



The Citizen Lawyer

Remarks by the Honourable Chief Justice Niall to the Victorian Legal Services Board and Commissioner Citizen Lawyer Symposium, Melbourne

14 September 2026

Good morning and welcome.

I would like to start by acknowledging the Traditional Owners and Custodians of the land on which we gather, the Peoples of the Kulin nations. I pay my respects to their Elders and Knowledge Holders and to any First Nations people joining us today.

Thank you to the Victorian Legal Services Board and Commissioner for organising this event, and to Keri-anne Millard for your introduction. I welcome all participants to this symposium. The topic of this symposium is the citizen lawyer. The idea of the citizen lawyer places the legal profession beyond the perspective of individual practice. Lawyers are, of course, trained advocates and advisers with obligations to their clients. But they are also officers of the Court and participants in the administration of justice. From a judicial perspective, that broader role is indispensable. Legal expertise carries a public responsibility to support the institutions, values and processes upon which the rule of law depends. It commences with the oath or affirmation on the day of admission and continues binding the lawyer to the administration of justice.

Courts are independent of the political branches, but they are not detached from society. They exercise institutional power, in public, for the benefit of the community. Lawyers stand at the meeting point between the courts and the citizen. They translate private grievance into legal issue, assist courts to reach lawful outcomes, and explain those outcomes beyond the courtroom.¹

My central proposition today is that the rule of law depends on sound doctrine and formal independence, and on justice being experienced as intelligible, fair and real. That brings into focus two connected questions: how the judiciary should understand community expectations; and how we reduce unnecessary complexity while retaining the nuance which is indispensable to individualised justice. I will then turn to the role of the citizen lawyer.

The rule of law as a lived condition

The rule of law is sometimes described at a level of abstraction: power constrained by law; equality before the law; rights determined by independent courts. Each is important. Yet, from the citizen's perspective, the rule of law is encountered concretely. Can I understand the rule that governs me? Can I obtain help? Can I present my case? Will I be heard with dignity? Can I understand why I won or lost? And will the same principles apply when the opposing party is wealthy, powerful or the State itself?

Gleeson CJ said that the most important measure of the court system is the extent of public confidence in its independence, integrity and impartiality.² That confidence is not a public-relations asset. It is part of the authority by which judgments are accepted and obeyed,

¹ [Chris Maxwell, 'Champions of the Rule of Law, Learning Through Uncertainty' \(Speech, Community Opening of the Legal Year, 3 February 2020\).](#)

² [Murray Gleeson, 'Public Confidence in the Judiciary' \(Speech, Judicial Conference of Australia, 27 April 2002\).](#)

including by those who may disagree with them. Bathurst CJ has preferred to talk of trust rather than confidence but the underlying themes are the same.

Trust and confidence describe a relationship between the branches of government and relevantly for my present purpose between the community and the courts.

One way in which the relationship between the community and the courts is framed is through the notion of community expectations. Like any relationship the expectations of the parties is going to be an important ingredient of success. It is hard to measure the success and durability of any relationship without considering what each can reasonably expect from the other.

Whether the courts are meeting community expectations is a question that seems to be asked with increasing frequency. I should say at once that I think courts should meet community expectations but I think we need to explore what the notion can and should mean. As I will explain, if it is simply another way of applying ‘the pub test’ to a particular outcome then it fails to grapple with the proper function and role of the courts in a liberal democratic society.

Community expectations and their limits

The community rightly expects courts to be accessible, timely, respectful, competent and open. The community expects equal treatment, reasons for decisions and processes sensitive to the circumstances of parties. It also expects judges to understand the society in which the law operates.

The community rightly has an expectation, that the law will be applied fairly and impartially. That is, the courts expect courts that are procedurally fair.

The community can also reasonably expect that the courts will get their decisions right. Right in this context means legally correct. That needs a bit of explaining. Legally correct means the correct application of the law to the facts properly and fairly found. The decision of courts are kept within these bounds by the skills and ability of trained judicial officers and the availability of correction by appeal. In this sense, the law is self-correcting. Of course, there is the potential for a bit of Alice in Wonderland thinking here: decisions are legally correct because courts say they are correct. But this conundrum is a reflection of role and function of the judicial branch: as eloquently said by Marshall CJ, ‘it is, emphatically, the province and duty of the judicial department to say what the law is’.

Being legally correct does not mean normatively correct. And it is an essential aspect of the relationship of government that Parliament can decide what the law is and change it to meet the changing needs and expectations of the community. And having done so the cycle continues.

Finally, the community can reasonably expect that we will manage finite judicial resources expertly and responsibly. The efficient administration of the courts is essential to the ability of the courts to discharge their work in a timely and efficient way.

Judges often consider that the community can expect no more from them than that they independently and impartially apply the law fairly and correctly. But is it enough in a polarised world?

What about a legitimate community expectation in the outcome of a case? If all the community see or perceive is some outcomes drawn from the many, will it be enough for us to say that we have done all that we can to foster trust in the judicial branch?

