Social security advocacy

Second class lawyers for second class citizens?

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Research at the Brisbane Welfare Rights Centre looks at the effectiveness of social security advocacy. Should the focus at welfare rights centres be case advocacy or class activism?

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Not much research has been done yet on welfare rights centres in Australia. The usual workload profiles are rushed together around funding time and that's about it, as the centres lock into the triple realities of rising poverty, falling compassion and fiscal reductions.[1] The study reported here discusses the results of research conducted at the Brisbane Welfare Rights Centre (BWRC) in 1991. The results were based on information from three separate samples: a first contact sample of 64 clients; a telephone contact sample of 69 clients; and a Social Security Appeals Tribunal (SSAT) sample of 32 clients. While some results from the first two samples are discussed here, they are reported in detail elsewhere.[2] This study focuses more on the results from the SSAT sample. The article falls into two sections. In the first part results of an evaluation of advocacy practices at BWRC are presented. This evaluation was based on a three-cornered methodology whereby disadvantaged people, advocates and members of 32 Social Security Appeals Tribunals (SSATs) were able to assess each other with respect to cases that went from BWRC to the SSAT in the research period. In the second part some historical notes on social security advocacy are detailed. A general critique of welfare rights centres is then offered.

Advocacy before the SSAT: research results

According to a recent survey the BWRC handled more cases at the SSAT than any other welfare rights centre in Australia in 1991.[3]

Four important matters come together to produce an advocated action before the SSAT:

- the appearance of a DSS decision hostile to the BWRC client;
- the intractability of the decision, as tested by clients and/or BWRC representations back to DSS, specifically through unproductive re-contacts with determining officers and unsuccessful submissions to internal review officers;
- the ability/willingness of the BWRC to accept responsibility for an SSAT appeal;
- the faith of clients who feel that the BWRC will do the right thing by them.

The first contact group of BWRC clients (those who made a first approach to BWRC during the research period) were asked how they thought BWRC could help.

	n	%
Advice and information	40	34
SSAT representation	29	24
Speaking to DSS on their behalf	22	18
Helping lodge appeal	8	7
Other	20	17

The number of responses exceeds the number of respondents because multiple answers were permitted. When assistance with appeal lodgement is added to the SSAT representation figures we can see that a third of all service expectations of BWRC were SSAT centred. Another third sought advice and information. The BWRC seems forced to act as a DSS advice centre because many people in dispute with DSS would not trust the quality or totality of official information. The most common response in the relatively high 'other' group was 'don't know [why they contacted BWRC]'. The study was not in a position to follow this up but can offer some hypotheses:

- the 'don't know' figure reflected an ignorance about BWRC's capacity to help and the type of assistance it could offer;
- the figure may also reflect a deep pessimism on the part of clients that theirs is an intractable and desperate situation in which they cannot see a solution and therefore don't know how BWRC can help;
- the figure may also reflect confusion on the part of the caller, which may be a reflection of the complexity of the dispute with which they are faced.

Fair hearing and impartiality

Thirty-two cases went from the BWRC to the SSAT in the research period (16 January — 14 March 1991). The social security advocates[4] spent on average a minimum of six hours and a maximum of 11.9 hours preparing and co-presenting such cases.

All in all advocates who presented at the SSAT were satisfied that they had been given a fair opportunity to put their client's case. Only 10% of the advocates harboured dissatisfaction. When asked what constituted a fair opportunity to put their case, 17 out of the 21 responses here said this meant the SSAT offering the advocate an opportunity to address them. This low level, almost deferential expectation, was so common among the advocates that one wonders whether it is a direct result or a by-product of their training, or whether the SSAT has informally instilled this attitude in the advocates.

When asked to comment on tribunal impartiality 90% of the advocates questioned agreed that they presented before an open-minded tribunal. It is hard to understand the basis of this attitude. No doubt the SSAT sees itself as impartial. Have the advocates simply absorbed the SSAT's view of itself? Or is their attitude based on accumulated case experience that confirms tribunal 'objectivity'? If so, what exactly is the experience? Is it the observation of the advocates as they note how each tribunal manages the DSS-client dispute in terms of words spoken and acts done? Unfortunately, our methodology was not sophisticated enough to focus on these questions. Therefore, it would be reckless to accept that 90% of the sample were in fact perceiving SSAT impartiality.

