

**JUSTICE-ILAG**  
**Legal Aid Newsletter**  
**July- August 2010**

**1. The theme of the issue**

This edition displays a degree of tension between the news section – somewhat dominated by stories about cuts and rumours of cuts – and the two longer contributions which open up more positive developments in the field of human rights. The piece on Brazil indicates how, quite consciously, the Office of Public Defenders has been given an additional human rights’ brief – albeit it with consequences yet to be seen. The second contribution discusses the response in The Netherlands to the ground-breaking European Court of Human Rights case of *Salduz v Turkey*. This case, discussed in an earlier newsletter, is a major intervention by an international human rights court in the scope of legal aid provision. For the 47 countries subject to the jurisdiction of the court, *Salduz* raises the bar in terms of what services the state must provide. The current state of the European caselaw is discussed in detail in the book mentioned at the end, *Effective Criminal Defence Rights in Europe*. A serious review of this book would be welcomed from any source.

*Roger Smith*

**2. Contributions**

**Legal Aid Developments in Brazil: a new human rights approach**

Andréa Sepúlveda B. Carotti and Cleber Francisco Alves

*Since the mid-Twentieth Century, the Brazilian legal system has recognised legal and constitutional guarantees to a right to legal aid. However, the development towards a more successful system of publicly funded legal aid services in Brazil gained new impetus in the late 1980s, with the process of re-democratisation initiated after the end of the military dictatorship. Most notably, the 1988 Constitution not only determined that 'The State will provide [comprehensive] and free legal aid to those who can prove insufficiency of resources';<sup>1</sup> it also expressly determined the obligatory establishment, nationwide, of public agencies mandated with the delivery of those services. These were to be called 'Office of Public Defenders' ('OPD').<sup>2</sup> The publicly funded professional staff model had been chosen by the constitutional legislator as the official form of legal aid services delivery.*

Nevertheless, though the Constitution had in theory placed the OPD at the same level of other state agencies,<sup>3</sup> in reality, the agency was hindered in a number of ways. It lacked

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<sup>1</sup> Article 5 (LXXIV). Although the current Constitution provides that 'The State will provide comprehensive and free legal aid to those who can prove having insufficiency of resources.' (Art. 5, LXXIV), the Courts have been deciding that no formal proof is to be required, further than the acceptance of the individual's word of honour.

<sup>2</sup> In Portuguese, 'Defensoria Pública'.

<sup>3</sup> For example, the 'Public Ministry'. The Brazilian 'Public Ministry' might be equated to other country's prosecution organs, such as the Office of the Prosecutor or Office of the Attorney General ('District Attorney' in the United States of America and the 'Crown Prosecutor Service' in England). However, the mandate of the

financial autonomy and technical independence. This has, for example, historically made it extremely difficult for public defenders to fulfil their mandate. Recent legislation aimed, to a great degree, to address the consequent difficulties.

In 1994, Complementary Law 80 was approved, recognising important prerogatives to the OPD, especially the protection against interference from any government branch (decision-making or technical independence). In 2004, this was recognised in the constitutional text, alongside the guarantees of administrative and financial autonomy.<sup>4</sup> This ended the historical dependency on the government. The OPD could then define its priorities and strategies with the objective of fulfilling its mandates.

Following the 2004 reform, Complementary Law 80 was amended by the recent Complementary Law 132, of 2009. This piece of legislation further contributed towards the autonomy of the agency. It did, however, much more: it brought about a series of innovations regarding the objectives and mandates of the agency. The empowering potential of the new provisions are certainly greater than the legislators had expected.

### **New Objectives: the OPD as a tool for protecting human dignity, human rights, democracy and social equality**

Even in its traditional sense, 'legal aid' has always been seen in Brazil as an extremely wide concept. Indeed, the common understanding is that it should ideally be as wide-ranging and complete as it can be.<sup>5</sup> It encompasses, in the first place, assistance in all areas of the legal profession.<sup>6</sup> Secondly, assistance must be provided in all stages of any legal proceeding to include legal representation for appeals before higher courts and even the Constitutional Court.<sup>7</sup> Finally, the 'comprehensive' character of legal representation means that extra-judicial advice and assistance must also be provided.

