

■ *The justice debate: facing the future*

Public legal education – unfinished business?

Nony Ardill

One of LAG's recommendations in A Strategy for Justice was that 'education and information on legal rights should be identified as a priority in the context of an increasing concern with the concept of citizenship ... a legal services commission should assume a public legal education function'.¹ This recommendation, part of LAG's 'legal services' approach, reflected a widespread commitment to community legal education – especially on the part of law centres and certain advice agencies. The Legal Services Commission has not assumed an express responsibility for public legal education, despite LAG's vision. However, the Community Legal Service (CLS) has a wider role than just delivering civil legal aid. First stage advice is being brought under the CLS umbrella and CLS information points are expected to help people find out about their rights and responsibilities, even if only by offering a selection of leaflets or by directing them to the 'Just Ask!' website. The CLS partnerships have recently sponsored a range of imaginative projects under the first round of the Partnership Innovation Budget (PIB), some of which promise to have a legal education element. However, overall policy towards public legal education has not been properly addressed, nor has the question of who should carry it out and in what manner. This article considers characteristics of the different approaches to public legal education, broadly, provision of legal information, community legal education and the development of wider 'legal literacy'. It also examines the value of this work in furthering various aspects of the government's policy agenda.

Providing legal information

Information-based approaches could be described as non-interactive in nature, because they, generally, do no more than feed standard material to consumers.

The well-established use of leaflets to convey legal information has been refined over the years. Contemporary leaflets are usually well presented and use clear English; many are produced in minority languages or are made available in Braille and other formats. But the effective use of leaflets requires targeted distribution, essentially, they have to reach the right person at the right time. They also require constant updating to take into account changes in the law. A recent example is the series of leaflets produced by the CLS in conjunction with the Consumers' Association, which cover 23 topics ranging from wills and probate to mental health and asylum claims. They have been made widely available through local advice centres and information points, and are sent out, on request, to anyone contacting a dedicated telephone line. The success of this project has yet to be monitored; like most leaflets pitched at an average level of literacy but produced without any particular target audience in mind, they may well prove to be too 'scattergun' an approach to be an effective use of the resources invested in them. It is also unlikely that they have made much contribution to general awareness of legal rights.

However, written communication is leaving the paper age. The internet is becoming more commonly used as a means of offering legal information. For example, the CLS/Consumers' Association leaflets are available on the Legal Services Commission website. The advice guide website, which is run by the National Association of Citizens Advice Bureaux, gives basic information on a wide range of problems. Other national organisations, such as Age Concern and Shelter, use the internet to offer legal information relevant to their own specialist areas. Internet-based information will be assisted by the AdviceNow project, co-ordinated by the Advice Services Alliance. This project will manage and classify the

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content of websites which provide legal information, giving a single point of access through the CLS website and using a sophisticated word search facility.

The attractions of internet-based solutions are greatly celebrated. Legal information can be easily updated and search facilities can allow material to be found with relative ease. But websites, like paper-based information sources, require a reasonable level of literacy in English and demand intellectual motivation. They are attractive to users who have already identified a need for information on a particular subject, but are too specific to appeal to those with a wider, casual interest in the law. Users also need access to an on-line computer and must have the skills to operate it – but statistics indicate that 81 per cent of households in social groups D and E do not own a computer.² This section of the population is likely to include those who are most vulnerable or socially excluded. Thus, it is important not to over-state the claims for internet-based information if it is offered without support.

A more fundamental problem lies in the difficulty of providing discrete units of written legal information, by whatever means, to an unprepared lay audience. For those lacking any basic legal education, concepts such as 'visa national', 'indirect discrimination' and 'intentional homelessness' may be hard to grasp – however clearly they are explained in the text. For some people, the starting point is very low: they may not even understand the difference between civil and criminal courts. Making leaflets or websites available to consolidate advice and information given face to face can be a more realistic and effective way of using these resources. Information in a leaflet or on the internet may also trigger a host of more specific questions relating to an individual's personal circumstances; moreover, the person may need help in taking a case further by negotiation or litigation. All this underlines the point that one-way information is no substitute for interactive discussion. Indeed, written information often just serves as a prompt to seek advice – except perhaps for a small minority of people who are able to seek self-help solutions to their own legal problems without having step by step guidance from an adviser

