

"Comprehending not Absolving"

A response to Rednecks

**John Robson Memorial Lecture
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Introduction

I am genuinely pleased to be presenting the John Robson Lecture for 2003 as I had the pleasure of being a student of Dr Robson's for 3 years in the late 1970's when he was the Director of Victoria University's Institute of Criminology.

Before turning to the subject of the lecture I feel it appropriate to tell you something of the man, John Robson.

John Lochiel Robson

He was small in stature but large in heart. A gentle man of quiet and circumspect disposition. He commanded enormous respect amongst his peers and his students.

John Lochiel Robson was born in Halcombe in 1909 and died in 1993. He schooled in Ashurst before studying law at Canterbury University. In 1939 he obtained a Ph D in law from the University of London.

In 1951 he joined the Department of Justice as Assistant Secretary and became the Secretary for Justice in 1960.

As a Public Servant he adopted an active rather than passive style, working in an extremely harmonious relationship with J R Hannan, the then Minister of Justice. The decade 1960 through 1969 is regarded as a period of achievement in penal reform without equal in New Zealand's history.

Robson's style was careful, based on consultation and compromise. He maintained respect with lobby groups and the media and was able to sell his policies gently to them.

In 1961 he used these skills to effectively campaign for the abolition of capital punishment, against what was initially regarded as overwhelming odds.

In addition to reforms such as community based sentencing he also reformed administrative aspects of the law. He created the Office of the Ombudsman

and the introduction of specialist Tribunals to deal with areas of legal administration requiring more finely focused attention.

Robson was a person of great humanity. He contended that offenders should be treated with respect for their human dignity and held firm to the view that significant reduction in offending could come only from changes within society itself.

It is in respect of this view that I wish to speak today.

The Cries of the Redneck

All too often we hear the cries of people or groups as to such things as *'the crime rate is exploding', 'the Courts and the Police are doing nothing to stop crime', 'it's about time Maoris [sic] stop bleating and get on with it [whatever 'it' is]', 'you do the crime you do the time'*. And it goes on.

While many people have every right to express their views, they have, in my humble view, various duties such as:

- To conduct at least a basic level of research into data so as to see whether their views are supported by statistics,
- To be prepared to accept even a modicum of responsibility for the foibles of our society's problems,
- To refrain from opinions based solely on bigotry and racism,
- To consider their own individual treatment of people close to them and appraise whether their comments are free of hypocrisy.

There is a simplicity to such grievances that is often frustrating to those working in the justice and social work fields. There is an assumption that it is for the Courts, the Police and agencies such as CYFS to provide the solution to criminal activity.

The simplicity derives from the fact that the Courts and the Police are largely the last stop in a long chain of criminal development. The Courts are there to assess whether a given charge is proven and, if so, to sentence according to the principles laid down by Parliament. Likewise the Police are by and large occupied in receiving complaints, investigating them and electing whether to lay charges.

Despite popular view to the contrary there is little a Court or a Police Officer can do to provide a cure all to crime.

The flaw in the thinking of the ignorant is that when others attempt to understand why crime is occurring they are roundly criticised for excusing or absolving the offending. Solutions will only be found if a given problem is analysed from an objective position, considering all points of view.

As Robson suggested, a reduction in offending will only occur if Society itself changes.

One must consider what changes are required.

An Opening Caveat

The comments I share are my personal views. They may represent the views of some of my fellow Judges, while others might well disagree. We are, after all, a segment of the community and have all been shaped by our individual experiences.

Second, my comments are confined to being general in nature. Within the confines of time I have referred to supporting statistics to highlight points.

I turn now to express my views as to fundamental ways in which our communities must change if we are to fulfil the goal of reducing offending.

The Toppling of the Goal Posts

Societal change has been radical over the past half century and there has been a swift decline in the importance to our society of clear moral guidelines. In my opinion the moral goalposts have been toppled.

I am not advocating a need for members of our society to adhere to any particular form of religion per se. I am however of the view that as people develop from childhood they need some clear moral road map from which they can direct their journey through life. Most religions do share the same basic ingredients of respect for self, respect for others, prohibitions on wrongdoings, rewards for compliance with the accepted moral code and so forth.

