

Austin Asche Oration

The Journey of a Restless Advocate – Creating a more gender equal Australia

Elizabeth Broderick

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Introduction

Thank you Professor Les McCrimmon for your generous introduction.

Distinguished guests, The Honourable Austin Asche AC QC, (and his daughter Wendy), Ms. Nargaree Kit, Mr Jeff Collins, Rev Wohangara, The Hon Claire Martin, The Hon Peter Styles and Ms Linda Fazldeen, Professor Simon Maddocks, Vice Chancellor, and the Honourable Kevin Lindgren AM, QC, President of the Australian Academy of Law.

Thank you for your kind invitation to give this the ninth Austin Asche Oration. It is an absolute pleasure and a privilege to be here today, to continue what has become an established tradition. It is an even greater pleasure that the namesake of this lecture series is with us together with his daughter Wendy.

I wish that there was more of this kind of tradition, not only on these occasions, but in life - where we pause to celebrate and engage with a community of experience and ideas, with the legacy of those still amongst us.

Thank you Nadine for your welcome to country. One joy of the many roles I have had, is my friendships and collaborations with Aboriginal and Torres Strait Islander people so let me begin by acknowledging that we meet on the traditional lands of the Larrakia people. I pay my respects to all Elders – past, present and emerging, and to any Aboriginal and Torres Strait Islander people with us this evening. Thank you for your care and custodianship of this land for over 60 thousand years.

Tonight I'd like to share a little about my life in law, my journey as a restless advocate together with some lessons I have learned along the way. I also want to share with you what needs to shift if we are to create a more gender equal nation, a more gender equal world.

But before I begin, I want to let you in on a little secret. My track record on delivering orations is not good. 2 years ago I was to deliver the Australian Oration at the newly opened ICC in Sydney. My twin sister was to accompany me as my plus one As we were approaching it became clear that the keynote speaker would not be key noting any time soon. Thrust my speech into Janie's hand – gone from plus one to the main act, table 60 to table 1. And in a shameless act of self promotion she told me she received a standing ovation!!

My journey as an advocate

I was fortunate to be born into a family where gender was not seen as an obstacle. My mother was a science graduate and my father was a doctor who combined being a physician with Nuclear Medicine. He established the first nuclear medicine private practice in Sydney in about 1966.

I did odd jobs after school and, once I got my driver's license, ferried patients to and from hospitals. It was on one of these trips I remember ferrying a woman with a suspected pulmonary embolus - a blood clot in the lung making it difficult for her to breathe. I helped her into the car, a proud newly minted driver. Yet, upon inquiring about my father and my family, her only remark was to say: "What no sons? Oh, your poor father. No-one to carry on the family name".

And perhaps that is where it all started.

I enrolled in a combined Computer Science and Law degree at UNSW. This allowed me to pursue my love of technology and combine it with strong law and social justice. To be honest, it wasn't until university that any gender imbalance confronted me. I still remember turning up to my first digital logic and assembler programming class in the School of Engineering - 100 men... and me! Yikes! I knew pretty early on that if I was to have any chance of passing, I would need to trade my essay writing skills for some lengthy computer programming tutoring and, with my grades underpinned by this symbiotic relationship, we all got along very nicely!

After graduating as one of only three women in this course, and after working overseas for several years, I returned to Australia in my late 20s - just as the world wide web was emerging. Technology was coming into law firms and I rode its wave by accepting a role at Dawson Waldron (now Ashursts) to establish their first Legal Technology practice.

My colleagues were skeptical. They told me I was wasting my law degree. "Don't you want to be a *real* lawyer?". Self-awareness, however, is a crucial life companion. My passion was to create a new way of delivering legal services. I wanted to make the law more accessible and less expensive – to ensure that communities that had never had access to quality legal services might do so in a new and different way.

My first assignment was to set up the technology and management of evidence for a case in Papua New Guinea, to be heard in the Superior Court at Port Moresby.

The top of a mountain had collapsed into the tailings pond at a cost of \$130 million. The dispute was over who was going to pay – was it the mining company, or its insurers?

The case preparations appeared to be progressing nicely. We had designed state of the art networking systems running from the Supreme Court to our hotel where the team was working. But what we didn't know, however - and what we hadn't calculated on - was that the court hadn't paid their telephone bill for the last four years and, as a result, the state telecommunications company had cut off all telecommunications to the court!

