

## International Journal for Crime, Justice and Social Democracy



### Chief Editors' Introduction: Vol 3(3)

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We hope you enjoy the bumper final edition of the journal for 2014, full of innovative criminological scholarship. This edition brings a selection of authors from across the northern and southern hemispheres together to address several key themes around sexual violence, risk and sex offending, the politics of law reform – in criminal law and Native Title legislation – and yet more examples of the dysfunction of prisons as a method of ‘correction’ in both Australia and Canada.

The first two articles are about the rape and murder: one in Melbourne, Australia, the other in South Delhi, India. What links these crimes is that both have wide-ranging social and legal consequences beyond the crime, the victim and their immediate friends and families. In December 2012, 23 year-old physiotherapy student Jyoti Singh Pandey was brutally beaten and gang raped by four attackers on a bus in South Delhi before being thrown on the road. She died 13 days later from injuries sustained in the attack. This horrendous crime drew global attention to the culture of gang rape in India. In the wake of this crime and following much social protest, the Indian government introduced law reforms designed to address the problem. The introductory article ‘A Reflection on Gang Rape in India: What’s Law Got to Do with It?’ by Richa Sharma and Susan Bazilli interrogates whether the demands for law reform can address the deep-seated cultural dynamics of gang rape in India. They argue that new laws alone cannot address the structural issues of violence against women, such as ‘the role of hypermasculinity, neoliberalism and culture’. The authors conclude that ‘[i]f unaddressed, what may result instead are quick fixes, symbolized by the passing of new laws that act as token gestures rather than ones leading to transformative action’.

On 22 September 2012, journalist Jill Meagher was brutally raped and murdered in a Melbourne street after walking home by herself at night. This murder struck a chord with the local community with thousands marching with flowers, a familiar symbol of community sentiment, to express a shared sense of grief and communal victimisation. Sanja Milivojevic and Alyce McGovern, the authors of ‘The Death of Jill Meagher: Crime and Punishment on Social Media’, highlight the significance of the agenda-setting role of social media in this context. They point to the manifold problems of trial by social media and ‘call for more audacious and critical engagement by criminologists and social scientists in addressing the challenges posed by new technologies’. Regardless of the place, the context, the culture, the continent or time of day, safety from sexual violence is a basic social democratic right.

Lynzi Armstrong’s article ‘Diverse Risks, Diverse Perpetrators: Violence among Street-based Sex Workers in New Zealand’, presents original research on the management of the risks of violence faced by sex workers. Based on interviews, this piece examines the diversity of street-based sex workers’ experiences of violence in Wellington and Christchurch, New Zealand. The article

explores how these women construct and manage these risks in a street-based sex work environment and concludes with a discussion about the significance of the findings to debates about sex worker safety.

Still broadly on the topic of sex, violence and risk, Russell Hogg's piece 'Only a Pawn in Their Game': Crime, Risk and Politics in the Preventive Detention of Robert Fardon' addresses the dilemma of what happens when preventative detention goes too far. Robert Fardon was the first offender in Queensland to be detained under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld). Community fears about child sex offenders being let loose on the streets were cynically manipulated to engineer support for a preventative detention regime that violates basic democratic human rights and freedoms. Hogg interrogates how the implementation of preventative detention in the Fardon case was not based on objective scientifically defensible or even identifiable risks, but arose from far less defensible political calculations. This case illustrates how preventative detention can serve other Machiavellian purposes and mask ulterior motives.

David Brown and Julia Quilter, in 'Speaking Too Soon: The Sabotage of Bail Reform in New South Wales', also interrogate how law and order politics can wreak havoc with orderly law reform. This important piece explains how, in May 2014, the new *Bail Act 2013* (NSW), the product of a long-term law reform process, was amended following talk-back radio shock jock outcry over just three cases. The authors argue that the amendments 'are premature, unnecessary, create complexity and confusion, and, quite possibly, will have unintended consequences: in short, they are a mess'. The reversal of bail law reform measures in NSW illustrates the inordinate influence of the irrational (tabloids, shock jocks, using retired politicians to invent quick fixes, and so on) over what should be considerably more rational policy and law reform processes. Moreover, this case illustrates 'the political failure to understand and defend fundamental legal principles that benefit us all and are central to the maintenance of a democratic society and the rule of law'. The article concludes with suggestions for how more reasoned and balanced outcomes could be produced in future. The editors released this article in advance of publication given its topicality to current parliamentary debates and note that in the process the journal was mentioned in Hansard. This bears testament to the real world relevance of the innovative scholarship published in this journal. This impact is only possible because of the open access timely mode of publishing supported by this journal.

