

Foreword

by John Braithwaite

Helen Miles and Peter Raynor add something utterly distinctive to the literature of criminology, law and society in this book. They tell the story of a rather restorative system of justice on Jersey, the largest of the Channel Islands, that survives today after 800 years. Narrative and quantitative data are deftly woven together in the book to document this contemporary story, its history, and its relevance to criminological theory, particularly the theory of restorative justice. The authors are to be congratulated on such a lively book. It is a challenging accomplishment that delivers a unique and instructive perspective.

A comment sometimes made about restorative justice is that it can only work as the dominant form of dispute resolution in 'simple' or 'dwindling' societies. Miles and Raynor's retort is that 'Jersey is neither "dwindling" nor is the society "simple" yet the Parish Hall Enquiry system remains the conventional response to dealing with unwanted behaviour'. This book argues that Jersey is a low punishment, low crime, low recidivism society with very limited spending on a criminal justice system that is largely entrusted to community volunteers. Jersey is one of the wealthiest nations in the world, having a GDP per capita approximately twice that of the UK. It continues to have a diversified economy with flourishing fishing and agricultural sectors (breeding the high butterfat 'Jersey cow') and tourism. Two-fifths of its economy is finance capitalism. One of the attractions of the island as an international financial centre is its safety and the security of property rights, including the property rights of those avoiding other countries' taxes. It is a highly sophisticated economy that avoided the catastrophes of other island financial centres such as Iceland, Ireland and Cyprus during the current Global Financial Crisis.

Volunteer police who enabled Jersey Parish Hall Enquiries to be the key justice institution survived because Jersey was a liminal state at the intersection of the great French and British maritime empires. It was able to assert its geography to establish a high degree of independence from both of its medieval Norman customary law. Miles and Raynor explain that community gatherings of the type that survived to regulate illegality in Jersey existed in the customary law frameworks of much, perhaps most, of Europe more than a millennium ago. The accession of Holy Roman Emperor Charlemagne to the French throne made it more difficult for these community gatherings to survive in France. Charlemagne and his successors increased their power by remodelling and rationalising the feudal systems of France; Jersey was always far enough away or unimportant enough to avoid the reach of that rationalisation of feudal institutions of governance. In the 1940s, Jersey was

occupied by a particularly pulverising form of modernity in the Nazi war machine. It also failed to bring Jersey's medieval justice indigeneity to heel.

The justice relics that survived on Jersey were not only about the criminal law topics that we understand today. One survival is the 'Visite du Branchage' twice a year in each Parish to ensure that householders with land bordering on public roads have undertaken 'branchage', clearing of obstructing vegetation for travellers. Jersey never had the regulatory order of an industrial society because it never industrialised. But it retained into the times of a sophisticated post-industrial economy a feudal regulatory order where voluntary constables regulated a great variety of things to do with trading, consumer protection, and the like, beyond the criminal law regulation which are seen as the core business of modern police.

While these feudal justice relics are shown in this book to be restorative in many positive ways, they are also feudal in the sense of being paternal and patriarchal. The 'Connétable' is shown to be the 'father of the parish'. Victim empowerment is extremely weakly institutionalised in Jersey Parish Hall Enquiries, largely because voluntary constables take paternal care of the interests of victims, as Miles and Raynor explain:

This is not an expressed aim of the enquiry process, but apology and reparation to victims is expected. It seems that the victim is able to get involved as much as the Centenier permits. Victim support organisations have, in the past, challenged the intervention of the Centeniers accusing them of heavy-handed tactics and re-victimisation (domestic violence cases specifically). What is certain is that the Centenier is able to ask the opinion of the victim before, during and after the Parish Hall Enquiry and to take those views into account when deciding upon an appropriate sanction.

Participation levels of alleged offenders, their family and friends, on the other hand, are high and rich. Participatory justice, yet with a feudal bias that might benefit from more confrontation with contemporary human rights, in particular the victim rights movement. A paradox of Jersey is that one of the modest number of full-time criminal justice officials to arrive in the twenty first-century funded by the state was a Restorative Justice Officer to facilitate victim-offender conferencing on the Thames Valley model. This was a step towards modern victim voice.

High levels of reintegrative behaviour are found from all participants in both the modern restorative justice conferences that were a comfortable fit to the old Norman customs and the customary community meetings that continued in parallel. A high incidence of acceptance of responsibility, low levels of defiance and gestures of apology were observed. Stigmatisation, punishment and recidivism are reported as low. Empirically, Miles and Raynor convincingly show reintegrative shaming to predominate over stigmatisation and punishment. They describe Jersey's hybrid customary law as an indigenous form of reintegrative shaming. It scores highly on disapproval of the offence, high on respect and support for the offender. It is a

form of indigenous social control that is low on coercion and high on love for the wayward community member.

It could be that Jersey's honorary police are the contemporary police service with the longest history on the planet. Studying them in this revealing book allows us to imagine how voluntary constables across Europe may have once interacted with community moots of various indigenous forms. From my perspective, it is a great and intriguing survivor of conquest of such forms by the utter globalisation of professionalised para-military police forces specialised in the regulation of crime. In my 2008 book *Regulatory Capitalism: How it Works, Ideas for Making it Work Better*, I argue that the move to Peelian police forces specialising in crime control was probably a very good thing for cities and a bad thing for rural areas. Specialist inspectorates to deal with things like weights and measures, pollution of rivers, regulation of alcohol licences evolved to pick up these activities that local constables used to regulate before 1829. But these specialist inspectorates only had offices in cities; rural citizens missed out on the benefits of their regulatory oversight.

My argument in that book was that rural communities were better taken care of by the pre-Peelian order of police where rural constables were regulatory generalists. Sometimes even in my tree-lined suburban Canberra street I can long for a feudal order that took care of 'branchage'. Of more practical import might be the suggestion that when British (or French) peacekeepers provide capacity building in policing to former colonies that suffer civil wars, instead of transplanting Peelian models of metropolitan policing, they might read this book and ponder whether in predominantly village societies Jersey's Norman styles of policing might reveal more useful kinds of capacities to build.

We are in the debt of Helen Miles and Peter Raynor for such painstaking research that has produced a revealing book about pre-modern restorative justice and feudal police surviving resiliently into post-industrial modernity. While they provide us a complex significance to grasp, it is a story Helen and Peter have clearly, simply and evocatively told. The book might make Jersey a popular holiday destination for criminologists! Part of Jersey's intrigue is the paradox of common crime that is successfully constituted as shameful in simple ways and unashamed participation in sophisticated global tax evasion strategies. A restorative precept is to listen as if you believe and see where that takes your understanding. Helen and Peter listened attentively to the citizens of Jersey. As a result their understanding went to a new place which they have well shared with us as readers.

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