In fact, matters went from bad to worse. We then received a call from Data General, the company who was to provide us with IT support on the ground. That task would not be possible they told me - because the man who was to provide the IT support had been axed...and I don't mean sacked. He had actually been split down the middle in an attempted robbery!

When, on the first day of the trial, the client brought around a huge machete to keep near the door just in case - I was really wondering whether I had made the right decision to combine law and technology. After one week of hearing, however, the plaintiff and defendant decided that arbitration was an easier option and we all breathed a sigh of relief - me in particular!

Perhaps this was my first learning. I learned about Murphy's law - if something can go wrong, it will.

But I also learned about disruption: THAT for change to happen, you must disrupt the status quo. This goes for the law, just as much as technology. In Papua New Guinea we saw an example of why formal access to the law is not enough, and why human beings can make or break a situation. We need to be alive to this, as well as to be continuously questioning what is valuable about traditional approaches and what is not. This is also true for gender equality.

Coincidentally, I returned to PNG just three weeks ago and while it is still a difficult situation for gender equality and women's rights, there is also space for bold approaches. I was impressed by the young women and men, whom I met. They have a strong vision for their country and are proud of their culture, but they are also challenging the elements of culture which are holding back women and girls.

By 1991, the firm had appointed me to head the Legal Technology Group - which sounded seriously grand but was really just my assistant and me. Over the next 5 years, however, the group grew to be 8 lawyers. One day, I had a day that started like any other, a team member popped into my office to tell me she was pregnant. The same afternoon another senior lawyer came to see me with the same news. When three weeks later a third lawyer joined the mother-to-be queue and what they didn't know was that I was also pregnant, we knew we had a challenge on our hands. That was half the entire legal team that would be out on maternity leave at exactly the same time.

As the person in charge I had to find solutions and find them fast. So, I developed the office's business case for a flexible work place. My premise was simple - that work and care should NEVER sit at opposite ends of one hard choice. It's pure common sense. If a workplace is flexible and allows

workers to balance both work and life, it will allow for a greater retention of talented staff and higher productivity.

We decided not to ask for permission but rather to step up and take action, and, if necessary, the explanations and apologies would come later. As part of this new way of working we needed individuals who shared our vision for change. I was presented with a list of CVs for a potential new secretarial recruit – and then I came to Michelle's CV. Now, Michelle had been a secretary for 3 weeks but she'd been a nanny for 6 years. With those credentials, we knew we needed her on our team. Thinking outside the square, we developed flexible work arrangements for all our new mums in which we drew on Michelle's skills to care for our children while sharing roles at work. Again, this was an example of putting what people actually *need* at the centre of a solution, rather than maintaining the status quo for the status quo's sake.

Over the years we went on to build a high impact team where flexibility was core to how we worked. We didn't set out to change the world, just to build flexibility in our small team. What I learned, however, was a little like Paul Kelly's song, that out of small things, big things grow – it's something I've experienced time and time again across my career.

I continued to build my career within Blake Dawson, now Ashursts, which included periods on the Board and time spent in an internet incubator. These were exciting times – the mid 90s. We toiled away, re-imagining new models for the delivery of legal services - services such as LegalLastMinute.com - where law firms could even out the ebbs and flows of supply and demand.

We recognised that a billable hour is a perishable good. If you don't sell it today it is worth nothing tomorrow. Our web services allowed law firms to sell excess capacity to LegalLastMinute.com and clients could then buy forward at a discount. We also experimented with Artificial Intelligence. This was in the mid 90s. What did I learn? I learned that being 20 years ahead of the game is as problematic as being 20 years behind!!

By the early 2000s, I came to realise more fully the struggles for women within the legal sector – the loss of valuable female talent, the fact that very few women ever made it to the top. It was from then on that I became passionate about trying to change the systems that were producing disadvantage for women. This desire to "fix the system", rather than to "fix women" has been a life-long mantra.

Shifting to a more gender equal world

But how do you "fix the system" – make it more inclusive and responsive? To answer this, I fell back on the lessons I learnt at law school – that I had a responsibility to use my voice and experience to advocate for the rights of women and other more marginalised groups - to create a more equal and JUST society from which everyone would benefit.

