

The book strikes balances: a balance between controlling a client's life and ensuring the client is not unreasonably exposed to risk; a balance between independence and protection from abuse. It supports help that is constructive and not substitutional.

Duty of Care: Whose Rights? is also a practical guide to negligence law. It argues that the community's conception of care for people with disabilities has changed from a medical/custodial model to a rights model. Rights to take risks and rights to make mistakes. The model recognises people's dignity and need to develop their potential.

The book's argument is based on rights-oriented legislation like the *Disability Services Act 1986* (Cth). This is evidence that the *standard of care* has changed. Villamanta Legal Service hopes that courts will recognise the changed community standards and expectations placed on service providers.

Taking the argument further, Parsons says that part of service providers' duty of care is to safeguard their clients' rights. This could lead to problems. Rights may be in conflict. And staff usually have the power to decide which of those rights are to be safeguarded. For example, Mrs W has Alzheimer's disease. She lives in a hostel. She asks Joe, a worker there, to call her a taxi, as she wants to spend a day at the races. Joe is concerned that Mrs W will get confused and disoriented at the races. Joe, whether he likes it or not, has power over Mrs W's decisions about her leisure time.

The book challenges assumptions like a hierarchy of rights, and recognises that clients can change their minds or re-order their priorities, meaning they should be empowered to make their decisions. Expanding clients' experiences, exposing them to choice, and emphasising abilities not disability, are the attributes of a good service provider.

The book goes further (and this may be more applicable to people with an intellectual disability) arguing that staff have a duty to expand clients' rights by encouraging clients to develop friendships, exposing the world to them, and broadening their horizons. And yes, having friends and relationships means taking the bad with the good, the disappointments with the exhilarations.

I have used material based on Parsons' book (and an accompanying training guide the Service sells) in workshops I have conducted for workers 'at the coal-face' and their supervisors. I have emphasised that these set new benchmarks for standards of care: what the 'reasonable' staffer did a decade ago may not be appropriate in the current atmosphere.

Interestingly, most workers think that breach of duty in itself leads to a damages award. They are not aware of the requirement for actual injury or damage in negligence law. They think an irresponsible work practice, after which there may be action by professional associations, regulatory bodies or management, is negligence. *Duty of Care: Whose Rights?* not only corrects this impression, but goes further, asserting that the notion of injury should be

broadened.

For example, a resident who has recently 'deinstitutionalised' to a new community home becomes distressed and confused when she is asked what she would like for dinner. She has never chosen a meal before in her life and feels intimidated and bewildered at the question. Would her former institution be liable? Does their duty of care include giving her a real opportunity for self-determination? Are they negligent? Is there any breach of a statutory duty? This is unlikely now. But in the future...? Parsons hopes the common law will catch up with the changing culture for people with a disability. This may be wishful thinking. However, there is nothing wrong in *advocating* changes to practices by service-providing agencies and their staff.

Staff who use duty of care as an excuse to limit what they do for their clients will not like this book. Parsons asks: whose rights are they protecting? Theirs and their employers? Contrast the Victorian Department of Health and Community Services' guidelines on duty of care. They are, as you would expect, technically correct. But they are designed to protect the Department, not the rights of the clients they serve. They focus on the risk of physical injury. They give scant regard to encouraging individuals to develop in a climate of respect for their personal choices.

JEFF GOLDHAR

Jeff Goldhar was formerly the solicitor to the Victorian Guardianship Board and now is a consultant on adult guardianship and disability.

NOTICES

HARASSMENT IN LEGAL EMPLOYMENT

Have you experienced poor treatment as an employee? The Employee Industrial Relations (EIR) section of the Law Institute of Victoria, together with Feminist Lawyers (FL) have received reports of inappropriate treatment in employment of female articulated clerks and solicitors. EIR and FL are interested in the types of gender discrimination and sexual harassment incidents which may occur, particularly when women are entering the profession. This information will assist in formulating recommendations to the Law Institute, the Law Council and to the profession regarding their roles in these circumstances and the improvement of com-

plaint procedures and education programs.

Have you experienced treatment in your employment that you consider inappropriate? Please describe the incident in writing and forward it to Feminist Lawyers at GPO Box 3122FF, Melbourne, 3001. Absolute confidentiality is assured.

HIV/AIDS LEGAL CENTRE

A free Legal Advice Centre is due to open at the Positive Living Centre (a community centre for people living with HIV/AIDS) in Acland Street, St Kilda, in November. The Legal Centre is an initiative of the AIDS Council of Victoria.

The need for a specialist HIV/AIDS Legal Centre arose out of the perceived

need, by people working within the Victorian AIDS Council and in various areas of the law, for such a service. The Centre will be able to provide a comprehensive approach to the delivery of legal services to people living with HIV/AIDS by lawyers trained in a wide range of HIV/AIDS related legal issues and the broader issues affecting people living with HIV/AIDS.

The Centre will initially operate one night a week and will be staffed by volunteers. For further information contact Lauren Finestone at the St Kilda Legal Service on (03) 534 0777, or Tom Dalton at the Northcote Legal Service on (03) 489 6321.



NOTICES

STUDY TOUR

The Australian Philippines Student and Youth Coalition has been conducting annual study tours to the Philippines for the past four years. As a form of alternative tourism, these study tours have been primarily constructed to provide an educational experience which incorporates meeting with legal workers, youth workers, students and ordinary Filipino people. This is an opportunity to examine the legal and political system, and exchange information with Filipino people. The approximate cost of the four week tour is between \$1600 and \$1800. For further information contact the Philippine Resource Centre on (03) 419 5718.

