

Courage to Care Fundraising Lunch

“How I have tried to have the Courage to Care to be an Upstander, in my family life, working situation and community involvement”

**Speech by the Honourable Justice Stephen Rothman AM
Supreme Court of New South Wales**

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NSW Parliament House, 6 Macquarie St, Sydney**

Welcome to Country and Acknowledgement of Traditional Ownership

“Yaama!

Ging ella with a byan? Gumul cowarna nula, bere, walgal, yuridyuw!”

When we gather and come together as one, we acknowledge and pay our respects to the traditional custodians of this land, the Gadigal people of the Eora nation, their elders past, present and emerging. We thank all first people for the care of the land and rivers over many thousands of years and we remember that this land is, was and always will be traditional aboriginal land.

I have difficulty thinking of myself as someone who has, in terms of the topic given to me, been an “up stander”.

The two people who were most involved in requesting me to speak today, or putting pressure on me to speak today, Ron Pollak and Peter Halas, had the good sense to ensure that the date was fixed for a time when each of them was overseas.

It is the high point of my life that I have children and grandchildren of which I am immensely proud and whom I love unconditionally. Their task, on the other hand, is to keep my feet firmly on the ground. When one of them learnt I was to give the keynote address here today, she said: “Why you?”; “I thought you had to be important to do that!”

So today, although I don’t feel any more important, I do feel honoured to be giving this address to a group that, as you will hear, was instrumental in my current topic of interest for Australian society.

The difficulty I have in thinking of myself as an up stander is that most of the things, which I am said to have achieved in my life, were not the result of any great courage. The one exception was possibly the task of asking Sandra to marry me. But all of the rest seemed to arrive, mostly because I happened to be in the right place at the right time; or, some may say, the wrong place at the wrong time.

There are a number of examples. My first involvement in the leadership of the Jewish community arose when my eldest child was at preschool; there was a

meeting at which a debate occurred; I participated; and the next thing I knew I was on the committee.

The Holocaust Denial cases, for example, have had great interest internationally, not least of all because orders were made by the Court requiring material to be withdrawn from the internet that were binding and obeyed by Google and other media. Yet, even my involvement in those was not something I planned or sought.

The Executive Council of Australian Jewry was struck out of the proceedings by the then Human Rights Commission and I was approached by the then President of the New South Wales Jewish Board of Deputies asking if there were a right of appeal. I answered in the affirmative and the next I knew we had run and won the appeal and I thereafter ran the proceedings in the case of Ms Olga Scully and Dr Frederick Tobin over a period of some 18 months.

Thus, it can hardly be said that the positions I have held in the Jewish community were the result of courage on my part – it may well be that I was simply not quick enough in stepping back!

However, it is fair to say that during the course of my life both in my profession and in the community, I have been outspoken on those things that I thought needed attention. As those who walk with me, on the occasions that I awake early enough to get to the beach, will attest, I am outspoken on a whole range of topics and always have been.

In part, at least, that attitude was developed in a childhood in which I was encouraged, even as a child, to express my view on politics and the problems of the world. I can only imagine the level of patience that my parents required to allow me that indulgence.

Some of the things that I have done have been extraordinarily interesting. The work in the Soviet Union in 1987 and 1988 was probably the most outstanding and memorable issue, particularly because one of the unrelated issues that I managed to discuss with the Soviet leadership was the plight of Jewish refuseniks. That and the Holocaust denial cases were two of the most obvious examples where my religious and cultural background influenced my professional career. In truth, however, almost everything I've done in my career and in my family life, has been moulded by my history as a Jew and the history of my wife as a Jew.

One of the positions that I've held over the years, to which my introduction did not refer (a position that I have held until very recently) was the Chair of the Ngara Yura Committee, a Committee established as a result of the Royal Commission Into Aboriginal Deaths in Custody, to work with the Aboriginal community and to liaise, on the part of the judiciary, with that community and seek to resolve some of the existential issues that the community faces.

Perhaps, my involvement in that Committee and the work in which I am currently engaged, points most obviously to what seems to be the kernel of the topic on which I'm supposed to speak.

