generally within a male dominated 'western' society' (p.39).

In recognition of the disadvantages and the need to reassert Aboriginal claims and rights to self-managed conflict resolution and legal practice, James Crawford outlines a number of areas in which a 'definable body of rules, practices and traditions accepted by the community' (p.54) may be fully articulated in legal process and practice. Possible areas of concern include traditional marriage, distribution of property, child custody, criminal law, sentencing, community justice, fishing and hunting rights.

While the relationships between customary law and the dominant legal system are often extremely difficult to reconcile as to ensuring the right to individual legal protection, tribal laws challenge jurisprudence and legal practice, particularly as to liability. However, whereas the exercise of customary law in the context of dominant legal structures may be problematic, community justice mechanisms such as Aboriginal courts (as in Queensland, Western Australia and the Northern Territory), informal methods of dispute resolution and the passage of by-laws point to possible ways of effectively empowering Aboriginal people (although by-laws may be used as a method of more rather than less control of communities).

Changes to legal processes and structures cannot be separated from the continuing need to address structural disadvantage experienced by Aboriginal people. So long as the indigenous people of Australia are denied the means for social, economic and political empowerment (such as land rights), they will continue to experience the excesses of state control in increasing criminalisation and incarceration.

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Enterprise Bargaining: A Practical Approach

by Paul Ludeke and Brad Swebeck; The Federation Press, Sydney; 1992; softcover, $25.

Enterprise Bargaining: A Practical Approach by Paul Ludeke and Brad Swebeck purports to provide a practical rather than political, legal or academic approach to enterprise bargaining. The reader should not be deceived by this claim nor the slimness of the volume. The material is detailed and at times heavy going. It is likely that this book will draw an audience of lawyers and experienced participants in the industrial relations system rather than the general community. The language suggests that the authors assume readers are familiar with legal and industrial relations terms and concepts . . . novices beware!

The book provides an interesting historical overview of the development of enterprise bargaining in an award based industrial relations system with a detailed analysis of the April and October 1991 National Wage cases. Appendix A is a helpful summary of the principles emerging from the April 1991 National Wage case and Appendix B deals with the October 1991 case. It is unfortunate that the reader has to digest the preceding chapters before reaching the straightforward summary of the National Wage cases and their relevance to the process of enterprise bargaining.

Since *Enterprise Bargaining* was published in February 1992, there have been significant changes to the legislative provisions affecting enterprise agreements (that is agreements reached after employer/employee negotiations covering such matters as wages and conditions which are designed to accommodate the needs of an individual workplace) at both federal and State levels. These changes are the result of the political attention during the recent elections focusing on including enterprise bargaining in the Australian industrial relations system.

The Commonwealth *Industrial Relations Act* now has Part VI Division 3A, Sections 134A-134N, operative from 23 July 1992. The Prime Minister has foreshadowed further federal legislation to promote enterprise agreements in a speech on 21 April 1993. In New South Wales the *Industrial Relations Act* is now law.

The Liberal victory in Victoria last year radically altered the approach to enterprise bargaining in Victoria. Industrial relations was a significant issue in the Victorian election and the Kennett Government moved quickly to introduce the *Employee Relations Act* 1992. The Act came into operation on 1 March 1993. On that date all awards were terminated requiring employers and employees to opt back into the award system if the workplace did not want to resort to collective or individual employment contracts.

In Tasmania, the *Industrial Relations Amendment (Enterprise Agreements and Workplace Freedom) Act* came into operation on 1 March 1993. The Act permits enterprise agreements which are ratified by an Enterprise Commissioner. There have also been developments in the other States following State Wage cases.

While the legislative framework is important for understanding the limits of enterprise bargaining and safeguarding minimum conditions, perhaps what is most needed is a guide to the mechanics of bargaining. Chapter 5 discusses strategies in enterprise bargaining but its perspective is on 'what' to consider in negotiating rather than 'how' to negotiate. Given that enterprise bargaining is a reality for many employers and employees, those faced with the process require assistance in practical matters such as selecting who is most appropriate to negotiate, how long the negotiation will take and taking steps to ensure the negotiations are fair to all parties, safeguarding minimum standards, and considering the input of third parties, dispute resolution and enforcement. Chapter 5 goes some of the way to addressing these issues from the employers' perspective.

