



## Embracing Diversity in the Law – Solutions and Outcomes 10 June 2016

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### The Hon Justice a Philippides Court of Appeal

Chief Justices, your Honours, distinguished guests, ladies and gentlemen –

In closing this evening's seminar, I wish to acknowledge and pay my respects to elders past and present, and the community today.

We think of our legal system as one that provides answers. But it is also one that poses important questions. How to ensure that our legal system is accessible to all, together with how to achieve greater diversity in the law, are two of the most pressing questions for the future. Getting the answers to those questions right will have profound consequences for our society.

The importance of diversity as an essential aspect of a democratic society is well understood. In this context, diversity includes matters of gender, race, cultural and linguistic background, age, life experience and the many other differences that enrich our society.

There is a public expectation that the great institutions of our society will inevitably reflect the diverse composition of our society, because there is an expectation that they are open to all persons of merit. And, so too, there is an expectation that our legal system – our judiciary in particular – will reflect our diversity. Our system of justice is premised on the concept of equality *before* the law, but also, *in* the law.

The notion of appointment on merit has a long history. It was, albeit in an imperfect form, held up as an important feature of Ancient Athenian society, distinguishing it starkly from communities elsewhere. But, unlike in Athenian times, we understand that



the notion of merit is inherently flawed if the pool from which those of merit are chosen is artificially restricted, whether by gender or cultural diversity or other differences.

I am delighted to have witnessed, when I have sat on admission ceremonies over the past 15 years that I have been a judge of the Supreme Court, the growing numbers of female lawyers being admitted to the profession and I have also witnessed the increasingly diverse cultural composition of the admittees.

But, there is much to be done to achieve diversity in the law. This is especially so in relation to the unacceptably low numbers of Indigenous lawyers in the profession and their virtual absence at the highest echelons. There is only one Indigenous silk in Australia, Tony McAvoy SC. He will speak at a seminar on diversity in this Court in a fortnight and I encourage you to come and hear him.

The outcomes that result from embracing diversity have been well documented over a sustained period in both legal and other professions. However, the importance of diversity is self-evident, one does not need to make a case for it.

What is required to achieve diversity, is not only examining why so few at the upper echelons come from diverse backgrounds, but what can be done to improve the pathways of those coming from diverse backgrounds to reaching high achievement.

That the need to promote diversity is understood as an imperative is reflected in the determined efforts of many in the legal profession, academia, and the judiciary. Such efforts include the work of the Judicial Council on Diversity and the important initiatives of the Law Societies and Bar Associations of the various states and territories and their national counterparts. Our universities promote diversity by the establishment of scholarships. And many law firms and legal organisations now state as an objective the achievement of diversity.



What underscores these efforts is the realisation that embracing diversity is not about conferring some special advantage on a particular group, but rather recognising and promoting to the fullest extent possible the pool of talent that exists in our society.

Recently, the Law Council developed and adopted a Diversity and Equality Charter. The Charter is a statement of principles to acknowledge publicly a commitment to diversity and equality by the Australian legal profession. It is based on the principles of justice, integrity, equality and the pursuit of excellence upon which the legal profession is founded. It recognises that “diverse and inclusive workplaces help to bring about a strong and respected legal profession”. It emphasises that diversity “benefits the legal profession and the community as a whole”.

The Charter has been adopted by very many, including the Hellenic Australian Lawyers Association. The public commitment involved in adopting the Charter is a very significant step towards the goal of achieving diversity and equality in the law. Public commitment is an essential step. And inspiring words have an important place, but they not enough.

It is also essential that, we not only publicly promote diversity, but that that goal is reflected in our individual actions. When combined, and directed collectively in a purposeful manner, there can be great force in individual action.

By your presence this evening, you join those who wish to be a part of embracing diversity in the law, and finding solutions to achieving that outcome. In respect of *our* goal of promoting and embracing diversity and equality, I close by saying – in one of the indigenous languages that has been spoken for tens of thousands of years in this very location, and now here in this Banco Court:

Kunnar mallera ngalingi meaning “let us be one”.