

**THE NATIONAL SELF-REPRESENTED LITIGANTS PROJECT:
SELECTED ANNOTATED BIBLIOGRAPHY**

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SECTION A: CANADA

1. Hough B. "Self-Represented Litigants in Family Law: the Response of California's Courts" 1 California Law Review Circuit Summer (2010)
2. Buckley, M. Access to Legal Services in Canada: a Discussion Paper Melina Buckley April 2011, Action Committee on Access to Justice CBA
3. Greacen J. Effectiveness of Courtroom Communication in Hearings Involving Two Self Represented Litigants Greacen and Associates for the Self Represented Litigants Network, published by the National Center for State Courts 2008
4. Tapping the Community Voice: Looking at Family Law Self-Help through an A2J Lens: Themes and Recommended Next Steps. CLEO for the Law Foundation of Ontario, 2008
5. Access to Justice for Litigants in Person, Lord Chancellor's Civil Justice Council Working Group, 2011
6. Rhode D. Access to Justice: An Agenda for Legal Education and Research Consortium on Access to Justice available at http://www.law.harvard.edu/programs/plp/pdf/Access_to_Justice.pdf
7. The Importance of Representation in Eviction Cases and Homelessness Prevention Boston Bar Association Task Force on the Right to Civil Counsel 2012 available at <http://legallaidresearch.org/2012/11/13/the-importance-of-representation-in-eviction-cases-and-homelessness-prevention>
8. Pleasance P and Balmer NJ "Mental Health and the Experience of Social Problems Involving Rights", 16(1) Psychiatry, Psychology and Law (2009)
9. Tyler, T. "What is Procedural Justice? Criteria Used by Citizens to Assess the Fairness of Legal Procedures" 22 Law & Society Review (1988)
10. Zorza, R. Access to Justice: Challenges and Response (National Center on State Courts 2009)
11. Zorza, R. "Self-Represented Litigants and the Access to Justice Revolution in the State Courts: Cross-Pollinating Perspectives toward a Dialogue for Innovation in the Courts and the Administrative Law System" 29 J. Nat'l Ass'n Admin. L. Judiciary (2013)
12. John Malcolmson & Gayla Reid BC Supreme Court Self-Help Information Centre, Final Evaluation Report, August, 2006
13. Birnbaum, R. & Bala, N. "Views of Ontario Lawyers on Family Litigants without Representation" 65 University of New Brunswick Law Journal, (2012) 99-124,
14. John Greacen, The Benefits and Costs of Programs to Assist Self-Represented Litigants Judicial Council of California Center for Families Children and the Courts 2009
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17. Engler, R. "Connecting self-representation to civil Gideon: what existing data reveal about when counsel is most needed" 37 Fordham Urban Law Journal (2010) 38
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19. Blasi, G. (2009) "Framing Access to Justice: Beyond Perceived Justice For Individuals" 42 Loyola of Los Angeles Law Review (2009) 913
20. Applegate A. & Beck C. "Self-Represented Parties in Mediation: 50 Years Later it Remains the Elephant in the Room" 51(1) Family Court Review (2013) 87
21. Mulgrew, I. "Starved for Resources" The Windsor Star, Aug. 30, 2013
22. Baksi, C. "Law firm money could help plug £100m legal aid gap", The Law Society Gazette, August 29, 2013
23. Rietzler, A. "Access to Justice for Migrant Workers in BC: Research Report by WCDWA". Public Legal Educators for the Rights of Migrant Workers in British Columbia, Canada
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1. **Hough, B. “Self-Represented Litigants in Family Law: the Response of California’s Courts”¹ California Law Review Circuit Summer (2010)**

National data indicate that 60% to 90% of family law cases involve at least one self-represented litigant, In comparison, less than 5% of cases in general civil dockets include a self-represented litigant. Litigants choose to represent themselves because the cost of legal services in California is too high for many litigants. California courts have responded with a variety of strategies designed to ensure access to the courts.

JusticeCorps recruits and trains 250 university students annually to augment court and legal aid staff who are assisting SRL’s in court-based self-help programs in select locations throughout California. Students provide in-depth and individualized services to SRL’s and assist litigants in completing pleadings under attorney supervision. The students also assisted in giving the litigant a better understanding of the court system.

The California Bar Association allows lawyers to provide limited scope assistance, where the services sought are limited to specific tasks.

Courts are changing the roles of court staff and judicial officers and their handling of cases with SRL’s (see 2007 Report: *Benchguide on Handling Cases Involving Self-Represented Litigants*)

2. **Access to Legal Services in Canada: a Discussion Paper Melina Buckley April 2011, Action Committee on Access to Justice, CBA**

Includes a list of needs identified by SRL’s in studies including help with forms, understanding procedure, and a realistic expectation of what will happen. Includes in-person assistance. Singles out Law Help Ontario (Pro Bono Ontario) as “unique program” combining self help with duty counsel. Critique of self help – only useful to those more educated, and requires in-person and institutional supports to be really effective. Self help cannot replace legal assistance.

Important to maintain small firm and solo practitioner model of legal services to enable A2J and legal aid cases taken on. Also advocates for entry point triage and more ADR. “National agenda” requires looking at distribution of public assistance using criteria not only about income but also about impact. More national co-ordination of initiatives needed. Also includes CBA Legal Aid recommendations (2010) in appendix.

3. **Greacen J. Effectiveness of Courtroom Communication in Hearings Involving Two Self Represented Litigants Greacen and Associates for the Self Represented Litigants Network, published by the National Center for State Courts 2008**

Empirical study involving surveys and observation protocols of 15 hearings with two SRL’s in four courts (in states judged to be the most advanced in providing support to SRL’s).

Data showed that (1) judges had a higher opinion of SRL's appearing before them in these individual cases than in surveys regarding "general impressions" of SRL's (2) SRL's had a high level of understanding about the legal and procedural issues (3) SRL's used effective communication skills (8.7 on a 10 point scale) (4) distinguished between procedural fairness of the hearing and the outcome (5) SRL's were less of a drain on court time than perceived (6) judges developed a range of effective communication practices with SRL's including asking questions, framing the issues, explaining the law, explaining their decisions, describing compliance and effects of non-compliance.

4. Tapping the Community Voice: Looking at Family Law Self-Help through an A2J Lens: Themes and Recommended Next Steps. Community Legal Education Ontario for the Law Foundation of Ontario (2008)

Describes a one-day dialogue involving government and community organizations with Russell Engler as key speaker. Main focus was the limitations of self-help and the problem of self help being a types of second class justice, especially for those who have difficulty taking advantage of self help options because of other barriers eg language. Concern that funds available for limited legal assistance siphoned off into self-help. Need for a clearer definition of self help since many litigants use some of these services even if they also have legal assistance. For example is the Pro Bono Ontario model accurately described as limited legal assistance or self help? Suggestion that self help also needs in-person elements and that legal assistance should be targeted to areas of particular need.

5. Access to Justice for Litigants in Person, Lord Chancellor's Civil Justice Council Working Group, 2011 (England & Wales)

Highlights include:

- a. System designed for lawyers and problems for SRL's significant but "this reality" is kept "below the surface" because of the hope of most people that they will not need to come to court
- b. Recommendations are about "making the best of a bad job" not solving the underlying problems
- c. Use of term "unrepresented" is demeaning and assumes that the norm is representation by lawyers – prefer term SRL
- d. The work of the Personal Support Units
- e. Differentiation vexatious litigants and the vast majority
- f. Impact of adversarialism on many SRL's is to experience it as hostile to them rather than "how the system works". Leads to reluctance to discuss settlement with a representative on the OS
- g. "Court technology efforts should be viewed from the perspective of SRL's"
- h. Triage function generally devolves to clerical staff – are they best placed to do something identified as so critical?

6. Deborah Rhode Access to Justice: An Agenda for Legal Education and Research Consortium on Access to Justice
(http://www.law.harvard.edu/programs/plp/pdf/Access_to_Justice.pdf)

Report of a meeting among academics and the newly created Obama office of A2J in US Justice Department. Describes lack of empirical research and need for more co-ordinated actions including using law school programs. Notes:

- a. lack of national data on numbers of SRL's
- b. lack of consistency or clarity in studies of impact of lack of representation on outcomes
- c. lack of research on long term or cluster impacts of involvement in legal action as SRL
- d. 4/5 of Americans believe that the poor has a right to counsel and that their society is highly litigious: "stories displace statistics"

7. The Importance of Representation in Eviction Cases and Homelessness Prevention Boston Bar Association Task Force on the Right to Civil Counsel 2012
(<http://legalaidresearch.org/2012/11/13/the-importance-of-representation-in-eviction-cases-and-homelessness-prevention>)

Two pilot studies were designed following the call to a renewed commitment by the Bar to provide legal counsel in cases where basic needs are at stake including housing. Both pilots deal with eviction cases in two different courts. In both an experimental group are provided with full representation up to and including at trial. In the first pilot (Quincy) the experimental group are offered full representation and the control group are offered no representation. In the second pilot (NorthEast) there is already a Lawyer for a Day program of limited legal assistance, which basically functions as a mediation program. This forms the control group.

In the Quincy pilot represented tenants show clearly better outcomes than unrepresented ones in relation to (eg) possession, damages, timelines etc. In the second (NorthEast) pilot there is little measurable difference between the two groups. Lawyers in the NorthEast program assert that there are still benefits to the full representation model including better understanding of the client's goals and objectives in longer intake interviews and ongoing representation. However the outcomes – almost always negotiated and then presented as consent orders – show little difference.

8. "Mental Health and the Experience of Social Problems Involving Rights", Pleasance P and Balmer NJ 16(1) Psychiatry, Psychology and Law (2009)

Using data collected by F2F interview in England and Wales and telephone survey in New Zealand, study shows correlation articulated by respondents between mental health issues and rights issues. Causes: people reporting mental health issues however described (self

identification eg have you seen a doctor for stress?) reported higher levels of problems with rights issues (65% of this group compared with 32% of whole population). Also, notes a higher correlation among young people (85% compared to 32% above).