The innovations of Complementary Law 132 might be interpreted as aiming to *expand even further the scope of protection of 'comprehensive legal aid'*. The very definition of the organisation has been amended in order to reflect such changes:

Article 1. The Office of Public Defenders is a permanent agency, essential to the judicial function of the State, mandated, as an **expression and instrument of the democratic regime**, with the task of **providing legal advice**, of **promoting human rights** and **defending** in all levels, judicially and extra-judicially, the **individual and collective rights of all needy**, in an **comprehensive** manner and **free of charge** (emphasis added)<sup>8</sup>

Accordingly, the new Article 3-A of Complementary Law 80 states that the objectives of the OPD are:

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Brazilian 'Public Ministry' is not restricted to the criminal area. It also has a number of functions in the civil area, such as acting as a guardian to indivisible collective interests (of which the environment is an example).

<sup>4</sup> Constitutional Amendment no. 45, of 8 December 2004 altered Article 134 of the Constitution in order to transform its Sole Paragraph into Paragraph 1, and to add a second paragraph that now reads: 'The public legal defence of the States is guaranteed technical and administrative autonomy and budgetary initiative within the limits determined by the law of budgetary directives and observance of the provisions of article 99, paragraph 2.'

<sup>5</sup> Alves, Cleber Francisco. *Justiça para todos! – Assistência Jurídica Gratuita nos Estados Unidos, na França e no Brasil*. Lumen Juris, Rio de Janeiro, 2006, at 273. A shorter – unpublished – version of this publication has been recently translated into English. Interested persons can directly contact the author for more information, at [calves@compuland.com.br](mailto:calves@compuland.com.br).

<sup>6</sup> Federal Law 1.060, of 1050, Article 2.

<sup>7</sup> Federal Law 1.060, of 1050, Article 9. Complementary Law 132 of 2009 has expanded such representation even to international human rights organs.

<sup>8</sup> Article 1 of Complementary Law 80 (as amended in 2009). Free translation by the author.

- i.) the primacy of human dignity and the reduction of social inequalities;
- ii.) the strengthening of democracy;
- iii.) the promotion of human rights;
- iv.) the safeguarding of the constitutional principles of ample defence and the contradictory procedure.

Keeping in mind that the OPD's clients are those living in poverty, or at least those whose standards of living are less than satisfactory,<sup>9</sup> the new objectives might translate into the obligation of the OPD to pursue their human dignity primarily through pro-active measures that have a strategic impact in their condition of socially excluded. This will contribute to the achievement of a real democratic state, as those living in poverty will be more empowered to act as citizens. For the pursuit of these purposes, human rights are seen as the most suitable mechanism.<sup>10</sup>

### **New Functions and Powers: *locus standi* for public interest litigation, human rights education and petitioning before international monitoring bodies**

Article 4 of Complementary Law 80 lists the functions and powers conferred to the OPD. With the reform, a number of new items have been added to the list, their nature showing an increased concern with fundamental rights of the poorest, the defence of vulnerable groups, and more effectiveness in the delivery of legal services, including through extra-judicial mechanisms of conflict resolution or through an emphasis on public interest litigation. According to some of them, the OPD must:

- a.) promote the dissemination and the awareness of human rights, citizenship and the legal order amongst the poorest (paragraph III);
- b.) litigate before international systems of human rights on behalf of the poorest (paragraph VI);
- c.) initiate any type of public interest litigation, when the expected result will benefit groups of individuals considered to be needy (paragraph VII);
- d.) work towards preserving, and seek reparation for the violation of, the rights of victims of torture, sexual abuse, discrimination or any other form of violation or oppression, providing support and interdisciplinary service (paragraph XVIII).<sup>11</sup>

The above list of functions and powers gives concreteness to the new objectives conferred to the OPD, by providing the institution with tools for pursuing the protection of human dignity, human rights of the poorest, and the reduction of social inequalities.

### **Concluding Remarks**

Complementary Law 132 has in theory transformed the OPD into the arm of the state entrusted with improving the quality of life of those living in poverty, and potentially helping to reduce poverty, *through law* (especially through *human rights*). It has also empowered the

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<sup>9</sup> We are aware of the debates about the concept of 'adequate standard of living', notably the difficulties involved in defining what would amount to a standard of living which is minimally adequate. For the purpose of this paper, individuals who are the OPD's clients are not only those who are extremely poor. Those who can be seen as pertaining to the lower middle class (or even to the middle class in general) but who cannot afford a lawyer are also OPD's clients. From the standpoint of the criteria for identification of OPD's clients, whoever cannot afford a lawyer will be considered to have a less than satisfactory adequate standard of living.

<sup>10</sup> See also 'Pobreza y derechos humanos: el papel de la Defensoría Pública en la lucha para la erradicación de la pobreza' (2008), in *Defensa Pública: garantía de acceso a la justicia*, Ministerio Público de la Defensa (org.), Buenos Aires: Defensoría General de la Nación, pp. 147-166.

