



Legal Aid Queensland Regional Principal Lawyer Conference 2023
Wednesday, 31 May 2023
Brisbane

**Helen Bowskill
Chief Justice**

Good morning everyone. Thank you to Legal Aid Queensland for the invitation to join you at the start of your conference this morning. I acknowledge Nicky Davies, the CEO of Legal Aid, and Peter Delibaltas, the Senior Director Legal Practice, as well as the many other members of staff who are here, noting that a number of you will have travelled some distance to be here.

I also acknowledge the first owners and custodians of the land and waters across the state of Queensland, where you provide legal support and assistance. In particular, in and around Brisbane, I acknowledge the Turrbal people and Jagera people. I pay my respects to their ancestors and elders, for their patience, courage, wisdom and leadership.

It is my great privilege to be here as part of the opening of the Legal Aid Queensland Regional Principal Lawyer's Conference for 2023, which promises to be an excellent educational and social event.

Conferences such as these are not only excellent opportunities to learn, expand your mind and have your thoughts provoked; they are also essential opportunities to connect in a personal way with your colleagues, to catch up with old friends, make new ones, share a laugh with someone; and be reminded that you are an important part of something bigger.

Noting that this is the Regional Principal Lawyer Conference, one of the things that I have really enjoyed since taking on the role of Chief Justice is the circuits to Rockhampton, Townsville and Cairns. In fact, two weeks ago I was in Townsville, where the Court of Appeal held its northern circuit this year. I was sitting there with Justice Mullins, Justice Morrison, Justice North and Justice Henry. It was wonderful to see many regional lawyers, from the private Bar and firms, the DPP and Legal Aid, appearing or instructing in the Court of Appeal; as well as many members of the local profession coming along to watch the proceedings – something they would not readily be able to do, if the Court of Appeal did not travel on circuit.

Each time I have been on circuit, I have been reminded of the wonderful feeling of collegiality amongst legal practitioners in the regions. I don't know what it is about the more northern Queensland air, but it certainly invigorates and inspires. That inspiration was on display at the North Queensland Law Association conference in Cairns a week or so ago – which some of you may have attended? As well as at the "Carbolic Smoke Ball", an annual collegiate event for the legal profession in Cairns which I attended for the first time.

But apart from that important collegiality, I have also been reminded from my travels of the important role that regional courts and lawyers play in ensuring access to justice for regional Queenslanders.

In the most recent Census – 2021 – the population of Queensland – that is, people usually resident here – was 5.2 million. Just over half the population live outside the capital city area of Brisbane. But there has been quite a significant decline in the number of regional solicitors in recent years. Apparently, in 2016, about 16% of Queensland solicitors worked in country and rural areas. But in 2022, only 8% were working in country and rural areas. Two thirds of the state’s solicitors work in the city; and about 20% in the suburbs. That leads to a significant disproportion, given the population distribution.

In some contrast, it is my understanding that Legal Aid has 13 regional offices, and that 40% of Legal Aid’s services are delivered to non-metro areas – so Legal Aid is working to address the disparity that otherwise exists, having regard to the geographical spread of our state’s population.

As lawyers and judicial officers, we share an important role in guarding and promoting the essential principles of the rule of law, that most fundamental of principles underpinning our strong democratic society.

Many of us have an assumed understanding about what the rule of law is – the equal application of laws to all persons. But there is more to it than that.

In a [speech](#) given about the rule of law in 2021, the former Chief Justice of New South Wales, Tom Bathurst, said that the rule of law is, at its essence, an overarching concept concerned with protecting against the arbitrary exercise of power. That concept is elaborated upon by some key principles, which are characteristic of a society, such as ours, where the rule of law is upheld.

Non-exhaustively, these principles include that:

- No one, including government, is above the law, and the law should apply equally to persons in like circumstances.
- There must be an independent, impartial judiciary, free from political pressure. As a corollary, there must be a separation of powers between the legislature, executive and judiciary. This works to constrain the exercise of power.
- The content of the law should be accessible, and reasonably clear and consistent. The rights and duties of people in the community should be capable of objective determination.
- Laws must be administered fairly, rationally, predictably, consistently and impartially.
- Everyone must have a right to a fair trial, including the presumption of innocence. They should also have the benefit of procedural fairness.