Consequences: in addition 26% of those reporting a problem also reported that it had led to stress-related illness, especially in relation to family breakdown, divorce and employment issues. "People frequently attribute mental health problems – in the form of stress related illnesses – to right problems." 41% of those reporting initial mental health problems report that problems lead to stress compared to 4% of the rest.

9. Tom R. Tyler "What is Procedural Justice? Criteria Used by Citizens to Assess the Fairness of Legal Procedures" 22 Law & Society Review 103, 128 (1988)

Paper addresses two issues: (1) whether the justice of the procedures involved influences citizen satisfaction with outcomes and their evaluation of legal authorities; and (2) how citizens define "fair process" in such settings. Based on interviews of 652 citizens in Chicago with recent personal experiences involving the authorities (police or courts). Previous research showed that consistency across people was important in their consideration of procedural justice. Underlying dimensions of procedural justice include consistency, decision quality, bias suppression, representation (voice).

As past studies have found, those receiving favorable outcomes think that the procedures used to get to those outcomes are more fair. Consistency, accuracy, impartiality, and representation were the criteria that explained most of the variance in citizens' judgments about whether fair procedures were used. Impartiality was also important, but more in the form of subjective bias, the effort to be fair, and honesty. Procedures used for resolving disputes were more likely to be judged in terms of opportunities for input and consistency of *treatment*.

The major criteria used by citizens to assess process fairness are those aspects of procedure least linked to outcomes- ethicality, honesty, and the effort to be fair- rather than consistency with other outcomes. Ethicality is important to people because it relates to their self-respect.

Results suggest that there are shared cultural values about the meaning of procedural justice within the context of particular situations. These common values facilitate the efforts of officials by suggesting the public concerns they ought to focus on to gain acceptance of their efforts by citizens.

10. Zorza, R. Access to Justice: Economic Crisis: Challenges and Response (National Center on State Courts 2009)

A 2009 survey of judges showed that there was a 60% increase in cases with SRLs. More middle class coming without lawyers- these clients have higher expectations, get more frustrated.

Self help programs and courts are responding to this need in creative ways for ex: getting more volunteers, creating take away packages and fact sheets, working with local 411 service to provide referrals, workshops etc- emphasis on collaborative work with other agencies. When self help programs are cut, studies show that almost 80% reported additional litigant confusion at the hearing, and 50% reported additional adjournments – costs go up. Most cost effective ideas include: law library partnering; unbundling; clerk and staff training- on what can and cannot be done to assist SRLs; judicial education- focus judicial education programs on SRL issues; justice corps student volunteer program- students work in the court to assist SRLs; plain English forms; translation of plain English forms.

11. Zorza, R. “Self-Represented Litigants and the Access to Justice Revolution in the State Courts: Cross-Pollinating Perspectives toward a Dialogue for Innovation in the Courts and the Administrative Law System” 29 J. Nat’l Ass’n Admin. L. Judiciary. (2013)

There has been relatively little cross-pollination of ideas between the courts and the administrative law system on issues of A2J. This paper describes court-based innovations in response to the “tidal wave” of SRL’s and their impact on the administrative law system in order to lay groundwork for broader dialogue. Court innovations designed to improve access to the system itself (eg programs that assist litigants to prepare and file in person or electronically- standardized plain English forms, self-help centres, internet based information, document completion software, staff training in the appropriate role) are changing the role of courts from “case-deciding” to “accessing the system”.

Zorza also describes innovations in staff training (for example guidelines to clarify when court staff should be giving information) and the use of unbundled legal services (Discrete Task Representation), and case management techniques for SRL cases. He identifies best hearing practices including: setting the stage- judges framing the subject matter, summarize prior proceedings, present issues of present day proceedings; explaining the process that will be followed- outline steps included, judges let litigants know they will be asking questions/probing for more information; eliciting needed information with varied techniques- (82-83)- may include; allowing litigants to make initial presentations to the court; breaking hearing into topics and making topics clear; moving back and forth between parties in order to maintain control of the courtroom; and giving litigants an opportunity to be heard.

12. BC Supreme Court Self-Help Information Centre Final Evaluation Report, August 2006, John Malcolmson & Gayla Reid

The purpose of the pilot project was to design a self-help centre for SRLs that would facilitate access to justice by offering advice, information, and education about procedures in the Supreme Court of British Columbia.

User characteristics (based on 35 user interviews)

- Five of every six users came to the Centre a single-time.
- A significant majority of users reported income at or below \$2,000 per month
- Over fifty per cent of Centre users report speaking a language other than English at home, with Asian languages dominating.
- Close to three-quarters of users reported having both access to and an ability to use a computer.
- An overwhelming majority of users reported they are not currently retaining the services of a lawyer with more than three-quarters saying they could not afford a lawyer.
- Majority – 60% - very low income (under \$2000 monthly)
- 40% said they had had a lawyer at some time and half this group said they could not afford to continue.
- More than three-quarters of SHC services provided to full-service users fall into the family law area. For brief service users, the breakdown between family and civil law services saw civil law users accounting for over 40 per cent of the total.

Users report that the Centre has saved them “time and grief”. They say that they need to be treated with dignity and respect, and this is a difficult and complex process no matter how much help they receive.

13. Birnbaum, R. & Bala, N. “Views of Ontario Lawyers on Family Litigants without Representation” 65 University of New Brunswick Law Journal, (2012) 99-124.

Article reports the preliminary findings from a recent survey of SRL perceptions of Ontario family lawyers. Findings indicate that in 27% of family cases, one side have no lawyer at all and 21% of cases (family) have no lawyer on either side. When lawyers were asked whether the number of family litigants without lawyers had increased in the previous five years, 37% indicated that there were many more such cases and 44% reported more cases. Respondents to this survey clearly believe that the inability to afford a lawyer, exacerbated by recent cuts to Legal Aid, is the primary issue with 65% reporting this as the most important reason and another 31% indicate that it is an important reason. 7% of lawyers reported that the most important reason for family litigants to have no lawyer is that they think that they can do as good a job as a lawyer and 19% think that a desire to directly confront one’s former partner in court is a factor.

84% of the respondents indicated that those without lawyers usually or always have unrealistic expectations at the start of a case, making settlement more difficult. Almost half of the lawyers (48%) reported that the party without a lawyer looks to them for advice

or information usually or always.

57% of the lawyers reported that judges treat those without lawyers “very well” and 31% believe judges provide “good treatment” to those without a lawyer. 90% of the lawyers reported that their clients sometimes or always express concern that the judge seems to favour the party without a lawyer. Finally, 85% of the respondents to this survey indicated that they provide some family services on the basis of “limited scope retainers”.

14. John Greacen The Benefits and Costs of Programs to Assist Self-Represented Litigants Judicial Council of California Center for Families Children and the Courts 2009

Research shows that self-help services provided to SRL’s produce economic savings for courts and for litigants. The project’s approach was to identify areas in which the programs believe their services produce a quantifiable benefit to the court and to the litigants, to test empirically whether such benefits are in fact produced, and to quantify the value of the benefits and compare them to the costs of the program services required to produce the specific benefits.

Findings include: (1) providing services in a workshop to SRL’s reduce the number of court hearings and the time of staff at the public counter; (2) courts that provide one-on-one support and information services to litigants save at least one hearing per case, and 5 to 15 minutes of hearing time for every hearing held in the case and/or 1 to 1 ½ hours of court staff time related to providing assistance to SRL’s and to reviewing and rejecting proposed judgments; (3) courts that provide assistance to SRL’s to resolve cases at the first court appearance save future court hearings (note that on average, an individual who came to court for one hearing would spend approximately \$80 in lost wages and/or child care); (4) providing a monthly seminar at which such litigants could get help with completing all of the forms, calculating child support amounts, and mediating child custody issues significantly reduced the length of time to hear self-represented domestic relations matters and the number of reopened cases dropped significantly.

15. Thomas Cromwell “Access to Justice: Towards a Collaborative and Strategic Approach” (Viscount Bennett Memorial Lecture) 2011

The problem: current A2J situation falls short of providing access to the knowledge, resources and services that allow people to deal effectively with civil and family legal matters. The Ontario Civil Legal Needs project found that 1 in 7 low and middle-class Ontarians with a civil legal problem in the past three years did not follow through with it because of cost. The presence of self-represented litigants in the courts adds to delay and cost and in some cases perhaps even may jeopardize the rights of other, represented litigants. 80% of the people surveyed in Ontario thought that the justice system favours the rich.

The Action Committee on Access to Civil and Family Justice sees three key elements to reforming the legal system in order to provide better access to justice. These are: to foster engagement by all of the players with the issue of access to justice; to fashion a strategic (not piecemeal) approach; to coordinate all efforts of all members to avoid duplication and to ensure that agreed upon priorities are receiving meaningful attention in a world of flat or diminishing resources.

16. Zimmerman, N. & Tom R. Tyler, "Between Access to Counsel and Access to Justice: A Psychological Perspective" 37 *Fordham Urban Law Journal* (2010) 473

The authors consider what is meant by "access to justice", in relation to self represented litigants. Traditionally, increasing access to justice has been correlated with increasing access to legal counsel. In the context of this article, the authors assess the American Bar's proposal to institutionalize a right to counsel in certain civil cases. The authors consider empirical knowledge in evaluating whether increased access to justice simply means increased access to lawyers. The authors consider the subjective experiences of represented and self-represented litigants, and their normative evaluations in terms of the value of legal representation. The authors consider whether having a lawyer or not having a lawyer influences the experiences of lay people in accessing, and to what degree having or being denied access to counsel influences the decision to proceed with a legal matter.

