

## Uncertainties and Possibilities: A Discussion of Selected Criminal Justice Issues in Contemporary Australia

by Rick Sarre; University of South Australia, Adelaide, 1994; 291 pp; \$28.00.

*Uncertainties and Possibilities* is a useful introduction to crime and criminal justice, which brings together a range of interesting issues of contemporary relevance discussed in a simple and readable manner. Rick Sarre uses issues such as family group conferencing, native title, privatisation, and police (mis)use of firearms to illustrate the key purpose of his work which 'is to highlight the difficulty of alleging that a certain formula, practice or procedure within the criminal justice system can guarantee that 'justice' be done.' He argues that neither the legal system, nor specific institutions or practices such as greater law enforcement, reference to 'rights', the process of privatisation, vigilant media or a return to 'back to basics' values, provide any guarantee of 'justice' which is, in any event, contingent.

Chapter one of the book includes an introduction to jurisprudence with a focus on legal formalism, an examination of alternative modes of thinking about law and justice including post-modernism, and a case study concerning *Mabo* and native title. Chapter two examines the role of the police in defining crime and in deviancy amplification, and the media reporting of crime. Chapter three again focuses on policing in the context of public order. Here the introductory section on the history of modern policing would have benefited from reference to work on the distinctive character and historical development of Australian policing rather than reproducing conventional wisdom concerning the UK. The latter part of this chapter which focuses on private sector policing is stronger and more detailed than the earlier sections. The fourth chapter deals with theories of punishment. Here, again, the unevenness of the volume is evident. The early part of the chapter provides a very brief overview of the aims of punishment before a much more detailed analysis of administrative remedies and their potential. Thereafter follow case studies of the use of family conferencing in the

context of juvenile justice and the decriminalisation of cannabis use in South Australia. The chapter concludes with a discussion of imprisonment and its alternatives which is surprisingly brief (5 pages).

Somewhat oddly, to this reader at least, criminology as a discipline and criminological theory are not introduced until chapter five of *Uncertainties and Possibilities*, which also deals with the development of victimology. The division of criminological theory into 'mainstream' (classicism, positivism and sociological theories) and 'non-mainstream' may reflect the dominance of positivism and neo-classicism historically, but is an unhelpful distinction which may serve to minimise the contribution of those perspectives deemed to be non-mainstream. There is, however, no mention of the influence of Foucault's work on criminological theory. I was also surprised to see John Braithwaite and Phillip Pettit's work listed under the heading of critical legal theory.

The final chapter deals with questions of policy and strategy. It begins with a discussion of the crucial role of evaluation research, and different methodological approaches to such research. Here Sarre's analysis is somewhat unclear, especially in his use of the term 'open-ended evaluation' which he seems to approve of but nonetheless contrasts with 'methodological rigour' in a manner which suggests an uncritical acceptance of simple dichotomies which privilege the quantitative over the qualitative, and the objective over the subjective. This is probably unintended since it seems at odds with his discussion of objectivity and value neutrality elsewhere in the book. His reliance on Lawrence Sherman as the arbiter of evaluation research is also somewhat odd given the controversies over Sherman's own research. The latter part of the chapter is better and the section on strategies for controlling violence is perhaps one of the strongest

parts of the book. It includes a useful overview of debates concerning the control of guns, including discussion of police use of firearms, and stresses the need for broad social policy responses to crime problems.

There are many possible choices of subject matter for inclusion in a book with the subtitle 'A discussion of selected criminal justice issues' and there seems little point in debating what should or should not be included. However, this book does take some surprising turns. For instance, mid-way through the discussion of criminology and criminological theory Sarre introduces an examination of the parallels between criminology and theology. After a brief look at the impact of Darwinism on each of those disciplines, he suggests that a rapprochement between theologians and criminologists 'cannot be far away' since there has been 'a growing acceptance by social scientists and theologians alike of the conjectural nature of their work'. After visiting certain theological works concerning the 'acceptance of conjecture and uncertainty', including the works of the Episcopal Bishop of Newark John Spong, and theologian Craig Dykstra, the chapter heads into a discussion of the concepts of free will and determinism, the search for grand theory, and shifts towards the micro-level of analysis. Juvenile justice and feminist issues are also examined through the vehicle of the comparison between criminological and theological enterprises — with feminist perspectives seen as having shifted radical criminology 'from theoretical famine to feast', and as having the potential 'to create a set of entirely new questions that go to the very heart of religious experience'. Drawing on the engagement of progressive criminologists and theologians in social justice issues he calls for greater inter-disciplinary work between theology and criminology.

The parallels which Sarre finds between criminology and theology seem somewhat over-stated in some places, and hardly surprising in others. A commitment to social justice is something shared by progressive thinkers from a range of disciplines and is hardly confined to criminology and theology. The questioning of general theory and the shift toward a more contextual analysis, a focus on the micro-level, and the ac-

knowledge of uncertainty and contingency are common themes of this post-modern age and are not confined to what is new in criminology and in theology.