Access to justice is an essential element of the rule of law. In part of the ALRC’s 2018 report – “[Pathways to Justice](#) – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples” – it was said that:

“In essence, access to justice refers to the ‘affirmative steps’ necessary to ‘give practical content to the law’s guarantee of formal equality before the law’. It refers to the need to ameliorate or remove barriers to access and ‘must be defined in terms of ensuring that legal and judicial outcomes are just and equitable’.”

Queenslanders who live outside of the capital city area – which is half of Queenslanders – face greater challenges in terms of access to justice. Reasons for this might be said to include, but not be limited to:

- Reduced access to lawyers – given the numbers I’ve referred to;
- The sheer vastness of Queensland, and the consequent distance some people need to travel to obtain assistance;
- Delayed mail and postal services, which may still impact some legal proceedings, even in this age of technology;
- The need to rely on telecommunications and technology, with all of their shortcomings and the potential for inequality, for example, because of reduced means or lack of infrastructure;
- Increased costs, because of travel or the need to rely on technology;
- High rates of domestic violence;
- The unavailability of bail support and other diversionary programs, as well as duty lawyer programs;
- Challenges to eligibility for legal aid support, where a person may be “asset rich”, but cash poor;
- The even greater lack of availability of community legal services, than in the city – and in this regard we have recently seen the suspension of services provided in regional areas by ATSILS, as a result of the lack of funding. I am not sure to what extent the most recent announcement by the Federal Attorney-General about funding for Aboriginal and Torres Strait Islander legal services will enable this to be reversed; I fear it will not be sufficient.

And whilst those things, and more, are challenges for people who have to engage with the justice system, many of those challenges are also present for legal practitioners in the regions.

Queensland’s population is also becoming more diverse each year, and so too are the people attending our courts, as plaintiffs and defendants, the accused, witnesses, and as counsel. Again drawing on the 2021 Census, just over half of the Australian population was either born overseas or has at least one parent born overseas. In 2021, just under a quarter of the population spoke a language other than English at home, with 3.4% of these people reporting that they spoke English ‘not well’ or ‘not at all’. The presence of many cultures from across the world in Australia is of course in addition to the fact that Australia is home to the world’s longest continuing culture, with Aboriginal and Torres Strait Islander peoples making up 3.2% of Australia’s population, speaking 167 different Aboriginal and Torres Strait Islander languages at home.

This immense cultural and linguistic diversity is, however, only one facet of Australia's diversity. Around 18% of the population, equating to more than 4 million Australians, have a disability. Of this number, 32% have a profound or severe disability, 23% have a mental or behavioural disability, and 51% are female. Further, it is estimated that anywhere from 3% to 10% of Australia's population identifies as LGBTQI+. These estimations include both diverse sexual orientations and gender identities.

These diverse populations have made fundamental contributions to our society. However, regrettably, we know that some of these groups are disproportionately represented amongst those most in need of legal assistance, or have trouble accessing legal assistance in the first place. This is particularly true for people living in rural, regional and remote Queensland because we know, including from the Law Council of Australia's 2018 Justice Report, that there is a link between socio-economic disadvantage and vulnerability to legal problems; and that socio-economic disadvantage increases with remoteness.

Although today there are more lawyers than ever before, sadly legal services have never been less accessible to ordinary people because of the sheer cost of them. The work that you do, as lawyers working for Legal Aid, is critical to meeting the need to ensure vulnerable members of our society can access justice. You are playing a pivotal role in upholding the rule of law; and are true professionals in the sense described by Ruth Bader Ginsberg, as people who do something outside yourself, something to repair tears in your community, something to make life a little better for people less fortunate than you.

It is necessary that Australia's legal and judicial systems are responsive to the needs of our increasingly diverse community, and the inclusion of Australia's diverse population in those systems. Legal Aid Queensland has been at the forefront of ensuring diverse groups within Australia have access to justice.

Likewise, I can assure you that courts and tribunals are conscious of doing what they can to address barriers to accessing justice which may exist because of cultural, linguistic, ability or other elements of diversity. In that regard, another role that I hold is Chair of the national [Judicial Council on Diversity and Inclusion](#) (formerly known as the Judicial Council on Cultural Diversity). The work of the Judicial Council on Diversity and Inclusion (or JCDI) is focused on evidence-based and practical ways to break down the barriers that may exist to accessing justice, so that accessible, equitable and fair justice can be delivered to all people who interact with Australia's courts and tribunals, regardless of their race, religion, cultural or linguistic background, ability, sexuality, gender identity or age.

