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Riot, Resistance and Moral Panic: Demonising
the Colonial Other

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Abstract

How we speak, the language and the categories we use, construct problems in particular ways, and imply certain solutions. The object of discussion becomes defined and the possible policy responses are circumscribed to address the 'problem'. The language we use also reflects power: who has the power to define the problem in a particular way, who is silenced by a particular representation. Defining crime, criminals and crime problems are susceptible to these issues of construction and representation, and the consequences can be particularly problematic in matters where crime is aligned with notions of 'race'. This chapter considers the moral panics that have occurred as a result of Indigenous demonstrations and riots, and the governmental and media interpretations of and responses to those disturbances, particularly the extent to which various narratives of lawlessness and disadvantage are employed. I am also interested in contrasting notions of moral panic with the concept of moral economy and the role of moral indignation.

Riot, Resistance and Moral Panic: Demonising the Colonial Other

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Introduction

How we speak, the language and the categories we use, construct problems in particular ways, and imply certain solutions. The object of discussion becomes defined and the possible policy responses are circumscribed to address the ‘problem’. The language we use also reflects power: who has the power to define the problem in a particular way, who is silenced by a particular representation. Defining crime, criminals and crime problems are susceptible to these issues of construction and representation, and the consequences can be particularly problematic in matters where crime is aligned with notions of ‘race’. This chapter considers the moral panics that have occurred as a result of Indigenous demonstrations and riots, and the governmental and media interpretations of and responses to those disturbances, particularly the extent to which various narratives of lawlessness and disadvantage are employed. I am also interested in contrasting notions of moral panic with the concept of moral economy and the role of moral indignation.

The characterisation of Indigenous people as ‘lawless’ is not new. Indeed part of the legitimating foundation of Australian sovereignty assumed that Indigenous people were without law - the concept of *terra nullius* and the doctrine of *discovery* meant that inhabitants of the land were without settled law or political authority. Thus the view of the late eighteenth century was that the ‘savages’ of the newly discovered land of Australia were there to be civilised to the extent that this was possible.

According to the racialized assumptions that underpinned government policy through the later part of the nineteenth and twentieth centuries, so-called ‘full blood’ Aboriginal people were bound to die out because of their racial inferiority, and the population of ‘mixed blood’ children could, over generations, eventually be biologically absorbed into the non-Indigenous population. Their Aboriginality would be ‘bred’ out. Eugenicist arguments required a proactive state to manage, cleanse and maintain the ‘white’ population. The only avenue available to join the nation was by becoming white. The narrative of the ‘criminal’ has also worked to exclude Indigenous people from the nation state. Criminalisation excludes and isolates Indigenous people from the assumed consensus of the law-abiding majority. An important part of this isolating process has been the construction of moral panics around Indigenous lawlessness.

Moral Panic and Indigenous People

As noted in other chapters in this book, the concept of ‘moral panic’ refers to a situation where the definition of deviance is applied to the behaviour of a social group, there is hostility towards that group and a level of consensus over the negative deviant definition, and there is a disproportionate and punitive response, usually by

the criminal justice system (Goode & Ben-Yehuda 1994). By their nature, moral panics also tend to be volatile and fuelled by media and political interest.

The discussion in this chapter is really around the intersection of three common threads in contemporary moral panics: youth, race and 'street' crime. There is a tradition in criminological writings of looking at the relationship between young people and moral panics. Stan Cohen's classic work on the clashes between the mods and the rockers in England during the 1960s showed the power of negative representation in amplifying disorder and bringing about a political crackdown on youth (Cohen 1973). In Australia, researchers have looked at moral panics and the role of media and politicians in understanding riots at the Bathurst motorcycle races during the 1980s and earlier (Cunneen, Findlay, Lynch, & Tupper 1989). Others have noted moral panics around bodgies and widgies (Stratton 1992) and also contemporary youth subcultures (White 1993).