Advocacy training

The great majority of advocates were happy with the formal preparation for SSAT advocacy that they received from BWRC. Sixty-one assessments were done by SSAT members on advocate performance. This total was made up of: 17 assessments from welfare members, 7 assessments from medical members, 19 assessments from full-time members and 18 assessments from legal members. Of these, 48 said that the advocates were adequately trained. A typical example of SSAT approval was Case B:

> Full time member: 'Advocate understood implications of s.43A'.
>
> Welfare member: 'Advocate understood major issues'.
>
> Legal member: 'The case was well presented'.

A typical example of SSAT dissatisfaction was Case P:

> Welfare member: 'Advocate not very knowledgeable of the law'.
>
> Full time member: 'Submission indicates advocate not completely familiar with the law'.
>
> Legal member: 'Advocate did not have a knowledge of the law'.
>
> Medical member: 'Legal arguments and written submissions muddled, suggested inadequate understanding of the law'.

There were no significant differences in the appraisal of advocates by SSAT members according to the professional background of the SSAT member. When we exclude the lawyer advocate from the response set, we find that when SSAT members assessed advocates with respect to adequate training, they comprehended this according to:

- adequately prepared submissions;
- a grasp of the relevant law;
- an understanding of the critical issues;
- a well documented summary.

All SSAT members who participated in the study said yes to the question about whether improvements can be made to the BWRC advocacy service. When asked to elaborate, the following matters were mentioned:

- more training and more funding;
- appoint more solicitors (three responses);
- better presentation of written material and improved ability of advocate to use information at hearing;
- advocates need to relate more to the law;
- advocates need to refrain from being clever barristers;
- BWRC should stress functions of SSAT more;
- advocates vary in their efficiency and effectiveness, more training needed for some;
- advocates should present cases in appropriate ways;
- advocates should consider clearer written submissions.

The tenor of these remarks on one level is an appeal to legal imperialism. The legal culture is the ruler brought out to measure advocacy. Improvements in advocacy are seen as movements up the legal culture ruler. Parker in her recent study at BWRC has come to the same conclusion:

> 'Advocacy' before tribunals appears to be a paralegal task where the advocates are acting like lawyers, but not with the legitimacy or mandate to advise like lawyers. Although these jobs are taken on with the desire to give the voiceless a voice in tribunals where they had not previously been able to be represented or helped, a largely legal-professional model has been used.[5]

Parker goes on to describe the tension that emanates from the SSAT on the issue of 'correct' forms of advocacy:

> The Welfare Rights Centre has been struggling with the SSAT because some of the . . . tribunal, who are lawyers, do not think the advocates are doing a good enough job. The [tribunal lawyers] are angry that advocates are being trained by a social worker, and that a social worker and lay advocates are doing most of the advocacy . . . Training advocates for administrative tribunals in the values and practices of lawyers, reflects the colonisation of administrative appeals and boards by the legal profession.[6]

Parker cites O'Connor and Sweetapple's work on the children's courts to support her point. These authors found legal encroachment in that jurisdiction too.[7]

Advocacy impact

The study was interested in what (if any) impact was made by the advocates on SSAT decision making. The study operated on three classifications of impact: nil, positive and negative. Seventy-nine per cent of SSAT member responses recorded a positive impact. These responses were evenly distributed across the SSAT membership. This trans-professional consensus, recorded now for the second time, suggests a strong tribunal culture.

When the SSAT membership judged advocacy as having a positive impact on their decision, they had the following attributes in mind:

- clear explanation of the issues;
- pertinent arguments;
- carefully documented submission;
- good written summary;
- reference to relevant AAT case law;
- advocate presented extra information not provided by client;
- provision of up-to-date medical reports.

