

# JUSTICE-ILAG

## Legal aid newsletter

No 5: March 2009

### **Around The Globe: Legal Aid in February 2009**

#### **Theme of the month**

The issue that emerges from the global press is the sheer international presence of legal aid – particularly in crime. From Afghanistan to Saudi Arabia, legal aid is being developed to protect defendants and suspects. As the experience of Jamaica suggests, with its wonderfully named ‘sensitisation’ programme, the delivery of criminal legal aid is not only a question of adequate funds and competent lawyers: all parties in the criminal justice system, including the police and prosecution, must understand the value of representation.

The single issue with the most coverage from the US press is the expanding crisis of civil legal services in the US with the catastrophic slide of funding from interest on lawyers’ trust accounts. Only representative examples are given below but that is not to detract from the emerging size of the problem.

#### **Reports from correspondents**

Recipients of the newsletter are encouraged to send a paragraph or two on relevant developments in their jurisdiction to [rsmith@justice.org.uk](mailto:rsmith@justice.org.uk). Pieces may be edited for publication.

#### **Scottish Legal Aid Board (SLAB)**

For information, below are the three major programmes of SLAB current and forthcoming research which might be of interest:

1. Litigant’s views and experiencing of using the civil courts in Scotland

SLAB has commissioned research to help understand the nature and drivers of civil litigant’s views and experiences of Sheriff Courts. The research demonstrates a joint commitment between SLAB and Consumer Focus Scotland to help strengthen the weak evidence base on court user experience. Interviews took place with 35 people who had debt, housing and consumer related proceedings. The results will be submitted as evidence to the Working

Group to the Scottish Civil Courts Review and will be available on the SLAB website in March.

## 2. Research into the recruitment and retention of lawyers in Scotland

In March SLAB will report findings of a survey carried out with trainees, recently qualified solicitors and recruiting partners within law firms. The factors influencing prospective trainees in their career aspirations and choice of training firm will be reported. The survey helps to understand and compare the experiences, perceptions and aspirations of trainees and solicitors who do and those who do not provide case work under legal aid. Findings will be used to help SLAB and partners to take forward actions to address misconceptions around the profession's views of legal aid, to ensure law students are aware of the full range of career choices and pathways and to identify ways to encourage involvement in work under legal aid.

## 3. Survey of applicants of legal aid

As part of their ongoing programme of stakeholder engagement SLAB will shortly be exploring the views of people who have applied for legal aid. Opinion from a cross section of applicants will be collected, including those who were refused, those at different stages and with different case types. Levels of satisfaction with SLAB, the services provided and the services provided by people's solicitors will be measured. The survey will also examine how people identify legal problems and access solicitors. Results are expected in May 2009. Once this stage has been completed, it is likely that SLAB will also take forward more in-depth research with particular groups of civil legal aid applicants. In addition, SLAB is also exploring options for conducting research with applicants of criminal legal aid.

Clare Duffy, SLAB

## Israel

### **Supreme Court expanded bench to hear right to counsel challenge**

All detainees in Israel must be brought before a judge within 24 hours of the initial detainment. Also, detainees and suspects have a right to legal counsel, starting at the very beginning of the investigation. However, the emergency law permits the ongoing investigation of detainees suspected of involvement in security offences, prohibits legal counsel, and allows a judge to lengthen their detainment period in their absence, without their knowledge.

For the second time running, the Supreme Court decided to increase the number of judges to convene on the legality of an emergency law legislated in 2006 and then lengthened for an additional three years. Such procedures are usually heard by three judges, whereas the current procedure will be heard by nine.

Advocates Moshe Hacoen, the district Public Defender of Jerusalem, David Halevi and Rashad Zouabi recently challenged the law, claiming it negates Israel's basic laws, and denies the suspects constitutional right to due process, to be present in the court sessions, to dignity and to liberty. Additional organisations dealing in human rights issues joined the Public Defenders claims. In addition, the law contradicts international laws that Israel is committed to. Furthermore, the law enhances the possibility that suspects will admit to crimes they are not guilty of. Lastly, whereas the judiciary is expected to safeguard the investigation and ensure the rights of the suspect, the law alters the duty of the judiciary, permitting it to assist in the investigation by determining continuing investigation of the suspect, possibly without his awareness of the court decisions.

During the first session, the court heard arguments regarding the Public Defenders claim against the practice of the prosecution of presenting classified material to the judge only, without allowing the defense to see the material. The sides are currently awaiting a decision.

The decision to expand the panel of judges convening on the topic suggests the courts intention to deal with the topic in all seriousness. The court's decision is awaited.

Moshe Hacoen, Public Defender, District of Jerusalem

### **News: summaries and links**

These reports are largely compiled from news reports on the internet on the basis of a simple search under the words 'legal aid'. Readers must, just as buyers, beware of authenticity. The links worked at the time of writing but some will fail after a period of time.

**Australia:** Senate announces Parliamentary Inquiry into legal aid funding, judicial appointment and court delays:

<http://www.theaustralian.news.com.au/business/story/0,28124,25013165-17044,00.html>

Community legal centres bid for Commonwealth funding:

<http://www.nalcl.org.au/news/2324.html>.

**Afghanistan:** Afghan Legal Aid acts as advocate of last resort for defendant accused of translating Koran into local language when no other lawyer willing to act:

<http://www.google.com/hostednews/ap/article/ALeqM5gtnyMYdSgK4WhIqTUeeCF1Q9x2YgD965VNMG0>.

**Azerbaijan:** European Commission funds free legal aid for victims of human trafficking:

<http://news.trend.az/index.shtml?show=news&newsid=1417349&lang=en>.

