LEGAL EDUCATION

Clinical Legal Education and Justice Entwined

The Third International Conference on Clinical Legal Education was held in early July 1993 at the Low Wood Conference Centre in Cumbria, England. Organised jointly by the University of Liverpool and UCLA School of Law, the agenda included 'traditional' clinical topics such as developing skills in law students, negotiation techniques, the measurement of 'competence' in lawyers and, the 'flavour of the month', theories of clinical legal education. As well, the agenda was extended to include other aspects of 'lawyers and lawyering'.

What was evident more strongly at this gathering than previously, was a willingness by organisers to receive contributions reflecting the increased accountability currently expected of lawyers (as compared with the expansionist 1980s). Whole sessions were thus devoted to the practitioner 'realities' of lawyers' ethics, the criminal justice and family law implications of worldwide reductions in legal aid (in effect, the stability of social systems), the political and social cost of justice problems inherent in self-regulatory discipline systems for lawyers, and the effects of multinational legal practice on the 'production of law'.

Of particular interest to me was the re-emergence of a 'post-skills' awareness in some conference participants. In the early 1970s the international beginnings of both law centres and clinical legal education shared a common theme of community responsibility: the notion that law, and particularly lawyers, owe a professional responsibility to groups and issues, not just a responsibility to individual concerns. The influence of legal professional bodies (e.g. the American Bar Association), conventional law school curricula and the 'law as a business' ideology of the late 1970s and 1980s, progressively focused this awareness into developing lawyers' technical competencies. As a group, we became very good at talking about the 'expert lawyer' as a moral neutral – highly skilful on the one-to-one side, but (off and on the bench) purportedly above the process of making value judgments.

Technical competence was certainly firmly on the list at Low Wood, but there was also a growing recognition that skilfulness is no longer enough. Clinical teachers from the United States were especially keen to describe their return to community empowerment as a means of owning up to professional responsibility, as well as a means of developing their students' ethical bases 'on the job'. These teachers were a little surprised to hear of the Australian programs already operating on this basis – perhaps we are still 20 years behind!

A depressing note sounded repeatedly at the Conference was that of the continuing poor condition of the United Kingdom system, at many levels. The United Kingdom Legal Aid Board is running out of cash and is due to begin 'franchising' law firms ('compulsory competitive tendering' is the term used) in October. It will use 'transaction criteria' – lists of technical steps to be ticked off as completed – to monitor quality in the franchises. However, the research establishing the link between 'technical competence' and good all-round lawyering has not been published and, argued Roger Smith (Director of the Legal Action Group), it may not exist. He pointed out that no checklist can, for example, measure the quality of an advocate's performance in court in the same way that it can monitor a conveyancer's operations. Scepticism about the quality of bulk tenderers' services notwithstanding, it seems that the Legal Aid Board will proceed, at the direction of the Major Government.

The mood of the Conference was further depressed by the release that week of the report of the Runciman Royal Commission on Criminal Justice. The report recommends the abolition of trial by jury (King John rethinking Magna Carta, posthumously?) for the class of case before magistrates where a defendant may currently elect either the magistrate or a jury as the trier of fact. It is also recommended that the defence must also disclose its case before the trial in order to reduce the incidence of so-called 'ambush' defences (but with little evidence produced that these are numerically significant). Further, the uncorroborated confession will remain as an adequate basis of conviction, despite the clear evidence of the Birmingham Seven, Guildford Four and Judith Ward cases to the contrary – and despite the previous acceptance by the conservative government that these convictions were potentially representative of British justice. As The Guardian commented a day or two after the report's release ' . . . Its vital thrust is towards securing more convictions'. (8.7.93, p.20).

This clinical conference was, however, coming to grips with justice in the 1990s and thanks are due to Avrom Sherr and Shiela Wood (University of Liverpool) for the hard work in organising it.

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WOMEN AND THE LAW

Simon Rice and Judith Bennett of the NSW Committee of the *Alternative Law Journal* are putting together a number of articles for the April 1994 issue of the journal and invite contributions. Subjects of interest include:

- Discrimination
- Equal pay and other industrial issues
- Migrant and Aboriginal women's issues
- Advocacy groups for women
- Domestic violence

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