Current Issues

Editor: Justice François Kunc

THE ELEVENTH HOUR OF THE ELEVENTH DAY OF THE ELEVENTH MONTH

This month marks the centenary of the end of World War I.

The Journal pays tribute to all members of the Australian legal profession who have served or are serving in the armed forces, and to their families who have borne the consequences of that service: from the emotional toll of separation to the loving provision of a lifetime of care. We especially honour those who made the ultimate sacrifice in the conflicts of the last hundred years. They are "the silence following great words of peace".[1] Lest we forget.

Brief pen portraits of three members of the legal profession who distinguished themselves in World War I will appear in the December Current Issues.

A Judiciary under Stress

Two extraordinary interventions have highlighted the need for a thorough review of how the judiciary goes about its work.

First, in a widely publicised speech, the Hon Dyson Heydon AC QC excoriated his former judicial colleagues. Drawing attention to what he said was the greater efficiency in delivering judgments of English commercial courts, he criticised delays in Australian courts, notably the Federal Court of Australia and the Supreme Court of New South Wales. (If it need be stated, the present writer is a member of the latter court.) Mr Heydon referred to "a mentality of procrastination" and warned against "a torpid shared culture of slackness, languor and drift". A few weeks later Mr Heydon's analysis was challenged by Justice Mark Weinberg of the Victorian Supreme Court in a speech to the Judicial Conference of Australia's annual colloquium in Melbourne.

Not long after Mr Heydon's speech, Judge Robyn Tupman, a senior judge of the District Court of New South Wales, "stunned the gallery" by giving vent to her concerns about excessive judicial workload on learning that she was supposed to hand down seven sentences in one day. Referring to herself and her colleagues as victims of "institutional cruelty", her Honour's remarks were reported to include: "I fear for the wellbeing of many of my colleagues on this bench who have much less experience, are much younger and perhaps aren't quite the bastard I am. I do hope that we don't have the tragic outcome in NSW that has occurred in Melbourne because of the extraordinary workload [referring to the suicides of two Melbourne magistrates]." Her Honour said that the current workload of judges was "ridiculous, absurd and offensive to the people of NSW. … Let's not muck around, we don't want judges in NSW committing suicide".

Concerns about excessive workload are not new in the legal profession. One of Australia's largest law firms is currently the subject of a WorkSafe investigation for overworking its staff in connection with providing services to clients caught up in the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (the "Hayne Royal Commission"). Other top tier law firms have responded with relief rather than schadenfreude that they are not the subject of similar complaints. However, judicial stress has, until recently, been less of a talking point.

With great respect, it must be said that Mr Heydon's remarks are very unfair to all but a tiny minority of the country's judicial officers. And even among that minority, there are often very good reasons for particular delays. Slack, languid or drifting judges are far and few between. However, the coincidence of Mr Heydon's and Judge Tupman's remarks is a clear signal that the moment has come to reconsider seriously, and with the benefit of modern human resources management insights, how judges do their work.

[1] From a fragment by Rupert Brooke in G Keynes (ed), *The Poetical Works of Rupert Brooke* (Faber and Faber, 1981) 207.

To that end, the Journal is pleased to be able to publish, as a guest contribution at the end of this Current Issues, a precis by Ms Carly Schrever of her forthcoming study of judicial stress and wellbeing in Australia. The study provides an empirical basis for her conclusion that there is "a simmering occupational health and safety concern that demands attention". She records judges describing their workload as "'punishing', 'horrendous' and 'overwhelming'. Almost nobody spoke of the workload as 'sustainable' or 'appropriate'".

The management of each court brings its own challenges depending on the size, location and jurisdiction of the court. Nevertheless, for large courts the underlying issue remains the same. Judicial workload is being managed little differently to how it was in days gone by, when things were much different.

A judge has two essential tasks: sitting in court hearing cases and then writing a judgment (or jury direction or remarks on sentencing) when extempore reasons cannot be delivered. Balancing the time allocated to those two tasks is the fundamental task in judicial management. Leaving too much time out of court can lead to inefficiency in writing and delays in hearings. Leaving too little time out of court leads to extraordinary stress (which can manifest itself in poor judicial behaviour in the courtroom – see the note on judicial bullying in *Current Issues* (2018) 92 ALJ 575, 576) both from the relentless demands of presiding in court day after day, and the frustration for both judges and parties in delayed judgments for want of time to write them to the requisite standard. Getting the balance right is not a simple exercise.