**Botswana:** Praise for newly established Legal Aid Service:

<http://www.mmegi.bw/index.php?sid=1&aid=8&dir=2009/February/Monday9>.

**Canada:** Pilot criminal law offices claimed to be more expensive than private practice: government will investigate:

[http://www.cp24.com/servlet/an/local/CTVNews/20090219/090219\\_legal/20090219/?hub=CP24Home](http://www.cp24.com/servlet/an/local/CTVNews/20090219/090219_legal/20090219/?hub=CP24Home).

Rising rates bring private practitioners back into legal aid in Ontario and Saskatchewan:

<http://www.lawyersweekly.ca/index.php?section=article&articleid=866>.

Ontario updates aboriginal justice strategy:

[http://www.legalaid.on.ca/en/publications/0902\\_Aboriginal\\_Strategy.asp](http://www.legalaid.on.ca/en/publications/0902_Aboriginal_Strategy.asp)

**China:** Unions claim to help 5 million with legal aid:

<http://english.people.com.cn/90001/90776/90785/6595642.html>.

**England and Wales:** Legal Aid Practitioners Group estimates 50 per cent drop out of legal aid providers over last decade: <http://www.guardian.co.uk/uk/2009/feb/01/legal-aid-cuts>.

Legal aid for prisoners sharply increases:

<http://www.telegraph.co.uk/news/newstoppers/politics/lawandorder/4581751/Legal-aid-for-prisoners-increases-20-fold.html>. Battle over cuts to family legal aid:

<http://business.timesonline.co.uk/tol/business/law/article5748111.ece>.

**India:** Row over legal aid for Kasab continues even after grant:

<http://www.littleindia.com/news/148/ARTICLE/4518/2009-02-12.html>.

**Indonesia** Free legal aid scheme starts in South Sumatra:

<http://www.thejakartapost.com/news/2009/02/14/s-sumatra-governor-offers-free-legal-aid-poor.html>.

**Jamaica:** Legal Aid Council embarks on 'sensitisation programme' to get police to understand importance of defence representation:

<http://www.jis.gov.jm/justice/html/20090204T090000->

[0500\\_18295\\_JIS\\_SENSITISATION\\_PROGRAMME\\_TO\\_ENSURE\\_THAT\\_MORE\\_ARRESTED\\_JAMAICANS\\_HAVE\\_ACCESS\\_TO\\_LEGAL\\_COUNSEL.asp](http://www.jis.gov.jm/justice/html/20090204T090000-0500_18295_JIS_SENSITISATION_PROGRAMME_TO_ENSURE_THAT_MORE_ARRESTED_JAMAICANS_HAVE_ACCESS_TO_LEGAL_COUNSEL.asp).

**Nigeria:** New board appointed for Nigerian Legal Aid Council:

<http://allafrica.com/stories/200902240955.html>.

**Pakistan:** President signs Public Defender and Legal Aid Ordinance that will establish national network of public defenders: <http://www.onlinenews.com.pk/details.php?id=141510>.

**Philippines** Public Attorney Office to provide free representation for foreigners facing deportation and for claims against foreigners

<http://globalnation.inquirer.net/news/breakingnews/view/20090206-187765/BI-PAO-sign-free-legal-aid-agreement>.

**Poland:** Agreement with Belarus on cross-border legal aid administration: <http://news-en.trend.az/cis/belarus/1424111.html>.

**Saudi Arabia:** Federation of Kerala Associations in Saudi Arabia (Fokasa) launches legal aid service for destitute Indians:

<http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentID=2009022230035>.

**South Africa:** Legal Aid Board publishes latest newsletter: <http://www.legal-aid.co.za/images/publications/Newsletters/januarissue2009.pdf>

**Spain:** Explanation of legal aid for English ex-pats:

[http://www.roundtownnews.co.uk/index.php?option=com\\_content&task=view&id=18050&Itemid=38](http://www.roundtownnews.co.uk/index.php?option=com_content&task=view&id=18050&Itemid=38).

**United States:** Boston Bar leader says, 'Send lawyers, guns and money' to meet legal services deficit:

<http://www.metrocorpcounsel.com/current.php?artType=view&artMonth=February&artYear=2009&EntryNo=9399>

As an example of increased activity on evictions, Jacksonville calls 'Foreclosure Summit', which demands more legal education: [http://www.jacksonville.com/news/metro/2009-02-03/story/summit\\_education\\_needed\\_to\\_reduce\\_foreclosures\\_in\\_jacksonville](http://www.jacksonville.com/news/metro/2009-02-03/story/summit_education_needed_to_reduce_foreclosures_in_jacksonville). Texas among legal services schemes seeking increased state support:

<http://www.chron.com/disp/story.mpl/ap/tx/6269657.html>.

## **Research and Events**

'Delivering legal aid services across diverse communities', ILAG, 1-3 April 2009, Wellington, New Zealand.

## **And finally**

This newsletter is an experiment that will continue until the ILAG conference in April. It will then be reviewed. It has been compiled by Roger Smith of JUSTICE with assistance from Collette Miller of the University of Strathclyde. If you would like to be taken off the circulation list; add someone or contribute some content: contact [rsmith@justice.org.uk](mailto:rsmith@justice.org.uk).

ILAG was established in 1992 as a way of bringing together academics, administrators and others interested in the development of legal aid. ILAG is constructing a website at [www.ilagnet.org](http://www.ilagnet.org). JUSTICE is a UK-based human rights and law reform organisation dedicated to advancing human rights, access to justice and the rule of law. Its website is [www.justice.org.uk](http://www.justice.org.uk).