

# An update on the *Bugmy Bar Book* project



Sophie Anderson<sup>1</sup>

Commercial Bank Chambers, Lismore

The *Bugmy Bar Book* ([bugmybarbook.org.au](http://bugmybarbook.org.au)) is a resource for lawyers and judicial officers that publishes chapters and reports on the impacts of experiences of trauma and disadvantage as well as strength-based rehabilitation. The project was granted its second round of funding earlier this year. On behalf of *Bar News*, I caught up with the co-chair of the project, Rebecca McMahon.<sup>2</sup>

## **Bar News (BN):** What's been happening for the project?

**Rebecca McMahon (RM):** The committee<sup>3</sup> is grateful for the Paul Ramsay Foundation's continued support. We are thrilled that Crystal Triggs will continue to lead the project's work and Chris McDonald is coming onboard. Chris is a First Nations man with over 10 years' experience working on Aboriginal issues in legal contexts. His role will be focused on building strength-based resources for the project. Chris will be involved in liaising with community support services (such as drug and alcohol services and trauma counsellors) to create closer links to local legal services and courts. This is key to increasing opportunities for diversion, proposing alternatives to full-time custodial sentences and reducing the remand population.

## **BN:** What do you mean by 'strength-based resources'?

**RM:** I am talking about publications and education that acknowledges the resilience and strength of First Nations people, their cultures and communities. One of our key publications is *The Significance of Culture to Wellbeing, Healing and Rehabilitation* by

First Nations psychologists Dr Paul Gray and Vanessa Edwige.<sup>4</sup> The report is used widely in sentence and bail proceedings.<sup>5</sup> The authors provide expert opinion on concepts which should be embedded in treatment and wellbeing plans for First Nations peoples. It explains how connection to culture promotes resilience and healing and how culturally appropriate programs reduce recidivism.

## **BN:** What are some of the recent events that the project has delivered?

**RM:** Committee members have delivered presentations to Legal Aid, the Aboriginal Legal Service (ALS), the Department of Public Prosecutions (DPP) and the private profession. We've been increasing our reach beyond New South Wales, presenting in Queensland, in Bali at CLANT<sup>6</sup> and have events soon in Alice Springs and Melbourne for the Australian and New Zealand Association of Psychiatry, Psychology and Law. We now have representatives on our committee from the Northern Territory (Justice Blokland and Judges Woodroffe and Hopkins) and the ACT (Justices Taylor and Baker).

## **BN:** In August 2024, you presented the keynote address in Aotearoa New Zealand for the New Zealand Criminal Bar Conference. How did that come about?

**RM:** Yes, it was terrific. Professor Kris Gledhill from Auckland University of Technology is leading the development of a resource modelled on our project. I addressed the New Zealand Criminal Bar about what the *Bugmy Bar Book* is and how it can be used in court proceedings to help pave the way for Professor Gledhill's work. I also presented to students, lawyers and judges at the Centre for Justice Innovation at Te Herenga Waka – Victoria University (Wellington). I was overwhelmed by the enthusiasm for the Bar Book and how local lawyers envisaged the potential for a New Zealand version. It was nourishing and motivating to have positive conversations about improving the experience of vulnerable people before the courts and to hear about the strengths of the New Zealand justice system.

## **BN:** What strengths are you talking about?

**RM:** Where do I start? I'll talk about therapeutic courts. I was fortunate to spend a day at the Auckland District Court to observe the New Beginnings Court (Te Kooti o Timatanga Hou) presided over by Judge Fitzgerald.

The eligibility for the New Beginnings Court is homelessness. In the morning at the pre-hearing conference, Judge Fitzgerald, police, Community Corrections, housing and other service providers work together to devise plans to house participants and engage them with other social and health supports. In the afternoon, the Court convened in the courtroom, but without the usual formalities. The judge sat on the same level as the offenders. The participants spoke about their progress. Like the Walama List, the tone was informal and frank discussions were had about the underlying causes of offending, but at the same time, there was a compassionate approach to encouraging the participants to stay connected to their community supports.

## **BN:** Were there any encouraging results from the Court?

**RM:** Without a doubt. While I was only there for a day, I saw positive outcomes. New Zealand, like Australia, has a shocking over-representation of its First Nations people in prisons. Māori people constitute approximately 15 per cent of New Zealand's population, yet represent 52 per cent of the prison population. In one case, a Māori woman who had complex needs and nowhere to live was considered in the pre-hearing conference. Representatives from all the relevant services were sitting around a table. Within a few hours, housing referrals were made and plans for other community service supports were cemented. Later that afternoon, she was granted bail. This was a clear example of how courts can work collaboratively with the community to reduce incarceration and make communities safer.

In another case, Judge Fitzgerald said to one of the participants who was progressing well, 'I am proud of you.' The participant replied, 'I am proud of you too ... for showing respect and doing good things for our

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community.’ The participant was right. The New Zealand District Court website reports that evaluations have shown that ‘this approach greatly reduces reoffending rates (by 66%), saves on nights spent in prison (by 78%) and hospital admissions (by 78%)’.