17. Engler, R. "Connecting self-representation to civil Gideon: what existing data reveal about when counsel is most needed" 37 *Fordham Urban Law Journal* (2010) 38

The American Bar has considered a proposal to establish the civil right to counsel, and has also considered methods of better facilitating the needs of self-represented litigants. However, Engler suggests that facilitating the litigation process for self represented litigants and creating a civil right to counsel would likely conflict. The author considers several questions in assessing what is the most appropriate approach to facilitating access to justice. Specifically, Engler considers the scenarios in which full representation by counsel would be required. He assesses the characteristics of litigants, the cases they pursue, and the Courts that hear their cases. Engler then interprets the correlation between representation and success rates in Courts and assesses key variables beyond representation that can affect the outcomes of cases.

Engler develops two approaches to assessing the need for representation. The first is directly correlated with the power opposing the litigant. The greater the power opposing the litigant, the greater the need for legal representation. Secondly, Engler highlights the need for effective representation and a skilled advocate with knowledge of relevant proceedings. Engler concludes that the amount of assistance that is required for self represented litigants is dependant on what is at stake in a given proceeding – we must ask: "Where would an advocate most likely affect the outcome?"

18. Moorhead, R. and Sefton, M. (2005) Litigants in person. Unrepresented litigants in first instance proceedings Department for Constitutional Affairs Research Series 2/05 (England & Wales)

Report explores detailed qualitative and quantitative data on SRLs from four courts in first instance civil and family cases (does not include small claims). Study shows prevalence and nature of SRLS and the impact of self-representation on themselves, the courts, and their opponents. The main findings of the study are:

1. SRLs were common. It was usually defendants who were unrepresented. Obsessive/difficult litigants were a very small minority of SRLs generally, but posed considerable problems for judges and court staff;
2. Unrepresented litigants were in fact partially represented (receiving some advice on, or assistance with, their case,);
3. Parties self represent for a range of reasons including choice and the lack of free or affordable representation. Even in small cases what was at stake was significant to the SRLs;
4. SRLs participated at a lower intensity but made more mistakes. Problems faced by SRLs demonstrated struggles with substantive law and procedure. There was other evidence of prejudice to their interests;
5. There was at best only modest evidence that cases involving SRLs took longer, though cases involving self represented parties were less likely to be settled
6. Judges recognized that SRLs posed a challenge to the 'passive arbiter' model of judging and responded to that challenge with varying degrees of intervention.
7. Court staff recognized SRLs' needs but were unsure of what help was permissible because of the way the 'no advice' rule was managed

19. Blasi, G. (2009) "Framing Access to justice: Beyond Perceived Justice For Individuals" 42 Loyola of Los Angeles Law Review (2009) 913

Suggests that access to justice has been framed too narrowly as access of an individual to a lawyer or some form of legal assistance that will be a partial substitute to a lawyer, to help deal with a problem already framed in legal terms. Access to justice should be framed to include exploring legal options where they aren't immediately apparent, including enabling collective and collaborative action when necessary and aiming towards not only procedural justice but also to outcomes. A broader framing of access to justice may lead to greater equality, effectiveness, and efficiency.

The author argues that we should frame access to justice more broadly, at least for at least some populations and some kinds of problems that would encompass a right to assistance to (1) claims making, which would include assistance not only with problems that are clear legal controversies but also with those that would benefit from some legal assistance; (2) legal organizing and coordination to overcome collective action problems and to assert group claims, where doing so is more efficient and effective; and (3) monitoring and

enforcement, which would include legal and investigative assistance to monitor and enforce compliance with equitable relief obtained through litigation or organizational or institutional change obtained through other means.

20. Applegate A. & Beck C. “Self-Represented Parties in Mediation: 50 Years Later it Remains the Elephant in the Room” 51(1) Family Court Review (2013) 87

The number of mediation programs offered by courts has risen significantly in the last 25 years: “family mediation is the heart of family dispute resolution services”. Now there are growing numbers of family SRL’s and many are unaware of and/or unskilled in how to use mediation without lawyers to represent them. The authors propose that to take account of this, mediators should develop (as some states have) a special code of practice for working with SRL’s including: the mediator should be able to provide legal information to SRL’s; the mediator should explain the difference between a lawyer’s role and a mediator’s role; and the mediator should be able to draft agreements for SRL’s (implying that these mediators need some type of legal training). The authors argue that the mediator’s primary duty is to protect the SRL and that this justifies them extending their responsibility into these areas for SRL’s in family mediation.

21. Mulgrew, I. “Starved for Resources” The Windsor Star, Aug. 30, 2013

<http://www2.canada.com/windsorstar/news/editorial/story.html?id=050c6a43-8a10-4728-9a95-67dce047178f>

The study concludes the system has failed due to a lack of resources and a lack of coordinated leadership and competitive blaming between the major justice institutions. Several studies have provided that the Canadian legal system is dysfunctional and in need for serious reforms. An in-depth evaluation of the experience of self-represented litigants in B.C., Alberta, and Ontario described that the Canadian justice system is inaccessible and unfair. Unfortunately there are not much measurements or hard data, rather anecdotal descriptions. The reality is that it is going to take time for any change to happen, since the federal and provincial governments need to get on board for some serious political will and funding to implement any strategies or future plan for change.

22. Baksi, C. “Law firm money could help plug £100m legal aid gap”, The Law Society Gazette, August 29, 2013

<http://www.lawgazette.co.uk/law/areas-of-law/legal-aid-and-access-to-justice/firm-money-could-help-plug-aid-gap/5037190.article>

The Law Commission’s preliminary report on the future provision of social welfare advice suggests that the government should require firms with profits above an agreed threshold to pay the proceeds of an ‘interest on lawyers’ trust accounts’ scheme to the Access to Justice Foundation. It also proposes measures to make the foundation the recipient of unclaimed damages in collective actions and of dormant funds held by solicitors in relation to companies that have dissolved. The commission, set up by charity Legal Action Group

said it is imperative that the next government develops a national strategy for advice and legal support for 2015-20. The preliminary proposals follow evidence gathered by the commission over the past nine months from over 230 organizations and individuals. The commission will publish its final report in December.

- 23. Rietzler, A. "Access to Justice for Migrant Workers in BC: Research Report by WCDWA". Public Legal Educators for the Rights of Migrant Workers in British Columbia, Canada**
<http://redlegal.ca/2013/09/migrant-workers-report-wcdwa/>

West Coast Domestic Workers' Association (WCDWA) is a non-profit which has in recent years, experienced a sharp increase in requests for legal assistance from other migrant workers, often referred to as Temporary Foreign Workers (TFWs), who enter Canada through CIC's Temporary Foreign Worker Program (TFWP). With few exceptions, migrant workers that enter Canada through the TFWP do not have a pathway to permanent residence. The research report is intended to provide guidance to WCDWA and other stakeholders about how to better serve the needs of migrant workers under the TFWP. The report aims to provide a first-hand perspective of the successes and flaws of the TFWP within the British Columbian context.

- 24. Smith, C. "Local lawyers plan to offer free legal advice to the poor", Straight.com Vancouver's Online Source, September 3, 2013**
<http://www.straight.com/news/418011/local-lawyers-plan-offer-free-legal-advice-poor>

Pro Bono Going Public 2013, will have lawyers gathering in Hyack Square on Wednesday (September 4) and in Victory Square on Friday (September 6) to give free legal advice to people of modest means. The executive director of the Access Pro Bono Society of B.C., Jamie Maclaren, told the *Georgia Straight* that if people find they need legal advice but can't afford to hire a lawyer, they should call his organization. According to the Access Pro Bono Society of B.C., there are nearly 1,000 lawyers who provide free legal advice on a regular basis through its clinics across the province. He noted that B.C. lawyers have the highest "engagement level" with pro bono work in the country. Maclaren added that B.C. also has "one of the worst" legal-aid systems in Canada, which itself doesn't fare very well internationally, "We rank ninth out of 16 North American and western European countries when it comes to access to civil justice," he said.

The chief justice of the Supreme Court of Canada, Beverly McLachlin, has often called upon lawyers and law students to do pro bono work. Meanwhile, former chief justice Lance Finch said at his June 6 retirement dinner that the two most important initiatives undertaken by the legal profession were the Access Pro Bono Society of B.C. and the Public Commission on Legal Aid, which was chaired by lawyer Len Doust.

- 25. Azatty, “Canadian Bar Association Report Finds that Access to Justice Sorely Lacking, Needs Change”, An Arizona (Attorney) State of Mind, September 19, 2013**
<http://azatty.wordpress.com/2013/09/19/canadian-bar-association-report-finds-that-access-to-justice-sorely-lacking-needs-change-via-canlawmag/>

As has been reported numerous times (even in Arizona Attorney Magazine), access to justice is in a “pretty sorry state” in Arizona and the United States. “Reaching Equal Justice: An Invitation To Envision and Act,” a 59-page report paints a bleak picture of the country’s legal access situation. Ultimately, though, the report authors provide a solid roadmap that could rectify the situation. As a news story from Canadian Lawyer Magazine opens: “The ‘abysmal’ state of access to justice in Canada can be turned around by 2030, according to a Canadian Bar Association report published today. But the report says hitting the deadline will require ‘dramatic’ change, and sets out 31 recommendations for the legal industry, regulators, and government. These include establishing national benchmarks for legal aid coverage, increasing federal justice spending, and drawing up clearer guidelines on alternative billing structures.”

- 26. “Ensuring the Right to be heard for Self-Represented Litigants: Judicial Curriculum”, August, 8, 2013, pg 1-4**
<http://www.ncsc.org/microsites/access-to-justice/home/~//media/Microsites/Files/access/Judicial%20Education%20Curriculum%20013%20Introduction%208-8-13.ashx>

The curriculum highlights tools and techniques to help judges run their courtrooms effectively, comply with the law, maintain neutrality, and increase access to justice. It was designed to help judges handle the growing numbers of self represented litigants that are appearing in the nation’s courtrooms. The curriculum is based on a 2008 judicial curriculum, developed by the Self Represented Litigation Network with funding from the State Justice Institute and launched at a Conference at Harvard Law School. It integrates the Presentation, Bench Guide, Handbook of Resource Materials and Handbook of Optional Activities (available at www.ncsc.org/atj-curriculum).