The members of the community and their elected representatives do have an interest in the outcome of cases. That is both understandable and proper. Should courts strive to meet those expectations? Should we be marked down if we don't meet those expectations?

Courts have a role and judicial officers as members of their court endeavor to discharge their role to their very best skill and ability. I have witnessed the work of Victorian and Australian judges for over thirty years, nine of them as a judge. As a cohort they are highly skilled, conscientious and respectful. They faithfully and consistently dedicate themselves to the application of the law.

It is important to recall that judges have no interest in the outcome of the cases they decide. In almost every case there are parties who are in contest and who want to achieve diametrically opposed outcomes. For a judge to favour one outcome over another would be to sacrifice the impartiality on which the system depends. It would frustrate the first, and I think most important, community expectation: that a judge will decide a case fairly and impartially.

Courts are not representative assemblies and judges do not decide by plebiscite. As Gleeson CJ observed, it is one thing to respect community values and recognise the importance of public confidence; it is another for decisions to 'bend before changing winds of popular opinion.'³ Brennan J put the point more starkly: 'Justice is not done in public rallies. Nor can it be done by opinion polls.'⁴ Nothing would more quickly corrode impartiality than a belief that judges seek popularity or fear criticism. Responsiveness of the courts has a constitutional boundary.

³ [Murray Gleeson, 'Out of Touch or Out of Reach?' \(Speech, Judicial Conference of Australia Colloquium, 2 October 2004\).](#)

⁴ [Sir Gerard Brennan, 'Speech on Swearing In as Chief Justice' \(Speech, 21 April 1995\).](#)

A system in which judges make decisions by reference to their appreciation of what would be popular or which would be favoured by the zeitgeist would be unsustainable and would bear no relationship to that which we now have.

The distinction is crucial. Community expectations may properly shape how courts communicate, organise services, treat participants and understand the context in which legal rules operate. These expectations cannot replace evidence, legislation, precedent or legal principle. Judicial independence sometimes requires an unpopular decision. Indeed, the protection of an unpopular person or minority from unlawful power is one of the clearest tests of the rule of law.

Public confidence is not the same as universal approval. A court will disappoint at least one party in every contested case. Confidence rests instead on justified trust: the belief that the court was independent; that each party had a fair opportunity to be heard; that the judge approached the matter impartially; and that the outcome was arrived at and explained by reference to law.

How then do we bridge the gap between those expectations which we can and should meet and those that we cannot? One answer is that we need to engage better than we do, to explain our work and the system which we inhabit and all too often take for granted.

Listening

Listening is essential. Courts learn through user-driven development, consultation with the profession and legal assistance sector, and engagement with the community at large. We are immeasurably enriched in our understanding and capacity to do the work we do when we listen to the experiences of First Nations communities and culturally diverse communities, when we

learn about trauma, the impact of crime, the experience of disability and disadvantage, when we understand what it means to a business to be confident in their ability to enforce a contract. Such engagement does not dictate outcomes. It improves the institutional understanding necessary to administer justice fairly.

For my part, I think there is room for empirical work on the community's views of the judicial system. The National Centre for State Courts in the USA conducts an annual survey which provides real-time insights into public sentiment about the courts and data for understanding the types of administrative reforms and improvements that might enhance public support. In its most recent survey it was recorded that Americans increasingly perceive a two-tiered justice system and believe judges are disconnected from communities. Only 44 per cent surveyed thought that the Courts were doing a good job of proving equal justice to all. Happily, Ages 18-29 are considerably sunnier in their views of state courts than any other age group.⁵ This is sobering but important information.

Communicating

In addition to listening we also need to be communicating better than we presently do. We need to better explain our decisions and provide the context in which they are made.

The first challenge is the need for judicial restraint. The traditional view that our judgments speak for themselves has merit. There is much danger in the hero judge.⁶ But this reticence has to give way to some extent at least: at a time where social media has given many a voice it

⁵ [National Center for State Courts, *State of the State Courts: 2025 Poll \(Report, 2025\)*.](#)

⁶ [Peter Quinlan, 'We're All In This Together: Civility and Institutional Trust' \(Speech, Australian Judicial Officers Association Colloquium, Perth, 9 October 2025\).](#)

is wrong for the judicial branch to be voiceless or left to disseminating judgments that are too long and too hard to digest. Finding that voice is critical.

The second challenge in communicating is complexity. Some complexity is unavoidable. Individualised justice that is fair and impartial requires the bringing together of many different threads. Often there is complexity and nuance in legislation that arises from the compromises of the legislative process and because not every legislative purpose can be pursued to the nth degree. Yet often these complexities are ignored in the public pronouncements that accompany the enactment but cannot be ignored once they come before a court.

Modern disputes involve detailed legislation, sophisticated commerce, novel technologies and difficult questions of fact. A court must not simplify a case past the point of accuracy. But we must distinguish necessary complexity from complexity that the legal system creates for itself. The costs of complexity are not evenly distributed. Well-resourced litigants can often absorb them. Individuals, small businesses and self-represented parties may simply abandon a claim or defence. A right that cannot realistically be understood or enforced is diminished in substance, however complete it appears on paper.