Community legal education

The shortcomings of information-only methods have given rise to more interactive, community-based approaches, pioneered mainly within the not-for-profit sector – especially by law centres and certain

independent advice agencies. 'Community legal education', a somewhat imprecise term, encompasses a very wide range of activity. The thrust of the work was, and still is, to make individuals and community groups aware of the law and to give them greater confidence in asserting their rights. Some advice organisations have held successful outreach courses for local people, covering basic legal rights. Others have run one-off training workshops focusing on a discrete area of law, with the aim of meeting the immediate needs of a particular community group. Targeted leaflet campaigns are often used to alert people to an important change in legislation, such as the introduction of the national minimum wage, or they may be used to provide general information on legal entitlements to, say, a tenants' association. Often, they are distributed at community events, perhaps at advice stalls which give people an opportunity to engage in dialogue about the issues. There are also many examples of legal education taking place in the context of collective legal action; for example, working with a particular community to help it challenge a planning application will give its members a far greater understanding of the law and procedures involved. At its best, and typically in an interactive setting, community legal education has helped to inform and empower individuals and communities so that they can make significant improvements to their living conditions or their local environment.

Community legal education, because of the limited resources made available for it, is taking place haphazardly. There is no provision for this work within the casework-based contract regime. In the current funding climate, making out an argument for dedicated resources is hampered by the fact that outcomes from legal education work are usually hard to measure – except by way of anecdotal report. Another potential difficulty arises from the formalisation of all levels of advice work through the introduction of competencies and CLS management standards. These developments may work against the informal evolution of community groups into sources of first stage advice for their own members – and so community legal education directed at these groups might appear to be a misdirected effort. Worse still, in the case of immigration law, giving community representatives some basic knowledge and encouraging them to share it with others would probably be inviting them to commit a criminal offence.³



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Promoting legal literacy

There is an important distinction between providing particular legal information for use by individuals or community groups, and promoting an underlying public awareness of the legal system. Active citizenship requires people to participate fully in decision-making. This, in turn, needs citizens to be equipped with an understanding of their relationship with the state – including the workings of the legal system – and to be aware of their legal rights and duties. Legal literacy may be partly achieved through changes to the school syllabus, the subject of a recent government initiative which is discussed in more detail below. However, there is also scope for legal education by a variety of other means. *A Strategy for Justice* documents a range of initiatives in Victoria, Australia, including legal education videos and booklets and DIY workshops on road traffic, divorce, child support and bankruptcy. LAG also noted the work carried out in Quebec, Canada, where public legal education has been considered a great success and includes a legal information radio programme transmitted throughout the province and television programmes, also available as videos, which dramatise issues about legal rights. Here, it is possible to imagine the national passion for soap operas being harnessed in a similar way.

The arguments in support of developing a wider legal literacy can be drawn from a variety of sources, including – directly or indirectly – from the government’s own agenda. The decision to incorporate the European Convention on Human Rights (‘the convention’) into domestic law through the Human Rights Act (HRA) 1998 has introduced a new legal culture. We now have a bill of rights setting out principles and values against which legislation and public policies must be assessed. There needs to be a wider public awareness of the nature of the rights and responsibilities enshrined by the convention, with ownership of human rights values extending across all branches of government and all sections of the community. One leading commentator has called for ‘a wider and wider group of people to participate in a national conversation about the nature of human rights, who should enforce them and how they should be applied in real-life situations.’⁴ However, dialogue of this nature will be difficult unless it is based on a reasonable level of public understanding; the potential for misrepresenting or overplaying the impact of the HRA was evident from some of the press coverage at the time it came into effect. There is

manifest public confusion between the ‘new’ rights brought home by the HRA and ‘ordinary’ legal rights. Although the government invested considerable resources in promoting awareness of the HRA, there is a perception that this task was left incomplete and that, especially in the absence of a human rights commission, further progress might be difficult to achieve.⁵

A second theme is the government’s commitment to promoting awareness of the rights and duties of citizenship, particularly through the school curriculum. From August 2002, citizenship becomes a compulsory national curriculum subject in secondary schools. It is seen as giving pupils the knowledge, skills and understanding to play an effective role at all levels of society, and teaching will include information about democratic and legal institutions and about the legal and human rights responsibilities underpinning society. Schools will be given a degree of flexibility in the way that they approach the subject, and will be allowed to vary the depth of coverage of different aspects of the programme provided the basic requirements are met.

It is too early to assess the long-term impact of this initiative on overall legal literacy. Clearly, success depends a great deal on the focus which individual schools give to legal issues within a curriculum area for which, after all, no minimum classroom time is imposed and little additional money has been provided. It also depends on the enthusiasm and skill with which the subject is taught, and the use which teachers are able to make of resources provided by organisations such as the Citizenship Foundation. It is to be hoped that schools will at least be able to give children a basic understanding of human rights values and the legal system, as well as information about their specific rights and duties as employees and consumers and, say, as potential tenants and claimants.

