Journal of Law and Social Policy

Volume 9 Article 9

1993

Desperately Seeking Sustenance: Where to Now?

Louise Thurtell

Roger Smith

DESPERATELY SEEKING SUSTENANCE:

Where to Now?

LOUISE THURTELL AND ROGER SMITH*

RÉSUMÉ

Les auteurs comparent brièvement les structures d'aide juridique en Angleterre, au pays de Galles, au Québec, en Nouvelle-Galles du Sud et aux Pays-Bas. De cette étude comparative, il ressort trois thèmes de base, soit la nécessité de repenser aux objectifs du financement public des services juridiques, l'organisation de ces services juridiques et, bien sûr, les moyens d'offrir ces services.

I. INTRODUCTION

Publicly-funded legal services are in crisis in many countries around the world. The similarity of experience in these countries is sufficient to constitute a discernible new phase of development. The question facing many of us in different countries is: where do we go from here?

Just as the current crisis in publicly-funded legal services shows world-wide similarities, two previous periods of shared development can be identified since the second world war. The first was during the late 1940s and 1950s. This was led by Britain with its Legal Aid Act 1949, which established legal aid as part of the post-war welfare state. Britain's initiative sparked off activity in other jurisdictions, including Ontario, which followed Britain's judicare model.

The second wave of change came in the 1960s and 1970s, and was triggered by the deliberate political use of the law in the cauldron of the United States civil rights movement, and the subsequent absorption of legal services into President Johnson's 'war on poverty'. This had varying impacts in different jurisdictions. In Ontario, it stimulated growth of a province-wide clinic

---

 Louise Thurtell and Roger Smith work for The Legal Action Group (LAG), which has no real Canadian equivalent. It was founded in 1972, to provide a pressure group and information resource for legal aid practitioners and advisers.

movement to supplement the earlier judicare scheme. In Britain, its influence was blunted by the existing relatively high involvement of private practitioners in legal aid provision.

This article deals with a project that the Legal Action Group (LAG) began in 1990 with the aim of modernising its policies on publicly-funded legal services. *A Strategy for Justice*[1], published in September 1992, resulted from this project. LAG's demands for a more rational and generally nicer world were brusquely rebuffed by the British government. Two months after publication, the Lord Chancellor announced unparalleled cuts in legal aid which took effect in April 1993. The project has, thus, so far been short on tangible political results.

One of the most valuable parts of the project was the opportunity[2] to look at how publicly-funded legal services had developed in other jurisdictions and to compare notes on current and future strategies and problems. We considered models of provision in Canada, Australia and the Netherlands. Below is a short summary of arrangements in the jurisdictions of England and Wales, Quebec, New South Wales, and the Netherlands. The nature of these jurisdictions varies enormously, of course, even at the very basic level of geographical size and population density. In addition, Quebec and the Netherlands have elements of a civil law system, contrasting with the firmly common law approach of the other jurisdictions. A note of warning is in order: any attempt at comparative evaluation of different legal systems is fraught with danger because of the opportunities for over-simplification and misunderstanding. Slipping into judgments is probably unavoidable, but the essential task is to evaluate the different types of model rather than making real assessments of relative quality.

II. Legal Aid Provision in Different Jurisdictions

i. England and Wales

The most distinctive aspect of the English legal aid scheme is its dependence on private practitioners to deliver services.

Private practitioners receive over 99 percent of legal aid payments,[3] which cost over £1.1 billion (Can $2.03b) in 1992/93.[4]

---

1. Copies available from LAG, 242 Pentonville Road, London N1 9UN, United Kingdom, £9.95 inclusive of postage.

2. We obtained Nuffield Foundation funding.

3. England, Legal Aid Board, *Report to the Lord Chancellor on the Operation and Finance of The Legal Aid Act 1988 for the year 1992-93*, (London: Legal Aid

