DRUGS - AN INTERNATIONAL PROHIBITION?

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HISTORICAL & INTERNATIONAL SETTING

Judges and magistrates are servants of the law and of their consciences. They have no authority to pursue their own idiosyncratic views about what the law should be. Nevertheless, in interpreting the law and in discretionary and like decisions (such as sentencing) they are inescapably influenced by their attitudes and opinions. As educated and civilized leaders of their communities, as citizens and as moral beings, they have duties to reflect upon the responsibilities entrusted to them in the administration of justice.

One of the busiest activities for lawmaking and judging in many countries of the Commonwealth of Nations today concerns drugs. There is no doubt that the existence of "drugs" in society represents a major concern of our fellow citizens. Their concern is reflected in political policies, legislation and judicial activity. Such actions take place in a world which is daily bombarded by screaming media

headlines about the latest drug "bust"; repeated declarations by political leaders of the need for a "war on drugs"; and an outpouring of legislation both at an international, national and regional level in pursuance of the policy of prohibition. It is that policy towards drug use which activates the lawmakers in most countries of the Commonwealth of Nations, including my own, as well as in international activities of the United Nations Organisation and the Commonwealth Secretariat.

Typical of the international statements was that by the United Nations Secretary General Sr Javier Perez de Cuellar in February 1990:

> *"Drug abuse is a time-bomb ticking away in the heart of our civilisation. We must find ways of dealing with it before it destroys us."*[1]

It is this perception of the problem created by "drugs" which has led to exceptional cooperation at the international level. This cooperation has resulted in the preparation of international conventions mandating wide-ranging activities to combat the supply of drugs, and the enactment of national and regional laws in furtherance of the strategy of prohibition.

There is now a significant network of international instruments open for signature, most of them developed under the aegis of the United Nations Organisation, stimulated principally by the drug control strategies of the United States of America. Thus the Single Convention on Narcotic Drugs, as amended by the 1972 Protocol[2], provides:

> *"... for international controls over the production and availability of opium and its derivatives, synthetic drugs having similar*

effects, cocaine and cannabis."[3]

This Single Convention was supplemented in 1971 by the United Nations Convention on Psychotropic Substances.[4] It extended the concept of international control to a wide range of synthetic drugs.[5] Because a number of governments, including that of the United Kingdom, had reservations about aspects of these conventions, an International Conference on Drug Abuse and Illicit Trafficking was called together in 1987. Out of it came the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.[6] This Convention was opened for signature in December 1988.

At a meeting of Commonwealth Heads of Government in Kuala Lumpur in October 1989, the political leaders of the Commonwealth stressed that:

> *"The Commonwealth should take the lead in promoting more effective national and international action on a number of key fronts. These included, among others, action against drug trafficking and money laundering, including provisions for the confiscation of the illicit assets of convicted drug traffickers."*[7]

Stimulated by the concern about drugs expressed at the Kuala Lumpur meeting and the resolution urging all members of the international community "to accord priority to [the] early ratification and implementation [of the 1988 UN Convention]", calls were made for:

1. The speedy implementation of the Commonwealth scheme for mutual assistance in criminal matters and for securing the efficient extradition of fugitive offenders (many of them involved in drug offences);

2. Enhancing the flow of information between Commonwealth countries including on developments of domestic legislation, case law, the conclusion of treaties, agreements and other arrangements;

3. Practical expert assistance in drafting "the complex legislation which will often be required in order to give appropriate effect to the ... Convention régime"[8]; and

4. Practical expert assistance in negotiating bilateral and regional treaties to fight the illicit trade in narcotic drugs and psychotropic substances.

At the international level, in response to the repeated statements about the size and urgency of the drug problem, there have been many developments, political and legal, which, it must be said at once, are abnormal. They include moves for the relaxation of the preconditions for extradition in drug cases upon the basis of the establishment of a case falling short of a *prima facie* case against the accused[9] and inter-governmental arrangements for the search and seizure of crews and vessels upon the high seas, contrary to the normal precepts of international law.[10]

In the face of the perceived problem of illegal drugs our nations have adopted extraordinary strategies. Our legislatures have enacted statutes with an ever-increasing armoury of official powers. They have imposed ever-increasing penalties. Judges and magistrates have been called upon to mete out ever-increasing punishments. In countries such as Australia, prisons must accommodate a burgeoning population of prisoners, many of them incarcerated because of their involvement, directly or indirectly with

illegal drugs. In Australia it has been estimated that almost 70% of the prison population of about 12,000 is incarcerated either for a drug related offence or for other serious or repeated offences committed to feed a drug habit.

