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Feature Editorial

'The "Prosecution" project'

Prof. Mark Finnane, ARC Laureate Fellow,
CEPS Chief Investigator

The criminal trial lies at the heart of criminal justice systems. Understanding how the trial works is part of the training of lawyers and police in their professional lives. Imagining how the trial works is the stuff of crime fiction, TV drama and media speculation. For all the interest that attaches to it, we know surprisingly little about its history, its changing form and social impact.

Crime stories have been a cultural staple of western societies since the eighteenth century. Originating as moral tales about those condemned to the scaffold, they later populated the myriad newspapers of towns and cities and nations, aiming at the edification or titillation of the reader. Their source was the criminal trial, the place where prosecutors related events leading to the appearance of a defendant on the charge being heard by a judge and jury, sometimes before a packed courtroom. Even when police started to appear in court-rooms, judges were sceptical even hostile, to any presumption that police evidence was reliable.

In the twentieth century, crime stories were increasingly told by police, who were now the principal investigators of criminal events, even themselves prosecutors as criminal trial procedures evolved. From police and court archives flow the narratives that today produce the genre of 'true crime' that populates airport bookstores and TV airtime. These stories entertain us, but they also prompt questions about fairness, justice, the roles of prosecutors, defence and police, the impacts of the trial on victims and defendants.



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When criminal prosecution fails or is avoided, the consequences can be scandalous. In a multitude of contemporary societies, including Australia, the failure to investigate and prosecute sexual and other assaults on children has shaken political order and social complacency, resulting now in the establishment of the Royal Commission into Institutional Responses to Child Sexual Abuse. The demand to prosecute malfeasance is a powerful element in contemporary discourse over the best way to tackle corruption. The flourishing of 'innocence projects' in many western jurisdictions over the last two decades has highlighted the costs of homicide prosecutions gone wrong. The disappointment and frustration expressed by victims, police, and prosecutors over failed prosecutions signals the heavy investment in this primary mode of response to crime.

But what are the sources of such investment? How have our expectations been shaped by the historical conditions of the criminal trial and its outcomes? In contrast to the rich historiography of Australia's convict era our knowledge of legal histories and criminal justice procedure in the succeeding century remains sparse.

The 'Prosecution' project aims to remedy that deficiency through a pioneering investigation of the criminal trial, its conditions and consequences in Australian jurisdictions in the century preceding the contemporary era. Based in CEPS, and with the support of an ARC Laureate Fellowship, the team of researchers (Laureate Fellow Prof. Mark Finnane, Laureate Postdoctoral Research Fellows Drs Amanda Kaladelfos and Yorick Smaal, with postgraduate scholars and other research assistance) will investigate the history of the criminal trial in Australian jurisdictions across more than a century from 1850 to 1960.

Our knowledge of this subject historically has been shaped by two kinds of literature; legal and historical. In the Anglo-American legal tradition the history of prosecution was traced in the foundational works of English legal history of the nineteenth century, especially of James Fitzjames Stephen. The adversarial trial developed in contrast to the inquisitive continental trial through a process that concentrated a tradition of distinctive rules of evidence, explaining the earlier end to the use of torture in criminal investigation and prosecution. Modern changes to the criminal trial, especially the burgeoning array of protections for the defendant were the product of legal professional innovation as well as court-room practice. Institutional changes in criminal prosecution, including the late-nineteenth century establishment of the office of Director of Public Prosecutions in England, were closely linked to the wholesale shift away from private prosecutions.

The English story was, however, idiosyncratic – Scotland and Ireland exhibit alternative pathways to modern prosecution with a much more developed practice of public prosecution, more of a kind with Australian colonial developments in justice administration. The history of Australian prosecution is, however, largely unwritten beyond the 1850s. Only one Australian jurisdiction, New South Wales, has a dedicated study of the development of criminal law, but limited to the nineteenth century and doctrinal in its focus. The first half of the twentieth century is largely unknown territory for historians and others seeking understanding of the transitions from the colonial period to the post-war years (1950s and beyond) in which criminal law and criminology embarked on the program of documenting a distinctive Australian experience and administration of prosecution and its consequences.

The modern trial is critically the product of institutional innovation in policing and the development of summary jurisdiction. The role of police became fundamental to the entire process of criminal prosecution by the late-nineteenth century, from investigation through arrest to preparation of trial briefs at lower levels of offences, and supplementing the work of public prosecutors for more serious offences. While the development of modern policing has been the subject of a great deal of research, the work of police in criminal prosecution has received only limited historical attention, in spite of the critical role of police as prosecutors continuing to this day.

Criminological studies of crime trends over long periods of time are founded on the data produced in the course of criminal prosecution, aggregated into official statistics. Such studies have paid limited attention to the complex conditions that produce these



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official figures. Equally, the case study focus that enriches historical research encourages attention to the exemplary in all its complexity. But how do we know whether a case is typical or exceptional without considering the comparative and quantitative evidence that enables us to draw strong inferences about the effects of historical extrinsic (e.g. social attributes of offenders) and intrinsic (e.g. procedural rules) factors in shaping the path from crime report through arrest to discretionary decision-making in prosecution and its outcome? By attending to the historical structuring of prosecution, we will begin to understand the dimensions of prosecution's role as an end and means of criminal justice.

