playing my oboe again, in chamber music with other lawyers similarly desperate for a musical outlet. It is a different kind of 'engagement' but a lot of fun—very aerobic, very intellectually demanding and hugely satisfying. It is a great team sport.

What are the 'engagement' achievements I can highlight? One thing I am particularly proud of is how I have sought to encourage others in their careers through active mentoring. As Dean, I loved to speak to students at Open Days and other career days and to take any opportunity offered to speak at schools, both in classrooms and at Speech Days, especially to foster young women's aspiration to study law. At the ALRC I make sure to have time with each of our interns for a tête à tête or 'fireside chat'. And as a manager I see the regular performance review cycle as a highlight of my responsibilities. My approach is to see performance management as performance *development*. I am so proud to see the progress of those at times under my supervision—whether or not they take my advice!

I have also sought to change the culture in places I have worked. Changing culture can happen in big ways—and here I think particularly of workplace policies and commitments, and particularly as embraced by our male colleagues.¹² But it can also happen in little ways.

One of my personal mantras is 'do each day well'. In management roles one can set up and nurture opportunities for colleagues to engage with each other, where conversations start and relationships build. I am a fan of morning tea. People come because they know they don't have to stay long, they will get something to eat (the low blood sugar elevenses), children are

¹² Helen Conway commends such initiatives but advocates moving beyond what she describes as an 'ad hoc' approach to a 'strategic' one, including setting KPIs that 'hold individuals accountable for achieving specific milestones' in a gender strategy: 'Law's disappointing gender report card', *LawyersWeekly*, February 2015, 16.

at school or childcare, and people just have to say a few words to each other. And they don't even notice. It is the power of the kitchen—and it is very engaging. It became part of my management style.

In a speech that Justice Roslyn Atkinson AO of the Queensland Supreme Court delivered last week,¹³ she spoke of a lesson of leadership that she learned 'very early on', and that was 'you are quintessentially yourself'.¹⁴ She became 'acutely aware' of her own personal attributes, including her weaknesses and strengths. She seized upon this in giving this advice:

If you are an extrovert, you will be an extrovert as a leader. If you are by nature co-operative or collegial, you will be that as a leader. If you are a quiet achiever, then you will lead by example through your quiet achievements.¹⁵

It was as much a message about knowing yourself, as don't doubt yourself. She said later in that same speech that 'you can only succeed in life by being true to yourself and to your own beliefs, principles and manner of dealing with the world'.¹⁶

For inspiration on the 'engagement' front I only have to look at my mother. Although not in the 'paid' workforce my mother, a writer, has kept writing. She is 93. When I was 12 she started a PhD. She was Secretary of the P & C. She ran a theatre in our backyard, and then another one when the backyard was too small for the enterprise for showcasing Australian playwrights.

She is still writing—on history; on politics; on food; anything that takes her fancy! She is writing plays, novels, musicals and poetry. She has so much on the boil now. Her pace has increased, if anything, as she wants to finish everything before she 'drops off her perch'. She has no time for editors and publishes everything herself. And she engages anyone she can latch onto in animated conversation, although she struggles at times to hear the other side of it.

Responsibility for engaging

If I were to find a message in the theme of 'engagement' it would be see it as an active thing: 'engaging' as a verb. For many women their stories and abilities to engage are intertwined with a very simple fact: someone has to look after the kids. How does 'engagement' or 'engaging' work in the context of this stark reality? While this is not the story for all of us, it has been mine, and it is central to some of the cultural and systemic challenges that women have struggled against.

In July 2012 my attention was drawn to an essay by Anne-Marie Slaughter, a Professor at Princeton University, 'Why Women Still Can't Have it All', in *The Atlantic* monthly.¹⁷ Professor Slaughter wrote about her decision to leave her position as the first woman director of policy planning for the US State Department to return to academia.

What Professor Slaughter's article brought into the spotlight is the tacit theme underlying challenges in the workforce for women—and perhaps particularly for professional women. What role does the responsibility for children play in affecting women's career advancement?

¹³ http://archive.sclqld.org.au/judgepub/2015/atkinson180215.pdf?utm_source=MailingList&utm_medium=email&utm_campaign=20150223_QLU accessed 25 February 2015.

¹⁴ Ibid, 6.

¹⁵ Ibid, 7.

¹⁶ Ibid, 9. Justice Atkinson is one that expresses engaging as including being 'generous'—by active mentoring, but also by looking out for colleagues and caring about their welfare, particularly in times of crisis or stress: 12.

¹⁷ <http://www.theatlantic.com/magazine/archive/2012/07/why-women-still-cant-have-it-all/309020/> accessed 25 February 2015.

