

## TRANSFORMING CANADIAN CRIMINAL JUSTICE: A REVIEW OF *INDICTMENT: THE CRIMINAL JUSTICE SYSTEM ON TRIAL*, BENJAMIN PERRIN (TORONTO: UNIVERSITY OF TORONTO PRESS, 2023)

The injustices within the criminal justice system have led to countless publications. Scholars have filled libraries and spilled much ink to express dissatisfaction with criminal law. They will probably persist in doing so, as the criminal justice system is an institution that continues to structure our society. People like me might never face the criminal justice system. As a legal scholar, I analyze it, I teach it, and I criticize it, but I have not experienced it to its full depth. Therefore, the words of Benjamin Perrin, author of *Indictment: The Criminal Justice System on Trial*, struck a chord.<sup>1</sup> Like him, I have never had a negative experience with the police, and yet I have studied police violence for several years. Like him, I desperately need to shift my gaze away from academic discussions that too often exclude narratives of people in direct contact with the justice system. Perrin's book — based on personal accounts and scholarly analyses — follows the example of seminal works like *Putting Trials on Trial*, and will surely become a significant contribution to the socio-legal literature in Canada.<sup>2</sup>

### I. THE PROMISE

The first chapter sets the tone of the book. Perrin explains how the words of Harold Johnson — who is obviously a strong influence — resonated with him. Johnson called for the need to engage meaningfully with Indigenous peoples when discussing Indigenous matters. Put simply, people who are impacted by a decision should always take part in the decision-making process. Similarly, when discussing any issue, we should ensure that the people concerned have a seat at the table. Perrin bases his work on this famous “nothing on us without us” principle.<sup>3</sup> He investigates the criminal justice system through the eyes of people who have experienced it: a breath of fresh air in legal scholarship. The book is dotted with excerpts from discussions with legal experts, victims, criminologists, offenders, and more. This first chapter leaves you wanting more. It promises a book analyzing the criminal justice system from a human perspective and uncovering *all* dark sides of criminal justice — not just the dark sides relevant to legal scholars.

### II. THE AMBITION

As the title of the manuscript alludes, the first part of the book contains several *indictments*. It condemns the criminal justice system and points to many issues or legal responses that have caused or exacerbated traumas. For Perrin, traumas are both the roots of

<sup>1</sup> Benjamin Perrin, *Indictment: The Criminal Justice System on Trial* (Toronto: University of Toronto Press, 2023).

<sup>2</sup> Elaine Craig, *Putting Trials on Trial: Sexual Assault and the Failure of the Legal Profession* (Montreal: McGill-Queen's University Press, 2018).

<sup>3</sup> Perrin, *supra* note 1 at 5.



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criminality and the effects of the criminal justice system — a vicious circle that he documents persuasively. Substance abuse, domestic violence and dual charging, homelessness, bail conditions, residential schools, detention conditions, victims' rights, racial profiling, strip-searches, placement of Indigenous peoples in foster homes, inexperience of police officers sent to police Indigenous peoples, under funding of Indigenous police services, police brutality, and the failures of the *Youth Criminal Justice Act*<sup>4</sup> for Indigenous youth are all mentioned in this first part. Ambitious? Yes, absolutely.

This ambition is a burden and a blessing. It is a blessing because the book exhibits a comprehensive overview of the criminal justice system. It succeeds in establishing connections between colonialism, poverty, over-policing, a healthcare system that is not able to prevent causes of criminality, and much more. It also demonstrates the law's impact outside of courts and law schools by including the voices of victims and offenders. The book looks at people involved with the criminal justice system as complex human beings who have experienced many situations that led them to the criminal justice system. It conceives of victims and offenders as people who have been failed by society — not just by the law. While criminal law is often seen in a social vacuum, Perrin avoids that mistake skillfully.

The scope of this endeavor is also a burden because such an ambitious task is challenging to execute flawlessly. Often, the author cites literature, refers to case law, draws attention to specific legal issues, or mentions the personal experience of an interviewee without unpacking their whole significance. The death of Dylan in chapter 4 leaves the reader questioning what exactly happened and how the law contributed to these tragic events.<sup>5</sup> Criticism of new anti-racial profiling measures in Ontario and Vancouver in chapter 6 stands on a few sentences that do not reflect the precise criticism or the subtleties of the legal framework cited.<sup>6</sup> The passing reference to *R. v. Jordan* in chapter 8 is insufficient to connect the author's arguments on the place of victims to the contributory harm created by due process.<sup>7</sup> This is not an exhaustive list. The ideas are there, and they are promising, but the chapters leave too many doors open. If the reader already possesses knowledge of the law, this problem will be partly remedied. The reader will understand the list of points brought by Perrin and see this first part as an occasion to tie their knowledge to concrete personal experiences. If the reader is a first-year law student, a legal professional practicing in another area, or a layperson, the doors left open will only be closed by reliance on external sources since the book goes through each topic too quickly.

Perrin concludes the first part with an acknowledgment of the harm caused by his participation in the criminal justice system as adviser to former Prime Minister Stephen Harper.<sup>8</sup> While the author is correct in apprehending a diversity of reactions in response to that statement, I wish to salute this apology. It demonstrates that people in privileged positions can recognize their mistakes, attempt to make amends, and put their energy into improving the criminal justice system. It might not be enough, but it is a start.

