

oned for drug-related crimes, she points out that practices such as strip searching and enforced urine sampling create a perfect scenario for women's further abuse.

Using the work of women both inside and outside prison walls, *Women and Imprisonment* provides a theoretically rigorous, cohesive and accessible contribution to the growing literature about women's experience of imprison-

ment. We can only hope that it will assist in demystifying one of the most blatant sites of injustice and lead to the eventual dismantling of the walls of confinement.

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In the Shadow of the Law

The Legal Context of Social Work Practice

edited by Phillip A. Swain; Federation Press, 1995; 300 pp; \$35.00, softcover.

Many of the 'law for non lawyer' seminars I have run have been for social workers, on the issue of their legal liability. The demand for the topic is substantial and persistent, and the character of the seminar, when I begin it, is often one of fear.

A 'law for social workers' course could be about the law with which social workers work, or the law that holds social workers accountable for the way they work. In my experience, the topic is invariably taken to be about the latter: attendees are there to learn of 'The Law', giving it the same forbidding characterisation that some of their own clients give to 'The Welfare'.

Invariably these social workers have an inchoate feeling that The Law is a threat — that it will pry into their written records, it will require them to attend court, it will forcibly breach the confidence of their clients, it will cross-examine them, it will set them up against their peers and their clients, it will accuse them of negligence, it will challenge their professional conduct. The theme of my presentations is one of reassurance through rational analysis, showing how little a bogie the law really is, and how easy it is to practise social work responsibly with little likelihood of incurring the wrath of The Law.

As for the law with which they work — law relating to families, youth, criminal justice, housing etc. — social workers learn it as they go: they read books and materials, they attend subject-specific courses, and a disconcerting number of them actually undertake law degrees. In doing so (particularly in a law degree) they are rarely able to study law from their own professional

perspective; there is as great a need for course on law-with-a-social-work-bent as there is for a course on law-as-it-governs-social-workers. No single book could sensibly provide the reading for the former, and there are a few books around that cover the latter. *In the Shadow of the Law* tries to be a bit of both.

The title *In the Shadow of the Law* carries for me an air of foreboding, hinting that the book is about the legal governance of social work practice, rather than about the law that social workers work with. Editor Phillip Swain attaches some importance to the title, discussing it under its own heading before the Preface. He believes that the shadow metaphor aptly 'portrays . . . practice reality for social workers', although in his conclusion he sees social work and law in 'useful partnership'. Although it has been 'part of [Swain's] vernacular for years', there might have been a more apt occasion to use it as a book title because, while the legal governance of social work practice seems to be Swain's concern, it is not in fact the principal theme of the book.

Swain's Preface tells readers that the book raises issues of social work practice in a variety of legal settings, that is to say it is about the law that social workers work with. I agree that that seems to be the theme of most of the essays in the book, but not of Swain's own.

In his introductory chapter 'Why do Social Workers Need an Understanding of Law?' Swain explains a social worker's need to understand the law by reference to 'the influence of the law on social work practice and obligations', to 'acceptable practice', to 'account-

ability' and to 'legal constraints upon practice'. His own chapters in the book are on the same theme, and constitute the full extent to which the book is about law as it governs social work practice: confidentiality, record keeping, and administrative review.

Swain's chapters are indeed about the 'shadow' that law casts over social work, and they constitute a good if brief account of the legal issues that govern social workers' practice. Referring to himself as a 'social worker-cum-lawyer', Swain certainly knows the issues, and summarises them clearly. He also outlines answers, giving a general statement of recommended practice that should hold good for most situations. Even so, punctuating the chapters with numerous unanswered hypotheticals is not particularly helpful; social workers can provide plenty of their own anecdotes — they want the answers.

These hypotheticals appear in boxed text — an annoying device because it is used inconsistently in form and content, and often, apparently, irrelevantly throughout the book. In Swain's chapters the boxes might be useful over-heads for a lecture when trying to generate discussion, and perhaps that's their origin.

Swain's chapters almost constitute a nicely partitioned second part to the book, but the lie is given to any such plan by the non-sequential appearance of a chapter on 'Social Work Practice and Indigenous Australians' by John Wilson.

Wilson's chapter is a thoughtful reflection on the challenges for a social worker's professional role that are generated not by the operation of The Law, but by a particular legal and social context. As a chapter it belongs earlier in the book, where its theme fits both with Swain's statement about the book's purpose and with the other 13 chapters that cover the diversity of social work practice, from child protection to working with the elderly, from the Family Court to foster care.

To review the dominant thematic strand of the book would be to review 14 different essays, which I do not do here. Many of the essays will be of interest to workers in or students of the particular practice context. To help a prospective reader/purchaser decide, they are listed, for another purpose, in the following paragraphs.

Each essay in its own way is interesting and informative — as a collection they lack coherence of approach, with

no pattern to the issues that are analysed. It seems that no particular brief was given to the authors other than to write about their practice experience and its legal context. The approach taken in each instance was quite different.