However, citizenship awareness also needs to be extended through to adulthood, if people are to develop competence to understand their responsibilities properly and to identify and act on their problems. Public legal education is part of this process – but it is also necessary to make the law itself as transparent and accessible as possible. Codifying the criminal law into an accessible format would make an important contribution and is an idea long overdue for serious consideration. Other aspects of the law – for example, family law – could also benefit from similar treatment.

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**Nony Ardill, Policy Director,
Legal Action Group.**

Previously worked as a solicitor at Islington Law Centre, where she specialised in immigration and employment law and developed a particular interest in legal advice and training for women.



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Government strategy for challenging social exclusion is a third area which would benefit from a commitment to improving public legal education. The National Strategy Action Plan⁶ sets out an approach which focuses on improving health, skills, housing and the physical environment of deprived neighbourhoods and on reducing crime, worklessness and poor public services. However, the strategy makes no direct reference to promoting awareness of legal rights. Although it recognises community empowerment as having an important place and commits itself to ensuring that residents of poor neighbourhood 'have the tools to get involved in whatever way they want', this seems to imply merely encouraging excluded communities to express their views (as opposed to informed legal argument) and persuading them to participate in the local strategic partnerships. The ethos of joined-up, collaborative working does not appear to contemplate the possibility of aggrieved citizens learning how to mount legal challenges against their local authority about, say, unwelcome environmental changes being imposed by neighbourhood renewal projects.

The omission of community legal education from the Social Exclusion Unit's strategy stands in contrast to the work of earlier initiatives to counter deprivation. For example, in the early 1970s, the Home Office launched the Community Development Project (CDP) as 'a neighbourhood based experiment aimed at finding new ways of meeting the needs of people living in areas of high social deprivation'. The dozen or so local CDP teams had a strong educational element, basing their strategies around shop front information centres, work with community groups offering information, advice and legal expertise, and project news-sheets giving out information and data.⁷ The Urban Aid Programme, an urban renewal funding stream which supported many law centres and advice agencies in the 1970s and 1980s, maintained official endorsement of projects with a strong legal education element.

The history of rights-based work in the neighbourhood renewal field has escaped the notice of present day policy makers. However, the Lord Chancellor's Department (LCD), jointly with the Law Centres Federation, has recently published a discussion paper⁸ which argues that legal advice can tackle problems which exacerbate or lead to social exclusion, such as debt, homelessness and mental health. It identifies ideas for collaborative action, including a LCD-led working group to develop ways of measuring the contribution

of the CLS towards reducing social problems. The document does not give express support for community legal education, although it includes an annex which gives examples of one law centre's work. Taken together with the education work potentially generated under the PIB, the discussion paper can, perhaps, be read as a good sign.

Conclusion

Public legal education should be endorsed by the government as a valuable tool in furthering its own policy agenda. Fostering a human rights culture requires a level of public understanding, not only of human rights values but also of the legal system which they now underpin. Active citizenship, in turn, relies on an understanding of legal rights and duties and human rights and responsibilities. In addition, perhaps more controversially, it should be recognised that one of the tools for empowering socially excluded communities is access to rights-based information and education – on a collective as well as individual basis.

The CLS, a potential sponsor of public legal education, has been given no clear brief to organise or support this work. This need is not properly met by untargeted CLS information materials, although these are useful as a springboard for advice. General civil contract holders, including those in the not-for-profit sector, have become so focused on meeting quality standards and contract hours that there is little hope of their carrying out legal education work without dedicated funding. There is, perhaps, an ambivalence on the part of the government to the idea of public education on legal rights, especially if this might take precedence over education on responsibilities; in an era of partnership, does it seem safer to individualise legal information and to ration it on a 'need to know' basis, rather than allow the threat of collective knowledge – and the spectre of community action – to arise from a wider public understanding of the law?

¹ *A Strategy for Justice*, LAG, 1992, p150.

² Internet User Profile Survey, National Opinion Poll, June 2000.

³ Under Immigration and Asylum Act 1999 Part V.

⁴ Francesca Klug, *Values for a Godless Age*, 2000, p179.

⁵ See, for example, John Wadham, October 2001

Legal Action policy series: The justice debate: facing the future, 'The Human Rights Act: One year on'.

⁶ *A new commitment to neighbourhood renewal: national strategy action plan*, Social Exclusion Unit, January 2001.

⁷ The National Community Development Project, *Inter-Project Report*, February 1974.

⁸ *Legal and advice services – a pathway out of social exclusion*, LCD and Law Centres Federation, November 2001.