Australian criminal justice archives are rich and multi-dimensional. They are also little researched, beyond the convict era. Through large-scale archival reconstruction and contextualisation of court appearances in the six main criminal jurisdictions, the 'Prosecution' project will address a number of key questions:

1. How did the Australian criminal trial develop during a century of great change, which saw the centralisation of policing, the rationalisation of criminal law, the refinement of procedure and the re-structuring of jurisdiction?

2. What were the factors shaping pathways to prosecution, evident in patterns of policing, committal and indictment?
3. Who was prosecuted, and who was not, with what outcomes over time and across jurisdictions?

We can undertake such a project now with the aid of the new digital technologies that open up large databases of information for historical inquiry – Australian innovation in the shape of the National Library's TROVE database of digitised newspapers and the AUSTLII on-line Australian Legal History Library are fundamental to the vision of this project. In turn we plan to provide new digital resources of our own, based in a systematic mining and digitisation of Australian archival records for our own use and that of future researchers. Our own undertaking of this work will be assisted by partnerships with the various Australian archives and their user communities. A recent grant from Griffith University will support the development of a web-based crowd-sourcing tool that will enable remote users to help transcribe the masses of manuscript data that populate the criminal justice archives. The 'Prosecution' project through these aims and means will broaden and deepen researcher, professional and community understanding of this fundamental element of the criminal justice systems.

Visitor Reflections

By Prof. Barry Godfrey, Liverpool University

Barry Godfrey, Professor of Social Justice, and Director of Research in the School of Law at Liverpool University, was a visiting scholar at the Griffith University node of CEPS in August 2013. During his visit, Barry collected data on habitual offending in Queensland between 1850 and 1914. He presented his research on the history of legislation in the UK which was designed to curb habitual offending; and he demonstrated that conceptions of habitual offending in Queensland shaped a legislative penal response that differed from the response formed in the UK during that period.

Barry is now leading a large team of researchers from the universities of Oxford, Sheffield, Sussex, and Tasmania on an Arts and Humanities Research Council funded Digital Transformations Project which will make it possible for people to trace the records of 66,000 Londoners sentenced to either imprisonment or transportation from 1787 up to the 1920s (when the last transported convict died).

The project, 'The Digital Panopticon: The Global Impact of London Punishments, 1780-1925', will use digital technologies to bring together existing and new



genealogical, biometric and criminal justice datasets held by different organisations in the UK and Australia to produce a searchable website. The 'Digital Panopticon' will not only be of interest to the 12 million family historians in the UK and Australia, but will also help resolve some important questions that have intrigued historians, sociologists, social geographers, linguistic researchers, economists and criminologists about the impact and effects of imprisonment in one of Britain's convict prisons, and the longer-term impacts of transportation to Australia penal colonies (and beyond).

In many ways, this project will speak to the new datasets of Australian prosecutions being developed as part of Prof. Mark Finnane's Laureate project. Like that enterprise, the 'Digital Panopticon' aims to exploit the potential of digital technologies to transform research in the arts and humanities, and to ensure that arts and humanities research is at the forefront of tackling crucial issues such as intellectual property, cultural memory and identity, and communication and creativity in a digital age.



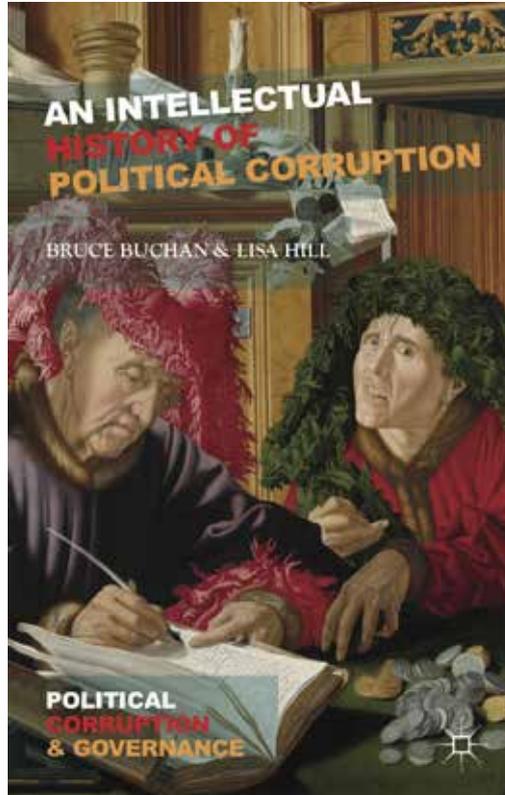


Where is the Humanity in War?

Dr Bruce Buchan, Associate Investigator, Griffith University

As the United States and the rest of the world ponders the appropriate response to the use of chemical weapons in Syria, we are led once again to reflect on the justifiability of war. Venerable traditions of thought in the western world have focussed on specifying the conditions of a 'just war' fought with justifiable cause and with legitimate means. Such a war, we are led to believe, is consistent with the ends of humanity in being a limitable and targeted last resort. How then, have we managed to convince ourselves that any war can be divorced from the savage terror of killing and dying? My research on Enlightenment discourses of war is the first study to explore the origins of this question.