- 27. MacCharles, T. “Multi-use courthouses’ needed, says report on Canadian justice”, The Toronto Star, October 8, 2013**
http://www.thestar.com/news/canada/2013/10/08/multiuse_courthouses_urged_in_new_report_on_canadian_justice.html#

A new report calls for a major cultural shift in the country’s justice system that would see a lot more money and effort poured into “front-end” services to help Canadians with civil or family legal problems stay out of courts. The report calls for a coordinated, but not centralized, national reform effort to reduce the financial and procedural barriers that frustrate people and deny justice, particularly to the growing number who try to represent themselves. It calls for a five-year effort to build a more “user-centered” civil and family

justice system to deal with everyday legal problems; and a six-year effort to modernize and streamline the workings of the formal justice system.

The report is the result of five years' study by a national committee and four working groups of more than 50 judges, lawyers, and academics. The project was kickstarted in 2008 by Chief Justice Beverley McLachlin, who asked Justice Thomas Cromwell to oversee the effort. It was funded and supported by the federal justice department, the Canadian Judicial Council, and other provincial, professional and academic contributors.

By 2018, the report says there should be more early resolution options, more mediation and dispute resolution services, more funding for legal aid, more pro-bono work, and an overhaul of legal billing practices, training and certification of legal professionals to ensure the cultural shift happens. But if the destination is a courtroom, the authors say by 2019 formal courts and tribunals should be places where civil and family justice is more readily available, with more technological support, more online help for parties, and judges who take a more active role in making the wheels of justice move more quickly.

28. Bellaart, D. "City lawyer says she has solution for high cost of fees", Nanaimo Daily News, October 19, 2013

<http://www.nanaimodailynews.com/news/city-lawyer-says-she-has-solution-for-high-cost-of-fees-1.665048>

Waymark Law, the brainchild of long-time legal aid lawyer Denise Barrie, is an enterprise designed to give affordable legal guidance to those willing to self represent in court. For a growing number of people, the cost to hire a lawyer poses a dilemma: the need for justice, versus the risk of losing a case after spending thousands on legal bills. Rather than pay a hefty retainer, and steep legal bills, clients pay a flat \$150 an hour to learn how to build a solid case to represent themselves.

29. Flaherty, M. "Self-Represented Litigants: A Sea Change in Adjudication", University of Ottawa, Faculty of Law Working Paper No. 1013-07, November 1, 2013

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2348708

Self-represented litigants make up an increasingly large portion of parties appearing before Canadian courts and tribunals. Where much of the literature looks at the administration of the legal system, including the role of court administrators, the streamlining of procedures, and access to legal aid or duty counsel, I focus on the role of the adjudicator. In particular, rising numbers of self-represented litigants have changed our perception of the role of adjudicators and their obligation to remain impartial. Traditionally, adjudicators understood impartiality to require a strict prohibition on assisting any party, including self-represented litigants. This article charts the evolution in the jurisprudence and shows that decision-makers are now balancing the obligation to remain impartial with a corresponding obligation to ensure a fair process, which often involves assisting self-represented litigants. This article explores the material implications

of self-represented litigants for judicial and administrative adjudicators and offers 'substantive impartiality' as a new way to conceptualize the spectrum of active adjudicative approaches in cases involving self-represented litigants. The notion of 'substantive impartiality, is a timely rethinking of the traditional approaches to adjudicative duties such as impartiality, which has been shown to be ill-equipped to meet the challenges posed by self-represented litigants.

30. "Jurist to posit revised approach to access to justice", University of Windsor Daily News, October 18, 2013

<http://www.uwindsor.ca/dailynews/2013-10-17/jurist-posit-revised-approach-access-justice>

Dr. Hughes, executive director of the Law Commission of Ontario, will discuss these issues in a free public lecture "Is it time for a new model of inclusivity for achieving access to justice?" Monday, October 21, at noon in the Farmers Conference Room, Ron W. Ianni Faculty of Law Building. Those designing ways to improve access to the legal system have focused on Aboriginal communities, racialized persons, women, the LGBTQ communities, persons with disabilities, older adults and others, she says. However, she is interested in an approach that favours functional disadvantages rather than recognition of exclusion on traditional grounds.

31. "How can legal services be changed to increase access to justice?", CBA Legal Futures Initiatives, October 21, 2013

<http://www.cbafutures.org/FoL-Blog/Blog/October-2013/How-can-legal-services-be-changed-to-increase-acce>

CBA's Reaching Equal Justice report recommends "a wide range of alternative organization models for the provision of legal services to meet the legal needs of low and moderate income Canadians, including those living outside major urban centers." The report sets a target that "by 2030, 80% of lawyers in people-centered law practices work with an integrated team of service providers...including non-legal services and services provided by team members who are not lawyers."

Alternative structures are becoming realities outside private practice as well. British Columbia's *Civil Resolution Tribunal Act*, passed in May 2012, will create North America's first online tribunal to deal with small claims and strata property disputes.

It is hoped that alternate ways of doing business will improve access to justice. Outsourcing, unbundling and fixed fees may reduce costs for clients. Or they may have a softer impact: one US study that shows unbundled legal services "make little difference to outcome" but "enhance procedural fairness." The CBA's Reaching Equal Justice project takes a more cautious approach to limited scope retainers and recommends that they "are only offered in situations where they meet the meaningful access to justice standard."

Mitch Kowalski suggests that capping lawyers' salaries would free up resources to be used in innovations and access to justice. Some commentators have ventured that law schools have a role to play in facilitating access to justice: through offering practical learning opportunities like pro bono work and legal clinic internships, and by ensuring more low-income students get an opportunity to enter the profession. The CBA's Reaching Equal Justice project envisions a multifaceted role for law schools, and recommends that all graduating law students "know that fostering access to justice is part of their professional responsibility." Yet law Professor Adam Dodek questioned this recommendation for assuming that access to justice is part of a Canadian lawyer's professional responsibility, suggesting it needs to be matched by a commitment to access to justice within lawyers' Codes of Professional Conduct.

The path to improving access to justice may differ substantially based on how we conceive of the "A2J" concept. Is it simply about keeping legal costs down, and providing alternatives to market-based legal services for those who need them? Or is it a more robust concept, requiring "that laws and remedies must be just, equitable, and sensitive to the needs of the poor and marginalized." Tell us how you define access to justice, how we should get there, and what role law schools should play in that journey.

32. CBA Futures, "No Easy Answer on Access to Justice", SLAW Canada's Online Legal Magazine, October 25, 2013

<http://www.slaw.ca/2013/10/25/no-easy-answer-on-access-to-justice/>

A number of people participating in the third weekly Twitter chat, this one dealing with how legal services can be changed to increase access, pointed to cost as a barrier. One participant, with the Twitter handle @MarieMachete, suggested that reversing legal aid cuts would help the problem. @MarieMachete is a third-year law student in the U.K. where cuts of £350 million from a £2-billion legal aid budget mean aid centres are closing and things like getting an amicable divorce will be much harder in the future. Jay Michi, a third-year student at Thompson Rivers University in Kamloops, says law schools are oriented toward producing lawyers for big law firms – an orientation that needs to change in order to improve access.

Law schools should promote access-to-justice-friendly careers, suggests Sarah Glassmeyer, director of content development for the Center for Computer-Assisted Legal Instruction. Or helping the poor should be treated as something lawyers are required to do via pro bono. Erin Durant, a commercial litigation and employment lawyer in Barrie, Ont., suggested that pro bono hours be treated by law societies just like CPD – a requirement for continuation of law licences – though she admitted she was "stirring the pot" with that suggestion, and didn't expect it would happen.

33. Curtis, C. "If I Knew Then What I Know Now - Dealing with Difficult Judges", Ontario Court of Justice, 1-29

http://www.practicepro.ca/practice/pdf/DealingwithDifficultJudges_CarolCurtis.pdf

This source provides tips for self-reps and counsel in regards to dealing with difficult judges in the courtroom covering the following areas, Know your judge; Plan you strategy in advance; Understand your game plan; Avoiding head-butting and stopping it when it happens; Categories of difficult judges; Protecting the record, and why this matters; Protecting your client and why this matters; Know when to fold; Know when to appeal, Protecting your reputation, and why this matter; and What do Judges want.

34. “Better Legal Information Handbook: *Practical tips for community workers*”, Community Legal Education Ontario, September 2013

http://www.cleo.on.ca/sites/default/files/docs/cleo_betterlegalinfo.pdf

The handbook provides legal information for the public covering the fundamentals: knowing your audience and writing for them; choosing the best format for your information; and usability testing and evaluating. It draws together the principles of plain language and design and gives practical advice on how to apply them.

35. Community Advocacy and Legal Centre and Legal Aid Ontario in Collaboration with Community Partners, “Paths to Justice Family Law Resource Guide for Persons Needing Family Law Services in Hastings and Prince Edward County”, Community Legal Centre – September 2013, pg 1-9

<http://www.communitylegalcentre.ca/referrals/docs/HPE-FamilyLawResource.pdf>

This guide provides information and resources relating to family law matters in the Hastings and Prince Edward County, including but not limited to: speaking to a lawyer about family law issues, applying for legal aid, obtaining assistance from a mediator, assistance with court forms.

36. Ha-Redeye, O. “Legal Incubators for Innovation and Access to Justice”, Slaw, December 22, 2013

<http://www.slaw.ca/2013/12/22/legal-incubators-for-innovation-and-access-to-justice/>

The Access to Justice Committee released its final report emphasizing the reasons for change, including growth of pro bono and unrepresented litigants, increase in poverty and legal illiteracy and increasing complexity of the legal system. The report provides solutions to the problem as well, such as innovation in the courts, unbundled services and relying on technology. The report also suggest the creation of legal incubators, which is an approach to transition recent law graduates into sustainable practice situations. The report draws heavily on the work of the justice advisory and research facility Hague Institute for the Internationalisation of Law (HiIL), which looks at benchmarks and concludes that bringing several innovators together through “incubators” is an effective model of transformative change.

