

*Russell Hogg And David Brown, Rethinking Law & Order, Pluto Press, Sydney (1998) ISBN 1864030275*

---

Australia is currently immersed in the politics of paradox. Our federal government is neither liberal nor national in its ethos or its representation. The new political force talks 'One Nation' by dividing Australia. The prevailing mini-Thatcherite economics of privatisation is reducing free access to market structures in Australia. National wealth is polarised. Our history of social justice is unravelling. The rhetoric of reconciliation weakly masks an intransigent resistance to saying sorry.

In reality Australia and Australians are engaging in the celebration of difference. Essential to this is law and order politics. With official crime rates rising, media paranoia about crime prevailing, and society's fear of crime distorting, then it is not surprising that the crime debate further divides Australian communities.

Therefore, a book which advocates crime prevention based on 'cooperation, mutuality and trust' is either timely or misplaced. *Rethinking Law and Order*, recognises the criminogenic consequences of Australia's current political malaise;

... when people who are excluded from conventional social institutions offend, they are much more likely to feel the immediate punitive and stigmatising effects of the criminal justice system. Existing inequalities of access to the institutions of social citizenship are reproduced in patterns of sanctioning and then further compounded by the stigmatising and exclusionary effects of the criminal sanction on those who, by virtue of the marginality, are most vulnerable to its use. That those who end up in the criminal courts and in the prisons, come in vastly disproportionate numbers from the ranks of the severely disadvantaged is explained in part by the dispersed forms taken by sanctioning practices in a pluralistic society rather than simply that such people commit the most crimes (p 216).

Russell Hogg and David Brown concede that their ideas concerning the importance of 'associative democracy' as a foundation for crime prevention 'will have to compete with the more raucous appeals to law and order commonsense'. In this they warn that if a greater civic engagement around crime and justice concerns fails in Australia, it will become an increasingly less comfortable place in which to live, less safe and less civilised. Some might say (particularly those who ferment law and order politics) that this warning is already a reality.

*Rethinking Law and Order* is 'an attempt to link law and order issues with questions of social and economic marginality, associative democracy, pluralism, and the development of forms of positive regulation which are inclusive and reinteragative and draw on notions of civility, citizenship, equality and equity.' (p x) The sub-text for this aspiration is to expose and critique a:

certain style of public and political debate about law and order issues; closed and narrow rather than open and inclusive; inclined to disqualify rather than welcome diverse viewpoints; suspicious of knowledge and expertise where it fails to validate pre-existing prejudices; predisposed to populist pandering to private insecurities and resentments instead of the promotion of informed, public spirited debate; and whose time-frame is always the short rather than the long term (p 2).

Hogg and Brown declare this to be the 'uncivil politics of law and order'. At a time when state governments in particular rely on distorting crime and justice concerns in order to

gain or retain political power such a critique is both essential and overdue.

However, *Rethinking Law and Order* is neither simply a call to civil society, nor a challenge to ignorant political jingoism. The book is a social history of the interaction between crime and politics in Australia. It endeavours to trace recent crime concerns and agendas within the evolution of Australian society. Against this, the experience and divergence of international developments is contrasted.

The book is particularly useful for its examination of crime prevention and its recent evolution both Federally and through State and Territory jurisdictions. The manner in which crime prevention initiatives are reflected against recent theorising enables the reader to emerge from the book with a critical understanding of the potentials which crime prevention holds out in answer to the fear of crime.

As one would expect from any work which was so long in the making, and which is produced by two such prolific, engaged, and influential commentators, we would be acquainted with themes which have been important to their past writings. An example of this is the concern that much of the crime and justice debate (and the policy initiatives it spawns) is based on ignorance and misunderstanding:

One striking feature of the law and order debate in Australia is the woeful lack of knowledge about the costs and efforts of existing responses to crime... The apparent failure of criminal justice measures like the prison (evidence of which is as old as the penitentiary itself) no less than the currently proclaimed virtue and utility of crime prevention measures, is never determinant of the question of their abandonment or adoption by government (p 193).