The idea of humane or 'civilised war' came to prominence during the European Enlightenment (c. 1700-1800), and it pictured European war-making in the eighteenth century as characterised by humanity and honour. This image of European war-making was sustained by a variety of intellectuals and even some military practitioners who reflected not only on the practice of war in Europe in this period, but on the practice of war among supposedly less 'civilised' peoples in other parts of the world and in Europe's barbaric past. In these other places, among other peoples, and at other times, warfare



was characterised as altogether less 'civilised', less ordered, less humane and honourable, and was thus more 'savage'.

There are, however, at least two dimensions to the Enlightenment concept of civilised war. The first dimension stresses its moral qualities, its honour and humanity above all. The second dimension emphasises its technical or rational qualities that give European war-makers a decisive military advantage over less civilised war-makers. These two dimensions applied to conventional or symmetrical war between sovereign militaries contending by massed fire power on the field of battle. They were less easily applicable to the savagery of *petite guerre*, that is to the employment of terror by European war-makers in unconventional, asymmetric or partisan warfare. The anxieties prompted at the time by the use of such means foreshadow our own uneasiness about unleashing the 'dogs of war' to solve the problems of humanity, and ties us to a longer history, all-too-easily forgotten, of terror, war and Western moral argument.

For further reading please see:

Bruce Buchan, 'Pandours, Partisans and *Petite Guerre*: Two Dimensions of Enlightenment Discourse on War', *Intellectual History Review*, vol. 23, no. 3, 2013.

Oñati Workshop on Trust in International Policing

By Dr Saskia Hufnagel, Research Fellow, Griffith University

In 2012, Drs Carole McCartney (University of Leeds) and Saskia Hufnagel (Griffith University) were awarded an international workshop grant by the International Institute for the Sociology of Law in Oñati, Spain. The workshop, entitled 'A question of trust: Socio-legal imperatives in international police and justice cooperation', took place in Oñati on 4-5 July 2013. Speakers attended from different disciplines and parts of the world. They travelled from Canada, the UK, the Netherlands, Switzerland, New Zealand, Australia and France contributing both academic and practitioner perspectives to the debate.

The workshop explored the legal imperatives and social parameters that shape international police and justice co-operation. Speakers explored recent co-operation experiences and the impact of national and international legal frameworks on practice, including international and regional methods of information and intelligence exchange and related challenges concerning human rights protection.

Prof. Monica den Boer from the Netherlands opened the conference with a presentation on 'Intelligence-led security co-operation in the EU'. The coordination of international and regional exchange of evidence, such as forensic bio-information, and the setting of standards in this regard was explored in the presentations of Ms Denise Sulca and Dr Carole McCartney.

Other participants, including Dr Ludo Block and Dr Saskia Hufnagel examined police co-operation in international investigations and the added value of formalising investigative strategies across jurisdictions both regionally and internationally. Mr Bill Tupman addressed the operation, accountability, and legitimacy of organisations and institutions of 'co-operation' in law enforcement, such as INTERPOL, EUROPOL, EUROJUST, OLAF, and the UNODC. Prof. Andrew Goldsmith and Prof. Neil Boister presented regional perspectives on trust in international police cooperation from Australia and New Zealand.

The workshop will result in an edited collection and the organisers have jointly submitted a book proposal for the *Oñati Series* with Hart Publishing. The participants agreed to continuing research

in this area and will apply for an EU grant to enable continued collaboration on issues raised at the workshop.



Participants at the Oñati Workshop in Spain, 4 - 5 July 2013.

The Ethics of Cybersecurity

By Dr Adam Henschke, Research Associate at the Centre for Applied Philosophy and Public Ethics, CSU and Mr Shannon Ford, a Lecturer at the Australian Graduate School of Policing and Security and Research Fellow at the Centre for Applied Philosophy and Public Ethics, CSU

On 5-6 August 2013, the Centre for Applied Philosophy and Public Ethics (CAPPE) at Charles Sturt University (CSU) and the National Security Centre (NSC) at the Australian National University (ANU) co-hosted a workshop on the 'Ethics of Cybersecurity' as part of a project that aims to develop a framework for guiding cybersecurity decision-making. The workshop brought together national and international experts to discuss cybersecurity from a variety of disciplines, including national security studies, ethics, law, computer science and international relations. Highlights from the international keynote speakers include:

- Prof. George R. Lucas Jr. (Naval Postgraduate School, Monterey, California) who argued that the set of emergent norms governing cyber conflict practices closely resemble the considerations of conventional armed conflict.
- Prof. Don Howard (Department of Philosophy and Reilly Center for Science, Technology and Values, University of Notre Dame) who proposed that we look to the nuclear arms race and the Cold War for a model of morally purposed intervention in the form of a Cyber-Pugwash movement.
- Dr Panayotis A. Yannakogeorgos (Air Force Research Institute) who argued that discussions of cybersecurity often confuse cybercrime and espionage with cyber attacks and cyber warfare, and that each contextual environment presents different challenges.
- Asst. Prof. Lennon Chang (City University of Hong Kong and CEPS) who outlined the similarities between cyber attack and infectious disease, and then discussed how a feasible pre-warning system might be established.

Prof. Lucas also gave a public seminar the following day (7 August 2013) where he set out to demonstrate that cybersecurity is an urgent and still unmet need. In particular, he argued that we should distinguish more carefully between individual liberty and



privacy (as defensible rights) and 'anonymity' which he argued is not a 'right'. The week's activities concluded with a briefing to the Department of Prime Minister & Cabinet on the outcomes of the workshop.

