

the Australian National University, an accomplished author who has taught law at ANU since 1987. He was previously Deputy Chairman and full-time Chief Executive of the Commonwealth's Human Rights Commission (forerunner to the Australian Human Rights Commission, referred to in the book as HREOC under its previous incarnation). He was also a Commonwealth public servant, rising to the level of Deputy Secretary in the Department of Prime Minister and Cabinet in 1972. And he has served in a Royal Commission (Australian Government Administration 1974–76).

In other words, Bailey is that rare breed of person in public life who has looked at an issue for a long time from all sides of the fence. So, for example, when discussing the enforcement processes of the Human Rights Commission and the *Brandy* case, a 'controversy box' notes in the first person that Bailey had raised problems with the conciliation processes in section 81 of the Act in a conversation with then Attorney-General Gareth Evans (p 466). One gains a rare insight into the social history of the human rights enterprise in Australia by reading this book, precisely because Bailey has been right at the heart of it for so long. He looks beyond legislation and case law to the policy level and the machinery of government, which is crucial for understanding areas like the implementation and enforcement of human rights or migration law, but all too rare in academic writing. It also means, when Bailey recommends that a federal human rights Act will lead to better public administration (pp 216–7), he is highly convincing.

The third feature, and the most valuable aspect of the text in my opinion, is the hopefulness at the heart of the book in its thesis that law can empower people and protect their human rights. Partly because this book is infused with the getting of wisdom of a long career in human rights, the law reform strategies and ideas are invaluable to an advocate. Bailey provides clear ways to move forward in the human rights enterprise, although the current formidable challenges to the development of a rights culture in Australia and global barriers to a forwarding a rights agenda are clearly enumerated in Chapter 2. The

section on an Australian Bill of Rights in Chapter 3 exudes good sense and clear thinking in a debate that often lacks both qualities. The call for the adoption of the rule of law as a constitutional implication is a much-needed reform.

The final chapters in Part IV represent a particular triumph of analysis. Called 'Drawing the threads together', Bailey provides a series of studies or vignettes that show the indivisibility of rights, but also how a rights framework is a paradigmatic and valuable shift from the existing approaches of charity or general benevolence on the part of a government. The topics include Australia's Indigenous peoples, aliens and refugees, same-sex couples, prisoners and economic rationalism. As we boldly go forward in the human rights enterprise, these may be the final frontiers (if one might indulge a *Star Trek* reference). As complex as these issues are, Bailey's approach to them is wise, fair and ultimately optimistic, much like the cover image of the monarch butterfly.

This is an important book. Professor Bailey is to be congratulated on a timely contribution to the human rights enterprise in Australia.

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### THE CRITICAL CRIMINOLOGY COMPANION

Thalia Anthony and Chris Cunneen (eds); Hawkins Press, 2008; 336 pp; \$64.95 (softcover)

Criminology is a troubling discipline. It's popularly associated with the slew of American television dramas where the cunning of law enforcement and its forensic technologies bring criminals to justice. Off-screen, criminology resources a consistent political diet of law and order and punitive forms of regulation. The *Critical Criminology Companion* offers stark relief to the dominant ideas which structure the administration of criminal justice. Coming

to prominence in the 60s and 70s, critical criminology interrogates the idea of crime and crime control through its broader institutional and structural referents. With an attention to race, class and gender, critical criminological research has provided important insights into the industries of imprisonment, policing and globalised as well as national forms of crime control. Less a coherent movement, critical criminology represents diverse approaches to social theory, challenging the positivist frameworks of what this book refers to as 'mainstream' criminology.

It is to a politics of critique, and the possibility for alternate approaches to understanding crime and justice that this book turns. The edited collection spans 26 chapters written largely by internationally renowned and established academics working in Australia and New Zealand. In their introduction, the editors maintain that 'it was the absence in mainstream texts of some of the most theoretically sophisticated and politically committed criminologists that drove this collection' (p 1). The book is also intended to be used to teach criminology. For students, practitioners and activists thinking and working through issues in criminal justice, this book is an invaluable resource. Each short chapter provides succinct, well-evidenced arguments, many of which draw on original research. This book does what it sets out to do: 'it seeks to delve into debates about the positivist questions criminology poses and provide them with a context, critique and alternative policy position' (p 2).

While each chapter deserves individual consideration, I will instead comment on the broad themes connecting the aim of the book and note chapters of particular interest. The collection is divided into five connected parts. In part one, the authors address diverse questions of theory and method—from the role of class in criminalisation (Rob White), to how crime is imagined and represented in relations of power and emotionality (Alison Young), to drawing on psychological theory in order to ask why the state criminalises (Thalia Anthony and Dorothea Anthony). Chapters introducing the theoretical challenges in understanding the political rationalities of contemporary neo-

liberal regulation are particularly helpful, problematising the key debates (Julie Stubbs; Robert van Krieken).