This panoply of laws is comparatively recent. Over the past seventy years Australian drug law and policy has developed more as a response to international pressure than as a well targeted response to the dimension and character of the real problems of drug abuse in this country. Drug policy, as it related to opium, then heroin and later cannabis and other drugs used non-medically (ie socially or recreationally primarily by young people) developed as a result of international and national forces. A single strategy, that of prohibition, has come to dominate Australian drug law and policy as that of most other countries. Alternative regulatory policies had never been seriously considered, until certain recent developments have begun to place alternatives on the agenda.[11]

Many politicians who make laws in relation to "drugs", and most citizens who, urged on by the popular media, call for ever-increasing draconian penalties and powers, never see the people involved in illegal drugs. But judges and magistrates do. Such people come like a sad parade into their courtrooms. Some of them are sick, addicted people, more fitting for the attention of public health authorities than a court of law. Occasionally, but rarely, the financiers are caught. In the dock, they look like nothing so much as a corporate "white collar" criminal. To them, servicing the huge demand for illegal drugs is just another business. Usually, however, the drug criminal is a young

person, far from an addict, who, responding to peer pressure has turned to illegal drugs for "kicks". Typically, though they may say otherwise to respond to the perceived culture of the court, they feel no moral opprobrium, only regret that they were caught in the use of *their* drug.

This, then, is the setting of international, national and regional laws on illegal drugs. Every country has its own tale of legal regulation. Every judicial officer can give his or her impressions about the utility and success of the legal strategies for prohibiting illegal drugs. Before returning to the policy questions which those strategies present, it is useful to sketch some of the Australian laws enacted to deal with the "drug problem".

AUSTRALIAN DRUG LAWS

Federal Laws: Australia is a federation. Its federal Constitution was framed by the Founding Fathers exactly 100 years ago. From the first draft, it bore the stamp of the model of the United States Constitution. A limited list of powers was conferred upon the Federal Parliament for which it has law making authority. The remaining legislative powers were retained by the States. The federal list did not contain a general power to make laws with respect to crime. In this sense, the Australian Federation opted for a different balance from that accepted in Canada. But it is not true to say that criminal law was retained as an exclusive province of the Australian States. As incidental to the many relevant heads of power conferred upon the federal Parliament, expanded over a century by judicial interpretation, ample power was conferred to make federal criminal laws.

In connection with illegal drugs, the substantive federal legislation of the greatest importance is found in s 233B of the *Customs Act* 1901 (Cth) and in the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act* 1990 (Cth).

The provisions of s 233B specifically relate to narcotic goods. The section was inserted into the *Customs Act* in 1967. It was a measure cognate with the *Narcotic Drugs Act* 1967 enacted to implement various obligations assumed by Australia upon its ratification of the Single Convention on Narcotic Drugs. The purpose of the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act* 1990 is to fulfil the obligations of the Australian Government, to the extent that federal power allows, under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The Act was presented as part of the process of the ratification by Australia of that Convention. It covers most of the provisions of the Convention which fall within the areas of responsibility of the federal Parliament and Government in Australia. The main development in the Act, when compared with that of 1967, was the extension of Australia's extra-territorial jurisdiction in accordance with Article 4 of the Convention.[12] Difficulties had previously arisen where narcotic goods were in the process of being "imported" into Australia but where, though the importation was in progress, the goods remained outside the territorial limits of Australia.[13]

Various offences are created by the 1990 federal Act. They include possession of equipment in certain circumstances

and "dealing" in drugs as widely defined. However, the centrepiece of the federal law in Australia relating to illegal drugs remains s 233B of the *Customs Act*. The constitutional basis of that Act, one of the first passed by the Australian Federal Parliament, is the power of that Parliament to make laws with respect to customs and excise. Section 233B makes special provision with respect to narcotic goods. It covers bringing such goods into Australia, possessing them without reasonable excuse after import (proof of which lies on the accused); conspiring to import; aiding or procuring importation; and failing to disclose importation. The penalties for the various offences range from a fine to life imprisonment. In Australia there is no death penalty. Life imprisonment applies according to a scale determined by the quantity of the drug involved. A schedule to the Act defines,in relation to the specified substance, the quantity deemed "trafficable" and "commercial". Many of the cases in the courts have concerned the meaning of importation and the constitutional question of whether, in the facts found, the limits of the federal power over importation have ceased.[14]