37. McKiernan, M. “Public Input Integral for Real Equal Justice”, Law Times, News, December 30, 2013

<http://www.lawtimesnews.com/201312273677/headline-news/public-input-integral-for-real-equal-justice>

The Bar Association’s access to justice committee, which has just released its full “Reaching Equal Justice Report: An invitation to Envision and Act,” outlines the “abysmal” state of access to justice in this country, and proposes 31 targets for the profession intended to transform the situation by 2030. A number of the report’s targets rely on the CBA converting public anger into government action, with the authors calling for a return to 1994 legal aid funding levels by 2020, as well as eligibility expansion to cover all Canadians at or below the poverty line. Legal thinker Mitch Kowalski says he would like to have seen more focus on immediate, low-cost changes to the way law is practised in this country. Julie Macfarlane hopes the CBA’s push for public engagement results in a two-way conversation, something her own research on self-represented litigants has shown is traditionally lacking. Macfarlane says the issue of limited scope retainers is a microcosm of the legal profession’s slow adaptation to system users’ needs. She says many of her self-represented subjects made attempts to get help from lawyers without full representation, but were “baffled that lawyers wouldn’t take their money” to perform discrete legal tasks.

38. “High Priced Justice”, The Globe and Mail – Editorials, January 5, 2014

<http://www.theglobeandmail.com/globe-debate/editorials/high-priced-justice/article16193371/>

The Bar Association estimates that, two decades ago, at least 95 per cent of people appearing in court were represented by a lawyer. Today, “anywhere from 10 to 80 per cent of litigants are unrepresented, depending on the nature of the claim and the level of court. In Ontario, for example, a single person earning more than \$208 a week is not eligible for legal aid. That’s half the minimum wage. Last year, Ontario Superior Court Justice D.M. Brown said that the country’s courts were becoming “only open to the rich.” If you get your day in court, but at a back-breaking price, or without proper legal advice, is that justice

39. **Mulgrew, I. “Surrey couple’s injury case illustrates barriers to justice”, The Vancouver Sun, January 7, 2014**
<http://www.vancouversun.com/news/Mulgrew+Surrey+couple+injury+case+illustrates+barriers+justice/9360616/story.html>

After a decade in litigation and not seeing a penny of a \$160,000 judgment, a Surrey couple has spent a futile year searching for help to file an appeal. But the couple’s experience illustrates a greater problem — the barriers to justice that exist in B.C. because of a culture of delay, excessive costs, perplexing paperwork and the lack of assistance. The amount awarded to the couple “was insufficient to pay our lawyer’s account for disbursements. We did not receive any money from the jury award.” A long list of lawyers turned the couple down unless they could pay a substantial retainer until Manuel Azevedo learned of their plight last Dec. 4 and agreed to help. “Not being able to find someone to help them file the appeal is what struck me,” Azevedo said. “I couldn’t believe it at first.

40. **Canadian Forum on Civil Justice, “A Roadmap for Change, the Final Report of the Action Committee on Access to Justice in Civil and Family Matters”, Slaw, December 13, 2013**
<http://www.slaw.ca/2013/12/13/a-roadmap-for-change-the-final-report-of-the-action-committee-on-access-to-justice-in-civil-and-family-matters/>

The legal aid system in Canada provides more service in civil matters than is available in many places throughout the world. Yet, with all this and all that it costs, we are not meeting the legal needs of the Canadian public. The final report of the Action Committee on Access to Justice in Civil and Family Matters, *A Roadmap for Change*, tackles the difficult problem of why this is the case and lays out recommendations for what can be done to bring full access to justice to Canadians. The report has three main purposes 1) to promote a broad understanding of what we mean by access to justice; 2) to promote a culture shift, a new way of thinking about justice, access to justice and what we mean by the justice system; 3) to offer a broad roadmap for change. The Action Committee presents a view of access to justice that is much broader, reflecting not only the legal problems for which people obtain legal advice or that find their way to the courts, but the much larger number of serious and difficult legal problems experienced by the public for which they do not seek legal resolution. The poor are especially vulnerable to experiencing multiple problems. Because of current levels of funding and coverage, legal aid system is unavailable to most people and legal problems. The courts are not accessible to most people, largely due to cost. Further, the report acknowledges that systemic problems with the conventional approaches, which have dominated efforts to address the access to justice problem, may have produced the current unsustainable situation. What is needed is a culture shift, a new way of thinking that is based on a culture of reform. Finally the report provides a nine-point access to justice roadmap. It is not a recipe but rather a set of principles intended as a guide for local initiatives. The roadmap for change includes the establishment of national and local implementation mechanisms to put in place enhanced

access to justice services that meet the needs of local and regional populations. The report emphasizes that to succeed we must enhance our capacity for innovation.

41. Jones, A. "Ontario's retiring top judge reflects on a career of helping people get justice", CTV News, November 24, 2013

<http://www.ctvnews.ca/canada/ontario-s-retiring-top-judge-reflects-on-career-1.1557991>

The retiring Chief Justice of Ontario, Warren Winkler, speaks about his legacy toward how the system can help ordinary people find justice. Power imbalances are a theme in Winkler's approach to access to justice — one of the key issues he sought to improve during his six-year tenure at the helm of Ontario's Appeal Court. During his 14 year tenure as a trial judge, he says he became "hugely aware" of access to justice issues at a time when they weren't as widely discussed. "He's encouraged the justice system to get creative about the way it uses its processes so we can think harder and better about delivering individual justice to individual people." One of the main barriers for people trying to use the justice system, Winkler says, is that it's just too complicated.

42. Nigam, S. "Access to Justice and Pro Bono: Human Rights...Here & There", Canadian Lawyer, December 13, 2010 Issue

<http://www.commonlaw.uottawa.ca/en/programs/social-justice-news/sonya-nigam-discusses-access-to-justice-and-pro-bono-law-in-icanadian-lawyer/i.html>

"It may be a wiser strategy to keep up the good fight, even though it may be falling on deaf ears at the moment," states Ms. Nigam, "and to invest in pro bono just enough to keep the issue of access to justice alive in order to promote the development of leadership and capitalize on opportunities that may present themselves in the future to provide access to justice for all."

43. "Access to justice 'becoming too expensive,' says judge", The Globe and Mail – Industry News, Law, November 20, 2013

<http://www.theglobeandmail.com/report-on-business/industry-news/the-law/page/access-to-justice-is-becoming-too-expensive-says-judge/article15536480/>

Class-action plaintiffs in Ontario face a risky calculus in deciding whether to bring their lawsuits: If they lose, they have to pay their adversaries' legal bills. Justice Edward Belobaba of the Ontario Superior Court of Justice says that the rule should be reversed, writing in a Nov. 8 decision in a class-action case, *Rosen v. BMO Nesbitt Burns Inc.* Class actions are meant to give broader access to the legal system to people who might not otherwise be able to afford it. By spreading fixed costs among a large group of plaintiffs, they enable lawsuits of public interest. The rules governing class-action costs vary across Canada. British Columbia, for example, does not require an unsuccessful party to pay the other side's legal fees. Quebec does, but the certification process is streamlined and awards are capped. Ontario law provides for a special fund to indemnify plaintiffs against losses, but benefits can vary, and not all suits are eligible. Justice Belobaba once advocated

for the loser-pays rule, when he was a member of an advisory committee to the Ontario Attorney-General, but he said in his Rosen decision that he had been wrong hoping the Law Commission of Ontario, which began a review of class-action procedures last spring, will correct the error. Commission counsel Judy Mungovan said she expects the recommendations process will take three years.

SECTION B: US & OTHER JURISDICTIONS

1. Ball, James “Justice Department paid AT&T for access to 4 billion call records a day for federal, local drug investigations”, September 2, 2013
2. McSorley, Amanda “Is your right to justice being eroded away?” September 3, 2013
3. Ackland, R. “Increase legal aid but lawyers must better their game”, Sydney Morning Herald, September 13, 2013
4. Peltier, L. “Human Rights Defenders and Access to Justice for Indigenous Peoples”, , Defense Offense Committee, September 14, 2013
5. Kuria, W. “Justice sector to set up electronic case management system in Rwanda”, Humanipo, September 13th 2013
6. “Taylor Review recommends radical reform to Scottish civil litigation funding”, Pinsent Masons, September 13, 2013
7. Zorza, R. “Michigan Interpreter Rule May Raise Questions About Middle Income Access to Justice”, Richard Zorza’s Access to Justice Blog, September 14, 2013
8. “British Judiciary’s Self-Represented Litigants Report: Technology-Related Recommendations”, Legal Informatics Blog, July 6, 2013
9. Mahon, E. “People Representing Themselves in York County Civil Cases to get Help”, York Daily Record, July 30, 2013
10. Hill, P. “Teller County Offers a Self-Help Corner at Courthouse”, Pikes Peak Courier, September 9, 2013
11. LawFuel Editors “The Pitfalls of Self Representation”, LawFuel August 13, 2013
12. Lee, J. “Legal DIY as County Court Release Self-Help”, The Age, September 11, 2013
13. Neacsu, D. “Access to Justice - Issues of Comparative Law”, Social Science Research Network, Contemporary Legal Institutions, Vol 2, October 29, 2010
14. Lannom, A. “Group advises on court system accessibility”, Charleston Daily Mail, October 29, 2013
15. Froomkin, D. “U.S. Ranks Low in Access to Justice Compared to Other Wealthy Nations” Huffington Post, November 28 2012“
16. Krajelis, B. “Commission on Access to Justice hosts conference; Crowder discusses pro-bono committee”, The Madison-St. Clair Record October 24, 2013
17. Access to Justice in Australian Courts - Inquiry Launched” TimeBase Online Legislation Research, October 24, 2013
18. Ayodo, H. “Kenya Hosts First Regional Forum on Strengthening Access to Justice for Children, Youth”, The Law Society of Kenya
19. Vanderhoff, M. “Is the law something for do-it-yourselfers?”, USA Today, December 29, 2013
20. Armstrong County Court of Common Pleas, “Armstrong County: Handbook for Self-Represented Litigants” PALAWHELp.org, April 14, 2009
21. Moorhead, R. “How to Improve Access to Justice: the LSC Tech Summit Report 2013”, Lawyer Watch, January 1, 2014
22. Baksj, C. “Civil aid reforms ‘will harm access to justice’”, The Law Society Gazette, December 17, 2013