Against this plea for detail and evaluation Hogg and Brown reiterate their confidence in the power of knowledge. This they see as particularly important for the advancement of effective crime prevention;

'This emphasises the need to cultivate and disseminate more sophisticated and flexible bodies of knowledge and expertise to support a crime prevention policy if it is to assume more than a marginal status in the governance of crime problems. This alerts to the important technical dimensions of crime prevention strategy (p 194).

Brown and Hogg recognise that a greater awareness about crime and justice will not necessarily advance crime prevention if it results in 'juxtaposing commonsense assumptions with what we can learn from various other, more systematic sources of knowledge about crime'. What they refer to as *social knowledge* is not on its own sufficient to inform competent and effective crime prevention policy.

The book argues against a crime debate, which uses commonsense and social knowledge to cluster around the extreme rather than the ordinary manifestations of crime:

... The preoccupation with the tip of the iceberg and with the manipulation of criminal justice measures to combat crime looks rather fanciful; a symbolic gesture, rather than a serious policy response. This becomes even more apparent when we add the fact that of the crimes reported to police most are never detected nor result in the arrest and prosecution of the offender (p 9).

The recognition that crime is 'normal' and that society largely tolerates crime is a recurrent theme throughout the book. Along with this is the authors appreciation that effective and long lasting prevention and sanctioning of crime occurs beyond the formal structures of state based justice:

... many of the functions of crime prevention and community safety are being increasingly carried out by individuals and associations within civil society alongside and frequently in partnership with various levels and agencies of government (p 214).

With this in mind, the authors suggest that 'rather than asking questions about hidden crime, we should also be exploring the nature and dimensions of hidden justice.' Such hidden justice is a powerful focus for analysis in that it is 'less centred on compulsion and pain infliction as ends in themselves and less disabling of the lives and relationships of those against whom they are directed' (p 215).

I am writing this review having recently observed the public forum sponsored by the authors of this book, the publishers, and the New South Wales Council for Civil Liberties. The forum was constructed around representatives of a divided society when it comes to the consideration of criminal justice issues. Perhaps surprising was the unanimity amongst commentators at the forum that crime is inextricably connected to social dysfunction and marginalisation. Excepting this however, the need for the state, and community agencies to 'do something about crime' was recurrent. Dissatisfaction was expressed with the position that crime prevention would result either as a consequence of civic engagement, a more civil society, or greater and more targeted social intervention. The need for action now against crime did not disappear from the discussion at the forum in return for assurances about the new social order. This immediacy of the crime problem is the fire behind law order politics.

The theoretical dimension of *Rethinking Law and Order* is consistent with the trend towards reintegration in crime control, and governance in social cohesion. The roots of the book are clearly in Taylor, Walton and Young's call in the seventies for a social theory of deviance. The book recognises the failure of crime theorising which has a close connection with rigid political dogma, or which relies on and accepts the continued existence of received and exclusive political structures. True as this may be the 'sovereign and omnipotent power' of the state continues to be symbolically endorsed through its monopolist claims over criminal justice. The commonsense, law and order debate constantly returns to state intervention as an 'answer' to the crime problem. Hogg and Brown expose the fallacy of this, though they remain unable to diffuse it.

As with much of the writing which relies on the emergence of a new social order to precede effective crime prevention and realistic criminal justice debate, *Rethinking Law and Order* is unable (or unwilling) to engage the more informed and powerful proponents of radical state intervention. It is unfortunate that the book does not explore some of the integrated theories of crime control more fully (see Vold (1998) *Theoretical Criminology*, Chapter 18).

*Rethinking Law and Order* reveals a convergence in crime and justice theorising from a variety of different perspectives. This convergence is around the significance of civil society and a wider interpretation of governance as an answer to crime problems. Whether this takes the form of early intervention, targeted control, or shared and multi-levelled socialisation, the outcome is much the same: that crime prevention relies on social reorganisation.

This is a fine book, well written and challenging. It is a credit to its authors and goes a long way towards synthesising the vast array of issues necessary as a foundation for informed crime and justice debate and policy.

A final remark on the publishers. In an industry where authors are marginalised and it is no longer common for investment in promotion to match the writers commitment, Pluto Press are to be congratulated for their enthusiastic marketing of this project.

Mark Findlay

Head of Department of Law, University of Sydney