State Laws: In Australia, the State laws relating to illegal drugs overlap the federal drug laws. There is no uniformity in the terminology or the structure of State laws. Whilst the *Customs Act* refers to "narcotic goods", the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act* simply refers to "drugs". The legislation of the States also uses a variety of words. The applicable New South Wales Act, the *Drug Misuse and Trafficking Act* 1985 (NSW) is expressed in terms of a "prohibited drug". The

Victorian statute, the *Drugs, Poisons and Controlled Substances Act* 1981 is framed in terms of "drugs of dependence". The Queensland Act, the *Drugs Misuse Act*, 1986 is expressed in terms of a "dangerous drug". Although a Royal Commission into drugs conducted by Sir Edward Williams urged a uniform Australian law on drugs, a decade later, despite drug summits and a National Campaign Against Drug Abuse and a Drug Offensive,[15] we are still a long way from a single national law. Indeed, a Federal Review of Criminal Law has suggested a much more modest attempt to secure consistent terminology and a supportive relationship between Federal and State laws.[16]

Time does not permit an extensive review of the drug laws of the several States and Territories of Australia. The New South Wales Act of 1985 is probably the most important. By reason of the fact that Sydney is the major port of entry, by air and sea into Australia and New South Wales has the largest population in the country, it is inevitable that this State should be the one with the largest "drug problem". The development of the New South Wales Act is also typical. Originally, the laws governing illegal drugs were included in the *Poisons Act*. As new drugs came on the scene and were considered worthy of regulation or prohibition, they were simply added to the prohibited drugs joining poisons and other restricted substances. Various subcategories were developed to cover opium and Indian Hemp; heroin and its derivatives; drugs of addiction, eg cocaine and amphetamines; and prohibited plants. But because the *Poisons Act* was originally designed to regulate and control the supply and distribution of pharmaceuticals and

poisons on public health grounds, it eventually became clear that such a statute was an ungainly vehicle for dealing with the recreational drugs which attracted major attention during and after the Vietnam War. For this reason, the *Drug Misuse and Trafficking Act* 1985 was enacted to remove the recreational drugs from the *Poisons Act*, and to leave that Act dealing with matters more properly pertaining to poisons. The *Drug Misuse and Trafficking Act* narrows the categories of penalised drugs to just two, ie prohibited drugs and prohibited plants. The latter are defined essentially to cover cannabis plants and the like.

As in the Federal Act, a schedule provides for various quantities of the specified drugs. The penalties escalate according to whether the quantity is a "discrete dosage unit"; a "commercial quantity"; an "indictable quantity"; a "large commercial quantity"; or a "trafficable quantity". There is also a division between offences susceptible to summary conviction and those which must be tried on indictment. All offences of possession of prohibited drugs are summary offences regardless of the weight of the drug. Uncomplicated by the necessity to find a link to Federal power, the State Act attaches its consequences to "possession" anywhere in the State. Naturally enough, questions have arisen over possession of minute quantities, joint possession with another, momentary possession, forgotten possession and attempts to obtain possession.[17] Further offences are provided in respect of the administration of prohibited drugs, the possession or supply of drug implements, the display of implements, prescription offences and aiding and abetting the commission

of offences. Offences in relation to cultivation of prohibited plants are provided, as are offences concerned with the manufacture and production of prohibited drugs and the supply of such drugs. Further specific offences exist in relation to dealing in, or distributing, prohibited drugs. There is also an offence of "deemed supply".

