An illustration of this lack of consensus is seen in the fairly recent reforms of AAT procedure. These reforms are set out by Justice Deirdre O'Connor, President of the AAT, and initiator of the reforms, in her contribution 'Future Directions in Australian Administrative Law'.

Justice O'Connor's paper focuses on reforms under way in the AAT, including the introduction of mediation and a General Practice Direction. The Direction sets time standards for the preliminary conferences and for the completion of matters, requiring parties to lodge statements of facts, contentions and certificates of readiness similar to court procedures.

This 'legal-managerialist' approach is trenchantly criticised by de Maria as 'the new face of economic rationalism'. In contrast, Frank Esparraga claims that the evidence available suggests O'Connor's reforms are 'leading to better administrative justice for parties through the elimination of unnecessary delays and to a reduction of costs to the parties' (p.399).

I think the jury is still out on the success of these reforms. It does seem unclear how the introduction of rigorous pre-trial procedures will cut the costs of parties as Esparraga claims — surely such procedures place additional barriers before potential users of the system and discourage them from using what must appear to be a court, rather than an informal and flexible dispute resolution mechanism (which is what the AAT should be).

The question of tribunal efficiency is important in a context of apparently scarce resources. The public should get value for money. But efficiency should not mean that the AAT is increasingly characterised by legalism and a managerial approach to caseloads which may disadvantage individuated justice. It is critical that the parties have full opportunity to acquaint themselves with the system and each other. Efficiency in preparing a matter should be demanded from government and encouraged when dealing with the public. Settlement should not be forced on the parties just because there is a need to handle more cases — rather the tribunal should encourage the parties to settle their differences organically and among themselves. This often occurs and the tribunal has often played this role remarkably well despite time constraints and large caseloads. But only where organic settlement is impossible is it appropriate for the tribunal to advise consumers in preliminary conference as to their likely success at a hearing. This approach heightens the legitimacy of the process for both parties and increases the likelihood that the parties will be happy with the result.

Closely allied to the AAT's increasing legalism is the issue of the cost of administrative justice. In his contribution, Alan Rose says the key to obtaining public benefit from administrative law is 'to let consumers get at' administrative review. Rose runs the line, unpopular among public lawyers, that positive cultural change in bureaucracy can be achieved through privatisation and corporatisation of services. Many readers will flinch at the suggestion that the issues at stake in public law can be effectively reduced to a 'value/price judgment' (p.217).

It seems difficult to reconcile market forces with the need for government accountability and fairness in decision-making — where could a market exist in the fairness of government decisions? Rose argues 'the community is more comfortable with a model of service provision and authority which needs to treat them as clients/customers, not as subjects'. This is true insofar as the public does not want administrative justice dished up in a 'public service' manner. But this issue cannot be resolved by reference to economic rationalism, which will fail many of the 'customers' of the system, who cannot afford and should not be expected to buy administrative justice.

I think the correct distinction is not between customers and subjects, but between citizens and subjects. Our system of administrative justice should 'open the doors' of government without locking the access turnstiles. Although economic rationalism is quickly going out of fashion, Rose's contribution is interesting as an exposition of the policy considerations which have occupied the Commonwealth legal bureaucracy over the last few years.

As well as these 'macro' issues, the collection also contains a number of useful commentaries on the scope of legal protection afforded to individual rights through constitutional interpretation (Gary Rumble), judicial review (Alan Robertson), and the law of standing (Betty Hounslow). The function of administrative agencies in protecting rights is also considered — in the AAT (P.W. Johnston), via human rights agencies (Irene Moss), and via the Ombudsman (Sue Pidgeon).

It is clear from the collection that federal mechanisms of administrative review — especially the AAT — have some vocal critics.

This book recommends itself to students and practitioners as a general sourcebook of information and perspectives on the mechanisms and procedures of federal administrative law. I look forward to the publication of the 1993 Proceedings.

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The Practice of Child Protection – Australian Approaches

edited by Calvert, G., Ford, A., Parkinson, P.; Hale & Iremonger, Sydney, 1992; $24.95.