A significant proportion of the legal profession's income is provided by legal aid. It accounts for around 10 per cent of all solicitors' turnover[5] and around 27 per cent of that of all barristers[6] Legal aid has thus been an important factor in the profession's growth and development. As one US expert on the English profession has said: "It hardly overstates the case to say that legal aid has paid for the doubling of the Bar since the 1960s."[7]

In 1989, the government, increasingly restive about the profession's benefit from its expenditure, established a Legal Aid Board to take over administration of legal aid from the Law Society. The Legal Aid Board's brief is to control legal aid costs, provide greater cost effectiveness, and contribute to strategic planning of legal aid provision. It is beginning to flex its muscles, and is in the process of introducing 'franchises', or contracts, with larger legal aid providers under which there will be greater board control of cost and quality. Apart from private practice provision of legal aid, Britain has both law centres (analogous to Ontario's community legal clinics) and Citizens Advice Bureaux. In 1992/93 the Legal Aid Board paid law centres, Citizens Advice Bureaux and other agencies a mere £3.8 million in total, including grants and legal aid payments. This represented less than 0.4 percent of total expenditure.

The first British law centre was established in London's North Kensington in 1970. In 1977, it and other new law centres reached an accord with the Law Society, agreeing to stay out of the solicitors' heartlands of conveyancing, commercial matters, divorce, probate, personal injury and crime. Instead they have concentrated on areas like housing, juvenile crime, discrimination and employment law. Due to local government funding crises, the number of law centres has dropped from a peak of 62 several years ago, to 55. The small number of law centres means that, whatever their individual successes or even collective impact, they have unavoidably remained marginal to the national pattern of provision. The new areas of law they have developed have been slowly and patchily absorbed into private practice.

Board, HC 735, 1993, HMSO) at 1.

4. United Kingdom, House of Lords Debate on *Legal Aid* in *Hansard*, Vol. 542, No. 89 (3 February 1993) at 302.

5. England, Law Society, *Annual Statistical Report 1991* (London: 1991) at 31.

6. England, Bar Council's Strategy Group, *Strategies for the Future*, (London: The General Council of the Bar, 1990) Fig. 4, at 18.

7. R. Abel, *The Legal Profession in England and Wales*, (London: Blackwell, 1988) at 116.

An advice sector, dominated by a national network of Citizens Advice Bureaux, provides basic advice and assistance. Some bureaux, though very few, offer specialist services—including around six which have 'resource' lawyers on staff, giving legal advice. The advice sector's funding is considerably worse than legal aid funding of lawyers, and depends largely on local, rather than central, government.

Expenditure and eligibility

In 1992/93, total government expenditure on legal aid represented around £23 (Can $42.55) per head of population. Of the total £1.15 billion (Can $2.13b), criminal legal aid had an estimated total net cost of £535 million (Can $990m); legal aid in matrimonial and family proceedings £272 million (Can $503m), and other civil proceedings £314 million (Can $581m).[8]

Coverage in crime is high. A non-means-tested duty solicitor scheme operates for suspects in the police station. Legal aid is available, subject to contributions, for almost all serious criminal cases and many less serious ones. By contrast, eligibility for civil legal aid has plummeted since the Conservative government came into office in 1979. Against eligibility levels for the income test that included over 70 percent of the population in 1979, the best independent estimate of civil legal aid eligibility on income grounds in 1991 was that 52 percent of adults qualify for help with personal injury claims, 47 percent for other non-matrimonial certificates and only 37 percent for legal advice under the 'green form' scheme.[9]. Actual eligibility will be lower because of the effect of capital and savings for which there are no reliable national figures.

The cost of legal aid has made it a political issue. The Lord Chancellor is seeking to cut the cost per case by introducing fixed fees rather than the current time-costed basis fees. He is also trying to reduce the number of cases by restricting eligibility. His department has particularly focused on cutting civil coverage and advice, and in April 1993 legal aid became available only to those at the income level of the basic means-tested benefit.

There has been a decreasing sense of the purpose of legal aid. Whereas in 1949, the Lord Chancellor's Department confidently asserted that legal aid would allow no one to "be financially unable to prosecute a just and reasonable claim or defend a legal right",[10] by 1991 the department's tone had changed.

