



Transforming Lives: Law and Social Process (TSO, 2007)

ABSTRACTS

Access to Justice and Disadvantaged Communities. Geoff Mulherin and Christine Coumarelos (Law and Justice Foundation of New South Wales, Australia)

This paper reports on results of recent legal needs research in Australia that focuses particularly on the needs of disadvantaged people. Commencing with a discussion of the results of a survey of legal needs in six disadvantaged areas in New South Wales, the paper then incorporates results from analyses of data from major not-for-profit legal service providers, as well as data from qualitative research targeted at selected demographic groups that appear particularly vulnerable to legal issues and tend to be difficult to reach through survey research. The paper raises issues around the diversity of the experience of legal events, the complexity of issues facing the most disadvantaged in society, and the modes of service delivery to meet the needs of these clients. The paper concludes by commenting on the type and character of services needed, as suggested by the research.

Civil Justice Problems and the Disability and Health Status of Canadians. Ab Currie (Department of Justice, Canada)

This analysis, based on the 2004 National Survey of Civil Justice Problems in Canada, demonstrates that ill health and disability are related to a higher incidence of 13 out of 15 types of civil justice problems. People with health and disability problems are: more likely to perceive the resolutions to problems as being unfair than the rest of the population; more likely to indicate that the situation has become worse where problems are unresolved; and more likely to experience persistent problems, defined as problems that have remained unresolved for at least three years. The research suggests that people suffering from ill health and disability problems experience a relatively high degree of social exclusion.

Mounting Problems: Further Evidence of the Social, Economic and Health Consequences of Civil Justice Problems. Pascoe Pleasence, Nigel J. Balmer, Alexy Buck, Marisol Smith, Ash Patel (Legal Services Research Centre, England and Wales)

Civil justice problems are often aspects of broader social, economic and health problems. They also play a role in bringing about wider problems. Consequently, a number of initiatives have sought to integrate legal advice services with wider public services. Using data drawn from a random national survey of 5,015 adults living in 3,832 residential households across England and Wales, this paper describes the reported impact of civil justice problems on people's health, family, housing, income, employment, personal safety and confidence. It then details impacts on health service usage, the provision of social housing, welfare benefit take-up and lost economic output. It examines how the different types of consequence relate to each other, people's ability to carry on living normally while experiencing justice problems and the wider economic costs of the consequences of problems. It concludes by suggesting that efforts to further integrate legal advice and wider public services offer a sensible approach to mitigating the sometimes severe consequences of civil justice problems.

“They all come in the one door” – The transformative potential of an integrated service model: A study of the West Heidelberg Community Legal Service. Mary Anne Noone (La Trobe University, Australia)

Since 1978, the West Heidelberg Community Legal Service (WHCLS) has provided integrated services to the people of West Heidelberg, a disadvantaged northern suburb of Melbourne, Australia. A report on the extent of welfare and other services in the area recommended the establishment of a community health and welfare centre, including a legal aid centre. In this article, the potential for an integrated approach in legal service delivery is examined within the context of the WHCLS. The impact of providing legal services within a community based multidisciplinary service is explored, and the desired features of an integrated service are outlined. The article refers to recent Australian work on communities of disadvantage and social cohesion and outlines some of the challenges for an integrated service, given the current government funding and accountability arrangements.

The Importance of Doing Nothing: Everyday Problems and Responses of Inaction. Rebecca L. Sandefur (Stanford University, USA)

In the United States, among the most common responses to justiciable problems – non-trivial problems that raise civil legal issues – is to do nothing. The probability of taking no action varies inversely with income, with poor households least likely to take any action to attempt to resolve problems. In focus groups comprised of low- and low-moderate income residents of a Midwestern American city, respondents were asked to discuss experiences of justiciable problems involving money or housing, including problems about which they did nothing. Five rationales for inaction emerged: shame, a sense of insufficient power, fear, gratitude, and frustrated resignation. Three themes – fear, gratitude and frustrated resignation – reflected lessons from people's past experiences with justiciable problems. These themes suggest new, richer explanations for socio-economic differences in how such problems are handled.

Technology is the Answer ... But What Was the Question? Experiments in the Delivery of Legal Services to Regional, Rural and Remote Clients. Rosemary Hunter (University of Kent, Canterbury, England), Cate Banks and Jeff Giddings (Griffith University, Australia)

Australian Legal Aid Commissions have devised a range of innovative legal services in attempts to maximise the reach of legal aid funds in the context of government funding restrictions. Through a series of case studies, the authors sought to determine the extent to which these services meet clients' needs while representing an efficient use of limited legal aid resources. This paper focuses on two of the case studies of technology-based services: a community legal centre set up to provide legal information, advice and minor assistance to remote communities by means of video-conferencing; and a telephone hotline providing information, dispute resolution options, legal advice and referrals to callers from non-metropolitan Australia. Both services were designed to assist clients in regional, rural and remote parts of Australia who would otherwise have extremely limited access to legal services. The paper concludes, however, that these were both failed experiments.

Follow the Money: Money Damage Claims in Northern Ireland. John Peysner (University of Lincoln, England)

Legal aid for money damage cases (mostly personal injury cases) in Northern Ireland operates under a regime that is similar to the system operating in England and Wales prior to the introduction of conditional fees with recoverable additional liabilities following the Access to Justice Act 1999. This paper discusses the strategic objectives of the Northern Ireland Legal Services Commission and the potential impact of a move from legal aid to conditional fee financing for money damage cases. It describes three options for change: encouragement of before-the-event (legal expense) insurance; conditional fees with fixed additional liabilities and a Contingency/Supplementary Legal Aid Fund. It reports on the ongoing process of consultation into possible models and offers some personal conclusions.

When Paying the Piper Gets the 'Wrong' Tune: The Impact of Fixed Payments on Case Management, Case Trajectories, and 'Quality' in Criminal Defence Work. Cyrus Tata (Strathclyde University, Scotland) and Frank Stephen (University of Manchester, England)

Do changes to the structure and level of legal aid payments significantly affect the trajectories of criminal cases? Do these changes make a difference to how defence lawyers handle cases, how they negotiate with prosecutors and how clients are advised to plead? In recent years, Scotland has made major changes to the remuneration structures for criminal defence work. This paper reports on a research study examining the impact of one of these changes: the move to 'fixed payments'. It seeks to contribute to international knowledge about the relationship between legal aid payment regimes and criminal case trajectories. Furthermore, are there any important consequences for clients, or, are changes simply absorbed by lawyers, or neutralised by other developments? The paper explains that the objective of the fixed payments policy (to encourage greater 'efficiency' in the criminal process) was contradicted by other consequences, which were unexpected by the architects of the policy.