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by John Lawrence

The NT figure is a catastrophic 913, of whom 86 per cent are Aboriginal. All – 100 per cent – of children in NT detention are Aboriginal (yet only 30 per cent of the Territory’s population is Aboriginal).These NT figures are more disturbing by virtue of their marked acceleration in the last decade, particularly for women.

The Territory’s imprisonment rate has always been too high and disproportionately Aboriginal, but in the last ten years it has accelerated past Pluto.

How could such a shameful situation exist in 2020 Australia?

NT legal system now functioning in the realm of ‘absurd and surreal’

Over the last 20 years, instead of pursuing excellence and improving professional standards, the NT legal system has deteriorated. Jurists and jurisprudence have been replaced by managers and ‘efficiency’.

I have been practising criminal law in this jurisdiction since 1987. In the last five years I have seen the ‘system’ go past tipping points to the extent that its functioning now falls somewhere between absurd and surreal. It is no longer an overworked, under-resourced and at times chaotic legal system. It is now not fit for purpose and has become a depraved jailing machine consuming Aboriginal men, women and children at an ever-increasing rate. Most of the players in this theatre of the absurd—Supreme Court justices, local court judges, and lawyers—are just going through the motions. Most of them have either become inured to the process or are unaware of any proper alternative to its absurdity and inadequacy. The criminal courts now operate like clearing houses rather than vehicles for due process.

Inadequate resources, inadequate time, inadequate experience, inadequate training and supervision, inadequate, inadequate.Inadequate. This has been one of the factors that have led to more, and longer, Aboriginal imprisonment. The legal profession has presented no real opposition to this incremental slide and is now effectively muted, if not signed up to this mediocrity.

Legal groups have no desire for change, have become ‘legal enablers’ to broken system

Perhaps of more concern is that this legal ‘system’ is locked on this trajectory, which has now become unsustainable. It’s locked in because in 2020 there is very little, if any, genuine desire on the part of the players in the system to change it. It has now become a given.

Representative groups such as the Criminal Lawyers’ Association of the Northern Territory (CLANT) and the Northern Territory Bar Association (NTBA), and publicly funded service providers such as the North Australian Aboriginal Justice Agency (NAAJA) and the Northern Territory Legal Aid Commission (NTLAC) have become mere enablers of this disgraceful status quo. There is no longer any real opposition, protest or dissent from anywhere. No one in the NT legal world seems capable of saying; ‘No, I disagree’. The main explanation for this deplorable state of affairs, which of course will be strenuously denied by all, is racism.

The reality is that this calamity could never occur, nor would it be allowed to continue, if these imprisonment levels applied to non-Aboriginal Australians. This situation is another example of Australia’s woeful relationship with Aboriginal Australians. An important feature of Australian racism that plays a key role here is the way the true history of Australia’s relationship with Aboriginal people has been either ignored or buried.