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Journal of South Pacific Law - BOOK REVIEWS

Book Review 4 of Volume 4, 2000

BY [TESS NEWTON](#)

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Title: [Punishment in Australian Society](#)

Author: Mark Finnane

Published by: Oxford University Press: Melbourne, 1997

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This title is in a series entitled *Australian Retrospectives* and rates as a significant contribution to a project in which authors 'examine formative issues in our national history in a style accessible to non-specialists' (p.v). The author makes the following (pre)evaluation of this title in his introduction:

It does not pretend to be

comprehensive, but rather aims to stimulate further inquiry and, especially, to inform contemporary debates on punishment with some historical perspective (p.xii).

It is certainly the case that this book achieves all of these, and more. Despite its relatively small number of pages, it demonstrates assiduous research on the part of the author and examines many relevant issues in adequate depth for a non-specialist text. In addition, there are plenty of footnotes and a sufficiently lengthy bibliography to provide further resources for those who wish to explore the subjects discussed in more detail. The writing style is clear and succinct and there are, particularly in the first half of the book, several clearly laid out tables presenting statistical information. The index is adequate although it is dominated by references to people rather than issues.

Although this does not purport to be a comprehensive text, the scope of the book is extensive. The historical perspective on how punishment has developed in Australian society begins with a discussion of transportation. This was a primary penal policy of the United Kingdom between 1718 which marked the passage of the Transportation Act (UK) and 1875 when transportation to Gibraltar ceased (p.6). Although the focus of this text is punishment in Australia, the author competently sites his consideration in the wider context of British colonial activity throughout the world, the significance of which is undeniable. The author is also at pains to stress the differential experiences and approaches of the States and Territories of the Commonwealth with regard to issues of punishment. This level of detail will be particularly instructive to those whose knowledge of the socio-political structures of Australia may be lacking in detail. For those with a more detailed insight into Australian society and politics, the historical perspective of the book may provide some interesting points worthy of comment. For example, the author notes that it was Queensland (now considered to be politically conservative) that was the first to abolish the use of the death penalty in 1922 (p.137).

When examining the development of policies relating to incarceration as the primary mode of punishing criminals,

the author again selects pertinent sub-issues for consideration. These include as women in prison, the incarceration of juveniles and the demise in the use of corporal punishment as a means of punishment either instead of imprisonment or for offences committed in prison. The impact of policies of punishment on Aboriginal and Torres Strait Islander offenders is referred to throughout the text and the author does not hold back from a critical examination of the treatment of these groups within the penal system. This is not to say that the book becomes a polemic, indeed the tone is balanced and measured throughout.

The most striking aspect of this book is the amount of research that lies behind it and the wealth of material that has evidently been collected and analysed in order to produce such a well informed text. The author has explored and made extremely good use of parliamentary and newspaper archives as well as other primary and secondary materials relevant to the issues under consideration.

The book is obviously written with an Australian audience in mind, at least primarily. However, the book is of interest and relevance to those concerned with issues of punishment in the jurisdictions of the South Pacific. The concepts that the book addresses are ones that are of relevance in these jurisdictions just as much as they are or have been in Australia. Some of the issues that are examined such as the abolition of capital punishment or the abolition of the use of corporal punishment are significant in jurisdictions which retain them as a part of their penal law and policy. In Tonga and Samoa, the penalty for murder is capital punishment although there are provisions for the death sentence to be commuted by the Head of State in each of these jurisdictions. In Fiji Islands and Tonga, the penal legislation makes reference to the availability of whipping as a punishment either in relation to certain offenders (*e.g.* juveniles) or in relation to certain offences (*e.g.* rape). It should be instructive to those concerned with issues of law reform to examine how such reforms have been brought about in the neighbouring jurisdiction of Australia. At a more abstract level, this book provides another insight into the preoccupations of a country whose influence (particularly in the form of aid and other assistance) in the region continues to be substantial.



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