Further work for the 'Ethics of Cybersecurity' project includes: invitations to present papers at the 2013 International Society for Military Ethics conference in October 2013; publication of an NSC Occasional Paper (*Cybersecurity: Mapping the Ethical Terrain*) in December 2013; and, the development of a postgraduate subject (*Cybersecurity: Crime, Terrorism, Espionage, and Warfare in the 21st Century*).

The working papers presented at the workshop and other details relating to the 'Ethics of Cybersecurity' project will be available on the NSC website: <http://nsc.anu.edu.au/>

A Symposium on the Privatisation of Intelligence

By Dr Troy Whitford, Associate Investigator, Charles Sturt University

On 8 August 2013, Dr Troy Whitford from Charles Sturt University (CSU) and an Associate Investigator at CEPS convened a symposium on the privatisation of intelligence. Held at the National Press Club, Canberra, the symposium brought together a diverse range of speakers drawn from academia, government, Civil Liberties Australia, and the private sector.

The opening address was provided by Prof. Mick Palmer, former Commissioner of the Australian Federal Police. Prof. Palmer provided an overview of some of the challenges facing the intelligence community and made a general call for greater cooperation and information sharing between agencies.

Keynotes were delivered by Ms Sue Wilkinson, the Former Head of the Olympics Intelligence Centre for the London 2012 Olympic and Paralympic Games, who gave an insightful address on the relationship between intelligence agencies, police and the corporate sector involved in the games and Mr Jake Blight, the Assistant Inspector of the Inspector General of Intelligence and Security, who outlined the work of the Inspector General and its oversight responsibilities for our intelligence community.

Other participants, including a number of CEPS Associate Investigators and partners, spoke to a wide array of research problems and practices in the private security area. Dr Ruth Delaforce (Griffith University) examined intelligence collection during the Cold War, showing that collaboration and cooperation between public and private interests was not unusual. Mr Tim Vines from Civil Liberties Australia highlighted concerns regarding online surveillance while Mr Alan Beckly (University of Western Sydney) examined the exponential growth of surveillance and intrusion into the privacy of the citizen. Dr Saskia Hufnagel spoke on private policing in the area of art crime. Natasha Tusikov, PhD Candidate at the Australian National University examined the regulation of online shopping sites and counterfeit



Mr Tim Vines (Civil Liberties Australia) and Prof. Duncan Chappell (Chair of CEPS International Advisory Board).

goods. Mr Mario Bekes, the Managing Director of Insight Intelligence gave the final presentation of the event, providing an overview of accountability issues when contracting private intelligence services.

The symposium will produce a special edition of the new journal, *Salus* edited by Dr Hank Prunckun from CSU and Ms Kate O'Donnell from Griffith University. In drawing such a diverse group together to discuss the challenges of the privatisation of intelligence, the symposium provided a clear opportunity for genuine and open engagement on the benefits and challenges in this field for both practitioners and researchers.

Secure Your Financial Universe Symposium - Fraud and Cybercrime Group, Queensland Police

By Dr Jacqueline Drew, Associate Investigator, Griffith University



CEPS was recently involved as a sponsor of the 2013 'Secure Your Financial Universe Symposium' coordinated by the Fraud and Cybercrime Group, Queensland Police Service. The symposium attracted an impressive range of speakers, including representatives from the US Secret Service and US Federal Bureau of Intelligence.

Dr Jacqueline Drew presented her research (with co-author, Professor Michael Drew, School of Accounting, Finance and Economics, Griffith University) within the conference stream focused on corporate crime. Dr Drew's research provided an evaluative analysis of contemporary approaches to victimisation reduction and increasing detection of financial fraud, specifically Ponzi schemes.

Photo: Detective Superintendent Brian Hay (Fraud and Cybercrime Group Queensland Police Service) and Dr Jacqueline Drew, CEPS Associate Investigator.



Lost in Translation? Navigating Corruption Research in China.

By Prof. Simon Bronitt, CEPS Director

With only smatterings of schoolboy French, German and Spanish, I feel acutely sensitive to the challenge of professional dependency on translation and risks of mistranslation. With two CEPS colleagues, Dr Saskia Hufnagel and Prof. Adam Graycar, my dependence on translation was tested as an invited international



Dr Saskia Hufnagel, CEPS Research Fellow.

keynote speaker at the 'Fifth Contemporary Criminal Justice Forum' held on 20-23 August 2013 in Suzhou, People's Republic of China. The Forum examined a range of issues related to the scope and definition of enforcement issues in China. It reviewed the continuing controversy over sexual bribery, and whether practices of giving and receiving 'hospitality' involving sexual services should be criminalised. International collaboration in tackling the corrupt practices of transnational corporations doing business in China was also a major focus.

This two day event, hosted by CEPS Partner, Beijing Normal University (BNU), provided a forum for senior prosecutors, police and academics to review the future challenges of fighting corruption in China. I offered an abridged version of a recent article on the state of corruption law in Australia, the challenges facing law enforcement, and the absence of a genuine political will to tackle this problem in Australia more vigorously. Any concern about being lost in translation were allayed by the assistance and professionalism of our wonderful CEPS PhD Student, Julia (Liyun) Zhang, who provided excellent translation of our papers as well as adept cultural assistance at every turn, including in the culinary minefield.