In summary, the legislative changes since February 1992 render much of the discussion in the book historical to those currently involved in enterprise bargaining. The 'strategies' chapter and the overview which ties together the issues and debate as it existed in early 1992 are the most helpful aspects of the text.

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A Strategy for Justice

Legal Action Group, 242 Pentonville Road, London, N1 9UN; 1992; 172 pp.

A Strategy for Justice gives a comprehensive review of existing legal aid arrangements in England and Wales together with comparative material from other countries, namely the Netherlands, two provinces of Canada (Quebec and Ontario) and two States of Australia (New South Wales and Victoria). The information on these other legal aid systems provides valuable food for thought for legal aid policy makers in Australia.

The book has four sections:

- the history and current status of publicly funded legal services in England and Wales;

  studies of the legal needs in England and Wales in four specific areas (family disputes, personal injury claims, debt matters and employment related issues);
- review of service delivery systems in other countries;

  an agenda for review of the scope, administration and delivery of legal services in England and Wales.

Of the systems reviewed, the legal aid system in England and Wales involves the greatest legal aid expenditure per head of population, that is, 12 pounds in 1989. New South Wales and the Netherlands spent just over half this amount while Victoria and Quebec spent around 8 pounds and Ontario about ten pounds. The legal aid cost in England and Wales continues to increase and in 1991-92 was 907 million pounds. (This figure does not even include administration costs.) This very significant expenditure indicates what could well result if the Australian legal aid system were more demand driven rather than being constrained by unrealistically low funding levels.

Legal aid expenditure represents a significant share of the total fees generated by the English and Welsh private legal profession, namely 11% for solicitors and 30% for barristers. The salaried legal sector is limited to some 60 community law centres. Because practitioners have a high financial stake in the scheme, they provide articulate support for legal aid being a state funded service.

The international comparisons make interesting reading and show how the systems in place elsewhere differ significantly from those in Australia. In the Netherlands, many more civil cases receive legal aid than criminal cases (257,000 to 71,100 in 1989). Further, the Dutch private legal profession has maintained a strong tradition of professional responsibility towards legal aid work even though remuneration rates were last altered back in 1981 when they were reduced by 10%. In Ontario, members of the Provincial Law Society pay a compulsory levy of $175 as a contribution towards the legal aid system. Should we ask why the Law Council of Australia did not make any similar suggestions in its submission to the Senate Costs of Justice Inquiry?

The system in Quebec includes the very strong performance of the public legal education section of the Commission des Services Juridiques. The department uses a continuing legal information radio program which is transmitted by 110 French language stations throughout Quebec. For the past 14 years it has produced a television series of 26 programs a year dramatising issues about legal rights. On a more disconcerting note, the situation of the Director of the Quebec Commission is food for thought. In his 1989-90 report, Yves Lafontaine expressed increasing concern at the Government's failure to upgrade eligibility for legal aid. Sadly, shortly afterwards, Lafontaine was dismissed from his post and the next Annual Report of the Commission contained only a passing reference to low eligibility levels.

The section in the book on Australia shows a strong understanding of legal aid in Victoria and New South Wales. The discussion focuses on Redfern Legal Service and specialist centres like the Consumer Credit Legal Service in Victoria. One significant issue which is not highlighted is the very substantial proportion of Australian legal aid funding generated by contributions from legally assisted persons (22.9% in Victoria and 13.4% in NSW in 1989-90). In Ontario, client contributions amounted to barely 5% of total funding ($9 million out of $173.8 million).

The book does not make very detailed and specific recommendations as to reforms. Rather, it seeks to give a framework for planning future developments. Given the lack of a substantial salaried legal sector in England and Wales, greater consideration of the pros, cons, practicalities and politics of expanding salaried service provision would have been useful. Reviews of this nature can only further the debate about legal aid and hopefully result in more accessible and effective services being provided to greater numbers of people. In this sense, *'A Strategy for Justice'* makes a significant contribution.

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