

Launch of the Equal Treatment Benchbook

It is my great pleasure to welcome so many wonderful people to the Supreme Court for the launch of the Equal Treatment Bench Book. I acknowledge the traditional owners of the land on which we meet. I also acknowledge and welcome our guest speaker, the Honourable John von Doussa, President of the Human Rights and Equal Opportunity Commission, the Attorney-General, the Honourable Linda Lavarch, the Chief Justice, the President of the Court of Appeal, the Chief Magistrate, my co-editor Justice Philip McMurdo and my judicial colleagues, the Vice President of the Bar Association, the President of the Law Society, and the Public Defender, as well as so many members of the community. May I particularly welcome Kevin Cocks, the recipient of the Australian Human Rights Medal in 2005.

I would now like to introduce and welcome Albert Holt, who will give an acknowledgment of country. Mr Holt is an Aboriginal Elder of the Bidjera people. He, and his wife, Marlene Holt, have been members of the Elder advisory group to the Murri Court since its inception. Mr Holt's autobiography, *Forcibly Removed*, was published in 1992. In 2005 Mr Holt's active community involvement was recognised when he was awarded the prestigious title of national male Elder in the NAIDOC Week Celebrations. Please welcome Albert Holt.

[Acknowledgement of Country]

Before introducing our guest speaker tonight I would like to say something about the Equal Treatment Bench Book and why the court has produced it.

Let me commence by posing some basic questions. What are the elements of a society that are essential to a democracy? This is a question that many Western societies, usually secure in their democratic values, have been forced to ask themselves in the wake of the violent assaults of terrorism on their citizens. What constraints do we accept in the name of liberty?

There is a range of opinion on these vexed questions but there are some things on which everyone will agree. An essential pillar of a democratic society is the rule of law. Everyone, no matter how high nor how low, is bound by the law; and the same laws apply to everyone rich and poor. Those laws are rule based and are not the subject of whim or caprice. Integral to the rule of law therefore is equality under the law. Equality under the law is easily said but in a diverse society as Australia's how do we effectively provide for equality under the law, that is equality of treatment to all who come to court for redress or subject to its sanctions.

As individuals, judges each have different views and opinions based on our upbringing, education and experience. The more Judges learn about the experiences of others and the challenges different people face in their daily lives, the more we are able to fulfil the traditional judicial values of impartiality and fairness for all.

Let me give an example of the challenges. The language of the law in Australia is English and yet many people do not speak English or do not

have English as their first language. This includes not only those who were not born in Australia but also members of the deaf community for whom Auslan is their first language and some members of Aboriginal communities who may speak not only English but also Creole and their own language such as Wik Mungkan. In addition, the language spoken in different communities within Australia, may seem to be the same as the language found in the Macquarie Dictionary, but in fact words may have different meanings or connotations within that group or community.

All of this matters in court where ordinary people are required to participate. They may be victims of crime, they may be perpetrators of crime, they may be witnesses to crime, they may be parties or witnesses in civil litigation. In those circumstances they will need to speak in their own language of what happened and we need to be able to understand them.

Courtrooms are places of intense communication. And yet, the formal environment of a courtroom and the serious nature of the proceedings, may act as constraints to communication. That is one of the many reasons why judges wish to inform themselves as to the language, the culture, the religion and mores of different communities within the Australian community and also of the particular issues that beset people when they try to access the courts and vindicate the rights which the law gives them or are subject to the responsibilities which the law imposes.

It is because of these democratic needs and values that the judges determined to produce a benchbook from which we could inform ourselves of issues that face many members of our society and our community of which we might not otherwise be aware from our own

personal experience. The courts do not operate for an elite; but are profoundly based in their capacity to be courts for all members of the community.

In 2003 the judges resolved that the Supreme Court of Queensland would produce an Equal Treatment Benchbook for the assistance of judges and delegated the work to Justice Philip McMurdo and myself. We determined that it should cover a wide range of issues. This was, to our knowledge, the first time that such a benchbook had been attempted in Australia. The Judicial Studies Board in the United Kingdom has produced such a benchbook but this is the first which we know of, where it has been produced by the court for the court.

It covers such topics as justice and equality; ethnic diversity in Queensland; religions in Queensland; family diversity; oaths and affirmations; effective communication in court proceedings; Indigenous Queenslanders; Indigenous culture, family and kinship; Indigenous language and communication; Indigenous people and the criminal justice system; disability; self represented parties; children; gender; and sexuality and gender identity.