A measure of the highly technical issues which inevitably arise in a statute carrying with it, upon conviction, penalties of up to life imprisonment, may be seen in the recent publication of a new book *Drug Law in New South Wales* with 330 closely printed pages of analysis of the applicable legislation and case law.[18]

Exceptional Powers: Equally important to an understanding of the fabric of Australian legislation on drugs is an appreciation of the significant amendments to evidence law to facilitate the proof of the drug offences.[19] These include the enhancement of search and seizure powers,[20] and the enlargement of powers to use of listening devices[22] and telephonic interception[21] for the purpose of detecting drug offences. The use of police informers has also led to a substantial development of the law of entrapment. Often the only way of penetrating the world of drug users is by the use of police informers. Sometimes, sad to say, such informers are not uncorrupted by the subculture and the huge profits to be made. Some also speak up the quantity of drug involved for the purpose of bringing the offender within a higher range of penalties.[23] Naturally, the offenders facing lengthy imprisonment are vulnerable to abuse of power.

Also exceptional have been the laws providing for the

confiscation of criminal assets. Such laws have been passed both at the federal and State level in Australia.[24] A most novel piece of legislation has recently been enacted in this State. Called the *Drug Trafficking (Civil Proceedings) Act* 1990, it introduces a number of important new concepts. It provides for forfeiture orders and the freezing of the assets of a person accused but not yet convicted. The proceedings are civil. They do not require proof of guilt beyond reasonable doubt. Certain excepted payments from the frozen assets are provided, including for the legal costs of the accused.[25] A wide definition is given to "tainted property". By any account, measured against the traditional rules of the criminal justice system inherited from England, such provisions are wholly exceptional and by some measures extreme.

POLICY QUESTIONS

I have now sufficiently outlined the international and Australian responses to the perceived need for a "war on drugs". In recent years in this country, however, a significant body of informed opinion has begun to question the strategy pursued with seemingly never-diminishing enthusiasm by international agencies and local politicians. No longer is the questioning that of ill-informed anarchists. International figures such as the former United States Secretary of State, Mr George Schultz, and the Nobel Laureate, Professor Milton Friedman, have spoken out against the current strategies of the "drug war". Opinion polls in Australia have begun to show increasing disillusionment with the law and order strategy and a growing demand to treat the "war on drugs" as a public health issue.

There are several reasons for this turn about. They include:

1. The apparent failure of the case for criminalisation to persuade informed citizens. The substantial market for drugs is obviously servicing a very large number of apparently law abiding citizens who are forced into criminality by present laws. As during the Prohibition on alcohol sale etc in the United States, the attack on the supply of drugs is only partly successful. It drives an obviously lucrative trade underground;
2. The social costs of the current approach continue to increase enormously. Large numbers of persons are sent to prison, some of them for an addiction, many for crimes committed to pay black-market prices for drugs. Otherwise honest citizens, especially among the young, are criminalised and driven from the social mainstream;
3. Prohibition diverts funds for law enforcement from the pursuit of other anti-social conduct such as tax frauds, white collar crime, environmental offences and the like, arguably of greater community damage. The extent of the corruption of police and other law enforcement agencies has been demonstrated in Australia by a number of inquiries and by convictions secured at the highest level;
4. Internationally, the war on the drugs has driven a number of developing countries into dependence on illegal opium or coca as cash crops. The greater the risk, the larger the profits and the more attractive such activities then appear to people willing to take risks to service the huge demand for recreational drugs

in the developed world;

5. The health risks associated with illegal drugs pale into insignificance beside those presented by drugs in common usage in society. Thus in 1986, alcohol caused 2,218 deaths in Australia. Tobacco caused 17,070 deaths. Opiates, barbiturates and other illegal drugs caused 317 deaths. Whilst death is not the only outfall of drug use, the disproportion of the effort and public energy addressed to illegal drugs is inescapably striking;

6. There is now an additional factor in the equation. I refer to the spread of the human immunodeficiency virus (HIV) by the sharing of unsterile needles. The growth of HIV in the drug using populations of developed countries is a major source of concern to the World Health Organisation. Whilst injected drugs remain illegal, the power of the community to secure behaviour modification and protection of itself from the spread of HIV is severely diminished. The result is the adoption of inconsistent and incompatible laws - punishing drug possession and use but permitting the free exchange of sterile needles, such as can now occur in most parts of Australia.[26]

There are now many serious observers in this country who question the wisdom of persisting with the current legal strategy. Increasing attention is being paid to the alternative options that are available to reduce drug abuse.[27] These include the regulated supply of heroin and other illicit drugs to "addicts" as begun in the United Kingdom in the 1960s and still survives in a few centres of

that country in an attenuated form; the decriminalisation of the personal use of small quantities of other recreational drugs (such as cannabis); and the adoption of public education and non-criminal means of social regulation as is being attempted in parts of the Netherlands and in Denmark.