**BN: Are there other therapeutic courts operating in New Zealand?**

**RM:** There are many therapeutic courts across the country. What I also found fascinating about the New Zealand system – which supports therapeutic approaches to justice – is an initiative known as Te Ao Mārama<sup>7</sup> introduced by the Chief Judge of the District Court,<sup>8</sup> his Honour Judge Heemi Taumaunu. Te Ao Mārama means ‘the world of light’. The New Zealand Ministry of Justice says that Te Ao Mārama ‘signals a more enlightened approach to justice in the District Court’. Te Ao Mārama is a response to long-term calls for transformative change and concerns by victims, defendants and *whānau*<sup>9</sup> who have found court processes ‘confusing, alienating, disempowering and retraumatising’. A key aim of the process is also to reduce the disproportionate representation of Māori people in the justice system.

**BN: What does Te Ao Mārama mean in practice?**

**RM:** I am in the very early days of learning about this initiative and how it operates. The practice framework for Te Ao Mārama makes reference to improving justice outcomes by:

- enhancing connections with local communities
- improving the quality of information judicial officers get to inform their decisions
- improving processes for victims and complainants
- encouraging people to feel heard in the courtroom



Bugmy Bar Book co-chair Rebecca McMahon

- establishing alternative courtroom layouts
- using plain language
- toning down formalities
- adopting ‘solution-focused’ judging – asking ‘what has happened to this person to bring them to this point in their life?’ and then addressing those causes.

The initiative is a judicially led set of principles, partnering with *iwi*<sup>10</sup> and communities to work with the Court and justice sector agencies to ensure all court participants, including offenders, victims and *whānau* can better understand and participate in cases relating to them.

**BN: Are there lessons for New South Wales?**

**RM:** We have solution-focused courts doing incredible work in New South Wales, including the Walama List, Youth Koori Court, Drug Court and the Parramatta West Referral List. A framework like Te Ao Mārama designed for our jurisdiction would enhance justice outcomes by encouraging expansion of therapeutic approaches, whether that be by increasing support for specialist courts or lists, creating new ones based on community need, or by introducing therapeutic elements to mainstream courts.

Like Te Ao Mārama, the *Bugmy Bar Book* takes a whole-of-justice approach. When it comes to supporting people who have experienced trauma, trauma-informed approaches should be applied to complainants, victims, the accused, offenders and witnesses. We all know that offenders are often victims of crime. We are in the process of developing short, practical expert guides to assist lawyers and judicial officers to better support people

to participate and give their best evidence in court proceedings, whatever role that person has in the courtroom.

**BN: What next for the Bugmy Bar Book?**

**RM:** There are a lot of CPDs and events lined up, and we will also be publishing a report on institutionalisation and intergenerational trauma later this year. Those interested in new publications and events can sign up for notifications at [bugmybarbook.org.au](http://bugmybarbook.org.au). **BN**

**ENDNOTES**

- 1 Sophie is a barrister at Commercial Bank Chambers in Lismore and a member of the NSW Bar Association’s Criminal Law and Wellbeing committees.
- 2 Rebecca is a barrister at Forbes Chambers in Sydney and a member of the NSW Bar Association’s First Nations and Criminal Law committees.
- 3 *Bugmy Bar Book*, *Bugmy Bar Book* project committee <[bugmybarbook.org.au/about/project-committee](http://bugmybarbook.org.au/about/project-committee)>.
- 4 In September 2023, Rebecca facilitated a panel discussion on this publication with Vanessa Edwige and Dr Paul Gray, who were joined by Andrew Smith, Phillip Boulton SC and Justice Yehia. The panel discussion is available at <[bugmybarbook.org.au](http://bugmybarbook.org.au)>.
- 5 *GW* [2023] NSWSC 664; *Knight* [2023] NSWSC 321; *BS-X* [2021] ACTSC 160 (Loukas-Karlsson JJ); *Bennett* [2022] NSWDC 321; *Levell* [2021] NSWDC 518; *Police v Kinnara Connors* [2022] ACTMC 6; *Police v Tracey* [2022] ACTMC 26; *Etheredge v Freeman* [2022] ACTMC 11.
- 6 Criminal Lawyers Association of the Northern Territory.
- 7 New Zealand Ministry of Justice, *Te Ao Mārama – Enhancing Justice for All* (Web Page, 23 August 2024)<[justice.govt.nz/justice-sector-policy/key-initiatives/te-ao-marama](http://justice.govt.nz/justice-sector-policy/key-initiatives/te-ao-marama)>. This site also sets out a list of therapeutic courts operating across New Zealand.
- 8 The New Zealand District Court is the equivalent to the New South Wales Local Court.
- 9 *Te Aka*, a Māori dictionary (John C Moorfield, *Te Aka: Māori Dictionary* (Longman/Pearson Education New Zealand, 3rd ed, 2011)) defines *whānau* as ‘extended family’.
- 10 *Te Aka* defines *iwi* as ‘extended kinship group, tribe, nation, people ... often refers to a large group of people descended from a common ancestor and associated with a distinct territory’ (Moorfield (n 9)).