The way my interest was sparked in Aboriginal issues again, was that I happened to be in the right place at the right time. Some years ago, long before my appointment to the Bench, I was invited to attend a Courage to Care Exhibition in one of the New South Wales country towns, I think, Moree.

The Exhibition was, when I was there, educating Aboriginal children about the Holocaust. My late mother-in-law was the sole survivor of 127 members of her mother's family in Europe at the beginning of the war. Yet she never discussed her experiences in the camps with Sandra. She did discuss it with our children and, to a greater extent than she ever did with Sandra, discussed it with me. I continue to see the Holocaust, not only from a communal aspect, but as a very personal and culturally significant tragedy.

Yet, here I was, in Moree, listening to presenters telling young Aboriginal children about the extent of discrimination against Jews from 1933 to 1945 and, in bowdlerised form, about the death camps.

What was most interesting was that the particular class that I was observing attend the course was described beforehand by their teacher as a problem class, in which the attention span was at best about 10 minutes and usually 5. They were, according to the teacher, disruptive, unintelligent and uninterested.

That class of 20 sat mesmerised by this story for close on 40 minutes. At the end of it they asked intelligent questions and made some telling points. One of the young students, said by his teacher to be one of the most problematic in the class, commented that before today he had not realised that others had suffered even worse discrimination than he had as a young Aboriginal child.

I balked at the comparison between the Shoah and the plight of the Aboriginal community in Australia; after all, I was well-educated and I had not learnt of any genocide of Aboriginal people. But it sparked my interest to read more and to become more engaged.

What most interested me, as a Jew, was the stark comparison between how the indigenous community reacted to discrimination and the effect on us.

Notwithstanding an excellent education in the State school system, a history of Aboriginal Australia is a history about which I was never educated and, to this day, students are not educated about it. The talk today cannot do justice to that history, but I will provide a couple of insights.

As a child, I grew up with a story, repeated to me many times, the details of which are no doubt apocryphal. As I think everybody here would know, I am Jewish. My Great Aunt likewise was Jewish, and was born overseas; in the Ukraine. Her family nickname was Dolly, like the sheep. She had facial features not dissimilar to mine, although thicker lips than I have now; was about 4' 9" (only slightly taller than me!); short jet-black curly or wavy hair, and very dark olive skin. When she was in Northern New South Wales, as an adolescent, working in another relative's shop, she was herded, against her protestations, on a bus for return to the Aboriginal mission. My family had to collect her.

The second anecdote is a reiteration of an historical fact I mentioned at a Supreme Court conference some time ago. West of Gosford and west of the Sydney-Newcastle Freeway, there is an area upon which there lived an Aboriginal people. Their language and culture, while similar to those in surrounding areas, was distinct. There is no living descendant of that people. There are remnants of their culture: drawings; carvings; middens and the like. This nation, this people, was exterminated. Some died from disease. Most were murdered by hunting parties, organised sometimes for sport, sometimes after church, not unlike the English hunted fox.

This is not an isolated event. Yet we learn nothing of it in our education system. And because we know nothing of it, we react negatively to claims of genocide by first peoples.

With great respect to many leaders of our society, with very few exceptions, in Australia, white Anglo-Irish heterosexual males have no understanding of discrimination. Even the exceptions understand it from an observer's perspective; not from personal experience.

We, the Jewish community, understand it and I saw it as my task to work out why Indigenous Australia was suffering so much.

I have heard, on various news reports, and in various papers delivered to lawyers and judges, how tolerant Australia is and how welcoming it has been to different cultures. There is some truth in that proposition, but its accuracy is only partial. A true understanding of the issues requires an understanding of the uniqueness of Australian democracy and the uniqueness of Australian culture, whether indigenous or later colonial history.

The starting point is the land. For Indigenous Australia, land is the very essence of their culture. There is good reason for it.

