

# Tributes

## Norval Morris (1923–2004)\*

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Norval Morris, who died in Chicago on February 21, was the first criminologist of international distinction to come out of Australia. Sir John Barry, ('my teacher and friend' was how Morris described him in 2002 in his last book, *Maconochie's Gentlemen*) spent much time in the 1960s attempting to get Morris back to Australia, but in vain. Together they had pioneered teaching and research in criminology at Melbourne University after 1950, a prelude to Norval's 40 year career in teaching and research in criminal law and criminology at the University of Chicago. There are very few intellectuals who might boast of some 60 years of publications in their chosen field. In Morris' case, the record is there, but he was not one to boast. In the words of Michael Tonry he was a 'genuinely modest' person who would rather dwell on careers of those he taught and supervised than on his own achievements.

Norval was of Irish descent (through his mother) and Jewish (through his father). His birth in New Zealand occurred during his parents' brief stay there and he returned with them to Australia at the age of six weeks. He was named after the small Victorian town of Norval near Ararat, where his mother's ancestors had settled after the gold rushes. Originally the village was called Possum Gully, a name by which his sons would jokingly refer to him. He was the only child of parents who shared modest prosperity as a result of his father's import business. Educated in Sydney and Melbourne, he had a final year of schooling in England, to which he was sent because he was too young to go on to Melbourne University. While he himself remembered doing well at snooker, his initial studies in law at Melbourne certainly impressed his teachers --- his first publication, a case note in the Melbourne law journal, *Res Judicatae*, came out in 1941 when he was only 18 years old. George Paton, the Dean of Law at the time, encouraged him to return to his law studies after war service in the RAAF.

Like most talented Australians who wished to pursue a research career at this time, Norval Morris departed for England after completing his law studies. He was accompanied by his wife Elaine (they had married in 1947) and it was in London that the first of their three sons (Gareth, Malcolm and Christopher) was born. At the London School of Economics Morris was supervised by Hermann Mannheim, one of the European criminologists who helped shape the discipline in Britain after their flight from Nazi Europe in the 1930s. Mannheim could be difficult and Morris later confessed to Barry that he seemed always to be offending him. But the research on indefinite sentence prisoners was a success, the degree awarded in 1949 and the thesis published as *The Habitual Criminal* in 1951, after being awarded the Hutchinson Medal of the LSE for the best thesis in social

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\* Information in this article draws on interviews I conducted with Norval Morris in Chicago on 16–17 December 2003, as well as research conducted for an Australian Research Council-funded project on the life of Sir John Barry, with the invaluable assistance of John Myrtle. I am grateful to Mrs Elaine Morris for her hospitality in Chicago, and to the Barry family for their continuing support in this project, including access to personal correspondence in the Barry Papers, National Library of Australia.

sciences. The study was wide-ranging in jurisdiction (including a chapter of 140 pages in 'Applied Comparative Law', dealing with preventive detention legislation in Australia, New Zealand, South Africa and Europe) as well as method. Morris gained access to the prisons for his research, not only studying inmate records, but talking to the prisoners: the preface thanked them 'for their instructive, amused scepticism'. While in London Morris also worked in a voluntary capacity for a legal aid service run by the Labour Party, a valuable training for his life-long interest in law and justice for the disadvantaged.

In Australia George Paton, now Vice-Chancellor, initiated the establishment in 1951 of the Board of Studies in Criminology at Melbourne, chaired by Barry. Its first academic was Norval Morris, appointed as Senior Lecturer in the Faculty of Law in 1950 and Secretary to the Board for its first few years. His contributions were diverse — once the basic teaching courses were established Morris quickly became involved in writing about law and social issues for a range of small magazines, as well as longer pieces for the law journals (including a memorable joust with the philosopher and writer CS Lewis over the latter's critique of 'humanitarian' theories of punishment). With Barry, a mentor and supporter, Morris attempted also to build research bridges into the local criminal justice institutions, drawing on his experience in England. Sometimes mentoring was reversed: it was Norval who urged Barry to make a serious study of Alexander Maconochie (the resulting book published in 1957). The relationship with Barry was mutually formative, intellectually and in career terms. In correspondence on numerous occasions over the years, Morris confessed to Barry that he missed being able to access his immediate advice. More than 30 years after Barry's death, Norval told me he still missed Jack.