The assessment of Case O was typical here:

> Legal member: 'Advocate clearly explained issues'.
>
> Full time member: 'Good points raised in written submission'.
>
> Welfare member: 'Well presented submission, pertinent arguments'.

While on the issue of positive impact it can be mentioned that of the 32 advocate-assisted cases that went to the SSAT in the research period:

- 18 were successful;
- 9 were unsuccessful;
- 2 were partially successful;
- 1 was conceded by DSS after an SSAT decision unfavourable to the client;
- 1 client opted for self-representation prior to the hearing (no information on result).

This gives a relatively high success rate of 56%. During the research period the success rate for unrepresented applicants was 40%. The 56% success rate for advocate-assisted matters compares well with the general success rate of 25% for applicants at the SSAT in 1989/90.

Twenty-one per cent of SSAT responses recorded a nil impact. Again these responses were evenly distributed across the SSAT membership. When SSAT members judged a representation as creating a nil impact, they usually had the following matters in mind:

- advocate made no comments;
- unspecific submission;
- self-explanatory case.

Case V is typical here:

> Legal member: 'Case self-explanatory, applicant really had no case'.
>
> Welfare member: 'Case self-explanatory'.
>
> Full time member: 'Case self-explanatory'.

The M Case is another example of assessed nil impact, but from a different point. The advocate in this matter took 2-5 hours to prepare the case. The advocate reported a preparation problem in the unavailability of FoI material and was critical of having to go to a hearing without this information. The advocate in this case also was one of three in the advocate sample who believed that they did not get a fair opportunity to put their client's case. The advocate's specific criticism was aimed at the presiding member who was said to have immediately started to question the client, and closed the case with no opportunity for the advocate to say or do anything. No negative impact responses were recorded.

Professional influences on advocacy assessment

SSAT members were asked to locate advocates who appeared before them on seven 5-point scales: knowledge of law, politeness, assistance to SSAT, assistance to clients, support to clients, articulateness, and preparedness. In broad terms advocates secured the top scores for politeness (70% received a 5 rating) and the lowest score for knowledge of law (11% received a 1 rating). These extremes should not mask a good all round score for the advocates. We were interested in whether the professional designation of the SSAT member influenced advocate assessment and also whether there was agreement between the members as to what constituted effective advocacy.

Table 1, based on reconstituted data, shows that welfare members were the hardest to please when evaluating advocates. The most favourable assessments came from the full time members. Rating 1 represents the lowest scores given on the above seven scales and rating 5 represents the highest scores.

While 354 evaluations were collected, it is wise to remember that they were generated by only 11 SSAT members. This is simply not enough data from which to draw conclusions about the play of professional background. Be that as it may, some enticing questions seek our attention:

- Do SSAT members look on advocacy in ways moulded by their professional background and subsequent professional experience?
- Is there a tribunal culture (or perhaps an administrative law culture) alive which structures the criteria for good and bad advocacy?
- If so, does this tribunal culture rule professional culture through interaction or subtle domination?

Implied in the last question is the notion of private disagreements between SSAT members as to what constitute good and bad advocacy. For example, in Case G the advocate was given the lowest possible scores by the welfare member for knowledge of law, articulateness and preparedness. Yet the full time member gave the same advocate on the same case the highest possible score on these three matters. Who is right? More importantly, what difficulties are added to the advocate's task when there is not shared meaning as to what constitutes the criteria for good advocacy? Within the terms of this study it can be reported that extreme disagreements as occurred in Case G were rare. This leads back to the previous point — what are the determinants of tribunal socialisation?

Client satisfaction with BWRC advocacy at SSAT

All clients who sought BWRC assistance at the SSAT reported that they were happy with the advocacy service.[8] All responses were without exception complimentary. A cross-section of these is provided below:

> '[BWRC] know exactly what they are doing, only go so far by yourself, what they did was the best anybody could do.'
>
> 'She [advocate] gave us help we needed, she knew what she was doing, average person couldn't pay for the help she provided.'
>
> 'Being your mouthpiece at hearing gives you a lot of confidence, couldn't have done it by myself.'
>
> 'So friendly, knew about things I didn't know about, didn't feel like a number, no matter what happens they have done their best.'