It was at this time that I also started to understand that not all women start from the same position. Therefore, we must be wary of averages, of presenting a uniform picture, of proposing a one size fits all solution. The fact is that certain groups of women represent the “minority of the minority”. Inequality will affect those who have less power to a much greater degree.

Take the experience of indigenous women or women from culturally and linguistically diverse backgrounds. For these women gender and cultural background intersect and compound the barriers faced in attaining equality and stepping up into leadership roles. The same is true for lesbian and transgender women.

Or take the experience of women with disability who experience violence. In NSW a man shot his 3 children and then his wife before taking his own life. The media reported that there were 5 victims. No. There were 4 victims and a murderer. As the late Stella Young wrote at the time "When we hear that a murdered wife is also a woman with a disability, we can find ourselves a little bit less horrified. As though her status as a disabled woman gives us a little more empathy towards the perpetrator of violence. It's victim blaming at its very worst."

The Global Picture

Certainly, over the last few years, the work of promoting gender equality is becoming more and more difficult. Each day I sense that our progress towards gender equality is *slowing*; and hostility to human rights is actually *growing*.

In November 2017, I was appointed by the UN as one of 5 Special Rapporteurs and Independent Experts on Discrimination against Women and Girls across the world. In this role I undertake country visits and engage widely across nations to assess the situation for women and girls and make recommendations. I also issue official communications to governments in relation to violations of women's human rights. Over the last 6 years, my colleagues and I have issued over 200 communications that have tackled issues and individual cases in areas such as sexual and reproductive health and rights, indigenous rights, women human rights defenders, domestic workers and access to land.

At a time when you might imagine a global mandate on women's rights is necessary and non-controversial, in 2019 my mandate is one of the most contentious in the global human rights system.

You see, today the world stands at a crossroads, with the very concept of gender equality and women's rights, being increasingly contested in some quarters.

The global movement towards gender equality is profoundly uneven – a fragmented picture of acceleration in some contexts such as the #metoo campaign, and stagnation in others. But the backlash for those who promote gender equality and women's rights has become more and more

pronounced in recent years. My meetings with human rights defenders across the world tell me that it is so.

In today's world, there are loud voices working against gender equality. Working to silence our voices. Every one of us, men and women and particularly those in power, we have a responsibility to speak, to use our power and influence to drive change, to celebrate women's achievements equally with men, to demand women's equal place in industries and nations.

Just last week, for the first time, my colleagues, each one a UN Special Rapporteur on Women's rights, representing the Americas, Africa and the Middle East region, Asia Pacific and Europe came to Sydney for several days of expert meetings. We heard reports that were deeply concerning; the weakening of protection for women's sexual and reproductive rights, the passing in the US in the last year of 62 pieces of legislation restricting women's access to reproductive health most at State level, restrictive legislation being introduced in some Latin and South American countries to stop the use of the term "gender", women's human rights defenders detained across the MENA region for speaking out on gender equality, women detained in maternity hospitals in the African region because of an inability to pay maternity costs, the increasing incarceration rates of indigenous women across the world and the list goes on and on.

We also discussed women's rights in the changing world of work. The context is shifting dramatically – especially through technological change – but also through significant demographic change and continued globalization. The sheer scale and velocity of these changes is unprecedented. History indicates that no industrial or technological change has been gender-neutral and that remains true for the 4th Industrial Revolution.

There are great opportunities for women in the work of the future but also significant threats. Already today there is discussion about targeted ads where algorithms are perpetuating the gender pay gap by targeting listings for better-paid jobs towards men.

If existing gender inequalities are not addressed and new threats not fully assessed, there is a significant danger that gender inequality will not only be replicated but amplified in the future world of work.

I continue to ask myself, as an agent of change, what can I do to ensure a more gender equal world, a world in which diversity is valued, a world where an individual's value is not diminished because of another's inability to see their worth. I ask myself: what more can I do to create positive change?

So I want to share with you a number of valuable lessons which I have learnt.

Lesson 1

First, I've come to understand that law and reform must be about people, that the rule of law and democracy are not there to serve an academic ideal but rather to serve ordinary communities and individuals. It's through meeting the people, through hearing the human stories that we become energized to take action, that we become 'radicalised' in a good way. So, in all my dealings, I hold the experiences and stories of individual people in the forefront of my mind as this is what keeps me driven and energised.

