

Reviews

***Crime, Aboriginality and the Decolonisation of Justice*, Harry Blagg, Hawkins Press, Sydney, 2008 (ISBN 9781876067199)**

The government response to Aboriginal crime in the Northern Territory was an inevitability. Or so the Federal Government told us. The situation was said to require a top-down intervention, replete with military officers, increased police numbers, control of social security incomes, removal of review processes and foregoing of land rights. The government's idea was that the denial of rights and responsibilities for Aboriginal people fostered a sense of responsibility. Despite some cushioning by the new Labor Federal Government, this policy has continued unabated into 2009. It continues to be implemented in Aboriginal communities across the Northern Territory and to some extent in Cape York, Queensland.

Harry Blagg's recent text, *Crime, Aboriginality and the Decolonisation of Justice*, is a contribution much-needed at this point in time. Blagg examines the colonial residues in the current governance of Aboriginal people. He contrasts this with community-based approaches to address violence and to reduce arrest and imprisonment rates among Aboriginal people. Blagg underscores the need for a cross-cultural dialogue to prevent crime and strengthen Aboriginal communities. This book does not recommend consultation on already-drafted government policy, but a genuine process of negotiation through partnerships between Aboriginal communities and governments. Blagg illustrates what this process might look like by citing existing community projects for which Aboriginal people have taken responsibility.

By drawing on his extensive involvement with Western Australian Aboriginal communities, including his role as Research Director on the Western Australian Law Reform Commission's Inquiry into Aboriginal Customary Laws (2001-2005), Blagg is able to examine ways in which Indigenous and non-Indigenous law systems can coexist. His work with Western Australian communities and research on other Indigenous communities lead Blagg to question the application of western theoretical frameworks to these communities and point to the relative utility of community justice frameworks for Indigenous justice.

In order to decolonise approaches to Aboriginal crime, Blagg argues that there needs to be 'a genuine decolonisation of relationships between Aboriginal and non-Aboriginal people' (p200). He identifies a 'restorative vision' that focuses attention on 'systemic and structural change' (p200), and contrasts it with the restorative justice programs that are situated in mainstream non-Aboriginal institutions. Blagg critically examines community patrols, community justice groups, healing centres and Aboriginal sentencing processes across Australia. 'Restorative vision' is encapsulated in the community justice mechanisms that build community capacity and strengthen Aboriginal law and culture.

Blagg's book has a refreshing premise: Indigenous crime is not integral to Indigenous society. Blagg goes head-to-head with the contention that violent and sexual crimes are tolerated by customary law. He claims that this view stems from the inversion of colonial characterisations of the Indigenous 'Other'. These characterisations have shifted from the 'gentle Pocahontas' (associated with restorative justice) to the 'uncivilised savage'; from the 'peace loving Indigene' (with wholesome 'pre-modern rituals of dispute resolution') to 'the brutal Indigenous world of ritualised abuse and violence' (p169). Blagg points out that this

view of the brutal Indigene has gained popular currency in the Northern Territory. Nanette Rogers, Northern Territory Crown Prosecutor, articulated this view in her statement, 'violence is entrenched in a lot of aspects of Aboriginal society here' (p170).

By contrast, Blagg's study demonstrates that there is no such toleration of violence and sexual assaults in Aboriginal communities. Blagg points to consultations with remote communities in the Kimberley region, as part of the Western Australian Customary Law Inquiry, which found no acceptance of so-called traditional violence. However, he argues that generalisations such as that espoused by Nanette Rogers will endure unless debates of male entitlement under customary law include the voices of Aboriginal women.

A major strength of *Crime, Aboriginality and the Decolonisation of Justice* is that it marries a theoretical critique of the existing criminal justice system (particularly the role of policing) with practical examples of alternative community justice programs. However, at the same time, a shortcoming of the book is that the approach advocated by the author remains, at times, tied to established schemes (such as community patrols), rather than reflecting on how Aboriginal laws may operate free from government-imposed outcomes.

Overall, Blagg's text represents a marked departure from the colonial ideological legacy in Indigenous crime policy. It sets out a rigorous and theoretically informed approach that addresses crime concerns by drawing on the strengths of Indigenous social structures. Through the book, it becomes clear that the established community justice schemes to which Blagg refers are not the only solution. But they shed light on how decolonisation of the criminal justice system may take effect and provide a constructive alternative to the top-down intervention into Indigenous communities.

Thalia Anthony
Sydney University Law School

References

Law Reform Commission of Western Australia 2005 *Discussion Paper on Aboriginal Customary Laws* Project 94

Law Reform Commission of Western Australia 2006 *Final Report on Aboriginal Customary Laws: The interaction of Western Australian law with Aboriginal law and culture* Project 94