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THE MOULDING OF LAWYERS: ADR AND LEGAL EDUCATION

by Catherine Morris*

In 1998, dispute resolution education is in hot demand by law students. At the University of Victoria courses on alternative dispute resolution (ADR) have been regularly oversubscribed. Within the past two or three years there has been a flurry of new ADR curriculum developments at Canadian universities including a new interdisciplinary Master of Arts degree at the University of Victoria.[1] Just what has been the impact of alternative dispute resolution on legal education during the past two decades? This essay considers the reciprocal influences of ADR and legal education with the question: "who's moulding whom?"

As one who has been involved in the dispute resolution movement in Canada since the early 1980s, I have witnessed a significant shift. Just fifteen years ago, lawyers in Canada were generally quite sceptical about the need for alternative dispute resolution, often citing the vast majority of cases settled before trial through traditional competitive negotiation styles. Detractors called ADR "the flavour of the month.[2]" Critics warned (and continue to warn) about dangers of institutionalized ADR to women and marginalized [page 272] groups within society.[3] Funding

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[1] Research in 1996 and 1997 indicates the following significant university-based educational programs in dispute resolution in Canada: Carleton University has developed a Master's Certificate Program in Conflict Management offered by the Department of Law commencing in 1997. Carleton is now in the preliminary stages of assessing the development of a Master of Arts in conflict resolution. Conrad Grebel College, affiliated with the University of Waterloo offers an undergraduate degree program in Peace and Conflict Studies which also offers an undergraduate Diploma option. Dalhousie University, Henson College, commenced offering a 90-hour Certificate in Conflict Management in the fall of 1997. Menno Simons College, affiliated with the University of Winnipeg, offers an undergraduate degree in Conflict Resolution Studies. Osgoode Hall Law School commenced the only graduate level LL.M. program in dispute resolution in Canada in 1995. Royal Roads University, is scheduled to launch the first courses in its Master of Arts in Conflict Analysis and Management in Victoria in October, 1998. University of Toronto, Program on Conflict Management and Negotiation, commenced a Certificate in Continuing Studies in Dispute Resolution in the fall of 1996. University of Victoria has begun an interdisciplinary Master of Arts degree in dispute resolution in summer 1998. University of Windsor, Faculty of Law, offers a Certificate in alternative dispute resolution which is a professional development training program of two courses, "Introduction to ADR" and "Advanced ADR." This professional development program is offered by a Toronto law firm specializing in ADR. York University, York University offers a post-degree Alternative Dispute Resolution undergraduate Certificate program which was proposed to begin in the fall of 1996. New programs in dispute resolution are in the early consultation phases at many universities.

[2] Even in 1989, Mr. Justice Allan McEachern, then the Chief Justice of British Columbia, reflected the opinions of many lawyers when he described mediation as trendy, compromising, naive and soft. Found in B. Daisley, "Chief Justice Puts Boots to ADR" (February 24, 1989)

[3] M.J. Bailey,"Unpacking the 'Rational Altemative': A Critical Review of Family Mediation Movement Claims"

for dispute resolution initiatives was sporadic and often limited to pilot projects.[4]

Acceptance of ADR in Canada has increased beyond what was ever imagined in the early 1980s. But has legal education fundamentally changed as a result of the success of the dispute resolution movement?

The rapid development of ADR within the last decade is usually attributed to inefficiencies and backlogs in the justice system[5] and to dissatisfaction by members of the public and by many lawyers themselves with the competitive methods of traditional lawyering and adjudication. Lawyers who become converted to ADR sometimes classify themselves as "recovering" or "reformed" lawyers. Many of today's applicants to law schools do not want to be shaped into the mould of the traditional lawyer. ADR courses in law schools are seen to provide attractive options to law school applicants who want educational alternatives beyond the traditional approaches of the adversarial system.

The growth of interest in dispute resolution has also been attributed to the decline of social, cultural and religious institutions that traditionally mediated conflict. ADR has been seen as part of a communitarian vision of justice and social unity.[6] Also influential has been the growing demand for increased public participation in the development of law and policy. Others have seen the movement toward institutionalization of informal dispute resolution methods less benignly as masking an extension of state control.[7]

Regardless of the origins of the movement, it seems clear that the current widespread demand for a more publicly satisfying and cost-efficient justice system is a significant factor pushing law schools toward offering more ADR options. Thus, the justice system is still the mould within which ADR is largely seen and analyzed.

