

New Indigenous Court must be a priority

As members of the legal profession, we know Indigenous Australians are, proportionately speaking, the most incarcerated on earth. This diminishes us as a nation.

Sovereignty and dispossession, recognition and representation of interests: they are different facets of the same problem. It is something that we, as lawyers, have a duty to help solve. It is because of this duty, that the legal profession welcomed the Turnbull Government's reference to the Australian Law Reform Commission to examine, amongst other issues, Indigenous rates of incarceration.

The "*Pathways to Justice*" Report of the ALRC, represents a comprehensive blueprint to address the shameful over-representation of Indigenous people in our prisons. Swift and decisive action is now required from Commonwealth, State and Territory Governments to ensure its recommendations are implemented.

The ALRC's recommendations relating to sentencing and bail regimes, the repeal of mandatory sentencing laws, an effective justice reinvestment framework, culturally appropriate community-based sentencing options and so on are all aimed at how substantive, not just formal, equality before the law can be achieved for Indigenous people. All of these recommendations are supported by the NSW Bar Association as important initiatives which will contribute to addressing Aboriginal incarceration rates.

The NSW Bar is pleased the ALRC supports the establishment of Indigenous sentencing courts including the NSW Walama Court. The establishment of the Walama Court is critical in reducing Indigenous incarceration rates. The model involves community participation and greater supervision resulting in reduced recidivism and increased compliance with court orders to better protect the community. It is not a "soft on crime" initiative but rather a more effective manner to supervise offenders post-sentence which would enhance rehabilitation and prevent re-offending.

At this stage the NSW Government has not allocated funds to establish the Walama Court in the 2018-19 financial year, despite the fact that it would have long term economic cost savings for NSW. The proposal would result in long term savings for Government as fewer Indigenous persons will be imprisoned and rates of recidivism would be reduced.

Given that the ALRC has now supported the establishment of the Walama Court, it is important the NSW Government commit to fund the proposal so that it can proceed without further delay.

One of the major themes of the landmark ALRC Report is the need for Commonwealth, State and Territory Governments to provide resources to ensure that the ALRC's proposals are implemented. There is goodwill on both sides of Parliament – AG Porter and Shadow AG Dreyfus who are both capable lawyers, should be permitted to work together on bipartisan solutions. The time has come for the body politic to come to grips with this national shame.