

## Impact case study (REF3b)

<b>Institution: University College London</b>
<b>Unit of Assessment: 20 – Law</b>
<b>Title of case study: <i>Reshaping policy and practice on citizens' access to justice in the UK and around the world</i></b>
<b>1. Summary of the impact</b> (indicative maximum 100 words)

*Paths to Justice* is a landmark body of survey research that has provided critical data on the public experience of the justice system and transformed understanding of and government policy on the legal needs of citizens. Its impact has been both national and international, and it has led to:

- 22 large-scale replications of the survey in 14 jurisdictions;
- Prioritisation of legal aid spending to meet evidence-based needs;
- Creation of legal aid services adapted to citizens' needs;
- Understanding of the impact of lack of access to justice on health and social well-being;
- Implementation of public legal education (PLE) initiatives;
- Evidence-based public discourse about the value of legal aid in times of austerity.

<b>2. Underpinning research</b> (indicative maximum 500 words)
--

In 1996, at a critical time of civil justice reform (Woolf Report) and proposed changes to legal aid, Professor Hazel Genn, UCL Laws Professor of Socio-Legal Studies, was commissioned to conduct a landmark national survey of public experiences of the justice system. Assertions were being made at the time about citizens' lack of access to justice and the unmet need for legal services, but policy-makers, judges, lawyers and third sector organisations lacked an evidence base for debate or effective policy development. Genn's *Paths to Justice* filled this evidence gap and became the prototype for national legal needs surveys around the world.

Funded by the Nuffield Foundation, Genn carried out the research in England and Wales between 1996 and 1998, and *Paths to Justice* [a] was published in 1999. Adopting a pioneering approach to legal needs research, Genn created the concept of the "justiciable problem" (disputes that might have a legal solution) and asked:

- What are the justiciable problems the public face?
- What do they do about them?
- What happens when they cannot access good advice?

Specific issues examined included:

- incidence and nature of justiciable problems;
- problem resolution strategies;
- advice-seeking behaviour;
- use of lawyers;
- experience of legal procedures;
- objectives in seeking redress;
- outcomes and impact on health and well-being;
- attitudes to the legal system.

The survey involved multiple stages and methods, including:

- Screening survey of face-to-face interviews with a national sample of 4,125 adults;
- Main survey of face-to-face interviews with 1,134 adults;
- Follow-up in depth interviews with 40 respondents experiencing justiciable problems.

Key findings include:

- The experience of justiciable problems is widespread, but the most common problems involve debt, consumer matters, disputes with landlords or neighbours, and employment problems.
- Problems often "cluster" together with identifiable 'trigger' events producing a cascade of further problems. This phenomenon points to a critical need for targeted early advice and intervention.

## Impact case study (REF3b)

- Socially-excluded groups are disproportionately likely to do nothing to resolve their problems, often feeling powerless and unsure about rights and the availability of help. This indicates a need for targeting this group and increasing their legal awareness.
- There is a widespread lack of knowledge about where to get advice about law-related civil problems. Citizens often seek help from inappropriate sources. Free services need to be well ‘signposted’ and conveniently located.
- Unresolved justiciable problems can significantly impact health, family and work. There is value in investing in joined up services to avoid the social cost of lack of access to justice.

Since the publication of *Paths to Justice* in 1999, Genn has presented the research methods and findings to justice policy advisers, judges and third sector advisers in the UK and around the world. She repeated the survey in Scotland between 1997 and 1999, funded by the Nuffield Foundation and run in collaboration with Professor Alan Paterson (Strathclyde University) [b]. In 2001 the Legal Services Commission repeated the *Paths to Justice* survey in England and Wales in collaboration with Genn, with further findings reported by Genn in 2004 [c]. This was followed by four further iterations of the survey, renamed the *Civil and Social Justice Survey* (CSJS), in 2004, 2006, 2010, and 2012.

### 3. References to the research (indicative maximum of six references)

[a] Genn, H. (1999). *Paths to Justice: What People Do And Think About Going To Law*. Oxford: Hart Publishing. Available on request.

[b] Genn, H. G., and Paterson, A. (2001). *Paths to Justice Scotland: What People in Scotland Do and Think About Going to Law*. Oxford: Hart Publishing. Available on request.

[c] Genn, Pleasance, Balmer, Buck and O’Grady. (2004). *Understanding Advice Seeking Behaviour: Further Findings from the LSRC Survey of Justiciable Problems*. Legal Services Commission.  
<http://www.justice.gov.uk/downloads/publications/research-and-analysis/lsrc/2005/advice.pdf>

### Research Grants

**To:** Professor Hazel Genn, UCL (with National Centre for Social Research). **Title:** Access to Justice. **Sponsor:** Nuffield Foundation. **Period:** 1996–1999. **Value:** £160,000. Led to [a].

**To:** Professor Hazel Genn UCL (with National Centre for Social Research). **Title:** Access to Justice Scotland. **Sponsor:** Nuffield Foundation. **Period:** 1997–2001. **Value:** £100,000. Led to [b].