I describe it as holding my compassionate self (the part of me that is the keeper of thousands of stories) beside my strategic self (the part of me that engages in reform and advocacy). When I step up to advocate for change, it's not just Liz Broderick speaking, it's Liz Broderick fuelled by the thousands of instances of inequality I have witnessed over many decades. That's what fuels me – that's what makes me influential.

The **second lesson** I have learnt is that I will have greater success in driving change if I frame that change as a positive not a negative. There are times when strong demands and activism will be the only viable approach but in most cases, rather than demand that "something is not as it should be and we should fix it", I invite participation by saying "I long to be part of the gradual process of creating a world of equal opportunity for all, will you join me"? Having done this of course, you must then listen deeply to all opinions, particularly to those who hold opposing views to yours; you must take the case for change from people's heads and lodge it in their hearts. And finally you must take the human stories directly to the heart of power.

Let me give you one example of taking the stories directly to the heart of power. Here in Darwin there is a strong military contingent so I will use a story from the Australian Defence Force, an impressive organisation.

In 2011, I led a Review into the Treatment of Women in the Australian Defence Force. As I travelled across Australia and beyond, a great many people told me stories about how the ADF had served them well. That was the majority. Others, however, told deeply distressing stories – stories like Jane's , stories they had never told before. As we progressed I realised that, while it was important to document these stories, it was even more vital that those who had the power to redress the wrongs – in other words, powerful men - heard these stories first hand.

So what did we do? We made arrangements so that the Chiefs of Navy, Airforce, Army, and other senior personnel could hear from the women themselves what extreme exclusion means; what it's like to be on exercise for months when no-one speaks to you; what it's like to be sexually assaulted by your instructor, the very person you go to for advice; what it means to have your career ruined because you spoke out.

I'll certainly never forget that first face to face session we organized – the Service Chief arriving early and sitting uncomfortably in his chair – a mother nervously escorting her trembling daughter to the chair beside, a box of tissues in the middle. Then that courageous young woman said simply "Sir, I'm so nervous" and the Chief replied, "Believe me, I'm scared too."

In that moment, I knew we had a chance at change. It takes a courageous young woman and an authentic and compassionate military leader to admit that he fears what he's about to be told. There was no way to unhear, unsee, unfeel the stories that these Service Chiefs heard. Nor was there any way to unhear the heartbreak of mothers who had encouraged their daughters into the service believing that the enemy lay outside not within. One mother turned to the Chief and said "I gave you the person I love most in the world and this is how you treated her?" There were no words that could adequately respond to that.

These sessions taught me that in order to change the systems and structures we must take the human stories to the seat of power. That it's through hearing and feeling exclusion's consequences first hand, we plant the seeds of reform. The ADF went on and undertook almost 800 of these restorative engagement sessions and in so doing laid strong foundations for reform.

My **third lesson** is that we can't rely on women alone to solve gender inequality. Most of the organisational systems operating in Australia and around the world today have been designed by men, for men, and are largely run by men - the legal system being no different.

As Gordon Cairns, Chair of Woolworths explains "Let's not pretend that there aren't already established norms that advantage men. Men invented the system. Men largely run the system. Men need to step up beside women to change the system."

If we want to create a more gender equal Australia, we actually have to focus on men. With this epiphany, several years ago I picked up the phone and rang 21 of Australia's most powerful and influential men – men who lead Australia's iconic companies like Telstra, Qantas, Commonwealth Bank and Woolworths – men who lead global organisations like Citibank and IBM – men who hold the most senior roles in Government – Secretary of the Prime Minister and Cabinet, the Treasury and the Army – and I made a personal plea. Would they use their power and influence, their collective voice and wisdom to pursue gender equality?

I remember clearly the first conversation I had. This particular CEO had twins – a boy and a girl. I explained to him that in Australia at that time women held only 3% CEO positions, indeed at that time there were more men named Peter than women at the top of ASX 200 companies and women only occupied 8% of board directorships. That in every sector in Australia the basic rule is that the higher up you go the less women you see. That these results persisted despite, in 2012, women representing more than 60% of university graduatesⁱⁱ and 50.8% of Australia's population.