Some of the changes over the last 20 or 30 years that warrant the reconsideration referred to at the outset of this note include:

- There are more cases, and more of them raise factually and legally complex problems. This growth has been disproportionate to the number of judges available to hear them.
- Standards for the adequacy of reasons have become more stringent both as a matter of general principle and because of increased statutory complexities. An example of the latter is sentencing, where the number of factors which must be explicitly taken into account has burgeoned in recent years.
- Technological developments have meant that parties can present more evidence, more authorities (nothing is "unreported") and longer submissions faster than ever before. On the other hand, there has been no corresponding technological development to assist the judge in assimilating that material. Her job remains the solitary intellectual labour of one person, assisted (in superior courts) in research or similar tasks by a young graduate associate or tipstaff.
- The appointment of more women and the next, younger generation of judges in general is bringing a cultural shift in terms of expectations of what is a reasonable work/life balance. Recognising the importance of that issue has led to increased productivity in law firms and the commercial community. Gone are the days of an exclusively male judiciary with wives holding the fort at home. Working couples are increasingly common. Life partners are not only expected, but want to support each other in achieving their career goals, raising children and managing households.
- Heads of jurisdictions or divisions are themselves under unprecedented pressure. In some courts they have gone from being responsible for five or six colleagues to 20. At the same time as shouldering the expanded administration that comes with greater numbers, they are also expected to keep up their fair share of sitting on cases and delivering reasons.
- Judicial reclusiveness is no longer seen as a virtue. On the contrary, there is an expectation that judges (and not just heads of jurisdiction) as senior public officials take on extra-curial duties including court committees, court management, community and academic engagement, professional development and law reform, while no time is officially set aside for such duties.
- There is a far greater appreciation of the importance of mental health and general wellbeing in the workplace. Depression, stress and related problems are now recognised as being especially prevalent in the legal profession at all its levels. Ms Schrever's work is the first rigorous examination of these issues among the judiciary.
- Governments want judges to work longer (see below about increases in the retirement age in New South Wales). Many superior court judges start their careers at around the same age that their contemporaries in law firms are expected or encouraged to leave partnerships, or to take on less demanding consultant roles, to make way for the next generation. There is an economic case to be made that improving the working routines of judges will ensure longer and better service to the community, with fewer judges retiring at the earliest opportunity because they are burnt out. In

> New South Wales, approximately 60% of District and Supreme Court judges do not serve until the mandatory retirement age.

Three final observations may be made.

First, appointing more judges is not a complete solution. While more judges are required in many jurisdictions, what can be done better with existing judicial resources needs to be fully explored.

Second, judges know that the public service they are privileged to offer is hard and challenging. Therein lies the source of their job satisfaction which Ms Schrever's study reports. But there is now clear evidence that for many judges their current environment does not allow them to work smart as well as hard.

Third, the better or more realistic management of judges' time (including by the recruitment of more professional support staff) is not a threat to judicial independence. Applying contemporary management learning to ensure a humane and satisfying workplace for judges will enable them to exercise their judicial independence longer and better, and to satisfy the high standards that they set for themselves and which the community is entitled to expect from them.

Hayne Royal Commission Interim Report

The interim report of the Hayne Royal Commission was presented to the Governor-General and tabled by the Government on 28 September 2018. It identified the two key questions as "Why did it happen? What can be done to avoid it happening again?".

The executive summary's answer to the first question deserves to be reproduced in full:

> Too often, the answer seems to be greed – the pursuit of short term profit at the expense of basic standards of honesty. How else is charging continuing advice fees to the dead to be explained? But it is necessary then to go behind the particular events and ask how and why they came about.
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> Banks, and all financial services entities recognised that they sold services and products. Selling became their focus of attention. Too often it became the sole focus of attention. Products and services multiplied. Banks searched for their "share of the customer's wallet". From the executive suite to the front line, staff were measured and rewarded by reference to profit and sales.
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> When misconduct was revealed, it either went unpunished or the consequences did not meet the seriousness of what had been done. The conduct regulator, ASIC, rarely went to court to seek public denunciation of and punishment for misconduct. The prudential regulator, APRA, never went to court. Much more often than not, when misconduct was revealed, little happened beyond apology from the entity, a drawn out remediation program and protracted negotiation with ASIC of a media release, an infringement notice, or an enforceable undertaking that acknowledged no more than that ASIC had reasonable "concerns" about the entity's conduct. Infringement notices imposed penalties that were immaterial for the large banks. Enforceable undertakings might require a "community benefit payment", but the amount was far less than the penalty that ASIC could properly have asked a court to impose.