### 4. Details of the impact (indicative maximum 750 words)

The *Paths to Justice* (PTJ) research transformed UK Government thinking and public debate on access to justice and had a conspicuous impact on the design and delivery of legal aid services. The subsequent adoption of the concept of “justiciable problem” and replication of the PTJ survey by governments around the world has extended the reach of its influence to the design of international legal aid policy and provision. Since the publication of *Paths to Justice* in 1999, 14 different jurisdictions have invested in and carried out 22 replications of Genn’s original study.

**Civil and Social Justice Survey (England and Wales):** The original PTJ survey is now funded by the Ministry of Justice (MoJ) and institutionalised as a continuous panel study, the *Civil and Social Justice Survey* (CSJS), which replicates the original PTJ methodology [a]. In the reporting period, the CSJS was run in 2010 and 2012, with the most recent survey results published in 2013 [2]. Continued government investment demonstrates the value of the findings for policy development, even – or perhaps especially – in times of constrained public spending.

**International adoption:** The longevity and reach of Genn’s pioneering research is demonstrated by the worldwide adoption of the PTJ survey approach and use of resulting data to inform legal aid policy and services. Between 2008 and 2013, PTJ style surveys have been commissioned by

### Impact case study (REF3b)

Governments in Australia (2008 and 2012) [3], Canada (2008) [4], Hong Kong (2008) [5], Scotland (2009), Moldova (2011), Netherlands (2009), Taiwan (2011) [6], and Ukraine (2010).

- The report of the most recent Australian survey in 2012 [3] explains that the PTJ method was adopted because *“Genn’s [justiciable problems] approach has a number of advantages over the more traditional narrow approach...it allows more accurate estimates of the incidence of legal problems...provides a more comprehensive assessment of all the different pathways used for the resolution of legal problems, and... provides a firmer basis for understanding both ‘expressed’ and ‘unmet’ legal need”* [3, p. 5].
- The Scottish Government, explaining its intention in 2009 to undertake regular PTJ style surveys (now part of the annual justice survey) said of *Paths to Justice Scotland* [b], *“This seminal piece of work laid the foundations of how we view the prevalence of civil law problems in Scotland and how people behave when faced with these problems”* [11, para. 1.15].

### Influence on policy and practice in the UK and abroad

Fourteen years on from publication, PTJ [a] and Genn’s subsequent survey and research [b, c] have led to identifiable changes during the REF impact period in access to justice policies and practices. The far-reaching national and international impact of PTJ was, in 2013, tracked and documented in a *Paths to Justice Review* commissioned by the Nuffield Foundation [1]. This *Review* provides evidence from policy makers, legal aid and justice ministry officials in England and Wales, Scotland, Northern Ireland, New Zealand, Canada and Australia. It confirms that PTJ style survey results have been *“persuasive and influential”* and have *“transformed understanding of public justice needs, of not-for-profit service provision, and of market service provision”* in the UK and around the world [1, p. vi]. PTJ research has influenced at least three specific policy areas:

**Spending prioritisation:** The identification of problem clustering and ‘trigger’ problems in PTJ and CSJS has directly influenced legal aid policy in the UK and internationally [1, p. 43]. From 2008–11 the Legal Services Commission’s (LSC) strategic prioritisation policy was directly informed by CSJS data. *“We are aware that good, early advice prevents relatively simple civil issues from becoming more serious and we are working towards developing a framework of joined-up services with legal aid providers being free to shape delivery around the needs of particular areas”* [7, p. 9]. In Australia, PTJ surveys have influenced the development of the Attorney-General’s 2009 *Strategic Framework for Access to Justice* [8] and the on-going development of client centred services. Findings have shaped the direction of reform of publicly-funded legal services, specifically: greater targeting of those most in need, outreach to hard-to-help groups, joining-up of legal and non-legal services, and early intervention to prevent problem escalation [8, containing 53 references to PTJ-style surveys].

**Redesigning existing legal aid services:** Responding to PTJ and CSJS identification of problem clustering, a strategic priority of the English Legal Services Commission (LSC) from 2006 to 2010 was establishing Community Legal Advice Centres and Networks (CLACs and CLANs) providing an ‘integrated and seamless’ service that would be a model for delivery of *‘combined social welfare services’* (including debt, housing, welfare benefits, employment) [9, p. 16–18]. By 2010 five had been established (four during 2008–9 in Hull, Leicester, Derby, and Portsmouth) and evaluated as offering significant benefits to the community, *‘specifically the benefits conferred from having a range of advice expertise, under one roof’* [10, p. 182]. In Australia, survey findings have influenced the development of medical-legal partnership pilots and legal aid programmes that link with health and social service providers to provide ‘wrap around services’ [1, p. 55].