The role of Canadian universities in the dispute resolution movement

Universities have been instrumental in pioneering many of the early ADR [page 273] initiatives

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(1989) 8 *Can. J. Fan. L.* 61; T. Grillo, "The Mediation Alternative: Process Dangers for Women" (1991) 100 *Yale LJ.* 1545; B. Hart, "Gentle Jeopardy: The Further Endangerment of Battered Women and Children in Custody Mediation" (1990) 7:4 *Mediation Q.* 317; M. Shaffer, "Divorce Mediation: A Feminist Perspective" (1988) 46 *U.T.Fac.L.R.162;* M. Thornton, "Equivocations of Conciliation: The Resolution of Discrimination Complaints in Australia" (1989) *52Mod.L.R.733.*

[4] Canadian Bar Association, *Alternative Dispute Resolution: A Canadian Perspective (Ottawa:* Canadian Bar Association, 1989) at 43; D. Dussault, "The Funding Squeeze" (1992-93) *Interaction;* D. Peachey, "Superior Service: The Missing Variable," *ibid.* at 7. Funding is often still very limited for ADR initiatives in government, universities and other sectors.

[5] The idea that too much litigation accounts for the growth of ADR has been challenged on the basis that there is inconclusive empirical evidence of court congestion. See A. Pirie, "Manufacturing Mediation: The Professionalization of Informalism," in C. Morris & A. Pirie, *eds., Qualifications for Dispute Resolution: Perspectives on the Debate* (Victoria, B.C.: UVic Institute for Dispute Resolution, 1994) 165 at 173-174.

[6] J. S. Auerbach, *Justice Without Law?* (New York: Oxford University Press, 1983).

[7] R. Delgado, "ADR and the Dispossessed: Recent Books about the Deformalization Movement" (1988) 13L. *& Soc. Inq.* 145; C. B. Harrington, *Shadow Justice: The Ideology and Institutionalization of Alternatives to Court.* (Westport, Connecticut: Greenwood Press 1985); R. Hofrichter, *Neighborhood Justice in Capitalist Society: The Expansion of the Informal State* (Westport, Connecticut: Greenwood Press 1987).

in Canada. In the early and mid-1980s, Canadian universities were leaders in joint discussions among community leaders, professionals and academics about how ADR could be developed in Canada. The names of lawyers and law professors are among those who founded key Canadian national and provincial dispute resolution organizations.

Law schools were also in leadership in grassroots experiments during the 1970s and 1980s. For example, representatives from the University of Windsor Law School were among the members of the Windsor community who launched one of the first community mediation centres in Canada.[8] The Windsor-Essex Mediation Centre's three year pilot project was widely acclaimed for its pioneering work in small claims mediation. This early success launched a series of similar pilot projects throughout Canada.

Canadian academics were also involved in innovative approaches to dispute resolution education that involved both the community and the university. For example, University of Victoria Faculty of Law Professors Keith Jobson and Andrew Pirie were instrumental in the development of the community-based Victoria Dispute Resolution Centre (DRC) with other community agencies and leaders. The DRC was originally designed partly to provide practicum opportunities for students in the Faculty of Law's course in dispute resolution.[9]

In 1989 the Canadian Bar Association (CBA) Task Force Report on ADR,[10] headed by B.C.'s Bonita Thompson,[11] recommended the encouragement of ADR education for law students, lawyers, judges, and members of the public including adults and school children. In the late 1980s several Canadian universities established conflict resolution institutes to conduct research or to teach conflict resolution theory and techniques.[12] By 1991, a number of Canadian law schools, including Windsor, Osgoode Hall, Queens, Alberta, Victoria, Ottawa and Toronto were offering courses in negotiation, mediation or dispute settlement.[13] Since then most law schools in Canada have established one or more dispute resolution courses. But the ADR movement is not just the domain of lawyers and law schools. It has already been noted[14] that a number of Canadian universities either have or are establishing interdisciplinary certificate or degree programs in dispute resolution.

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[8] The Windsor-Essex Mediation Centre *History and Pilot Project Evaluation 1984* (Ottawa: The Canadian Bar Foundation, 1984).

[9] The Victoria Dispute Resolution Centre *An Evaluation of the Mediation Project* by N. Dolan (Victoria, B.C.: Ministry of the Attorney General and the Dispute Resolution Centre, 1989).

[10] Canadian Bar Association, *supra* note 4. UVic's Andrew Pirie was involved in the drafting of this report.