As for the second question – avoiding repetition of these sorry events – Ch 10 of the interim report poses some 27 pages of questions to be addressed. Submissions on those questions are being prepared by all interested parties. A further round of hearings devoted to the policy questions that have emerged has been scheduled for late November 2018. The Commission's final report is due to be submitted to the Governor-General by 1 February 2019.

Will Changes in Political Leadership Lead to Constitutional Change?

The recent end of the political career of the Hon Malcolm Turnbull MP and his replacement by the Hon Scott Morrison MP as Prime Minister of Australia led to discussion about possible constitutional changes to stop what some have called the revolving door to the Lodge. Two main suggestions emerged: fixed parliamentary terms and entrenching the elected Prime Minister. The first idea deserves serious consideration; the second is inconsistent with our current constitutional arrangements.

Most democracies in the world have fixed four or five-year terms for their governments. All Australian States except Tasmania have fixed four-year terms for their lower house. The average term of the Commonwealth Parliament since Federation has been just over two and a half years. Experience suggests that governments have about 18 months to get anything done: the first six months are taken

up with settling in and the last six months are focused on the next election. That is just not long enough to implement policy in a complex world and the natural tendency of politics to "short termism" is only reinforced to become an iron law.

There is room for a legitimate argument about whether terms should be four or five years but it is an argument which should be had. One important factor is the nexus to Senate elections. If that nexus is maintained with fixed lower house terms, senators would serve for either eight or ten years. The latter would almost certainly be regarded as too long. On the other hand, having a full senate election every four or five years (as on a double dissolution) would reduce the quota to be elected, a move which would favour minor parties. That consequence would undoubtedly be the subject of vigorous public debate.

The call to entrench the Prime Minister who was the successful party's leader at the time of the general election is understandable given the last decade in federal politics. It is, however, fundamentally at odds with the structure of government laid down by the Constitution and its related conventions. Famously described as the Washminster system (the combination of Westminster and Washington), the founders eschewed the American model of an elected President, opting for the Westminster model of responsible parliamentary government. So it is that the leader of the party which can guarantee the confidence of the lower house is invited to form the government. Entrenching the Prime Minister would arguably create a President in all but name. Such a proposal is likely to be a bridge too far. Political stability in Canberra would be enhanced more easily and consistently with the Constitution by the introduction of fixed-term parliaments.

New South Wales Increases Judicial Retirement Age

The New South Wales (NSW) Government has announced that it will increase the age of compulsory judicial retirement from 72 to 75, with the age for eligibility to be appointed an acting judge increased from 77 to 78. Judges appointed after the change will be able to access their pension at the age of 65 (up from 60). The Attorney-General, the Hon Mark Speakman SC, said that "the change reflects social trends towards people living and working longer, and will allow experienced judges and magistrates to continue to contribute to the justice system when they'd otherwise be forced to retire". The NSW Bar Association welcomed the changes but reminded the Government that, in the interests of judicial independence, the legislation to give effect to them should not be retrospective. This observation seems to have been directed at the proposed increase in the minimum age at which judges will be able to retire with full pension benefits.

New South Wales' Review of the Laws Relating to Beneficiaries of Trusts

In *Current Issues* (2018) 92 ALJ 495, the Journal reported that the NSW Law Reform Commission had transmitted to the Attorney-General its final report on it review into the liability of beneficiaries, as beneficiaries, to indemnify trustees or creditors when trustees fail to satisfy obligations of the trust and whether oppression remedies available under company law should be extended to beneficiaries of trading trusts. At that time it had not yet been tabled in the NSW Parliament or otherwise made public.

NSWLRC Report No 114, entitled "Laws Relating to Beneficiaries of Trusts" was tabled on 14 August 2018 and thus made public. In short, the Commission recommends that the *Trustee Act 1925* (NSW) should be amended to provide that:

(a) Unless the beneficiary has otherwise expressly agreed, the beneficiary is not, as a beneficiary, liable for, or to indemnify the trustee in respect of any act, default, obligation or liability of the trustee.
(b) This does not affect a beneficiary's liability for unpaid calls (if any) under the terms of the trust, or the beneficiary's liability in any other capacity.

