

Mark Findlay, Stephen Odgers and Stanley Yeo, Australian Criminal Justice, 2nd ed, Oxford University Press, Melbourne (1999)
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Australian Criminal Justice provides a concise but wide-ranging profile of the Australian criminal justice process. It deals with all the basic issues involved in this subject, beginning with the aims and functions of the criminal law, its sources and influences and the fundamental principles of criminal responsibility, and working through the investigative, pre-trial, trial, sentencing, and appeal stages of the criminal justice process. The topics are organised sequentially to follow the normal progression of a criminal matter through the criminal justice system. However, the authors point out that this is not intended to imply that the administration of criminal justice proceeds logically, consistently or predictably (p xvii). The final section of the book looks at some of the major issues involved in achieving equality in the administration and operation of the criminal law and the criminal justice system for all members of the community, focusing on particular disadvantaged and minority groups. This work, therefore, adheres to a basically traditional structure which, in one respect, is disappointing. By dealing separately and at the end of the work with the unequal operation of the criminal justice system for certain vulnerable groups within society, the work departs from the authors' stated aim to maintain a holistic approach to criminal justice. It would have served the authors' purpose better if they had woven this discussion into the fabric of the analysis throughout the work. In addition, by presenting this material in a separate section of the book, the authors risk its marginalisation and also risk producing that tokenism which they claim to have 'strenuously avoided, even down to the book's format' (p xxii).

The overall aim of this work is to provide a unified view of the criminal law and criminal justice process and to locate both in their social context. Therefore, this work is not simply descriptive. Each chapter identifies significant controversies and problems that attend the topics under discussion and provides a critique of the current law as well as of any reforms that have either been recommended or implemented. For example, in chapter 2, when discussing police powers of detention and interrogation following arrest, difficulties in determining whether a suspect has actually been arrested are briefly noted and consideration given to the implications that this has for the activation of arrestees' rights. Subsequently, the authors identify deficiencies in the various legislative reforms that have been enacted which have the dual aim of safeguarding suspects' rights and expanding police investigative powers. Similarly, in chapter 6, both the common law rules of evidence and the evidence law reforms introduced in three jurisdictions by the uniform evidence legislation are discussed and criticised. Given the compact nature of this work, the inclusion of analysis of this nature is laudable. However, the economy of the work inevitably has ramifications for the critique that is offered. It tends to be confined to the personal views of the authors and not to incorporate to any great degree the range and diversity of opinion and analysis that characterises this field of study. Further, the brevity of the discussion also means that detail and, therefore, absolute accuracy, have sometimes been sacrificed. For example, the summary at p 187 of the majority judges' approach to the discretionary exclusion of confessional evidence in the High Court case, *Swaffield and Pavic* ((1998) 151 ALR 98 at 121), is not an entirely accurate account of their Honours' views. The approach

described is, in fact, that of the then Chief Justice, Sir Gerard Brennan. It is an approach that the majority judges did not finally approve. In particular, when considering the fairness discretion, while the majority judges acknowledged that unreliability does provide an important aspect of the discretion, unlike the Chief Justice, they declined to accept it as the sole basis for its operation. The discussion at p 187, however, creates the impression that they did ground the operation of this discretion solely in considerations of reliability. While inaccuracies of this kind may momentarily perturb readers with specialist knowledge, it must be acknowledged that this work does not pretend or intend to provide more than an introduction to the topics it covers. By simply touching on and indicating the complexity of the issues it canvases, it aims to stimulate the reader to investigate further. In addition, it seeks to dispel the view that problems in the criminal justice system are amenable to resolution by the 'quick fixes' extolled by many 'law and order' rhetoricians.

Another valuable feature of this book is its indication of the theoretical framework for much of the discussion and, in some sections, its relation of the law to foundational principles. For example, in the introduction to chapter 10 which deals with the inequitable operation of the law and criminal justice process, the authors identify conflict theory as providing one possible explanation for the discriminatory operation of the criminal justice system. A succinct description of conflict theory is also provided. Similarly, the rules of evidence dealt with in chapter 6 are discussed in terms of the wider principles on which they are based. While it is not possible in a work of this breadth and brevity to do more than mention such matters in passing, the reader is, nevertheless, alerted to the broader epistemological possibilities of the subject. In this way, this work offers a spring board for the interested reader into other, more specialist fields of study. Because this work provides a glimpse of the entire scope of Australian criminal justice, its administration and its study, it is potentially useful as more than an introductory text, even though this is the purpose nominated for it by its authors (p xvii). The more advanced student or experienced worker in the field might scan its pages as a refresher or in order to be reminded of the holistic nature of the criminal justice process.

This work also attempts to provide an international framework for much of the discussion. Accordingly, where relevant, mention is made of international instruments relating to human rights to which Australia is a party and which, have had some but, as yet, relatively minor influence on the courts' interpretation of the law and procedural rules. For instance, when considering what is encompassed in an accused's right to a fair trial, the High Court's minimalist approach in *Dietrich v The Queen* ((1992) 177 CLR 292) to the relevance of international human rights jurisprudence, is touched upon. Consideration of international human rights jurisprudence features infrequently in texts on Australian criminal law, so that its inclusion in this work marks a welcome theoretical advance.

However, perhaps the greatest strengths of this work are its breadth and general unity of coverage and its communication of complex and difficult ideas in a straight forward and readily available way. The authors intended that its readers should 'not require a particular knowledge of any aspect' of the book (p xvii) in order to appreciate its analysis. Accordingly, as the Honourable Justice Michael Kirby points out in the foreword, it 'does not threaten the reader with intimidating detail or unfamiliar language' (p xi) and, generally speaking, the aim to 'keep it simple' without producing dangerous over-simplification (p xxii) has been met.

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