groups of people in specific factual contexts: parents, children, students, head teachers, teachers, governing bodies of schools, further education and higher education institutions and central government. Fourthly, there is a discrete body of learning, contained in both primary and secondary sources, which comprises Education Law.

An Education Law syllabus should build upon work already undertaken in the Constitutional and Administrative Law modules. Students should already be familiar with the relationship between central and local government, the general principles of judicial review and the role of the Ombudsmen.

The first question is whether the module should concentrate upon the law relating to schools or include further and higher education. The second question is what should be included in a syllabus. There is no shortage of material. It is more a question of what should be left out. Inevitably, because of time constraints, a lecturer is likely to concentrate on particular topics within such a syllabus.

Education Law has great potential for teaching legal skills. It demonstrates the application of administrative law principles in a specific context, and draws together and adapts principles from different areas of law, such as administrative law, child law, the law of tort and international human rights law. It is ideal for developing legal research skills. There is a plethora of statutes, regulations, circulars and cases. Currently, there are a variety of texts on education law but they tend to be aimed at the legal or educational practitioner, rather than the law undergraduate. In addition, there are many specialist law journals.

The wide range of materials available can be overwhelming but it enables students to develop their research and analytical skills using both printed and IT resources. There is much useful material on Education Law obtainable through the Internet. Advocacy and oral presentation skills can be developed in seminars with role play exercises based, for example, on admission or exclusion appeal committees.

Education Law is an example of a 'proper legal education', which is of value to law students whether or not they practise law. The skills element alone is of value for the next stage in their legal training and for practice. Education Law embraces legal principles and remedies from a variety of areas of law.

JUDICIAL EDUCATION

Judicial education and the means of funding it in the Asian region: a judge's view
Justice R D Nicholson
7 *J Judicial Admin* 1997, pp 83–97

What issues face judges in relation to judicial education in the LAWASIA region? How should they deal with them? Australian experience has shown that members of the judiciary are prepared to participate in properly organised and presented programs involving education in matters beyond the learning of hard law.

It is essential to the performance of the judicial function that judges be independent. This means they must be independent of any influences which would put at risk impartiality in deciding court cases. It is sometimes thought that if judges participate in judicial education, they will compromise their independence. The question therefore is how judicial education, particularly in such areas, can be managed in a way that is consistent with judicial independence and the public perception of it.

The Australian experience suggests that the cardinal principle of judicial education, for it to be successful, is that it must be judge-managed. This gives judges confidence that there will be no element of embarrassment if they participate freely and frankly in the seminars associated with the delivery of the education. It is that which provides the answer to concerns among the judiciary that education, especially in cultural matters, will be a form of political brainwashing. If the judges themselves are the arbiters of the programs they receive, there is a system of management consistent with judicial independence.

Why should judges participate? The reasons may be listed as follows: the judiciary is required to keep up with changes and further its understanding of the existing law; in the case of administration, the judges need to be working in tandem with court registries to progress cases and achieve the best within limited budgetary provisions; in the case of cultural matters, there is a public satisfaction that, whatever the background of the judges, they have had the chance to come to an understanding of the background of all those who may appear before them in court; and public and professional confidence in the courts is maintained and enhanced by the display of willingness to learn.

To achieve judicial support for judicial education, not only must the programs be judge-managed but they must also be voluntary. These are the

twin pillars of the growing success of judicial education in Australia. Any application of external compulsion, for example by statutory requirement, would be arguably inconsistent with judicial independence and certainly inconsistent with the standing of judicial officers.

Judicial education may be delivered in relation to improving a judge's knowledge of the law; improving a judge's skills in judicial administration; and contributing to a judge's understanding of society. The case for judicial education, if it admits of any variations in its strength, is at its strongest on the appointment of judges. New judges need new knowledge and skills. The confidence of any new judge is bound to be enhanced by the opportunity to learn from those experienced in the art of judging.

There is considerable variation in the resources available to the courts of the countries in the LAWASIA region. Availability of funds, however, is not a precondition to commencing judicial education if there is judicial will to do so. The present realistic options for attaining judicial education in the LAWASIA region would appear to be the following: from within the resources of each court for programs specific to the judges of that court; from courts within a particular jurisdiction; by establishment of local or university judicial education units; in liaison with local legal professional associations; establishment of a central training facility on a national level; from transnational programs; public funds; aid funds; institutional private funds; or judges' contributions. Pooling of resources may occur on two levels: one is geographical; the second may involve courts of the same subject-matter jurisdiction.

Universities in Australia have proved to be a fruitful source of support for judicial education. The resources of local bar associations and law societies in delivery of continuing legal education should not be overlooked. Utilisation of the resources of professional bodies may occur not only locally but trans-nationally.

Judicial self-help is the key to judicial education. If any court in the LAWASIA region is not engaging in such a program because it is waiting on resources becoming available, it is acting on a false premise. Once a program is under way, it attains its own momentum. There will always be questions of quality and effectiveness but they are secondary to the manifestation of the will to engage the members of the court in judicial education activities. With the program under way, questions of the degree of sophistication can be addressed on the way. They should not be obstacles to commencement.

Judicial education is to be seen as a usual concomitant of judicial life. It is the judges who have made it so in many jurisdictions and who can make it so in jurisdictions not yet fully involved in judicial education.

Educating judges about ADR
T Sourdin
7 *J Judicial Admin*, 1997, pp 23–31

The Australian Law Reform Commission (ALRC) has been asked to look at the advantages and disadvantages of the present adversarial system of conducting civil, administrative review and family law proceedings before courts and tribunals exercising federal jurisdiction. As part of the adversarial inquiry, the ALRC is specifically considering the changing roles and educational requirements of those active within the litigation system — practitioners, judges, experts and others. This article considers how judges could be educated about alternative or assisted dispute resolution (ADR) processes.

The traditional adversarial judge is a 'hands-off' adjudicator in a traditional court setting — the neutral, fair umpire. However, most modern judges are heavily involved in pretrial and general court management issues. Modern judging can involve trial processes that are not adversarial, but are investigative or facilitative and can require judges to refer matters to ADR processes.

Even where judges' roles in ADR are limited to referral, their involvement in ADR can be significant. Judges initiate ADR programs, can select mediators, arbitrators and other third party neutrals, may assess cases to decide whether ADR is appropriate, can promote and encourage ADR, order parties to attend ADR, monitor and co-ordinate ADR processes within case management time frames and assess and evaluate court-related ADR programs.

Although there has been no substantial research into judicial attitudes towards ADR processes, a 1994 survey into the attitudes of Federal Court judges provides some valuable information. The results show that most judges believed settlement before trial is preferable to going to trial. Judges generally considered that it was appropriate for them to encourage parties to settle the dispute before trial or to advise them seriously to consider alternative means of dispute resolution. However, the judges did not view themselves as having a role in the actual process of settlement.

Education about ADR processes that is directed towards the judiciary could also be useful in addressing