Client evaluation of the SSAT

BWRC clients were asked to rate the SSAT on four 5-point scales to do with sympathy, formality, simplicity and knowledge of their case. Most of the scores congregated on the positive ends of these scales. Sixteen clients responded to the question whether they thought the SSAT could be improved. Examples of these are reproduced here:

> 'SSAT could give decision straight away.'
>
> 'SSAT did not seem to know about the case, SSAT should read file before hearing, all they did was to ask questions about things on file.'

Advocacy assessments x SSAT designation

	Ratings					
Designation	1	2	3	4	5	Total Responses
	Percentages					
Welfare members	6	11	21	30	33	107
Legal members	2	6	15	29	48	98
Medical members	0	4	13	32	51	47
Full time members	0		19	17	64	102
	Total					354

'Not judging people until they get facts straight — doctor accused me of changing story.'

'Shame they are not in rural localities.'

The research confirms a good all-round result for BWRC, and the SSAT for that matter. The results acknowledge dedication and commitment in both organisations. Clients in the study were happy with the advocacy service offered, the SSAT on the whole were satisfied, and there is evidence that the service does have a positive impact in social security disputation. From within a service framework the evaluation looks good. When we consider the history of social security advocacy and raise the issue of structural change suddenly the applause dies down.

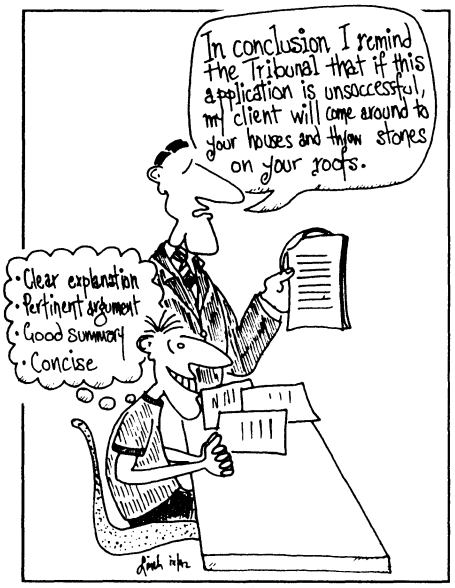
Social security advocacy: the legacy and the critique

Social security advocacy does not have a simple legal history. No doubt its tradition has been beneficially caught up in the extension of the rule of law into the 20th century developments of welfare states in the west. The history of social security advocacy can be depicted as a history of the rejection of charity as a privilege, to the acceptance of social security as a right.[9] It is important not to be dewy eyed about these developments. There was no explosion of welfare rights as is commonly understood. Rather the state made an early and enforceable entry into the social security field, an event it has been consolidating since 1908, when the inaugural *Old Aged and Invalid Pensions Act* was passed. Matched against the organised state were successive generations of disorganised poor. The welfare 'rights' they had then and now are highly conditional legal claims which are constantly vulnerable to harsher modifications and even repeal. We have no right to be proud of our welfare state, then or now. This is an emergency period for social security advocacy because it is an emergency period for the poor. The times are noted for their toughness, the politicisation of market economics, the abduction of welfare from the stage of public concern and debate, and the nightmarish incongruence between shrinking state welfare resources and rising poverty.

That being said, the near history of social security advocacy starts in the settlement houses of 19th century England.[10] Something important was found in that era that is now almost lost to us. I speak of, for want of a better phrase, social security activism. Canon Samuel Barnett, the founder of Toynbee Hall, one of the best known agencies in the settlement movement, shared with his reformist contemporaries a firm belief that pauperism was *the* problem of the day.[11] Leat comments on Barnett's view:

> Where he differed from his contemporaries was in the emphasis he placed upon structural factors [in the etiology of pauperism].[12]

Barnett believed that the elimination of poverty could only be attained through a radical revision of the structure of society. In the context of empowerment for justice, he once said that what the poor needed was not '. . . the crumbs which fell from the table but a seat at the board'.[13]