This volume has two more pieces about prisons. Diana Johns piece on 'Semiotic Practices: A Conceptual Window on the Post-prison Experience' explores how culture 'provides an important analytical tool for uncovering aspects of the post-imprisonment experience that contribute to imprisonment cycles'. Her findings are based on original in-depth interviews with released prisoners in Victoria, Australia. They illustrate how cultural processes can work against post-prison reintegration and enhance reoffending. Breaking this cycle requires ending the cultural dynamics that buttress 'entrenched habits, beliefs and patterns of behaviour'.

Wesley Crichlow, in 'Weaponization and Prisonization of Toronto's Black Male Youth', argues that 'a lifetime of spiralling and everyday state structural violence and overtly racist criminal profiling principally targeted at young Black men living in the Toronto Community Housing Corporation prepares them for prison'. His article dissects the cycles of inter-generational violence – the cultures of hypermasculinity – that create 'a dialectic of interpersonal-structural violence' among Black men. He concludes that 'Black men have their masculinity weaponized and prisonized by the state's low-intensity declaration of war against them'.

Last, but certainly not least, is an article by Paul Cleary on 'Native Title Contestation in Western Australia's Pilbara Region'. Based on meticulous analysis that triangulates a vast array of original sources, this article exposes how the *Native Title Act 1993* (NTA) affords few rights to Indigenous peoples while allowing many privileges to corporate interests, contrary to the views of many in this field. Cleary argues that '[u]nlike the Commonwealth's first land rights law,

*Aboriginal Lands Rights (Northern Territory) Act 1976 (ALRA)*, the NTA does not offer a right of veto to Aboriginal parties; instead, they have a right to negotiate with developers, which has in practice meant very little leverage in negotiations for native title parties'. The failure of the legislative protection of Indigenous peoples has been exploited by some in the corporate mining sector, through campaigns of 'vexatious litigation designed to break the resistance of native title parties, as demonstrated by the experience of Aboriginal corporations in the iron ore-rich Pilbara region of Western Australia'. Like several of the articles that precede this one, this article also illustrates how the politics of law reform and its implementation – in this case Native Title – can be counter-productive to the stated aims of the legislators. Who would have ever thought that the *Native Title Act 1993* could be used maliciously against Indigenous bodies to undermine their rights? Read this important ground breaking analysis to find out how.

### **International Editorial Board**

The journal has a distinguished International Editorial Board of 36 leading scholars from law and criminology from 15 countries and five continents. Nationalities represented on the Board include 14 from Australia and 22 from United Kingdom, United States, Canada, New Zealand, Spain, Argentina, China, Germany, Greece, Ireland, Macau, Netherlands, Norway and Poland. Again we thank our dedicated international editorial board for their largely unrecognised hard work.

### **Circulation**

Since its first issue – Vol 1(1) – was released in November 2012, the journal has published 54 articles over seven issues, including this issue – Vol 3(3) – for December 2014 (that is, three issues per year), consistently meeting publication schedules. Over one quarter of the articles have been authored by international scholars from United Kingdom, United States, Canada, Belgium, Germany, New Zealand, The Netherlands and Spain. In the two years since the journal first appeared online, there have been 55,851 abstract views and 37,142 full pdf downloads.

Julia Quilter's article on 'One Punch Laws, Mandatory Minimums and Alcohol Fuelled as an Aggravating Factor' has achieved a record of 8,246 abstract views and 3,931 full pdf downloads since its publication in March this year.

### **Data bases and metadata harvesting**

The journal is included in a number of prestigious journal data bases which have assisted its circulation and international reputation. The databases include: Ulrich; Proquest; Australian Policy Online (APO); DOAJ; EBSCO; National Library of Australia's Trove; Google Scholar; ARC Excellence in Research Australia 2014 Journals List. The journal meets all criteria for inclusion in Scopus and Web of Science (Social Science Citation Index) and is currently in the cue for assessment. The journal is also supported by CrossRef.

We encourage all authors to quote the DOI in referencing any of the articles in this journal to assist the extraction of metadata harvesting. This in turn assists the circulation and citation of articles published in the journal.

### **Future submissions**

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