<sup>11</sup> Accordingly, a recent piece of legislation, called The Statute of Racial Equality (Law 12.288, of 20 July 2010), expressly guarantees the right of those who suffer discrimination to access the services of the OPD, among others (Article 52).

OPD's client, who may now demand from the OPD the effective achievement of such new legal objectives. Thus, new functions and increased powers brought about more accountability and obligations. Despite the anticipated difficulties in implementation, there are examples of previous successful actions which allow us to be optimistic. The future will tell whether reforms will in fact contribute to the effective *legal* protection of the human rights of the most disadvantaged.

## **Police station legal advice in the Netherlands: first steps on a thorny but unavoidable path**

**Professor Taru Spronken and Anna Ogorodova, University of Maastricht, The Netherlands**

*A widely-acclaimed Salduz v. Turkey judgement of the European Court of Human Rights (ECtHR) calls on the European states to provide each criminal suspect interrogated by police with an opportunity to receive legal advice, free of charge if necessary. This ruling is likely to have very significant consequences for the legal aid schemes of the European countries. In effect, it requires each European state to have a policy in place to ensure systematic provision of legal aid to suspects under police interrogation. The Netherlands was among the first European countries to try and develop a coherent legal aid policy compliant with the new ECtHR standard.<sup>12</sup> This short article describes the early challenges in the implementation of the new policy.*

The new policy rules of the Dutch Legal Aid Board concerning the provision of legal assistance at police interrogations entered into force in April 2010. These rules, together with an instruction from the Ministry of the Public Prosecutor (the '*Salduz rules*'), were meant to give life to the *Salduz* ruling and the ensuing Supreme Court decisions before the necessary implementing legislation could pass through the Parliament.<sup>13</sup>

The '*Salduz assistance*' consists of a 30-minute consultation with a lawyer before the first police interrogations in cases of adults, and a pre-interrogation consultation and presence during the interrogation in cases of juveniles. This service is free of charge for the suspects.<sup>14</sup> '*Salduz advice*' is provided on request from a suspect, with the exception of very serious crimes and juvenile suspects<sup>15</sup> where it is mandatory.<sup>16</sup> The service is provided by individual lawyers and is managed by the Legal Aid Board. The Legal Aid Board keep the list of lawyers who signed up for the provision of '*Salduz assistance*', runs a roster of on-duty lawyers and a referral service which receives calls from police and refers them to the lawyers.

The early reactions to the operation of the '*Salduz rules*' – voiced by both police officers and lawyers - are those of confusion and frustration. Partly they are caused by the initial glitches in the functioning of the new procedures. In another part, this is the normal process of institutional adjustment to innovation. The rules bring in significant changes into the working routines of both criminal defence lawyers and police. For police officers, this means a delay with the interrogation of the suspect of at least 2.5 hours - which is significant given that the

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<sup>12</sup> In England and Wales the *Salduz* requirements were implemented already 25 years ago since the introduction of the Police and Criminal Evidence Act in 1985.

<sup>13</sup> Quite controversially, the Dutch Supreme Court interpreted *Salduz* as requiring presence of a lawyer during the interrogation in cases of juvenile suspects only. In cases of adult suspects, a consultation before the first interrogation was deemed sufficient to ensure compliance with ECHR.

<sup>14</sup> Except for petty cases not punishable with prison, where the suspect must pay for the service.

<sup>15</sup> With the exception of 16 and 17 year old suspects unless they suffer from a cognitive dysfunction.

<sup>16</sup> I.e. cannot be refused by the suspect.

entire duration of pre-charge detention is normally 6 hours<sup>17</sup> - and more administrative work. For the lawyers' offices, the new rules mean the adjustment of their organisation and working practices for the 24-hour service provision.

One issue which constantly surfaces in the debates over the implementation of the 'Salduz assistance' is the difficulty with ensuring that lawyers attend the police station within two hours from the moment of referral.<sup>18</sup> This concern is raised in particular by police officers who are inconvenienced by such delays in their work. Different solutions to the problem are being proposed, including installing on-duty lawyers at police stations, or providing the service at least partly by video-conferencing or by telephone.