---

8. *Supra*, note 3 at 1.

9. M. Murphy, *An Analysis of the differences in eligibility in civil legal aid in 1989* [unpublished]

10. England, Lord Chancellor, *Summary of the Proposed New Service* (London: Cmnd 7563, 1948).

Legal aid had become "a conditional financial support, provided by the taxpayer, for individuals whose financial circumstances would prevent them from taking or defending proceedings without assistance with their legal costs".[11]

ii. Ontario

Legal aid in Ontario will be very familiar to readers. It began as a voluntary scheme in 1951, and was put on a statutory footing in 1967. The distinctive nature of provision is the split between a 'certificated' scheme using private practitioners, and a network of clinics. From a British perspective, this is an attractive mix of provision which could form a recognisable goal.

From an outsider's viewpoint, the specialty clinics are a particularly impressive part of the model.

iii. Quebec

Having been largely uninfluenced by the postwar development of, judicare legal services Quebec established its *Commission des Services Juridiques* in a sweeping new system of legal aid introduced by legislation in 1972. At the time, it became perhaps the most comprehensive system of legal aid in the world. Assistance was free, being expressly modelled on a national health service. A potential client could choose to instruct a private practitioner or a salaried lawyer after consulting the Commission for advice. There was an early emphasis on public education and law reform that reflected an American, rather than a British, model.

The Commission des Services Juridiques

The Commission is organised through 11 regional corporations, known slightly confusingly as *centres communautaires juridiques* (community legal centres). These each operate local *bureaux d'aide juridique* (legal aid offices). In 1990/91, there were 153 such offices, 114 of which were staffed on a full-time basis throughout the province. They employed 406 salaried *avocats*, 535 support staff and 37 trainee lawyers.[12] The legislation governing the Commission allows services to be provided by law centres. However, only two independent law centres remain—in Hull and Montreal.

---

11. England, *Review of Financial Conditions for Legal Aid Eligibility for Civil Legal Aid: a Consultation Paper* (London: Lord Chancellor's Department 1991) at 85.

12. Quebec, Commission des Services Juridiques, *19th Annual Report* (Montreal: Commission des Services Juridiques, 31 March 1991) at 177.

The Commission is a highly organised bureaucracy with very precise agreements with, and statistics on, its lawyers.[13] For instance, in 1990/91, the Commission's lawyers worked an average of 1,177 chargeable hours. Each case in which they acted for a client took them an average of 2.3 hours. Salaries incorporate payments for seniority and merit. The regional corporations have provision for local committees 'to advise ... on the needs of economically underprivileged persons'. However, these are not powerful bodies and community involvement is not a priority for the Commission.

The statutory remit of the Commission includes a commitment to 'promote the development of information programmes to economically underprivileged persons on their rights and obligations'.[14] This has been one of its successes. Under a charismatic leader, its information department has developed a number of ways of undertaking public legal education. These include a television series on citizens' rights, *Justice pour tous*, that has now been running for 15 years. Based on a group of characters centred around a restaurant, the program covers issues as diverse as bouncing cheques and pyramid sales. A radio programme, *La Minute Juridique*, is relayed on 110 local radio stages across the province and there is a syndicated press column. Its effectiveness is aided by its director being a radio personality in his own right who hosts a popular morning radio show in Montreal before coming to work.

Expenditure and eligibility

In 1990/91, Quebec spent $86 million on legal services.[15] Almost half the cases, 48 percent, were criminal. 27 percent were family and 25 percent other types of civil case. Private practitioners undertook 36 percent of cases (95,077), staff lawyers 61 percent (161,858) and notaries 3 percent (6,745).

