

Book Review

***Non-adversarial justice* by Michael King, Arie Freiberg, Becky Batagol, Ross Hyams**

Review by Susannah Hill, Associate, Clifford Chance

The publication of the second edition of this book marks only five years since the first edition was published, evidence of the rate of development, and the emerging interest in, this area of law.

The foreword by Chief Justice Wayne Martin is a testament to his belief in both the concept of non-adversarial justice but also to the collection of work and its authors.

Non-adversarial justice (as the authors have aptly termed it) is a burgeoning trend in Australia. Unlike the adversarial system, non-adversarialism is 'problem-oriented' and 'solution-focused'. The focus of the book, as with non-adversarial justice generally, is not just on the court system, but on the *justice* system more broadly.

It is a system not without its challenges and critics – many argue that restorative justice (a component of the broader non-adversarial justice) is an inadequate means of dealing with criminals and serious offenders. This book adequately addresses the criticisms of this form of justice in an even handed way.

While non-adversarial justice is a fairly new concept, not all processes under this umbrella are novel. In particular, the authors point to the coronial inquiry as

an example of a non-adversarial process which has proved effective over a long time.

The book is made up of 15 substantive chapters.

Chapters 2 to 7 look to the key concepts and the theoretical underpinnings of those concepts: therapeutic jurisprudence, restorative justice, preventive law, creative problem solving, holistic law and ADR.

Chapters 8 to 13 describe the various courts, procedures and programmes that promote non-adversarial justice. It is found in family law, problem-oriented courts (that is, drug courts, mental health courts, family violence courts), intervention schemes, indigenous sentencing courts, processing cases without resort to the courts, and coroner's cases.

More victim involvement, post-sentence supervision, less formal processes, and a 'holistic' approach (which involves considering each element of the problem which led to the dispute), frequently emerge.

The broader implications of a non-adversarial approach on the court, the legal profession and academia, is covered in chapters 14 to 16.

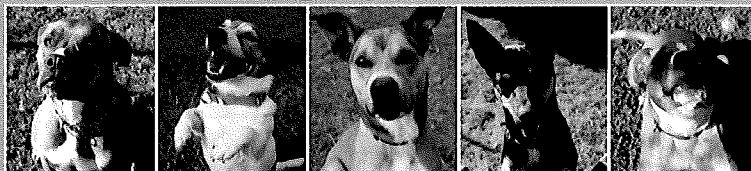
Judicial and academic support for the concepts articulated in this book is increasing. While acknowledging some political resistance, the authors demonstrate that there is strong support for non-adversarial processes from practitioners, courts and non-practitioners.

It is particularly helpful where, in assessing the relevant non-adversarial courts, such as family violence courts, mental health courts and indigenous courts, the authors consider the position in each state or territory where those courts exist.

To an extent, the book is research driven in its content. It provides an honest assessment of not just the benefits of, but also the shortcomings in, non-adversarial justice processes. It provides the history of these processes, and gives an overview of the plethora of programmes and initiatives within this lesser known field of the law. It is a highly informative book, that will assist lawyers and non-lawyers in understanding the way non-adversarial initiatives can be integrated, to the benefit of the legal and broader community.



The Dogs' Refuge Home (WA) operates under a pro-life policy and relies on community support for funding.



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