

« Barreaux » in the provinces – a safeguard of the rule of law?

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When « avocats » are sworn in to their local Court of Appeal, they are reminded of their role in upholding the rule of law. It is assumed that lawyers provide the public with a service of quality.

How can a quality of service be ensured ? Regulation – penalising unprofessional conduct.

What is the best way to ensure quality of regulation ? **Regional** law societies, bars or « barreaux ». Why ? Because the effectiveness of regulation necessarily decreases when it is carried out by one national professional body. The paying members are a « number » only – not known personally by those who regulate them. And therein lies the rub...

To those outside the profession of « avocats », it may seem like a good thing to get rid of the territorial control of their « Barreaux ». That is what is being proposed about appearing in court (« postulation »). Rather than clients from one region having to instruct local avocats in another region, they can choose to keep the same avocats (like in England and Wales).

But at what cost ?

The proposed « postulation » reform ignores the fact that in England and Wales there are no local bars or law societies responsible for regulation. The 150,000 solicitors have one approved regulator (the *national* Law Society). The sole regulator of the 15,000 barristers is their national « Bar Council ». There are « local » Law Societies, but they are *independent* from the national one. Some of them are even companies. They have no power, regulatory or otherwise, over the solicitors in their region, who are not obliged to be members. Some regions do not have a local law society at all.

If the territorial control is removed from small and medium-sized Barreaux, they are likely to disappear. Bar-less avocats are likely to want to join a national body. Whether or not that happens, the remaining Barreaux will not know their members. Quality will reduce. Governmental investigation will follow – such as the UK report by Sir David Clementi. And a public sector regulator, like the « Legal Services Board » is a probable result [*with all the dangers highlighted in the last blog*].

And what will happen to Legal Aid (« l'aide juridictionnelle ») ? Local French Barreaux provide an invaluable service in ensuring access to justice through the provision of Legal Aid. Not only are there avocats in every region, but there is also legal aid – thanks to the CARPA accounts of the Barreaux.

In the UK, the Law Society used to control legal aid (from its inception in 1950 until 1988). In 1988, Legal Aid was handed over to a government agency – now called the Legal Aid Agency. A study by law firm Hodge Jones & Allen of November 2014 states that out of the 508 legal professionals surveyed, « 83%... agree that 'the justice system is not accessible to all members of the public' ».

This Legal Aid reforms introduced in 2013 (*Legal Aid, Sentencing and Punishment of Offenders Act 2012 or LAPS0*) reduced hourly rates and legal aid cover. The UK's National Audit Office Report of 20 November 2014 states that the Ministry of Justice « *recognised the potential for **increased costs** [my emphasis] in its impact assessment, but did not quantify these costs, which include costs to the Ministry as a result of :*

- *an increase in the number of people representing themselves in court (litigants in person); and*
- *wider costs to government that may arise from individuals not being able to access support to resolve civil legal problems ».*

Lawyers more effectively regulate legal professions and assess if a case merits Legal Aid than non-lawyers. Locally. With adequate penalties for abuse. That is the current position in France. By all means improve it, but don't throw the baby (or babies) out with the bathwater – keep local Barreaux !

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