The problem with legal aid in Quebec is the low level of financial eligibility. The Legal Aid Act 1972, which established the scheme, grants eligibility to those who are 'economically underprivileged'. Initially, the Commission had power to set eligibility levels, but this was ceded to the government in 1982. Except for one rise, which applied only to families, levels have not changed since 1981 and are now below the minimum wage. The most reliable estimate of eligibility appears to be around 15 percent of the population. The Commission's own statistics reveal that more than two-thirds of its clientele

13. Work conditions in Montreal were regulated by a 64-page *Convention collective entre le centre communicautaire juridique de Montreal et le syndicat des avocats de l'aide juridique de Montreal* 1991.

14. *Legal Aid Act*, R.S.Q 1990, c.A-14.

15. *Supra*, note 12.

are without resources at all or dependent on social security. Only 7 percent are in full-time work. The low level of eligibility has become a major political issue. The long-term head of the Commission was sacked after stating in his 1989/90 report that "the only way to explode the issue [of low eligibility] would be to stage a hunger strike or a lawsuit".[16] The report of a government-appointed committee on the future of Quebec's legal aid system has recommended that eligibility be raised and suggested that additional resources could be found to do this by charging contributions.

iv. Australia: New South Wales

Australian legal aid was first developed on a significant scale during the radical federal government of Gough Whitlam in the 1970s. Like Quebec, Australia took part in the second wave of legal services development.

Australia provides a model of administration by commission. Each state and territory has a Legal Aid Commission that administers all legal aid, save that specifically for aboriginal peoples. It is the form of these commissions and the range of innovative work undertaken by community legal centres and specialist centres that offers the most relevant aspects of Australian experience for other countries. This section concentrates solely on the situation in New South Wales, which is relatively typical of provision throughout the country.

New South Wales Legal Aid Commission

Membership of New South Wales Legal Aid Commission is controlled by statute, as a hindrance to political packing. Nominees come from state and federal government, the Bar Association, the Law Society, the Labour Council, and representatives of the community legal centres and 'consumer and community welfare interests'.

The statutory function of the commission is not only to "provide legal aid and other legal services", but also to "initiate and carry out educational programmes designed to promote an understanding by the public, or by sections of the public, of their rights, powers, privileges and details under the laws of New South Wales".[17] The commission also has a law reform role, committing itself in its mission statement "to assisting disadvantaged people to understand, protect and enforce their legal rights and interests and to promote access to the legal system", and includes within its aims "articipating vigorously in and actively promoting law reform".

---

16. Quebec, Commission des Services Juridiques, *18th Annual Report*, (Montreal: Commission des Services Juridiques, 31 March 1990) at 24.

17. *Legal Aid Commission Act*, New South Wales, 1979, No. 78, s.10.

An agreement between the federal and state governments lays down a 55/45 percent split in responsibility for funding the legal aid commissions—the total amount dictated by the state government's contribution—plus whatever the commissions raise themselves in revenue from costs and contributions. In 1991/92, the income of the New South Wales Legal Aid Commission from all sources was Aus $86 million (Can $74.3m).

A key element for the Australian commissions is their ability to decide, as a matter of policy, how services should be delivered. The New South Wales commission currently divides its cases relatively equally between private practitioners and its salaried staff. In 1991/92, the balance was 52/48 percent in favour of private practice. Legal aid is, however, a considerably smaller source of income for Australian lawyers than for those in England and Wales. Research commissioned by the National Legal Aid Advisory Committee showed that, in 1986, the total legal aid budget "was less than 5 percent of the gross income of the legal services industry".[18]

The major problem with the Australian model of provision is that its commissions have fixed budgets and are starved of funds. This means that liability for the costs of a large case can have disastrous effects on the funds available for other cases. This problem has recently got much worse—in December 1992 the Legal Aid Commission of New South Wales resolved to stop granting legal aid in civil matters in order to continue funding of criminal cases.

Comprehensive information is not available on levels of financial eligibility, but almost 75 percent of all clients are in receipt of benefits or pensions and have a disposable income of less than Aus $100 (Can $116) per week.[19]

Community legal centres

In 1991, New South Wales had a network of 26 community legal centres similar to Ontario's clinics. They are mainly funded by the federal and state governments, through the Legal Aid Commissions.[20]

The first law centre to be established in Australia was Redfern Legal Centre in Sydney. The Centre provides advice, referral and casework services, but also, is committed to the following objectives:

---

18. Quoted in: Australia, National Legal Aid Advisory Committee *Legal Aid for the Australian Community* (Canberra: Attorney General's Department, 1989).