Many programs were developed within Toynbee Hall. Three of interest were a legal advice centre (1902), a poor man's lawyer service (1898) and a Tenant's Protection Committee (1901) concerned with the extortionate rents charged in the East End. The legal advice centre functioned by contracting out eligible legal cases to lawyers associated with Toynbee Hall. The main thrust of the legal work appeared to be worker's compensation[14] — hardly a surprise given the unregulated Social Darwinian character of capitalism at the turn of the century. Leat makes the point that the compensation focus within Toynbee Hall's legal service '. . . would seem to be in line with the Settlement's theoretical analysis of the significance of *institutional* and *structural*, as opposed to individual injustice and inequality'[15] (my emphasis). This analysis, whereby structural causation replaces individual responsibility in the understanding of poverty, is far more accepted now than it was back in Canon Barnett's day.

The big problem for us as a community, in general, and for welfare rights centres, in particular, is how to translate structural analysis to structural practice, i.e. social action that attacks the sources not just the suffering of poverty. Advocates in welfare rights centres usually don't attempt the translation. They often embrace the legal culture's obsession with cases. As such they function more like paralegals.[16] In so doing they embrace willingly or by force of circumstance the legal culture's[17] narrow construction of the world in much the same way paramedics work within the ideological impositions of the medical model.[18] Truly effective social security advocates will be those skilled in social security law, case advocacy, departmental procedure, and human relationships. But more than this, as I see paralegals also demonstrating competence in these areas. The 'more' is the embracement of activist technologies that provide for movement from *case* advocacy to *class* advocacy and further on to social action. The social security advocate ought not to be a satellite orbiting the legal culture, but someone with an activist commitment *vis a vis* poverty, with their own work orientations and their own history.

Welfare rights centres are then, on the whole, centres of individual relief, not centres of social activism. No people's movements start there, no broad-based critiques of social provision emanate from their precincts, and no real trouble is caused to the established rules and rituals of social security. Advocacy replaces action, negotiation undermines confrontation.

To be true to a structural analysis, no blame can be placed. The movement from single issue activism (correcting a Department of Social Security (DSS) decision) to class activism (collaborative projects between staff and the poor and disadvantaged at welfare rights centres to challenge if not overturn the structural antecedents of poverty) is so caught up by central values that sustain a 13% culture of poverty that advancement to class activism is very difficult.

In summary, to date, the proposition I have put relies on treating welfare rights centres as part of an advocacy and activist history that I have crystalised in the settlement house movement in the United Kingdom in the middle to late 19th century. The recent history is one of heavy encroachment by the legal culture in the guise of the community legal centre movement (which includes for present purposes BWRC).[19] With rare

exceptions this history has been bereft of social action and there has been very little mobilisation by and for the poor. Rather, the history is full of 'cases', single issue activism in other words. Commenting on this development in England Moore has said:

> . . . mainstream developments in lay advocacy lie heavily under the influence of the legal reform lobby . . . Unfortunately their [lay advocates'] activities have left the 'culture of experts' undisturbed. Their approach has been simply to provide greater access to the law for poor and underprivileged people and their success will be measured by the cases they win.[20]

Through her recent Queensland study Parker has been able to echo Moore's sentiments:

> . . . there is no major transformation in the way legal services are provided to the disadvantaged . . . lawyers working with disadvantaged are re-emphasising the old service ideology of professionalism, they are also using the model of professional dominance that goes with it.[21] [emphasis in original]

Welfare rights centres are not mandated by the poor. Staff are in control. Staff assess client problems. Staff devise legal and procedural strategies and staff advocate with determining officers, internal reviewers, the SSAT, and ultimately the Administrative Appeals Tribunal. In welfare rights centres people are encouraged to see their problems as ones of lifestyle, or as highly specific personal conflicts with DSS and therefore ultimately as a legal problem. Once the problem is framed as a legal one, a legal solution and dependency on legally trained or acculturated staff is a short step. The difficulty is that by reducing social conflicts to personal disputes (similar to what happens in community mediation) we select the wrong target for change. Instead of remaining angry at sources of oppression external to themselves, the poor and disadvantaged in alliance with staff, continue to construct the 'problem' in individualist terms and both become reliant on legal and procedural solutionism.