Gillian Calvert, Adrian Ford and Patrick Parkinson have brought together a wealth of academic and practical experience and background in the contributors to this

text. The book had its genesis in the 1990 Australian Child Protection Conference in Sydney where the chapters were presented. As the authors acknowledge, the text does not seek to present the breadth of work across Australia, but rather to highlight 'many current issues of importance to Australia, and the searches for new solutions' (p.12).

The text begins by examining child protection issues from an Aboriginal perspective. It reminds all practitioners that child protection is 'not just a matter of identifying physical or emotional abuse or the neglect of an individual child', but rather of improving conditions of life for all. The significance of the extended family to solutions in child protection matters is emphasised. How child protection issues link to questions of economic, social and political disempowerment is highlighted for Aboriginal families — and similar concerns apply to non-Aboriginal families.

The book examines child protection practice under the broad topics of prevention, children in the legal system, teamwork and decision making, and children's rights.

This text will be a valuable resource for child protection practitioners, and others involved in child welfare assessment and 'intervention'. The clear focus of each chapter means the reader can easily identify relevant parts as needed.

Various chapters examine: the role and limitations of community education (this can increase awareness and knowledge of abuse across the community, but is arguably less effective in changing the values which contribute to abuse); the effect of the legal system on children (are children competent witnesses and what roles do advocates play for children in juvenile court settings?); and the use of 'irreconcilable difference' applications in the child welfare system (often wrongly characterised as 'no fault divorce' in a child welfare setting). Teamwork and its significance for child welfare professionals and for the children and families in the 'system' is discussed. Specific issues of assessment are covered such as the Munchausen by Proxy case, children in day care, group sexual abuse, and the child death inquiries.

The chapters on case-planning, children in the legal system, and the rights of children were, for me, of most interest. Research into case planning raised serious doubts as to whether the usual case planning process allows reliable decisions for the protection of children. Decision making in such a setting involves the inherent contradictions of support for the family versus the protection of the child, with the often opposing rights of parents, child and the community. The writers contrast the unclear role and purpose of case conferences and relative powerlessness of family participants, with the move towards seeing the family as both the forum for decision-making and, once made, the resource to implement these decisions.

For social work practice generally, but particularly for practitioners in child protection, the difficulty of balancing competing rights of parents, child and the state, is very real. So, too, is the reality of the impact of the 'system' — including the legal process — on parent and child. Regretfully, we have made limited progress toward a child protection system which protects children yet supports parents, and in which children are not traumatised by the very processes.

As this text discusses, we can redefine case planning and ensure competent independent advocacy is provided. But the core issue remains: can the child welfare and children's court system really protect children? Perhaps, instead of reconstructing bits of the system, here and there, a child protection system based on different values and philosophies is what is required. As Brian Butler, in the chapter on Aboriginal child protection, writes ' . . . Child protection for us is a matter of protecting our children from the negative and destructive influences of society, and from the intrusion of the "welfare" and other authorities in their lives'. For all families, this is the task facing the child welfare system.

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Duty of Care Whose Rights?

by Ian Parsons; Villamanta Legal Service, Geelong, 1992; 67 pp; available from the Service, 6 Villamanta St., Geelong, 3218, or (052) 29 2925, for $12 (includes postage).

Lurking in law libraries or legal bookshops are tomes for all sorts of professions and occupations: Law for Nurses, Law for Social Workers, This and the Law, That and the Law.

They all seem to follow a similar format: how the professional is affected by contract law, employment law, statute law, negligence, defamation, etc. They rarely look at life from the point of view of the discipline's clients.

Duty of Care: Whose Rights? does. Parsons wrote this book nominally as a guide for staff working with people with disabilities. In reality it tells workers how to enlarge their clients' rights and not be scared by the nasty 'duty of care' stick.

Villamanta Legal Service, a community legal service for people with disabilities (with special emphasis on people with an intellectual disability) should be congratulated on supporting this book. The book covers the traditional aspects of negligence: duty of care, standard of care, breach, harm, foreseeability, reasonableness, and voluntary assumption of risk by avoiding injury in the first place.

The book is a practical reaction to the changes in the disability area. Paternalism and overprotection are giving way to a realisation that clients must take control of their lives, that staff should not tell clients how to live but should encourage choice and individuality.