I tackled these questions in speaking at the ALSA Women in Law Breakfast just after I read this article.¹⁸

Professor Slaughter's message was that women *can* 'have it all', but not all at once:

We may not have choices about whether to do paid work — as dual incomes have become indispensable. But we have choices about the type and tempo of the work we do.

She, like me, was speaking to mainly middle class/professional women. Her message resonated with me and my own experiences—the issue as we each lived it in our lives. For me, as I mentioned earlier, I accidentally fell into a career that worked around my children as well as providing me with fulfilment (and fun).

Like Anne-Marie Slaughter, women like me owe our freedoms to women who broke the ice for us—and here I count our very own and very dear Patron—and then, gradually, made it 'normal' to expect to be successful professionals and to expect to go as far as we want to in our professional, and personal, lives. Having 'it' all, however, is very personal.

Anne-Marie Slaughter found the academic path suited her best. So did I—for much of my professional life before I took up my ALRC Commission. It gave us both a control over own schedules that enabled us to manage what we felt were our 'pulls' of family and, at the same time, to manage to engage with our careers and to maintain the relationships, professional and personal, that were sustaining.

Tips on engaging

In December 2011 the Law Society produced an excellent publication, *Thought Leadership 2011—Advancement of women in the profession, Report and Recommendations*, which provided a handy snapshot of that branch of the profession in NSW, both now and historically. An important conclusion was that, while there are many definitions of success, there were a number of things that were singled out as important to the advancement of women in the profession:

- maintaining a connection with the profession during an absence, for example through continuing professional development;
- seeking out mentors, sponsors and champions; and
- building your connections—your personal career network.¹⁹

Through the lens of this evening's theme, these can all readily be seen as examples of engaging and ways, on a personal level, of using engagement to advance your career as a woman lawyer.

I will add a few suggestions to that list, including some 'dos' and 'don'ts' on an engagement checklist:

- Trust in your ability—women (as a broad generalisation) tend not to 'blow their own trumpet', and this sometimes gets reflected in pay differentials.
- Don't use words in job applications or interviews like, 'I hope' or 'I believe'—these are not words of engagement, but words of uncertainty.

¹⁸ My speech is available on the ALRC website: <http://www.alrc.gov.au/news-media/women/alsa-women-law-conference-2012> accessed 19 February 2015.

¹⁹ NSW Law Society, *Thought Leadership 2011—Advancement of women in the profession, Report and Recommendations*, 22.

- Revise and re-evaluate your goals regularly as your life, especially if it involves children, will undoubtedly change. This is not about giving up, but finding other ways to achieve your goals.
- Laugh a lot—it's infectious, healing and wonderfully engaging!
- Choose your own path with confidence. Jane Mathews gave similar advice when asked in a delightful interview with Richard Ackland, in his 'On the Couch' series, 'What are your survival tips for women in the legal profession?', to which Jane replied: 'Be yourselves and aim high'.²⁰
- Don't take yourself too seriously—Again I will refer to Jane Mathews, when asked by Ackland, 'If you were a foodstuff, what would you be?', our honourable Patron replied, 'A sweet potato'! Fiona McLeod SC's answer was: 'A nectarine, or one of those alien life forms in my fridge.'²¹

Looking beyond ourselves and thinking collectively—the big ways to change culture—Law Societies and Bars have done much in the last fifteen years or so to change workplace culture as has the Workplace Gender Equality Agency. Many firms espouse family-friendly policies and are proud when they win awards as an Employer of Choice for Women. Such achievements testify to the importance, and gradual success, of engagement on these issues. There is still much work to be done at this collective level and here the aspirations of WLANSW, in setting the theme and goals of the 2015 program in such an embracing way is a significant and welcome step. I congratulate the Executive Committee for their singular achievement in this regard.

Katrina Dawson

A particularly special part of this evening is that the proceeds are going to the Katrina Dawson foundation. Katrina was a most engaged young woman lawyer. Her passing was as inconceivable as it was shocking. I taught both of her brothers, Sandy and Angus, at Sydney Law School, and met Katrina when she was at Women's College during Quentin Bryce's principalship. At the memorial service held for Katrina at the Great Hall of the University of Sydney, Jeremy Stoljar SC said of Katrina that 'she had it all':

She looked after the younger ones, she worked with the older ones. She put 100 per cent into everything she did ... she was the best friend anyone could have.

May we all aspire to earn such a tribute on our passing.

²⁰ <http://www.justinianarchive.com/1151-article> accessed 19 February 2015.

²¹ <http://www.justinian.com.au/featurettes/fiona-mcleod.html> accessed 19 February 2015. When Richard Ackland put me 'on the couch', my reply to the same question was: 'Iodised salt. Salt because it is the great preserver and improves taste; iodine because our brains need it and my mother keeps telling me we don't have enough in Australia.' <http://www.justinian.com.au/featurettes/rosalind-croucher.html> accessed 19 February 2015.