



Cúirt Uachtarach na hÉireann  
Supreme Court of Ireland

**Report Launch Remarks**

**Delivered by Mr Justice Donal O'Donnell, Chief Justice, at the launch of  
the second Access to Justice Conference Report at the Offices of the  
Legal Aid Board on 12<sup>th</sup> July 2023**

It is a privilege to have the opportunity of launching this report of the conference of the Chief Justice's Working Group on Access to Justice on the timely topic of civil legal aid review, and to have the opportunity of doing so in the offices of the Legal Aid Board on Montague Street.

I would also like to sincerely thank the Minister for coming here today and to be presented formally with that report. Her presence is a very public manifestation of something that the conference and the report exemplify, which is, I think, the high degree of positive constructive engagement by the Dept of Justice with the work of the Group and, in particular, with discussions on reform of the civil legal aid system, which is of course the subject of detailed review by a body chaired by my predecessor, Chief Justice Frank Clarke.

At the very outset, I would like to take the opportunity to remember and honour the work of Attracta O'Regan, who was the Law Society representative on the first Access to Justice Working Group set up by Chief Justice Clarke, and who died only recently. There is, I think, an ever-present danger in members of the judiciary or the professions talking about the question of access to justice, that it can become merely performative. Attracta O'Regan was the opposite in every respect. Her contribution was always constructive, committed, positive, low-key and effective. She will be sorely missed, but I hope her memory stands as an example of the positive engagement there can be between the professions and the work of improving access to justice.

Last year when I launched the first report, I quoted from a famous American writer, John Henry Wigmore, Dean of North-Western Law School in Chicago. In the early 20<sup>th</sup> century, he made the striking observation that the State had been in the business of justice long before it got into the business of education or health. If you think of Greek or Roman society for example, or even Brehon society, each recognised that the provision of a system of civilised dispute resolution was an essential function of any state unit because it helps to avoid discontent, self-help solutions and strife, and instead promotes civic cohesion.

It is instructive to compare the present health budget with the legal aid budget. The health budget is approx. €23.4bn and due to overrun, while the budget for legal aid is approx. €50m.

Lest the Minister becomes alarmed, I am not suggesting that there should be a simple equivalence. Instead, I think it is useful to think back to those times not so long ago before, for example, the Health Act of 1970, and consider what people did if they experienced serious health problems, and before there was a widespread entitlement to healthcare in the community and the infrastructure to provide it. People obviously fell ill and experienced all the conditions which we recognise and experience today, but they did so in a world where medical assistance was available to those who could afford it, either from their own resources or insurance, or were otherwise dependent on voluntary bodies, charities, the goodwill of the medical profession, and sometimes were driven to seek self-help solutions, and could fall victim to charlatans or shamans, or, as must have happened in many cases, simply suffered in silence.

This is an instructive comparison if we consider the picture today where legal aid is only available on restricted grounds, subject to unrealistic means test thresholds, and provided by an under-resourced and over-stretched organisation. People receive assistance from voluntary groups, from some admirable charities, and from the long tradition of goodwill within the professions, but many others are sometimes driven to resort to self-help or fall into the clutches of those outside the legal professions offering deceptively cheap and simple solutions, or simply suffer in silence.

The challenge must be to improve every aspect of the system of provision of legal advice and assistance. The Working Group has recognised from the outset that this is a multi-factorial problem, with no simple or easy solution, and has sought in its conferences to bring together as many participants to explore and share new thoughts and innovative ideas. This year in particular we have concentrated on the key issue of reform of the civil legal aid system in parallel to and in constructive engagement with the Civil Legal Aid Review chaired by former Chief Justice Clarke.

One of the many benefits of the conference in February was bringing together so many interest groups with such positive energy and getting access to international experts from countries including the UK, Australia, and Canada, and indeed exposing the Minister's department to best international practice. I was very struck by the discussion on the position in the UK, and particularly the contribution of Professor Dame Hazel Genn. The contributors from the UK had to face the fact that the post-war welfare state system, in which legal aid was provided through private practitioners, has been seriously reduced and will not be restored in that guise. But one of the points made by Dame Genn was that the provision of legal assistance can be preventative and was like providing a fence at the top of a cliff, rather than simply an ambulance at the bottom. Many problems can be headed off, and the people who suffer significant legal issues are also those who suffer social deprivation and experience many health problems. One development in the UK was making legal assistance available in the same way and in the same place as healthcare is made available in the middle of communities.

In 1977 after the Pringle Report was published, it and the legal aid system that was established in its aftermath tended to be criticised as unambitious and penny-pinching, and it was contrasted unfavourably with the legal aid system available through private lawyers in the UK, and even the system of criminal legal aid in Ireland. But one perhaps unintended benefit of the system devised after Pringle was the establishment of law centres in local communities in largely disadvantaged communities, where lawyers had never previously been seen. That may provide a model that with some vision, energy, commitment, and favourable economic conditions can be built upon. It also illustrates the accuracy, if I may say so, of the observations made at the conference by David Fennelly SC, chair of FLAC, that we should be careful about adopting too readily choices made in other

jurisdictions, and furthermore, that the process of development of the civil legal aid system should not be left to moments like the Pringle Report but should be an ongoing process of change and development.

Much of the discussion surrounding access to justice and legal aid necessarily focuses on problems. But I would like to end this launch on a more positive note. One of the benefits for me of the Chief Justice's Working Group on Access to Justice is the opportunity to meet and learn from so many people of goodwill from the professions, from the voluntary sectors, from charities and in particular, the Legal Aid Board. I recognise the many difficulties faced by the Board in terms of resources, budget and the difficulties faced in recruiting and retaining staff, but I would also like to recognise and celebrate the work done by the solicitors and staff in Legal Aid Centres, and not forgetting those instructed by them at the Bar when cases are required to go to court. I have been struck by the commitment the staff of the Legal Aid Board bring to their work, and I am delighted, for example, to see lawyers from the Legal Aid Board progress and become members of the judiciary. This has and will continue to bring a wider worldview that can only benefit the administration of justice.

If the Law Centres of the Legal Aid Board did not exist, then I think very many people would find themselves in the position of those with serious health problems in the late 19<sup>th</sup> or early to mid-20<sup>th</sup> century, where access to advice was a matter of luck and where many – if not most people – simply suffered in silence. It is a mark of a civilised society that their voices be heard and their problems addressed. The Legal Aid Board at the moment can only deal with a small portion of the demand for legal services, but the work that they do, in sometimes difficult circumstances, is very valuable and also gives us some picture of the scope of the demand which is not being met at the moment. Inevitably, we look to reforms that we hope will improve the delivery of access to justice in Ireland. But it is also appropriate to recognise and appreciate work that is being done on a daily basis by those seeking to improve access to justice and provide access to legal assistance and advice. That is why this is a particularly appropriate place to launch this report and present a copy of it to the Minister.