

Working for Justice During a Pandemic

Amanda Pinto QC – June 2020

As it happens, 2020 is the year that I am not just a trustee of the Slynn Foundation but Chair of the Bar of England and Wales. Pre-Covid-19, in that role, I dashed back and forth between the Bar Council and the Ministry of Justice, the Attorney General's Office, the Houses of Parliament, the Royal Courts of Justice and numerous tube journeys and sprints in between, as well as travelling to meetings with overseas Bar leaders to discuss the interests of justice, access to justice or the rule of law. Outwardly, that life changed completely in mid-March. Lockdown descended and our justice system was transformed. It is good news that not for a moment did the government or the judiciary seriously consider stopping the justice system. Now I go virtually from Hong Kong to Whitehall, to the Lord Chief Justice's office, to Cardiff and the Ministry of Justice all in a morning, whilst sitting in my "office" (aka my daughter's bedroom).

We are still learning the best way to deliver justice, in these socially distanced and uncertain times. Success has at its core, not only the quality of the decision, but the engagement of the protagonists. Scepticism turned to a sense of achievement. Court work that had hitherto always been conducted face to face, however far the parties lived from the court, is now delivered over the phone or by a video platform, sometimes even by email exchanges. Defendants who were transported daily from prison for their hearing, now receive their sentence over a video link in jail. Nonetheless, our adaptations have not always been successful. Family courts (perhaps the most impressive in acclimatising to the new reality) found limitations that lie at the heart of access to justice in Skype, Teams and Zoom however good the bandwidth. They fleetingly tried – and found wanting – the pronouncement of a child's permanent removal from a parent's home, over the phone. It exemplified a problem that had perhaps not been quite understood in the drive to continue dispensing justice: that justice must not just be done and seen to be done, but felt to be done. Some decisions simply don't feel just, because of the way they are delivered.

Two positives and a word of warning: first, I believe our justice successes have all been borne of extraordinary collaboration and teamwork: across the professions, the judiciary, the court staff and the officials in government and other agencies. Seeing the first jury trials start again some two months after they were brought to a halt by Covid-19, was an inspiring accolade to the concerted hard work of all those involved. The determination to ensure a just

trial process for the most serious of criminal cases - with all their particular safety and safeguarding challenges - took weeks of detailed organisation and cooperation. That collegiality has been equally apparent with colleagues in other Bars across the world. We have learned from our fellow lawyers sharing what worked well (or badly) for them in their efforts to deliver justice in these challenging times. I hope this collaborative spirit flourishes domestically and internationally.

Secondly, technology has been transformative in enabling people to obtain justice even whilst socially distancing or even isolating. The speed with which many have become skilled on different tech platforms and in new ways of receiving evidence has been genuinely impressive. Technology will have changed the acceptable way of doing things in the future. There are balances to be struck that are still to be determined and no doubt further recalibrations, because, after all, technology is only the tool by which just results can be delivered, and not an end in itself. Ultimately, justice is about people and sometimes, in very serious life-changing situations, technology is no substitute for presence and personal interaction.

The warning: the rule of law is a fragile thing. It must be constantly nurtured and protected. In ordinary times, balancing the economic and health interests of a nation with personal freedoms is difficult. But some countries have used this pandemic as an excuse to limit individual rights and boost government powers far more than is necessary, fair or even defensible. We must remain vigilant in supporting the rule of law, joining with our colleagues across the globe to ensure that it does not suffer under cover of Covid-19. Inwardly, nothing has changed – it is still all about the interests of justice, access to justice and the rule of law.