



**Australian  
Human Rights  
Commission**

**Aboriginal and Torres Strait Islander Social  
Justice Commissioner**

**June Oscar AO**

## **2018 Grace Vaughan Memorial Lecture**

**University of Western Australia**

**Title: The collective power and potential of Aboriginal and Torres Strait  
Islander women and girls:**

***Recognising their human rights in achieving equality.***

June Oscar

Aboriginal and Torres Strait Islander Social Justice Commissioner

Australian Human Rights Commission

Tuesday 1 May 2018

### **Acknowledgments**

Good evening everyone. I would like to acknowledge the Noongar people the custodians of this land, and all their elders, past, present and emerging.

Yaningi warangira ngindaji yuwa muwayi ingirranggu, Wurundjeri yani U. Balangarri wadjirragali jarra ningi – gamali ngindaji yau muwayi nyirrami ngarri thangani. Yaningi miya ngindaji Muwayi ingga winyira ngarragi thangani. Yathawarra, wilalawarra jalangurru ngarri guda.

I would like to thank all of those who have been involved in bringing this event together tonight. In particular I would like to thank the Hon Simone McGurk MLA, Minister for Child Protection; Women's Interests; Prevention of Family and Domestic Violence; and Community Services, it is an impressive and necessary portfolio. I'd also like to acknowledge Dr Richard Walley and Clarissa Ball, Director of the UWA Institute of Advanced Studies. The Department of Communities - Scott Hollingworth, Interim Assistant Director General and Vanessa Harvey, the Departmental Director, Michael Berry, WA President, Australian Association of Social Workers, and Trevor Vaughan and members of the Vaughan family.

### **Introduction**

The nature of my address tonight takes its sentiment from women like Grace Vaughan.

Women like Grace who are fearless change-makers in the face of grave societal injustices. Women who refuse to accept any form of inequality as the norm, determined to reform discriminatory political and legislative structures to bring forth a better humanity.

These women are often unknown to the public – they are our mothers and sisters, aunts and friends – Indigenous and non-Indigenous sisters. There are many people in this audience who have been influenced and inspired by them. Many of our successes are their past triumphs. In forums such as this we honour them.

And tonight, I want to impress upon everyone here that as we recognise the strengths and achievements of women, we must know that we can all be like them, change-makers in our own right. My particular focus, and what I believe will lead to a more equal Australian nation for us all – women and men, boys and girls – is in

recognising the first women of this land, Aboriginal and Torres Strait Islander women and girls, past, present and future.

### **Achieving equality through upholding the rights of women**

As the first woman to be appointed to the position of Aboriginal and Torres Strait Islander Social Justice Commissioner at the Australian Human Rights Commission, I am determined, during my five-year term, to uphold the unique rights, needs and interests of Aboriginal and Torres Strait Islander women and girls. I believe that our women and girls can lead the charge for change in creating an equal and just Australian nation. It is my commitment to raise their voices across this continent.

Through the Human Rights Commission we can unite government, policy and law makers, with the voices and lived experience of women and girls on the ground to guide better decision-making grounded in our national and international human rights obligations.

In achieving this, I want to state at the outset, to deliver justice in Australia, to enable our governments to do better for everyone, we must commit to achieving equality. To bring this about, we must begin by listening to those who experience some of the greatest injustices, the women who are the founding mothers of this great land, our Aboriginal and Torres Strait Islander women. Global evidence shows us that gaining equality for women, improves society for all of us – it creates more productive economies and cohesive and safe communities for our children, our men, and our families.<sup>1</sup>

Let me be clear, inequality and discrimination is unacceptable wherever it occurs. But, for too many Aboriginal and Torres Strait Islander women and girls, structural inequality is pervasive in our lives. It runs throughout Australia's democratic

frameworks, serving to marginalise women's voices and participation in decision-making arenas. When our women and girls are not heard effectively we diminish equality, and therefore justice for this nation. Equality is only achievable when all our voices are heard, with equal weight and equal consequence.

### **The women's voices project**

So this year, I am working with my team at the Australian Human Rights Commission to hear the voices of Aboriginal and Torres Strait Islander women and girls across the country, because achieving their equality is critical to achieving an equal and just nation that reflects all of who we are. Late last year, in partnership with the Australian Government's Prime Minister and Cabinet, we launched the Wiyi Yani U Thangani project, meaning Women's Voices in my country's tongue – Bunuba. It is the first time in 31 years that the Australian Government has funded a national engagement project to listen to the strengths, challenges and aspirations of Aboriginal and Torres Strait Islander women.<sup>2</sup>

It is clear to me, from the stories we are hearing, that Aboriginal and Torres Strait Islander women and girls have a huge amount to contribute to this nation. Our women and girls occupy many realities. They navigate between our cultural obligations and responsibilities, and the expectations and demands of Western society, traversing multiple linguistic, cultural and professional worlds of work, nurture, education and leadership.

