twin pillars of the growing success of judicial education in Australia. Any application of external compulsion, for example by statutory requirement, would be arguably inconsistent with judicial independence and certainly inconsistent with the standing of judicial officers.

Judicial education may be delivered in relation to improving a judge's knowledge of the law; improving a judge's skills in judicial administration; and contributing to a judge's understanding of society. The case for judicial education, if it admits of any variations in its strength, is at its strongest on the appointment of judges. New judges need new knowledge and skills. The confidence of any new judge is bound to be enhanced by the opportunity to learn from those experienced in the art of judging.

There is considerable variation in the resources available to the courts of the countries in the LAWASIA region. Availability of funds, however, is not a precondition to commencing judicial education if there is judicial will to do so. The present realistic options for attaining judicial education in the LAWASIA region would appear to be the following: from within the resources of each court for programs specific to the judges of that court; from courts within a particular jurisdiction; by establishment of local or university judicial education units; in liaison with local legal professional associations; establishment of a central training facility on a national level; from transnational programs; public funds; aid funds; institutional private funds; or judges' contributions. Pooling of resources may occur on two levels: one is geographical; the second may involve courts of the same subject-matter jurisdiction.

Universities in Australia have proved to be a fruitful source of support for judicial education. The resources of local bar associations and law societies in delivery of continuing legal education should not be overlooked. Utilisation of the resources of professional bodies may occur not only locally but trans-nationally.

Judicial self-help is the key to judicial education. If any court in the LAWASIA region is not engaging in such a program because it is waiting on resources becoming available, it is acting on a false premise. Once a program is under way, it attains its own momentum. There will always be questions of quality and effectiveness but they are secondary to the manifestation of the will to engage the members of the court in judicial education activities. With the program under way, questions of the degree of sophistication can be addressed on the way. They should not be obstacles to commencement.

Judicial education is to be seen as a usual concomitant of judicial life. It is the judges who have made it so in many jurisdictions and who can make it so in jurisdictions not yet fully involved in judicial education.

Educating judges about ADR
T Sourdin
7 *J Judicial Admin*, 1997, pp 23–31

The Australian Law Reform Commission (ALRC) has been asked to look at the advantages and disadvantages of the present adversarial system of conducting civil, administrative review and family law proceedings before courts and tribunals exercising federal jurisdiction. As part of the adversarial inquiry, the ALRC is specifically considering the changing roles and educational requirements of those active within the litigation system — practitioners, judges, experts and others. This article considers how judges could be educated about alternative or assisted dispute resolution (ADR) processes.

The traditional adversarial judge is a 'hands-off' adjudicator in a traditional court setting — the neutral, fair umpire. However, most modern judges are heavily involved in pretrial and general court management issues. Modern judging can involve trial processes that are not adversarial, but are investigative or facilitative and can require judges to refer matters to ADR processes.

Even where judges' roles in ADR are limited to referral, their involvement in ADR can be significant. Judges initiate ADR programs, can select mediators, arbitrators and other third party neutrals, may assess cases to decide whether ADR is appropriate, can promote and encourage ADR, order parties to attend ADR, monitor and co-ordinate ADR processes within case management time frames and assess and evaluate court-related ADR programs.

Although there has been no substantial research into judicial attitudes towards ADR processes, a 1994 survey into the attitudes of Federal Court judges provides some valuable information. The results show that most judges believed settlement before trial is preferable to going to trial. Judges generally considered that it was appropriate for them to encourage parties to settle the dispute before trial or to advise them seriously to consider alternative means of dispute resolution. However, the judges did not view themselves as having a role in the actual process of settlement.

Education about ADR processes that is directed towards the judiciary could also be useful in addressing

problems that are said to plague our litigation system. Cost and delay are commonly claimed to be major problems in our system. However, a recent study indicates that there may be other causes of dissatisfaction within the system. It is likely that the type of dispute resolution process used has an influence on participant satisfaction. The Justice Research Centre recently surveyed a number of personal injury cases and found a link between plaintiff satisfaction and the type of dispute resolution procedure used. The proportion of satisfied plaintiffs who had used pre-trial conferences or mediation was much higher than the number of satisfied plaintiffs who had experienced a trial or arbitration.

In Australia there are currently no formal educational requirements for appointment to the judiciary. There is no professional judiciary, in the sense of a professional group which has been specifically trained for a career as judicial officers. Nevertheless, it is argued that judicial decision-making and contemporary case management require different skills to those developed as an advocate and there is a consequent need for further education. This is particularly apparent in relation to ADR processes, which have only recently gained widespread acceptance by the legal community.

Strategies for developing judicial education programs about ADR need to consider whether the objectives are to explain ADR processes, or whether there is to be an emphasis upon ADR skills development. Each objective will require different educational techniques and different strategies for continuing education. As with other forms of judicial education, a needs assessment is an essential first step. If there is a need to develop theoretical knowledge of ADR processes and the negotiation styles that underlie many of those processes, then educational strategies could include an emphasis upon problem-solving and case assessment. More experiential and skills based education is required if judicial education is also to be directed at developing communication and facilitation skills.

PURPOSE

REVIEW ARTICLE

Educating for justice: social values & legal education
J Cooper & L G Trubeck (eds)
Dartmouth Publishing, 1997
311pp

This book is a collection of 14 essays contributed by an informal network of lawyers from around the world, founded in 1992 and calling itself the *International Working Group on Social Values in Law*. It expresses a concern with imbuing in law students social values in law, by which is meant 'the belief that the primary function of law is to uphold the values of a humane and civilised society as expressed in the internationally accepted canon of fundamental human rights and aspirations.' (p.1)

The introductory essay written by the editors on the transference of social values from the law school to law practice sets the tone for the whole collection. The main thrust of their argument is the conviction that legal education matters because at the interface between law school and social change lawyering there is located a dynamic source of creative energy which has consistently been underexplored by researchers, activists and scholars. The aim of the collection, as they state it, is to use the various case studies to illustrate 'the fulfilling role the law school can play in developing, transmitting and understanding the use of law to bring about social change to the advantage of subordinated peoples.' (p.2) It is interesting to note that the authors' emphasis falls upon subordination, rather than disadvantage.

The editors identify two themes emerging from the collection which underpin approaches to incorporating social values in legal education. The first is the significant role that can be played by clinical legal education in inculcating social values in law students. They claim that the clinical environment allows students the opportunity to explore methods of merging more closely their professional responsibility to the rule of law with their affective responses to client needs and their altruistic desires to respond to those needs. Indeed, when comparing the maturity of the clinical law teaching programs in American law schools with the rudimentary stage of development in the United Kingdom, they feel justified in claiming that a crucial element in educating students in social values is lacking in UK legal education.

The second theme is the need to fundamentally restructure the curriculum so that it can be infused with values teaching as a supplement to the clinical model. Three examples are given of how law schools can redefine the parameters of subject areas (environmental law, human rights law and intellectual property), not only in terms of their relevance to the curriculum but with respect to the subject matter as well.

The second essay, by Kim Economides, is a compelling examination of what the author labels Cynical Legal Studies. He points to an international phenomenon manifest in