



Crime, Aboriginality and the Decolonisation of Justice

By Harry Blagg
Reviewed by Kate Connors, ALRC

Dr Harry Blagg is a Western Australian academic who has worked extensively in the fields of criminology, restorative justice, young offenders and interactions between Aboriginal people and the criminal justice system. For four years he was also Research Director on the West Australian Law Reform Commission's project on Aboriginal Customary Laws. Blagg's breadth of experience in both Aboriginal customary law and recent trends in criminology is evident throughout *Crime, Aboriginality and the Decolonisation of Justice*.

Aboriginal people are among the most imprisoned people in the world. In Western Australia, around 42% of the adult prison population and over 70% of young people in detention are Aboriginal. Arrests for assaults and other offences against the person are 24 times higher for Aboriginal men and almost 45 times higher for Aboriginal women. In many cases, these assaults are against other Aboriginal people.

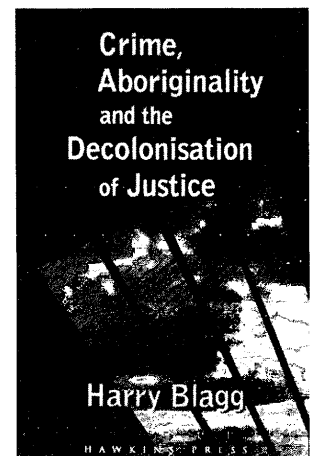
Aboriginal people therefore interact with the criminal justice system as both offenders and victims. Despite implementation of a number innovative policies following the 1991 Royal Commission into Aboriginal Deaths in Custody and numerous more recent inquiries into violence in Aboriginal communities, these figures have not reduced. This book asks whether non-Aboriginal systems of law and justice will ever be able to deal with the needs of Aboriginal offenders and victims of violence, and how Australian governments could find new ways of working with Aboriginal people, and within Aboriginal law, to reduce levels of violence.

Blagg examines the relationship between the criminal justice system and Aboriginal people from a number of different perspectives. Chapters deal with Aboriginal youth, experiences in court, and of family violence. Blagg also considers a number of initiatives such as alternative sentencing, restorative justice, and Aboriginal self-policing, and their impact (or lack of impact) on Indigenous offenders.

His central thesis is that a full understanding of the appallingly high over-representation of Aboriginal people in the criminal justice system can only come through acknowledgment of the history of colonial dispossession, genocide and assimilation, and how Aboriginal people have sought to resist these processes. In looking at the role of courts, prisons and police in the lives of Aboriginal people today, Blagg argues that criminologists must take account of the fact that all these institutions were, and still may be, part of the colonial system of controls 'designed to formalise white power and privilege'. In Blagg's view, colonialism is what separates Aboriginal justice issues from other established categories of disadvantage such as class, gender or other ethnicities.

The chapter on restorative justice is extremely interesting. On first glance, it would seem that restorative justice models—whereby all parties in an offence come together to 'repair harms caused by the crime'—would enhance active Aboriginal participation in the justice process and be consistent with the (perceived) cultural practices of Indigenous peoples. However, restorative justice often centres on the premise that a crime is a violation of people and personal relationships, and that offenders should be made accountable for their actions by focusing on the harm caused, rather than the more abstract notion that a 'rule' was broken. This is at odds with the way Aboriginal people conceive justice in customary law. Blagg argues that while Aboriginal customary law is concerned with re-establishing relationships, it is also very much concerned with the rules that are broken. In particular, there are very strict rules governing avoidance relationships, ceremony, access to ceremonial spaces and men's and women's business. Rather than trying to fit Aboriginal people within yet another legal framework that does not accommodate their narratives, Blagg sees greater worth in pursuing initiatives that promote and renew Aboriginal customary law and resourcing Aboriginal-owned community justice mechanisms.

In attempting to shed light on some of the cultural factors that may differentiate violence in Aboriginal families from common understandings of domestic violence, Blagg is quick to argue that 'feminist theory' and 'feminist middle class white women' have done little to help Aboriginal organisations involved in the fight against family violence. The chapter puts forward the view that Aboriginal women do not see family violence in gendered terms, but rather as part of a 'collective Indigenous experience of powerlessness'. While this view is certainly one that has been expressed before, in my



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view it is unhelpful (and incorrect) to pit feminists and Aboriginal women against each other, thus implying that only white women are ever feminists, or that feminists cannot also understand the dynamics of race and racism. Marcia Langton has written extensively about violence in Aboriginal communities—particularly since the controversial 2007 ‘intervention’—and her essay ‘The End of Big Men Politics’ published recently in the *Griffith Review* (2008:22) is a far more nuanced analysis of how gender, race and power operate in Aboriginal communities than Blagg’s.

Crime, Aboriginality and the Decolonisation of Justice concludes with a chapter on ‘Moving Forward’. Blagg advocates an approach that accepts the cultural differences of Aboriginal people and does not try to push them into structures and processes developed by non-Aboriginal people. He supports the development of community-owned justice mechanisms providing crime prevention, rehabilitative and diversionary programs. These groups would liaise with the broader justice system, for example by supervising offenders while on bail, but would also allow Aboriginal people to develop their own processes for dealing with justice issues in their locality and recognise Aboriginal customary law. In this way, *Crime, Aboriginality and the Decolonisation of Justice* provides both a detailed exploration of the many complex issues involved in the interaction between Aboriginal people and the justice system and a very practical blueprint for change.

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