



Law Council
OF AUSTRALIA

Access to Justice and COVID-19

**Speech delivered by Pauline Wright, President of the Law Council
of Australia at the LAWASIA Human Rights Webinar**

2 June 2020

COVID-19 has not halted the cogs of justice, the emergence of legal issues nor the need for members of the community to protect and defend their legal and human rights.

It has, however, tested and transformed how justice is administered and accessed in Australia – as in many other jurisdictions.

In addition, COVID-19 responses have led to a surge in legal issues related to domestic violence; employment; hardship applications; insolvency; and tenancy disputes.

Australian courts and tribunals have shifted to holding remote hearings wherever possible, postponed non-urgent matters and sought to accommodate and prioritise urgent matters.

Australia's Family Court and Federal Circuit Court have led the way by announcing a new court list to quickly deal with parenting disputes requiring urgent attention due to COVID-19.

During the pandemic, the Law Council established an Information Sharing Group, comprised of the Attorney-General, federal heads of jurisdiction, myself and the President of the Australian Bar Association, to discuss challenges posed by the pandemic and share procedural and technological solutions.

Certain groups are particularly vulnerable to the health, social and economic impacts of COVID-19. These include Indigenous Australians; persons with a disability; older persons; prisoners; people in immigration detention; asylum seekers; temporary visa holders; and the homeless.

This vulnerability is compounded by existing barriers these groups face in protecting and defending their legal and human rights. They are disproportionately represented in the legal system, have more complex legal needs, and yet are often left behind in policy responses.

Online legal services and dispute resolution, which has been fast-tracked by the COVID-19 pandemic, presents both challenges and opportunities for the delivery of justice to marginalised and vulnerable groups.

In terms of opportunities, it has the potential to transform the ways in which some marginalised groups and people living in rural and remote areas access legal advice and representation, and elevate their ability to protect and defend their rights. Online courts and tribunals can also simplify procedures, eliminate unnecessary and expensive formal correspondence, and reduce litigation costs.

However, this shift also comes with inherent challenges.

First, it may exacerbate the disadvantage and marginalisation of people with limited access to technology, unreliable internet connections, or those who lack the skills to use technology and online services. Older persons, people experiencing homelessness or poverty, and people in remote areas are particularly vulnerable to this 'digital exclusion' – highlighting the need for jurisdictions to continue to facilitate access to telephone and face-to-face legal and justice services where required.

Secondly, we must be careful not to lose the community-wide advantages of the face-to-face delivery of justice. Open justice and a local presence of courts combats mistrust of the justice system, provides a tangible reminder of the law in operation, and fosters local respect for the law. In addition, face-to-face relationships between legal advisors and marginalised communities are often crucial in building trust and respect – both of which contribute to positive justice outcomes.

During the emergency and recovery phase, lawyers and lawyers' associations should continue to draw attention to the impacts of COVID-19 on vulnerable groups, and endeavour to discern best practices or other guiding principles to ensure equitable access to justice in times of emergency.

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