We are grateful to the BNU College of Criminal Law Science for extending its warm hospitality to the CEPS delegation. As part of the BNU-CEPS cooperation agreement, CEPS will host a BNU scholar Assoc. Prof. Zhenjie ZHOU in December to undertake research on models of corporate crime.

New CEPS Police Fellow

Jonathan Lavin is a Senior Sergeant with the Queensland Police Service (QPS) on full-time secondment to CEPS as a Police Fellow. He has been a police officer for 21 years and has performed a variety of policing roles. He has worked in both country and metropolitan areas mainly performing general duties policing. Prior to commencing with CEPS, Jon was the Officer-in-Charge of the Management Studies Section (MSS), Professional Development Unit at the QPS Academy and was responsible for the delivery of supervision and leadership education to senior constables and sergeants throughout Queensland. The MSS received 'silver' in the 2013 QPS Awards for Excellence in Police Education and Training.

Jon has a strong background in police education and training and has worked in areas including recruitment, firearms and incident command through to delivering leadership and management education to senior personnel, including duties as the Liaison Officer for the Australian Institute of Police Management. Since 2001, he has performed part-time duties as a Close Personal Protection Officer and has been involved in events such as Commonwealth Heads of Government Meeting, Pacific Islands Forum, State and Federal Elections as well as providing protection for visiting Heads of State and dignitaries. In 2011, as an Acting Inspector, he was seconded to perform a twelve month full-time role as the *Aide-de-Camp* to the Queensland Governor. Jon holds a Bachelor of Education (Advanced Professional Development), a Master of Education (Training and Development) and a Master of Leadership and Management (Policing). His professional interests

are in developing HR capability, policing and security partnerships, and in the area of forensic linguistics research.

Jon's role as Police Fellow is to facilitate pathways of research between CEPS and industry partners, including the QPS and other law enforcement agencies, assist in relevant research and provide expert advice in areas of applied policing.



Senior Sergeant Jonathan Lavin, CEPS Police Fellow.



Historical Cases of Paternal Filicide in Australia.

By Dr Amanda Kaladelfos, Research Fellow, Griffith University

After reading about a number of recent cases of paternal filicide, I became interested in how this type of child killing had been understood in Australia's past. I surveyed the available literature and I found that there was extensive scholarship on the historical, social, economic, and criminological aspects of female infanticide. But I came across very few historical studies of fathers who murdered their children.



In my recent article, published in 2013 in the *Journal of Australian Studies*, I provide the first Australian historical analysis of the problem of paternal filicide. In the article I assess the extent of fathers' child killing, researching these crimes using police and court records from NSW across 100 years. My research tells us that fewer

fathers killed their children than mothers did. But when fathers killed their children these were typically events that involved multiple fatalities and the murdered children were significantly older than those killed by mothers.

Testimonies from the court cases reveal how witnesses – the accused men, their families, and witnesses, including medical doctors – understood this type of family violence. Evidence given to police and at trial indicates that father's motivations for child killing were interpreted in highly gendered terms.

Men's social position in the home – as the breadwinner, as the family man, as a husband – were central to the way that witnesses interpreted their crimes. Contemporary analyses of paternal filicide point to family breakdown and custody battles as significant factors. Interestingly, I found only a small number of like cases historically. The more common explanation given for this crime in the past was to see the accused man as a good father who had become temporarily insane, and driven so by the pressures of men's financial and familial responsibilities. This response, I suggest, limited discussion to the individual mindsets of those involved rather than tacking the wider problem of violence in the home.

For further reading, please see Amanda Kaladelfos (2013) 'The Dark Side of the Family: Paternal Child Homicide in Australia', *Journal of Australian Studies*, 37, 3 (2013): 333-348.



Incest Law in Historical Perspective.

By Dr Yorick Smaal, Research Fellow, Griffith University

Incest has long been a concealed aspect of child sexual abuse. The privilege and power of fathers and husbands and the inviolability of the family home has made it difficult to police and prosecute intrafamilial crimes. In the late nineteenth century a number of Australian jurisdictions recognised in criminal law the particular challenges faced by girls abused by fathers and brothers. In 1891 Queensland was one such colony to separate the crime of "incest" from other offences against young girls making it easier – at least in theory – to successfully prosecute such matters in the courts. The age of "consent" for incest was set three years higher than for carnal knowledge, the statute of limitations was four months longer and the need for corroborative particulars less stringent than in other crimes against children.

An examination of Queensland court records between 1870 and 1900 reveals that such changes did bring more matters before the courts: indeed, prosecutors laid twice as many charges in the 1890s than in the two decades prior to the law's amendment. But a close reading of the files also indicates the creation of incest as a legal category failed to unpick cultural and gendered attitudes of the family and female sexuality. Dominant narratives around working-class girls' character and respectability continued to appear in court whether children were abused by their father or a male stranger. Mothers and girls still struggled to bring cases to notice at a time when divorce was difficult and women were financially dependent on their husband's income. Neighbours and onlookers too often failed to intervene in private family matters ensuring that the



majority of cases failed to come to the notice of the authorities, despite changes to the law. That 46 charges appear before the courts across this period speaks to female resolve in otherwise repressive circumstances. Mothers and daughters – those most at risk – bore most responsibility in guarding against this form of child sexual abuse.

