



**NATIONAL OPEN UNIVERSITY OF
NGERIA**

SCHOOL OF LAW

COURSE CODE:LAW 100

COURSE TITLE:INTRODUCTION TO LAW

Significantly, Cass and Sackville Found that there was no Difference between the Income Level of those who Consulted a Lawyer and the Whole Sample (Cass, M and Sackville, R, op cit, p 77).

In Some Courts and Tribunals, the Cost-Idemnity Rule does not apply, or is Only Applied in Certain Situations (where, eg, a Reasonable Offer of Settlement has been refused). See, eg, Family Law Act 1975 (Cth), s 117; Access to Justice Advisory Committee, Access to Justice: An Action Plan (Canberra, 1994), pp 167-168.

In New South Wales, a Completely Different Approach to the Calculation of Costs has been introduced. The Legal Profession Reform Act 1993 (NSW), Amending the Legal Profession Act 1987, Abolished Scales and Provides that Costs Should be Assessed by a Cost Assessor who is a Practicing Lawyer. The Assessor Should Consider Whether it was Reasonable to carry out the Work done, and also the Reasonableness of the Amounts Charged. See Legal Profession Act 1987, ss 208f-208s.

Researchers, Examining the Basis for Charging in Personal Injury litigation in Victoria and New South Wales Found that in New South Wales, 83 per cent Charged Wholly or Mainly by Reference to Time. In Victoria, 68.8 per cent used Court Scales. Worthington, D and Baker, J, The Costs of Civil Litigation: Current Charging Practices, New South Wales and Victoria (Civil Justice Research Centre, Sydney, 1993).

See, eg, Australia Legal Reform Commission, Multiculturalism and the Law, Research Paper No. 1, Family Law: Issues in the Vietnamese Community (ALRC, Sydney, 1991), pp 24-30.

ALRC, Multiculturalism and the Law, Report No 57, op cit, Ch 2.

Studies in the 1970s Indicated that Chamber Magistrates were the Most well known Source of Legal advice in the Community in New South Wales. See Cass, M and Sackville, R, op cit, and Tomasic, R, Law, Lawyers and the Community (Law Foundation of New South Wales, Sydney, 1976).

See, eg, Law Reform Commission of Victoria, Access to the Law: Restrictions on Legal Practice, Report No 47 (Melbourne, 1992); Senate Standing Committee on Legal and Constitutional Affairs, The Cost of Justice, Foundations for Reform (Commonwealth of Australia, Canberra, 1993) and The Cost of Justice, Second Report, Checks and Imbalances (Commonwealth of Australia,

Canberra, 1993); Access to Justice Advisory Committee Report, op cit.

See Weisbrot, D, Australian Lawyers (Longman Cheshire, Melbourne, 1990).

Trade Practices Commission, Study of the Professions-Legal, Final Report (Canberra, 1994), p 178.

Family Court of Australia, Practice Direction 2/91.

For example, Queensland and South Australia: see Access to Justice Advisory Committee Report, op cit, pp 133-134.

Legal Profession Reform Act 1993 (NSW), amending the Legal Profession Act 1987 (NSW), s 175.

Trade Practices Committee Final Report, op cit, pp 158-160; Access to Justice Advisory Committee Report, op cit, pp 145-147.

Joint Select Committee on Certain Aspects of the Operation and Interpretation of the Family Law Act 1975, The Family Law 1975: Aspects of its Operation and Interpretation (AGPS, Canberra, 1992), pp 343-345.

Legal Profession Act 1987 (NSW), ss 186-188 (as amended).

Legal Practitioners Acts 1981 (SA), ss 41-42.

Access to Justice Advisory Committee, op cit, Ch 6, action 6.2.

Basten, J, Graycar, R and Neal, D, "Legal Centres in Australia" (1983) 6 UNSWLJ 163 at 164.

Ibid at n 13.

Armstrong, S, "Labor's Legal Aid Scheme: the Light that Failed" in Scotton, R B and Ferber, H (eds), Public Expenditures and Social Policy: Vol 1, The Whitlam Years 1972-1975 (Longman Cheshire, Melbourne, 1980), p 220.

Access to Justice Advisory Committee Report, op cit, pp 231-236.

See Cappelletti, M and Garth, B, op cit, Pt III.

Commonwealth Attorney-General's Department, Annual Report 1992-1993, Vol 2, p 177.