23. Orwig, T. "Coryell Co. Moves funds to cover self-representation", Killeen Daily Herald, November 26, 2013
24. Mui, S. "Should small firms be the ones to close the access-to-justice gap? | How to be a great local counsel", ABA Journal Law News Now, November 22, 2013
25. Johnson, A. "Arkansas Access to Justice Commission Releases Recommendations for Addressing Pro Se Needs", Arkansas Access to Justice November 19, 2013
26. Moore, D. "Cuts to legal aid deny hundreds of thousands access to justice in the UK", World Socialist Web Site, November 20, 2013
27. "No justice for average income earners because of high legal fees", ABC News, November 19, 2013
28. "First Judicial District offers small-claims legal clinic to self-represented litigants", Colorado Courts News, November 15, 2013
29. Self-Represented Litigants, Ministry of Justice of New Zealand
<http://www.justice.govt.nz/courts/self-represented-litigants>
30. Robins, J. "Pro Bono Making a Splash", New Law Journal, November 14, 2013
31. Maryland Courts, Task Force to Study Implementing a Civil Right to Counsel in Maryland, Maryland Access to Justice Commission, October 1, 2013
32. Columbia Law School Human Rights Clinic, Access to Justice: Ensuring Meaningful Accessing to Counsel in Civil Cases, August 2013

1. Ball, James "Justice Department paid AT&T for access to 4 billion call records a day for federal, local drug investigations", September 2, 2013

The project, known as Hemisphere, gives federal and local officers working on drug cases access to a database of phone metadata populated by more than four billion new call records each day. Unlike the controversial call record accesses obtained by the NSA, the data is stored by AT&T, not the government, but officials can access individual's phone records within an hour of an administrative subpoena. AT&T receives payment from the government in order to sit its employees alongside drug units to aid with access to the data. A key purpose of the Hemisphere database appears to be tracking "burner" phones used by those in the drug trade, and popularized in the long-running drama "The Wire." Slides published in the *Times* reveal details on how Hemisphere traces "dropped" phones and "additional" phones used by law enforcement targets. Separately, the *Washington Post* [published fresh details](#) from the US National Intelligence Budget request for 2013, released by the former contractor Edward Snowden. The document details a multi-million dollar program to prevent "insider threats" from intelligence officers, with plans to launch more than 4,000 investigations into unusual staff activity at the agencies, including downloading large numbers of documents or accessing material, which they would not need in the normal course of their duties.

2. McSorley, Amanda "Is your right to justice being eroded away?" September 3, 2013
<http://thelincolnite.co.uk/2013/09/is-your-right-to-justice-being-eroded-away/>

There are actually four copies of the charter that became the cornerstone of constitutional law in the free world, including the American Constitution, but Lincoln's copy is the one that travels all over the globe reminding people of the long road to establishing their rights and civil liberties. From April 1 this year, legal aid is no longer available for divorce, child contact, welfare, employment, clinical negligence and housing law except in limited circumstances to save £350million from a £2billion legal aid bill. Under these changes Lincoln CAB lost Legal Aid support for two of its largest areas of enquiry, Welfare Benefits and Debt, just as more people needed help and their problems became more complicated.

Under Justice Minister Chris Grayling's consultation, the Government is moving forward with its bid to save a further £220 million with new proposals including: competitive tendering for legal aid contracts which will be cut from 1,600 to 400; 17.5% cut on previous best payment rate for contracts; no legal aid for anyone over a financial threshold of £37,500 per household; residency testing; no legal aid for cases with a less than 50% chance of success and removal of fee payments for Judicial Reviews.

3. Ackland, R. "Increase legal aid but lawyers must better their game", Sydney Morning Herald, September 13, 2013

<http://www.smh.com.au/comment/increase-legal-aid-but-lawyers-must-better-their-game-20130912-2tngn.html#ixzz2iJDKBj9F>

Much of the legal profession depends on government money to survive, topped up with interest on clients' funds held in lawyers' bank accounts - a sort of Robin Hood subsidy for legal services. Whenever "access to justice" is pitched as a reasonable-sounding national concern it's invariably put in terms of more resources - more legal aid, more lawyers, more judges. It is rarely, if ever, put in terms of making useful justice reforms that undo the self-serving agenda of the legal profession.

When he was on the election trail the prospective attorney-general George Brandis went so far as to say, "Legal aid is not properly to be seen as welfare; it should be seen as part of the rule of law". That sort of purple flourish will not prevent him presiding over cuts to legal aid expenditure. That other rule-of-law man John Howard put the butter knife through legal aid in 2006, slicing the Commonwealth expenditure in half. The effect was devastating. Private solicitors abandoned legal aid work in droves; money was diverted from family law; self-represented litigants choked the courts; representation for welfare, domestic violence, migrants and Aboriginal cases was harder to come by.

4. "Human Rights Defenders and Access to Justice for Indigenous Peoples", Leonard Peltier Defense Offense Committee, September 14, 2013

<http://lpdoc.blogspot.ca/2013/09/human-rights-defenders-and-access-to.html>

On September 17th 2013, a conference was held on the Human Rights Defenders and Access to Justice for Indigenous Peoples in Geneva.

5. Kuria, W. “Justice sector to set up electronic case management system in Rwanda”, Humanipo, September 13th 2013

<http://www.humanipo.com/news/32055/justice-sector-to-set-up-electronic-case-management-system-in-rwanda/>

The system is designed to digitized every step of a case, hoping to reduce case duration period and reduce bureaucratic costs in the long-term. Individuals will be able to access their case online and track its progress before attending the court on the day of trial. The project is expected to have 2,500-3,000 users and cost around US\$7 million within the first five years, with the first two years as pilot. The main objective of the JRLS is to strengthen the rule of law and ensure accountable governance and a culture of peace.

6. “Taylor Review recommends radical reform to Scottish civil litigation funding”, Pinsent Masons, September 13, 2013

<http://www.out-law.com/en/articles/2013/september/taylor-review-recommends-radical-reform-to-scottish-civil-litigation-funding/>

The Taylor Review, conducted by former Sheriff Principal of Glasgow and Strathkelvin James Taylor, sets out 85 recommendations for radical and substantial changes to the current system. Sheriff Principal Taylor said that his intention was to remove "obstacles" to access of justice, both in terms of the cost of litigation and recoverability of expenses. One of Taylor's recommendations is allowing solicitors to offer their clients 'no win no fee' agreements, under which their fee would be calculated as a percentages of the damages recovered. These agreements cannot currently be enforced by solicitors but third party claims management companies (CMCs) can enter into them with their clients. The report also recommended the introduction of qualified one-way costs shifting (QOCS) in personal injury cases, meaning that the party bringing a personal injury claim should generally no longer run the risk of having to pay the other side's legal expenses if the court action fails. The report did not recommend the abolition of referral fees, payable by solicitors to insurers, case management companies and others in return for cases being passed to them.

7. Zorza, R. “Michigan Interpreter Rule May Raise Questions About Middle Income Access to Justice”, Richard Zorza’s Access to Justice Blog, September 14, 2013

<http://accesstojustice.net/2013/09/14/michigan-interpreter-rule-may-raise-questions-about-middle-income-access-to-justice/>

As reported by the Detroit Free Press, the US Attorney for Michigan points out that the rule, which requires those over 125% of the poverty line to pay for court interpreters, could pose a significant access barrier. The rule envisions collection of these costs only when: “An assessment of interpreter costs at the conclusion of the litigation would not unreasonably impede the person’s ability to defend or pursue the claims involved in the matter.”

8. “British Judiciary’s Self-Represented Litigants Report: Technology-Related Recommendations”, Legal Informatics Blog, July 6, 2013

<http://legalinformatics.wordpress.com/2013/07/06/british-judiciarys-self-represented-litigants-report-technology-related-recommendations/>

The Judicial Office and MoJ/HMCTS should hold, urgently, discussions to establish the most appropriate way to develop a central online resource to which staff and judiciary could easily refer in order to identify nationally available sources of advice and assistance for litigants in person; further work to be informed by the outcome of those discussions. The Working Group recommends that particular emphasis is placed on the production of audiovisual material, such as online videos. The Group also considers that access to comprehensive and up to date online information will be increasingly important for litigants in person.

9. Mahon, E. “People Representing Themselves in York County Civil Cases to get Help”, York Daily Record, July 30, 2013

http://www.ydr.com/ci_23762215/people-representing-themselves-york-county-civil-cases-get

York County officials are planning to create a self-help center for self-represented litigants in civil court cases. The center will make the court system more efficient. Further, he said that the county would have interactive software to help people prepare their documents.

10. Hill, P. “Teller County Offers a Self-Help Corner at Courthouse”, Pikes Peak Courier, September 9, 2013

http://www.ourcoloradonews.com/tellercounty/news/teller-county-offers-a-self-help-corner-at-courthouse/article_e56b25b0-19a8-11e3-8341-0019bb2963f4.html?mode=story

While the litigant coordinators at the courthouse cannot offer legal advice or recommend a particular lawyer, they can assist self-reps with the paperwork and explain the procedure. The coordinator’s role is essentially to ease the process of paper work and scheduling. For individuals with limited English language skills, this program saves court time in El Paso and Teller counties.

10. LawFuel Editors “The Pitfalls of Self Representation”, LawFuel August 13, 2013 <http://lawfuel.co.nz/releases/806/the-pitfalls-of-self-representation>

Bridgette Toy-Cronin’s PhD focuses on people representing themselves in civil court cases, including those in Family Court, but many of the issues raised are the same. Most SRLs are lay people in the Family Court or Civil Court cases, and the number is thought to be growing as the government scales back Legal Aid and cost issues force people to litigate themselves.