*Uncertainties and Possibilities* is also somewhat uncritical in parts, for example the discussion of left realism, and of family group conferencing makes no reference to literature debating their merits. The excellent bibliography is not relied on uniformly in the text, and in some parts referencing is sparse. At several places throughout the book the editing and production leave something to be desired. Lines missing (for instance at pp. 17 and 24), dates wrongly transcribed (shouldn't 1040 be 1940 at p.172?) and numbers omitted in the presentation of data (p.148) leave the reader guessing.

I have found this book to be useful, but also somewhat perplexing. One of the most puzzling aspects has been to try to imagine who might be the target audience. Just when the easy, readable style and the level of generality have me convinced that the book is most suitable for senior high school students, the style shifts to a more detailed analysis of somewhat complex matters such as administrative law and business regulation, religious and non-religious existentialism, or the legal authority of private policing. Perhaps I underestimate senior high school students, but the point remains that the book is somewhat uneven in both style and in the coverage given to certain issues.

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## When Citizens Complain: Reforming Justice and Administration

**Norman Lewis and Patrick Birkinshaw; Milton Keynes: Open University Press, 1993; 231 pp; \$49.95 softcover.**

The urge to complain about public services is a widespread human sentiment these days. The fact that we are living increasingly regulated and serviced lives as citizens is undoubtedly part of the explanation. In such an environment, governments must expect to receive 'report cards' of different kinds from those they serve and regulate. The frequency with which citizens and state functionaries come into contact with each other ensures that public knowledge of government programs and services is often directly grounded, and in this sense empirically based. Moreover, these contacts are often not entirely or indeed predominantly consensual in nature. In many instances, they are state-initiated. For example, the increased emphasis on road safety in recent years has meant more citizen exposure to regulatory devices sponsored by the state, whether in the form of police traffic patrols, red light or speed cameras. The capacity for friction and dissatisfaction implicit in the expansion of contacts of this kind is further exacerbated by the fine, and often imperceptible, line between service provision and the meeting of needs, and unsolicited intrusion in the form of 'social engineering' programs (e.g. road safety) and revenue-raising exercises (public transport fare rises etc.).

Inevitably, personal experiences of these kinds are accompanied by assessments by those affected. We are not all inclined to stand by mute and opinionless as a consequence of these contacts — we often want to criticise and evaluate what we see and experience. Often against the weight of personal experience, citizens still retain expectations of consistency, evenhandedness and fairness in relation to how government operates. Many doggedly adhere to a 'just world theory'. We expect 'better' of government in some way or other. Growing government intervention is arguably connected to rising public expectations about government services. It stands to reason: government intervention and citizens' service expectations are just flip sides of the same coin of citizen-government interdependence.

In this climate, at least until relatively recently, accountability for government actions has been difficult to locate or describe coherently. The comparatively recent expansion of administrative law indicates, however, both changing sentiments towards government in recent times and the proven limitations of traditional avenues of accountability and redress, such as judicial review. One of the central developments since 1945 has been the proliferation of the office of ombudsman, a novel concept in public admini-

stration in common law countries until recently which is increasingly being adopted in the private sector. In *When Citizens Complain* Lewis and Birkinshaw place significant importance on this office, and while drawing attention to the limitations of its implemented form in the UK, nevertheless see the need to further examine and develop the potential of the office for extending the accountability of government to its citizens. In this way, they see the need in the UK to move very much away from a strong reliance on judicial review and the present narrow conception of the ombudsman model.

The setting for Lewis's and Birkinshaw's deliberations is largely defined by the changes implemented in government by British Conservative governments in the 1980s and 1990s. The 'rush to privatise' a host of British public utilities and services in the 1980s has been followed by something of a rearguard recognition that the transformation of 'citizens' into 'consumers' under the rhetoric of privatisation and deregulation needs to address the rights and entitlements of the consumers (or customers) being created by new government policy. The centrepiece of this consumerist position is the Citizens' Charter, an attempt by central government in the UK to specify a new basis for relations between citizens and service providers in central and local government, health care and utilities. A key tenet of the Charter approach is to quasi-contractually provide service recipients with specified entitlements (and hence, expectations) in terms of standards of service, and corresponding rights of redress in cases of service failure.

Despite some grounds for scepticism towards this change in policy, the authors argue that there are nevertheless some seeds of hope to be found among the rhetoric and upheaval associated with this shift. In essence, the specification and codification of consumer entitlements can be viewed in terms of providing new terms, criteria and procedures for reformulating and, at least in some ways, enhancing, the accountability of public service providers. It is just possible that competition will result in greater responsiveness to consumer complaints, including a more pronounced inclination to provide redress.

As both conservative and Labor governments in Australia press ahead with their various plans for streamlin-