

# Australian Migration and Settlement Awards

## Diversity and the Law Award

Chief Justice Robert French AC  
18 March 2013, Parliament House Canberra

Chairman of the Migration Council Australia, Parliamentarians, distinguished guests, ladies and gentlemen.

Nearly two hundred years before the birth of Christ, a young man living in what is now Tunisia was taken to Rome as a slave by a wealthy Senator who was impressed with his literary talents. The young man, later freed, became Rome's greatest comic dramatist writing under his master's name of Terentius. His was a migrant success story which resonates into our own time. He is relevant in another way because of some words spoken by a character in one of his plays which have been quoted and requoted for over two thousand years by writers as disparate as Seneca, St Augustine, Montaigne, Karl Marx and countless others. The words were:

"Homo sum: humani nihil a me alienum puto.  
I am a man: nothing human is foreign to me."

It is a delightful irony that the words in Terentius' play were apparently spoken by a busybody responding to a suggestion by one of his neighbours that he should mind his own business. Though written tongue-in-cheek they enlivened a deeper imagination in those who heard and read them. They have been taken as words about the essential unity of mankind. So interpreted they are words which, in Australia, in our own time, reflect a fundamental value underpinning our notion of equal justice, that is to say that every person in this country, migrant or born here, is equal before the law.

That is easier to say than it is to apply. Cases which are alike should be treated alike. Cases which differ in ways which the law recognises should be treated differently. But what are the differences that the law can recognise? That is a question we cannot avoid when we speak of diversity and the law.

The diversity of our population enriches our society in many ways. It can also pose a challenge to the way in which we understand and apply the concept of equality before the law. There are differences between peoples in culture, language, religion and dispute resolution traditions which cannot be accommodated in a formal way by our legal system without compromising the notion of equal justice. The Australian Law Reform Commission wrestled with the question over twenty years ago in its report on multiculturalism and the law in which it argued that all Australians should:

"Accept the basic structures and principles of Australian society – the Constitution and the rule of law, tolerance and equality, parliamentary democracy, freedom of speech and religion, English as the national language and equality of the sexes."

We must recognise, with a degree of modesty which lawyers and judges sometimes find difficult, that there are tensions between some aspects of cultural diversity and equal justice which cannot be reconciled. But there are important things which can be done about them. It is the doing of those things we recognise tonight. It is to the benefit of new arrivals and to the benefit of Australian society that there are people and organisations among us who are prepared to assist new migrants achieve an understanding of the rights and responsibilities of citizenship and in particular to assist those from other places who find themselves interacting in one way or another with the legal system which may embody values, concepts and principles which are alien to them. A commitment to that kind of assistance is a commitment to that common humanity conveyed by the words of the migrant playwright across two millennia. It is a commitment to equal justice as an aspect of the rule of law. It is right that we value and recognise that commitment to encourage those who have made it and to encourage others to make it.

I am delighted to be able to present the award this evening in the category of Diversity and the Rule of Law.