In relation to oppression remedies, the Commission declined to follow Victoria's example (see Victorian Law Reform Commission's 2015 Report, Trading Trusts – Oppression Remedies), and recommended that oppression remedies available to shareholders under company law should not be extended to beneficiaries of trading or other trusts under the law of trusts.

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AUSTRALIA'S FIRST RESEARCH MEASURING JUDICIAL STRESS AND WELLBEING: A PREVIEW OF THE FINDINGS

Judicial stress has gone from being an "unmentionable topic",[1] as Michael Kirby once described it, to being the subject of broad and open peer discussion, court wellbeing programs, articles in law journals, radio interviews and media stories.[2] There are two reasons for this change. First, the past decade has seen a global lawyer wellbeing movement, off the back of a large growing body of Australian and international empirical research revealing alarmingly high rates of stress and depression within the legal profession.[3] It is logical to ponder how these issues might extend to the senior arm of this stress prone profession, the judiciary. Second, in recent years a number of Australian judges and magistrates have spoken publicly about their own experiences of psychological ill-health[4] and vicarious trauma[5] while on the Bench, laying to rest any lingering notion that judicial officers are somehow immune to these human experiences. Most recently, the issue of judicial wellbeing became tragic news and an issue of keen interest to the public, following the suicides, less than six months apart, of two Victorian magistrates.[6]

In the context of these tragedies and increased awareness, Australian courts and tribunals are grappling with the question of how best to support judicial officers in the vital work that they do. There is little to guide them. There has been no empirical research into the nature, prevalence and severity of work-related stress among the Australian judiciary. The full extent of the international literature purporting to measure judicial officers' occupational stress is a modest collection of about a dozen mostly small-scale, jurisdiction-specific studies. Furthermore, only a few of these were truly empirical (ie measured stress using standardised and validated psychometric instruments),[7] and none were conducted in Australia.[8]

The recent completion of Australia's first empirical and psychologically grounded research into judicial stress, therefore, marks a significant moment in the conversation on judicial wellbeing in Australia. This research, conducted by the present author, will be published in full next year. This short precis provides a preview of the key research outcomes and implications.

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[1] Justice Michael D Kirby, "Judicial Stress: An Unmentionable Topic" (1995) 13 *Australian Bar Review* 101.

[2] See, eg, Carly Schrever, "Judge Stress" (2015) 89 *Law Institute Journal* 29; Judge Felicity Hampel, "From Stress to Resilience" (2015) 89 *Law Institute Journal* 33; Peter Wilmoth, "Judge Dread: Loneliness, Panic Attacks and Insomnia – Life for Some on the Judicial Bench", *The Age Good Weekend*, Melbourne, 4 August 2018, 18.

[3] See, eg, N Kelk et al, *Courting the Blues: Attitudes Towards Depression in Australian Law Schools and Legal Practitioners* (Brain & Mind Research Institute, University of Sydney, (2009); MK Miller and BH Bornstein (eds), *Stress, Trauma and Wellbeing in the Legal System* (OUP, New York, 2013)

[4] Justice Shane R Marshall, "Depression: An Issue in the Study of Law" (Speech delivered at the National Wellness for Law Forum, Australian National University College of Law, 5 February 2015) <http://www.fedcourt.gov.au/__data/assets/pdf_file/0004/26608/Marshall-J-201502.pdf>.

[5] Magistrate David Heilpern, "Lifting the Judicial Veil: Vicarious Trauma, PTSD and the Judiciary – A Personal Story" (Speech delivered at the Tristan Jepson Memorial Foundation Annual Lecture, Sydney, 25 October 2017) <http://www.judicialcollege.vic.edu.au/sites/default/files/Helipern%20(2017)%20TJMF%20Lecture%20-%20Lifting%20the%20Judicial%20Veil.pdf>.

[6] Wilmoth, n 2.

[7] CR Showalter and DA Martell, "Personality, Stress and Health in American Judges" (1985) 69 *Judicature* 82; TD Eells and CR Showalter, "Work-related Stress in American Trial Judges" (1994) 22 *Bulletin of the American Academy of Psychiatry and the Law* 71; DM Flores et al, "Judges Perspectives on Stress and Safety in the Courtroom: An Exploratory Study" (2008) 45 *Court Review* 76; SL Lustig et al, "Inside the Judges' Chambers: Narrative Responses from the National Association of Immigration Judges Stress and Burnout Survey" (2009) 23 *Georgetown Immigration Law Journal* 57.