What we have seen in the past 40 years is the development of concepts that are corrosive of the former notion that such codes are important:

- It is no longer politically correct for schools to promote religiously based concepts,
- It is no longer trendy to partake in religious celebration,
- Since the economic downturns that hit provincial areas in the mid 1980's there has been the development of a largely ego-centric focus, each person for themselves,
- The swing to self as taking priority over the group, has meant a diminishing in focus upon responsibilities to one or rights. What are my rights? I'm not that concerned about responsibilities.
- And so forth

Whatever grievance can be leveled against some of the idiosyncrasies and flaws of our dominant religions, it cannot be said that the emphasis was on self. Most dominant religions have promoted senses of responsibilities over rights.

The dilemma for today's society is to discern from where our new citizens can be expected to derive basic moral structure. They cannot expect to gain it from their caregivers if they do not themselves possess the raw material. They cannot gain it from educational institutions.

While this opinion may appear reactionary, I am genuinely concerned that the decline of traditional sources of moral education cannot be understated as being an influence in the problems that a society then reaps.

The Fragmentation of the Family

Again, I run the risk of sounding like a new age Christian by referring to the influence on crime created by the decline of formal family structures.

I should emphasize that I am not adhering to a view that offending will be reduced by forcing everyone to reside within a nuclear family. In my career I have seen my share of nuclear families that fail to function.

By family I mean the provision to children of a solid base in which they can learn the essential in life, free of neglect, abuse and dysfunction. Such essentials can be provided by a single caregiver, but it is easier with more than one.

The family today is under significant stresses that may not have existed 50 years ago. The decline of the economy has meant that people who were once involved in a child rearing as a career have little choice than to engage in the work force. While some have the economic luxury of being able to share the child rearing tasks, most families do not. The declining role of parents as actual caregivers cannot be understated or overlooked in the cumulative influence upon children.

I adhere to the view that boys especially need to have in their lives a consistent, close and skilled male role model.

Sadly, many of the young men appearing in our Courts have never, and I emphasise never, had such a figure in their lives.

The concept of 'family' is alien to many young people today. We cannot expect to mould functioning adults by training them in dysfunctional environments. We can only expect them to act in a way contrary to our invisible moral code.

Recently I sent to prison a young man of 18 years of age. Some groups will congratulate me for that civic duty and will genuinely hold to the view that imprisonment will act as some form of solution.

His story mirrors that of many young offenders. He was born into a world where his father was nowhere to be seen. At the age of 2 his mother discarded him to her parents. For the next 10 or so years his grandfather regularly beat him until he was passed around various family members. He

suffered from a mood disorder but, due to the disorder itself, did not accept treatment hence heightening his propensity to crime.

Why is it a surprise to some when children like this then go on to commit crime?

My challenge to members of our society is two-fold. First gain an understanding of these all too common dynamics existing in your streets and in your towns. Second, make a genuine effort to advocate for change to these fundamental flaws in our communities. This can be done in such courageous ways of stepping into situations you see in the street where an adult slaps a child. Don't turn the other way, for if you do you are contributing to the development of people who are likely to become offenders.

Neglect of Children

In the year ending 30 June 2001 CYFS had accepted 26,700 notifications of child abuse. It must be noted that this is not the number of calls they received but rather those that were accepted for investigation.

That is 73 notifications per day.

Of these approximately 9000 were found by CYFS to have amounted, by their definitions, to abuse. Over 800 sexual, 1600 physical abuse, 1600 emotional abuse and over 2000 neglect.

In the same year there were nearly 300 convictions for assault upon children, that is nearly one conviction per day.

Such figures do not include the events that never come to light.

It is interesting that if a Judge in sentencing refers to such events within the formative years of an offender there is often condemnation from some lobby groups that the Judge is too soft, that all that is needed is to bang them away and throw away the key.

The message from those statistics could not be clearer.

If the community wishes to direct itself to a time when crime rates are low then it must address the causes of such woeful child abuse. It ignores such data at its peril.

All those working in the area of justice, policing, prisons and social work well know that most offenders will have experienced some level of abuse or neglect within their foundation years.

The abuse and neglect of children will continue for as long as your community keeps sending signals that such abuse is acceptable and that transgressions will continue to attract much lesser penalties than abuse to adults.

The Have Nots

Demographic changes in New Zealand have caused an increasing disparity between the haves and the have nots.

Only two regions, Auckland and Wellington, have median income levels above the New Zealand level.

Three, being Northland, Gisborne and the West Coast have particularly low levels.

