

Pacific Legal Association NSW Event
WELLBEING IN THE LEGAL PROFESSION

The Honourable Justice H Dhanji

Thursday, 20 April 2023

- 1 I would like to begin by acknowledging the traditional custodians of the land on which we are gathered, the Gadigal people of the Eora nation. It is now customary to begin speeches with such an acknowledgement. Although always well-intentioned, there is a risk that it can sound formulaic. However, in acknowledging the original inhabitants of this land, we acknowledge that the first people of this country have had more than 50,000 years living on this land, and it reminds us that the last 250 years or so since “settlement” or invasion has been a blink of an eye in the history of this land, albeit the changes have been enormous. This time and perspective have some relevance to the subject of wellbeing, on which I have been asked to speak and to which I will return.
- 2 I would also like to thank the Pacific Legal Association NSW (PLAN) for inviting me to speak tonight and for inviting me to participate in your community, again a matter which resonates with the topic of my speech.
- 3 I confess that I am somewhat bemused to be asked to speak on the topic of wellbeing. I am curious as to why it might be thought that I am qualified to do so. I am not a psychiatrist or psychologist, or indeed any type of health practitioner. I am not a personal trainer, a dietitian, or a yogi, nor am I in, what is sometimes called, the “wellness industry”. For all that you know, it may be that I go home cranky each night, drink to excess while eating fried foods, fall asleep on the lounge, and sleep fitfully to the noise of the television before getting up to do it again the next day. I do not do that, at least not most days. I am certainly not all virtue.
- 4 What was known of me when I was asked to give this speech was, primarily, that I am a judge at the Supreme Court of this State, and I have an Indian, and

relevantly for this community, Fijian heritage. Those things do not qualify me to speak on wellness.

- 5 I accept that as a judge, I occupy a senior position in the law and a level of responsibility in this community. I fear that I have been asked to speak on wellbeing as a means of advancing one's career. That I will have insights into how to manage an 80-hour working week, how to take on more work than you already have, or perhaps how to make sure your efforts are recognised. But that is not wellbeing. That is managing. In your short time on the planet, I think you want to do better than to simply manage.
- 6 A focus on ambition or advancement puts the cart before the horse. That is, concern for one's wellbeing should not be ancillary to achievement. Rather, focus on wellbeing, and a holistic view of oneself, is an end in itself and is more likely to bring fulfilment. I use the word fulfilment rather than achievement not necessarily accurately, but to demarcate the objective, that is achievement as measured by outside standards, from subjective fulfilment, which is perhaps the ultimate achievement but is measured by one's own standards or goals.
- 7 The point I am trying to make is that attaining rank or seniority, be it by becoming an associate or a partner, or a barrister, or being appointed senior counsel or even a judge does not necessarily correlate with wellbeing. There is a personal aspect. You have to run your own race.
- 8 So, having established that I have nothing in particular to offer, I can share with you my insights, such as they are.

Perspective

- 9 For me, the primary thing I try to maintain is a sense of perspective. As I said a short moment ago, the last 250 years is little more than a blink in the eye in the context of human history, on this land and more generally. My own existence is shorter again. I can view myself as depressingly inconsequential, or I can take meaning from my existence as a thread in the larger fabric of the various communities with which I intersect.

10 Work, for all of us, is a significant community in which we participate. Work is primarily a way of being in the world. As lawyers, we are particularly privileged as we have the opportunity to interact with others. Our thread is interwoven with a diverse range of people, human conduct, and human emotion. As a result, the richness of our own experience is enhanced, as is the whole, through the unique contribution we make. Our own family and community are essential parts of what we bring, what makes us up as individuals. You each bring unique perspectives to your interactions, and that is something that you should value. The idea that work and community provide you with a means of interacting with the world, in your unique way, at this unusual time in human history is something that, I hope, provides a healthy perspective on work and life.