In our view, these solutions could be a temporary response until the lawyers' practices are reorganized to accommodate for the 24-hour service provision, but they should not become the main modalities for the provision of 'Salduz assistance' in the long run. The risks that both kinds of solutions carry were well documented in England and Wales. To recapitulate briefly, the main problem with installing lawyers at police stations is the danger of developing a too familial relationship between the lawyers and police officers and the risk that such lawyers would be seen by clients as working for police. The disadvantages of telephonic advice or video-conferencing over personal attendance are many, including less personal nature of the lawyer-client contact which may hinder building a relationship based on trust, higher risk of breach of privacy of the lawyer-client consultation, limited possibility for lawyers to make an in-depth assessment of the client's situation and engage with police, and consequently considerably lower quality of legal advice.

Another issue raised by lawyers is the limited possibility to provide effective assistance given that the duration of the pre-interrogation consultation – 30 minutes - is very short, and attendance at the adult interrogations is not envisaged. Furthermore, in cases of attendance of juvenile interrogations lawyers are required to 'disturb the process of interrogation as little as possible' and are not allowed to sit next to, or make contact with the suspect. It is questionable, however, whether such formulation of the lawyer's role would withstand the ECtHR scrutiny.<sup>19</sup>

Other challenges include the difficulty of reconciling the 'Salduz assistance' with the operational freedom of police to investigate crime, and ensuring that arrested persons are aware of the new service and that if they refuse to benefit from it, their refusal is well-informed and voluntary. A comparison, for instance, with England and Wales proves that these challenges are not uncommon. The authors therefore encourage other European countries that plan to take the European law on access to legal advice at police stations seriously to follow closely the early Dutch experiences of its implementation.

### **3. 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.

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<sup>17</sup> Or 15 hours if a suspect must remain in detention overnight.

<sup>18</sup> The 'Salduz rules' require that a lawyer arrives to police station within two hours from the moment when police contacts the referral service.

<sup>19</sup> For example, in *Dayanan v. Turkey*, the Court stressed that the principle of equality of arms requires that a suspect should be afforded a range of possibilities to conduct defence at the pre-trial stage, such as the discussion of the case, receiving instructions from the accused and preparation for the interrogation. Judgment of 13 October 2009, Application No. 7377/03, para. 32

**Australia:**

Legal aid expanded in NSW:

<http://news.smh.com.au/breaking-news-national/legal-aid-expanded-in-nsw-20100716-10d6c.html>;

Urgent need for legal aid funding:

<http://www.independentweekly.com.au/news/local/news/general/urgent-need-for-legal-aid-funding/1906332.aspx>;

Judge slams Legal Aid 'starving':

<http://www.brisbanetimes.com.au/queensland/judge-slams-legal-aid-starving-20100813-122pr.html>

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**Botswana:**

Access to justice still a problem - Justice Tebutt:

<http://www.mmegi.bw/index.php?sid=1&aid=3799&dir=2010/July/Friday30>

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**Cambodia:**

Law firm blazes a new trail:

<http://www.phnompenhpost.com/index.php/2010082441453/National-news/law-firm-blazes-a-new-trail.html>

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**Canada:**

The deterioration of legal aid:

<http://www.vancouversun.com/opinion/deterioration+legal/3260192/story.html>;

Commission seeks public input on legal aid:

<http://www.dailytownsman.com/article/20100805/CRANBROOK0101/308059999/-1/CRANBROOK01/commission-seeks-public-input-on-legal-aid>;

Tenants need more protection - legal aid:

<http://www.cbc.ca/canada/nova-scotia/story/2010/08/06/ns-tenancies-act-changes.html>;

Chief justice suggests lawyers 'unbundle' services:

<http://www.vancouversun.com/news/canada/Chief+justice+suggests+lawyers+unbundle+services/3400110/story.html>;

Legal aid clinic marks 30 years of service:

<http://www.insidetoronto.com/news/local/article/863124--legal-aid-clinic-marks-30-years-of-service>;

Tamils migrants test limits of legal aid system:

<http://www.ottawacitizen.com/news/Tamils+migrants+test+limits+legal+system/3415823/story.html>;

Legal aid body, union have tentative deal:

<http://www.timescolonist.com/business/Legal+body+union+have+tentative+deal/3435256/story.html>;

Legal Aid in turmoil:

<http://www.winnipegfreepress.com/local/legal-aid-in-turmoil-101709708.html>

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**Cayman Islands:**

Legal aid remains unresolved:

<http://www.caymannewsservice.com/headline-news/2010/08/06/legal-aid-remains-unresolved>

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**China:**

Assembly to ask for the withdrawal of legal aid bill:

