

Book Review

The Clash of Law & Justice in New Zealand

By Harry C. Midgley II. (2015)

Review by A J W Taylor

This slim volume, written in a readable style by a former Irish lawyer, political adviser, and journalist, is in two parts. The first deals with conflict that arises too often between the administration of law and the pursuit of morality and justice. The second gives Midgley's family background and social circumstances in Ireland that helps to explain his firm attachment to human rights. It makes clear that law and its observance at any given time can only proximate the essentials for safeguarding an ideal society: i.e. justice has moral qualities that might feature only incidentally in the outcome of cases before the courts. Others have drawn attention to legal aspects of the matter, without addressing the wider implications (cf. Justice Sir Thomas Thorp¹). In Lord Acton's memorable phrase "power corrupts, absolute power corrupts absolutely."

In effect, Midgley's deep sense of injustice over the proceedings during the highly publicised complaint of pack-rape that Louise Nicholas laid against three senior police officers, led him to write the book. He began by touching on the long-established and independent functions of lawmakers, law enforcers, and the judiciary that are essential for maintaining a democratic society. Then, he gave credit to the diminishing number of the 'fourth estate' journalists who still draw attention to flagrant examples in any of those sectors that overstep the mark. After citing a few 'celebrated' examples of procedural 'irregularities' that occurred in cases in England, France, Ireland, and New Zealand, Midgley focused on what might be termed the strategies and ploys that the police prosecution and the defence adopted

in an unusual alliance to counter the alarming complaints. Suffice to say, the accused were found not guilty.

In a detailed critique of the case, Midgley appraised the transcripts of evidence, the occasional comments, and rulings of the presiding judge. He considered the background information provided by journalists that might have led to a different outcome had it been allowed to feature in the discourse. As a result, Midgley argues that a tribunal be established to prevent the recurrence of such injustice and that the courts adopt an inquisitorial rather than an adversarial modus operandi to get nearer the truth of reported complaints.

It would be good if the book were to generate reflective responses in publishable form from police, lawyers, and politicians. Certainly it will take some psychologists into unfamiliar territory, while appealing to those in the clinical, community, criminal, cultural, forensic, and social domains. In doing so, it will provide a healthy reminder of earlier days when psychology was an offspring of philosophy and moral principles also featured in its practice, even if their effects defied operational and statistical appraisal.

¹ Cf. Justice Sir Thomas Thorp (2005). *Miscarriages of Justice*. Wellington: Legal Research Foundation.