19. Legal Aid Commission of New South Wales *1992 Annual Report* (Sydney: Legal Aid Commission, 1992) at 12.

20. Australia, Office of Legal Aid and Family Services, *Community Legal Centres: a study of four centres in New South Wales and Victoria* (Canberra: Attorney General's Department, 1991) at 8.

- To identify inequalities and defects in laws, the legal system, administrative practice and society which affect [the centre's] clients and disadvantaged people generally and to work for social and legal change to remove those defects and inequalities.
- To promote community legal education.
- To investigate and develop new ways of providing legal services to clients in the interests of improving access to [the centre's] services and to ensure that the quality of those services is maintained and improved.[21]

Redfern must be one of the most impressive clinics in the world. It has maintained a creditable record of innovation and delivery of service. It undertakes a number of test cases and has a high media profile. Redfern puts a premium on advice-giving and has a highly organised contingent of volunteers. At any one time, it has around 40 volunteer lawyers and 80 students. In addition to daytime sessions, it is open five nights a week. It has a commendable track record of fostering new initiatives, which then develop into organisations in their own right. These include a Prisoners Legal Service (subsequently taken over by the Legal Aid Commission), a Consumer Credit Legal Service and two publishing operations that are now autonomous.

New South Wales has an important and powerful Law Foundation, established in 1972. The Foundation founded and funds both the Communications Law Centre and Public Interest Advocacy Centre and has played a major role in encouraging innovation which, though limited to its jurisdiction in New South Wales, has had Australia-wide consequences and effects. Funded by surpluses on solicitors' guarantee funds and income from trust accounts, it is the best resourced foundation of a number in Australia. It currently distributes around Aus $4 million per year.[22]

The Foundation has provided a particular boost to educational work in a rather different way from Quebec's *Commission*. It has bankrolled various publications as well as funding major projects such as, for instance, its *Courtguide* program which gave rise to an interactive video on court practice and procedure designed for potential litigants. It has also contributed to a pilot Legal Information Access Centre, based in Sydney's main library. This provides students (including school students, who are all taught law at some stage in their studies) and those with no access to law libraries with written informa-

21. New South Wales, Redfern Legal Centre, *Annual Report July 1989-June 1990* (Sydney: Redfern Legal Centre, 1990).

22. Interview with Terry Purcell, Director, Law Foundation of New South Wales, and the New South Wales Law Foundation's *1992 Annual Report* (Sydney, New South Wales Law Foundation, 1992).

tion, videos and a number of information databases. The Foundation has given a dynamism to innovation in New South Wales that makes some of its successes a model for the world.

v. The Netherlands

Dutch legal aid is administered directly by the Ministry of Justice, rather than through an intermediate board of commission, though there are plans to establish an administrative body similar to the Legal Aid Board.

Total expenditure on publicly-funded legal services in 1992 was 347 million guilders—the equivalent of £123m (Can $227m).[23] Per head of the population, this represents about £8.50, less than 40 percent of that in England and Wales in the same year. Advocates receive about 66 percent of total expenditure on legal services, reflecting a high degree of dependence on the private sector.

The remaining expenditure largely funds a network of Buros voor Rechtshulp. The buros combine two roles. They act as a form of law centre by giving initial advice, taking on welfare law cases and acting as a point of referral. They also process legal aid applications and certificates. The two functions do not co-exist easily and will possibly be divided in any reorganisation of legal aid administration. A relatively small amount goes to law shops and a variety of other forms of legal assistance.

While the services provided by the buros are free, legal aid from private practitioners is subject to means testing and contributions from income and capital. Since 1983, a charge has been made for everyone using the civil scheme. In 1991, the minimum contribution was about £8 for advice and £50 for a court case. These charges have been strongly opposed by the legal profession and many advocates refuse to collect them.