**Public legal education (PLE) initiatives:** PTJ results underpinned the development of PLE in the UK and abroad. From 2004–7 Genn headed an MoJ funded PLE Taskforce which led directly to the establishment in 2008 of a Ministerial PLE Strategy Group, Chaired by the Minister (then Lord Hunt) and with Genn as a member. This in turn led in 2010 to the creation of *Law For Life*, a charity that *“equips ordinary people with the knowledge, confidence and skills that they need to deal effectively with everyday law-related issues”* [13]. Launching the charity in 2010 the Justice Minister at the time, Lord Bach, made clear that the findings of PTJ had influenced his decision to support PLE initiatives, saying that the PTJ arguments were *“powerful... when [Genn] wrote them*

## Impact case study (REF3b)

back in 1999 and even more so today...” [13]. PTJ style survey results have also inspired similar PLE projects in Canada [1, p. 56].

**Impact on access to justice discourse in UK and abroad:** *Paths to Justice* and its tradition of surveys produced a fundamental shift in justice policy thinking from a focus on lawyers and courts to a “client focus” where policy is designed to meet the needs of the public. The Chief Research Adviser to the Canadian Federal Justice Department, responsible for conducting the 2008 PTJ style survey in Canada, stated that “*the paradigm shift from a focus on lawyers and courts as the path to justice to the broader range of legal problems and pathways to deal with them is clearly influencing policy thinking*” [14]. In England and Wales, the findings were used for a decade in the 2000s to better target legal aid expenditure and deliver effective services [7]. From 2010–13, when the Coalition government sought to cut legal aid, PTJ research findings were frequently used by opposition politicians and the advice sector as important evidence for preserving legal aid funding. For example, during the House of Lords debate on the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), Lord Hart (special adviser to the Lord Chancellor in 1999) used PTJ to predict the impact of proposed legal aid changes on citizens. He referred specifically to problem-clustering saying: “*The spiral of decline triggered by one event leading to another was all too obvious from the case studies I saw. ... the spiral is well documented. I was particularly impressed by the work of Professor Dame Hazel Genn at UCL in her book, Paths to Justice, and she was a great help to the Department in my day*” [12].

### 5. Sources to corroborate the impact (indicative maximum of 10 references)

- 1) Pleasence, P., Balmer, N. Sandefur, R. (2013) *Paths to Justice: A Past, Present and Future Roadmap*, rigorously peer reviewed report prepared under Nuffield Foundation grant AJU/39100. Pleasence and Balmer were former Legal Services Commission employees; and the stakeholder interviews, analysis and writing up were done by Sandefur, University Illinois, Urbana-Champaign. <http://bit.ly/1fd53GG>
- 2) Balmer, N. (2013) *Summary Findings of Wave 2 of the English and Welsh Civil and Social Justice Panel Survey*, Legal Services Commission. <http://bit.ly/17xKDpw> [PDF]
- 3) Coumeralos, C. et al (2012) *Legal Australia-Wide Survey: Legal Need in Australia*. Sydney: Law and Justice Foundation of New South Wales. <http://bit.ly/1j8W7zz> [PDF]
- 4) Currie, A. (2009) *The Incidence of Problems in Civil Matters in Canada: Three National Surveys in 2004, 2006 and 2008*. Ottawa: Department of Justice. Available on request.
- 5) Asia Consulting Group and Policy 21 (2008) *Consultancy Study on the Demand for and Supply of Legal and Related Services*, Hong Kong: Department of Justice. <http://bit.ly/17XaSGn>
- 6) Chen, K., et al (2012) *The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Taiwanese*. Paper presented at the 2012 Law and Society Annual Conference, 8 July 2012. <http://bit.ly/1j8VHsW> [PDF]
- 7) Legal Services Commission, *Strategic Plan 2008–11: Transforming Legal Aid*. Available on request.
- 8) Australian Government Attorney General’s Department, *A Strategic Framework for Access to Justice in the Federal Civil Justice System*, September 2009 <http://bit.ly/1774RUu> [PDF]
- 9) Fox, C., Moorhead, R., Sefton, M. & Wong, K. (2010), *Community Legal Advice Centres and Networks: A Process Evaluation* <http://bit.ly/189Lg6X> [PDF]
- 10) Buck, A., Smith, M. et al (2010), *Piecing it Together: Exploring One-Stop Shop Legal Service Delivery in Community Legal Advice Centres*, Legal Services Commission. <http://bit.ly/1atKJMM> [PDF]
- 11) Scottish Government, (2010) *The Experience of Civil Law Problems in Scotland*, <http://www.scotland.gov.uk/Publications/2010/11/15095623/2>
- 12) Lord Hart of Chilton, Civil Legal Aid Debate in House of Lords, 19 May 2011 [302pm Col. 1545] <http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/110519-0002.htm>
- 13) *Law for Life* programme (2010). Launch speech by Lord Bach, Parliamentary Under Secretary of State, Ministry of Justice, ‘Public Legal Education: Improving lives, empowering communities’, <http://bit.ly/1aXq659>
- 14) Statement provided by Former Chief Research Adviser and Principal Researcher: Legal Aid and Access to Justice, in the Canadian Federal Department of Justice corroborates the influence of *PTJ* on his national survey and direct impact of results on policy.