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Book Review: [Ab]Using Power: the Canadian Experience, by Susan C. Boyd,
Dorothy E. Chunn and Robert Menzies (eds)

[AB]USING POWER: THE CANADIAN EXPERIENCE EDITED BY
SUSAN C. BOYD, DOROTHY E. CHUNN & ROBERT MENZIES
(HALIFAX: FERNWOOD, 2001) 287 pages.¹

BY AFSHAN ALI²

The “average” Canadian is more likely to suffer at the hands of government, elected and appointed officials, business organizations, professionals or white-, blue- and khaki-collared criminals than from all the street thugs, youth gangs, home invaders, illegal (im)migrants, pot growers and squeegee kids that our society can produce.³

Through its many concrete and detailed examples, *[Ab]Using Power: The Canadian Experience* functions as a useful primary text, documenting the misuses of power and the malfeasance of the powerful within a single collection of essays. Its interdisciplinary quality also makes it an important contribution to our theoretical understanding of power and power relations.

The editors set out to explore instances of illegitimate, unethical, dangerous, and often harmful conduct committed by the state and its political elites, private corporations, professionals, as well as other authorities wrongfully wielding their power. The editors seek to redirect our focus from street crime onto the abuses of power committed by persons in authority. In doing so, they challenge the hegemony that criminalizes the powerless and crystallizes a collective fear of, and anxiety about, the disenfranchised members of society. The editors neither minimize the

¹ *[Ab]Using Power*.

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³ Robert Menzies *et al.*, “Introduction” in Boyd, Chunn & Menzies, *supra* note 1, 11 at 13.

impact of property and violent crime nor ignore the disproportionate experience of criminality among disadvantaged peoples;⁴ instead, they assert that street crimes are used as an exaggerated representation of all that is wrong in our society.⁵ In essence, they argue that emphasis on crime from below diverts our attention away from the multitude of transgressions inflicted on us from above.

While each essay is intended to fulfill this mandate, Gayle K. Horii's essay, "Women's Imprisonment and the State: The Praxis of Power," is a particularly poignant example of this subversive refocusing. Horii sheds light on the frequent abuse of power against incarcerated women in Canada, chronicling the numerous ways that prisoners' rights are frequently violated with impunity by administrators, officers, and employees of Canada's prison system. Her chapter describes the way that the criminality of prisoners eclipses any greater concern for the abuse they suffer at the hands of prison officials and the prison system. By including Horii's piece and others in this collection, the editors seek to demonstrate that by fixating on the alleged wave of street crime, we have virtually ignored the "tsunamis generated by 'suite crime.'"⁶ Undue emphasis on street crimes has overshadowed more serious and grievous deprivations by the powerful.

This book offers both a substantive and methodological contribution to our understanding of power and power relations in Canada. On a substantive level, the essays offer a detailed examination of how power, in its various forms, has been misused in Canada. They document the circumstances, factors, and social conditions that allow these abuses to occur (and continue) in virtually every sector of Canadian society. Many contributions to the book benefit from an insider's perspective on the instance of abuse described and, in this way, provide an invaluable primary resource for further exploration of these issues.

It is the method of presenting this information, however, that makes this collection unique. The editors' method involves two interrelated elements. First, they take an interdisciplinary approach to addressing this issue in order to convey the gravity and complexity of the misuse of power in Canadian society. The editors prefer not to limit their focus to state crime or corporate crime; rather, they invoke a broad conception of power coining the term "power [ab]use" to highlight the fact that "the use and

⁴ *Ibid.* at 12.

⁵ *Ibid.* As the authors note, the officially recorded rates of criminality in Canada have been falling for nearly a decade.

⁶ *Ibid.* at 13.

abuse of power cannot be studied separately.”⁷ “[T]he systematic use of power,” contend the editors, “implies the possibility of abuse.”⁸ Constructing and labelling the issue in this way serves as a mandate for a broader inquiry into the numerous ways in which the “upperworld”⁹ transgresses against the powerless. The examination of power [ab]uses perpetrated by the psychology industry, corporations, the education system, the criminal justice system, as well as the state and its political elites illustrates that this problem permeates almost every enclave of the Canadian landscape, revealing the depth and breadth of the problem. Contributors reflect a similar breadth and include academics, legal practitioners and scholars, journalists, activists, and community members. The inclusion of contributors beyond the academy not only makes this a truly interdisciplinary exercise, it also contributes to the text’s overall accessibility. This collection is relevant beyond the academic context and is an important tool upon which activists may draw in the organization and mobilization of social justice movements.

