

Droit - Economie - Sciences Sociales

Session :	Septembre 2017
Année d'étude :	Troisième année de Licence Droit
Discipline :	<i>Anglais juridique</i>
Examen :	Second semestre (UEC2 7396)
Durée :	1h30
Titulaires du cours :	M. Dino MELONI, Mme Emilie PERCHE

Les documents et les appareils électroniques ne sont pas autorisés.

I. Complete the following sentences, adding between 10 and 25 words. Do not start a new sentence. (20 points)

1. Until the Constitutional Reform Act was passed...
2. While the jury...
3. Since the law on double jeopardy was reformed...
4. On top of adultery...
5. Whenever an employer...

II. Choose one of the following topics and write an essay in approximately 250 words (+/- 10%). (50 points)

1. Should the members of the judiciary reflect the diversity of the British population?
2. How effectively are human rights protected in the UK?

III. Read the text. Answer each of the questions in own words (approximately ten lines/100 words for each question). DO NOT QUOTE FROM THE TEXT. (30 points)

Legal aid cuts have led to surge in DIY defence, says charity

Jamie Doward and Tom Dare, *The Guardian*, Saturday 23 April 2016

Miscarriages of justice and long delays in the criminal justice system are becoming more common because a growing number of people are having to represent themselves in court, legal experts have warned.

A new report, *Justice Denied*, suggests that a combination of legal aid cuts, complex bureaucracy and inadequate support and information for defendants have led to a surge in people appearing in court without a lawyer.

In one example given to the charity behind the report, Transform Justice, an unrepresented defendant remained silent during his appearance via video link from a police station. Only after he had been sent to prison did it emerge that he was deaf.

There are no official figures for the number of unrepresented defendants in magistrates' courts – the Ministry of Justice (MoJ) is conducting an inquiry into the situation in the crown court. But the report cites a wealth of evidence, including a survey by the Magistrates Association, official data from the MoJ, freedom of information responses, an online poll of lawyers, surveys of prosecutors, judges and magistrates and fieldwork carried out at courts – as proof that more people are appearing in court without legal representation.

The report states: "Interviewees had witnessed unrepresented defendants not understanding what they were charged with, pleading guilty when they would have been advised not to, and vice versa, messing up the cross-examination of witnesses, and getting tougher sentences because they did not know how to mitigate."

According to the Magistrates Association survey, its members reported that 25% of defendants who came before them in 2014 were unrepresented. Of 143 responses, drawn largely from members of the legal profession, to a Transform Justice poll, 90% felt there had been an increase in unrepresented defendants in the courts over the last two years.

The report quotes one prosecutor as saying: "I could count on the fingers of one hand how many have actually understood the charges. I have had one who was facing a GBH [grievous bodily harm] charge believing he is in court for common assault and being shocked when I had to tell him the serious nature of the charge."

Another observed that the rise in unrepresented defendants was having an effect on sentencing: "On balance, a person who is unrepresented stands a 15% chance of getting a longer sentence or a worse outcome than if he was represented, even by a not very competent advocate."

The report's findings have alarmed senior members of the legal profession. "The efficiency and fairness of our justice system depends on both sides being properly represented," said Mark Fenhalls QC, the chairman of the Criminal Bar Association. "There is increasing evidence from civil and criminal courts that restricting legal aid is counter-productive and has made the court system less efficient and more expensive. An unrepresented defendant in a criminal trial is like having an unqualified person performing surgery. The patient, our justice system, is bound to suffer and in the long run society will spend more money picking up the pieces."

A magistrate interviewed by the Observer, said a lack of training meant many magistrates were unable to deal with unrepresented defendants. "You're left with a rickety cart and the wheels are coming off. If you don't have excellent training for people involved, particularly magistrates, they won't know the questions to ask and they won't be able to make appropriate decisions because they won't have the appropriate information. It really is as simple as that. It is very depressing."

Penelope Gibbs, director of Transform Justice, described the rise in unrepresented defendants as a "travesty", and warned that justice was in danger of being denied to some on modest incomes who did not qualify for legal aid. "People who are denied legal aid are often not wealthy. They get little information to prepare for court and are thrust into an adversarial and complex process which even those who are represented find hard to follow. No wonder they end up pleading guilty when in fact they have a reasonable defence, or getting a longer sentence.

"If we want to create a level playing field between prosecution and defence, we need either to offer everyone access to legal advice or to redesign the system so those without lawyers can more easily make their case." A Ministry of Justice spokesman said the number of people representing themselves in the crown court has remained stable since 2010. "Legal aid is available for both magistrate and crown court cases, subject to them being means tested," he added.

- 1. What is the main observation found in the *Justice Denied* report and what are the suggested causes? (5 points)**
- 2. What are some of the consequences of that phenomenon? (15 points)**
- 3. Comment on the underlined sentence. (10 points)**