(1992) 177 CLR 292.

(1994) flc 92-461.

Australian Law Reform Commission, Equality before the Law, Report No 31, op cit, pp 95-98.

Ibid, p 95.

In 1992-1993, 72 per cent of Approvals were for Criminal Law Matters, compared with 21 per cent for Family Law and 7 per cent for Other Civil Law Claims. Legal Aid and Family Services, Gender Bias in Litigation. Legal Aid: An Issues Paper (Attorney-General's Department, Canberra, 1994), p 24.

Australian Law Reform Commission, Equality before the Law, Report No 31, op cit.

Mossman, M J, "Gender Equality and Legal Aid Services: A Research Agenda for Institutional Change" (1993) 15 Syd LR 30 at 48.

Sajdak and Sajdak (1993) FLC 92-348; McOwan and McOwan (1994) FLC 92-451 at 80,691.

Australian Law Reform Commission, Equality Before the Law, Report No 31, op cit, pp 100-101.

The Access to Justice Advisory Committee Noted that the Commonwealth, and some States such as New South Wales, Requires Legal Services Impact Statements When Considering New Legislation and this May Involve Consultation with Legal Aid Commissions. While this May Lead to an Increase of Funding for Legal Aid to cope with the Increased Demand, it is by no Means certain that Legislation which is likely to result in a Significant Increase in Demand for Legal Services will be accompanied by an Appropriate Increase in Legal Aid Provision. Access to Justice Advisory Committee Report, op cit, p 247.

For a Full Account and Evaluation, see Lyons, G, "Aboriginal Legal Services" in Hanks, P and Keon-Cohen, B (eds), *Aborigines and the Law* (Allen and Unwin, Sydney, 1984), p 137.

Australia Law Reform Commission, Equality Before the Law, Report No 31, op cit, pp 117-128.

For Discussion of Physical and Sexual Violence Against Women in Aboriginal Communities see Greer, P with Breckenridge, J, “ ‘They Throw the Rule Book Away’: Sexual Assault in Aboriginal Communities” in Breckenridge, J and Carmody, M (eds), Crimes of Violence (Allen and Unwin, Sydney, 1992), p 189.

Australian Law Reform Commission, Equality Before the Law, Report No 31, op cit, pp 123-124.

For a History and Critique of the Legal Centres Movement see Basten, J, Graycar, R and Neal, D, op cit.

Neal, D (ed), On Tap, Not on Top, Legal Centres in Australia 1972-1982 (Legal Services Bulletin, Melbourne, 1984), Introduction, p 3.

See Basten, J, Graycar, R and Neal, D, op cit, pp 178-187.

See Petre, C, “Specialization: The Sydney Push” in On Tap, Not on Top, op cit, p 12.

Australian Law Reform Commission, Equality Before the Law, Report No 31, op cit, pp 111-117.

Astor, H and Chinkin, C, Dispute Resolution in Australia (Butterworths, Sydney, 1992), Ch 3.

Folberg, J and Taylor, A, Mediation: A Comprehensive Guide to Resolving Conflict Without Litigation (Jossey-Bass, San Francisco, 1984) p 7.

Gribben, S, “Mediation of Family Disputes” (1994) 6 Australian Journal of Family Law 126 at 129.

Bordow, S and Gibson, J, Evaluation of the Family Court Mediation Service (Family Court of Australia, Sydney, 1994), p 33. For the legislative framework, see Family Law Act 1975 (Cth), ss 19A-19C.

Office of the Attorney-General, Family Law Act 1975, Directions for Amendment (Canberra, 1993), pp 4-5, 48.

See above, 7.5.

Federal Court of Australia Act 1976 (Cth), ss 53_A-53_C.

Access to Justice Advisory Committee Report, *op cit*, p 281.

Administrative Appeals Tribunal Act 1975 (Cth), s 34_A. Mediation was Introduced on a Trial Basis in 1991: O'Connor, D, "Future Directions in Australian Administrative Law: The Administrative Appeals Tribunal" in McMillan, J (ed), *Administrative Law: Does the Public Benefit?* (Australian Institute of Administrative Law, Canberra, 1992), pp 194, 200. For Criticism, see De Maria, W, "The Administrative Appeals Tribunal in Review: On Remaining Seated during the Standing Ovation" in McMillan, J (ed), *op cit*, pp 96, 108-114.