As Indigenous women we should be confident and proud to be all of who we are in a modern multi-cultural Australia, while remaining secure in our distinct and diverse Indigenous identities, knowing that we bring unique intercultural knowledge and skills to work spaces, communities and to broader Australian society. We should never

have to resist any aspect of who we are, or feel the need to assimilate to get by because of discriminating acts against us. We certainly should not have to assimilate to be successful in a western society. We should be free to express all of who we are without fear of persecution, discrimination or any form of marginalisation. It seems obvious that Australia should embrace all of who we are with pride and celebration.

### **Systems failure - Incarceration**

Instead in the Australia of today we live with multiple forms of discrimination, which cut across lines of race, class and socio-economic status. This discrimination has been held intact from one generation to the next by an institutional racism and violence which has disenfranchised Aboriginal and Torres Strait Islander people since the colonial origins of Australia.

This means that when there is a systems failure as there currently is with our incarceration system, First Australians always suffer a disproportional impact. And the most vulnerable to this failure, the latest victims, are our women.

Since 1997 – 2007 there has been a 133% increase in Australia's prison population.<sup>3</sup> Australian's should all be questioning what has happened to our national social supports, our welfare, for incarceration to become so dominant in our lives. This trajectory of incarceration shines a glaring light on the systemic inequality always experienced by Aboriginal and Torres Strait Islander peoples and a continued lack of effective wrap-around supports.

Within this staggering incarceration increase Indigenous Australians remain overrepresented, making up 2% of the general population but 28% of the prison population.<sup>4</sup> One of the most concerning trends is the 77% increase of women in

prison.<sup>5</sup> It is Indigenous women who account for this growth, we make up 2% of Australia's population and yet we are 34% of the women behind bars.<sup>6</sup>

Here in WA it is more extreme. In 2017 WA had the highest jailing rates of Aboriginal and Torres Strait Islander people in the country,<sup>7</sup> and were locking up Indigenous women faster and more often than any other state.<sup>8</sup>

Incarceration should always be a last resort, so what is wrong, why is incarceration becoming one of the first responses to social issues in Australia? Surely this does not reflect who we are as a nation?

Ms Victoria Tauli-Corpuz the United Nations Special Rapporteur on the Rights of Indigenous People, commented in her end of mission statements after visiting Australia in 2017: that it is the structural dimensions and complex entrenched harms related to trauma that are seeing Aboriginal and Torres Strait Islander women end up behind bars.<sup>9</sup>

She saw domestic and family violence, and punitive and tougher legislation as having a disproportionate impact on Aboriginal women, where persistent violence at home, unstable housing, a lack of financial security to pay bills, and petty crimes are resulting in women ending up in jail. It is our women who are feeling the burden of blame and punishment for a structural inequality which has entrenched material poverty in their lives. In WA evidence shows this to be true, Indigenous women are being imprisoned more frequently, for minor offences, than non-Indigenous women.<sup>10</sup>

In no circumstances should the conditions of poverty become one of the driving factors for increasing incarceration rates, the removal of children, poor health and violence.

But we know in the Australia of today this is exactly what is happening. We cannot fail to see the direct connection between the fact that 80% of Indigenous women in prison are mothers, and the rapidly increasing rates of the removal of our children into out-of-home care.<sup>11</sup> The rights of our women and the rights of our children are intimately attached.

Of course, we must guarantee the safety and health of our children, but this is not possible, in both the short and long-term, without responding to the needs of women and families, without reducing conditions of material poverty and the structural inequality that has entrenched it. Reports, like the recently released Australian Law Reform Commission's report into the overrepresentation of Indigenous peoples in custody, sets out strategies aimed at early intervention and family supports within the child welfare and justice spaces.<sup>12</sup>

### **Stories of women's incarceration in WA**

In WA we are all too aware of the consequences of not having early prevention strategies like this in place. We see these consequences play out on our TV screens and media coverage, in the deeply disturbing stories of the treatment inflicted on Indigenous women in incarceration. I know these stories are painful for many of us. I am going to outline them in brief to emphasise the critical need for change.