Whilst we've been talking about the numbers for decades, what shifted for this CEO was the understanding that, without intervention by decent powerful men, this story would become his daughter's story. His daughter would not have the same opportunities as her twin brother – all because she was born a girl. For the first time not only did he understand the case for change with his head he started to understand it *with his heart*.

What I know now is that the achievement of gender equality cannot sit on the shoulders of women alone. This is not a women's issue to be solved by women. It's a key economic and social issue which affects everyone. When men step up beside women and take shared ownership, that's when we stride forward together. The MCC strategy has gone ahead in leaps and bounds. We now have around 250 powerful male leaders not just private sector organisations, but our military and police forces. We also have groups emerging in Pakistan, India, Philippines and a Global Tech group.

Which brings me to the **fourth and final** lesson – the importance of self care. If we are to value democracy and the rule of law, then we must value those who advocate for them. I say this not as a statement of self-interest, but as a lesson sorely learned, one which I have to say is a work in progress. I say it also as a statement of disruption – and while it may not be as big a reach for advocates in privileged positions like me to suggest that we should look after ourselves and each other, it is the ultimate act of empowerment for gender equality advocates in many dangerous places around the world to prioritise their own wellbeing. Being well, both physically and mentally, is indeed the ultimate act of political defiance!

The role of an advocate for any kind of reform is a difficult one. The attacks we experience as human rights defenders are a signal, perhaps, of our retreating regard for the rule of law. Political expedience, of course, hastens this retreat – when we find our self-view as a nation of compassion diminishing.

And as I said at the beginning, I worry that we are entering a more complex and dangerous environment right around the globe. This means that those who advocate for the rights of others are going to be met with increasing resistance.

Each one of you who are engaged in reform, you know that it's never smooth sailing. There will be times when you feel discouraged, lose faith in the possibility of change, feel like giving up. Like you, I have felt despair at times in my life, but I do not keep a chair for it. Instead I remind myself that being well both mentally and physically is the ultimate act of women's empowerment. That self-care is never a selfish act. It is the stewardship of the gift I was put on the earth to offer others.

So, in this most recent phase of my life, as I pursue my global work speaking with leaders in many nations, I've recognised that if I am to stay energetically replenished and influential I must move from discussion to dialogue - staying engaged whilst listening to diametrically opposed views, staying connected whilst sitting with discomfort, suspending judgement whilst feeling outraged, voicing my own views in ways that invite inquiry and disagreement, AND gently holding conflicting views whilst building bridges of understanding.

I try to be present in the moment – in meetings for example, on occasion I step away from the content and notice how I'm feeling – irritated, tired, exhilarated – how others are feeling - and then choose to act from a place of understanding rather than being reactive. In moments of self-doubt and there are many, I remind myself that who I am is enough – I don't need anything else to create change. I have everything right here, right now.

Of course, that all sounds fine in theory but I can assure you I'm still very much a work in progress!! But I am enjoying every minute of my new life. I have never felt more alive, never more connected and powerful.

Conclusion

So that's where I've come to in 'my life in law', on my journey as a restless advocate. I feel torn about sharing my story with you today, for it is just one story among so many. I don't tell it because it's more important than anyone else's. I share it in the hope that it might speak to elements of your path, that my learning might assist and empower you.

Today I extend an invitation to each of you. Be bold. Be daring. Start close to home. Step up with others; look tradition fiercely in the eye; and tell it we turn our heads to the future - a future that includes everyone of us.

I'm in Islamabad now, facilitating a small roundtable for members of the media. One young man, Sayed has travelled all the way from the dangerous FATA region in the border area between Pakistan and Afghanistan, to tell me that he is including gender equality content into his weekly broadcasts. He's broadcasting to Taliban and tribal elders and he is encouraging them to send their daughters to school, to stop violence against women.

Inspired I feel like jumping across the table and hugging him. Instead I say "Sayed, how did the universe deliver you to us"? His simple response came: "I come from a large family - 7 sisters and 1 brother. My parents are poor so they chose to send only their sons to school. When we were old enough, my brother and I, we made a pact. We agreed that if we ever became influential we would

use our influence to empower women, so that our 7 sisters might one day also have a chance at an education."

And as he left he turned to me and said "After all Liz, what future do I want for my own daughter; what future do I want for the daughters of this world?"