The use of education and public health strategies rather than the blunt instrument of the law is advised by an increasing number of people involved in the outfall of the "war against drugs". In particular, those concerned in the treatment of AIDS patients are urgently demanding a reassessment of our priorities. Dr Alex Wodak of Sydney recently pointed out:

> *"The costs are increasing dramatically. For example the US Congress approved increases in expenditure for law enforcement of illicit drugs in October 1988 from $2.5 billion to $6 billion (subsequently increased a year later to $7.9 billion) while maintaining funding for treatment and research related to illicit drug use at $0.5 billion. One of the rarely considered costs of law enforcement is the criminalisation of offenders and consequent disrespect for law ... The direct costs are also startling. At present it costs about $3,000 per annum to keep one patient on a methadone programme for a year. This figure could be reduced if more flexible drug policies were introduced. The cost of incarceration of a drug user is approximately $30,000 per annum. The cost of treating one AIDS patient from diagnosis to death is not known precisely but is likely to be of the order of $60,000 to $100,000.*
>
> *The real question is not what the cost of supplying heroin through legal channels would be, but how this would compare with the current expenditure on all the other items necessary to support the current supply reduction policies. It is difficult to determine current expenditure in Australia on reducing the production or supply of opium, heroin, cocaine and cannabis. But a recent authoritative estimate from the Parliamentary Joint Committee on the National Crime Authority is that expenditure on supply reduction is currently $123 million per annum. This is equivalent to the annual cost of running a 600 bed hospital or maintaining the 4,000*

prisoners in New South Wales."[28]

I conclude as I began. It is not for judges and magistrates to make the law on drugs. Whether in a democracy or otherwise, it is their duty faithfully to implement the law made by others. But judges and magistrates see more of the people caught up in illegal drug use than do most other members of the community. Furthermore, they are people educated in the law and aware of the limits of the law as an instrument to attain effective behaviour modification. In many cases, they are also informed and educated people - intellectual leaders of their communities who look to them for guidance on such issues. Their duty to apply the law does not extend to a duty of blind, unquestioning, obedience. That was required by Hitler of his jurists. It is not part of the tradition of the judiciary of the Commonwealth of Nations.

It is therefore our duty as judicial officers to acquaint ourselves with the current debates concerning drug law and policy and, in proper ways, to contribute our informed voices to that debate. The marginal utility of increasingly draconian laws against drug supply is a legitimate subject for our attention. The urgency of affording that attention arises from the advent of the global challenge of HIV/AIDS. If intravenous drug users become a significant component of the vectors of this virus, it will spread from minority groups to the whole community. For that reason alone, but also for reasons of principle to do with the proper limits of the law, a sober reflection upon our current strategy is necessary with the lifting of voices, where appropriate, to suggest that entirely new strategies

should be considered.

Such new strategies must begin somewhere. At the present, the Netherlands especially gives the lead. But in the Commonwealth of Nations, where we share so many common legal principles and speak the same language, we have a world-wide community of judges and magistrates who are concerned in this problem. It is a useful association. And the judges and magistrates are more likely to have upon this topic opinions which are better informed than the thundering voices of superficial editorialists, the clamouring demands of officials seeking more powers or the cry of the anxious and fearful crowd for ever more draconian penalties. Enough is enough. The supply prohibition strategy, so costly in resources and human terms should be re-evaluated. In a time of rising youth unemployment and despair our communities should be mature enough to contemplate new strategies. Perhaps they should even ask the unspoken question of why the young particularly resort to drugs and why the panoply of laws and punishments have failed to deter so many of them from doing so?[29]

The one great lesson which our inherited common law teaches judicial officers is to see developments of the law in an historical context. This is virtually inescapable because the history of the common law extends over 800 years. We are the daily beneficiaries of it. Therefore, we can see the way, as a matter of legal history, prohibition on narcotic and other drug supply came into our legal systems.