Australia is, as it is said, "a land of sweeping plains"; an old, if not the oldest, continent; the largest island; with a generally temperate climate and an abundance of food and water. The water may sometimes collect in the wrong places and there are certain parts of Australia that cannot rely on such abundance, but to understand Australia as it differs from the rest of the world, one must start at that proposition.

As a consequence, in Aboriginal culture and law, land ownership was not exclusive, except in areas bearing a sacred significance. The abundance of food and water ameliorated any desire to keep such items to oneself and to overcome most expansionist ambitions. Simply, in Indigenous Australia, exclusionary land title was unnecessary.

One then must add to that the issues of the "New World" (a name with a particularly colonialist or European bias). Unlike Europe or Asia (and, oddly enough, even unlike most of Africa), all of whom, until the 1900s at least, were based upon homogeneity either of language, culture or religion, the New World was the very antithesis of such homogeneity.

The United States, Canada, Australia, New Zealand and to a lesser extent South America, were immigrant countries. Most, including the United States and Canada dealt with that challenge by adopting the melting pot approach to culture, while Australia was very different. For our part, Australia did not adopt the motto or the policy of “**E pluribus Unum**” (Out of Many is One).

Largely this is due to the penal colony beginnings and the large contingent of Irish Catholic convicts who were denied fundamental rights and the freedom to worship in their former countries. Thus, New South Wales, as a Colony, in order to survive, was required to emancipate and to welcome different cultures and different religions, long before the British saw fit to follow. NSW promulgated St Patrick’s Day as a public holiday in 1810 and enjoyed freedom of religious services, when the British only had it in 1824. There were informal Jewish services from the late 1700s.

The third aspect required to understand Australian democracy is its electoral system. Leaving aside the systemic tensions between State and Federal power, the nature of the electoral system and the importance of the electoral system in the way in which Australia has developed is unique. At the Federal level (and in this State), who will exercise power is determined by the majority in the Lower House and the Lower House comprises members, one only elected from each electorate, which elects that one person by a voting system that is preferential.

Further, we have what is loosely termed compulsory voting. If you are an Australian citizen, it is illegal not to register on the electoral roll, or, when it occurs, to notify a change in your electoral address. It is illegal not to attend to vote and receive a ballot paper. Ironically, whether you actually complete the ballot paper will never be known! I should say, it was probably illegal for me to tell you that!

As a consequence, Australia does not suffer from a silent majority. The effect of our electoral system means that each political party that desires to obtain office or obtain a majority of seats in the Lower House is required to ensure that they are fielding candidates who appeal to the majority in an electorate either as their most preferred consensus candidate. As a consequence, political parties are necessarily pushed to appeal to the middle ground of political opinion in Australia.

These somewhat eclectic attributes coalesce to form a rather unique brand of democracy and brand of civil rights. It involves, first, a *laissez-faire* attitude to others; which allows an encouragement of differences, where those differences do not interfere, or are not perceived to interfere, with the capacity of others to operate as they please, and so long as it is seen as adding to the enjoyment of life in Australia. There are abundant examples.

Now I have come, somewhat circuitously, to a topic that is marginally relevant to that on which I am supposed to talk.

Australia has a sorry history of social exclusion of a number of groups. Surprisingly, by international standards, the social exclusion of women was less problematic in early days of the 20th Century. Of late, we do not fare as well.

The LBGTQI community is another group the members of which have been and continue to be, socially excluded. Historically the social exclusion of Indigenous Australians and the same-sex community has been, and continues to be, the major exceptions to inclusiveness in Australia.

Each deserves its own talk. But I wish to concentrate on racial or religious minorities. I will tell one story only about the former.

I was some time ago castigated by a very conservative Rabbi because I advocated that the Jewish community should support Same-Sex Marriage under Civil Law, because we should protect minorities. If the Jewish community sought to safeguard its rights to practise and for observance, then all minorities should have their rights protected, so long as those rights do not involve illegal conduct or an interference with the rights of others. Ultimately that is an application of the norm of equal justice.

