lem-solving, rather than as competition. This is not to accept uncritically non-litigious methods for dispute resolution.

Further, not to include a significant role for ADR in CLE is to ignore the role ADR plays in legal practice. Legislatures have increasingly recognised ADR. There is an increasing acceptance and implementation of ADR processes in practice. To satisfy the demands of theory and practice, CLE would need to inculcate an appreciation of how ADR is currently used in Australia. Training in appropriate skills could be undertaken in order to develop an emphasis on settlement, rather than myopically concentrating on legal remedies and categories.

The sorts of benefits that accrue to CLE participants have been characterised as 'pragmatic-professional' — deeper learning of principle, recognition in the community, improving lawyering skills, opening doors to practice and improving lawyer professionalism. The incorporation of ADR in CLE programs would focus on the CLE participant as a future practitioner, drawing on skills recognised as central to practice: communication techniques, legal drafting, negotiation and practical legal research.

The challenge of ADR and alternative paradigms of dispute resolution: how should the law schools respond?

J Macfarlane
31 *Law Teacher* 1, 1997, pp 13–29

The dominant ideology of law school remains the study of appellate decisions and an analysis of rights-based positions and arguments constructed by two or more warring sides. Certainly the adjudicative paradigm remains central to the practice of law and it is expected that legal education should reflect this. But there should be a re-evaluation of the balance struck in the law curriculum between an adjudicative paradigm for dispute resolution and alternative, consensual, interests-based models.

Law schools have an important leadership role to play in the development and integration of ADR curricula in legal education. The values and ideas — as well as the skills and knowledge — of those entering the profession are critical to its future development and even survival. It is at law school that these values and ideas are largely shaped and where there is the possibility of re-examining assumptions and sometimes reshaping them. One such notion is the assumption that the appropriate way to provide client service in most cases is to advocate a rights-based argument on her behalf.

Although in the last 10 years there has been a real growth in ADR scholarship, discrete ADR theory courses are available in few law schools and many undergraduate courses and even entire programs touch only tangentially on any ADR processes or concepts. Yet law schools should have an important leadership role to play in the development and integration of ADR curricula in legal education.

All courses which form a part of the law school curriculum should teach not only the traditional, rights-based approach to dispute resolution reflected in case law and statute but also an analysis of how disputes arise and their possible resolution from an interests-based perspective. Where relevant, courses should include material on the types of ADR practice and process which are being adopted in this particular area of law. Law students should understand how these processes work, why they might choose to opt in or out of them and how to advise clients accordingly and how effectively to represent clients in these procedures. This raises the need to teach appropriate performance skills, as well as the need to ensure that students understand the basic principles of consensual dispute resolution and its distinctiveness from the adjudicative model.

Challenging the dominant authority of adjudicative legal precedent with an alternative conceptualisation of outcome, reached through party agreement in mediation or pre-trial negotiation, is a difficult task in a culture that assumes that by far the most important result is that determined by a judge-adjudicator. The integration of ADR into law school curricula requires that we confront the 'we know best' tradition of law school and legal practice. Examining the possibilities and consequences of interest-based solutions which reflect actual needs as well as perceptions of entitlement threatens the commitment of legal education to an adversarial form of language and behaviour. It would be a mistake to underestimate the pervasiveness within the culture of both legal education and practice of some of these objections to an interests-based approach. At least some of these objections stem from a widespread lack of information and understanding of the implications of developing ADR models for the delivery of legal services.

Client demand for dispute resolution processes which are more flexible, quicker, simpler and less expensive is driving the expansion of both government-sponsored and private ADR programs. We have to educate the next generation of lawyers to meet this demand. Aside from reflecting the changing reality of legal practice, the integration of ADR into the law

school curriculum would encourage important developments in both legal scholarship and the creative and innovative practice of law. The ADR critique of adjudication effectively demonstrates the limits of law and legal regulation in the solving of problems, both long and short term and from both an individual and community perspective.

STUDENTS

Warning: law school can endanger your health!

Andrew Goldsmith
21 *Monash U L Rev* 2, 1995, pp 272–304

How are the values and aspirations of law students affected by their law school expeiences? In particular, in what waysdo their law school years influence sbsequent career orientations and professional involvement? What does law school do *to*, as well as *for*, its students? This article outlines and discusses both Granfield's and Stover's accounts of law school socialisation, drawing comparisons to the Australian context whenever possible. Implicit in these two studies is the proposition that law school constitutes an extremely powerful socialising agent which is strongly oriented toward the practising profession and particularly the corporate, large firm sector. This article considers the implications of Granfield's and Stover's analysis for legal education more generally, and in particular, some ways in which law schools might organise themselves differently to preserve student idealism and conceptions of practice in areas other than corporate law.

Harvard and Denver law schools, as revealed by Granfield's and Stover's studies, both contained significant numbers of entering law students with similar, rather vague, commitments to social and individual justice. Something happens to many of these young idealists during their time at law school. Before Stover's and Granfield's books, other studies of law school socialisation had drawn attention to certain ill-effects of legal education. In a study by Pipkin, law students were found to experience 'anxiety, stress, boredom, cynicism, and psychological defenses incompatible with later ethical practices.' Similar reactions are not uncommon among later year law students at Monash University, Australia. Moreover, in a survey of Australian law graduates, cynicism was the personal value reported by most graduates as having being affected negatively by their legal education. In contrast, only ten percent of those surveyed attributed an increase in idealism to their time in law school. Corresponding with this diminution of idealism among law students, Granfield observes, is a growing acceptance of and preference for, corporate law practice.

Granfield and Stover also point to ways in which the values and practices of the profession shape the student culture, the attitudes and expectations students bring to law school and how they affect legal education and subsequent career choice.

As Professor Monroe Freedman has suggested, it would be quite wrong to attribute the relative lack of law student and graduate interest in public interest legal careers and pro bono work simply to the moral failings of legal education. The social backgrounds and personal reference groups outside university of law students must bear a significant portion of responsibility for these outcomes.

For Granfield, the decline over three years of law school in student interest in alternative law careers points to a powerful transformative process at work. Law school provides its students with a strongly ideological experience. Legal education exposes students to a set of symbols concerning law which portray everyday social life in particular ways. Granfield considers the methods by which one particular conception of practice is rendered dominant and legitimated by different aspects of law school experience. Given the relatively high levels of social altruism expressed by entering law students, the kind of conversion described in these and other studies is quite striking.

Stover's and Granfield's books raise some pertinent questions about the impact of legal education upon the professional commitments of lawyers and the distribution and availability of legal services. In general, they challenge the notion that law schools are presently doing enough to ensure the future professional well-being of their students. Both books successfully focus attention on a range of processes and practices during law school which constitute the socialisation experience for law students.

There is little evidence in Australia that law schools are inclined to self-conscious analysis of student socialisation and its contribution to professional formation, so Stover and Granfield's focus is very useful. Law schools might profitably ask questions about the forms of classroom interaction permitted, and the attitudes toward practice that they encourage, about the emphasis given in the curriculum to public interest areas of law, about the opportunities for exposing students to unmet legal need and the ideal of service in legal professional life.