Reducing complexity is therefore not shorthand for deciding cases more quickly at any cost. Efficiency serves justice only when it preserves careful adjudication and procedural fairness. The proper objective is proportionality: procedures, evidence, time and cost proportionate to what is genuinely at stake.

Technology can also help, but it is not self-justifying. A digital process may be convenient for a represented commercial litigant and alienating for a person with limited English, disability, poor connectivity or no private place from which to appear. The right question is not, 'Can this

process be digitised?’ It is, ‘For whom does this change make justice easier, and whom might it leave behind?’

Judgments themselves deserve attention. Reasons must satisfy parties, appellate courts, the profession and the wider public. That does not require every judgment to be short or stripped of nuance. It does require disciplined structure, clear identification of the decisive issues and language no more technical than the law demands. The obligation to give reasons is also an obligation to communicate.

The professional identity of the citizen lawyer

There are clearly challenges for the courts but what, then, do these challenges require of the citizen lawyer? First, professional independence. A lawyer is not simply the client’s mouthpiece. As Brennan J observed in *Giannarelli v Wraith*, ‘The purpose of court proceedings is to do justice according to law. That is the foundation of a civilised society.’⁷ Counsel’s duty is to assist the court in achieving that purpose. Loyalty to the client is therefore bounded by duties to the court and the administration of justice. The ability to say ‘no’, for example, to a hopeless argument, an abusive tactic or a misleading submission, is part of a lawyer’s public function and ethical obligation.

Second, translation. We must make law comprehensible while maintaining accuracy. That means candid advice, clear drafting, focused advocacy and explanations that allow clients to make informed decisions. Plain language is not an abandonment of legal precision. At its best, it is the product of precision.

⁷ *Giannarelli v Wraith* (1988) 165 CLR 543 (Brennan J).

Courts cannot control complexity if practitioners treat every conceivable argument as critical, bury the issue in material, or equate length with rigour. Victoria's civil procedure framework recognises that the overarching purpose of civil litigation is the just, efficient, timely and cost-effective resolution of the real issues in dispute.⁸ The paramount duty to the court is a practical rule-of-law obligation.⁹ It asks lawyers to narrow, clarify and assist even when complication might offer a tactical advantage.

Third, stewardship. Lawyers inherit institutions built over generations, but stewardship is not preservation of every inherited form. It means conserving the principles that matter while reforming practices that obstruct them. We should support properly resourced courts and legal assistance services, undertake pro bono work, contribute to law reform and mentor others. Legal expertise carries with it an obligation to support access to justice and the effective operation of the legal system. Pro bono practice is one practical expression of that obligation. It brings lawyers into direct contact with the barriers that can place legal rights beyond the practical reach of individuals and communities and reinforces the profession's role in ensuring that the rule of law is capable of being realised in practice.

The conduct of lawyers is therefore central to the citizen-lawyer ideal. Lawyers uphold the rule of law through ordinary professional choices: by acting honestly and independently, counselling clients towards legality, avoiding tactics that improperly frustrate access to justice, and maintaining professional competence.¹⁰ From a judicial perspective, these obligations are practical rather than abstract. Focused advocacy, candid advice and respect for the proper use

⁸ *Civil Procedure Act 2010* (Vic) pt 2.1.

⁹ [Sir Gerard Brennan, 'Inaugural Sir Maurice Byers Lecture - Strength and Perils: The Bar at the Turn of the Century' \(Speech, New South Wales Bar Association, Sydney, 30 November 2000\).](#)

¹⁰ [Richard Moorhead, Steven Vaughan and Kenta Tsuda, *What Does It Mean for Lawyers to Uphold the Rule of Law? A Report for the Legal Services Board* \(Report, Legal Services Board, October 2023\).](#)

of court processes help courts to determine disputes fairly and efficiently. The rule of law is sustained in the ethical judgment lawyers exercise each day.

Conclusion

The citizen lawyer sees the legal profession as a bridge between the citizen and the institutions of law. On one side is professional expertise; on the other, public purpose. The bridge fails if law becomes so complex that only experts can cross it. It also fails if courts pursue popularity at the expense of principle, or if judicial values are asserted but not visible in the experience of those who use the system.

The task is therefore both conservative and reforming: to protect independence and impartiality without isolation; to understand community expectations while recognizing that these expectations must be applied within the confines of the law; to reduce complexity without sacrificing legal accuracy; and to ensure that justice is accurate, intelligible, fair and accessible. The rule of law is ultimately sustained by habits of restraint, candour, courage, listening and explanation. Judges embody those habits in adjudication. Lawyers reinforce them in every piece of advice, every document filed and every submission made. When we understand that work as citizenship, professional identity and public purpose become one. That is the promise, and the responsibility, of the citizen lawyer.

Thank you.