There are also many studies on the media's preoccupation with crime. By and large, crime is sensationalised through the selection of atypical—usually violent—crimes which are given more prominence than common crimes. Crime is presented as basically random in nature and thus a threat to everyone in the same way (Ericson, Baranek & Chan 1991). In the context of moral panics, the focus is often on public disorder or 'street' offences. The classic study in this regard was Hall and others analysis of the creation of a phenomenon of 'mugging' and its association with young people, in particular black British youth (Hall, Jefferson, Critcher, & Roberts 1978). In Australia Bessant & Hil (1997) have discussed the powerful and distorted images of youth crime: the saturation of stories about 'young thugs', 'hooligans', 'ethnic youth gangs', 'school vandals', and 'lazy teenagers'.

Hall et al's analysis leads us to the third leg of this discussion on moral panics: the profound racialisation of moral panics around young people and crime. In an examination of newspaper reporting about youth in Western Australia between 1990 and 1992, Sercombe (1993) found that the major issue reported in relation to young people was crime. However, that 'face' of youth crime was also heavily racialised. Some 85 per cent of stories that referred to Aboriginal youth were principally about crime (Sercombe 1995:78).

Although depictions of Indigenous people as criminal and a threat to the security of the nation are not new, there is some evidence to suggest that since the 1980s the images of Indigenous people in the mainstream media have been increasingly associated with criminal disorder. Similar to Sercombe's study noted above, a media study for the National Inquiry into Racist Violence revealed that 38 per cent of newspaper articles which mentioned Redfern during 1988 and 1989 were articles which were 'stereotypically negative stories about Kooris' (Jacubowicz 1990:18). Within these stories, the largest subject category identified Aboriginal people with crime and violence. A study of newspaper reporting in northwest NSW (Cunneen 1987) found that the major daily newspaper in the area (the *Daily Liberal*) engaged in discriminatory reporting: Aboriginal people were the only identifiable group who had their ethnicity or racial background mentioned in newspaper reports on crime. In other words the only 'offenders' who were linguistically marked and separated by 'race' were Aboriginal offenders.

The Royal Commission into Aboriginal Deaths in Custody also identified the widespread approach to constructing Aboriginal people and issues as a 'problem', particularly in relation to law and order. Aboriginal people were frequently represented as a dissident, disruptive, or criminal element (Johnston 1991:(2)186). The Royal Commission noted the increase, during and after the 1988 Bicentenary, in the use of the word 'riot' in relation to confrontations involving Aboriginal people. An analysis conducted for the Commission of the *Sydney Morning Herald* from January 1987 to April 1990 showed that 40 per cent of all references to the word 'riot' within Australia were related to Aboriginal people (Johnston 1991:(2)186).

The National Inquiry into Racist Violence also raised a number of issues relating to the media portrayal of Aboriginal people.

Discriminatory reporting in relation to crime stories was cited as being particularly likely to generate a climate conducive to racist violence. Terms such as 'black terror' or 'black crime wave' clearly convey a sense of racial hostility and threat. Other examples included stories where a person's ethnic and racial origin was only mentioned if the person was Aboriginal or Islander. Aborigines in many rural areas complained that local media reinforced racist attitudes and generated fear and tension in their reporting of race issues.

The question of balance arises not only in relation to the presentation of individual stories, but in regard to the predominance of negative reporting on Aboriginal people. While the role of the media in exposing injustices or highlighting the problems faced by Aboriginal communities is a most important one, there were many complaints about racist portrayals and the lack of media coverage of positive developments within Aboriginal communities (HREOC 1991:357-358).

However, the issue is not just discriminatory reporting or the lack of balance in the type of stories which are portrayed. A journalist in Perth told the Royal Commission into Aboriginal Deaths in Custody that,

[r]acial stereotyping and racism in the media is institutional, not individual. That is, it results from news values, editorial policies, from routines of newsgathering that are not in themselves racist or consciously prejudicial. It results from the fact that most news stories are already written before an individual journalist is assigned to them, even before the event takes place. A story featuring Aboriginals is simply more likely to be covered, or more likely to survive sub-editorial revision or spiking, if it fits existing definitions of the situation (Johnston 1991:(2)185-186).

