

# BOOK REVIEW

DR MELISSA BULL\*

**B Horrigan, *Adventures in Law and Justice: Exploring Big Legal Questions in Everyday Life* (UNSW Press, 2003) 376 pp**

Bryan Horrigan's *Adventures in Law and Justice: Exploring big legal questions in everyday life* is a book with an ambitious goal. It aims to make the law more accessible, and to help those who are not trained in the discipline to understand how it connects with their everyday lives. In the author's words it is intended to make 'the theory and practice of law more accessible' and 'enhance community legal literacy'<sup>1</sup>.

Indeed, this book does provide a good overview of the law, the legal system and the system of government in Australia. It covers a broad range of issues affecting public officials, the media, the business community and individual citizens. The breadth of its coverage would make it a useful introductory text for almost any disciplinary field which grapples with matters of law and justice.

It is all the more useful in this regard because it is not written in a dry legalistic manner. Instead the author has adopted an eclectic multidisciplinary approach by engaging ideas, theories and principles from the fields of the social sciences, economics, politics, philosophy and law to explore contemporary issues concerning matters of both national and international governance. Horrigan draws heavily from Australian, English, North American, European and International law and makes use of popular media and internet sources in his comparative analysis. A useful introductory 'Readers Notes'<sup>2</sup> explains that most of the Australian and international cases cited can be accessed freely on the internet, and instructs the reader on the process.

The book is presented in three conceptual parts: 'Our Heritage,' 'Our Dilemmas' and 'Our Futures.' The first part – 'Our Heritage' – provides a foundation describing the intellectual framework that underpins the discussions to follow. It questions popular understandings of law as simply a set of rules. Horrigan links the application of law to

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\* BA(Hons) (ANU), PhD (Griff), Lecturer, School of Justice, Faculty of Law, Queensland University of Technology.

<sup>1</sup> B Horrigan, *Adventures in Law and Justice: Exploring big legal questions in everyday life* (UNSW Press, 2003) 17.

<sup>2</sup> Ibid 12.

broader questions of philosophy, morality and justice. He describes how law is made both through parliamentary processes and through judgements.

In this context law is portrayed as a means of setting boundaries and standards, but it also involves the expression of other values and interests. Its expression is not value free. It is not neutral in its design, content, process and impact; but it is not totally subjective either. In this first section Horrigan makes the reader aware of the social context of both the construction and application of law and of the difficulty and tensions involved in getting it to work. This highlights the fact that the application of law does not simply involve the functional transfer of knowledge, but also the contingent outcomes of when, where and by whom it is interpreted.

While the first part of the book draws the reader's attention to a connection between particular knowledges, ways of thinking and values that inform decision making processes, the second part of the book – 'Our Dilemmas' – demonstrates how these factors impact on social justice in everyday life. This middle section is the most lengthy and covers topics that are often the subject of undergraduate sociology, politics, anthropology, public health, humanities and criminal justice programs.

Chapter four is concerned with life and death. Crossing a broad spectrum – from cloning to capital punishment – it demonstrates the conjunction of medicine, philosophy, law and professional ethics, and illustrates the relevance of various bodies of knowledge and theory to both legal and personal decision making. The following chapter argues that the frameworks of the legal system and processes of legal decision making are sexed in all sorts of subtle and not so subtle ways. Focusing on sexual orientation, gender and marital status it exposes the sexed nature of law and the limits of anti-discrimination laws in the work of desexing it. For example, it problematises the concept of 'merit' as it is used in relation to employment, and highlights the importance of language and the neutralising effects of categorising domestic violence as distinct from other types of assault.

Chapter six addresses the problems of Indigenous justice and reconciliation. It does so through a review of legal issues associated with native title, which Horrigan describes as 'the symbolic lightning rod for so much about Indigenous rights generally.'<sup>3</sup> Horrigan attempts to address the confusion and fear surrounding native title. He concludes, however, that with the recognition of native title in Australia the legal regime promised much, but delivered little to Indigenous Australians; Australia remains divided.

The final chapter of 'Our Dilemmas' distinguishes Australia from comparable western democracies and former British Empire countries (the United Kingdom, United States of America, Canada, New Zealand and India), because it does not have a national bill of rights. It outlines the arguments for and against a bill of rights and explores the options for incorporating such a bill into the constitution or passing it into law. Horrigan positions debates about bills of rights in relation to sovereignty, the rule of law, separation of powers, parliamentary supremacy and judicial activism.

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<sup>3</sup> Ibid 193.

The last section of the book – ‘Our Futures’ – consists of two chapters that bring the book to a close by addressing some of the challenges now facing Australians. These include changing the institutional form of Australian governance, becoming a republic, choosing a head of state, and border protection – both geographical, in relation to refugees and national security, and virtual, in the realm of cyber space. Through such topics Horrigan raises issues of globalisation, just war, peremption, corporate citizenship and business ethics, and addresses the delicate balance between democracy and freedom.

This is a very wide ranging and topical book, which liberally cites current commentators, judges, politicians, academics, media and popular culture. It is easy to read – although not in one sitting. It is a book that you need to go back to.

While it ‘explores the big legal questions in everyday life’ it is not a book of answers. Indeed, it is likely that the author raises more questions. In doing so he exposes the complexity and highlights the tensions that provide the context of the problems explored. For me this is not a weakness, rather it is the strength of the book, because it allows us to acknowledge the messy and contingent nature of life.

It is not uncommon that a strength can also be construed as a weakness. If there are weaknesses in this book they are probably linked to its broad ranging and eclectic nature. As noted Horrigan deals with contemporary topics like terrorism, refugees, freedom of speech, euthanasia and business ethics, however these topics are not to be found in neatly compartmentalised sections or chapters. Rather they are revisited at different points in the course of discussion. Early in the book for example, the author explains that those interested in how the law treats traditionally disadvantaged people, like women homosexuals and refugees, will find those topics addressed in Chapters 1, 3, 5, 6, 7 and 9, while those concerned with the contribution of philosophy and ethics to politics, business and law should consult Chapters 1, 2, 3, 4, 5, 7 and 9<sup>4</sup>.

In chapter 5, ‘Love, Sex and Gender,’ the feminist authors who are most prominently cited represent the radical perspective. This ignores how postmodern feminists like Lois McNay or Ngaire Naffine, for example, might engage with the topics under consideration. While Horrigan is quite clearly familiar with postmodern perspectives, this book tends to represent feminism in a reductive or overly simplified way. This is quite possibly a result of the author’s need to set himself limits, and/or the broad focus and introductory nature of the text.

Does Horrigan reach his goal of enhancing legal literacy? Unquestionably he provides readers with insight regarding the complexity of the dilemmas and arguments at stake. This does make it more likely that they will better understand the broader dimensions of contemporary law and justice debates.

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<sup>4</sup> Ibid 18.