The second feature of the editors’ methodology, closely connected to the first, is that the essays are not collected under a single pedagogical or theoretical construction of power. While generally the collection reflects critical and feminist criminology, the editors opt for a more “open-ended” analysis of power.¹⁰ This focus furthers the editors’ attempt to create a text that illustrates the complexity and depth of the problem. Each essay is intended to further the reader’s understanding of misuses of power. By integrating a variety of interrelated topics all connected at their core to the concept of upperworld wrongdoing, the essays provide a comprehensive resource on power [ab]use. Yet, as the editors admit, the essays are not entirely divorced from prevailing theories of power. Certain essays reflect Foucauldian notions of the interrelatedness of power, knowledge, and discourse; others, Marxist ideas of the inequitable structural and ideological biases that support a capitalist society; and still others, feminist constructions of hierarchy and interrelation of oppressions such as race, class, gender, and sexuality. However, it would be a disservice to the contributors to slot the essays into these discrete theoretical categories since each essay borrows from not one, but several of these and other theoretical frameworks. Thus, in order to facilitate an open theme so as to reflect the complexity of the issue, the editors have organized the fifteen

⁷ *Ibid.* at 16.

⁸ *Ibid.*

⁹ *Ibid.* at 13.

¹⁰ *Ibid.* at 17.

essays into five parts: The State, The Political Elite, Corporations, Professions, and Criminal (In)justice.

Many of the contributions implicate legal structures and administrative policies in their consideration of the abuse of power. Several, if not most articles, involve distinctly legal considerations. A few, however, directly focus their critique on power [ab]uses within the legal system; this review will focus on these contributions. Laureen Snider examines the disappearance of corporate crime in Canada and the United States.¹¹ She notes,

As corporate power in all spheres of social life has increased, virtually all of the anti-social, acquisitive, profit-generating acts of business have been redefined, normalized and 'de-juridified.' In law, this means that many former crimes such as price-fixing, creating monopolies, false advertising, poisoning the air and soil or failing to maintain a safe workplace have been transformed into minor regulatory transgressions. Other formerly criminal activities have been completely deregulated [and] had their legal sanctions removed.¹²

She asserts that, at an institutional level, corporate crime has been eliminated through downsizing, deregulation, and decriminalization. This elimination is achieved in part through decreased recording, monitoring, investigation, and punishment. Snider notes that this decreasing regulation of corporate crime stands in stark contrast to the increasingly "relentless criminalization of the homeless and unemployed."¹³ She provides concrete indications of how this statement is becoming an alarming truism, pointing to shifting government policies and statistical data. She divides her examination of corporate crime into two categories: (i) financial corporate crimes, which include competition, combines offences, and insider trading and (ii) social crimes, which include occupational health and safety offences as well as environmental crimes.

Examining financial crimes, she documents the ways that governments are clawing back on once tight regulation of competition and securities trading. For example, when the *Combines Investigation Act* was superseded by the *Competition Act*, she argues that a significant shift in government protective policy occurred. The *Combines Investigation Act* was an early attempt "to proscribe profitable economic practices in the name of citizen protection."¹⁴ Nonetheless, due to many deficiencies in the old

¹¹ Laureen Snider, "Abusing Corporate Power: The Death of a Concept" in Boyd, Chunn & Menzies, *supra* note 1, 112.

¹² *Ibid.* at 112.

¹³ *Ibid.* at 113.

¹⁴ *Ibid.* at 114.

Act, the Conservative government sought its reform;¹⁵ it was abolished in 1986 and replaced by the *Competition Act*. This act professed far different goals: "to provide a stable and predictable climate for business, to promote competitiveness and to enhance business prosperity."¹⁶ Thus corporate interest replaced citizens' interests and brought Canada in line with the ideological counter-revolution spearheaded by the Reagan administration.

Toni Williams offers insight into the problem of systemic racism in Ontario's criminal justice system.¹⁷ She draws from her work as a member of the Commission on Systemic Racism in the Ontario Criminal Justice System¹⁸ to examine "some of the complexities of relying on legal understandings of uses and abuses of power as an organizing framework"¹⁹ for reform of the criminal justice system. She divides her discussion into three parts, outlining (i) the historical context for the creation of the commission, (ii) the commission's analytical framework for investigating racial injustice, and (iii) some of the commission's key findings.

In setting out the historical context, Williams credits the genesis of the commission to the mobilized response of members of Toronto's black community to race-related police shootings over the previous fifteen years.²⁰ Police officers shot fourteen black people over this period of time, eight of whom suffered fatal injuries.²¹ Few charges were laid after these shootings by Ontario police, and activist groups called for greater accountability, by both institutions and individuals, in restraining police officers' power to use deadly force.²²

Ontario's first social democratic government established the commission to examine the extent to which systemic racism permeates the administration of criminal justice.²³ While the commission focused on blatant instances of racism, it also sought to investigate how the unintentional biases, assumptions, and attitudes of decision makers produced differential treatment. Williams describes some of the major

¹⁵ *Ibid.*

¹⁶ *Ibid.* at 115.

¹⁷ Toni Williams, "Racism in Justice: The Report of the Commission on Systemic Racism in the Ontario Criminal Justice System" in Boyd, Chunn & Menzies, *supra* note 1, 200.

¹⁸ A public inquiry established in October 1992 by the Ontario government with a mandate to conduct research in "systemic racism" at all stages of the administration of criminal justice.

¹⁹ *Supra* note 17 at 202.

²⁰ *Ibid.*

²¹ *Ibid.*

²² *Ibid.* at 203.