[11] Then the Executive Director of the B.C. International Commercial Arbitration Centre in Vancouver which piloted B.C. experiments in personal injury and commercial mediation in the early 1990s.

[12] These included Conflict Management Resources, York University, Toronto; Institute of Peace and Conflict Studies, Conrad Grebel College, Waterloo; UVic Institute for Dispute Resolution, University of Victoria, Victoria, B.C.; Nemetz Centre for Dispute Resolution, University of British Columbia, Vancouver; Canadian Institute for Conflict Resolution, St. Paul University, Ottawa; Law and Education Project, Simon Fraser University, Burnaby, B.C.

[13] D. Isaac, ed., *Teaching Conflict Resolution in Canada: **A** Syllabi Sampler for Universities*(Waterloo, Ontario: The Network: Interaction for Conflict Resolution, 1991) at 105-156.

[14] *Supra* note 1.

University of Victoria Interdisciplinary Master of Arts in Dispute Resolution

The interdisciplinary[15] nature of the University of Victoria program reflects one of the key features of alternative dispute resolution education, and represents one of the most important impacts of ADR on legal education. The program aims to address the educational needs of people in various fields working in public consultation or public sector dispute resolution including government officials and leaders of non-governmental organizations as well as students and dispute resolution practitioners seeking public dispute resolution education beyond the professional development training currently available in B.C. The program is housed in the interdisciplinary Faculty of Human and Social Development[16] and administered by the University of Victoria Institute for Dispute Resolution.[17] The courses in the program are available not only to students registered in the program, but also to qualified students from all relevant faculties and disciplines. Courses will be developed and taught by interdisciplinary teams of regular faculty members and professional sessional instructors whenever feasible. Thus the origins, design and implementation of the program are truly interdisciplinary.[18]

The curriculum of the University of Victoria program contemplates a thesis or a non-thesis option and includes the following courses:

- Foundation courses:
  - Conflict Analysis and Resolution: Basic Concepts for Public Sector
  - Dispute Resolution;
  - Conflict, Culture and Diversity;
  - Public Policy, Law and Dispute Resolution;
- Applied Research Methodology;
- Electives:[19]

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[15] The proposal was formally put forward by the University of Victoria Institute for Dispute Resolution (IDR), a formally constituted research centre and the institutional structure for the Lam Chair of Law and Public Policy, in which Professor Stephen Owen, O.C., is incumbent, and the Faculty of Human and Social Development with the support of several other UVic faculties including the Faculties of Law, Social Sciences, Humanities, Business and Education. The Division of Continuing Studies at the University of Victoria, through its Director of Arts and Science Programs, Brishkai Lund, was also instrumental in the development and design of the program.

[16] The Faculty of Human and Social Development houses the School of Public Administration, the School of Social Work, the School of Nursing, the School of Child and Youth Care, the School of Health Information Science, and a Multidisciplinary Masters program in Policy and Practice in Health and Social Services.

[17] The Institute for Dispute Resolution (IDR) was founded in 1989 to conduct interdisciplinary research and public education institute. Its first Executive Director was Andrew Pirie (1989-1996). Stephen Owen became the Director of IDR in 1997 and is the Faculty Advisor to the interdisciplinary graduate program.

[18] The decision to create an interdisciplinary program is now being confirmed by the widespread interest in the program by people from a broad spectrum of occupations and disciplines. Even before the program was approved, and with notice limited to IDR's mailing list, the office had fielded over 300 inquiries from various places in Canada and other countries. Now that the program is commencing, daily inquiries have escalated.

[19] It is planned that the foundation courses, the research course and thesis will be offered each year beginning in 1998. It is planned that one or two of the new electives will to be developed and offered each year so that within four years each of the proposed electives will have been offered at least once. When appropriate in a given student's program, electives will also be available from the course offerings of the wider range or offerings of other faculties and disciplines at the University.

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- Negotiating the Public Interest;
- Civil and Criminal Justice: Alternative Dispute Resolution and Restorative Justice;
- Human Rights, Fair Treatment of Citizens and the Administrative Justice System;
- Dispute Resolution and Indigenous Peoples;
- Advanced Dispute Resolution Skills;
- Special topics courses offered occasionally.

