

"rough DEAL: your guide to drug laws"

3Book Review*

[Heilpern, D M, & Bolt, S, "rough DEAL: your guide to drug laws", Redfern Legal Centre Publishing, Sydney, 1998, pp 99 + 104 (inc. index), RRP \$15.95 (softcover only); ISBN 094 7205 53 5.]

For too long the drug debate has been fuelled by ignorance.

Misinformed commentators and special interest groups are all too willing to push their views as to how the "problem" might be solved. The recent hysteria associated with the ACT heroin trial represents the difficulties blocking reasoned discussion and planning. Powerful sections of radio and television and commentators within the news media proffered the view that the trial would amount to an admission of defeat in the "war against drugs". Sadly, the reasoned debate supported by a wide cross-section of the community including judges, lawyers, doctors, drug and alcohol workers, police and ambulance was derailed. Despite these sections citing the clear failure of prohibition, that system remains.

Justice Wood, in his *Royal Commission Report*, stated his view that something radical needed to be done to overcome the harms and associated societal ills associated with drug use graphically highlighted in the proceedings of the Commission.

The attempts to regulate the use of drugs through the legal system has clearly failed.

Unfortunately, the outrage from uninformed sections of the media and the community resulted in decisions based on political expediency. Initial political support for the ACT heroin trial turned to ambivalence then to strong views against the positive health alternatives. Additionally, the inquiry into the provision of safe injecting rooms resulted in a similar fate.

Unfortunately, the prohibition model remains.

Sadly, this is why “*rough DEAL*” is such an important tool. It will remain an important tool for so long as prohibition remains. The prospect of change presently appears remote and it is consequently important to those exposed to drug use/drug users to be informed as to how the present prohibition system operates. Those so exposed need to be informed as to the myriad of issues that may arise. This is one of the stark pictures the book paints. That is, as the book states, the system is extremely complex. The Acts creating offences cannot be simply considered as merely prohibiting use and sale of drugs. Complex provisions extend the range of conduct which might otherwise not be considered unlawful. “*rough DEAL*” clearly develops and explains these provisions in an extremely readable fashion. For example, the book in chapter 2 dealing with supply shows how the extended definition of supply in the *Drugs Misuse and Trafficking Act* defines “a wide range of activities associated with the distribution of drugs, not just selling drugs”.

It shows how the mere agreement to supply without drugs being exchanged amounts to supply. Further, how the keeping or having drugs in one’s possession where there is an intention to supply in the future may also amount to supply. In these circumstances, one would be charged with supply without there being any transaction of drugs. The conduct covered in the Act, the book explains, amounting to supply goes on to include “sending, forwarding, delivering or receiving for supply or authorising, directing, causing, suffering, permitting or attempting any of those acts or things”.

“*rough DEAL*” puts the law in a concise way. It explains how technically drug users, as a part of a discreet culture, are likely to have been suppliers. It notes “sharing is part of the drug use culture”. Further “passing a joint to your friend or even just offering it is supply. Buying drugs on behalf of a group is supply. Having drugs in your possession that you intend to give, share or sell is supply, regardless of the quantity. ... If you possess even a small quantity of drug and you tell the police that you intend to give or sell it to someone else that is supply under the Act”.

The strength of the book also lies in its ability to give examples (taken from actual cases) which clearly explain the rather long tentacles of the operation of drug law.

Another helpful treatment of a difficult concept can be found in the explanation of the deeming provisions where possession of certain quantities are deemed to be in possession for supply. The text helpfully explains how the provisions operate and how evidentiary principles are applied by the courts.

One of the other strengths of the book is that it does not just look at substantive drug law in isolation. It goes on to explain in a concise and precise way one's rights in relation to search and seizure of personal property, on arrest and in relation to bail. It also explains the court process, including hearing and sentencing procedures. In this regard, the book is a helpful guide to anyone seeking to gain insight generally into police powers, rights on arrest and court procedures. The chapter on consequences, chapter 6, is an excellent coverage of the principles and factors relevant to sentencing. It also provides a helpful examination, not only relevant to drug offences but to sentencing generally.

The text consequently will be helpful to a wide cross-section of the community. It is a concise educational aid, dealing specifically with drug law but having general application to the criminal law. The authors make it clear that the text is an important first step in education and guidance for those who may come into conflict with the drug laws. The text at times emphasises that it is not meant to be a substitute for formal legal advice for those who do come in conflict. This, ultimately, is good advice as any text, no matter how complex, cannot attempt to cover the intricacies of any given case. However, it does its job well, that is, to guide those exposed to drugs through the maze of complex provisions.

The text is an impressive guide to drug laws from its treatment of the substantive law to its powerful call for drug law reform. Whilst ever that message of reform falls on deaf ears, there will always be an important place for "*rough DEAL*".

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