

EQUAL TREATMENT BENCH BOOK AWARD
Acceptance Speech Brisbane City Hall 30 October 2014
The Honourable Justice Henry

I acknowledge the traditional custodians of the land on which we gather and pay my respects to their elders past and present.

Councillor Adams, your fellow councillors, Mr Milligan, Mr Mayo, Mr Cocks, board members of Spinal Injuries Australia, award recipients and nominees, distinguished guests, ladies and gentlemen.

It is a common trait of human beings that without education we expect others should look, listen, love and live as we do. With education comes better understanding of human differences and needs and a better prospect that we may treat others with tolerance of those differences and consideration of those needs.

Human differences are most conspicuous in places where humans have little choice about who they must be near or gather with. It is no coincidence that some award nominees control such places – railways, football stadiums, hospitals and ... courthouses.

It is surprising in one sense that judicial officers are sometimes accused of being isolated from the real world. The reality is that day-in, day-out, judges deal with real disputes between real people. They see a great deal more of what really goes on between humans behaving badly towards each other than most members of the community would ever want to see or hear about. That said, judges are no different from other members of the community. They are as vulnerable as others to that common trait of human beings that we unwittingly tend to think and behave towards others as if they are no different than us. Our education in the needs of those who look, listen, love and live differently from us is vital in ensuring that the full array of different human beings who come before the courts are afforded equal opportunity to the justice which courts must administer.

The reality is that the constant staple of the courtroom consists not only of disputes between humans, but also differences between humans. Examples of the need to accommodate our differences are commonly encountered in the courtroom. A juror may be empanelled who is hard of hearing, yet no one has thought to inquire whether they have such an unseen disability. An atheist or a Muslim approaches the witness box to give evidence and the Christian bible is placed in their right hand without them being asked how they wish to affirm they will tell the truth. A child is asked “and did you surveil the man as he perambulated away?” and is expected to understand that means “did you see him walk away?”. A housewife and mother of three infant children is asked whether she “works” for a living and is expected not to be offended by the question. An Aboriginal from a remote Cape York community is asked in a murder committal proceeding whether she was the mother of the deceased, Billy Four Mile, without any appreciation of the cultural sensitivity against his public naming so soon after his death. An interpreter for a foreign language speaking witness fails to meet with the witness before entering court and thus fails to discover in advance that the witness speaks a different dialect. A witness in a wheelchair must give her

evidence from a less prominent position than the witness box because it was not built or renovated for disabled access.

With these examples the need for judicial education about human differences and disabilities is readily demonstrated.

The Equal Treatment Bench Book represents the Supreme Court's appreciation of that need. A list of its chapters demonstrates its breadth of scholarship and purpose: [read chapter headings]. I cannot claim to have been part of the original team which assembled this fine work and am merely a current custodian of shared editorial responsibility for its updating. In accepting the award on behalf of the court I particularly acknowledge the pioneering work of Justices Roslyn Atkinson and Phillip McMurdo in the book's initial authorship.

There of course remains more to be done in courts. For instance architects and those controlling building budgets continue to take the term "witness box" too literally. That said, it is timely to have marked the importance of education to delivering equal treatment.

I acknowledge and congratulate the good work of all of today's nominees and on the Court's behalf express my sincere appreciation to Spinal Injuries Australia for this award.

Henry J