<http://www.macaudailytimes.com.mo/macau/15618-Assembly-ask-for-the-withdrawal-legal-aid-bill.html>

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**England and Wales:**

Fears over legal aid to vulnerable:

<http://www.google.com/hostednews/ukpress/article/ALeqM5h0z6mXmOB-qJIBu6Cor-uW-AR9LQ>;

Kenneth Clarke to slash Legal Aid budget:

<http://www.telegraph.co.uk/news/newstoppers/politics/7895199/Kenneth-Clarke-to-slash-Legal-Aid-budget.html>;

Legal Services Board reports on 'changing mindsets' in the UK legal profession:

[http://www.cpaglobal.com/newlegalreview/4618/legal\\_services\\_board\\_reports\\_%E2%80%98](http://www.cpaglobal.com/newlegalreview/4618/legal_services_board_reports_%E2%80%98)

Legal aid clients left in limbo after payment changes:

<http://www.bbc.co.uk/news/uk-10868049>;

Fatal consequences of legal aid changes:

<http://www.guardian.co.uk/uk/2010/aug/06/osman-rasul-legal-aid-change>;

Families 'hit by legal aid cuts', Law Society warns:

<http://www.bbc.co.uk/news/uk-10900573>;

Family court system could implode, warns its top judge:

<http://www.telegraph.co.uk/news/uknews/law-and-order/7931918/Family-court-system-could-implode-warns-its-top-judge.html>;

Legal aid tender will restrict choice:

<http://www.guardian.co.uk/law/afua-hirsch-law-blog/2010/aug/09/legal-aid-tendering-row>;

Ken Clarke's enthusiasm for cuts in the justice system comes at a high price:

<http://www.guardian.co.uk/law/2010/aug/11/joshua-rozenberg-cuts-ministry-of-justice>;

Lawyers demand review of Legal Aid changes:

[http://www.channel4.com/news/articles/politics/domestic\\_politics/lawyers+demand+review+of+legal+aid+changes/3746097](http://www.channel4.com/news/articles/politics/domestic_politics/lawyers+demand+review+of+legal+aid+changes/3746097);

Legal aid changes threaten service for millions:

[http://www.channel4.com/news/articles/politics/domestic\\_politics/legal+aid+changes+threatens+service+for+millions/3745992](http://www.channel4.com/news/articles/politics/domestic_politics/legal+aid+changes+threatens+service+for+millions/3745992);

Legal aid cuts put access to justice at risk, say lawyers:

<http://www.guardian.co.uk/law/2010/aug/17/legal-aid-family-law>;

Law Society plans judicial review over family legal aid tender:  
<http://www.familylaw.co.uk/articles/Law-Society-legal-aid-tender0654>;

Legal aid blockage exposing women and children to domestic violence:  
<http://www.guardian.co.uk/society/2010/aug/20/legal-aid-domestic-violence>;

David Hodson on International Family Law: Legal Aid cuts to the heart of international family law justice: <http://www.familylaw.co.uk/articles/DavidHodson240810>;

Legal aid changes 'will damage access to justice':  
<http://www.peterboroughtoday.co.uk/news/national-news/legal-aid-changes-will-damage-access-to-justice-1-811058>;

Law Society launches legal action over legal aid cuts:  
<http://www.guardian.co.uk/law/2010/aug/27/law-society-family-legal-aid>;

Tipping the scales against legal aid:  
<http://www.spectator.co.uk/coffeehouse/6230893/tipping-the-scales-against-legal-aid.shtml>

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#### **India:**

DLSA identifies 1,500 poor families in need of legal aid:  
<http://timesofindia.indiatimes.com/City/Delhi/DLSA-identifies-1500-poor-families-in-need-of-legal-aid-/articleshow/6153424.cms>;

Legal Aid Clinics to be set up across the country:  
<http://sify.com/news/legal-aid-clinics-to-be-set-up-across-the-country-news-national-kimsOeccjhc.html>;

High Commission won't give legal aid:  
<http://timesofindia.indiatimes.com/city/chandigarh/High-Commission-wont-give-legal-aid/articleshow/6423808.cms>;

Legally Empowering the Poor:  
<http://timesofindia.indiatimes.com/city/pune/Legally-Empowering-The-Poor-/articleshow/6423421.cms>

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#### **Ireland:**

Lawyers urged to 'buy into' non-adversarial mediation:  
<http://www.irishtimes.com/newspaper/ireland/2010/0705/1224274031119.html>