Acknowledge the unnatural nature of your existence

11 Having perspective as a general and abstract proposition is all well and good, but for all the perspective-taking and attempts to rise above the fray, to bring some objectivity to this, the fact is that our work, and modern existence, is demanding and often stressful.

12 I mentioned at the outset of this speech that the original custodians of this land occupied this space. The communities living here prior to white settlement (and those all over the world prior to the agricultural revolution, which was also, in evolutionary terms, only a short time ago) did not have a working day or working week, a weekend, or indeed a particular occupation or vocation.

13 I do not suggest that we should pine for the days of the “noble savage”, an idea anthropologists have largely debunked. We should appreciate the benefits technology has brought us. Firstly, my own longevity. I may not otherwise be here. Beyond that, there is an expectation that my wife will survive childbirth and an expectation that my children will outlive me. We also have access to anaesthetics and antibiotics. There is a lot to be grateful for.

14 We are very fortunate to live in the world we do. But it is unnatural. My body, as a piece of equipment I use to transport myself through this life, was not designed for this life. It was not designed to function in the way I require it to.

Sitting down for work, eating a modern diet, these were things my body was not designed for. I find it helpful to appreciate the reality of our unnatural existence and then, to at least go some way to counteracting that problem, think about what works for me.

My own approach

- 15 While I am not an expert, I have been asked to share my insights and so I can tell you something of my own approach. Before I do, I will give you some background about myself.
- 16 At the start of my career, I was a legal aid lawyer, a duty solicitor. In that job, I ran multiple cases a day, day in day out. When I think of stressful work, I think of my time as a duty solicitor. I was then a barrister for 25 years, defending serious criminal charges, appearing in appeals at all levels and trials before juries, and trying to answer unanswerable questions. Now as a judge, I have responsibility for important decisions and an obligation to apply the law correctly. I would be lying if I said it was not stressful. The question is how to deal with the stress in a way that allows me to live the life I want to live. I also have a family and that is the most rewarding part of my life. I want to have time for them and not be burnt out when I do have that time for them.

Things I do, or have generally done over the years

- 17 There are a number of things that I do or have generally done over the years. These things will not be for everyone, but as a non-expert, that is all I have to share.

Meditation

- 18 I meditate for 10 minutes each morning. The objective of meditation is to obtain a stillness, something that is useful for perspective. I also found it particularly useful as a barrister. There were times as a barrister when I had to process a lot of information, and it felt like information was coming at me from all directions. In those situations, I used meditation techniques to try and “still the

mind". In the 30 seconds before a judge walked onto the bench, I would stop for a moment. In such a stressful situation, I found this moment to let go and reset far more helpful than frantically checking my notes for one final time.

- 19 Returning then to the benefits of technology, there is an app on my phone for meditation. Technology can be made to work for you.

Sleep

- 20 It is important to take on board the expert advice about sleep. Your effectiveness will be impacted by sleep. Sleep is not wasted time. It is appreciated by science that your mind does a lot of processing when sleeping. The expression "to sleep on it" does not come from nowhere. There is also a lot to be said for maintaining discipline with one's sleep. Of course, it is important to go out and have fun, but it is necessary to catch up on lost sleep.

Family and work hours

- 21 At the bar, during intense times such as a trial, I would work hard. But I recognised a limit to the number of effective hours I could work in a day. I found that I could not work effectively staying later and I would prefer to get up early the next day and start fresh, having had at least some time for family.
- 22 I also tried to organise my week to suit me to the extent that I could. Some people could prepare for a matter on Monday on a Friday, but I found that, particularly if it was a complicated case, I would inevitably spend Sunday working or at least thinking about the Monday matter. Accordingly, I would try and avoid difficult cases on a Monday. While it is not always possible to have that level of control over one's workload, trying to organise oneself to maintain valuable time for self is important.

Holidays

- 23 Holidays are also very important. I take whatever holidays are available. The work weeks disappear into one another, and holidays are good because not

only do they provide a break, but they punctuate time. You also are able to create shared memories with those that you care about enough to holiday with.

