

THE HAMLYN LECTURES

2008

to be delivered by

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JUDGING CIVIL JUSTICE

1

What is the civil justice system for?

27 November 2008

Chaired by Baroness Hale of Richmond, DBE, PC, FBA
Cruciform Lecture Theatre 1, University College London
6.00 pm

2

ADR and civil justice: What's justice got to do with it?

2 December 2008

Chaired by Professor Sir Timothy O'Shea BSc PhD FRSE, Principal and
Vice-Chancellor, University of Edinburgh
Playfair Library, University of Edinburgh
6.00 pm

3

Judges and civil justice

4 December 2008

Presiding: Professor Malcolm Grant CBE, Provost and President
University College London
Chair: Sir Anthony Clarke, Master of the Rolls and Head of Civil Justice
in England and Wales
Cruciform Lecture Theatre 1, University College London
6.00 pm

reserve your place online at <http://www.ucl.ac.uk/laws/hamlyn>

SYNOPSIS

In his introduction to the 38th Hamlyn series in 1987, Sir Jack Jacob remarked that the system of civil justice is of “transcendent importance” for citizens of this and every country. He also noted that for most people, English civil justice is “a remote, incomprehensible... and in some ways terrifying area of the law”. The process needed to be de-mystified and justice brought “closer to the common people”. Two decades later, and after Lord Woolf’s civil justice ‘revolution’, it seems that civil justice remains mystifying, expensive and largely avoided by citizens involved in everyday civil disputes. As civil trials vanish, replaced by various types of private settlement and arbitration, the nature of civil justice is transforming and with it, the job and expectations of judges. Is civil justice, in fact, withering away? Although an ambition of the Woolf reforms was to raise the profile of civil justice, criminal justice dominates justice system policy, resources, and judicial deployment. The creation of a Ministry of Justice has only served to entrench the historic dominance of criminal over civil in Government’s justice system thinking. Drawing on real world evidence from Britain and other jurisdictions, the 2008 lectures consider what civil justice delivers in practice, in the context of argument about what and whom civil justice is for.

The first lecture will consider how far the civil justice system is close, or even relevant, to the experience of Sir Jack’s “common people” wrestling with everyday legal problems. Since the publication of *Paths to Justice* in 1999, similar studies have been conducted in Canada, Australia, New Zealand, Japan, and Hong Kong. The lecture will discuss what we have learned comparatively about why people do or don’t go to law; what motivates the choices made; and the significance of the formal civil justice system to the resolution of justiciable disputes.

The second lecture will consider developments in ADR policy and practice in civil justice over the last decade and discuss the intriguing role and influence of the judiciary – in particular in relation to mediation. Drawing on research findings from England and abroad, the lecture will consider why the judiciary and government have been vigorously promoting mediation; what mediation offers as compared with traditional settlement and adjudication; and what it offers in terms of access to justice.

The third lecture will focus on the changed role of the judiciary in civil justice. The Woolf reforms transformed the judicial role, with the judiciary becoming active case managers guided by principles of equality, economy, proportionality, and expedition. Against the backdrop of changing work patterns and diminishing set-piece civil trials, the lecture will reflect on the extent to which judges are administering dispute resolution processes rather than adjudicating in the traditional sense. Drawing on new research with judges and practitioners, the lecture will consider what we want and need from our civil judges, and why having good judges matters.