For further reading, please see Yorick Smaal (2013) 'Keeping it in the family: prosecuting incest in colonial Queensland', *Journal of Australian Studies*, 37, 3 (2013): 316-32.

CEPS' Changing International and Regional Structures/Threats Project.

By Prof. Bill Tow, Chief Investigator, Australian National University

Two major workshops convened in Canberra during late June served as milestones for CEPS' 'Changing International and Regional Structures/Threats' project. The first event – convened on 24-25 June – examined Australian and regional responses to the US. rebalancing initiative (also known as the 'pivot strategy') for maintaining an American strategic presence in the region. The second meeting was convened on 28-29 June with the National Institute of Defense Studies (NIDS), the main think tank for the Japanese Ministry of Defense. It concentrated on assessing policy challenges relating to the ongoing intensification of Australia-Japan security ties.

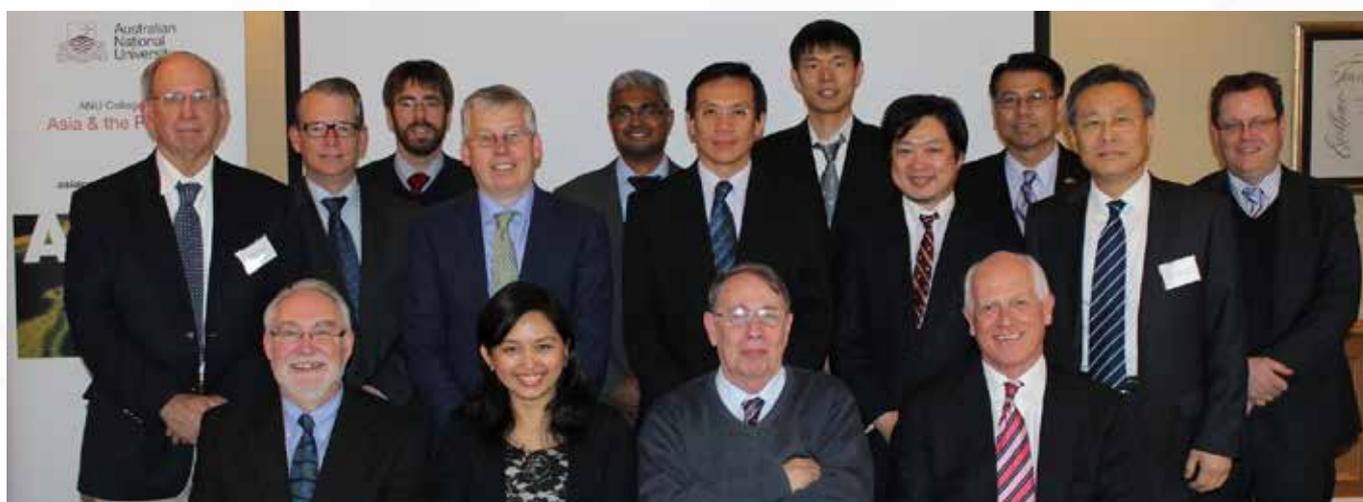
The session on rebalancing involved scholars from the Australian National University (ANU), Griffith University (including Dr Russell Trood who sits on CEPS' International Advisory Board), various think-tanks and universities located in Australia and around the region and two U.S. analysts representing the United States Army War College. Discussions were conducted along four major lines of policy deliberation: (a) the importance of and often understated nature of comprehensive rebalancing introduced by Obama administration officials that entailed diplomatic and politico-economic priorities as well as military components; (b) the increasingly critical problem of demarcating 'allies' from 'partners' when implementing various aspects of the pivot strategy; (c) the 'order-centric' as opposed to 'threat-centric' priorities and policy orientations of rebalancing; and (d) the recurrence of the classic 'entrapment-abandonment' problem of alliance politics even in the absence of a declared threat against which the rebalancing strategy could be implemented.

It was noted that the Obama administration has been largely unsuccessful, to date, in promoting the pivot strategy's non-military dimensions. This is the case despite an effort by the US National Security Advisor Tom Donilon to define the strategy in quite broad terms during a landmark March 2013 address: to achieve a "stable security environment and a regional order rooted in economic openness, peaceful resolution of disputes, and respect for universal

rights and freedoms". Building a stable and productive relationship with China was cited by Donilon as one of the five key priorities of rebalancing. Yet, initiatives such as the Trans-Pacific Partnership (TPP) initiative are often viewed by the Chinese as 'exercises of geopolitics in disguise' directed toward containing Beijing's economic influence and leverage in Asia. Reconciling China's clear suspicions over US policy motives underlying the pivot policy initiatives with American desires to project a more comprehensive (not just military) presence emerged as the workshop's most critical issue-area. Papers from these proceedings are now being edited by Profs Douglas Stuart (a former CEPS Visiting Fellow) and William Tow for publication as an edited volume with Routledge Press in 2014.