FAIRLEA VIGIL

There has been a 24-hour vigil outside Fairlea women's prison (Victoria) since 26 July 1993, that will be continuing indefinitely. The vigil has been a focal point in the campaign to stop the closure of Fairlea, and the Government's proposal to move all women in Fairlea to men's prisons such as Pentridge. The vigil has played a large part in educating the community about women in prison in Victoria, and about objections to the proposed closure. Anyone interested in being involved in the vigil can ring (03) 363 1188 (Deer Park Community Information Centre) during business hours or (03) 375 1317 (Katherine, Vigil Coordinator) after hours.

PUBLICATIONS

Your Life, Your Choices

The Villamanta Legal Service, Geelong, Victoria, is a legal service primarily for people with intellectual disabilities. This booklet has been published to help people with disabilities, their families and disability workers to understand their rights. For more information contact the Villamanta Legal Service on (052) 29 2925.

Justice for All: Women's Access to Legal Aid and Justice in Victoria

A preliminary discussion which introduces issues around access to justice, with a focus on women's access to legal aid and justice in Victoria, particularly in family law matters. Copies are available from Women's Legal Resource Group on (03) 416 0144.

Victim Impact Statements — a Problematic Remedy

A position paper prepared by the Project for Legal Action Against Sexual Assault and endorsed by Victorian Centres Against Sexual Assault, June 1993. The paper outlines a range of dilemmas in relation to the introduction of victim impact statements in sexual assault trials. Many of the arguments presented also apply to other areas of the law where some have argued that the victim will benefit from the presentation of impact material to the court at the point of sentencing.

A message to all Victorian women and children who have been subject to sexual assault and other forms of violence . . . About Crimes Compensation in Victoria, August 1993.

This booklet, prepared by the Project for Legal Action Against Sexual Assault and the Magistrates Court of Victoria provides step-by-step information about crimes compensation for victims of sexual assault in Victoria. It includes the philosophy underpinning crimes compensation, who can apply, and how to prepare an application.

Both publications are available from the Project for Legal Action Against Sexual Assault by phoning (03) 416 1518.

Sexual Assault: a Resource Book for Students

The Telephone Service Against Sexual Assault, through funding provided by the National Women's Health Program, has produced a comprehensive resource booklet on the subject of sexual assault for secondary school students.

Part 1 includes discussions on the incidence of sexual assault in our society; the myths that surround this crime; sexual assault and the State; sexual assault and the law; and sexual assault and culture.

Part 2 gives practical information to those within the school community who are the victims and survivors of this crime, together with the friends, family and/or school counsellors who support them. It includes sections on feelings commonly associated with sexual assault; 'date'/acquaintance rape; sexual harassment; how to support a friend who has been raped; and the role of Victoria's Centres Against Sexual Assault.

Cost: \$10

Contact: CASA, 270 Cardigan St., Carlton, Victoria, 3053.

NATIONAL CHILDREN'S AND YOUTH LAW CENTRE

A new Legal Centre, which aims to provide a voice for Australian children, has recently opened in Sydney. The Centre will press for greater participation by children and young people at all levels of decision making. Through lobbying and test-case litigation it will seek to influence laws, practices and policies at the local and national level in a way that will benefit the younger members of the Australian community.

The National Children's and Youth Law Centre is the first Australian Legal Centre providing national coverage. It opened its offices in June in the Sydney University Law School building in central Sydney after more than three years of consultation and planning. The Centre has become a reality with funding

from the Australian Youth Foundation and with the support of the Public Interest Advocacy Centre and the Universities of Sydney and New South Wales.

Issues identified by the Centre as initial priority areas are the rights of children and young people in institutional care, the rights of school students, protection for young people being questioned by the police, special protection for children giving evidence in court proceedings and effective advocacy and legal representation for children.

In 1994 the Centre will hold a series of workshops on children's rights issues throughout the country with parallel sessions for young people and for youth workers and lawyers and other professionals. It takes seriously its role as a national body and wishes to be accessible to children and young people throughout Australia.

The Centre plans to put out a number of publications explaining in simple language young people's rights in a variety of situations. The first will be a kit of information sheets on young people's rights in education, covering such topics as school suspensions and expulsions, school uniforms, searches and confiscations, punishment etc.

Rights Now!, the Centre's quarterly Newsletter, will cover a range of children's rights issues.

For further information or a free copy of *Rights Now!* contact NCYLC, 173 Phillip St., Sydney NSW 2000; tel. (02) 221 4361; FAX (02) 221 4403.

CONFERENCES

Abortion Rights Network of Australia National Conference

Abortion: legal right, women's right, human right

Date: Saturday, 20 November 1993

Venue: William Galloway Auditorium,
Level 2, The Building, 16 Peel St.,
South Brisbane

Contact: Annette tel. (07) 357 9933;
fax (07) 857 6246

International Forum on Education in Penal Systems (Melbourne)

National Conference

Employment, Education and Training of Offenders: Focusing on National Agendas.

Date: 27-29 March 1994

Venue: Radisson President Hotel, Melbourne

Contact: Sandy Cook

National Centre for Socio-Legal Studies, La Trobe University, Bundoora, 3083

Tel. (03) 479 1761