

on lawyers aim to destroy their status as professionals. Failure to live up to our obligations (but instead insisting on our rights) will hasten the decline of lawyers to the status of mere technicians.

Pro bono guidelines

We need to take control of the provision of pro bono services.

There are no doubt many matters already undertaken by lawyers which fall within the traditional definition of pro bono work. Increasingly, however, many firms (particularly the large commercial firms) concentrate on 'economic' matters. There is a risk that lawyers forget their true professional obligation to help the poor, as they become more and more divorced from the real world.

There are a number of fundamentals to pro bono work. It is fundamental that each matter is treated in the usual manner. Pro bono is not an excuse for second rate or amateur work. Lawyers are not handing out favours – it is a matter of obligation. The law firm's full resources should be available to the pro bono client as they are to any other client. There is no such thing as a 'second rate client'.

The undertaking of pro bono work should not disadvantage the career path or reward of a partner or solicitor. Each

matter is credited at full billable time and recognised for what it is: a contribution to the growth, development and culture of the firm as a caring and responsible legal community.

Pro bono work must not be undertaken only by a subset of the partners and solicitors. It is a matter for both litigators and non-litigators, partners and solicitors.

Conclusion

Lawyers must think in a truly lateral and innovative manner. New organisations and institutions must be put into place in order to combat the failure of the market. The innovative commercial minds who designed the new financing techniques in the last two decades need to turn their minds to this problem. Instead of All Money Turnover Subordinated Debt, with an acronym disguising the true nature of the transaction, let them boast of a new way to fund legal services to the poor. No individual lawyer or firm of lawyers can beat the market. There must be a multi-disciplinary approach. It is best to prevent the problem arising than have to meet the problem, in court, once the problem has arisen.

References

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NESB perspectives

*Wrongly characterised as sectional interests,
the concerns of Australia's migrants are of national import.*

QUANG LUU

In Australia in the 1990s one in five Australians is born overseas, and many of them are from non-English speaking backgrounds. For 800,000 people in Sydney alone, English was not or is not their first language. That is the reality of Australia – whether we like it or not. The Special Broadcasting Service (SBS), whether television or radio, is in a very fortunate position to look at that particular angle of Australia of today, to celebrate that diversity. SBS brings access and equity to those who, by reason of

language barriers or ethnicity, may not be able to enjoy full access to society.

I would like to make two points. The first is the question of shaping public interest and how the community can participate. The 'marketing impact' of an issue is very important to that issue being accepted. Organisations like the Australian Conservation Foundation and the Australian Consumers Association are skilled and effective in getting their issues known and debated

in mainstream Australia. People of non-English speaking or overseas backgrounds are far behind in getting the issues known.

For example, if you look around Australian streets and in workplaces there are many people born overseas who have skills which will never be recognised here. Ethnic organisations have tended to market that kind of issue as an ethnic, sectional interest, rather than as a concern for Australia as a whole. I think that is wrong tactically,

although ethnic organisations are now changing their approach.

The cost to Australia of non-utilisation, or under-utilisation of overseas skills is hundreds of millions of dollars a year. That is not only the cost to the people concerned, that is also the cost to Australia.¹ It has to be seen as an Australian issue and debated as an Australian issue. It also has to be seen as an Australian public interest issue. It has not been, largely because people in ethnic communities lack the skill in mar-

keting the issue and in understanding the system sufficiently to be effective.

The second point that I would like to make is that there are enough people in many communities who would be prepared to work with organisations like PIAC in getting the issue known as a public issue and taking it to a successful conclusion. One of PIAC's principle objectives is policy-oriented litigation, but at the same time there is a focus on the promotion of community interest. If we can somehow better promote the

community interest so that the decision makers are better informed and make better decisions, then perhaps at least in the public sector the need for policy-oriented litigation would be much less.

Reference

1. See the subsequent 'Immigration Update' from the Bureau of Immigration and Population Research, February 1994, which makes this point - Ed.

Quang Luu is the Head of SBS Radio.

Social justice for Aborigines

*As we live with the legacy of economic rationalism,
the public interest demands that social justice be
restored to the agenda.*

PAT O'SHANE

In my very first moments in law school I saw, as I alighted from the lifts, a notice board on which appeared a Wizard of Id cartoon. In the first frame, the character comes into the office and says 'I want justice'. In the second frame, the other character asks 'How much can you afford?'; the message of the cartoon, it seems to me, is even more valid today, 20 years later.

The local courts deal with more than 90% of matters that are being brought before the courts, and see a broad cross-section of people. The most common complaint is the cost of legal action. The complaints come from prosecutors, legal practitioners, defendants, complainants and court staff. I am particularly concerned about defendants in criminal matters: the overwhelming majority of them are poor, dispossessed and disadvantaged; black, white, and all shades in between. The majority of them are poorly educated, and substantial numbers have never had jobs since leaving school.

It is said with increasing frequency, that the crime rate is increasing. In some respects that is borne out by criminological data. But that same data shows that in some respects the crime rate is stable. Whatever the true situation, the public perception is that the crime situation is getting worse. The question for me is: what is crime? Whatever crime is, we all are concerned to ensure that the crime rate is contained. Each of us has a vested interest in maintaining a peaceful, ordered society, and the next question is: what constitutes such peace and order?

Social justice

In my view the public interest must encompass:

- the most basic right of all members of our community to live free from want and hunger,
- the right to adequate shelter, and
- the right to adequate and accessible medical services.

They are old-fashioned values but

they have to be repeated daily. If we accept that these are fundamental to good order and good government, then we have to be concerned about economic issues. We have to turn our attention to issues of unemployment, inflation, profiteering by stockmarket players, and theories of economic rationalism: adherence to economic rationalism has largely contributed to the recession and to the highest jobless rates this country has seen.

But governments insisted that economic rationalism was in the public interest. Indeed it was of overriding national interest to deregulate the money market and ensure that the inflation rate was drastically reduced. It seems that the public interest was being defined solely in terms of the interests of big capital: what is right for Mt Isa Mines is right for all Australians! I fail to see how. The overriding interest of capital is profit making, and profit making is inherently anti-social. There has been no regard to the extent that this process has contributed to other social ills that con-