It is apparent that one frame of reference (or existing definition of the situation) constructs Indigenous people as criminals and harbingers of social disorder. An associated frame of reference is one that sees Indigenous people as passive victims. In this case, Indigenous disorder is associated with poverty and socio-economic disadvantage. The narrative presents Indigenous people as passive victims without clear intention or rational motivations for engaging in particular activities. This narrative of 'victims of poverty' is also important in our understanding of how moral panics develop around Indigenous riots. It appears that Indigenous people engage in

riots either because they are lawless, or because they are victims of disadvantage. One narrative stresses a type of blind lawless purposelessness, the other narrative stresses passivity and victimhood. Neither approaches allow for the possibility of Indigenous direct action.

Moral Economy and Moral Indignation

While this chapter is primarily focussed on using the concept of moral panic, it is also important to consider how we might understand Indigenous riots and demonstrations in a different light. For this reason the moral panic associated with Indigenous public disorder can be contrasted with the moral economy that underpins the resistance of riot and 'disorder'. The concept of 'moral economy' as a way of analysing crowd behaviour derives from the work of the historian E.P. Thompson. Thompson was interested in understanding how riots were seen as legitimate action by the participants and their communities, originally in eighteenth century England. As Emsley (2006: 250) has noted, '[Thompson] concluded that the men and women in the crowds were motivated by beliefs that they were defending customs or traditional rights.' Others have broadened the concept to consider how riots can be understood as a form of community politics (Emsley 2006). The important point here is that riots are seen as a rational response to perceived injustices.

In Australia one of the few attempts to apply the concept of 'moral economy' in the contemporary period has been Owen's (2006) analysis of the February 2005 Macquarie Fields riots as an event arising from moral indignation. According to Owen, it is important to recognise that protesting crowds might hold a legitimate claim to moral indignation when established norms or moral protocols have been breached. The threads underpinning riots of moral indignation are:

- The riot as a principled act
- A clear and collective sense of injustice
- A consensus on what injustice had occurred, and
- A consensus on which agents in the community were responsible for the injustice occurring (Owen 2006: 6).

Owen's insights are very important for thinking about Indigenous riots as acts of resistance which are seen as morally legitimate by the crowd and its supporting community. Indigenous riots are invariably associated with the aftermath of perceived injustices by criminal justice agencies – almost always the police. If we look at Indigenous demonstrations, uprisings or riots they usually occur after some heavy handed police operation and/or a death in custody. By way of contrast the 'moral panic' depiction of the riot invariably combines narratives of unbridled criminality with victims of disadvantage. The 2004 riots in Redfern and Palm Island will be used to illustrate this argument further.

The Redfern Riot February 2004

The riot in Redfern in February 2004 occurred after the death of TJ Hickey. Seventeen year old 'TJ' had died after impaling himself on a metal fence whilst riding his bicycle in the inner Sydney suburb of Redfern. On the night following his death a serious riot erupted in Redfern between Aboriginal people and police which caused

widespread injury. The Coroner found that TJ's death was a death in custody, occurring as it did during police operations. At the time of TJ's death there was a police operation in the vicinity arising from an earlier assault and robbery which had allegedly involved an Aboriginal offender. A number of vehicle patrols were active in the area at the time, and one had followed TJ although he was not a 'person of interest' in relation to the robbery. There was a widespread belief at the time that TJ was being chased by police at the time of his death.

The subsequent riot after TJ's death received widespread publicity, with various 'causes' discussed by media and politicians. There were a group of common explanations and solutions to the riot which dominated the public domain. One set of explanations used motivational causes for rioting behaviour such as drugs, alcohol, and hot weather. Another set of explanations blamed social disadvantage. And the third set of explanations blamed the lack of effective policing in the area. These explanatory narratives have been used previously to account for anti-police riots in Redfern (Cunneen 1990).

One theme was that the riot was caused by drugs. The explanation was put forward by police, politicians and media commentators. According to Sergeant Paul Huxtable from Redfern police, the heroin trade was the 'true cause' of the riot and poor relations with police (*Sydney Morning Herald*, 17/5/04). Similarly an editorial in *The Australian* stated simply, 'the riot was caused by heroin' (18/5/04). Heroin was apparently there cause of the riot because prior to TJ's death there had been a crackdown on the heroin trade in Redfern.

