

Iftar Dinner

Integrated Diversity in the Legal Profession

- 1 Assalaam 'alaikum; peace be with you. Distinguished guests, ladies and gentlemen, it is an honour to have been invited by the Muslim Legal Network and the Law Society to speak to you at this Iftar Dinner.¹ I wish at the outset also to acknowledge and pay my respects to the traditional custodians of the land on which we meet – the Gadigal people of the Eyora nation - their elders past and present and those yet to come. In a speech on diversity it is fitting to remember that our respective cultures have both differences and similarities with the values of the first peoples of this land.
- 2 Tonight's Iftar is an important celebration for all of us and a reminder of the diversity within our legal profession and in Australian society more broadly.
- 3 Indeed, the Holy Month of Ramadan is a celebration of a faith known for its great diversity. As we join in this Iftar Dinner, we might reflect upon the fact that Iftar is a ritual being carried out this Ramadan at dining tables and mosques in countless and diverse communities around the world. The 1.8 billion people worldwide

¹ I gratefully acknowledge the assistance of the Equity Researcher, Ms Alyssa Glass, and of Ms Elizabeth Miller, in the research and preparation of this speech.

who identify as Muslim speak hundreds of different languages and come from all corners of the earth, including of course our own region. In fact, the majority of the world's Muslims live in our Asia-Pacific region. This is the world's most religiously diverse region, and certainly in Australia, that diverse heritage is one of our greatest strengths.

4 In our legal profession, nearly one-third of solicitors practising in NSW in 2016 and 2017 were born overseas. The increasing diversity of the legal profession is evident in the regular ceremonies held in the Banco Court for the admission of new lawyers and is recognised and always welcomed by the Chief Justice of New South Wales on those occasions. The Chief Justice has asked me to pass on his best wishes to all of you this evening.

5 That cultural diversity is not yet reflected as it should be in some areas of the profession, including in the judiciary. Promoting diversity at all levels of the legal profession is uniquely important, because law is not an ordinary profession. It is fundamentally concerned with the core values that underpin the conduct of our lives and form the fabric of our society. Speaking at the NSW launch of the Asian Australian Lawyers Association, former High

Court Justice the Hon Michael Kirby AC CMG commented that it is more important in law to reflect diversity of values than in just about anywhere else, because law is about power – and if values affect the exercise of power, then it is crucial that diversity of values, experiences and backgrounds be reflected amongst those who administer, uphold, and protect our laws.

- 6 This perspective is reflected in the Law Council of Australia's Diversity and Equality Charter, which expresses the profession's commitment to diversity, equality, respect and inclusion, consistent with the principles of justice, integrity and equity upon which the profession is founded.
- 7 There is also a business case for diversity: the NSW Law Society has recently published a comprehensive study which concluded that having a diverse and inclusive culture improves the performance of law firms and legal organisations across the board, in areas including recruitment and retention of highly skilled staff, improved productivity and performance, and increased competitiveness and growth.
- 8 Perhaps most importantly, fostering diversity within the legal profession enhances our collective ability, as a profession, to make

meaningful improvements to individuals' experiences of, and access to, the justice system.

- 9 When I was sitting full time in the Court of Appeal, I would walk down the corridor each day from my chambers to the courtroom. The walls were lined with the names and photographs of many capable, and deservedly well-respected, white men and a small number of equally capable and well-respected white women (none, I might add, wearing any head covering – other than the old photographs of male judges in wigs).
- 10 The lack of judicial diversity is not an uniquely Australian phenomenon. International research shows that Indigenous peoples and cultural minorities are chronically under-represented in the judiciary. Only 5% of the 111 Justices appointed to the United States Supreme Court since 1789 have been from minority groups, and recent data in the United States shows that judges classified as Asian American or Native American represent less than 1%, and African Americans less than 20%, of the federal judiciary.
- 11 As another former High Court Justice, the Hon Michael McHugh AC QC, has said, a socially and culturally homogenous court is less likely to command public confidence in its impartial

administration of justice. A similar conclusion was reached in 2012 in the United Kingdom by the House of Lords Select Committee's Report on Judicial Appointments. That Report concluded that "in order to increase public trust and confidence in the judiciary, there is a need to increase judicial diversity". Shortly before his retirement at the end of 2016, the then President of the UK Supreme Court, Lord Neuberger, stated that "the higher echelons of the judiciary in the UK suffer from a marked lack of diversity and the Supreme Court does not score at all well." The same might be said of our judiciary here.

- 12 I believe we are heading in the right direction, although this is a gradual evolution, and there is more work to be done. We now, of course, have our first female High Court Chief Justice, as well as three female Chief Justices in the various States and Territories. (In Victoria, the Chief Justice of the State hailed not from the bar but from the ranks of the solicitors prior to her first appointment to the bench – thus demonstrating diversity on a number of levels.) The President of our Court of Appeal, a former speaker at this event, is female.
- 13 Nevertheless there remains a long way to go in terms of overall diversity – and it is important that we not limit our focus in this

regard to gender equality. Cultural diversity in the judiciary, at the bar, and throughout the profession is also very important.

Organisations such as the Muslim Legal Network, and events like this evening's dinner, play an invaluable role in ensuring that diversity is promoted within our profession. They remind us all to pursue a profession that is open, multicultural, and inclusive.