Some of the things that the JCDI has already delivered include the [Recommended National Standards for Working with Interpreters in Courts and Tribunals](#). Those Recommended Standards are gradually being adopted and implemented in courts and tribunals nationally. They have legislative force in New South Wales and Victoria. In Queensland, up until now, the Standards have been implemented in the form of a [Guideline](#) that applies in all courts and tribunals. However, the Rules Committee has proposed amendments to the *Uniform Civil Procedure Rules* and *Criminal Practice Rules*, to incorporate the Standards as part of the procedural law that applies in all civil and criminal proceedings, which I hope will be enacted. It is a case of "watch this space".

Another useful resource published by the JCDI is a criminal "benchbook" for proceedings involving an interpreter. Similar content appears in our Supreme and District Court [criminal directions benchbook](#) (number 21). Although drafted by reference to criminal proceedings, the information and the "checklist" are useful for all types of proceedings. Another resource

the JCDI has prepared is the “[Legal Literate](#)” app – a tool designed to help interpreters to understand the meaning of commonly used legal words and phrases. It is also helpful to lawyers and judicial officers, to speak in a way that makes the interpreter’s job easier. The content of the app was developed by judges who are members of the JCDI, with oversight from a linguist and interpreter.

Another significant project of the JCDI was extensive consultation resulting in publication of a “[framework](#)” for improving access to justice for Aboriginal and Torres Strait Islander women and migrant and refugee women, particularly in the context of domestic violence and the criminal justice system – which dovetails very well with the work of the Women’s Safety and Justice Taskforce.

A project that we are piloting shortly in Queensland Magistrates Courts is QR posters – which will enable a court user to scan the code, choose their preferred language, and access easy to understand information about what is involved in attending court.

The JCDI also offers online education courses and in-person training programs as well.

Looking to the future, we are presently planning work projects in relation to young people’s interactions with the criminal justice system and removing barriers to accessing justice for persons with cognitive impairments.

Consistent with the work of the JCDI, one of the measures that the Supreme Court has recently introduced, and which has since been replicated in the District Court and will soon be in the Magistrates Courts, is [Practice Direction 10 of 2023](#), dealing with pronunciation of names and preferred forms of address. It is a small thing in many ways, but if it makes it a bit easier for even a small group of people to appear in court, and be addressed in a manner that is respectful of them, without necessarily having to draw attention to themselves, that is a good thing.

And another project on the go in this context is looking at the use of “Easy English” to simplify, or aid in the explanation and comprehension of, bail orders and *Dangerous Prisoner* supervision orders. Some lawyers from Legal Aid were involved in a project related to simplification of the *Dangerous Prisoner* orders some years ago with me. We are taking another look at this now, to see whether we could improve things with the use of Easy English, even if that is by way of an additional aid to comprehension, as opposed to changing the wording of the orders, given the legislative requirements for such orders.

Of course there is always more work to do. But “where there’s a will, there’s a way”, as the saying goes, and I can assure you there is plenty of will. I also welcome any ideas or suggestions that you have, for measures that would facilitate access to equal justice for all members of our community. I would be more than happy to hear from Legal Aid and take ideas to the JCDI to see what we can do about them.

Speaking about the challenges that are faced by people from diverse backgrounds, across this enormous state of ours, only serves to underscore the significance of the contribution that regional lawyers play in facilitating access to justice, and equal justice for all. That contribution is all the more significant when it comes to Legal Aid lawyers, helping those who are the most in need.

So in closing my remarks, may I simply say a huge thank you to all of you: for the role you play in supporting the courts; as guardians, with the judges, of the rule of law – in particular

that most important element, access to justice; as partners with us in the administration of justice; and in tirelessly serving the community for the benefit of others.

There are great challenges ahead, but I feel optimistic and enthusiastic about facing those challenges, and I look forward to working together with Legal Aid, and other members of the profession, to meet and address those challenges where we can.

I wish you all the best for a very successful conference.