

## LEGAL STUDIES

### Questions

1. What are 'penological objectives'? Are any of these objectives achieved by the Day in Prison programs?
2. What is 'recidivism'?
3. The authors claim that the Day in Prison programs may infringe upon 'children's rights'. What rights do children have? What rights do you consider may be infringed by the programs?
4. What are the questions raised in relation to the Day in Prison programs by the operation of the scheme in Victoria?
5. What is meant by the 'shift from the rehabilitation theories of the 1970s' to the 'back to justice movement of the late 1970s and 1980s'? What reasons can be put forward to explain this shift?

*Continued from p. 223*

26. Kuhl, A., 'Battered Women Who Murder: Victims or Offenders, in *The Changing Roles of Women in the Criminal Justice System*, I. Moyer (ed.) 1985; and Rittenmeyer, S., (1981) 9 *J. of Crim. Just.* at 389-395.
27. See the discussion by Martinson, D., and others on the case of *Lavallee v The Queen* in (1991) 25 *UBC Law Rev.* 25.
28. Freckelton, I., 'Evidence: Battered Woman Syndrome' (1992) 17(1) *Alt.L.J.* 39-41.
29. See discussion between Stubbs and Easteal in (1992) 3(3) *Current Issues in Crim. Just.* 356-61.
30. O'Donovan, K., 'Defences for Battered Women who Kill', (1991) 18(2) *J. Law and Society* 219-40.
31. Scutt, J., *Even in the Best of Homes*, Penguin Books, Victoria, 1983.
32. See an extensive literature review done for the Office of the Status of Women in 1988 by P. Easteal. Also Mugford, J., Mugford, S., Easteal, P., 'Social Justice, Public Perceptions and Spouse Assault in Australia', (1989) 4 *Social Justice* 103-123.
33. These are some of the results obtained by the Public Policy Research Centre for the Office of the Status of Women, 1988.
34. Invited seminar by P. Easteal, 1 February 1992.
35. Invited seminar by P. Easteal, 30 June 1992.

6. The Prisoners Legal Service suggests that the scheme benefits inmates by giving them 'a sense of purposeful activity in an otherwise unproductive and stifling environment'. Comment.
7. 'Subjecting juveniles to a dehumanizing and brutal environment . . . will only increase the sense of helplessness felt by many young offenders'. Do you agree? Why do you think that young offenders may have a 'sense of helplessness'?
8. Do you agree with the authors that such initiatives as the Day in Prison programs are 'politically expedient' rather than genuine attempts at crime control?

### Discussion

Do such initiatives as the Day in Prison program focus on the result, rather than the cause of youth crime? Are there

alternatives to such programs which would be more appropriate?

### Research

Research youth crime. In particular, consider:

- The types of crimes committed by young people.
- The possible correlation between youth crime and unemployment.
- The disproportionate numbers of young Aboriginal people in the Australian justice system.

### Debate

The Australian justice system sufficiently safeguards the interests of young offenders.

**Paula Baron**

*Paula Baron teaches law at the University of Tasmania.*

## LETTER

Dear Editor,

The *Alternative Law Journal* has an important role to play in developing people's attitudes on legal issues. We are normally flooded with conservative, right-wing views on legal issues and it is quite refreshing to read alternative arguments in publications like yours. Generally, you have done an excellent job.

However, I was disappointed to read your coverage on the *Mabo Case* in Volume 17, No. 4, especially in the article written by Gordon Brysland. Both writers tended to get trapped into taking large chunks of extracts from the judgments. As a result they both tended to regurgitate the views of the judges within the narrow confines of the judgment itself. Neither really considered the decision in the context of political aspirations of Aboriginal people and the effects that the judgment will have on those aspirations.

### Editor's comment:

I have no difficulty with the point that there should be as diverse a range of alternative views as possible expressed in the *Alternative Law Journal*. I do not agree, however, with the criticisms of the Gregory and Brysland articles as being 'trapped into taking large chunks of extracts from the judgments' resulting in a regurgitation of 'the views of the judges within the narrow confines of the judgment itself'. Such criticism is unfair for a number of reasons.

The *Mabo* decision is complex in its legal reasoning as well as being a long decision. Given the nature of our readership it seemed to me that there was a need for an analysis of the judgment which focused on the actual words of the judges and which would thus provide a foundation for further informed discussion. I believe both articles achieved

Mark Gregory at least made an attempt. Furthermore, it was not surprising to see that Gordon Brysland's article was developed along pretty 'safe' lines when considering that a good deal of assistance for his article was taken from ATSIC. In the context of the real world of Aboriginal political development, ATSIC is hardly a radical alternative group.

I know that it is always difficult for articles on Aborigines to be obtained in time for printing. However, an *alternative* journal should seek alternative views other than those of the mainstream. The articles would hardly be seen in the Aboriginal community as representing an alternative view to that of government. This may sound nothing more than critical but it is not intended in that way.

**Michael Mansell**  
Aboriginal Legal Service  
Hobart.

this admirably.

If there was insufficient 'political' analysis as defined by Michael Mansell, it was probably because the articles were not those types of articles. In addition, I believe the authors were sensitive to the need not to attempt to articulate the response of the Aboriginal people from outside that community.

As an editor, I was keen to receive articles on this decision from as many different perspectives as possible. Perhaps I could have more vigorously sought out articles from Aboriginal people. As the debate on the decision is no doubt just commencing perhaps such articles will now be forthcoming. I hope this will be the case.

**Brian Simpson**

*August 1992 editor.*