

# Review Essay

## *Whose News About Justice?*

*Nicholas Cowdery (2001), Getting Justice Wrong, Allen & Unwin, Sydney, ISBN 1865083224 &*

*Jock Collins, Greg Noble, Scott Poynting & Paul Tabar (2001), Kebabs, Kids, Cops and Crime, Pluto Press, Sydney, ISBN 1864031131*

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When recently launching Nicholas Cowdery's book, *Getting Justice Wrong* (at the Institute of Criminology) Mr Justice Kirby encouraged the publishers of the book to pepper talkback radio hosts with copies in the hope that they might discover some truths about criminal justice which in their rantings they regularly deny. Recently in New South Wales the politics of law and order have heavily influenced the formulation of criminal justice policy both for governments and oppositions. The limits of the debate seem constantly and dangerously pre-determined by certain conservative radio broadcasters and the tabloid press. The message from these sources about criminal justice is often a long way from the truth. However, truth seems to matter little when the construction of fear about ethnic crime or anger against the incompetence of criminal justice agencies is left in the hands of the media. This is a binding theme in both books.

Nicholas Cowdery has written a manifesto about criminal justice in New South Wales which attempts to debunk popular wisdom on crime and justice, encouraging the reader that by excepting the significance of a human rights dimension for justice outcomes, future directions for justice will take stock of the truth of the present. Cowdery's is a conversational style in which he reflects on and rehearses a range of issues, his views on which have provoked attack from those who would have us believe that conventional criminal justice protections are failing.

Again identified in Mr Justice Kirby's address to launch this book, Nicholas Cowdery is an extraordinary public figure. As the chief prosecutor in Australia's busiest jurisdiction, it is a mark of the man that he finds time to engage in wide ranging debates concerning the present operations and the future directions of criminal justice in this State. This has produced along with a wealth of respect for his office, also never ending criticism from those who call on the principal operatives in criminal justice to remain mute in the face of media distortion.

Again, I share Mr Justice Kirby's observation on the book that it contains much with which one can agree and some things which will provoke debate. No doubt critical observations on policing in New South Wales coming from its principal prosecutor will cause some police to entrench their view that the DPP is an opposition figure. However, in his discussion of policing crime Cowdery identifies an important theme which argues for tolerant justice rather than quick fix political solutions advanced in the face of complex problems.

Cowdery's discussion of the drug problem is both intuitive and courageous. He identifies what we all know, that drug law enforcement is failing to control, and in fact is exacerbating a tragedy in New South Wales which is destroying its young. From this foundation he moves on to discuss the connection between youth and crime and muses on the disturbing correlation between the intervention of criminal justice into the lives of young people and their criminality. Through this chapter and those which follow the tone is not all gloom and doom. Cowdery continually returns to his theme of a future for criminal justice in the light of human rights. From discussing youth the book then identifies the home as the focal point of violence and degradation in much of Australia's society. Cowdery explodes the myth of stranger/danger in favour of a critique of domestic violence which focuses on masculinity and the degradation of women's rights. He moves on to pose some suggestions for containing violence which do not rest in an exploding prison population.

Somewhat outside the theme of rights is Cowdery's discussion of the silence of accused persons. Perhaps more consistent with the conventional role of a prosecutor, the book argues for a better balance between the position of the prosecution and the defence in the trial and particularly with pre-trial disclosure. This chapter, while returning to some old themes, introduces a new notion into the book, that of efficient administration of criminal justice.

Cowdery's discussions of sentencing and capital punishment revolve around the notion that while individualised justice must still be able to be done, equality in justice needs to be pursued. Cowdery's somewhat equivocal position on sentencing guidelines declares the difficulty for a prosecutor with a strong human rights commitment when confronting mechanisms that tend to generalise the exercise of justice and limit the exercise of independent discretion.

The book concludes with a discussion of John Donne's warning that no man is an island. Cowdery uses the analogy of the continent to expand from a discussion of justice in Australia to the status of Australians within the international community. His strong contention that justice requires the protection of a Charter of Rights is the basis on which he proceeds to his conclusion about the future directions of criminal justice. Put simply Cowdery argues for a greater investment 'in the front end' of criminal justice while recognising a need to sophisticate investigation and trial processes. His final word returns to the lambaste of those who would trivialise 'a very complex and substantially effective system by constantly seeking to toughen it, ignore its capabilities and achievements and the factors that bring people into it in the first place'. I can only reiterate his observations that: 'we don't need more police powers, they are already adequate. We don't need severer sentences, that would only increase the cost to the community of dealing with more prisoners. We don't need more prisons if we adopt more sensible courses of action long before it comes to that.' Cowdery challenges politicians to talk smart rather than talking tough: 'let's put the talkback entertainers to work uncovering the experts who really do know what they're talking about, exposing their views and encouraging the community - all of us - to discuss more sensibly the alternatives that really are capable of making a difference to the level of our relaxation and comfort. There is enough sensation about without manufacturing more around the criminal justice system'. This book is a readable and courageous initial step in the direction of such informed discussion. Cowdery is such an expert but talks in this book to the common person and as such it deserves a wide readership.