Part two, entitled 'Critical theory in action', spans the constructions of crime in relation to gender, young people, ethnicity and Aboriginality. The strengths of this collection are its examination of the political responses to constructions of crime that exploit and marginalise. Indigenous over-representation in criminal justice has been well evidenced by criminological studies. However, Harry Blagg, in his chapter considering the legacies of colonisation in Australia, challenges the relevance of critical criminology and the profound limits of its western conceptual presuppositions to Indigenous people. For example, Blagg takes issue with critical criminology's doctrinaire emphasis on countering social exclusion with inclusion, asking 'if social exclusion is the problem is assimilation the solution?'. Questioning how criminology might provide the tools for supporting Indigenous self-determination orients the political stakes in what could be critical about critical criminology. Similarly, Scott Poynting's study of the criminalisation of ethnicity also calls on scholars to challenge the alleged causal links between race and crime with greater attention to praxis. Chapters such as these ground this book away from being simply a chorus line of oppositional stances, safe in their self-designation as 'critical'.

A staggering range of substantive issues are covered in this book. The third part, under the banner of 'Broadening definitions of crime and criminology' considers state crime, hate crime, workplace violence and the marginality of refugees and torture in order to interrogate the crimes of the powerful. Human rights arguably forms part of critical criminology's normative conceptual armoury. The practical effect and utility of appeals to human rights for minority peoples is a debate which has been given little consideration by even critical criminologists, despite such debates in broader social theory. However, in his chapter on the concept of state crime, Mike Grewcock does briefly question the universality of human rights discourse in remedying structural inequalities.

The chapters in part four, 'Responses to Crime', consider policing, punishment and imprisonment. The chapters on imprisonment, charting the unaccountability of state power and prisoner resistance (Bree Carlton) and campaigns for prisoner enfranchisement in response (David Brown) are particularly compelling reading. The final part of the book, 'Future Directions in Critical Criminology' concludes by considering a number of themes, including restorative justice, rural crime, law and order and the effects of globalisation on understanding governance through crime. This book is a useful introduction to contemporary debates on the idea and political use of crime in diverse contexts. Its self-reflexive style responds not only to the most pressing questions in relation to the state of criminal justice, but to the meaning and value of critique itself.

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### JAILHOUSE LAWYERS: PRISONERS DEFENDING PRISONERS v THE USA

Mumia Abu-Jamal, foreword  
by Angela Y Davis, City Lights  
Books, 2009, 286 pp, US\$16.95  
(paperback)

In this lived account, in this history of the present, the well-known political prisoner, author and public intellectual Mumia Abu-Jamal writes about a little known and much misunderstood subject — the jailhouse lawyers in the United States. This exploration raises questions about the obvious discontinuities that exist between the black letters of the printed law and the bleak reality of state power over the most marginalised people in society (p 54). A political genealogy is traced from the Slave Codes, to the Black Codes to the Prisoner Codes in the US which have variously created an objectified and disposable class of other (p 72).

Some reject the term, but a jailhouse lawyer is a prisoner who is self taught in the law and helps his or her fellow prisoners with their legal matters for no

cost. Jailhouse lawyers teach and pass on knowledge and take general actions to force the state to respect prisoner's legal rights and to generally improve conditions and access to vital services.

Mumia Abu-Jamal provides practical examples of how jailhouse lawyers work at their best — which is the rule and not the exception — and of the few exceptional cases when they are at their worst. A political analysis unfolds around the *Prison Litigation Reform Act* (US) and its fraudulent creation of law through systematic misrepresentation of prisoner law suits as frivolous. There are parallels here for some Australian jurisdictions like NSW where a hotchpotch of ill-considered legislation has arisen to limit prisoner access to tort law justice, such that the superior courts question if the law is in fact law because it contradicts fundamental principles of the rule of law.<sup>1</sup>

The issue of paternalism by legal/human rights and social justice non-government organisations is touched upon (pp 147–50). There are many important insights and lessons that can be learned from *Jailhouse Lawyers* for people who are seriously interested in achieving social justice for imprisoned people—rather than those who are only interested in having the feel-good title of 'human rights' in their job or organisational description.

*Jailhouse Lawyers* is a complete work, the text is not at all wanting for content and cogent analysis, but it left me wanting to hear more of this man's voice and also hoping that others in Australia will listen to Mumia Abu-Jamal as well. But, that's just me, one of those jailhouse lawyers who are seen by the US and Australian prison system to be no more than 'troublemakers' (p 187).<sup>2</sup>

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#### REFERENCES

1. *NSW v Bujdos* [2007] NSWCA 44, para 98.
2. For my being officially labelled a 'troublemaker' see Bree Carlton, *Imprisoning Resistance: Life and Death in an Australian Supermax* (Institute of Criminology Press, 2007) 155.