[8] Extensive, high quality research has been conducted in Australia on the judicial *experience*, looking at judicial workload, work-practices and job satisfaction. This research, conducted principally by Emerita Professor Kathy Mack and Professor Sharyn Roach Anleu from Flinders University, is closely related to judicial wellbeing, and has greatly informed the present research. See, eg, Kathy Mack, Anne Wallace and Sharyn Roach Anleu, *Judicial Workload: Time, Tasks and Work Organisation* (Australasian Institute of Judicial Administration, Melbourne, 2012).

PARTICIPANTS

Five courts, from summary to appellate level, participated in the study. One hundred fifty-two judicial officers participated in a survey investigating the nature, prevalence and severity of work-related judicial stress. Sixty judicial officers participated in in-depth interviews exploring the perceived sources of stress and experiences of stress. The study attracted a broadly representative sample of judicial officers across jurisdiction, age, gender and stage of career.

SURVEY DATA

The survey incorporated standardised and validated measures of:

- Basic psychological needs satisfaction at work
- Non-specific psychological distress
- Depression, anxiety and stress symptoms
- Mental health attitudes
- Burnout
- Secondary traumatic stress
- Alcohol use

This yielded an enormous data set, and an array of important findings, among which the following are particularly notable. First, on a validated and widely used measure of non-specific psychological distress,[9] judicial officers reported elevated rates of moderate to high distress, compared to the general population[10] and the barrister arm of the legal profession.[11] But when we look at distress in the very high range, judicial officers rate considerably lower than the general population and all levels of the profession. Second, on a widely used screening tool for symptoms of mental health concerns,[12] judicial officers reported symptoms of depression and anxiety at rates similar to the general population[13] – a rate which is dramatically lower than that found for the wider legal profession.[14] Taken together these findings suggest that, unlike the rest of the legal profession, there is not a widespread mental health problem among the Australian judiciary, but there is a stress problem.

INTERVIEW DATA

The interview data provided a rich and detailed picture of judicial officers' experiences and reflections on the stressors of judicial office. From this, six key observations emerged.

A. Workload is an Issue for Almost Everybody

The overwhelming majority of interviewees spoke of the very high and increasing workload as a major source of stress. The burden of workload was described differently at different levels of the court hierarchy, with those in the summary jurisdictions speaking of "crushing daily lists" and the pace and intensity at which they have to work in order to discharge them, and those in the higher

[9] The Kessler Psychological Distress Scale (K-10). RC Kessler et al, "Short Screening Scales to Monitor Population Prevalences and Trends in Non-Specific Psychological Distress" (2002) 32 *Psychological Medicine* 959.

[10] Australian Bureau of Statistics (ABS), "Use of the Kessler Psychological Distress Scale in the ABS Health Surveys, Australia, 2007-8" (Information Paper, 4817.0.55.001, ABS, 4 April 2012) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4817.0.55.0012007-08?OpenDocument>.

[11] Kelk et al, n 3.

[12] The Depression Anxiety and Stress Scales 21 (DASS-21). PF Lovibond and SH Lovibond, "The Structure of Negative Emotional States: Comparison of the Depression Anxiety Stress Scales (DASS) with the Beck Depression Inventories" (1995) 33 *Behaviour Research and Therapy* 335.

[13] Norms are provided by PF Lovibond and SH Lovibond, *Manual for the Depression Anxiety Stress Scales (DASS)* (Psychology Foundation Monograph, 1993).

[14] J Chan, S Poynton and J Bruce, "Lawyering Stress and Work Culture: An Australian Study" (2014) 37 *University of New South Wales Law Journal* 1062.

jurisdictions speaking about the complexity and scale of cases and the challenge of staying on top of written decisions alongside ongoing court commitments. Workload was variously described as "punishing", "horrendous" and "overwhelming". Almost nobody spoke of the workload as sustainable or appropriate, but there was also a strong theme of being habituated to hard work from years of legal practice prior to appointment.

B. Sources of Judicial Stress are Increasing

Most judicial officers felt that the sources of judicial stress are increasing, particularly in terms of the pressures bearing upon the courts. People spoke of the reduced respect for and faith in public institutions generally, of which the courts are but one causality, the increasingly critical and often ill-informed media coverage, and the executive arm of government no longer defending and sometimes actively attacking the judiciary to score a political point. There were also many comments about increased workload and case complexity, the pace of legislative change, and rises in numbers of self-represented parties adding to the pressure in the courtroom.

