

“employed” by the state court system.

The American Bar Association, which is a voluntary organisation, puts out model rules which are in turn adopted by the State Bar Associations and then presented to the judiciary for their adoption.

The codes established and adopted are, like much legislation in the United States, highly detailed and codified. Accordingly, much of the process of complaint handling and discipline is based on what may be referred to as technical arguments over the application of the various codified rules. In this process, the complainant or consumer of legal services has very little, if any, role to play. They simply lodge their complaint and the resultant disciplinary hearing is largely conducted by affidavit.

The major concern that this gives rise to is that the consumer's problem is never addressed, causing a greater degree of consumer dissatisfaction with the legal profession.

This, coupled with the fact that America has just hit the milestone of 1 million practising lawyers (one for every 260 members of the population), and what can only be described as bizarre advertising campaigns by members of the profession, has resulted in an even greater crisis of confidence in the community with the legal profession than exists in Australia.

I returned to Australia with a very strong view that the direction that we have taken in the regulation of the profession is the right direction. While we still have many bugs in the system, and unacceptable delays, particularly in our review function, the underlying philosophy of positively addressing the 95% of complaints that would never result in discipline of a practitioner through mediation and other forms of resolution is far more beneficial to the community and ultimately for the profession. As Commissioner I strongly support the initiative of the Bar Association and the Law Society in focussing not only on the disciplining of aberrant legal practitioners through the complaint handling process but on the resolution of the problem presented by the complainant. It is through mediation and resolution of these problems that the profession will not only gain a greater degree of satisfaction in its clients (and resultant reduction in “lawyer jokes”), but will also gain positive insight into how to better focus the service provided to clients.

While many in the profession have expressed to me their concern about increased government regulation, increased competition caused by an explosion in the number of legal practitioners, and a shrinking financial base, I believe that all is not doom and gloom for the profession.

Unlike what I experienced in the UK and the US, here we are better recognising the importance of consumer satisfaction when providing legal professional services to the community. It is through this approach, and not that of increased barriers to complainants, or defensiveness in the face of government regulation, that will ultimately provide the degree of respect, understanding and satisfaction by the community of the legal profession that the profession deserves.

□ Steve Mark

Justice Kirby elected President of ICJ

The President of the Court of Appeal, Justice Michael Kirby, was elected President of the International Commission of Jurists (ICJ) at the Commission's triennial meeting in Bangalore, India on 27 October 1995.

For the past three years Justice Kirby had served as Chairman of the Executive Committee of the ICJ, the main executive office in the organisation.

The ICJ comprises no more than 45 jurists elected by the present Commissioners to reflect the legal profession around the world.

The Commissioners come from different branches of legal activity and different regions of the world. The activities of the ICJ are focussed on defence of the rule of law, advancement of human rights and protection of the independence of the judiciary and of lawyers.

One of the recently elected ICJ Commissioners is Dato' Param Cumaraswamy (Malaysia) who, in 1994, was appointed UN Special Rapporteur on the Independence of the Judiciary and of Lawyers.

Justice Kirby holds the UN post of Special Representative of the Secretary-General for Human Rights in Cambodia.

Justice Kirby will hold the post of President of the ICJ for three years. His immediate predecessor as President was Dr Joaquín Ruiz-Giménez, the former Ombudsman of Spain who was a defender of human rights in that country during the Franco years.

Justice Kirby told the closing session of the joint meeting of ICJ Commissioners and the 100 representatives of National ICJ Sections and Affiliated Organisations from around the world that he had adopted objectives of modernising the ICJ organisation.

This had involved securing the participation in the Commission of more women as Members, more non-English speaking Commissioners, more representatives from developing countries and more younger lawyers.

The ICJ had, in the past three years, acquired new premises in Geneva and had adopted a much more transparent administrative style than it had followed in the past.

Lawyers in Australia wishing to be associated with the AICJ should contact the Secretary-General of the Australian Section, Mr David Bitel, Sydney (telephone (02) 283 1333; Fax (02) 267 8808). Those interested will then be put in touch with their local branch.

The AICJ has been very active in recent years with regard to concerns relevant to the independence of the judiciary in Australia and with trial and electoral observance and the conduct of human rights missions in the region, including in East Timor, Burma, the Philippines and Japan.

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