

Comment:

Lawyers as Social Entrepreneurs

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While they may be unusual in wanting to do it in Latin, lawyers are in good company in their recognition of the virtues of pro bono work. Perhaps, however, the particular nature of their profession, and its stress on their relationships with their clients, have caused lawyers to struggle a little to go beyond that relationship in order to see the larger societal context which is leading many occupations to give renewed attention to motivations that go beyond the narrowly financial.

For those who frame, participate in, or study, debates about social policy, the past 10 years have seen a very different type of discussion as to who is to join the fight for social justice, for the rights of the disadvantaged, and for the protection of our community from the many threats to its cohesion, and even survival. As in politics, where the forces of social reform can no longer simply be aligned with the labour parties, so too in the wider life of the community no longer do those forces necessarily seek to do battle with the elite class and occupational interests which they once saw so clearly as their adversaries.

The assertion that the corporate sector, in particular, and with it the elite professionals, are – or must become – a potential ally in saving the world, is increasingly to be heard, expressed in a number of differing but related ideas and activities.

One of the earliest formulations of this idea was the concept of ‘civil society’. It gained popularity with the fall of communism after 1989. Beyond its extraordinary regional impact, the collapse of totalitarianism generated profound intellectual and political forces that were to engulf much of the world. The revolutionary ferment in Eastern Europe and the Soviet Union did more than convulse those societies: it led to the revitalisation of what in the West had been known for some time as the independent sector. This well recognised, if somewhat taken-for-granted, stratum of society was comprised of all those countless and diverse organisations, large and small, powerful and marginal, conservative and

experimental, which constituted a community sector. Alongside government and business, they were acknowledged to be the driving force of social development. A society that valued and protected this civic space, and encouraged pluralism, was what was meant by the civil society.

At the same time, as statist forms of society lost their appeal, the excesses of the market economies, particularly under the de-regulationist regimes of Reagan, Thatcher and Hawke, led to widespread disillusionment with unrestrained capitalism. From this came the notion of the 'third way' between the command and the market economies, as championed by, for example, British Prime Minister Tony Blair. The third way, with its rejection of dogma, ideology and adversarialism, sought to generate partnerships that would draw on the best that each sector of society offered, through incrementalism, dialogue and partnership. Some optimists even saw in this recipe 'an end to history'.

The concept of 'corporate citizenship', or 'corporate responsibility', added a further twist. Initially, the idea developed as an unwritten social compact between social reformers and the business sector. The former would soften their attacks if business would demonstrate some genuine social conscience and behave like a citizen rather than a plunderer. In Australia, this model received formal sanction through the establishment of the Community Business Partnerships initiative by Prime Minister Howard.

All these formulations implied, among other propositions, that the rich and powerful would make themselves available, in whatever way best suited the nature of their core business, to assist the cause of social improvement. Corporate philanthropy, ethical investment, social audit, responsible corporate accounting and reporting, the replacement of financial measures of commercial achievement by 'the triple bottom line' (that includes environmental and human impact assessment): were all manifestations of what their advocates hoped was a new paradigm. Sharing of resources and provision of services – what the legal profession traditionally calls *pro bono* work – was integral to this development.

Recently, an even newer idea, or term, has been promoted. The concept of 'social entrepreneurs' originated in England. It now embraces people in a variety of roles, ranging from traditional community developers and social activists, through bureaucrats with a social conscience and a willingness to challenge conventional ways of doing things, to business people providing human services and 'not-for-profits'

operating like businesses. To some, the term is little more than ‘old wine in new bottles’; to others it is the new way forward.

Without being naively enthusiastic, these new ways of thinking about the prospects for social betterment do have something to offer. They seek to break down sectoral and professional barriers, to operate creatively and laterally and to reconcile professional advancement and personal benefit with communal progress. The legal profession should engage with these wider social developments. They offer the profession a broader and more socially informed canvas on which to use its own talent, privilege and strategic advantage to promote the public good. The model allows pro bono work to be viewed not just as an act of individual kindness to a specific client, or even as an ethical obligation of the profession, but as one means of engaging with larger forces to save the world.