Legal aid

Dutch advocates have maintained a tradition of professional responsibility towards legally aided work. In 1989, virtually every single advocate—5,995 out of a total of 6,015—undertook a legally-aided case. Nevertheless, most of the work was handled by a smaller number of specialists: only 2,000 advocates undertook more than 50 cases in that year.[24]

---

23. Fax from Peter Levenkamp of the Netherlands Ministry of Justice to Roger Smith of the Legal Action Group (28 July 1993) [unpublished].

24. Figures supplied by *Nederlandse Orde van Odvoaten* and gained in an interview with Ms L Minkjan, secretary with responsibility for legal aid.

As a legacy of the radicalism of the 1970s, there is a defined sector of 'social advocates' who bring a social and political commitment to legal aid work. Their representative organisation has about 400 members and actively campaigns for better services.

Dutch advocates undertake twice as many civil as criminal cases. Expenditure shows a similar pattern. In 1992, civil cases brought in a total of 176.9 million guilders (£62.6m, Can $115.8m) to advocates, compared with 83.5 million guilders (£29.6m, Can $54.7m) for criminal cases.

Criminal legal aid is provided free to defendants in custody and to those on remand 'who cannot afford a lawyer'. Civil legal aid eligibility was set by statute in 1981. The Ministry of Justice estimates that around 70 percent of the population is currently eligible. Eligibility is indexed to statutory levels of maintenance, which are related to wages. This protection has been sufficient to see off attempts by the ministry to cut eligibility, in a way that has not happened in Britain.

Buros voor Rechtshulp

The Buros voor Rechtshulp developed out of the student-based law shops of the 1970s. There are about 20, operating out of 57 separate offices. In 1991, they employed 235 legal staff and 160 administrative staff. Their cost in 1989 was about 42 million guilders, accounting for 13 percent of the legal aid budget. In 1987, 336,000 clients used their services.[25]

The buros are independent foundations, each governed by a board composed of local lawyers, judges, academics and others. There is very little community involvement in their management. The work of each buro is agreed on the basis of an annual plan submitted to the ministry for funding. There is some diversity among the buros. Although all undertake casework, some, particularly in the larger towns like Amsterdam, refer more cases to private practitioners in order to concentrate on education, outreach work and law reform—described by one buro worker as "structural legal aid".

The extent to which buros should be involved in law reform is a contentious issue. The buros actively campaign on law reform issues through their representative organisation, *Landelijke Organisatie Buros voor Rechtshulp* (LOB). In practice, much of this work is undertaken by workers in the larger buros. Some workers, especially in the smaller buros, see this approach as a relic of the past—as "still living in the 1970s".

---

25. Figures gained in an interview with Ms Rita Braspenning of the *Landelijke Organisatie Buros voor Rechtshulp.*

III. LESSONS

For us, three basic themes emerged after examination of legal aid schemes in different jurisdictions—the need to rethink the objectives of publicly-funded legal services, their organisation and, of course, the means of their delivery. Each jurisdiction had areas in which they excel; the task is to find what lessons can be transferred between different countries. To an extent, there is a value in simple 'cherry-picking', taking aspects of different systems that would be advantageous in one's own jurisdiction. The simple process of looking at other jurisdictions is helpful both in stimulating ideas and providing the argument, 'Well, they do it in Quebec/Ontario/New South Wales/Netherlands.'

From a British perspective, the priority given to various forms of civil or administrative cases in comparison with the importance we give to crime is particularly thought-provoking and is an impressive feature of all other jurisdictions, but particularly the Netherlands and Quebec.

An important lesson for Britain is that the example of other countries shows how much legal aid, as we traditionally understand it, should be seen as only part of the purpose of publicly-funded legal services. For us, there is a real value in working on the definition of what should be the overall aim. The formulation LAG supports is that the ultimate objective should be 'to achieve equal access to justice for all members of society and to ensure that any dispute is settled on the basis of the intrinsic merit of the arguments of the different parties, uninfluenced by any inequalities of wealth or power'. This could be achieved by a threefold legal services approach, combining an integrated system of:

(a) advice, assistance and representation;

(b) education and information;

(c) reform of law and procedure.