While a number of faculties were instrumental in the development of this program, emphasis on the supportive role of University of Victoria's Faculty of Law in the development of the interdisciplinary program is important. Dean David Cohen and several other members of the Faculty of Law were involved at all stages of the consultation process of the interdisciplinary program. In addition, since 1996, the Faculty of Law has been developing a plan to increase its course offerings and to incorporate dispute resolution content in other law courses, particularly legal process courses such as civil procedure. As part of the Faculty of Law's movement in this direction, the launch of the new interdisciplinary M.A. program in the summer of 1998 has been complemented by the law school's offering of a special summer law term in dispute resolution. In the summer law session, the three foundation courses of the interdisciplinary masters program were listed as law courses available to upper-year law students. In addition, the law school developed two additional special ADR law course offerings for the summer 1998 program that are not part of the M.A. program.[20] Thus, the law faculty remains instrumental in the development of ADR education at the University of Victoria.

Where's the law in ADR?

"But where's the law in ADR?" some may ask.[21] Within legal education, ADR courses look at the justice system as a dispute management system.[22] ADR focuses attention on the dispute processing aspects of the justice system as well as on the broader sphere of other "non-legal" issues, institutions and social structures within which disputes are situated. Thus, the conceptual framework of ADR shifts the focus of study from law as the centre of attention toward law as part of a complex societal network of dispute resolution institutions, processes and practices.

The movement toward seeing law in its broader social and cultural context is not just a product of ADR education and practice. It can be seen as part of [page 276] a larger movement within legal education that has been occurring during the past two decades. The critical legal studies movement, critical race theory, feminist legal theory and postmodernism have all had considerable impact on legal education in North America[23] as have similar movements in other disciplines. The breakdown in the perception of law as a distinct and autonomous discipline has been seen in the development of what Minda refers to as "law and" movements, notably "law and economics" and "law and society." A number of prominent dispute resolution theorists and

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[20] Family mediation, commercial arbitration.

[21] Note that The Law Society of B.C. recognizes both arbitration and mediation as "the practice of law."

[22] See R.L. Abel, "A Comparative Theory of Dispute Institutions in Society" (1974) *8 L & Soc.Rev.* 217.

[23] For one American law professor's perspective as well as an extensive bibliography, see G. Minda, *Postmodern Legal Movements: Law and Jurisprudence at Century's End* (New York: New York University Press, 1995).

critics are active in the law and society movement.[24]

ADR as a social movement is seen by some as socially progressive and transformative, by others as regressive, and by still others as just another manifestation of the social status quo. The dominant claim of ADR proponents is still that it has the potential to make the existing court system more efficient, satisfying and accessible ("faster, cheaper, better.") These proponents do not aim to make fundamental changes in society or the legal system, but only to make the existing system more effective.

The fabric of the ADR movement is interwoven in complex ways with various threads that both reinforce and threaten the dominant ideas about "law," "justice," and "settlement." For example, legal discourse has been dominated by Enlightenment ideas that the truth may be discovered through objective reason. Certainly many ADR proponents and practitioners spring from this perspective. Arbitrators (apart from utilizing an inquisitorial approach) tend to follow the traditional adjudicative methodology of North American judging, and indeed, many arbitrators are retired judges. The dominant discourse of the field of mediation, too, reflects modern tenets that third parties must be neutral and objective?[25] Lawyers and legal paradigms have been influential in the creation of standards for mediators that perpetuate the ideals of third-party neutrality and objectivity.[26]

Critiques of the dominant ideals of objectivity and neutrality[27] have emerged in both law and the field of dispute resolution. Both legal theory and dispute resolution theory have been influenced by challenges to the concepts and possibility of objectively determined truth and justice. Within the field of dispute resolution, this debate has been seen as important in the [page 277] development of both policy and practice for mediation. Significant assaults have been launched against the idea that objectivity and neutrality are practically possible.[28] Others have questioned whether mediator neutrality is suitable in all cultural, social or institutional contexts.[29] Critics of

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[24] One prominent example is R.L. Abel, "The Contradictions of Informal Justice," in R.L. Abel, ed., *The Politics of Informal Justice* (New York: Academic Press, 1982) at 267; W. L.F. Felstiner, R.L. Abel & A. Sarat, "The Emergence and Transformation of Disputes: Naming, Blaming and Claiming..." (1980-1981) L. *&* *Soc .Rev.* 631.

[25] For a more detailed discussion see C. Morris, "The Trusted Mediator: Ethics and Interaction in Mediation," in J. Macfarlane, ed., *Rethinking Disputes: The Mediation Alternative* (Toronto: Emond-Montgomery, 1997) at 301.