*Kebabs, Kids, Cops and Crime* is also about the fabrication of fear of crime and the marketing of misconceptions about criminal justice. A more timely publication I could not imagine in a State where the Premier, the Police Commissioner, and a sad majority of media commentators would blame the increase in violent crime within Sydney on 'young men of Asian or Middle Eastern appearance'. The book is an attempt to distil and drain away the 'lethal cocktail' of migrant crime. It is a work about media distortion fuelling political responses which in turn fracture community self-image and fuel racism.

One feature of the book I particularly like is its attempt to empower through its methodology of interviews and oral history those young people, and community workers, who are most misrepresented in the prevailing ethnic crime hysteria. By examining themes such as Lebanese youth gangs, masculinity, and racism, along with cops, kids and minority culture, the book provides a platform from which the harbingers of ethnic crime hysteria can be confronted by the words and feelings of those they despise.

I also respect the book's attempt to constantly move its analysis from the local through to the global. An effort to consider the broader implications of the crime/ethnicity link historically, politically, socially, and economically allows the reader the broadest opportunity to address a range of important considerations. The book is not afraid to confront problematic issues such as gang culture, masculinity and violence, and divisions within ethnic communities which may lead to social alienation and crime. Against this the book argues for a realistic critique of media reporting and political manipulation where it portrays blatant racism and xenophobia.

The picture which the book paints about an Australian community ready to accept the threat of crime as something foreign and different is both an unhappy and ugly one. Yet Australia while having a recent and proud history of multicultural politics is a racist society and one quick to alienate and condemn religious and cultural difference. Place these differences within the context of youth culture and the demonising of young people as violent and dangerous it is easy meat for shallow media commentary.

The book informs the reader of the complexity of the multicultural face of Sydney. In so doing it points to those universal social determinants of crime such as marginalisation, unemployment, drug use, and socio-economic disparity. These themes are common across cultures and if they become the focus for a sensitive consideration of youth crime they move the focus away from crude and obvious identifiers such as appearance, dress, and cultural traditions.

Like Cowdery's book this work is about futures. It celebrates the positive dimensions of community life and argues for a multi-layered understanding of ethnic communities which contribute to the wealth and strength of Australian society. Despite the opportunity to devastate the way in which the police have managed the ethnic crime hysteria in Australia the final chapters of the book suggest that there is much to be learned from the reaction to police/youth resistance, and poses the possibility for productive policing of multicultural communities.

The research carried out for *Kebabs, Kids, Cops and Crime* provides a wealth of important information with which the reader can answer the racist critiques that no doubt have disturbed many of us who believe in the success of multicultural Australia. At the same time it does not diminish the social and community components which tend to make criminals of young males from any and all ethnic traditions.

*Kebabs, Kids, Cops and Crime* is an argument for fair play. While confronting head on the evils of racism in crime reporting the authors invite the reader to explore the complexity of Australian society out of which these negative images emerge and in which they are so readily consumed and validated. Australia is not alone in the celebration of difference and book attempts to link our present paranoias with the politics of reporting of crime and ethnicity globally.

I particularly appreciate the style of posing a range of questions essential for an understanding of the topic, to which the authors convincingly respond. For instance we need to disentangle the concept of ethnic crime before we can review the experience of the relationship between ethnicity and crime in specific community settings and then to examine the place of ethnicity within the wider cost of crime to Australia.

This book is both powerful and readable. It is unique in the management of its data and argument and the style of its writing so as to invite the widest readership. I would be surprised if the kids on the cover of the book would not find as much in this as the Premier might after a good read.

Jeffrey Shaw, the recently retired Attorney-General for New South Wales is right when he says 'because of the increasing diversity of our society and our recognition of the rights of access to our justice system, we have a continuing responsibility to explore the perception and realities of crime as it affects our ethnic communities. We must explode the myths, we must ease the prejudice and we must be sensitive in our reporting of crime.' *Kebabs, Kids, Cops and Crime* provides the foundation for confronting these myths and, as with Nick Cowdery's reflections, it should be a must read for any of the 'shock jocks' who control our airwaves. Unfortunately I have little confidence in the fact that these fine books will influence that audience and their listeners who I fear have closed their minds to the truth of criminal justice and the actual threats of crime in New South Wales.

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