

Faculty of humanities
department of law

ENGLISH LEGAL SYSTEM and THEORY

LAW 05-2

ASSIGNMENT NO 1

The strongest criticism of the civil justice system has been it's long delay, complexity and cost. How far, if at all, do the recent reforms to the civil justice system go in eradicating these defects? Discuss.

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The civil justice as a major part of the English legal system is designed to clarify arguments among the citizens of the society. This system has been updated in recent years as a consequence of specific suggestions made by the civil justice review and executed in the Courts and Legal Services Act 1990. The main purpose of this assignment will be to see whether these recent reforms helped to confront its long delay, complexity and cost or not.

To begin with it should be said that in civil legal system, legal aid covers all the work involved in bringing or defending a case, including the representation by the barrister or the solicitor in court.

According to the Legal Aid Act 1988, legal aid is given to claims under £3000, where the merits and means test is satisfied. The individual is eligible to receive legal aid if his disposable income is less than £7975 per year.

According to the same act, law centres and citizens advice bureau are two of the most important alternatives. The first one offers free legal help to the individuals whereas the second provides people with free advice on common problems such as social security and debt problems.

In 1994 the accident line was given out by the law society. This accident line gave accident victims the opportunity to consult a solicitor specialised in personal injury.

However the civil legal system as it was, was considered ineffective in many ways. Thus it needed to be reformed. Towards this direction Lord Chancellor Irvine made many radical proposals for the legal aid system. The most important is the 'no win - no fee' proposal, which suggested that legal aid should be abolished from most cases (involving personal injury, insolvency, application to the European court of human rights and others who claim for money). The proposals of Lord Irvine gave variety of access to justice, as in the past people could not afford to bring cases in the court at their own expenses.

According to these proposals conditional fee agreements can be made and most of the individuals can bring or defend their cases.

Lord Irvine had been anxious with the delay and the cost of the cases. His concerns will be dealt by Lord Wolf's reforms of the civil justice system, whose main aims are to reduce the cost and the delay of the cases. Lord Wolf when designing this system had in mind three specific aims: firstly to ameliorate the existing system, secondly to form an inquisitorial system model and thirdly to alliterate the fundamental law to abrogate the necessity for personal injury claims.

Following this concept Lord Wolf published in 1996 his final report "Access to justice". The civil procedure act 1997 has been passed to enforce his report. The date for the full enforcement of his report was at first set at 1st October 1998. At the time the labour government proposed their own review of the civil justice system and Lord Wolf was asked to express his thoughts. The final review of the civil justice system in 1998 that was formed of this collaboration, was in favour of implementation of Lord Wolf's proposals. The main point of this review was to reduce the cost, the time of the secondary work of the civil proceeding system and to make justice easier for everyone to approach.

Lord Wolf's most important and fundamental suggestions have been expressed in the form of the track system which allocates the cases based on their importance and relative autonomy of the judges when taking further actions. The format of this claim track system is the following:

THE FAST TRACK CLAIMS	Steps taken
cases between £3000-£10000 (except personal injury under £10000)	Timetable set
cases with restricted discovery	Control of the cost (not under £2500)
cases requires expert written evidence	Control of the use of expert witnesses
cases confined for three hours	
cases can disposed of within 20 to30 weeks	

THE ‘MULTI -TRACK’ CLAIMS	Steps taken
cases above £10000	Case management conference
complex cases	pre-trial review
cases raising issues of public importance	Timetable set (can only be changed with the courts permission)
cases requiring expert evidence	Control of the use of expert witnesses

THE SMALL CLAIMS TRACK	Steps taken
cases with maximum £3000 (except personal injuries cases)	pre-trial hearing (judge attempts to conciliate the parties)
The cases are normally disposed within 10 weeks.	the trial is held in private (with one hearing the case will be dealt) .

Moreover in Lord Wolf’s final reform draft rules are set so that the High Court and the county court will function based on the same code.

In the need that the system should be more achievable, more fair and efficient Lord Wolf set up a **Civil justice council**, as the director body , who has to keep under review the civil system. This council is concluded by civil servants , members of the legal profession, particular kinds of litigants and members of the judiciary.

Despite all the reforms made to improve the civil legal system, there are many other changes that have to be taken under consideration, so that the civil justice system will be fair in the way it treats its citizen, will be easy to understand, and responsive to the needs of those who use it. The English legal justice system should be effective and organised.