Self-represented litigants in the Family Court will also greatly increase when the Government's controversial Family Court Proceedings Reform Bill becomes law, making self-representation mandatory in the early stages of many Family Court proceedings. She states, "The litigants who go to court without a lawyer are entering a system that was not designed with them in mind." Bridgette's project, for which she is seeking participants who are representing themselves in civil cases in the Family, District or High Court, aims to understand the experience of representing one's self and how the court system can better respond to this.

11. **Lee, J. "Legal DIY as County Court Release Self-Help", *The Age*, September 11, 2013**
<http://www.theage.com.au/victoria/legal-diy-as-county-court-release-selfhelp-youtube-video-20130911-2tkl1.html>

The County Court has released a self-help YouTube video to respond to a surge in people representing themselves in court. The video explains various legal terms, how to lodge claims and outlines the benefits and risks of suing someone without a lawyer. The court hired its first self-represented litigants coordinator, Courtney Ryrie, in January to help people without a lawyer to file court documents and explain court processes. Judge Philip Misso says that registry staff cannot provide people with legal advice or tell them what to say in court, or speak with a judge on their behalf.

12. **"Victorian barristers pitch up for pro bono scheme", *Lawyers Weekly*, October 2, 2013**
<http://www.lawyersweekly.com.au/wig-chamber/news/victorian-barristers-pitch-up-for-pro-bono-scheme>

A new pro bono scheme for unrepresented litigants has been launched. Roughly 86 barristers have signed up to a roster system of Duty Barristers focusing on civil appeals. The scheme follows numerous efforts by the Victorian Bar to persuade political parties to boost legal aid funding, including the launch of a petition with the Law Institute of Victoria (LIV) in August. Fiona McLeod SC, chair of the Victorian Bar and a judge at this year's *Lawyers Weekly* Women in Law Awards, said at the time: "It costs more in the long term – socially, morally and fiscally – when there are court delays, appeals and potential for miscarriages of justice." In addition, a 2012 Civil Justice Council report on self-represented litigants stated that the UK system is "one designed for lawyers" and which was "far too complex and obscure for those representing themselves".

13. **Neacsu, D. "Access to Justice - Issues of Comparative Law", *Social Science Research Network, Contemporary Legal Institutions, Vol 2*, October 29, 2010**
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2346767

Access to justice is the fundamental principle of organization for any democratic legal system, as enshrined in all international documents, so has important significance both for procedural and constitutional law. Every individual's right to make claims against a party according to his own appreciation, thus, implying the State's correlative obligation of

adopting effective remedies through its' competent institutions of justice, means the free access to justice. Any means of restricting free access to justice is a disregard of a fundamental constitutional principle and the universal international standards, in any real democracy.

14. Lannom, A. "Group advises on court system accessibility", Charleston Daily Mail, October 29, 2013

<http://www.dailymail.com/News/201310290092>

A list of recommendations has been released by the West Virginia Access to Justice Commission as to what needs to happen in order to increase accessibility to the court system. The commission was established in January 2009, which outlined the number of problems regarding accessibility and affordability of representation. For people acting as their own attorneys, the commission says there needs to be an online self-help center and a hotline to support it. The commission did not make specific recommendations for assistance for the disabled, senior citizens, workers' compensation and veterans whose needs are not met by the Veteran's Administration. The report also states that more review is needed in these areas, specifically the mentally disabled to create community-based treatment as opposed to institutional treatment and access to guardianship records for advocates. Last, further training should be provided for court personnel to assist people representing themselves along with the disabled, seniors and domestic violence victims.

15. Fromkin, D. "U.S. Ranks Low in Access to Justice Compared to Other Wealthy Nations" Huffington Post, November 28 2012

<http://www.huffingtonpost.com/news/access-to-justice/>

The U.S. is ranked very low relative to its high-income peer nations in terms of access to legal counsel in civil disputes and equal protection under criminal law. The World Justice Project found that in some categories the U.S. ranked lower than some developing nations. One obvious difference between the U.S. and other countries such as Finland that ranked higher is that, legal services are much more widely available, and subsidized, for low-income people. The survey's authors said they still see police discrimination against minorities in many countries. Nations in the Middle East still struggle with fundamental rights -- though there has been significant improvement in Morocco and Tunisia. China continues to rank very poorly on issues including freedom of speech and assembly, government accountability and corruption. The five countries that ranked worse on fundamental rights were Pakistan, China, Uzbekistan, Zimbabwe and Iran.

16. Krajelis, B. "Commission on Access to Justice hosts conference; Crowder discusses pro-bono committee", The Madison-St. Clair Record October 24, 2013

<http://madisonrecord.com/news/260266-commission-on-access-to-justice-hosts-conference-crowder-discusses-pro-bono-committee>

Illinois Supreme Court Chief Justice, Thomas Kilbride said that, “when it comes to providing access to justice to those who can’t afford lawyers, we can always do better.” Justice Kilbride says despite the great work that has been done in this area, there is still an exploding number of unrepresented individuals in courtrooms across the state and a large number of these people do not speak English. This resulted in the creation of the Commission on Access to Justice. A conference held that week brought out 300 attendants, discussing the commission’s recommendations, which were approved by the high court to create standardized forms and language access plans, as well as changes to court rules dealing with pro bono work. The conference also included two panel discussions, one on innovations in state court-based pro bono programs and another on how to build and improve partnerships and strategies for successful pro bono programs.

17. **“Access to Justice in Australian Courts - Inquiry Launched” TimeBase Online Legislation Research, October 24, 2013**
<http://www.timebase.com.au/news/2013/AT741-article.html>

The Australian government Productivity Commission has released a recent paper titled, “Access to Justice Arrangement”, which looked at Australia’s civil dispute resolution system focusing on constraining costs and promoting access to justice and equality before the law, looking at:

- 1) The current costs of accessing justice services and securing legal representation;
- 2) Recommendations on the best way to improve access to the justice system and equity of representation including, but not limited to, the funding of legal assistance services;
- 3) Alternative mechanisms to improve equity and access to justice and achieve lower cost civil dispute resolution, in both metropolitan areas and regional and remote communities, and the costs and benefits of these;
- 4) Reforms in Australian jurisdictions and overseas which have been effective at lowering the costs of accessing justice services, securing legal representation and promoting equality in the justice system; and
- 5) Data collection across the justice system that would enable better measurement and evaluation of cost drivers and the effectiveness of measures to contain these.

18. **Ayodo, H. “Kenya Hosts First Regional Forum on Strengthening Access to Justice for Children, Youth”, The Law Society of Kenya**
<http://www.lsk.or.ke/index.php/component/content/article/1-latest-news/344-kenya-hosts-first-regional-forum-on-strengthening-access-to-justice-for-children-youth->

The Citizens Advice Access to Justice Campaign aims to change the course of the Consultation through lobbying MPs and Ministers. It is asking the Government not to take further action until the Joint Committee on Human Rights has assessed the legality of its proposals. Campaigners feel access to justice for many people has been severely curtailed

by cuts to civil legal aid already in force and will be further compromised by the Transforming Legal Aid consultation that includes restrictions on vulnerable people who need help such as victims of domestic violence. From April 1 this year, legal aid is no longer available for divorce, child contact, welfare, employment, clinical negligence and housing law except in limited circumstances to save £350million from a £2billion legal aid bill. Under these changes Lincoln CAB lost Legal Aid support for two of its largest areas of enquiry, Welfare Benefits and Debt, just as more people needed help and their problems became more complicated.

19. Vanderhoff, M. "Is the law something for do-it-yourselfers?" USA Today, December 29, 2013

<http://www.usatoday.com/story/news/nation/2013/12/29/law-lawyer-court-represent-yourself-legal-attorney/4236195/>

Courts in Jefferson County do not track how many litigants represent themselves, but statistics nationwide show it happens most often in divorce and child-custody cases. In California, for example, two-thirds of petitioners who filed for divorce represented themselves, according to the California Judicial Council Task Force on Self Represented Litigants. Criminal defendants who can't afford a lawyer are provided an attorney by the Jefferson County Public Defender's office. Judge Steven George recommended hiring an attorney if a case involves children, large amounts of money or any disagreements. He especially cautioned against self-representation if a case involves allegations of abuse or neglect of a child. Simple steps in the process such as missing court dates or failing to schedule them in the first place often trip up those who represent themselves. Judges often have to reject motions filed by those who represent themselves on technical grounds because the language or information they provide doesn't meet legal requirements.

20. Armstrong County Court of Common Pleas, "Armstrong County: Handbook for Self-Represented Litigants" PALAWHElp.org, April 14, 2009

<http://www.accourts.com/files/documents/SelfRepHandbook.pdf>

This Handbook gives self-reps tips on how to represent themselves in Armstrong County. It also provides recommendations on not communicating with a judge about your case except in the courtroom; some insight into what the realistic expectations should be; and provides important names, addresses and telephone numbers that may be helpful for self-reps.