In New South Wales, these are known as Community Justice Centres.

Astor, H, "Violence and Family Mediation: Policy" (1994) 8 *Australian Journal of Family Law* 3.

Gribben, S, "Violence and Family Mediation: Practice" (1994) 8 *Australian Journal of Family Law* 22; *Family Law Rules*, O 25_A, r 5.

For other criticisms, see Astor, H and Chinkin, C, *op cit* Ch 2.

See, eg, *Trade Practices Act 1974 (Cth)* and the *Fair Trading Acts* in the States and Territories; see also *Contracts Review Act 1980 (NSW)*. See generally, Clark, P and Parkinson, P (eds), *Unfair Dealing*, *Laws of Australia* (Law Book Co, Melbourne, 1993), Vol 35.

Family Law Acts 1975 (Cth). It is planned to amend the *Family Law Act 1975* in the Light of Recommendations made by the Joint Select Committee on Certain Aspects of the Operation and Interpretation of the *Family Law Act 1975*, *op cit*, and the Family Law Council. See Attorney-General, *Directions for Amendment*, *op cit*. The Proposed Amendments will enact a Presumption of Equality in the Division of the Property between Husbands and Wife, Subject to Variation on a Number of Different Grounds. These Reforms may narrow the Discretion of Judges to Some Extent. Changes are also planned in Relation to the Law Concerning Children, in Particular by replacing Custody and Access Orders with Residence and Contact Orders.

De Facto Relationships Act 1984 (NSW); Real Property Act 1958 (Vic), Pt IX; De Facto Relationships Act 1991 (NT).

Parker, S, Parkinson, P and Behrens, J, Australian Family Law in Context (Law Book Co, Sydney, 1994), pp 430-432.

The Terminology of Centripetal and Centrifugal Law is derived from Galanter, M, op cit.

This is the Position under Community Property Regimes. For a survey, see Parkinson, P, "Who Needs the Uniform Marital Property Act?" (1987) 55 University of Cincinnati Law Review 677.

Dickey, A, Family Provision after Death (Law Book Co, Sydney, 1992).

Toffler, A, Future Shock (Random House, New York, 1970).

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MODULE 1

Unit 1	The Impact of Law
Unit 2	The Nature, Sources and Classification of Law
Unit 3	Nigerian Legal System: Law and Making
Unit 4	The Nigerian Legal System: Administration and Enforcement of Law
Unit 5	Nigeria Legal System: Separation of Power Rule of Law

UNIT 1 THE IMPACT OF LAW**CONTENTS**

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1.0 INTRODUCTION

This topic is designed to indicate how law impacts on our personal daily lives and on business. The law controls and regulates, enforces and punishes. Two passages are used as illustration. The first concerns a

tertiary student; the second, a simple example of a small family business. Both passages highlight the numerous areas of law that may affect our personal and business activities.

With the exception of contract law, and to a lesser extent torts, students are not expected to have a detailed knowledge of the various areas of law identified below. Nor should it be taken that the discussion in this module represents a complete treatment of the law. It is purely to illustrate the impact of law generally.

2.0 OBJECTIVES

By the end of this Unit you should be able to:

- acquire broad view of the notion of law
- understand that virtually everything one does each day, all the year always has some legal implication
- explain the impact of law in many areas of life.

3.0 MAIN CONTENT

3.2 Instructions

Read the following passages and for each, underline or highlight what you consider to be key words, which suggest to you that some legal issue is involved.

3.1.1 Passage 1

An hour in the life of Bayo Bada an undergraduate of Criminology and Security Studies' NOUN.

Bayo Bada ('Bee-bee' to her friends) peers at her electric alarm clock, shouts obscenities (the window is open and the neighbouring house is only three meters away), shuffles to the toilet (biodegradable type), then to the bathroom for a shower.

While breakfasting, Bee-bee listens to the daily state news which *inter alia* catalogues traffic offences, break-ins, mysterious fires in four local schools and objections to a proposed juvenile detention center for wayward wenches and uncouth youths. Taking pride in being an informed citizen, Bee-bee, between bites of barley bread layered with made in England cheese, flips from the headlines 'UN Funding Fouls' to State news demanding jobs in an area designated for World Heritage. A snippet on tertiary fees and delayed payment to the government catches her attention, which reminds her that her first tutorial looms soon.