Various reports blamed a 'softly, softly' approach to policing in Redfern as a cause of the riot (*Sydney Morning Herald*, 18/2/04). Alternatively the Block was portrayed as a no-go area, with the only solution being to increase the number of police and the number of street patrols (*Sydney Morning Herald*, 24/2/04). In this explanation the riot was caused because there was not a strong enough police presence.

The question of disadvantage and the lack of 'hope' for people in Redfern was also a theme: summarised in the newspaper heading 'Kids Need Hope, Assistance and Education' (*Sydney Morning Herald*, 22/2/04). It was common in this narrative for police to 'blame' other government departments for their lack of support in Redfern. The assumption was that if young people had educational and employment opportunities then there would be no rioting behaviour.

In the months following the riot there was a strong emphasis on increasing police capabilities in Redfern. The building of a new \$6 million seven story police station was announced. Police numbers in Redfern were increased by one third from 170 to 226, and a new permanent 46 member fulltime riot squad (the Operational Support Group) was formed. In relation to social policy, the Redfern Waterloo Partnership Project was further strengthened and funded. This project had been established in 2002 to provide whole of government responses to various issues affecting the area.

Virtually no attention was paid in these official explanations to the long history of volatile conflict between Aboriginal people and the police in Redfern. The death of TJ Hickey sparked a riot, but did so in the context of constant complaints of police harassment, particularly of Aboriginal youth. Part of this harassment derived from a

renewed focus on 'zero tolerance' style police operations and the use of public order legislation that clearly targets young people. The fact that TJ was classified as a 'High Risk Offender' by police meant that he was subject to constant scrutiny. His bail requirement not to visit a particular housing area where his mother resided almost certainly imposed a condition that he would constantly breach. Indeed on the morning of his death he had been to visit his mother and was subsequently followed by police (although it turned out that this was in relation to a different matter not involving young TJ).

Instances of police abuse of Aboriginal people, documented by the New South Wales Council for Civil Liberties, date back to the 1960s. In the early 1970s the first Aboriginal Legal Service in Australia was established in Redfern because of police harassment of Aboriginal people in the area. By the mid to late 1980s riots between police and Aboriginal young people were relatively common (Cunneen 1990). An investigation by the Federal Race Discrimination Commission in 1990 over the use of tactical response police in raids around 'The Block' found that the police used excessive force and that the justifications for the raids exhibited institutional racism. Some local police were found to refer to Redfern as 'coon county' (Cunneen 1990:11).

The 2004 riot in Redfern was a clear case of moral indignation and collective protest against what was seen to be a case of police involvement in the death of a young Indigenous boy. It demonstrated the depth of collective anger at the way the justice system operates. That sense of injustice is unlikely to be understood in a context that seeks further entrenchment of policing responses in the community. The moral panic of Indigenous lawlessness lends itself well to the establishment a new police station and increased numbers of police. The fact that policing might be part of the problem is erased from public policy consideration.

The Palm Island Riot November 2004

Thirty six year old Mulrunji (Cameron Doomadgee) died in police custody on Palm Island in November 2004. He had been arrested for drunk and disorderly behaviour. He was healthy man when arrested and was not known as a trouble-maker on the Island, and had not been previously arrested on the Island. The riot occurred a week after Mulrunji's death, when the results of the autopsy became known to the community. The post-mortem examination revealed that Mulrunji suffered four broken ribs, a ruptured spleen and that his liver was almost cleaved in two.

The riot which occurred on Palm Island was clearly a protest against what was seen at the time as police involvement in the death of Mulrunji. During the protest, the local police station was burnt to the ground, and the courthouse extensively damaged. As a result of the riot, the Queensland government established a Palm Island Select Committee. The terms of reference for the Committee did not include an examination of policing on the Island, but rather local government arrangements, infrastructure development and options to improve the coordination of government services on the Island. The government developed a Five Point Plan for Palm Island. The first point and 'absolute priority', was the restoration of law and order on the Island. The other four points included re-establishing services, rebuilding infrastructure (the first of which was to build a new police station and courthouse), the development of an

alcohol management plan (to restrict access to alcohol) and to establish new governance arrangements.

