A NOTE FROM THE EDITOR

THE TROUBLE WITH LAWYERS, ETC.

The operations of the U.S. courts and of the legal profession are being called into question by a variety of legal scholars and practitioners, adding their voices to the growing chorus from the dissatisfied public.

It has now been more than a decade since the last major commission on crime--the National Advisory Commission on Criminal Justice Standards and Goals--reported that public opinion polls consistently show that the public believes the courts free the guilty and harrass the innocent while persecuting the black and poor and catering to the wealthy. A more critical assessment can hardly be imagined.

And recent events haven't changed that evaluation very much. In the past few years, several members of the legal profession have joined the call for reform. One of those voices is that of U.S. Supreme Court Chief Justice Warren Burger, who told members of the American Bar Association this year that public confidence in lawyers has continued to drop, even as the numbers of attorneys in the U.S. has doubled in the past 20 years to a current 650,000--two-thirds of all the lawyers in the world.

And Burger himself was critical of his profession, citing "absurd lawsuits" such as a father suing to have his child's grade in English changed and a football fan suing to revise a referee's ruling.

"When we must constantly witness spectacular expansions of court dockets, requiring more and more judges, something is wrong. When we see costs of justice rising, we see our public esteem falling, something is wrong. . . .

"The entire legal profession--lawyers, judges, law teachers--have become so mesmerized with the stimulation of the courtroom contest that we tend to forget that we ought to be healers of conflict," the Chief Justice said.

Burger nailed the major problem--an outmoded system of justice--in his talk to the stunned ABA audience:

". . . For some disputes, trials will be the only means, but for many claims, trials by the adversarial contest must in time go the way of the ancient trial by battle and blood.

"Our system is too costly, too painful, too destructive, too inefficient for a truly civilized people. . . ."

Amen!

The hundreds of grass-roots neighborhood courts being established across the nation are proving that people can work out problems--civil and criminal--through mediation and arbitration. And in the most successful centers--such as the Atlanta Neighborhood Justice Center--lay mediators replace judges. Here costs are lowered, time is preserved, and clients (on both sides) are satisfied.

The name of the game for the future is participatory justice. The legal profession can either change with the times--changing the focus in law schools and the profession to mediation-arbitration-amelioration skills from the current combative-adversarial-conflict approach--or it can see its image slide further into a bottomless pit.

Since they control both the judicial and, to a large extent, the legislative branches of government, lawyers can put up a substantial battle to protect the status quo, but it seems they will eventually lose, simply because they cannot overcome an ideal whose time has come in their attempts to preserve a system whose time has gone.

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