When The Great Synagogue held a dinner for the LBGTQI+ community two things occurred. The same Rabbi sought to castigate me, The Great and our Rabbi, but was thwarted by some preliminary political work I had done. More relevantly, a conservative older member of the Shule Board, who was at best ambivalent about the dinner, came to me after the speeches and said that he had just realised that, as a group, the same-sex community had been vilified and denied rights, just as we had been. That comment made the dinner worthwhile. We should not forget that homosexuals were the first ones into the gas chambers.

As a lawyer, particularly as one gains greater experience, one learns that the rule of law is essential to a democratic society. It means that everyone, including government, must obey the law and is to be judged by judicial officers.

The rule of law involves the norm of “equal justice” which means that like should be treated alike and that the difference in treatment of different persons must be rational. Equal justice is the principle that is fundamental to the exercise of judicial power and, in my view, and the view of many far more learned than me, also fundamental to and a limitation on the exercise of legislative power in a constitutional democracy in which the implementation of the rule of law is required.

In the United States, it is guaranteed by the Fifth and Fourteenth Amendments of the US Constitution and in Canada by section 15 of the Bill of Rights. While we do not have a Bill of Rights in Australia, the High Court has made clear that it is fundamental to the existence of our Constitution and the exercise of judicial power. Essentially, as the High Court has put it, the exercise of judicial power must be rational and the laws that are made by the legislature must be, in the sense of equal justice, rational: *Green v R*; *Quinn v R* (2011) 244 CLR 462; [2011] HCA 49 at [28]

In the Canadian Supreme Court, in *Andrews*, McIntyre J recited the principle by reference to the Aristotelian principle of formal equality, namely, that “things that are alike should be treated alike, while things that are unlike should be treated unlike in proportion to their unalikehood”: *Ethica Nichomacea*, trans. W. Ross, Book V3, at p. 1131a-6 (1925).

It cannot be doubted that the law must be devoid of capriciousness and arbitrariness. It is to the lack of capriciousness and arbitrariness (and perceived capriciousness or arbitrariness) that the principle of equal justice is directed.

It is the principle of equal justice that has found expression in the principles of parity as between co-offenders and in discrimination law and is the notion that stops governments gaoling all red-haired lawyers, or killing all blue-eyed babies or all persons of Middle Eastern appearance (whatever that may mean).

Democracy is defined, traditionally, as a system of government by the people, for the people and of the people, in which everyone has equal political rights. To deny people equal political rights is inconsistent with the very notion of democracy itself. In that context, a legal right is a political right.

The best or worst example of “inequality” in this country is its first peoples. Of course, as you would know, there are others. I wish to introduce some facts relating, particularly, to Aboriginal offenders. Aboriginal and Torres Strait Islanders make up approximately 2.5% of the Australian population. In New South Wales, the figure is the same. Yet in New South Wales, Indigenous persons accounted for 24.2% of the prison population; 23.4% of the male prisoner population and 33.8% of the female prisoner population.

A comparison with earlier data shows that, notwithstanding the findings and recommendations of the Royal Commission into Aboriginal Deaths in Custody, the proportion of Aboriginal prisoners is greater than it was when the Royal Commission was investigating; and the rate of incarceration has not only increased, but is increasing.

The difficulty is that, with the best intentions, we are not dealing with the cause of inequality; we are dealing with the symptoms. Governments of every persuasion have failed to realise that ameliorating the effects of disadvantage will not cure the issues suffered by Aboriginal people.

We assume, as a society, and more particularly as lawyers, that an environment of alcohol and abuse has effects. We do not accept that discrimination, exclusion and disempowerment, have similar effects. Yet scientific evidence supports the latter proposition.

My interest and reading was rekindled when I was required to sentence Aboriginal offenders, and, in the course of my study of the similarities and differences between Jews and the Aboriginal community, I read the reports of scientific testing on social exclusion. I wrote to the author enquiring whether his tests were applicable to whole groups. He responded and eventually published articles on the subject. I will, after explaining the nature of the findings, read from one of them.