The CEPS-NIDS co-sponsored workshop culminated a two-year joint research project focusing on how Australian-Japanese security relations have evolved since their 2007 Joint Declaration on Security Cooperation. This subject has received substantial attention in the Australian media over the past year with some observers arguing that Australia needed to take greater care in not being 'entrapped' into a formal alliance with Japan on a basis that would merely serve Japanese security interests. The deliberations emerging from our workshop produced analysis that could be regarded as more subtle and comprehensive: there are opportunities for Australian-Japanese cooperation in distinct sectors (including intelligence-sharing, human security and limited technology transfers) that would serve the national security interests of each party without elevating such interactions to the level of comprehensive alliance politics. Four members of the 'Australian project team' engaged in a rigorous and in-depth exchange of views with six NIDS counterparts and with participants from the Japanese Embassy. Australian Defence Department (DOD) and Department of Foreign Affairs and Trade officials were also represented at this event and offered occasional and measured analysis of paper presenters' analysis.

The outputs of this project will be featured in both English and Japanese on the NIDS website over the next few months. A



Delegates of the CEPS-NIDS workshop, 28-29 June.

hardcopy project report will also be generated by NIDS for dissemination to selected Australian and Japanese policy-makers. An earlier version of the project keynote paper authored by the three Australian project managers (Profs Rikki Kersten and William Tow from the ANU and Dr Russell Trood from Griffith University) was submitted to Australia's DOD as part of a DOD contracted project on this subject. Accordingly, the project has had a direct policy impact in the Australian and Japanese policy-making communities. Subsequent analysis of Australia-Japan security ties in the context of the Trilateral Strategic Dialogue (TSD) is being conducted by Profs Kersten and Tow with the Stimson Center and the Carnegie Endowment in Washington DC and the Canon Institute in Japan. A major workshop involving American, Japanese and Australian experts (as well as officials from the US Department of Defense, a number of American experts from various think tanks in Washington, D.C. and officials from the Australian Embassy) convened at the Carnegie Institute and the Stimson Center on 17-18 July. A follow-up session for this project will take place in Tokyo during late January 2014.

Other project activities are culminating successfully. Our work on human security has been featured in a recent volume co-edited by Profs Kersten and Tow, and Dr David Walton from the University of Western Sydney, with Ashgate Press. Prof. Tow is completing fieldwork in various Asian capitals that will be applied to a single-authored manuscript to be submitted for publication during 2014 and Prof. Kersten has just been awarded a Harold White Fellowship to conduct further archival research on Australia-Japan politico-security relations at Australia's National Library in late 2013/early 2014. Prof. Tow and Dr Brendan Taylor's new edited volume on Asian security architectures was recently published by Routledge and has commanded wide attention by those involved with assessing contemporary Asian security policy.

PhD Corner

Ms Kelly Hine, Griffith University



Police have the right to use reasonable force to subdue offenders as part of their role. However, any police-citizen encounter that involves the use-of-force contains potential risks to officers, offenders, and bystanders. Currently, little is understood about the use of force in police-citizen encounters, particularly in the Australian context. What, for example, is a typical scenario that involves the use-of-force. Are officers well prepared for such scenarios? How does information provided before and during encounters effect the decision to use force? My research investigates such questions. It explores the factors that indicate potential use-of-force scenarios that may aid in the decision-making process for police officers. If we know which scenarios are likely to need the use of force or what the indicators are, then police officers can be best prepared for these situations so that force may not need to be used or used more appropriately. My study aims to address a gap in the understanding of the use-of-force in policing scenarios. The findings of this study will contribute to policing policies and procedures to help inform best practice methods in areas such as training, early warning systems for potential harmful situations, and prevention strategies for potential excessive force incidences.

I commenced my PhD at the beginning of 2013. In 2011, I completed a double degree in Psychology and Criminology and Criminal Justice. I was awarded First Class Honours in Criminology and Criminal Justice in 2012 for my dissertation on the potentials of using situational crime prevention as an alternative approach to preventing police deviance. I also work as a tutor for the School of Criminology and Criminal Justice at Griffith University.

Mr Richard Sikani, Griffith University

Richard C. Sikani is a criminologist from Papua New Guinea (PNG) and a former commissioned career Prison Officer. Richard is currently undertaking his PhD at CEPS, Mt Gravatt. In 1997, he was awarded Masters with Honours in Criminology at the University of Melbourne. Richard has served in various capacities in PNG and in Australia as a Prison Officer, Senior Research Fellow at the PNG National Research Institute and the Australian Institute of Criminology in Canberra. After graduating from the University of Melbourne, Richard returned to PNG where he was appointed as the Commissioner and Departmental Head of the PNG Corrective Services. As the longest serving Commissioner in the disciplinary forces in PNG, Richard held this position for 11 years before resigning to undertake further study. His PhD is entitled 'Police corruption issues and integrity management strategies in post-independence Papua New Guinea'.

Richard's research interests lie in the areas of: policing crime, corruption, misconduct and police integrity management, political and economic crime and corruption, juvenile delinquency, corrections and detainee rehabilitation, community policing, transnational crime and criminal justice administration in emerging democracies.



Australasian Council of Women and Policing 2013 Excellence in Policing Awards



The achievements of outstanding men and women from Australasia were acknowledged by the Australasian Council of Women and Policing at its 15th Annual Excellence in Policing Awards presentation dinner held as part of the 8th Australasian Women and Policing conference 'Making it Happen: Making it Last' on the 27th August in Adelaide.

CEPS sponsored the 'Excellence in Policing in the Asia Pacific Region Award' which was won by Ms Anita Mayasari of the Indonesia National Police. Two Highly Commended awards were presented to Senior Sergeant Diana Willie and Warrant Officer Dora Sahe, both of the Vanuatu Police.