C. Stressors of "Injustice" are Felt Most Keenly

This may be the most significant, and perhaps unexpected, qualitative finding from the study. It does not refer to strict legal injustice, but rather the observation that judicial stress is at its worst when the demands of the job are accompanied by feelings of grievance or unfairness. There were many examples of this. A number of judicial officers reflected that they are not troubled by media critique or commentary if it is about a difference of opinion, but when criticisms are based on inaccurate reporting of the facts of the case, or a lack of appreciation of the legal framework being applied, the experience is distressing. Another example was that workload stress is most acute when there is a perception of inequity in work ethic and work distribution within a court, or when hard work and innovation appear to go unrecognised or unrewarded. Notably, when judicial officers were asked about the major sources of stress within the role, they generally did not discuss the *intrinsic* features of judicial work (eg the distressing content of cases, or the challenges of decision-making). Rather they emphasised the organisational, structural and cultural sources of stress that are *extrinsic* to the task of judging, but nonetheless exist within the judicial working environment.

D. Discussing Stress and Seeking Support Remains Somewhat Stigmatised

There appears to be an enduring culture among judicial officers of denying stress and a reluctance to seek help. A number of judicial officers commented that they would be unlikely to access professional support if they experienced stress or mental ill-health, either because they perceive it as a weakness, or because they are concerned about confidentiality. Many commented that the best way to engage judicial officers in a program directed towards wellbeing would be to make the program compulsory, so as to override any stigma, internalised or otherwise, associated with choosing to engage.

E. Alongside Experiences of Stress, There is a Deep Sense of Job Satisfaction

While discussing the sources and experiences of stress, judicial officers also frequently commented that they "love" their work. Many judicial officers spoke passionately of the sense of privilege and professional pride they feel in fulfilling an important social and democratic function, and the commitment they have to judicial process and the court system. Judicial officers know that their work is meaningful. In addition, many judicial officers reflected that the inherent or intrinsic sources of stress within the judicial role, such as applying the law to complex or distressing factual scenarios or managing the courtroom tensions in challenging cases, are the very features the role that make it meaningful. In this sense, judicial stress and judicial satisfaction were often described as "two sides of the same coin". The sources of satisfaction within the role were seen by many as compensatory for the sources of stress.

F. Judicial Officers Sourcing the Most Enjoyment from the Role, are Those Who Prioritise Their Own Wellbeing

A sizeable minority of judicial officers spoke of consciously and deliberately putting in place practices and personal philosophies to maintain a healthy and balanced life on the Bench, and these are the people who spoke most enthusiastically about their judicial work. These included: taking regular leave, looking after their physical health, maintaining interests and friendships outside the law, and not hesitating to seek professional support during difficult or challenging periods. In some cases this commitment to wellbeing stemmed from an earlier personal crisis, and in all cases it was founded on a respect for the human dimension of judging and a recognition of its potential to impact wellbeing.

IMPLICATIONS

It would be fair to characterise this inaugural research into judicial wellbeing as revealing a judicial system under stress, but not in mental health crisis. Amid acknowledgment that judicial stress is real and common, and severe psychological distress is certainly not altogether absent among Australian judicial officers, themes of job satisfaction, dedication and professional efficacy were prominent. Notably, the stressors that were identified as most problematic were those *extrinsic* to the task of judging – they comprised organisational, cultural and systemic factors that courts and governments can potentially do something about. This research suggests that, if these extrinsic sources of stress can be addressed, Australia has all the ingredients for a healthy, well-functioning, and sustainable judiciary.

It must be remembered, however, that the Australian judicial system is diverse and dynamic, and the pressures bearing upon the courts are constantly changing. While, longitudinal analysis is required to empirically determine the directional trend of judicial stress, the current research provides a sound basis for decisive intervention to support judicial wellbeing. Neither an individual nor a system can sustain elevated and increasing stress indefinitely, without showing signs of strain and impaired functioning. The quantitative finding that judicial officers experience elevated non-specific psychological distress, coupled with the qualitative suggestion that the sources and experience of judicial stress are on the rise, indicates a simmering occupational health and safety concern that demands attention. Judicial officers are the pinnacle of the legal profession, protectors of the rule of law, and the third arm of government, and as such their occupational wellbeing and sustainability is a vital community concern. Fortunately, as noted in the opening, work is already underway within many Australian courts to discuss and address judicial stress, and movement is afoot to progress the additional research and analysis required to support these efforts.

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