The dominant view presented by government was the social and economic ‘problems’ of Palm Island led to the riot. Newspaper reports of Palm Island such as ‘Tropic of Despair: Decades of oppression have the people of beautiful Palm Island dispirited and desperate’ (*Sydney Morning Herald*, 4/12/04, p.31) reinforced this view. The rioters may have been lawless but they were also passive victims of disadvantage.

There are serious social and economic issues on Palm Island including unemployment, over-crowded housing and poor health. Yet the basic cause of the riot was a death in custody where there was a strong community belief that police were directly responsible for the death. Contrary to dominant view of ‘despair’, the riot on Palm Island can also be interpreted as the community standing-up assertively and clearly expressing its outrage at the death of Mulrunji, and what it saw to be an attempted cover-up by the authorities.

Indeed the community’s anger was vindicated by the Coroner’s report into the death in custody of Mulrunji. The Acting State Coroner found that Mulrunji had punched Sergeant Hurley after being arrested and transported to the police station, and that Hurley had punched Mulrunji in response. Both men fell to the ground and Hurley lost his temper and hit Mulrunji several times after falling to the floor. ‘I conclude that these actions of Senior Sergeant Hurley caused the fatal injuries’ (Clements 2006:27).

The Coroner found that the decision to arrest Mulrunji for drunk and disorderly could easily have been addressed by means other than arrest. According to the Coroner, the arrest was an inappropriate use of police discretion. In other words, Mulrunji should never have been in police custody in the first place.

The Coroner was critical of the failure to check on the health of Mulrunji after the fall and the assault.

Mulrunji cried out for help from the cell after being fatally injured, and no help came. The images from the cell video tape of Mulrunji, writhing in pain as he lay dying on the cell floor, were shocking and terribly distressing to family and anyone who sat through that portion of the evidence. The sounds from the cell surveillance tape are unlikely to be forgotten by anyone who was in court and heard that tape played. There is clear evidence that this must have been able to be heard from the police station dayroom where the monitor was running. Indeed the timing of Senior Sergeant Hurley’s visit to the cell suggests that the sounds were heard. But the response was completely inadequate and offered no proper review of Mulrunji’s condition or call for medical attention. The inspections were cursory and dangerous even had Mulrunji been merely intoxicated. The so called arousal technique of nudging Mulrunji with a foot is not appropriate. It cannot be sanctioned (Clements 2006:32).

After it was suspected that Mulrunji was dead, there was no attempt at resuscitation.

The coroner was highly critical of the investigation which failed to meet the standards of thoroughness, competency or impartiality. One investigating officer was a friend of Hurley - the police officer most likely to be under investigation, and both investigating officers visited Hurley's house for dinner after the investigation had begun.

Adding to the community's view of a cover-up was the fact that Mulrunji's sister had visited the police station bringing lunch for him. At this time he was known by police to be dead. She was simply told to go away. The family were not informed of the death until four hours after it had occurred.

Conclusion

At times the anger, frustration and fear arising from deaths in custody results in a level of collective sense of injustice that spills over into a riot (which is inevitably directed at the local police). Recent riots in Redfern and Palm Island reflect the depth of community anger at perceived injustices. Collective disorder or riots are relatively rare in Australia, so it is significant that Indigenous 'riots' (they could also be called 'demonstrations') almost exclusively arise as a result of perceived injustices caused by the actions of criminal justice agencies. Yet the dominant representations by media and politicians steer clear of these understandings, preferring to focus on either the irrationality of lawlessness, or the passive victimhood of disadvantage. To the extent that the moral panic of lawlessness is dominant then the implied solution is invariably an increased level criminal justice intervention through more and better armed police, stronger laws and increased penalties.