In his studies, Professor Baumeister, a Professor of Social Psychology, previously at Florida State and who last year joined Queensland University of Technology, tested the effect of social exclusion on individuals. The results are astounding. Social exclusion directly causes reduced academic performance, in speed, accuracy and comprehension; decreased self-regulation for longer term benefits, for example, food

choice, understanding consequences; increased anti-social behaviour and a greater likelihood of criminal behaviour, including a reduced sensitivity to pain.

In other words, social exclusion, the effect of discrimination and disempowerment on an individual, directly caused increased anti-social and criminal behaviour (what may in some circumstances be called radicalisation); decreased health by incorrect lifestyle choices; and decreased academic and intellectual performance.

By way of introduction, I should comment that Professor Baumeister's original thesis was that rejection or social exclusion caused emotional distress, which in turn affected behaviour. This thesis was tested; and disproved. The tests disclosed that social exclusion and/or rejection directly affected behaviour, but did not affect emotion.

The effect on behaviour caused by social exclusion was statistically among the largest effects of any physical stimulant in the Professor's career. In other words, social exclusion directly affects the behaviour of individuals, but these effects do not depend on emotional distress. I will not describe the tests. It is sufficient for the purposes of this paper to note that scientific method was utilised, including a control group. I recite some of the findings:

In R.F Baumeister & C.N DeWall, "The Inner Dimension of Social Exclusion: Intelligent Thought and Self Regulation Among Rejected Persons" (2005) *Journal of Personality and Social Psychology*, 88, 589-604, the authors remarked:

"It is easy to propose how people ideally or optimally would respond to social exclusion. They ought to redouble their efforts to secure acceptance. Toward that end, they should reduce their aggressive and antisocial tendencies and increase prosocial behaviour. They should improve self-regulation so as to perform more socially desirable actions. And even if improved social acceptance is not a promising option, they ought at least to become more thoughtful and intelligent and should avoid self-defeating behaviours, so as to fare better on their own if necessary. Yet our laboratory studies have found the opposite of all these to be close to the truth. ...

Self-regulation and cognition, instead of emotion, have emerged from our most recent data as the most important inner processes to change in response to social exclusion. Rejected or excluded people exhibit poor self-regulation in many spheres. They also show impairments in intelligent thought, though these are limited to forms of thought that are linked to self-regulation (i.e., thinking processes that depend on effortful control by the self's executive functioning).

Nonetheless, the findings from this work have helped shed light on both the inner and outer responses to exclusion. They help illuminate why many troubled individuals may engage in maladaptive or seemingly self-destructive behaviours. They may also have relevance to the responses of groups to perceived exclusion from society as a whole. Although there are some exceptions, such as the intellectually vigorous culture maintained by Jews during the centuries of discrimination and ghettoization, many groups who

felt excluded or rejected by society have shown patterns similar to those we find in our laboratory studies: high aggression, self-defeating behaviours, reduced prosocial contributions to society as a whole, poor performance in intellectual spheres, and impaired self-regulation. Our findings suggest that if modern societies can become more inclusive and tolerant, so that all groups feel they are welcome to belong, many broad social patterns of pathological and unhealthy behaviour could be reduced.”

Interestingly, from my own particular background, the foregoing extract cites the Jewish experience as an exception. Professor Baumeister is not Jewish (at least as far as I am aware) and failed to realise that the Jewish community provides no exception to his comment, other than an exception that “proves the rule”.

The Jewish community developed, over centuries of social exclusion, its own mechanisms, similar to those adumbrated by Professor Baumeister as a result of his studies that, according to his tests, would overcome the effects of social exclusion by empowerment and cultural self-confidence and support. Those steps include community support; a network of support against exclusion; the teaching and use of language and culture; and, generally, the sense of community and belonging.

An examination of the programmes that have been successful in redressing some of the disadvantage of Aboriginal Australia confirms the importance of the Baumeister approach. Two of the more successful programs in New South Wales have been the programs initiated in Redfern and the programs, utilising football, implemented in north-west New South Wales.

