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Book Review

Andrea Durbach, Brendan Edgeworth, Vicki Sentas (eds.)
(2017) *Law and Poverty in Australia: 40 Years After the Poverty Commission*. Sydney: Federation Press.

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The 1975 Australian government inquiry, *Law and Poverty in Australia*, known as the Sackville Report after Commissioner Ronald Sackville, was a landmark report that had significant effects on law reform processes including the development of legal aid, as well as changes to criminal law, tenancy law and social security law.¹ This edited collection arose out of a workshop at UNSW in 2015 to mark the 40th anniversary of the Sackville Report, and to inquire into what, if anything, has changed in regard to law's relation with poverty, as well as to advocate for future change.

Too often, the significance of material conditions to people's experiences of (in)justice is obscured in critical legal thinking, as well as in legal policy. This collection makes an important contribution to critical studies of law and poverty, as well as to critical legal studies generally. The collection reiterates the failures of substantive law for those living in poverty, as well as the failures of processes of representation and procedure. As was noted in the original report:

By far the most significant bias of the legal system against poor people has been its failure to provide legal advice and representation to many who require that assistance.²

The most important intervention that this collection makes, however, is to go beyond these substantive and procedural matters, to explain the structural role of law in reinforcing poverty, as well as the ways in which law's role with respect to poverty intersects with and reinforces law's role in producing structural inequality based on race, gender and sexuality.

Larissa Behrendt explains the significance of Sackville's report for its method of looking 'at the way in which race and poverty were linked' (p. 79), which was ground-breaking at that time. Behrendt emphasises that:

the current disparity between the socio-economic position of Indigenous Australians and non-Indigenous Australians is an important measure of the state of social justice in Australia. (p. 79)

Despite the fact that there have been a number of important legal, socio-economic and political 'firsts' for Indigenous Australians (p. 81), 'the question remains as to how much these significant milestones reflect a broader systemic alteration' (p. 81). Although the gap is closing in some areas, in others it is widening—particularly in the area of criminal justice. Behrendt examines the Northern Territory Intervention as a case study in how government policy fails Aboriginal people, an example of how 'top-down' ideology, rather than consultative change, both undermines community control and fails to address real Indigenous vulnerabilities (pp. 86-88). Behrendt calls for a move to evidence-based policies backed by Indigenous self-determination (pp. 89-90).

Jed Horner's chapter provides a review of literature regarding the connection between gender identity, sexual orientation, and forms of 'disadvantage', which Horner defines more widely than 'poverty'. The literature demonstrates that the LGBTI population experiences 'persistent socio-economic and health disparities' (p. 93). Disparities include workplace discrimination, earnings differences and homelessness, as well as disparities in mental health and HIV status. Horner identifies discrimination as 'a key *pathway* [emphasis in original] that causes harm for LGBTI people', shaping socio-economic structures and determining social disparities (p. 100). Horner recommends changes at the macro-level (for example, removing religious exemptions in anti-discrimination legislation); at the meso-level (the inscription of anti-discrimination policies at the institutional level); and at the micro-level (cultivating a culture of support and action) (p. 102).

Vicki Sentas argues that Australia needs to stop managing poverty through the criminal justice system. While the Sackville Report emphasised the role of criminal law in 'compounding the social disadvantage of migrants, the homeless, Indigenous people and children', and introduced a critical methodology for framing the criminalisation of poverty (p. 249), Sentas argues 'those who are socially disadvantaged are more enmeshed with the police, courts and prisons than they were 40 years ago' (p. 249). For example, while the Sackville Report initiated a program of reform regarding the offences of public drunkenness and vagrancy, what Sentas terms 'new status offences' have since been introduced, such as 'consorting' (p. 258).

This is just a sample of the excellent insights made by leading legal researchers in this collection. Ronald Sackville contextualises the significance of the inquiry and report, 40 years on. Peter Saunders examines the role of Ronald Henderson's legacy in the interrelation of law and poverty. Malcom Langford provides a comparative context for the study of poverty and law; Cassandra Goldie and Brendan Edgeworth look at the details of poverty, inequality and law in the contemporary context. Other contributors consider the intersection of poverty with people who have multiple and complex needs (Eileen Baldry); tenancy law (Brendan Edgeworth); consumer credit law (Carolyn Bond); social security (Beth Goldblatt, Scarlet Wilcock); and the civil and family law needs of indigenous people (Fiona Allison, Chris Cuneen and Melanie Schwartz). Ross P Buckley and Wouter Vandenhoele contextualise poverty law within the international frameworks of development law and the International Monetary Fund. Julian Disney and Anthony O'Donnell explore, respectively, the roles of tax reform and labour law.

In addition to making an important contribution to critical studies of law and poverty, and to critical legal studies generally, this collection documents gaps in the original report (such as the intersection of poverty, gender and law, which was a nascent area of politics and study at the time of the Sackville Report). While recognising the significance of the Sackville Report to political, legal and social change, it also poses important questions about why we have so far to go—particularly regarding the rights and material conditions of Indigenous Australians. While gender is raised across the collection by a number of contributors, I would have liked to have seen these discussions drawn together in a single chapter—particularly the effects and intersection of domestic violence, pay gaps and the gendered failings of superannuation. Overall, however, this collection provides an important and sobering account of law's role in determining material conditions, the important work that has been done from the Sackville Report onwards, and the

very important work that is still to be done. It is essential reading for legal practitioners, scholars and policy workers.

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¹ Australian Government Commission of Inquiry into Poverty, Second Main Report, *Law and Poverty in Australia* (AGPS, 1975) (*Sackville Report*).

² Australian Government Commission of Inquiry into Poverty, Second Main Report, *Law and Poverty in Australia* (AGPS, 1975) (*Sackville Report*): 3.