Many of us know the story of Ms Dhu, a woman whose tragic and unjustifiable death has touched hearts across this state and impacted the moral consciousness of our nation. Ms Dhu died from previous domestic violence injuries while in police custody. Neither the police nor the hospital staff believed her pain was life-threatening, they barely believed she was telling the truth.<sup>13</sup> There are other lesser known stories, such as Rosie Ann Fulton, a young woman from the NT arrested for minor motor vehicle

offences in Kalgoorlie.<sup>14</sup> She was incarcerated for almost two years without conviction after being found unfit to plea to criminal charges because she had foetal alcohol spectrum disorder.<sup>15</sup> Her guardian later commented that Rosie was left incarcerated because of the lack of treatment facilities or any form of housing support for those with intellectual impairments.<sup>16</sup> Now, in Alice Springs, with little to no support, she cycles in and out of incarceration.<sup>17</sup>

Then most recently there are the women from Bundyup prison – one who gave birth in her cell alone,<sup>18</sup> and another female prisoner transported naked and handcuffed to a secure mental health unit at Graylands hospital.<sup>19</sup> I am sure there are many other women whose names we will never know who are being subjected to degrading and harmful punishments in this country today.

These stories are so profoundly unjust that they are difficult to imagine let alone speak of. These are stories which tell of a cruel and inhumane system. In the moments when these women have needed care and compassion and a system willing to respond to their needs, both in the immediate and long-term, they have been left with only authoritative judgement. Their prison cells, quite literally the physical manifestation of their complete isolation from all forms of support.

### **Structural Racism**

This is the life-threatening harm and violence that results from structural and institutional racism. There is nothing abstract about these terms. They come from a dangerous generational inequality, which has enabled a culture of racism to go unchecked in our institutions. It means that in some circumstances, and all too often it is within our justice system, that those in a position of authority are distrustful and resentful toward those in vulnerable positions.

Make no mistake, this reality has arisen from historical injustices which have never been rectified. We should all know and understand this colonial legacy – it is captured in historical legislation and policies of which we are experiencing the severe ramifications of powerlessness today. It began with the fiction of terra nullius, which led to ongoing attempts to eradicate our cultural heritage and societal frameworks, predominately taking place through aggressive acts of assimilation into western society.

The Stolen Generations being the most well-known attempt to dismantle our familial and societal connections and deep belonging to the countries of this nation.<sup>20</sup> These policies were an attempt to dismantle our traditional formations of communal decision-making. It has meant that our voices have never been equal within the political, institutional and legislative structures of Australian democratic life.

The Australian Government's rejection, in October of last year, of an Aboriginal and Torres Strait Islander entrenched 'Voice' to parliament in the Constitution, is part of the ongoing denial of our equal position within this nation-state.<sup>21</sup> This generational structural inequality has certainly created the conditions for entrenched discrimination within our nation's institutions. But perhaps what is more severe, is that it has undermined our Indigenous institutions and ultimately our self-determination to be equal citizens and determine the trajectory of our own lives.

Broadly this inequality has held all Australian women back. It continues to hold our society back. And it holds back our humanity. We cannot allow this to go on.

### **Working to end inequality**

Behind the crisis's I have spoken of tonight are the lives of courageous families, communities and individuals. As I travel across Australia listening to Indigenous

women and girls on the ground in Victoria, South Australia, Tasmania, Queensland, and in the last two days here in Perth, I am hearing a unanimous call for change, and a change led by Indigenous women. I have heard from women who in the wake of grief and what can seem like insurmountable challenges, continue to hold their families and communities together.

As much as I celebrate our strengths and resilience to achieve remarkable acts in adverse circumstances, it is in the insights of our girls, our young women, that I know, what we currently live with is not good enough. I hear in our girls a boundless potential to be all of who they are. In the same breath as they tell me about their strengths and dreams, they also tell me heart wrenching stories of constant bullying from classmates whose insults are heavy with racist sentiments. They've told me how teachers have refused to believe the racism they've encountered from their peers. As a result, girls have told me that they have questioned their identity, thinking that the problem is because they are Indigenous.

Some of these girls have experienced the trauma of dislocation, moving between foster families until they are far from their countries. While their identity as an Indigenous Australian is shaken due to the fracturing of their belonging to country and kin, they must also face the stark reality that structural racism is embedding itself in the minds of classmates and has biased their teachers' sense of judgement.

It is deeply disturbing to hear how this institutional racism is impinging on their young lives. It is in their insights that we can clearly see how societal discrimination adversely impacts identity and self-worth, fuelling the cycle of trauma and inequality I have spoken of tonight. This is how the injustices of the future are born. Knowing what we know today, we cannot allow for this to perpetuate into another generation.