In the late 19th Century, the United States of America was in the grip of the Temperance movement which also existed in countries of the British Empire but never with the same

following or political power. That movement gradually captured the lawmakers in one State of the Union after another. It even led to the establishment of the National Prohibition Party after the United States Civil War. By the early 20th Century this was a most powerful political force in the United States. At about this time the domestic pressure in the United States had a strong influence on the first international treaties on drug use negotiated in the Hague in 1909 and Geneva in 1912.

As we all know, the United States eventually adopted the 18th Amendment to the Constitution introducing Prohibition against intoxicating liquors on 16 January 1919. The Prohibition was proclaimed to commence a year later. The brave experiment lasted fourteen years. Those who spoke against it publicly were, at first, branded as incorrigible or foolish or evil. But gradually the failure of the attempt to stamp out the use of the drug, alcohol, by prohibition of supply became inescapably clear. The 21st Amendment to the Constitution was adopted on 5 December 1933. It repealed the 18th Amendment. It closed a momentous period in the social history of the United States. But the prohibition spirit lingered on in that country. It is still there today. It has now turned to the international *fora* where, especially after the Second World War the voice of the United States was so powerful. What failed nationally in that country as a strategy against abuse of one drug became the strategy internationally against others. And I fear that all of us have become caught up in it. Few dare to question it. Perhaps the time has come for us to do so. At the least it is a legitimate subject for debate amongst those who send the

offenders to long periods of punishment.

ENDNOTES

* President of the Court of Appeal of the Supreme Court of New South Wales; Former Chairman of the Australian Law Reform Commission; Commissioner, World Health Organisation Global Commission on AIDS; Commissioner, International Commission of Jurists. Personal views.

1. Reported *Canberra Times* 22 February 1990, 18.
2. See *United Nations Treaty Series*, vol 976, 106.
3. See United Kingdom, Home Office, Memorandum, *Misuse of Hard Drugs*, December 1984, HC Paper No 66, 1985.
4. See *United Nations Treaty Series*, vol 1019, 176.
5. See W C Gilmore, "International Action Against Drug Trafficking: Trends in United Kingdom Law and Practice Through the 1980's" (1991) 17 *Commonwealth Law Bulletin* 287, 289 (hereafter Gilmore).
6. See United States, Department of State *Bulletin*, April 1989, 49.
7. As cited by Gilmore, 287.
8. *Id*, 288.
9. *Loc cit.*
10. *Id*, 294.
11. L Drew, "The Case for an Alternative Drugs Policy" in T Carney and Ors *The Unwinnable War Against Drugs - the Politics of Decriminalisation*, Pluto, Melbourne, 1991, 6 (hereafter Carney *et al*).
12. P Zahra and R Arden, *Drug Law in New South Wales*, Federation, Sydney, 1991, 124 (hereafter Zahra).

13. See *Bull v The Queen* (1974) 131 CLR 201 (HC).

14. See *R v Courtney-Smith (No 2)* (1990) 48 A Crim R 49 (NSW CCA); cf Zahra, 132.

15. See Drew, *op cit* n 11, 19.

16. See Australia, Review of Commonwealth Criminal Law, DP 13, *Drug Offences*, April 1988, 33.

17. See Zahra, 30ff.

18. *Id.*

19. *Id*, 215ff.

20. *Loc cit.*

21. See *Telecommunications (Interception) Act* 1979 (Cth). See also *Customs Act* 1901 (Cth), s 219A - 219K. Note discussion in *DP 13*, above, 26ff.

22. *Loc cit.*

23. See Zahra, 159f.

24. See *Proceeds of Crime Act* 1987 (Cth); *Crimes (Confiscation of Profits) Act* 1985 (NSW); *Confiscation of Proceeds of Crime Act* 1989 (NSW); *Drug Trafficking (Civil Proceedings) Act* 1990 (NSW).

25. See *New South Wales Crime Commission v Fleming and Heal*, Court of Appeal (NSW), unreported, 14 August 1991.

26. This discussion is taken from J Mathews, "Introduction" in Carney *et al* (above), 3.

27. T Carney, "Drug Policy and Social Citizenship" in Carney *et al* (above) 37, 61.

28. A Wodak, "Beyond the Prohibition of Heroin: The Development of a Controlled Availability Policy" in Carney *et al*, 52, 58.

29. I Dearden, N Sutherland and J Ransley, "Queensland drug laws: reform?" (1991) 16 *Legal Service Bulletin* 60 at 62.