One criticism of the use of the concept of 'moral panic' has been that it perhaps to simplistic in its understanding of the media – particularly its multiple forms and outlets which are not monolithic. In connection to deaths in custody, the Royal Commission into Aboriginal Deaths in Custody noted that some sections of the media played a significant role in the establishment of the inquiry by covering the issue through critical and investigative reporting, particularly of deaths like those of John Pat, Eddie Murray and Lloyd Boney (Johnston, 1991:(2)184–185).

Yet the type of investigative journalism which can assist social movements in critical stance against state or corporate power is rare. The media are big business, and their representations need to be understood within the context of profitability (what sells) and of discourses about social normality. The economics of news production and the news values of the media also fit well with politicians eager to be seen to be doing 'something' to solve the problem. And after a riot, what seems more acceptable and more reasonable than increasing police numbers, buying better equipment, or building a bigger and more expensive police station to deal with elements of a black lawless minority?

References

Bessant, J. & Hil, R. (eds) (1997) *Youth, Crime and the Media*, National Clearinghouse for Youth Studies, Hobart.

Clements, C. (2006) *Inquest into the Death of Mulrunji*, Office of the State Coroner. Brisbane. <http://www.justice.qld.gov.au/courts/coroner/findings/mulrunji270906.doc>

Cohen, S. (1973) *Folk Devils and Moral Panics*, Paladin, London.

Cunneen, C. (1987) 'Newspaper Reporting of Crime, Law and Order in North West NSW' *Journal for Social Justice Studies*, Vol 2, pp14-32.

Cunneen, C. (1990) *Aboriginal/Police Relations in Redfern with Special Reference to the Police Raid of 8 February 1990*. Report Commissioned by the National Inquiry into Racist Violence. Sydney: Human Rights and Equal Opportunity Commission.

Cunneen, C., Findlay, M., Lynch, R. & Tupper, V. (1989) *Dynamics of Collective Conflict. Riots at the Bathurst Motorcycle Races*, Law Book Company, North Ryde.

Emsley, C. (2006) 'Moral Economy' in McLaughlin, E. and Muncie, J. (eds) *The Sage Dictionary of Criminology*, Sage, London.

Ericson, R., Baranek, P. & Chan, J. (1991). *Representing Order: Crime, law and justice in the news media*, University of Toronto Press, Toronto.

Goode, E. & Ben-Yehuda, N. (1994) 'Moral Panics: An Introduction', in Goode, E. & Ben-Yehuda, N. (eds) *Moral Panics: The Social Constructing of Deviance*, Blackwell, Oxford.

Hall, S., Jefferson, T., Critcher, C. & Roberts, B. (1978) *Policing the Crisis: Mugging, the State, and Law and Order*, Macmillan, London.

Human Rights and Equal Opportunity Commission (1991) *Racist Violence*, Report of the National Inquiry into Racist Violence, AGPS, Canberra.

Jacobowicz, A. (1990) 'Racist Violence, Racism and the Media', Unpublished paper commissioned by the National Inquiry into Racist Violence, Human Rights and Equal Opportunity Commission, Sydney.

Johnston, E. (1991) *National Report*, 5 Volumes, Royal Commission into Aboriginal Deaths in Custody, AGPS, Canberra.

Murji, K. (2006) 'Moral Panic' in McLaughlin, E. and Muncie, J. (eds) *The Sage Dictionary of Criminology*, Sage, London.

Owen, J. (2006) 'Moral Indignation, Criminality and the Roting Crowd in Macquarie Fields' *Current Issues in Criminal Justice*, vol 18, no 1, pp.5-19

Sercombe, H. (1993) 'Easy Pickings: The Children's Court and the Economy of News Production', paper presented to Youth 93: The Regeneration Conference, Hobart, 3-5 November.

Sercombe, H. (1995) 'The Face of the Criminal is Aboriginal', in Bessant, J., Carrington, K. & Cook, S. (eds) *Cultures of Crime and Violence: The Australian Experience*, La Trobe University Press, Melbourne.

Stratton, J. (1992) *The Young Ones: Working Class Culture, Consumption and the Category of Youth*, Black Swan Press, Perth.

White, R. (1993) *Youth Subcultures: Theory, History and the Australian Experience*, National Clearinghouse for Youth Studies, Hobart.