Exercise and Food

- 24 We know exercise is beneficial in managing stress. Stress is normal and not necessarily bad for you. However, the stress our bodies were designed for was different. Life as a hunter/gatherer involved a lot of walking, easy movement, and then running like your life depended on it, which it often did. I try and move at work or at least stand up as often as I can. I take the stairs rather than the lift but then try and also get some rigorous exercise incorporated into my week.
- 25 I also try to eat well. Again, our modern diet is not one we have evolved for. Lots of processed foods is not consistent with the bodies that we have.

Community connections

- 26 I also try and maintain community connections, particularly with family and extended family. Team sports and other social activity are forms of engagement that promotes your sense of place. Of course, community engagement as a result of a particular cultural background, is an important part of a sense of community connection.
- 27 These “non-work” aspects of your life contribute to your work as a lawyer. They are essential so as to maintain contact with your own humanity. This is obviously important for your own sake but further to that, what use is a lawyer who does not understand or value basic human wants and needs?

Work

- 28 I have discussed various things you might do to maintain what is misleadingly called “balance”. I say misleading because the fact is you will likely spend a lot of your waking hours working. So, for all that you might do outside of work, the reality is that you need to get something from your work to maintain a sense of wellness.

- 29 Enjoyment is probably the wrong word. People regularly ask me if I enjoy my work. I often think of a Doctor in an Accident and Emergency Department, with a constant flow of patients and limbs hanging by a thread, horrendous injuries, blood, bone, permanent injury, death. It is difficult to see how one could “enjoy” that job.
- 30 Similarly, as a judge, I preside over cases often involving horrendous facts and make decisions about whether to imprison people or whether to grant or refuse bail. Enjoyment is not right word. It can, however, be fulfilling. Helping people, whether with their health (as a doctor) or their rights or entitlements, or the community more generally by administering the law fairly (as a judge or a lawyer) can and should be rewarding.
- 31 Ideally, we will be able to appreciate the moment and one’s role in the interaction. It is thus important to value the challenge and the skill you bring and value the humanity that you bring. In particular, I think the humanity you bring to your work is a key aspect of the way you perform your role as a lawyer. It gives value to the unique perspective you bring. In the present context, it is important to value the cultural heritage that you bring. That is part of what you, as an individual, bring to the process in which you are engaged.
- 32 Acknowledging these bigger picture ideas, I think, contributes to a sense of overarching purpose and meaning, particularly on days when the intensity is such that it might otherwise be lost. Hopefully, it helps in finding that sweet spot, a balance between challenging yourself and the reward that brings, and respecting your limits, both in a work context but also outside of it. Ideally, that involves an openness or curiosity about the world and yourself. Using my new role as the Patron of PLAN as an example, when the opportunity arose, I was not sure if I had the time or energy to take on the role and my initial reaction was hesitant. However, it has, so far, been rewarding. It is an opportunity for me to engage my curiosity and be open to new ideas and experiences. In saying that, the corollary to openness is that it is necessary to know your limits. You cannot do everything, and, as I hope this talk has made clear, you should not try to.

Conclusion

- 33 The result of the industrial revolution means that many of us are not involved in sourcing food or shelter and are free to engage in other pursuits. Over many hundreds of years, people have had sufficient freedom from labour to develop systems of government, including our legal system.
- 34 The opportunity to engage with our fellow beings in the context of a well-developed legal system is a remarkable one. Appreciating that opportunity is a great start toward valuing the work we engage in. However, it is also important to appreciate that work has an inevitable narrowing. Over years we sharpen our legal skills but in doing so risk narrowing ourselves as individuals. Accordingly, you need to work on your connections, your health, and your interests. The lawyer will grow as a result of the many hours of work you will do, what you really need to work hard at is to maintain the non-lawyer in you. Both your lawyer self and non-lawyer self will benefit.