Our children are vulnerable in both aspirational and debilitating ways to the structures that educate and grow them. They can be all of who they are, but only if we choose to eliminate discrimination, and allow hope to flourish. We must nurture and teach our young Indigenous women to be strong in their sense of identity and individual and collective worth, knowing that the fundamental importance of their skills and knowledge are born from a powerful lineage of Indigenous women, and infused with the vibrancy of their present experiences. In this modern Australia, for this nation to be all of what it needs to be, our institutional frameworks must embrace our long indigenous heritage and reflect our diverse and dynamic society.

### **Re-shaping our Institutions**

As a nation-state in the western world, we are young and should be determinably malleable in our sense of expression and growth, uniting all our citizens – our Indigenous peoples and peoples from diverse cultural heritages – with equal worth and respect as we revitalise the potential of our democratic institutions designed to uphold our rights and freedoms. To embrace all of who we are, and what we are as a nation, we cannot afford to see our institutions, laws and policies as static, rigidly held in place by colonial origins with archaic and violently prejudicially conceptions of race.

In reforming our institutions we must face one another and listen to hard truths about the foundations of this nation and the ongoing impact of inequality. And in hearing these truths we cannot turn away in anger and resentment, but grasp these truths and respond with a renewed vigour for change.

That is what we are doing with Wiyi Yani U Thangani, it is in the voices of our Aboriginal and Torres Strait Islander women and girls that solutions to our

powerlessness are found. In listening to them we have a greater sense of the truth of systemic issues, and how they are experienced. And with this truth we will be better able to reform policies and laws to enhance and build the strengths and lives of our women and girls.

At the same time as it is essential that we consider reform to the laws and policies that keep intact the frameworks of institutional racism, it is of equal importance that we consider the everyday work of our institutions and organisations. Our institutions function and exist because of the people that make them, because of all of us.

Each one of us can deliver justice, can achieve equality for this nation in our own way. We can be the change-makers that I spoke of in opening. As I meet with our Indigenous women and girls I tell them that together they can do this. From the ground-up they can call out injustice wherever it is felt, they can build on their strengths to create the reality they want to see – they can lead change. But to lead they need all of us. Equality is not achievable if we are not ALL in this together. Our rights and interests cannot be upheld by us alone, they must be treated with equal worth and respect by all Australian's and our institutions.

Together, we can shape our institutions from the inside and our societal fabric from the ground up. It is in our own everyday practices, in our interactions and work that we shift expectation and perspective, and we can bring humanity to everyday existence. Never underestimate the change you can make in momentary encounters and persistent and tireless acts of support. When any of us – like the teacher, the police officer or the hospital staff – remove judgement, and approach work with compassion and truth we can change an entire life, we can save a life, and in doing so we are creating a better reality for countless others. It is not easy to shift what we have been taught to know, but we can do it. We must not give up.

Together, we must ensure an equality in all our voices so that Aboriginal and Torres Strait Islander women and girls get what they need and deserve in this country. Through giving equal worth and consequence to what they say we can improve their lives, we can improve all our lives.

If you are an Aboriginal and Torres Strait Islander women in this audience, your voice counts. Tomorrow we have our final Wiyi Yani U Thangani session in Perth at the Midlands Sports Complex. If you haven't been a part of the project please join us from 9.30am – 1.30. And for everyone else here tonight whether you are Indigenous or non-indigenous, when you leave here, live out this equality through listening to the truths of another's existence, and let their stories shape your actions for the better. It is in our everyday acts that we hold the human rights of ourselves, of others and of this nation. In the Australia of today our institutions are not static, because neither are we. Together, we must live the humanity we want to see. And then our nation and its democratic institutions will reflect our rights and freedoms. Our Australia will reflect all of who we are, a free and equal nation. Imagine our potential then. Together, let's unleash it.

Thank you.

Yaninyja

---

<sup>1</sup> Office on the Special Adviser on Gender Issues and the Advancement of Women, March 2001, 'Positive impacts from incorporating gender perspectives into the substantive work of the United Nations', *Online*, At. <http://www.un.org/womenwatch/osagi/pdf/factsheet4.pdf>

<sup>3</sup> Joshua Robertson, Australia's Jail population hits record high after 20-year surge, 11 September 2017 Guardian online. At. <https://www.theguardian.com/australia-news/2017/sep/11/australias-jail-population-hits-record-high-after-20-year-surge>

<sup>4</sup> Joshua Robertson, Australia's Jail population hits record high after 20-year surge, 11 September 2017 Guardian online. At. <https://www.theguardian.com/australia-news/2017/sep/11/australias-jail-population-hits-record-high-after-20-year-surge>

<sup>5</sup> Sophie Russell and Eileen Baldry, Three charts on: Australia's booming prison population, June 14 2017, Conversation online <https://theconversation.com/three-charts-on-australias-booming-prison-population-76940>

<sup>6</sup> Adriane Walters and Shannon Longhurst, "Over-represented and overlooked: the crisis of Aboriginal and Torres Strait Islander women's growing over-imprisonment", (Human Rights Law Centre, 1<sup>st</sup>, 2017) 11.