At the instance of Zelman Cowen, then Dean of Law and also a member of the Criminology Board, Morris spent his first study leave abroad at Harvard in 1955–6, as he did again in 1961–2. There he was introduced to a different style of teaching — the Harvard case law method which encouraged a Socratic approach to the study of legal problems through a close attention to cases, provoking students into discussion rather than subjecting them to didactic lectures about the forms of law. Norval became an accomplished practitioner in this style — in 1962 the Australian historian Ken Inglis visited Morris at Harvard and 'sat enthralled on the steps of a crowded lecture theatre on Saturday morning in the Law School as he gave an interactive lecture in the Harvard case study mode'. America impressed Morris, especially the stimulation at Harvard. But he was also appalled by less desirable features, the 'schmozzle' of lower court proceedings, the overcrowded institutions, especially the 1700-inmate Bridgewater Criminal Lunatic Asylum in Massachusetts where he took students for classes on the topic of 'criminal responsibility', and which he thought worse than anything in England or Australia. At Harvard he also taught a seminar on criminal law and human rights, a topic that was a preoccupation throughout his career.

Already promoted to Associate Professor at Melbourne in 1955, Morris was there for only a year after his return from Harvard before being appointed as Dean of Law at Adelaide. The city's legal establishment was not friendly to a criminal law expert who became involved in controversial cases. Conditions in the Law School were poor, but there were some good students, and some appointments to be made — one, Colin Howard, was to become collaborator in the pioneering text *Studies in Criminal Law*, published in 1964 after Morris had left the country. In 1959 Morris was closely involved in the agitation surrounding the conviction and death sentence passed on Rupert Max Stuart, the Aboriginal defendant in a child rape and murder case: he lobbied the government, was an adviser to his friend Rohan Rivett, the newspaper editor who agitated the case in the Murdoch-run *News*

and was prosecuted for seditious and criminal libel, and advised the QCs working on Stuart's behalf in appeals and a subsequent Royal Commission. Writing up his influential account of *The Stuart Case* (1961) Ken Inglis noted that in appointing Morris to take charge of its Law School, the university council had brought 'to Adelaide a man who would ask judges, and politicians, searching questions about the behaviour, punishment and treatment of law-breakers'.

By this time Morris was a regular figure on the international criminology stage. Both Barry and Morris represented Australia at several United Nations congresses and seminars on 'social defense' and human rights held in Europe and Asia between 1955 and 1965. When Barry was approached in 1958 to chair a commission of inquiry into capital punishment in Ceylon (where it had been abolished as a trial for some years) he recommended Morris instead, who took up the task, spending six months in that country in 1959. While Morris succeeded in getting a majority report supporting abolition, all the work came to nothing when the report was released on the day the Ceylonese Prime Minister was assassinated. On leave from Adelaide at Harvard in 1961–2, Morris was being offered posts in a number of American universities (and Barry urging his appointment as Dean at a new Law School at Monash, or to a Chair in Criminology at Melbourne). But international work was an abiding interest and in 1963 he accepted a position as foundation Director of the UN Institute for the Prevention of Crime and Treatment of Offenders (Asia and the Far East).

Based in Tokyo, UNAFEI undertook training of senior corrections and other criminal justice personnel from the region. Morris was skilled at international work, attracting admiration for his efficiency in the work of rapporteur at the UN events he attended. Yet while open to a continuing UN career, Morris at the end of 2 years had personal reasons for seeking a more permanent home for his family. Offers from a range of American universities, including Harvard and New York, resulted in him accepting an attractive offer to start at the University of Chicago in 1964, as the Julius Kreeger Professor of Law and Criminology. The Ford Foundation was to fund the establishment of a Centre for Studies in Criminal Justice, which it subsequently sponsored for a decade to 1975, and Norval was to be its first Director.

One of Norval's early initiatives at Chicago was to invite as a Visiting Fellow Gordon Hawkins, who had been appointed to start Sydney's Institute of Criminology in 1961 (and who died in Sydney in February this year). Hawkins became a regular visitor and collaborated with Morris on the challenging intervention in criminal justice politics that was published in 1970 as *The Honest Politician's Guide to Crime Control*. Later they followed up with a *Letter to the President on Crime Control* (1977). Written with the fluency which was Hawkins' forte, and spiced with Morris' acerbic commentary on the perversions of the criminal law in states which criminalised offences without victims, distracting from violent and predatory crime, these two books represented something of a departure for Morris, whose research writing was more concerned with rationales for punishment. The books were noticed — when Morris was called up to Washington to serve in a post in the Carter administration in the late 1970s his nomination was overturned after opposition from the gun lobby. Norval was grateful: in his own words, he scurried back to Chicago and worked on his next book, *Madness and the Criminal Law*, in which he recorded his thanks 'to the National Rifle Association, without whose intervention this book would not have been written'.