In Redfern, Superintendent Freudenstein initiated a series of programs, in consultation with elders, that, on a helicopter view, instilled a sense of community, initiated a support system and inculcated a feeling and sense of belonging and empowerment amongst the Aboriginal community and in particular its youth. The programs implemented by Superintendent Freudenstein were, in hindsight, extraordinarily simple. It started from the proposition that the police ought not to be seen only as the enforcers, gaoling offenders and very much the enemy by younger members of the Aboriginal community in Redfern.

The police instituted (with some significant resistance both at the coalface and more senior police) a program of consultation with the elders of the Aboriginal community in Redfern, which involved police recruiting younger members of the community for a fitness program in which they trained, with police, and were collected at 5am by police. The program blossomed into one of the most successful youth engagement programs ever implemented and reduced the animosity between police, on the one hand, and the younger members of the Aboriginal community, on the other.

Moreover, from a strictly policing perspective, the level of offending in Redfern dropped dramatically and, most promisingly, became lower amongst the Aboriginal community in Redfern than was the average for all offending, regardless of race, in Redfern or across New South Wales. Moreover, the time, effort and expenditure involved in the program was significantly less than the amount, prior to the program being implemented, on enforcement.

An expected corollary was higher employment participation figures within the Aboriginal community in Redfern and significantly higher levels of employment (and lower levels of unemployment). The program was such a dramatic success that it is now sought to be exported to other areas of high Aboriginal population that may have some of the same features.

The football programme was a very different one. It was aimed at the prevalence of domestic violence in north-western New South Wales. It involved an Aboriginal representative footballer, David Peachy, organising a football program amongst Aboriginal youth, participation in which required a commitment not to be involved in violent offending (or other offending) and, like the program in Redfern, built a feeling of community, at least amongst those persons participating in the program. Again, after some little time, the effect was dramatic. Interestingly, in some areas where the program was implemented, the Aboriginal community opposed the program. Nevertheless, the program was successful.

I can guess at a possible explanation for the opposition of some Aboriginal communities. In some ways, the football programme replaced the feeling of belonging to the particular Aboriginal community with a feeling of belonging to the newly created “football community”. In that sense, there may have been some disadvantages in the longer term for the Aboriginal community.

Nevertheless, what each of those programs, used in this talk as examples, clearly discloses is that the empowerment of members of the Aboriginal community and the implementation of programs which provide to members of the Aboriginal community a feeling of social inclusion and support, as distinct from the historical social exclusion and disempowerment, have had extraordinarily successful results.

In my view, the Aboriginal community, in that way, is not unique. Many of the studies in criminology on gang theory and radicalisation are in my view consistent with and support the veracity of the underlying premise, which, in my opinion, is explained best in the Baumeister studies. However the “gang” studies do not approach the issue from a social exclusion basis.¹

Speaking personally, I experienced some significant discrimination and exclusion as a youth and in my early career. Historically, members of the Jewish community have adopted two quite distinct attitudes. One is to be more “Australian” or “British” than the general population. Sir Isaac Isaacs was probably in that category. The other is to stand up for one’s distinctiveness.

¹ Some of those studies to which reference is here made are: ‘Section 5: Crimes and Gangs in Sydney: The Ethnic Dimension’ Ethnicity and Gangs’ in Jock Collins, Greg Noble, Scott Poynting and Paul Tabar (eds), *Gangs, crime & community safety : perceptions and experiences in multicultural Sydney* (University of Technology, Sydney, 2002); JC Barnes, Kevin M Beaver and J Mitchell Millerm, ‘Estimating the Effect of Gang Membership on Nonviolent and Violent Delinquency: A Counterfactual Analysis’ (2010) 36 *Aggressive Behaviour* pp 437-451; Martin Bouchard and Andrea Spindler, ‘Groups, gangs and delinquency: Does organization matter?’ (2010) 38 *Journal of Criminal justice* pp. 921-933; Emma Alleyne and Jane L Wood, ‘Gang Involvement: Psychological and Behavioural Characteristics of Gang Members, Peripheral Youth, and Nongang Youth’ (2010) 36 *Aggressive Behaviour* pp. 423-436.