As editors we were assisted by many people and organisations who contributed by writing or agreeing to review or contributing their views to the publication. Those people that I would specifically like to mention and thank are the former associates and former and present staff of the court including Philippa Ahern, Susan Anderson, Loraine Blanco, Kim Buckle, Anna Cappellano, Lauren Coman, Shannon Fentiman, Andrew Fraser, Melissa Gilbert, David Groth, Deborah Hubbard, Maksymilian Del Mar, Maree Liesemann, Katy Lin, Erin Longbottom, Paula Rogers,

Shih-Ning Then, Oanh Thi Tran, Kylie Weston-Scheuber, Sue Weller and Yi Zhao. I would like to acknowledge the particular assistance and support given by Christine Figg, the Acting Senior Registrar, Neil Hansen, the Sheriff and Ken Toogood the Registrar. In addition I would specifically like to thank the librarian, Aladin Rahemtula and Rebecca Cook from the Supreme Court Library, whose unflagging assistance in the publication of this document was critical to the form in which you see it now.

In addition, we had the invaluable assistance of the Anti-Discrimination Commissioner Susan Booth. I would particularly like to acknowledge the contribution and generosity of the many people with whom we consulted: Abhay Awasthi from the Hindu Foundation; Andrew Boe; Kevin Cocks from Queensland Advocacy Incorporated; Dr Michael Comas from the Hindu Council of Australia; various officers of the Department of Aboriginal and Torres Strait Islander Policy including Marjorie Webber, Emma Ogilvie and Karen Pringle; Dharmachari Vikaca from the Brisbane Buddhist Group; the Federation of Aboriginal and Torres Strait Islander Languages; Rodney Goodbun from the Queensland AIDS Council; the Islamic Council of Queensland in particular Abdul Jalal; the Guardianship and Administration Tribunal in particular its president Ann Lyons; the Office of Multi-cultural Affairs, Queensland in particular Stephen Maguire; the Office of Women in particular Kathy Mandla; the Crime and Misconduct Commission in particular Dr Paul Mazerolle; the Spinal Injuries Association in particular John Mayo and Leonie Petersen; the Queensland Jewish Board of Deputies in particular David Paratz; Dr Rob Pensalfini from the University of Queensland; all members of the Police Ethnic Advisory Group; the Queensland Aboriginal and Torres Strait Islander Legal Services Secretariat Limited; Professor Sarva-

Daman Singh; Uri Themal; the Ethnic Communities Council of Queensland in particular Serge Voloschenko; Anne Wallace from the AIJA; and Tony Woddyatt from QPILCH. In addition, I would particularly like to thank the Chief Justice for his unstinting support for and advocacy of this project. After John Von Doussa's address, the Chief Justice will present a copy of the bench book to the Vice-President of the Bar Association; the President of the Law Society; the Director of Public Prosecutions and the Public Defender.

You will see from its format that it is a work in progress. It is in loose leaf form and we welcome any feedback on errors, additional information that might be included, any disagreements or areas that need to be further explored or emphasised.

It is now my pleasant task to introduce our guest speaker who will officially launch the publication. The Hon. John von Doussa QC was appointed President of the Human Rights and Equal Opportunity Commission on 1 May 2003 for a five year term.

At the time of his appointment he was a Judge of the Federal Court of Australia, an appointment he had held since 1988. He was also the President of the Australian Competition Tribunal, a Presidential Member of the Administrative Appeals Tribunal, an Additional Judge of the Supreme Court of the Australian Capital Territory, and a Judge of the Industrial Relations Court of Australia. From 1992 until shortly before his appointment he was also a part-time Commissioner of the Australian Law Reform Commission. From 1986 to 1988 he was a Judge of the Supreme Court of South Australia.

Before his appointment as a Judge he was a Queens Counsel with a reputation for brilliant, incisive and thorough advocacy. He had served terms as the President of the Law Society of South Australia, and Vice-President of the Law Council of Australia.

It is my great pleasure to welcome John Von Doussa.

[John Von Doussa's speech to launch the Equal Treatment Bench Book]

[Chief Justice's presentation of copies of the Equal Treatment Bench Book to the Vice-President of the Bar Association, the President of the Law Society, the Public Defender and an officer from the Director of Public Prosecutions]

To move a vote of thanks to our guest speaker may I welcome the Honorable Linda Lavarch who is Queensland's first female Attorney-General and Minister for Justice.

Ms Lavarch also was the first woman lawyer elected to the Queensland Parliament when she won the northern Brisbane seat of Kurwongbah in 1997. She was appointed Parliamentary Secretary to the Minister for State Development and Innovation in February 2004 and Parliamentary Secretary to the Minister for Energy and Aboriginal and Torres Strait Islander Policy in March 2005.

Before entering Parliament, Linda was a solicitor with a keen interest in Legal Aid, family law and alternative dispute resolution. She has a Bachelor of Laws and a Graduate Diploma in Legal Practice.