Conclusion

Despite the gratifying results of the evaluation of BWRC, the program is too ideologically restricted for an effective attack on poverty and disadvantage. This point is applicable across the DSS-BWRC-SSAT system, which I see as a fairly tight, interdependent ideological arrangement. So it is unrealistic to expect only part-system change. Having said that, the focus of this paper remains BWRC. The narrow legal culture in which it (reluctantly) operates produces an agency ethos characterised by dutiful, if not acquiescent, conduct to social security law, procedures and officials. I am not suggesting that this is done in a way that consciously betrays the welfare of its clients. The above results confirm high user satisfaction.

What I am saying is that BWRC is a central player in a disputation process that is partly of its own making. By that I mean that from time to time BWRC is successful in achieving procedural or attitudinal modifications in the appeal process. This being the case, BWRC gets caught up in product endorsement, the product being itself, the social security appeals process from the internal review at DSS to the AAT, and the 'eclecticised' legal culture in which it operates. BWRC cannot move easily out of its quasi-legal service ideology (case advocacy) to a social action model. It is caught in a steel web of government expectation and individualised client demands. But move out it must if it is to fight poverty and disadvantage on the broad front that is required.

As BWRC is part of the community legal centre network in Australia, perhaps we are permitted to generalise this point to other welfare rights centres. Should they be centres of case advocacy or centres of class activism? No doubt some people in the network would say that their centres do both. They would point to the fact that over and above advocacy their centres have been involved in things like anti-poverty rallies, anti-cutback protests, political lobbying, submission writing and media campaigning. One must ask about the effectiveness of these strategies in poverty reduction. At the same time one can note that these strategies are all terribly respectable and middle class, and usually conducted for, not with, the poor. Poverty is not respectable, nor is it middle class. The legal culture (softened and hybridised but ever-present within the welfare rights centre movement) as ideological orthodoxy throughout the social security appeal process, limits activist options more than the lack of resources ever can.

If the movement is to realise its vast potential as a force of social activism to be reckoned with, welfare rights centres must go through a painful ideological refitting. The limitations of the legal culture must be clearly understood. Reorganisation as a poor people's movement will offer expanded strategic scope, greater relevance to the constituencies of the poor and increased opportunities to respond to the evils of poverty and disadvantage in more creative and radical ways. Perhaps when that is done social security advocacy will rediscover its activist history.

References

1. A situation common to other countries too. For United Kingdom see Harris, N., 'Judging the Quality of Welfare Benefits Work by Firms of Solicitors', (1991) 10 *Civil Justice Quarterly*, October, 311.
2. Other parts of this study have been reported in de Maria, W., 'Poor Australians Speak: the Consumer Perspective in Social Security', and de Maria, W., 'From the Other Side of the Counter: the Consumer Perspective on DSS Contact Services', Department of Social Work and Social Policy, The University of Queensland, unpub. mss, 1992.
3. Casework and Training Details: Welfare Rights Centres — Australia 1991. Submission to Hon. Dr Neal Blewett, Minister for Social Security, *The Need for the Commonwealth to Fund Welfare Rights Advice and Advocacy Services in Each State of Australia*, 24 April 1992.
4. The term social security advocate is preferred to the term lay advocate. 'Lay' has the same meaning as 'para'. Both, as Terry clearly puts it, are disagreeable ' . . . because [they] denote centrally the lawyer and represent everybody else [including the poor] as circumstantial'. Terry, J., 'Legal Workers and Their Functions: What's in a Name?', (1983) 8 *Legal Service Bulletin* August, 181. I owe the title of my paper to a phrase that appears in Mr Terry's paper at p.183.
5. Parker, C., *Where No Lawyer Has Gone Before: Professionalism and Legal Service Delivery to the Disadvantaged*, BA (Hons) Thesis, University of Queensland, June 1991, p.84.
6. Parker, above, p.86.
7. Parker, above, p.87; see O'Connor, I. and Sweetapple, P., *Children in Justice*, Longman Cheshire, Melbourne, 1988.
8. This accords with a recent English study of client satisfaction with a social security advice and advocacy service. See Harris, N., above, ref.1, pp.322-3.
9. Moore, P., 'The Litigant's Friend', (1974) 124 *New Law Journal*, 868.
10. Leat, D., 'The Rise and Role of the Poor Man's Lawyer', (1974/75) 2 *British Journal of Law and Society*, 166-181.
11. Leat, above, p.169.
12. Leat, above.
13. Leat, above, pp.170-1.
14. Leat, above, pp.174-5.
15. Leat, above, p.175.
16. For examination of paralegal practice see: Goldring, J., 'Can Paralegals Improve Access to Justice?', (1990) *Criminology Australia* July/August, 11. See also Goldring, J., 'Professions and Paraprofessionals', in Vernon, J. and Regan, F. (eds), *Improving*