14 Earlier this year, I had the privilege of attending the Islamic Opening of Law Term ceremony and hearing from young Muslim lawyers of their dedication to fostering a profession built on mutual respect for difference. The event was a shining example of the tolerance, warm hospitality and openness which can break down barriers within the profession. During the ceremony, we were reminded of the pivotal place which justice occupies within the Holy Qur'an, and told of the Qur'an's message, to those who believe, that they should act equitably and be steadfast in standing up and bearing witness to justice.²

15 In that regard, I wish here to acknowledge some of the examples set by powerful Muslim women in the law, who have heeded the message of the Qu'ran and been steadfast in standing up and bearing witness to justice. Of course I can only give you a handful

² Verse 8, Chapter 5, Surah Al Ma'idah, The Noble Qur'an

of examples, but in the spirit of diversity I am going to mention four extraordinary Muslim women, from different backgrounds and different spheres of the profession.

- 16 Only very recently, Farmida Bi became the first female partner at Norton Rose Fulbright to be appointed as the firm's Chair. She has decades of experience in global banking and finance, capital markets, and debt restructuring, and previously occupied the role of Head of Islamic Finance for Europe. Ms Bi has acted on matters including Lloyds Bank's Supreme Court litigation which confirmed that Lloyds had the right to redeem 3.3 billion pounds' worth of enhanced capital notes issued at the height of the banking crisis in the UK; for the Government of Pakistan on its issuance of more than 7 billion US dollars' worth of bonds and sukuk in the past four years; and for Goldman Sachs on its debut 500 million US dollar sukuk, the first by a US financial institution. I should pause here, for those of you not conversant with the ins and outs of debt instruments, to add that a sukuk is an Islamic bond, structured in such a way as to generate returns to investors without infringing Sharia. Ms Bi also acted for the International Committee of the Red Cross on the world's first "Humanitarian Impact Bond", an initiative that drew investment from the private sector to design, build and operate rehabilitation centres in Africa.

Now at the helm of a leading global firm, Ms Bi is known for her commercial acumen, social conscience, and outstanding legal abilities.

- 17 Turning to the Bar, two months ago, the world lost Asma Jahangir, a leading Pakistani human rights barrister and a staunch defender of the rule of law. She was a champion of diversity, advocating for the rights of religious minorities in Pakistan and of those in bonded labour. Ms Jahangir was the founding chairwoman of the Human Rights Commission of Pakistan, an independent group, and served as United Nations Rapporteur on human rights and extrajudicial killings, and as Special Rapporteur to the United Nations on Freedom of Religion or Belief. She was the first female president of Pakistan's Bar Association, founded the first free legal aid service in Pakistan and the first ever all-female legal firm in Pakistan. This exceptional Muslim lawyer campaigned throughout her whole life for the marginalised and disadvantaged, and fearlessly spoke truth to power. Upon her passing, she was mourned around the world, and described by the New York Times as a symbol of the values that all lawyers should fight for.
- 18 Closer to home, in 2016, Victoria appointed its first Muslim woman to the bench. In a career which itself exemplifies diversity, her

Honour Magistrate Urfa Masood had worked in taxation law, at the Victorian Women's Legal Service, and for the Aboriginal Legal Service in Victoria, and, at the bar, she was known for the extraordinary breadth of her experience and depth of her expertise in criminal and family law. The anecdotes shared at her swearing in speak volumes of her empathy and insight, and colleagues described her as a meticulous, direct, and fearless advocate.

- 19 We of course also have notable, powerful female lawmakers and law reformers in Australia who identify as Muslim – Dr Mehreen Faruqi here in NSW and Dr Anne Aly federally come to mind. Looking back over Dr Aly's maiden speech in Parliament, I was struck by her commitment to diversity – not specifically to representing people of the Islamic faith but rather, a commitment to the rights of *all* peoples, of whatever faith and cultural background, and a commitment to represent all of the members of the diverse suburbs which make up her electorate. Her opening remarks reference both the Nungar people, the traditional owners of Cowan, and those Muslims around the nation then celebrating Eid al-Adha. Dr Aly attended an Anglican school, where she would read from the Bible and sing hymns at morning chapel service while fasting for the holy month of Ramadan and celebrating the holy days of Eid. When she asked her mother what to do during

chapel service, she was told that she should bow her head in respect and remember that we all worship the same God. These experiences taught her, and I will quote from her remarks, that “the values that make us Australians are measured not by the colour of our skin or by our religion or where we were born but by our dedication to the fundamental principles of equality and fairness”.

20 Of course, many – if not most – of you in this room tonight have your own stories and experiences as dedicated and competent Muslim lawyers who act as advocates and representatives for your clients and who contribute, by your presence and by your hospitality and openness at events like tonight’s dinner, to the pursuit of diversity within our profession, and all of the benefits that come with that.

21 For all of us, whatever our faith, Ramadan is a chance to remember what we share. It is a time for family, friends and communities to come together and I am so honoured to be able join these celebrations with you tonight. The commands to act equitably, to be steadfast in upholding justice, and to treat others with compassion are common threads in many faith traditions, and in both Islamic and Western legal systems. Those fundamental values are exemplified by some of the Muslim lawyers I have

mentioned tonight, and we can protect and advance those values by fostering diversity at all levels of our profession. Thank you for the opportunity to join in tonight's celebration of diversity, and to all of you, I extend my best wishes during this holy month. Ramadan Mubarak.