Carlene York ACWAP President, Assistant Commissioner NSW Police Force, Warrant Officer Dora Sahe Vanuatu Police and Prof. Tim Prenzl, CEPS Chief Investigator.

Selected Recent Publications

Bronitt, S. (2013) Policing corruption and corporations in Australia: Towards a new national agenda, *Criminal Law Journal*, 37(5): 283-295.

Local and international public opinion polls suggest that Australia is a low-risk country in terms of corruption. This article challenges this reputation contending that the relative invisibility of corruption in Australia is the result of low levels of enforcement of existing laws, and the political failure to implement a co-ordinated national strategy against corruption. As a result, Australia has become increasingly vulnerable to corrupt overseas politicians seeking a safe haven for their illicit assets. These enforcement vulnerabilities extend also to cases of foreign bribery perpetrated offshore by Australian corporations, employees and agents. Enforcement of foreign bribery offences in Australia, unlike the equivalent United Kingdom offences, is hampered by an overly broad defence which excuses "facilitation payments" that otherwise would constitute acts of bribery. The conclusion is that an urgent review of the effectiveness and scope of anti-corruption laws is needed, combined with a much stronger political and law enforcement commitment to tackle corruption at home and abroad.

Hooper, C., Martini, B. and Choo, K. K. R. (2013). Cloud computing and its implications for cybercrime investigations in Australia. *Computer Law and Security Review*, 29(2): 152-163.

The advent of cloud computing has led to a dispersal of user data across international borders. More than ever before, law enforcement investigations into cybercrime and online criminal activity require cooperation between agencies from multiple countries. This paper examines recent changes to the law in Australia in relation to the power of law enforcement agencies to effectively investigate cybercrime insofar as individuals and organisations make use of cloud infrastructure in connection with criminal activity. It concludes that effective law enforcement operations in this area require harmonious laws across jurisdictions and streamline procedures for granting assistance between law enforcement agencies. In conjunction with these mechanical developments, this paper posits that law enforcement officers require a systematised understanding of cloud infrastructure and its operation in order to effectively make use of their powers.

Other News

Congratulations to [CEPS Chief Investigator Prof. Mark Finnane](#) who has been elected as a Fellow of the Academy of the Social Sciences in Australia. Mark's election to the Academy is not only a great honour bestowed by his peers, but also as an opportunity to contribute to the important work of the Academy in promoting the advancement of the social sciences. Mark will be welcomed as a Fellow at the Academy's Annual Fellows' Dinner in November.

[CEPS Partner Investigator, Prof. Gloria Laycock](#) and her team, have just won an Economic and Social Research Council and College of Policing grant for £3.2m to carry out a 3 year programme of research on 'What Works in Crime Reduction'. Professor Laycock will be leading this from University College London's Department of Security and Crime Science with a consortium of eight UK universities as well as Dr Matthew Manning from Griffith University.

Congratulations to [CEPS Research Fellow Dr Yorick Smaal](#) whose Special Issue, 'The Family in Australia' edited with Dr Lisa Featherstone (University of Newcastle) has been published in *Journal of Australian Studies*. The issue has contributions from other CEPS researchers including CEPS Research Fellow Dr Amanda Kaladelfos on paternal child homicide, and CEPS Director Prof. Simon Bronitt and Ms Wendy Kukulies-Smith (ANU) on criminal law and the family.

Dr Raymond Choo, [CEPS Visiting Research Associate](#), was an invited panelist on the topic of "The emerging trend of anti-money laundering risk in the financial services industry?" at the 4th Pan-Asian Regulatory Summit (Thomson Reuters) in Singapore. Other panel members were: Didier Ache, Financial Services Director Asia, Microsoft; David Yakowitz, Director, Financial Services Advisory Practice, PricewaterhouseCoopers UK; and Kimberley Allan, Global Head of Marketing, Governance, Risk & Compliance, Thomson Reuters (Moderator).

Media Bytes



ABC 24 Newsline interviewed [CEPS Research Fellow Dr Ashutosh Misra](#) over war crimes trials in Bangladesh and the likelihood of human rights organisation, Human Rights Watch, facing contempt proceedings for criticising the war crimes tribunals.

[CEPS Research Fellow Dr Tim Legrand](#) was interviewed on Triple J's Hack Program on 'Queensland's "Draconian" G20 laws'.

[CEPS Partner Investigator Gary La Free](#) is quoted in a CNN article 'Terrorist attacks and deaths hit record high, report shows' by Daniel Burke, CNN Belief Blog co-editor.

[CEPS Associate Investigator, Professor Nick O'Brien](#) is quoted in an article 'Australian shopping mall security reviewed after Kenyan mall siege.' Source: Australia-New Zealand Counter-Terrorism Committee.

ABC 7.30 Queensland's Kathy McLeish interviewed [CEPS Research Fellow Dr Tim Legrand](#) and looked at the implications of new security laws being considered for the G20 Summit next year and the push to have the role of official observers included in the Act so that there are independent witnesses to any clashes between police and protestors.

Do you have an item to contribute to the next *CEPS Research Quarterly*?
Please forward any submissions to the Editor, Dr Yorick Smaal: y.smaal@griffith.edu.au

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