References continued on p. 273

power imbalance, disengagement and harm of some sort, mediation is not appropriate in *any* family law matters.

Mediation is suitable for one-off problems which can be operationalised, segmented and resolved according to the compromises and needs of the parties involved. The disputes where mediation is appropriate and desirable as a viable form of alternative dispute resolution are disputes such as problems with neighbours ('you play loud music late at night!'); 'you flush the toilet always during my meal times and my dining room adjoins your toilet'; 'your dog always poos on my front lawn!'); commercial disputes and business transactions, motor vehicle accidents and small claims type agreements.

By way of conclusion, let me anticipate and respond to some possible criticisms of my comments.

1. I do adopt a very broad all-inclusive view of violence in the literal sense of violation by one party of another party's rights, power, self-esteem, confidence and development. It covers the full gamut of physical, emotional, verbal and sexual harm.

2. Adopting such a definition, I view all relationships as being violent, the degree, extent, meaning, intention and impact of such violence obviously differing.

3. Most agree that mediation is inappropriate in cases of family violence. Given my broad definition of violence, mediation is therefore inappropriate in all family law disputes.

4. My absolute prohibition on mediation denies parties — particularly women — the choice and the option of participating in the mediation process. Some women may feel strong, articulate and emotionally powerful enough to participate in mediation and not be threatened by the other side. I acknowledge these as a small minority of women, but I do not trust the processes by which these women are identified by others nor identified by themselves. Self-assessment is as fraught with danger as assessment by service providers.

5. I discount mediation as an alternative form of dispute resolution in family law disputes but in doing so I do not adopt litigation as the only acceptable process. Mediation does not change the legal system. It works because of the legal system. It is really legal 'medication' where the letter 'c' representing courts and the adversarial system has been removed. It changes nothing. I have reservations about the adversarial process and our legal system and I suggest that we have to be creative and explore other options.

References

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2. Public Policy Research Centre, *Domestic Violence Attitude Survey* (1988) Office of the Status of Women, Canberra.
3. Public Policy Research Centre, above.
4. This is a disturbing trend of many schemes in the U.S.A. See Astor, H., 'Domestic Violence and Mediation', (1990) 1 *Australian Dispute Resolution Journal* 143 at 144-145.
5. Ellis, D., 'Marital Conflict Mediation and Post Separation Wife Abuse' (1990) 8 *Law and Inequality* 317 at 328.