21. Moorhead, R. "How to Improve Access to Justice: the LSC Tech Summit Report 2013", Lawyer Watch, January 1, 2014

<http://lawyerwatch.wordpress.com/2014/01/01/how-to-improve-access-to-justice-the-lsc-tech-summit-report-2013/>

As a result of the continuing struggle for access to justice, the US Legal Services Corporation has led an initiative, which seeks to maximize the potential for effective assistance to be

provided through technology. The report draws on a strategy developed from a summit of experts and interested parties, which seeks to develop a coherent set of priorities for tackling the enormous topic, which is the US (but also every nation's) access to justice problems. The following topics are explored in the report:

- 1) Document assembly for self-represented litigants
- 2) Better "triage"—that is, identification of the most appropriate form of service for clients in light of the totality of their circumstances;
- 3) Mobile technologies;
- 4) Remote service delivery;
- 5) Expert systems and checklists; and
- 6) Unbundled services

22. Baksi, C. "Civil aid reforms 'will harm access to justice'", The Law Society Gazette, December 17, 2013

<http://www.lawgazette.co.uk/practice/civil-aid-reforms-will-harm-access-to-justice/5039201.article>

A high profile cross-party committee of peers and MPs has urged the UK to reconsider its civil legal aid reforms, as it would harm access to justice. The report by the Joint Committee on Human Rights recommends 'urgent' action to amend the planned changes to remove prison law and borderline cases from the scope of legal aid and the introduction of a residence test for eligibility. Despite the exemptions made to the proposed residence test, the committee is not satisfied that vulnerable groups will be protected. The committee also recommends that children be exempt from any such test and to expand the exemption to victims of domestic violence. Further, it recommends urgent reforms to the internal prison complaints system including placing the Prisons and Probation Ombudsman on a statutory footing. There is also concerns regarding the removal of legal aid for borderline cases, which often include human rights issues

23. Orwig, T. "Coryell Co. moves funds to cover self-representation", Killeen Daily Herald, November 26, 2013

http://kdhnews.com/news/coryell-co-moves-funds-to-cover-self-representation/article_b8a0bc4c-5658-11e3-9778-0019bb30f31a.html

County Attorney Brandon Belt asked the commissioners to approve a plan by 52nd District Judge Trent Farrell and County Court-at-Law Judge John Lee to provide aid to pro-se litigants. Under the plan, the county would pay a lawyer to work two days a month to help ensure that pro-se litigants have their cases in order before coming to court. The lawyer would meet with the pro-se litigants on the first and third Friday of each month. At a rate of \$525 per day, the plan would cost the county \$12,600, Belt said. The courts receive an average of 20 or 30 pro-se cases per month, mostly involving divorce or child custody, Belt said. Pro-se litigants put a costly and time-consuming burden on judges, court staff and the county clerk because their cases are not properly prepared.

24. Mui, S. "Should small firms be the ones to close the access-to-justice gap? | How to be a great local counsel", ABA Journal Law News Now, November 22, 2013

http://www.abajournal.com/news/article/around_the_blawgosphere_NYCBA_local_counsel_dead_weight_overlawyered/

The New York City bar Association announced some new pilot programs: a New Lawyer Institute, which would offer a yearlong comprehensive CLE curriculum for 2014 law grads, and a law firm incubator that would "enable new lawyers to address the unmet civil legal needs of the middle class while developing their own sustainable professional practices." "Access to justice is a problem for the profession, but it's one that all lawyers share," Carolyn Elefant writes. "For that reason, I think that we need to divorce our conversation about access to justice from the problem of unemployment and starting a law practice. Not only is it unfair to view solo practice as the solution to access to justice, but we also cheat the entire profession by confining solo practice to low-bono work rather than encouraging them to explore new avenues for growth that in the long run might expand more meaningful access to justice."

25. Johnson, A. "Arkansas Access to Justice Commission Releases Recommendations for Addressing Pro Se Needs", Arkansas Access to Justice November 19, 2013

<http://www.arkansasjustice.org/SRLplan>

The Arkansas Access to Justice Commission has released a comprehensive set of recommendations for addressing the legal needs of the growing number of Arkansans who are unable to afford to pay for representation in civil cases that deal with such basic needs as family stability, health care, and economic security. Funded by a 2012 technical assistance grant from the State Justice Institute, the study was completed earlier this year by Greacen Associates, LLC.

26. Moore, D. "Cuts to legal aid deny hundreds of thousands access to justice in the UK", World Socialist Web Site, November 20, 2013

<https://www.wsws.org/en/articles/2013/11/20/lega-n20.html>

In April the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LAPSO) came into force. It seeks to reform the legal aid system in England and Wales with the aim of saving £350 million a year. The LAPSO legislation stipulates that numerous types of cases are no longer eligible for public funding, including welfare benefits, employment law, child contact, divorce, clinical negligence debt and housing law, except in very limited circumstances. The government admits that over 600,000 cases a year will no longer be funded. Furthermore, advice agencies are reporting they are now being limited in the types of advice they can provide, with nowhere else they can refer people to when they cannot help someone. Cuts to legal aid will affect the most disadvantaged and vulnerable, including those with disabilities and children and those living in rural areas. They will mean some law firms/solicitors will not be able to continue in practice.

27. “No justice for average income earners because of high legal fees”, ABC News, November 19, 2013

<http://www.abc.net.au/news/2013-11-19/no-justice-for-average-income-earners-because-of-high-legal-fe/5102114>

People on average incomes often do not qualify for free legal services, but they cannot afford exorbitant legal fees either. Adjunct Professor and former Victorian attorney general, Rob Hulls, says legal services should be easily accessible, not a luxury. A report by RMIT University in Melbourne prepared a report that recommends greater pricing transparency and fixed legal fees.

28. Chief Justice, Michael L. Bender, “ First Judicial District offers small-claims legal clinic to self-represented litigants”, Colorado Courts News, November 15, 2013

http://www.courts.state.co.us/Media/Press_Docs/JD01%20small%20claims%20clinic%20FINAL.pdf

The clinic is part of an effort to help the public better understand and be prepared for a small-claims court proceeding. Magistrate Jamin Alabiso, the small claims court magistrate in Jefferson County, said: “The clinic will promote the court’s mission of providing self-represented litigants with a legal forum that is easily accessible and understood. We are very excited to offer this option to small-claims litigants in the First Judicial District.”

29. Self-Represented Litigants, Ministry of Justice of New Zealand

<http://www.justice.govt.nz/courts/self-represented-litigants>

This website provides information for self-represented litigants regarding the process of taking a claim to court or defending a claim in court. It does not cover all scenarios you may face during the court process. The content of this website is provided for information purposes only and is not legal advice.

30. Robins, J. "Pro Bono Making a Splash", New Law Journal, November 14, 2013

<http://www.newlawjournal.co.uk/nlj/content/pro-bono-making-splash>

Cuts in public funding, legal aid cuts and the closure of three law centres—Birmingham, Streetwise and Leeds—has left the publicly funded sector in dire straits so it should be remembered that pro bono is not a replacement for public funds and can never fill the gap. There seems to be an increasingly uneasy relationship between the volunteer activities of the legal profession and access to justice. The not-for-profit legal sector now struggles to deal with the post-LASPO fallout as a result of the funding slash. The Personal Support Unit (PSU), which provides support for people facing legal proceedings without representation, reports a 40% rise in clients over the last 12 months. The number of people asking for help on family cases rose by a third before the implementation of LASPO. The courts will have to deal with a new generation of litigants in person. Yet there are only

eight PSU offices in England and Wales. For all the talk of the “institutionalizing” of pro bono, it is probably worth remembering that before the introduction of the modern legal aid scheme as part of the welfare state there was the Poor Man’s Lawyer Service. The idea of a levy on law firms to fund access to justice is not new. In 1994, Sir Geoffrey Bindman, as part of a Law Society pro bono working group, tried in vain to persuade his colleagues to support a scheme. A couple of years ago in the JusticeGap publication, Pro bono: Good enough? Bindman again made the case for a Robin Hood tax for lawyers.

Despite all the problems the legal system faces, there is a need for urgency. During the passage of LASPO, the Law Centre Network reckoned 18 Law Centres were in danger of closing—hardly surprising, as across the network, 40% of funding then came from local authorities and 46% from legal aid. So far three have closed...Birmingham, Streetwise and, as of this week, Leeds Law Centre in Harehills and Chapeltown.

Pro bono could not be “a substitute for services withdrawn as a result of legal aid cuts”, argued LawWorks; however it conceded there was “an argument for that message to be nuanced” given that legal aid was for social welfare law “such a small resource”. It would be daft—and a misunderstanding of the nature of what is essentially a volunteer activity—to think it could ever “fill the gap”.

31. Maryland Courts, “Task Force to Study Implementing a Civil Right to Counsel in Maryland”, Maryland Access to Justice Commission, October 1, 2013

<http://mdcourts.gov/mdatjc/taskforcecivilcounsel/index.html>

The Task Force to Study Implementing a Civil Right to Counsel in Maryland was established by the General Assembly of Maryland through the enactment of Senate Bill 262 will study the current resources available to assist in providing counsel to low-income Marylanders compared to the depth of the unmet need; study whether low-income Marylanders should have the right to counsel at public expense in basic human needs cases; study alternatives regarding the currently underserved citizenry of the State and the operation of the court system; study how the right to counsel might be implemented in Maryland; study the costs to provide meaningful access to counsel and the savings to the court system and other public resources; study the possible revenue sources; and provide recommendations in a report by October 1, 2014.

32. Columbia Law School Human Rights Clinic, “Access to Justice: Ensuring Meaningful Accessing to Counsel in Civil Cases”, August 2013

<http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/Access%20to%20Justice%20Shadow%20Report%20-%20Final%20%28small%20size%29.pdf>

United States, millions of people who are poor or low-income are unable to obtain legal representation when facing a crisis such as eviction, foreclosure, domestic violence, workplace discrimination, termination of subsistence income or medical assistance, and

loss of child custody. The result is a crisis in unmet legal needs which, disproportionately harms racial minorities, women and those living in poverty, and which particularly impacts those in immigration proceedings. In ratifying the ICCPR, the United States committed itself to ensuring meaningful access to justice. Recently, the U.N. Special Rapporteur on the Independence of Judges and Lawyers noted that “legal aid is an essential component of a fair and efficient justice system founded on the rule of law... it is also a right in itself and an essential precondition for the exercise and enjoyment of a number of human rights.” The report established that the U.S. must ensure meaningful access to counsel in civil cases, especially where core human needs are at stake and particularly where lack of counsel has a disparate impact on vulnerable communities. Current efforts at both the federal and state level are inadequate to fulfill this commitment. It also notes that the U.S. should file supportive amicus briefs for right-to-counsel litigation, and support and coordinate efforts on the state level to establish a civil right to counsel. Finally, the U.S. should establish a right to counsel in cases implicating basic human needs, including in immigration proceedings.