

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 under-explored by researchers, activists and scholars. The aim of the collection, as they state it, is to use the various case studies to illustrate 'the fulfill-

ing 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

today's law students who appear disinterested in and often ignorant of the critical idealism and wider social perspectives that once inspired and mobilised significant numbers of their predecessors in the direction of 'transformative politics and practice of law.' (p.26) He also identifies a trend for law schools, as part of the process of student socialisation to legal practice, to redirect idealistic students away from their initial interest in careers linked to public service in favour of entry into private and commercial practice. Suggestions are then offered as to how legal education can marshal ethical responses to these dimensions to Cynical Legal Studies.

De Groot-van Leeuwen explores the inherent tension between the responsibility of lawyers to society at large and the legal system itself, while serving the interests of the client. Stone examines the transformative effect of law school experience on student commitment to the public interest, with special emphasis on the experience of women.

The remaining ten essays are a series of case studies based upon the experiences of the authors who have devised dedicated programs to integrate social values into aspects of the law school curriculum. Tobol describes an attempt to use a legal research and writing class to teach students elements of social justice values. Blasi deals with the creation of a program in public interest law and policy at UCLA. Kotkin focuses on the role that the law school clinic can play as a training ground for public interest lawyers. Maresh takes up the first of the themes identified by the editors and reports on her empirical study into the impact of clinical legal education on the decisions of a group of law students to practise public in-

terest law. Jones assesses the growing need for community legal education after an examination of the nature of the public's needs.

Highlighting the transnational focus of the collection and departing from what would otherwise be a US/UK dominance, there are also contributions from such diverse countries as Sri Lanka and Bangladesh, illustrating the problems in developing countries, Slovenia, demonstrating the consequences of the newfound empowerment of women in a post-Communist society in transition, and Australia. The Australian input is an article by Noone about how clinical legal education programs have been established by a linkage between a small number of universities and community legal centres, which are threatened by the economic imperative of market forces.

This collection of essays, while scarcely earth-shattering in its impact on social values teaching, does make a worthwhile contribution to our thinking about these issues. The case studies, in particular, are a useful illustration as to how the general principles espoused in the earlier essays might be applied to good effect in different and imaginative ways. It will undoubtedly benefit those law teachers who already see it as a significant part of their responsibility to their students to take active steps to retain and cultivate the idealism with which many of them entered law school with the aim of translating that vision into public service practice. Regrettably, it will have little impact on the many law teachers who are not so committed.

Editor

Legal education: nemesis or ally or social movements?

J E Mosher

35 *Osgoode Hall LJ* 3, 1998, pp 613-635

There is much in legal education which contributes to lawyering practices that are fundamentally at odds with the formation of social movements. These practices include the individualisation of client problems, the reshaping of the realities of clients' lives into legal categories or boxes, the commitment to instrumentalism, and lawyer domination and control and the correlates of client silence and passivity. The genesis for these features of dominant lawyering practices can be traced, at least in part, to legal education. More specifically, legal education's emphasis upon doctrinal analysis, its tendency to trade upon an existing stock of legal categories or stories and the relative inattention paid to fundamental critiques of the status quo contribute to these lawyering practices.

Responsiveness to social movements ought to be measured by reference to the extent to which a law school systematically produces lawyers with the skill, knowledge and ability to work with members of subordinated communities, and with the movements of which they are a part, in ways that facilitate social transformation. The literature suggest that law schools transmit a vision of practice—a vision later manifested in the practice of their graduates—which is not only unresponsive to social movements, but which in fact undermines their very existence. This critique ought not, however, to lead one to give in to despair about the potential of law and lawyering to facilitate social transformation. On the contrary, the critique contains the outlines of a vision of an alternative mode of law-