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16. *Green v Daniels* (1977) 51 ALR 463.
17. Hanks, P., School Leavers, Government Policy, and the High Court, (1977) 2(7) *Legal Service Bulletin* 251-254.
18. Note *Social Security (Amendment) Act* 1992 (which came in to effect on 2 November, 1992) prevents such school leavers from receiving benefits until the resumption of the following school year.
19. Phone interview with Graham Hemsley, 8 October 1992.
20. See for example, *AMP Society v Goulden* (1986) EOC 92-164, and *Dao v Australian Postal Commission* (1987) EOC 92-193.
21. See Hunter, R., 'Women v AIS', (1990) 15(1) *Legal Service Bulletin* 40.
22 See 'Inquests: Flemington and Kensington Community Voice', Nos 1 to 10.
23. Pearson, J., 'Kids Emergency Phone Service', (1983) 8(1) *Legal Service Bulletin* 42.
24. See Fitzroy Legal Service, 'They said we'd get lawyers, not you guys', May, 1986.
25. See Faine, J., 'Land Speed Record for Law Reform', (1985) 10(6) *Legal Service Bulletin* 295.
26. Bailey, S. and others, *Urgent Repairs Needed*, Federation of Community Legal Centres (Victoria), October, 1988.
27. See ref. 17, p.251, footnote 1.
28. See ref. 3, p.255.
29. Hanks, P., 'Welfare Rights', (1977) 2(6) *Legal Service Bulletin* 219.
30. *Halliday v Neville*, unreported High Court decision.
31. See ref 20.
32. Gardner, J., 'Consumer Credit, Waltons Credit Policies Under Attack', (1976) 2(3) *Legal Service Bulletin* 89.
33. Mental Health Legal Centre, 1992 Annual Report, pp.10-12.
34. See National Legal Aid Advisory Committee, Legal Aid For The Australian Community, Appendix A.
35. Kids in Justice, Youth Justice Coalition, NSW, 1990.
36. Child Welfare Practice and Legislation Review, Victoria, 1984.
37. The outstanding provisions came into effect in June 1992.

De Maria references continued from p. 270

Access to Justice: The Future of Paralegal Professionals, Australian Institute of Criminology, Canberra, 1991; Noone, M., 'Paralegals in the Community's Interest?' in Vernon, J. and Regan, F., above, pp.25-38; Statsky, W., *Introduction to Paralegalism*, West Publishing Company, New York, 1974; Murray, J., 'The Paralegal Police Prosecutor — For How Long?' and Drew, K., 'The New South Wales Policy Prosecution', both in Vernon, J. and Regan, F. (eds) *Improving Access to Justice*, above, pp.97-101, pp.103-6; Basten, B., and Disney, J., 'Representation by Special Advocates', (1975) 1 *University of New South Wales Law Journal*, 170; Hanks, P., 'Improved Access to Law: Without Lawyers', in Goldring, J. et al (eds), *Access to Law*, second seminar on Australian Lawyers and Social Change, Australian National University Press, 1980, p.272; Emshoff, J., Davidson, W., Connor, R., 'Training Prison Inmates as Paralegals: An Experimental Project', (1980) 8 *Journal of Criminal Justice*, 27-38; Zemans, F., 'The Public Sector Paralegal in Ontario: Community Legal Worker', (1981) 4 *Canadian Legal Aid Bulletin*, 130; Noone, M., 'Paralegals in the Community's Interest?' in Vernon, J. and Regan, F., above, pp.29-30.

17. By 'legal culture' I mean a narrow world view that is confirmed, if not inculcated from the very first law lecture, or in the case of paralegals, from the first official contact with the business end of a legal enterprise. This culture enshrines dominant and cherished western values, in particular an adversarial model of truth, a reverential attitude to facts, a faith in legal solutions to social problems, a sociological blindness to power imbalances in human relationships outside the legalised definition of natural justice, individuation of solutions to disputes, and a too ready if not irresponsible embracement of some traditional sources of forensic knowledge, specifically psychiatry. For further discussion see Lowry, M., 'Law School Socialisation in the United States', (1983) 3 *Windsor Yearbook of Access to Justice*, 245-55.
18. Johnstone, Q., and Weglinisky, M., *Paralegals, Progress and Prospects of a Satellite Occupation*, Greenwood Press, Westport, 1985.
19. For a critical analysis of community legal centres in Brisbane see Parker, C., above.
20. Moore, 'People as Lawyers', above, p.131.
21. Parker, above, pp.92-93.