[26] For example, Academy of Family Mediators. *Standards of Practice for Family and Divorce Mediation.* (Lexington, Massachusetts: Academy of Family Mediators, 1995); See also Morris *supra* note 25.

[27] Note that "neutrality" is used here to describe the degree of the third-party's intervention or influence on the outcome or process of a dispute. The concept of third-party impartiality, meaning the non-partisan fairness of a third party, has not been questioned, but has rather been affirmed. For a more detailed discussion see Morris, *supra* note 25.

[28] S. Cobb, "Einsteinian Practice and Newtonian Discourse: An Ethical Crisis in Mediation" (1991) 7 *Negotiation J.* 87; S. Cobb & J. Rifkin, "Practice and Paradox: Deconstructing Neutrality in Mediation" (1991) *16L. & Soc. Inq.* 35; S. Cobb & I. Rifkin, "Neutrality as a Discursive Practice: The Construction and *Transformation* of Narratives in Community Mediation" (1991) 11 *Studies in Law, Politics and Society,* 69; edited by S. Silbey & A.Sarat (Greenwich, Conn: JAI Press, 1991); Gadlin, see note 30 at 153; K. Gibson, L. Thompson & M. H. Bazerman, "Shortcomings of Neutrality in Mediation: Solutions Based on Rationality" (1996) *Negotiation J.* 69; J. Rifkin, J. Millen & S. Cobb, "Toward a New Discourse for Mediation: A Critique of Neutrality" (1991) *9 Mediation Q.* 151.

[29] See for example, J.P. Lederach, "Of Nets, Nails and Problems: The Folk Language of Conflict Resolution in a Central American Setting," in K. Avruch, P. Black & J. Scimecca, eds., *Conflict Resolution: Cross Cultural Perspectives* (Westport, Conn: Greenwood Press, 1991); E. A. Waldman, "Identifying the Role of Social Norms in Mediation: A Multiple Model Approach" (1997) 48 *Hastings L. J.* 703.

third party neutrality have suggested that the myth and practice of neutrality merely works to the advantage of the parties with more power[30] and masks the biases inherent in dominant ideologies to the detriment of marginalized groups in societies. Chief among the critiques are feminist concerns that mediation perpetuates the retention of male standards as the measure of so-called neutrality. Connected with this is the feminist concern that institutionalization of ADR processes may perpetuate the continued privatization, marginalization or public invisibility of issues that primarily affect women. This interdisciplinary critical literature is finding its way onto the curricula of law school courses in ADR and has had some influence on the development of dispute resolution policy.[31] It is unclear, however, whether these challenges to objectivity and neutrality have any substantial impact on the dominant teaching in law schools about the appropriate roles of third parties whether they be mediators, arbitrators or judges.

These critics of the dominant thinking and practices within ADR (and law) are not the only ones among the unconverted. Lawyers who reflect more traditional notions within the justice system also remain almost as sceptical about ADR as they were in the early 1980s. They retain the traditional competitive paradigm of resolving legal disputes. Some still point to the fact that lawyers settle most of their cases (albeit many not until the court house [page 278] steps), and that mediation may simply add another unnecessary layer. They remain unconvinced by ADR proponents who say that interest-based cooperative paradigms of dispute resolution are faster, cheaper or fundamentally better.

In general, however, the justice system and the legal profession have adapted and reacted to ADR by beginning to institutionalize ADR as part of traditional settlement conferences and by experimenting cautiously with mediation both as mediators and as advocates. Mediation meetings, including family mediation sessions, are involving lawyers more and more. Creeping into the discourse of ADR, which in the 1980s and early 1990s was dominated by "interest-based" negotiation, is the idea of "rights-based" or "evaluative" mediation[32] which may more strongly resemble what lawyers have been accustomed to - an evaluative process including recommendation of a solution based on legal rights. The chief difference between litigation and rights-based, evaluative mediation is not their fundamental paradigms of dispute resolution, but the latter's relative privacy and its recommendatory (rather than coercive) features. Lawyers are also influential in the development of standards that ensure lawyers play a large part in mediation, for example, by mandating independent legal advice in mediation codes of conduct.[33]

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[30] J. Laue & G. Cormick, "The Ethics of Intervention in Community Disputes," in G. Bermant, H. D. Kelman & D. P. Warwick, eds., *The Ethics of Social Intervention* (Washington, D.C.: Halsted Press, 1978) at 221. Desmond Tutu has also illustrated this point in a story about an elephant standing on a mouse with a neutral bystander watching: in such a situation, the mouse does not appreciate the bystander's neutrality. This story is attributed to Desmond Tutu in The Network: Interaction for Dispute Resolution, *Going Forward Together: A Discussion Paper prepared for the participants of Interaction 1990, a Canadian Conflict Resolution Forum* (Kitchener, Ontario: The Network, 1990).