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#### **Korea:**

Legal aid available to low-income foreigners from September:  
[http://www.koreatimes.co.kr/www/news/nation/2010/08/117\\_71347.html](http://www.koreatimes.co.kr/www/news/nation/2010/08/117_71347.html)

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#### **Malaysia:**

Legal aid for those in need:  
<http://thestar.com.my/news/story.asp?file=/2010/7/30/nation/6765823&sec=nation>;

Legal Aid Foundation expected in December:



<http://www.freemalaysiatoday.com/fmt-english/news/general/8587-legal-aid-foundation-expected-in-dec>

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**New Zealand:**

Bill to Improve Legal Aid System Presented in Parliament:

<http://topnews.net.nz/content/26783-bill-improve-legal-aid-system-presented-parliament>;

Bill Will Shake Up The Legal Aid System:

<http://www.voxy.co.nz/politics/bill-will-shake-legal-aid-system/5/60213>;

Legal aid spending 'out of hand', says Power:

<http://www.stuff.co.nz/national/politics/4060887/Legal-aid-spending-out-of-hand-says-Power>

Shakeup for legal aid: <http://www.newstalkzb.co.nz/newsdetail1.asp?storyID=181191>

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**Scotland:**

Law Society and Crown Office reach deal on solicitors' payments for police station advice:

<http://news.scotsman.com/politics/Law-Society-and-Crown-Office.6413438.jp>;

Law Society updates on police station interviews:

<http://www.journalonline.co.uk/News/1008419.aspx>;

Justice Secretary refuses to consider access to justice problems:

<http://govanlc.blogspot.com/2010/08/justice-secretary-refuses-to-consider.html>;

SLAB to carry out review of costs: <http://www.journalonline.co.uk/News/1008567.aspx>

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**Sierra Leone:**

Community based legal aid for women project launched: <http://www.awoko.org/?p=9961>

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**South Africa:**

Legal Aid Opens Call Centre for Civil Matters:

<http://allafrica.com/stories/201008230451.html>;

Legal aid for low-income earners:

<http://www.sowetanlive.co.za/news/2010/08/25/legal-aid-for-low-income-earners>

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**Ukraine:**

Changing the way legal aid is delivered ... in the Ukraine:

<http://www.intelligencer.ca/ArticleDisplay.aspx?e=2652060>

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**United States:**

Federal Legal Aid Program Vulnerable to Fraud:

[http://www.cbsnews.com/8301-31727\\_162-20010856-10391695.html](http://www.cbsnews.com/8301-31727_162-20010856-10391695.html);

Free legal aid to poor dwindles after state funding cuts:

[http://www.northjersey.com/news/98654849\\_State\\_budget\\_cuts\\_force\\_legal\\_aid\\_group\\_to\\_limit\\_free\\_services.html?c=y&page=1](http://www.northjersey.com/news/98654849_State_budget_cuts_force_legal_aid_group_to_limit_free_services.html?c=y&page=1);

Pennsylvania Legal Aid Group Doing More with Less:

[http://www.lsc.gov/press/updates\\_2010\\_detail\\_T259\\_R12.php](http://www.lsc.gov/press/updates_2010_detail_T259_R12.php);

More People Representing Themselves in Court During Economic Downturn, Reflecting Drop in Funding for Civil Legal Aid & Straining Court Resources, Says ABA:  
[http://www.brennancenter.org/content/elert/more\\_people\\_representing\\_themselves\\_in\\_court\\_during\\_economic\\_downturn/](http://www.brennancenter.org/content/elert/more_people_representing_themselves_in_court_during_economic_downturn/);

Senate Appropriations Committee Approves \$430 Million for LSC:  
[http://www.lsc.gov/press/pressrelease\\_detail\\_2010\\_T261\\_R24.php](http://www.lsc.gov/press/pressrelease_detail_2010_T261_R24.php);  
Connecticut Network For Legal Aid Launches Self-Help Website:  
<http://www.courant.com/community/hc-community-articles/results.0.5942637.results.formprofile?Query=33982HC>;

New commission promotes access to justice for Wisconsin residents:  
<http://www.wisbar.org/AM/Template.cfm?Section=News&Template=/CM/ContentDisplay.cfm&ContentID=95266>;

State Bar, Legal Aid to Partner on Lawyer Information Service:  
<http://statejournal.com/story.cfm?func=viewstory&storyid=83654>;

New Legal Aid program established:  
<http://www.wvrecord.com/news/228771-new-legal-aid-program-established>;

Law School Program to Provide Legal Aid on Immigration and Citizenship:  
<http://law.wlu.edu/news/storydetail.asp?id=818>;