I, in my personal experience, have toyed with each attitude and have found, somewhat surprisingly at first, that acceptance and respect was obtained more by an adherence to fundamental beliefs than an attitude that eschewed such beliefs. In other words, people respect the beliefs for which you are prepared to stand up.

In my experience, in order to overcome the worst effects of social exclusion, it is necessary, first, to be true to your own fundamental beliefs or attributes and, secondly, to engage with the broader community. Further, education of the broader community of one's culture, tenets and beliefs, will render Australia more diverse, richer in culture and community and, most importantly, more supportive of each other.

From knowledge comes respect. In the modern era, in democracies such as Australia, in order for true peace to prevail in the community, all in the community must adopt a position of respect for all – not tolerance; but respect; in my view, a step higher than tolerance.

It is only when all of us, minorities and majority, respect each other and respect each person's differences that we apply, in society, that which, in my view, is a necessary aspect of democracy, namely, equal rights and equal obligations.

It is that approach which informed my decision to take on Scully and Toben under the *Racial Discrimination Act 1975* (Cth); the rights of refugees; the issue of civil rights in the Soviet Union, including Jewish emigration to Israel; and the other matters of which you've been told.

Ultimately, all so-called rights in a democracy must be balanced with others. Freedom of speech, for example, as important as it is, must give way to the public vilification of persons on the basis of their inherent differences to others.

In the 1960s, the blacks in the US had freedom of speech and the right to vote but their diminished status and public vilification prevented the exercise of those rights.

Returning, if I might to the main point, there will always be some level of social exclusion by the ignorant, the ill-informed and the insecure. I'm not so naïve to suggest we can end discrimination in society.

Nevertheless, as a group, Courage to Care is using our experience as Jews and our historic persecution to bring fresh ideas and prospects; new blood and new eyes to the Australian community.

From the perspective of a minority with a different culture and/or religion, the issue is one of assimilation or integration. I argue strongly for integration and against assimilation. Australian culture and the Australian way of life has benefited greatly from the differences between our various minorities.

For First Australians that involves greater cultural education and more language education, not only for members of the Aboriginal community, but for all of us. Some Schools now teach Aboriginal languages. I also believe the move for a treaty should

be supported. In many ways the treaty process and the reaching of the treaty is more important than the content.

My work and my preparedness to speak out made a difference in this area, albeit, so far, only minor. These issues are now used by the Court in this State and others to fashion more appropriate sentences and to design more appropriate corrective programmes.

It is that process that will retain our moral standing and prevent us from simply locking people up, or throwing them out of the country, on a whim.

That attitude was one reason I was so disappointed by the political reaction, from a person I otherwise admire and supported, to dismiss peremptorily the notion of a Constitutional provision for consultation with an elected representative of the Indigenous communities.

In the meantime, that which groups such as this are doing must continue. Likewise, it is important for all of us, including my colleague judicial officers, at every level, to understand the effects of social exclusion; to factor it into decision-making; and to seek to counter such effects, in part, by inclusiveness and, to the extent appropriate, support. One hopes that one day such support will be unnecessary.

It is for that reason, as earlier stated, that I was so honoured to be asked to give this address and to support the work that you, are doing. My congratulations go to you; and my thanks go to you. You have used our experience to benefit all Australians; but we have much more that must be done.

In that way all of us, each of us different in a way, can share in what our nation has to offer and contribute to what our nation has to offer; accepting our mutual obligations of care for each other and building a diverse, cohesive and, Please God, a safe society. To do so, it is necessary only to speak out against that which you consider wrong.

Ultimately, I have not been an Up-Stander; I have simply been outspoken on issues that I have cherished as a result of my upbringing. It is easy to be outspoken if you can stand the consequences.

While my outspokenness has assisted me achieve a modicum of success, it has also inhibited greater success in my career. But what is the point of success in the absence of moral rectitude?

As for courage, I have no idea whether I would have the courage of the Righteous Gentile to risk my life and the life of my family to shelter or save others, whom I may not even know. I hope I would.

And as for titles, they have never been important to me; except, most importantly, the title: Zeida.

Thank you.