

criminal law. Court delays also have repercussions in criminal proceedings. The National Crime Authority, in its submission to the Committee, said that any steps taken to reduce the time taken to process matters through the courts would benefit the Authority and other law enforcement agencies in terms of their witness protection costs, which can be enormous. Since its inception in July 1984 the National Crime Authority has spent over \$1 million on witness protection and expects to spend over \$1.1 million in 1989 and 1990 alone.

costs, clients and commitment. Underlying all this concern for the costs of justice is a question about the role of the law itself. There is no doubt that the law is essential to preserve, as Bishop Robinson said, 'freedom, truth, justice and human dignity'. And lawyers will always be needed to make the law work for those whose freedom or dignity is at risk. The way the law, and lawyers, are seen by the community has a lot to do with the way they see themselves. As Bishop Robinson said

Is the prestige of a legal practice to be judged by the importance and size of its clients, or by its commitment to do justice for the poor, the dispossessed, the vulnerable and those who suffer injustice?

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consumers' report on legal services

I don't think anyone would dispute that lots and lots of people are denied justice.

Sir David Napley, *Observer*, 31 October 1982

Concern about costs and access to justice is not confined to Australia. The National Consumer Council (NCC) in England recently published a report, *Ordinary Justice*, which examined the provision of legal services in England and Wales from the users' point of view. Although NCC is a semi-government body chaired by Ms Sally Oppenheim-Barnes, a former Conservative

minister, the report has received far less publicity than the documents issued by the Lord Chancellor concerning reform of the legal profession, though in many ways it covers a much wider area and is more significant in terms of improving the delivery of legal services to ordinary consumers.

australian examples. Many of the shortcomings of the English and Welsh legal systems exist in Australia and the NCC's suggestions for reform would not be out of place here. While there are references to the work of the ALRC on grouped proceedings ('class actions') and that of the NSWLRC on the legal profession, there are, curiously, no references to other Australian research such as that carried out by the Henderson Commission of Inquiry into Poverty on Legal needs of the poor or the ALRC's research on debt recovery and insolvency, product liability and the work of various State Law Reform Commissions on civil procedure and accident compensation.

cost. Cost is a major focus of the NCC report. It attempts to measure the operation of the legal system and the delivery of legal services in England and Wales by reference to the following 'yardsticks':

- access
- choice
- information
- price
- redress
- representation

The recommendations accept the need for a certain degree of governmental regulation. While, in general, Ordinary Justice supports the proposals for reform of the legal profession suggested by Lord Chancellor Mackay, it also maintains the need for publicly funded legal aid services, including the development and strengthening of community law centres, and extensive public support for legal aid.

The report looks generally at the legal aid system and the provision of legal services. It is concerned with the range of choice of providers of legal services available to the consumer and the machinery for dealing with complaints about lawyers. It also makes some searching comments, equally relevant in Australia, about the structure and training of the legal profession and shortcomings in the court system. Finally, it examines five specific areas of legal activity where it identifies a number of shortcomings

- accident compensation
- redress for faulty goods and services
- repairs to rented premises
- enforcement of claims for rent or interest
- debt collection.

The conclusions are disturbing. In practice, most individuals forego their rights. Individual consumers start at a disadvantage because they meet the legal system only rarely, have a limited understanding of how it works and limited resources in terms of money, time and energy. Their institutional opponents use the courts frequently, have expert legal departments, and enough time and money to see the case through. The legal system does little to redress the balance. Most people do not even consider going to law. Of those who consider it, many reject it as being too costly or troublesome, and those who persevere have a number of obstacles thrown in their path.

The report makes a number of specific recommendations for improving the legal aid system. It recognises that the government, particularly local government, has a statutory responsibility to provide general advice and that central government should have the responsibility for coordinating and advising local government on this responsibility. Resources should be devoted to publicising the availability of legal aid services. Legal aid should be extended to cover a range of legal services. Consumers should be given a wider choice of services and the legal profession

should be encouraged to make more information available about charges and services provided. Standard fees for particular services should be introduced and legal expenses insurance should be encouraged. Mutual funds to cover the expense of personal injury litigation should be established and the question of availability of contingent fees should be reconsidered. The machinery for complaints against both solicitors and barristers should be extended and improved.

teaching lawyers. The report is extremely critical of both the structure and the training of the legal profession. It regards both the 'academic' and 'professional' stages of legal training in England and Wales as inadequate. In particular it recommends that solicitors should be more thoroughly trained in communication skills and should be aware of the law relating to social security, immigration and housing. The compulsory core of the professional training courses should be changed. Lawyers should be encouraged to use plain English.

the courts themselves. The report is equally critical of the structure of the courts which it considers are inadequately resourced. Specialist courts and tribunals should be discouraged. In some cases where particular classes of parties are rarely represented, sittings should be conducted by the courts on an interventionist, rather than an adversary, basis. The training of judges and court officials and court facilities should be improved.

Although many of the findings and recommendations will have a familiar ring to Australians looking at consumers' problems with the legal system, access to justice and law reform, it is refreshing to find that a thorough consumer oriented investigation of a similar system reaches similar conclusions.