Thus some essays include a potted summary of the relevant law and procedure — child sexual assault, corrections, social security appeals, sudden infant death, adoption, and indigenous Australians; some offer an account of underlying principles and philosophies — violence against women, juvenile justice, substitute care, adoption, intellectual disability and indigenous Australians; and some use case studies to analyse the particular area of practice — child protection, the Family Court, social security appeals, schools, and the elderly.

While the essays are jarringly different in their form and focus, they have features in common that are really just overlap. Many of the authors do spend time offering their own, often similar views on the interaction of law and social work. A particularly good analysis is in Jan Breckenridge's chapter 'The Socio-Legal Relationship in Child Sexual Assault'. In the context of a book, repetition of such a discussion is unnecessary, and compounds the sense that the collection lacks an overall cohesion. The essays do not together lead to any suggested thesis on the interaction or partnership between law and social work; Swain's own conclusion is the unremarkable statement that 'some knowledge of law and legal principles is essential for competent social work practice'.

Spencer Zifcak's essay 'Towards a Reconciliation of Legal and Social Work Practice' is alone in its concentration on the meaning of the law and social work. It comes last, before Swain's conclusion, but does not read as if trying to draw together threads from the preceding chapters. Perhaps it should have come first, to impose a pattern before rather than after the event. Zifcak's essay is a concise, clear and authoritative analysis of the vexed question of social work/law, and gives some points of reference for the more subjective accounts that precede it. I wonder if Zifcak intended to contrast his chapter with the rest of the book when he wrote that his purpose was to explore the issue 'more analytically than anecdotally'.

The suggestions for further reading that Zifcak offers are a small, solid collection of the best of the socio-legal

practice analyses, particularly ones that appear often in footnotes in Swain's book: for example, 'Lawyers, Social Workers and Families' by Charlesworth, Turner and Foreman (Federation Press, 1990). It is unfortunate that there is no reference to the substantial and unique empirical study of socio-legal practice undertaken by Mick Hillman and Jane Hargreaves, *A Question of Balance* (Law Foundation/UNSW School of Social Work). The omission may be because it was only released in late 1994.

As a contribution to the debate and analysis of the interaction between law and social work, *In the Shadow of the Law* is scarcely more than the sum of its parts. Perhaps the most constructive way to approach the book is as a 'reader' — a collection of accounts of social work practice to dip into from time to time, or from which to read the one chapter that relates to a particular interest.

However the book is read, its production is disappointing and often frustrating. The boxes I mentioned above pop up erratically, for different reasons in different chapters. Sometimes the chapters are headed with quotes, sometimes not, and occasionally quotes appear above subheadings. One such quote is from an article by the book's editor. The editor's introduction fea-

tures a footnote that refers to the 'eloquent' argument in another chapter — by the editor.

On the issue of 'notes' to the text, they are curious and inconsistent mix of numerical endnotes and alphabetical footnotes. Some references to books and reports include page references, and some do not. The notes use the archaic 'op cit' and 'ibid', but the op cit's don't say where in the op is the cit. The text has some typos, and the sort of errors a spellcheck will not pick up: a particular phenomenon is more likely to exacerbate than 'exasperate' injustices in the criminal justice system.

The back cover states that the book is 'essential reading for any practitioner in the human services or social welfare sector'. Zifcak's chapter probably is, and the references he gives certainly are. The rest of the book is a collection of essays, some of which are good enough to be useful reading for people working in the same field. I often wonder whether the exhortation to read such material might better be made to lawyers, who need a much more informed understanding of how social workers see the law. That could be the real contribution of this book.

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The New Industrial Relations in Australia

edited by Ian Hunt and Chris Provis; The Federation Press, 1995; 182 pp; \$45.00 softcover.

Perhaps what exists in practice is the 'old industrial relations' and a great deal of talk.

Listening to the great deal of talk surrounding the widespread changes to industrial relations laws across Australia, both at a State and federal level, the casual observer could be forgiven for thinking that there has been a fundamental shift in the way Australian employees and employers go about regulating workplaces and resolving disputes. This would, in some respects, be a fair impression. The *Industrial Relations Reform Act 1993* (Cth) has seen the introduction of new mechanisms for creating workplace agreements which exclude unions; the Australian Industrial Relations Commission has undergone structural changes to accommodate a new focus on bargaining and the formation of enterprise agreements; and the Industrial Rela-

tions Court of Australia has been constituted, in part to administer an unprecedented judicial regime of remedying 'unlawful terminations'. The *Reform Act* has also amended the *Federal Industrial Relations Act 1988* to include anti-discrimination provisions.

These reforms at a federal level have been matched, although not necessarily complemented, by reforms at a State level. In particular, the programs of industrial reform adopted by the Kennett Government in Victoria and the Court Government in West Australia have radically affected the extent to which workers in those States are protected by a system of award regulation. The developments from State to State have not been uniform. However, most reflect a decentralisation of employment regulation and a move towards negotiating