New website offers legal advice to the masses:  
<http://www.ctpost.com/news/article/New-website-offers-legal-advice-to-the-masses-615989.php>;

A Legal Haven for Web-Savvy Poor People:  
<http://www.ctlawtribune.com/getarticle.aspx?ID=38028>;

Jacksonville Area Legal Aid secures Comcast grant to help its medical-legal partnership:  
<http://jacksonville.com/community/jacksonville-community-news/2010-08-24/story/jacksonville-area-legal-aid-secures-comcast>

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#### **Vietnam:**

Ethnic minorities, poor to receive free legal aid:  
<http://english.vovnews.vn/Home/Ethnic-minorities-poor-to-receive-free-legal-aid/20108/118972.vov>

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#### **Zimbabwe:**

No rule of law, despite the unity government:  
[http://www.thezimbabwean.co.uk/index.php?option=com\\_content&view=article&id=33155:no-rule-of-law-despite-the-unity-government&catid=52&Itemid=32](http://www.thezimbabwean.co.uk/index.php?option=com_content&view=article&id=33155:no-rule-of-law-despite-the-unity-government&catid=52&Itemid=32)

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*Paul Ferrie*

#### **4 Reports and Publications:**

*Effective Criminal Defence in Europe*  
*E Cape, Z Namaradze, R Smith and T Spronken*  
*Intersentia, 2010*

I contributed to this book and I was part of the project team – although Professors Taru Spronken and Ed Cape were the intellectual heavyweights behind it. So, I cannot be relied upon to give an objective review of its content. However, there seems little reason why I should not praise the book and encourage you to read it - provided that you understand my interest. This is the future for legal aid research. Out with narrow national studies: this book is a nine country comparison of criminal defence on the basis of (relatively) objective and (relatively) coherent standards derived from the European Convention on Human Rights.

The book is not light reading – literally. The book weighs over a kilo and has 650 pages. However, it is thorough. It begins with an analysis of the European Convention and then looks at the nine countries. These were chosen in four categories; common law (England and Wales); common law (France, Germany, Italy, Belgium, Turkey, Finland) and 'post state socialist' (Poland, Hungary). All but Turkey are in the EU and the origins of the book are in the European Commission's drive for common minimum standards within the EU for criminal defence. The analysis considers not only legal aid but the surrounding issues of adequate notice of rights to suspects; the provision of appropriate interpretation and translation; adequate facilities and access to information to prepare a case; and pre-trial detention.

For those with limited attention spans, a 30 page summary is also available. The book deserves review and consideration. A copy will be dispatched for review to anyone who credibly promises to do so within a reasonable period of time. The summary can be read on-line at

[http://www.soros.org/initiatives/justice/focus/criminal\\_justice/articles\\_publications/publication/criminal-defence-europe-20100623/criminal-defence-europe-summary.pdf](http://www.soros.org/initiatives/justice/focus/criminal_justice/articles_publications/publication/criminal-defence-europe-20100623/criminal-defence-europe-summary.pdf).

Roger Smith

Buck, A., Smith, M., Sidaway, J., and Scanlan, L. (2010) *Piecing It Together: Exploring One-Stop Shop Legal Service Delivery in Community Legal Advice Centres*, London: Legal Services Commission.

Community Legal Advice Centres (CLACs) play an important role in the delivery of legal services in the UK. "*Piecing It Together: Exploring One-Stop Shop Legal Service Delivery in Community Legal Advice Centres*", commissioned by the Legal Services Research Centre, looks at the CLAC advice process from both the point of view of the client and the legal advisor involved. The report highlights several key points. It suggests that the location of the CLACs is vitally important to the accessibility of advice. The report also finds that the majority of clients do not believe that CLACs are advertised properly. There is also a belief amongst clients that the service hours of CLACs are somewhat limited.

For more information please see:

<http://www.legalhub.co.uk/legalhub/app/init/signon?redirect=%252Flegalhub%252Fapp%252Fdocument%253F%253Fr%253DBOL1.0%2526vr%253D1.0%2526%2526src%253Dr%2526docguid%253DI9082BF60835911DF9AB194E084C9B453%2526bctocguid%253DI356fc540296711dc810c00123fbefdf6&vr=1.0&wluk-usertype=&wluk-usertype=&rs=BOL1.0>

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Fox, C., Moorhead, R., Sefton, M. and Wong, K. (2010) *Community Legal Advice Centres and Networks: A Process Evaluation*, London: Legal Services Research Centre.