<sup>7</sup> Gerry Georgatos, Analysis: while Western Australia enjoys the nations highest median wage, the poorest and most vulnerable have it harder than anywhere else in the nation, 10 March 2017 SBS News online, At. <https://www.sbs.com.au/nitv/nitv-news/article/2017/03/10/new-leadership-needed-wa-reduce-incarceration-build-schools-prisons-and-transform>

<sup>8</sup> Monica Viviani, Indigenous women and their incarceration for minor crimes, A report for the National Council of women WA, April 2016, <http://www.acw.org.au/Aboriginal-women-and-their%20incarceration-for-petty-crime.pdf> p 2

<sup>9</sup> Victoria Tauli-Corpuz, *End of mission Statement by the United Nations Special Rapporteur on the Rights of Indigenous Peoples on her visit to Australia*, 20 March – 3 April 2017. At <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21473&LangID=E> (viewed 21 November).

<sup>10</sup> Monica Viviani, Indigenous women and their incarceration for minor crimes, A report for the National Council of women WA, April 2016, <http://www.acw.org.au/Aboriginal-women-and-their%20incarceration-for-petty-crime.pdf> p 2

<sup>11</sup> Calla Wahlquist, Australia must address soaring female Indigenous imprisonment rate – report, 15 May 2017, Guardian online, At. <https://www.theguardian.com/australia-news/2017/may/15/soaring-female-indigenous-imprisonment-rate-obstructing-closing-the-gap-targets-report>

<sup>12</sup> Australian Law Reform Commission report into the overrepresentation of Indigenous peoples in the country <https://www.alrc.gov.au/publications/indigenous-incarceration-report133>

<sup>13</sup> Scott Holdaway, Ms Dhu death in custody: A family's long search for answers, 23 February 2018, ABC News *Online*. At. <http://www.abc.net.au/news/2016-12-16/how-the-ms-dhu-death-in-custody-case-unfolded/8119806>

<sup>14</sup> Richard Guillatt, What happened to Rosie Ann?, *The Australian Weekend Magazine Online*, At. <https://www.theaustralian.com.au/life/weekend-australian-magazine/what-happened-to-rose-ann-fulton/news-story/56d7df0856b037cdd605a3f9fc39def3>

<sup>15</sup> Mick Gooda and Graeme Innes, Jailed without conviction: Send Rosie Anne Fulton home, 14 March 2014, *Guardian Online* At. <https://www.theguardian.com/commentisfree/2014/mar/14/jailed-without-conviction-send-rosie-ann-fulton-home>

<sup>16</sup> Tom Maddocks, Rosie Anne Fulton: System has 'failed' intellectually impaired woman, 1 July 2016, ABC News *Online*, At. <http://www.abc.net.au/news/2016-07-01/carers-says-system-has-failed-rosie-fulton/7560532>

<sup>17</sup> Staff writers, Rosie Anne Fulton: Intellectually impaired woman arrested for second time since jail release, 1 July 2016, ABC News *Online*, At. <http://www.abc.net.au/news/2014-07-14/rosie-ann-fulton-arrested-again-in-alice-springs/5594396>

---

<sup>18</sup> Sarah Collard, Prisoner gives birth in cell at Perth's Bandyup Prison, despite calls for help, 1 April 2018, ABC News *Online*, At. <http://www.abc.net.au/news/2018-04-01/perth-prisoner-gives-birth-in-jail-cell/9608478>

<sup>19</sup> Sarah Collard, Women's naked prison transfer prompts calls to change system for mentally ill inmates, 26 March 2018, ABC News *Online*, At. <http://www.abc.net.au/news/2018-03-26/naked-woman-prison-transport-prompts-calls-to-change-system/9585380>

<sup>20</sup> Human Rights and Equal Opportunity Commission, *Bringing them Home: National Inquiry into the Forced Separation of Aboriginal and Torres Strait Islander Children from Their Families* (1997)

<sup>21</sup> Sean Gordon, Indigenous recognition: Turnbull Government's rejection of Uluru Statement from the heart indefensible, 27 October 2017, ABC News *Online*, At. <http://www.abc.net.au/news/2017-10-27/decision-to-reject-uluru-statement-is-indefensible/9093408>