



Book review:

Crime, Aboriginality & Decolonisation of Justice

Harry Blagg, Second Edition (2016), Federation Press

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Crime, Aboriginality and Decolonisation of Justice examines the parameters of white conceptions of justice, its language, world-view and limitations, when exercised upon Indigenous individuals and their communities. In this book, Harry Blagg engages on a philosophical and postmodern critique of criminology in its analysis of, and work within, Indigenous criminal justice, by examining the limits of criminology insofar as it considers Indigenous difference.

Weaving in analogies from Derrida and Foucault, Blaggs deconstructs the very mechanisms of justice that have governed Indigenous populations in Australia. He does this by examining the gaps between white and Indigenous health, education, and socio-economic statistics, the disproportion of Indigenous incarceration and cycles of dysfunction. Such justice mechanisms, he argues, have their root in the genocidal policies of the colonial state, aimed at eliminating Aboriginality and assimilating Indigenous populations into Australian norms and culture.

For Blaggs, “the most damaging bias against Indigenous people is not the denial of equality, but the denial of Aboriginal difference.” This seemingly simplistic description is actually a remarkable summation of the heart of the problems associated with Indigenous criminal justice in Australia.

Blaggs argues that colonial violence has set the foundations under which western law could operate. Historical acts aimed at watering down Aboriginality are still felt by Indigenous populations to this day. The impact culminates as a profound sense of loss and grief that many Aboriginal people grow up with—partly stemming from personal experience (racism, family violence, dysfunction, death) and partly from a collective sense of dispossession. Consequential social problems such as alcohol and drug

use, petrol sniffing, anti-social behaviour, youth suicide and criminal activity have resulted in a culture of incarceration. Blaggs argues that present mechanisms are not only ineffective—they are counter-effective, when seen from the perspective of the failure of achieving general deterrence and the ‘gratuitous over-use’ of imprisonment.

Mechanisms which have had adverse effects on Indigenous populations include National Emergency Response legislation, mandatory sentencing laws and the prohibition against courts taking into account Aboriginal customary laws in the mitigation of sentences. The resultant mass incarceration for young people has seen prison become a rite of passage—a ‘badge of honour’, and a factor in the perpetuation of Aboriginal male violence.

Blagg’s assessment of contemporary strategies is indeed relevant in light of the violent treatment of youth in detention which has culminated in the Royal Commission presently underway, tasked with examining the mechanisms, (mis)management and culture in child protection and youth detention systems in the Northern Territory, focussed on breaches of detainees’ human rights.

Blaggs concludes that meaningful engagement with Aboriginal people in criminal justice requires investment in Aboriginal-owned community justice mechanisms. He makes a strong case for the need to deconstruct mainstream assumptions in criminology, maintaining that, from the outset, there must be an acknowledgement that Aboriginal communities operate on two laws. His overall message is that, only by embracing Aboriginal difference, can there be an effective justice system for Indigenous Australians, based on a sustainable, durable and resilient Aboriginal-owned community justice mechanisms.