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<sup>4</sup> *Youth Criminal Justice Act*, SC 2002, c 1.

<sup>5</sup> Perrin, *supra* note 1 at 91–95.

<sup>6</sup> *Ibid* at 123–24.

<sup>7</sup> *Ibid* at 166, citing *R v Jordan*, 2016 SCC 27.

<sup>8</sup> Perrin, *ibid* at 197–98.

### III. THE SOLUTIONS

Acknowledging that designing an entirely new justice system is a daunting task, Perrin attempts the impossible. Inspired by the literature on transformative justice (putting an emphasis on offenders, victims, and healing), Perrin proposes a “new” transformative justice adapted to the Canadian context. His goals are to transform trauma and to provide justice, accountability, as well as healing. The “new” transformative approach would deal with harm outside the punitive paradigm. The second part of the book unpacks seven principles of this “new” transformative justice: healthy kids and community; decriminalizing people; transforming trauma; real safety; peacemaking in accountability; rehabilitation and healing; and, Indigenous justice.

The solutions envisioned go beyond legal reforms and increased resources for the criminal justice system. They rather predominantly tackle the roots of criminality. In chapter 12, Perrin presents educational programs that have been successful in reducing anti-social behaviours and rates of abuse against children.<sup>9</sup> As trauma is a cause of crime, decreasing chances of trauma in childhood, while not directly related to criminal justice, is a means to improve social determinants of health and crime. Similar conclusions are drawn with regard to employment and housing, which the author recalls are problems that can also be intertwined with racism and colonialism.

Turning to addictions and drugs in chapter 13, Perrin calls for a public health approach and criticizes the lack of uniform political will to help users across the country.<sup>10</sup> Here, the public health approach connects directly to legal reforms, namely expunging criminal records, decriminalizing some drug-related behaviours, allowing access to safe supply without criminalization risks, refraining from including abstinence in release conditions, and providing better services in carceral facilities. Mental illness is connected to other determinants of crime, showing the need for holistic and transformative actions. This last statement is only reinforced by chapters 14 to 19, dealing respectively with STR8 UP (a program assisting individuals who quit gangs), non-police-based safety initiatives (including wellness checks and alternatives to drunk tanks), restorative justice and the place of victims, prison abolitionism, Indigenous self-governance over criminal justice, and personal journeys to heal trauma and avoid encounters with the law. Each chapter explores how criminal justice problems can be addressed through interdisciplinary approaches. Part II recognizes that crime is only a piece of a much more complicated social web and highlights initiatives that have successfully focused on healing, rehabilitation, decriminalization, and accountability.

This second part boils down to the following observation: addressing crime requires addressing the causes of criminality, not only the act itself. If offenders do not realize the impact of trauma or if society does not help them overcome the effects of it, crime will continue. Tackling trauma as a cause of criminality calls for more investments in a variety of social programs (for example, housing, education, health, and employment) rather than punishment. Chapters 15 to 19 show that criminal justice can be a last resort option — but

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<sup>9</sup> *Ibid* at 210–13.

<sup>10</sup> *Ibid* at 221–35.

that it is too often the only one offered for a variety of rationales ranging from political opposition to economic arguments.

#### IV. THE TAKEAWAY

Few criminal justice books demonstrate an intent to reduce traumas as clearly as this one. By adding content warning notes<sup>11</sup> as well as mental health and counselling resources,<sup>12</sup> Perrin displays genuine concern for readers and their experiences. This fits within the book's general approach, which not only condemns, but also attempts to find, solutions rooted in personal experiences, accountability, and healing. Laypeople, law students, lawyers, and scholars can all benefit from this thoughtful manuscript, with the caveat that the first part will require external resources for individuals with insufficient knowledge of criminal law.

I wish students could read this work before getting to law school. It will neither teach them criminal law nor give them a complete understanding of the inner workings of the system. However, it will certainly initiate prospective students to the imperfection of criminal justice and recast criminal behaviours as the result of many human sufferings. Reading this book as an introduction to criminal law would help frame criminal justice as more than a need for punishment and retribution.

For people with legal training, I encourage attentive reading. Perrin invites us to look at the law differently. He hypothesizes that, as legal professionals, questioning why people are encountering the law and offering genuine help might appease traumas and decrease crime, or at least appease or decrease some harm. The criminal justice system is the product of colonialism and many injustices that cannot be swept away in a few moments or with simple tweaks in legal practices. However, if everyone follows Perrin's example, takes a step back to consider their contributions to harmful practices, and becomes a voice for socially-informed alternatives — perhaps there is a glimmer of hope for a better tomorrow, or as put by Perrin, for “new and better stories.”<sup>13</sup> This is my takeaway. As a professor, I contribute to the criminal justice system by training future generations of lawyers. I firmly believe people in this position have a duty to stay connected with participants of the system and step out of academic circles to avoid reproducing destructive practices. Perrin's book is a much-needed reminder of this fundamental truth.

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<sup>11</sup> *Ibid* at 335–40.

<sup>12</sup> *Ibid* at 341–46.

<sup>13</sup> *Ibid* at 315, 319.