The forty years spent by Morris in Chicago have left a permanent legacy. Some of the major researchers in contemporary criminology and criminal justice were products of the Centre of which Norval was Director for its first decade, before appointment as Dean of

Law (1975–9). On his 80th birthday a number of them presented him with a festschrift which will be published under the title of one of his most significant books, *The Future of Imprisonment* (1974), in which he had attempted ‘to define the proper role of prison in a democratic society’. From 1979 he was co-editor with Michael Tonry of a major research initiative, *Crime and Justice: An Annual Review of Research*, which remains today the leading review of the state of research in criminology and criminal justice. His enduring interest in the fate of those who end up on the wrong side of the law found particular expression towards the end of his life in his advocacy of the cases of those wrongfully convicted of crimes they did not commit. With one such person, James Newsome (who won \$US15 million against the Chicago Police Department for a wrongful conviction which led to 15 years in an Illinois prison) Norval was preparing a final book to tell the story of innocent people convicted. He was, as this indicates, a life-long advocate of justice, who nevertheless did not shut his eyes to the demanding problems faced by those who are charged with the task of adjudicating criminal offences and determining punishment.

Impatient with some of the agendas that preoccupied American criminology (the fruitless search for causes of crime a particular bugbear), Norval Morris was a scholar of originality, creativity and breadth. With David Rothman he edited *The Oxford History of the Prison*, (1995) contributing an impassioned chapter of his own on the contemporary state of American prisons, in which, again typically, he sought the voice of a prisoner to describe the experience of everyday life in incarceration. The review of this book Norval most welcomed was one published in a prisoners’ journal, *The Angolite*, by Dennis Douglas a lifer at Angola prison in Louisiana. Douglas became a friend and editor of Norval’s work — and is credited for his editorial assistance in Morris’ last book, *Maconochie’s Gentlemen* (2002). Always seeking new ways of addressing important subjects, Norval from the 1970s explored the possibilities of fiction to talk about the ethical challenges embedded in criminal justice choices. One result was the story ‘The Brothel Boy’, in which a fictionalised Eric Blair (George Orwell) administers justice in the challenging context of colonial Burma — the tactic was developed in a number of other settings to become a sequence of what Morris published under the rubric ‘parables of the law’. Why Blair/Orwell?, asked Morris rhetorically in the 1992 preface to *The Brothel Boy* — because ‘he is a superb embodiment of the moral and ethical values to which I aspire’.

The nationalist in Jack Barry addressed Norval Morris on a number of occasions in the 1960s, pressing him to return to Australia. There was a real possibility of this happening in 1969. Since about 1960 Barry had been pressing on the Commonwealth Government the importance of establishing an institution dedicated to research and training in criminology. One option lay down the track which ended in the United Nations deciding to locate UNAFEI in Tokyo. As the decade wore on, and with Morris firmly located in Chicago, there were other developments, distilling by 1969 into a firm proposal before the Commonwealth Attorney-General, Nigel Bowen, for the establishment of an Institute of Criminology. Bowen wrote to Morris, expressing his strong interest in having him return to Australia to head the Institute. There was some negotiation, and Morris was seriously interested, if the conditions were right. But the structure of the proposed Institute made it an inter-governmental operation — and in 1969 Morris speculated to Jack that the police might ‘blackball’ him. Perhaps he was right. After the initial approaches from Bowen, no firm offer came forward, certainly nothing to entice Morris from one of the best law schools in North America and the autonomy of a well-funded research centre.

Remarkably for one with such a lengthy and influential publishing history, Morris eschewed the notion that his work was scholarly. Reading the work, one can see his point. His object in writing was seeking clarity in criminal justice policy and advocacy of less harmful and more effective ways of punishing. In *Studies in Criminal Law* (1964) the chapter on murder is confessedly 'Utopian', less concerned with what the law is than what it ought to be. In this aspiration, addressed at so many moments through a long life, Morris leaves a permanent legacy and model for succeeding researchers and teachers in the field of criminal justice.

Mark Finnane  
Griffith University