In Quebec and Australia, some sort of similar formula is already incorporated in the terms of reference of the commissions that administer legal aid. In Ontario, as in Britain, the objectives of the whole system have never been fully articulated. The exercise of doing so has helped us to clarify our position in relation to counter-assertions of the kind put forward by our government and its agencies.

A common feature in Ontario and Britain is the lack of any kind of commission structure for the administration of legal aid. In Ontario, the Law Society has held on to this role in a way that has proved impossible for its English and

Scottish counterparts. As an ideal form, the Australian state and federal Legal Aid Commissions seem to have the most to recommend. At least in theory, each Commission has a wide brief, including both education and reform. Basically, government gives it the money and the commission takes all the relevant decisions. Problems arise when, as is now happening, the amount of money is manifestly too little for an acceptable level of service. But, crucial to this model is independence, which the commissions have struggled to maintain. This seems a vital element in any form of planned provision. It is a notable defect of both Quebec's Commission des Services Juridiques and the British Legal Aid Board that they are too directly controlled by the government that appoints their members. In a British context, we have nothing to lose by arguing for a broader commission to replace our board.

It is an interesting judgment as to whether the same sort of calculation would apply in Ontario under the current, or any other, government. To an outsider, the structure of Ontario's Clinic Funding Committee looks odd but perhaps can be protected by the proverb: "if it ain't broke, don't fix it".

An important part in our package for a British context is a greater emphasis on education. So far there has really only been a small scale Law in Education project. There has been no acceptance by the British government of the kind of law reform or educational agenda which is apparent through the Ontario clinic movement, the Australian commissions or, in relation to education, the Quebec commission. In Britain, we would like to see a variety of different educational and informational roles performed, and particularly national institutional backing—from, say a Legal Services Commission—for the idea of public legal education, which has, hitherto, achieved little support here. A commitment to the kind of role played by Quebec's *Commission des Services Juridiques* would be a tremendous advance.

In the political situation in which we find ourselves in the UK, law centres might find more support for work formerly justified as community activism if it was described within an educational context. Certainly, consideration of the need for education has proved a helpful way for us to detach consideration of legal aid from the context dictated by the British government, as a benefit available only to the very poorest in society.

In terms of service delivery, the Ontario model of the division between clinics and private practitioners is very attractive, especially for a British context. One pragmatic advantage of our overwhelming dependence on private practitioners is that England and Wales have maintained relatively high eligibility in matrimonial, civil and criminal cases. Indeed, among the jurisdictions which we studied, only the Netherlands appeared to be more generous. The examples of

Quebec and Australia indicate the lack of political clout that tends, unfortunately, to accompany a legal aid scheme delivered in large measure by a government-appointed agency. A pragmatic way for us to develop would be some combination of the role of private practitioners and law centres along the lines of the Ontario model.

Also attractive is the work on performance evaluation criteria developed by Ontario's Clinic Funding Committee staff. Clinic staff may think of these as a bureaucratic diversion from what your work is really about. Nevertheless, in an increasingly tight financial situation, every jurisdiction is going to demand high levels of accountability before it provides large amounts of cash. The interesting aspect of the Ontario criteria is its attempt to build into the statistics some measure of activity beyond casework. This is crucial in establishing the case for a broader approach. In a British context, with a conservative and management-orientated government, some form of apparently objective measurement of quality is increasingly necessary to justify continued public funding.

The *Strategy for Justice* project sharpened our minds about our current objectives and how we phrase them to be acceptable in the 1990s. As power and wealth slips away from countries like Britain and Canada, the whole rationale for publicly-funded legal services is going to come under greater attack. A period of harsh reassessment is upon us all and we need to have strong and cogent arguments and positive solutions.