This report was again commissioned by the Legal Services Research Centre. It evaluates both CLACs and Community Legal Advice Networks (CLANs) and also examines the setting up and running of CLACs/CLANs. The report identifies numerous methods of reducing the costs incurred when setting up CLACs/CLANs.

For more information please see:

<http://www.legalhub.co.uk/legalhub/app/document??rs=BOL1.0&vr=1.0&&src=rl&docguid=I44924572829C11DFBA138AD396E90EBA&bctocguid=I356fc540296711dc810c00123fbefdf6>

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Buck, A., Smith, M., Sidaway, J. and Balmer, N.J. (2010) *Community Legal Advice Centres: A Survey of Clients in Reception Areas*, London: Legal Services Commission.

In March 2009 a survey of clients of CLACs in various locations throughout England was carried out. This report looks at the findings of the survey. It finds that respondents were more likely to be non-white British. 17.5 % were single parents, approximately one third of the respondents claimed to suffer from an illness or disability, and approximately one third of respondents in the survey had no academic qualifications.

For more information please see:

<http://www.legalhub.co.uk/legalhub/app/document??rs=BOL1.0&vr=1.0&&src=rl&docguid=IA6A9AF7082A411DF9F09BC2D46FBBB57&bctocguid=I356fc540296711dc810c00123fbefdf6>

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Smith, M. and Patel, A. (2010) *Using Monitoring Data: Examining Community Legal Advice Centre Delivery*, London: Legal Services Commission.

This report examines CLAC delivery using monitoring data. The data is used to assess the performance of CLACs delivery. The report finds that the advice centres have been most successful in providing a general service. It also finds that the data on typical case length and advice time are very varied. The report also indicates that in CLAC areas, being able to access services from a one provider is beneficial to clients with multiple legal problems.

For more information please see:

<http://legalhub.co.uk/legalhub/app/document??rs=BOL1.0&vr=1.0&&src=rl&docguid=IA6A78C9082A411DF9F09BC2D46FBBB57&bctocguid=I356fc540296711dc810c00123fbefdf6>

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Buckley, M. (2010) *Moving Forward on Legal Aid: Research on Needs and Innovative Approaches*, Ottawa, Canadian Bar Association.

It is no secret that the Canadian legal aid system is in a bad way. This, of course, is the result of continual cutbacks. The CBA is determined to improve legal aid services and therefore improve access to justice.

The CBA commissioned Melina Buckley to prepare this report. She looks at the condition of legal aid in Canada, legal aid worldwide and also looks at new methods for delivering access to justice. Dr. Buckley's report summarises policy developments, new research projects, new delivery methods and also makes recommendations on how to improve access to justice.

For more information please see:

[http://www.cleonet.ca/instance\\_news.php?instance\\_id=1602](http://www.cleonet.ca/instance_news.php?instance_id=1602)

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Ontario Civil Legal Needs Project (2010) *Listening to Ontarians*, Toronto, Ontario Civil Legal Needs Project Steering Committee.

This Canadian report examines the reasons why low and middle-income Ontarian citizens look for help with their civil legal problems and how easy it is to get such help.

The project is aimed at truly understanding of civil legal needs of Ontarians and looks at ways to improve the current delivery. The research for this project was carried out in three ways and this report draws upon such research. A telephone survey was conducted with low/middle-income persons, a mapping exercise was carried out and focus groups with front-line legal and social service providers were also utilized.

For more information please see: <http://www.lsuc.on.ca/latest-news/a/ontario-civil-legal-needs-project/>

The above summaries are by Paul Ferrie, University of Strathclyde.

## **5. Conferences**

### **Legal Services Research Centre: 'Research into Practice: legal service delivery in the new decade' held at Cambridge, 30 June-2 July**

The LSRC was lucky with the weather for its conference. Cambridge looked a peach, providing a somewhat ironic backdrop for a conference on legal aid. The point of this kind of event is the diversity of contributions which means that individual attendees probably identify different themes according to their own interests. The papers were distributed to attendees in a handy gismo that looks like a credit card but plugs into your computer. They are available from the LSRC on request. My person interest was taken by how new schemes are developing in places like Japan and Brazil, as discussed above, in very different ways. For followers of the UK, ILAG's Professor Alan Paterson gave a paper on the fascinating issue of how and why Scotland and England are diverging in their model of legal aid provision.

*Roger Smith*

## **6. And finally**

*This newsletter has been compiled by Roger Smith of JUSTICE in London, UK. 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).*