²³ *Ibid.* at 205.

analytical challenges the commission faced in constructing this framework and offers a careful, step-by-step description of how and why the commission came to rely on both formal and substantive models of equality in their examination of systemic racism.

Williams concludes the piece with some selected findings of the commission that include statistics indicating a massive increase in the imprisonment of black people during the 1980s and early 1990s.²⁴ While she is unequivocal that black people suffer differential treatment within the criminal justice system, she notes that this critical finding should not detract from the general fact that law enforcement policies treat most people poorly. "To put the point bluntly," Williams asserts, "equality may be a hollow goal if it means nothing more than a criminal justice system that (mis)treats poor black people no worse than it (mis)treats poor white people."²⁵ Thus, she concludes by offering an illustration of the editors' dialectic regarding the use and abuse of power, asserting that racial injustice cannot be understood independently of the use of power in the criminal justice system as a whole.

Dianne Martin recounts the story of Leonard Peltier who was wrongfully accused of killing two Federal Bureau of Investigation (FBI) agents on a reservation in Pine Ridge, South Dakota.²⁶ Arrested by the Royal Canadian Mounted Police (RCMP) in Alberta, Peltier was unjustly extradited to the United States and ultimately convicted.²⁷ Martin's piece describes a particularly sordid tale of power [ab]use for which, despite unequivocal evidence pointing to Peltier's wrongful treatment by both countries, both Canadian and U.S. officials continue to deny responsibility. His extradition from Canada is challenged on the basis that it was predicated on false affidavits taken by the FBI "under circumstances that suggest they knew [the affiant] had no true evidence to give."²⁸ Peltier's trial was challenged on numerous bases, including non-disclosure of material evidence that would go to support his plea of innocence.²⁹ In reference to his extradition from Canada, Martin notes,

There is no real contest that the extradition was founded on false evidence. The controversy

²⁴ *Ibid.* at 210.

²⁵ *Ibid.* at 213.

²⁶ Dianne L. Martin, "Unredressed Wrong: The Extradition of Leonard Peltier from Canada" in Boyd, Chunn & Menzies, *supra* note 1, 214.

²⁷ *Ibid.* at 214.

²⁸ *Ibid.*

²⁹ *Ibid.*

is related to the question about who knew the evidence was false and when; what consequences if any flow from this taint on extradition; and whether the serious errors in his trial should have resulted in a new trial and exoneration.³⁰

With these questions in the foreground, Martin sets out on a detailed discussion of the tenuous evidence connecting Peltier to the deaths of the FBI agents and the legal, as well as political, battles that followed his arrest in Alberta. Perhaps the most difficult aspect of this story is the subsequent recognition by U.S. officials of the fraudulent nature of the affidavits that secured his extradition and also played a part in securing his conviction. Despite this recognition, there has been little redress (or remorse) in Canada or the United States, legally or politically, for the mistreatment of Peltier.

This book is an impressive attempt to collect the many abuses suffered at the hands of the powerful. When the many instances of wrongdoing documented in this collection are juxtaposed, the intense nature of the problem of power [ab]use is starkly revealed. However, the text suffers from one major deficiency: it includes few instances of resistance to these abuses. The editors had initially set out to do this, as noted in their introduction: "Our aim in taking on this project, then, was to canvass alternative ways of defining, observing, understanding, *resisting and overcoming power [ab]use*."³¹

While some of the contributors offer broad suggestions that might help to promote increased regulation and monitoring, the collection would have benefited from a full section devoted to the recognition of instances wherein power [ab]uses have been counteracted, even if only temporarily. The State, institutions, and powerful elites may have the authority to enforce certain normalizing ideologies and concepts of legality, but as Noam Chomsky asserts, and as this book clearly illustrates, power does not imply justice or correctness.³² When those in power abuse the community's sense of justice, it is appropriate to hold them accountable and it is the responsibility of the majority to organize actions that will prevent further abuses. In this way, a more detailed discussion of how affected communities have asserted this agency in the face of power [ab]use would have provided an important dimension to the collection. Though the editors include an article by Judy Fudge that examines at the rise and effectiveness of activism

³⁰ *Ibid.* at 215.

³¹ *Supra* note 1 at 16 [emphasis added].

³² "Excerpt from a Televised Dialogue Between Noam Chomsky and Michel Foucault, 'Human Nature: Justice versus Power' Moderated by Fons Elders" (1996), online: foucault/chomsky.debate <<http://www.uchicago.edu/research/jnl-crit-inq/foucault/foucault.chomsky.html>> (date accessed: 12 May 2003).

against Nike's exploitative labour practices,³³ the collection might have benefited from an extensive and interdisciplinary examination of the ways that power [ab]use has been countered.

Overall, however, this book offers valuable documentation of the ways that our collective values have been repeatedly disregarded and transgressed by trusted authorities and provides important analysis of the need for greater social awareness of and attention to this problem. As the editors had hoped, *[Ab]Using Power* is useful both as a primary text as well as a secondary source for establishing links to other disciplines.