In a recent article by Professor Ian Pool he refers to the disparities in income as increasing in the North Island. Not surprisingly, areas like Northland and Gisborne also display higher levels of unemployment.

Professor Pool's analysis of census data displays clear correlations between median income levels, unemployment and imprisonment. Not surprisingly the areas like Northland and Gisborne stand out with the highest conviction rates in the country. Hawke's Bay is close behind.

Sadly, the custodial sentence rate for Maori is something approaching seven times the rate for Pakeha.

The correlations between factors of ethnicity, unemployment, income and imprisonment cannot be ignored. Professor Pool makes a very interesting observation when he considers the predicted demographic changes for New Zealand and the impact of imprisonment upon our economy. He points to the devastating effect of imprisonment upon the reduction in New Zealand's 'human capital', an essential element required to meet the working needs of our country.

He also points to the fact that most of our prison population comes from the very same age group required to stock that human capital, namely the 25-29 age group. The persons imprisoned are not reflected in the number of unemployed thereby disguising the full extent of unemployment.

He states: *"Thus imprisonment is a measure not only of social cohesion but also of under-development"*

It is a sad situation when the advocates for social change are shouted down when they reveal such inequities within our society as being factors intrinsically linked to offending. Opponents to the creation of a less disparate society run the real risk of advancing our society down a path of increasing under-development.

The Plight of the Maori

If one thing will rile a redneck it is when one points to ethnic disparities as being a factor in criminal offending.

The response is generally one of saying such things as *"Maoris get a better chance in education, they got twice as much bursary as my son", "Don't give them any more treaty money, they'll only blow it" or "they're more violent that's why the prisons are full of them"*.

The statistics do display that the imprisonment rate for Maori is far higher than that for non-Maori. But the same data also displays, without any doubt that Maori do not share equally in the most other respects. Their median income is less, unemployment rate higher, house ownership far less, educational qualifications substantially less than Pakeha and so forth.

The unwillingness of many members of the dominant culture to recognise and address such disparities will not make the plight of Maori any better. Neither will the plight of non Maori society. The two are, like it or not, intrinsically linked, and what affects Maori will affect Pakeha.

If the two communities are not drawn to a more equal sharing in the assets of society then disparities to Maori will continue to impact upon Pakeha through such things as crime, prison costs, health costs, social costs and so on.

The most abhorrent aspect of ignorant catch cries is when reference is made to the cause of Maori crime being rooted in their ethnicity. Such comments are racist in the extreme. These all too common opinions fail to recognise the commonality of data between indigenous peoples throughout the world who have suffered the realities of colonisation.

The aborigines in Australia, the native Americans of USA and Canada and Maori all feature disproportionately in statistics of poor health, drug and alcohol dependency, unemployment and crime.

A reference to colonisation carries with it the risk of such term being drawn out in isolation as being regarded as an excuse for crime, rather than one factor in understanding offending and in searching for solutions. By understanding the dynamics and consequences of colonisation one then at least has a chance of planning a path out of the negative aspects that colonisation of any people may cause.

The Future

What then does the future hold for our society?

Sadly, I believe that unless there is a substantial mind shift by the greater population to be willing to understand causes of offending then there is little chance of positive change. The demographic studies by such people as Professor Pool suggest that the economic and social plight for New Zealand is not a good one.

If, as promoted by Robson, society is not willing to make changes to itself then there will be no significant reduction in offending.

While New Zealand has seen a reduction in offending levels since 1996 (see table 10.2 NZ Official Yearbook 2002) any meaningful reduction in offending requires a substantial mindshift by most New Zealanders to a point where they actively wish for and promote a better society for all our peoples.

I finish with some very subjective views and predictions:

- I can predict that if solutions are not found to redress the current economic disparities existing between segments of our society then offending levels will increase as each new generation of disadvantaged peoples is born into that society,
- I predict that if New Zealand was able to return to an economic state where most people had opportunity of full employment with reasonable and real incomes then many young people would have a life away from crime,
- If our society continues to ignore the gross abuse of our nation's children then we will perpetuate the creation of citizens who will know no other life than crime, neglect and dysfunction,
- Even if a wand came across this country and provided the appropriate economic and attitudinal changes from today, I suspect that no meaningful reduction in offending would be evident for 2 generations, such is the deep rooted harm that has been caused to our society,
- If a climate of bigotry and ignorance continues to pervade our society then we will continue on a path that offers little prospect of a bright future

Thank you for your time in sharing these observations