[31] While some organizations in the ADR movement have sought to address issues of family violence by developing policy on safety in mediation, for example, the Ontario Association of Family Mediation's 1994 Policy on Abuse, there has been persuasive expression of concern about the adverse effects of mandatory or institutionalized mediation on those who have experienced family violence as well as the potential of mandatory mediation to further institutionalize the privatization of family issues to the detriment of women and children. Ontario's new mandatory ADR program has not included family law cases.

[32] A.J. Stitt, "Mediation," in A.J. Stitt, ed., *Alternative Dispute Resolution Practice Manual* (North York, Ontario: CCH Canadian Limited, 1996) at 1451.

[33] For a discussion, see A. J. Pirie. "The Lawyer as Mediator: Professional Responsibility Problems or Profession

In addition, codes of ethics for government-recognized mediators are standardizing traditional legal ideas about neutrality and impartiality.[34] Thus, notwithstanding challenges to, and controversies concerning, the dominant views of the traditional legal system, they still powerfully shape dominant ADR thinking and practices. There is concern that transformative ideologies within ADR are being coopted by the legal profession.[35]

The influence of the Canadian legal profession will certainly be seen in the University of Victoria's interdisciplinary M.A. program. But it will not be the only influence. The critiques outlined in this essay, as well as others, will be canvassed throughout the program. The focus of the program will be broader than that of the traditional purview of lawyers. It will focus on the interdependencies and intersections among the institutions, processes and skills for governance, justice and sustainability. Also, the program will maintain a continual focus on the central questions of culture, gender and context as they affect the creation of public policies and the design and implementation of dispute resolution processes and systems. Finally, through attracting an interdisciplinary, diverse and international student body and through emphasis on global issues, the program will seek to place dominant traditional Western paradigms of dispute resolution in a more appropriate [page 279] (and less central) place among the complex diversity of the world's interdependent cultures and systems, including legal systems. The experiences of IDR's conferences and educational programs shows that putting people of different backgrounds and disciplines together in a learning environment centred around processes for dispute resolution creates openness as well as a respectful and creative synergy. Placing Canadian law students with students and instructors from other disciplines may influence law students more than ADR courses offered exclusively to law students in law faculties.

Conclusion

Is ADR is affecting legal education in Canada? The answer is clearly "yes." The demand for ADR education is affecting curriculum development in law schools. Also clear is the increasing importance of interdisciplinary approaches to legal education of which ADR education is one theme among others. However, most law students are exposed to ADR only in a cursory way. ADR courses are generally optional, and most substantive law courses still include little or no reflection about dispute resolution. The competitive, adversarial paradigm of dispute resolution is still dominant in Canadian law schools -- traditional mooting retains its high status. Most ADR courses in law schools are reserved for law students, ensuring that the dominant culture of the class is largely the same as the dominant culture of the law school and the legal profession. While the marks of ADR on legal education generally are undeniable, it is unclear that ADR has had much if any impact on the majority of Canadian law students and law professors. ADR scholarship and research is, generally speaking, still on the margins of university and government funding and other support.

Problems." (1985) 63 *Can. Bar Rev.* 378.

[34] British Columbia *The Mediation Roster Consultation Paper* (Victoria, B.C.: Ministry of the Attorney General, Dispute Resolution Office, November 4, 1997).

[35] E. B. Gilman & D. L. Gustafson, "Of VORPs, VOMPS, CDRPs and KSAOs: A Case for Competency-Based Qualifications in Victim Offender Mediation," in Morris & Pirie, supra note 6 at 91-94; see also R. A. Baruch Bush & J. Folger, *The Promise of Mediation: Responding to Conflict Through Empowerment and Recognition* (San Francisco: Jossey-Bass, 1994).

Traditional legal education and lawyering practices have, however, profoundly influenced the development of ADR. The ADR ideas dominant among professional mediators, arbitrators and other ADR professionals are being squeezed into the mould of traditional legal paradigms of justice, advocacy and dispute resolution. Those in the ADR movement whose ideals favour broader, progressive and socially transformative goals still have plenty of work to do toward the accomplishment of their visions.