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Special China Edition

CEPS Research Quarterly

A Research Profile

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Feature Editorial

China's New Criminal Procedure Law: A Criminal Justice (R)evolution?

Prof. Simon Bronitt, Griffith University

On 30 March 2012, CEPS hosted an International Workshop on "Recent Reforms in Chinese Criminal Procedure" in Brisbane. This workshop, the first event held outside China, focused on reforms that come into effect in 2013. The workshop hosted a delegation of leading criminal justice scholars from China, and was co-convened by Assoc. Profs. Sarah Biddulph (University of Melbourne) and Sue Trevaskes (Griffith University).

Wednesday 14 March 2012 was a major watershed in the legal history of China's criminal justice system. The National People's Congress (NPC) passed a series of wide-ranging amendments to People's Republic of China (PRC) Criminal Procedure Law (CPL) that will fundamentally alter criminal processes in China. The far-reaching nature of the reform is reflected in Article 2 of the CPL, which defines its purpose as follows:

To ensure the accurate and prompt discovery of criminal facts, the correct application of law, the punishment of crimes, and the protection of the innocent from criminal prosecution;

To maintain socialist law and order, to ensure respect for and safeguard human rights, and to protect citizens' rights to person, rights to property, democratic rights and other rights and to ensure socialist development is uninterrupted. [Unofficial translation.]

What does this reform to the CPL really mean? Is this not merely an example of human rights window-dressing or "regulatory ritualism"?¹ Commentators will be quick to observe that these reforms do not impact on China's continued commitment to capital punishment,

¹ See H. Charlesworth, "Rights, rituals and ritualism: Making international human rights law work", Tony Fitzgerald Public Lecture 2012, at Griffith University (29 March 2012). In this lecture, Charlesworth pointed out that an effective international system of human rights depended upon the exercise of multilateral scrutiny of human rights protection by participating states, as well as non-state actors, such as civil society groups.

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CEPS Director, Prof. Simon Bronitt

though in this regard, it keeps good company with the United States and other states that persist in using this mode of punishment.²

China must be congratulated for these far-reaching reforms. From 2013, its criminal justice system will share many of the procedural safeguards found in western legal systems. Anglo-American lawyers will no doubt cite this as evidence of the globalisation of law, and the spread of liberal constitutional ideals of due process. International lawyers similarly will link the reform to the implementation of the fair trial guarantees found in various human rights treaties including the International Covenant on Civil and Political Rights. But in truth, the impetus for reform at this *precise* historical moment speaks principally to the local concerns about rising crime in China, as well as community concern about police corruption and the importance of maintaining 'order' and state legitimacy in a society undergoing profound and rapid change.

A key component of this reform is the entrenchment of the presumption of innocence, and the explicit requirement that guilt must be proved to the standard of 'beyond reasonable doubt' (Art 53). A corollary of the presumption that prosecutors must prove the case is that suspects have the 'right to silence', which may be invoked in the face of official questioning, with the effect that adverse inferences cannot be

² As Amnesty International reports, the USA was the only country in the G8 group of leading global economies to carry out executions in 2011. The 2011 Death Penalty Report notes that overall, the rate of executions globally was in decline, noting that China had removed capital punishment from 13 offences. See further Amnesty International, *Death Sentences and Executions* (2012). URL: <http://www.amnesty.org/en/death-penalty> (accessed 5 April 2012)

drawn from the decision of the suspect not to speak or cooperate with authorities. (In this respect, the Chinese reform seems to offer a higher level of protection to an accused than is available in the United Kingdom, which in the 1990s, amended the law to allow inferences from silence to be drawn in certain cases).

Of course, the right of a suspect to be silent is illusory unless there is a lawyer present during the interview who can advise clients of that right. A feature of the amended CPL is that the suspect may appoint a defender (an attorney at law), and the suspect must be advised of the right to a lawyer at the first interrogation.

The creation of a new judicial power to exclude evidence on the grounds of illegality (in Arts 54-58) is another reform that offers some 'teeth' to the legislative exhortation to respect 'human rights'. The rights of citizens must be coupled with effective remedies for serious breaches. The creation of this new exclusionary rule will also assist in clarifying standards of professionalism for policing, as will the absolute prohibition on the use of torture and inhumane or degrading treatment or other illegal means to induce confessions. Another beneficial reform that will minimize the risk of unreliable or improperly obtained confessions is the reduction of the detention period available for investigation from 30 days to 24 hours.

The obligation to record interrogations (Art 121) is another welcome reform – offering benefits in terms of reliability but also providing a 'forensic spotlight' on the way police investigators are treating suspects. There will doubtless be some resistance to these changes: it should be recalled that the use of tape recording of interviews, which were introduced in the UK in the 1980s, and in Australia in the 1990s, was initially resisted by police. However, over time, the reform led to a significant reduction in police

fabrication of confession evidence (a practice commonly called 'verballing' in Australia), and also led to a reduction in the complaints against police alleging brutality in the course of the questioning.

Covert investigations were never an acknowledged part of the Chinese criminal justice system, though as in Australia and the UK, electronic surveillance and undercover police operations have been covertly deployed since the 1970s for intelligence-gathering. The amendments to the CPL legalise a range of undercover policing methods (such as controlled deliveries of narcotics) and also place limits on these techniques. For example, the CPL provides that police entrapment, a technique that is still tolerated in some western legal systems, is now absolutely prohibited.

My concluding observation relates to the "uses and misuses of comparative law",³ and to offer a caution against viewing the 2012 reforms in China as another example of the globalization of law, whether as a legal transplant of either western legal values or international human rights law. The drivers of reform in China are primarily local, not global. To be sure, reform can be defeated through failures in implementation or deliberate subversion by state officials, though this risk is present in all legal systems. The task of scholars of comparative criminal law is to explore and explain legal difference, to examine closely gaps between 'law in the books' and 'law in action', and always to subject the rhetoric of law and justice to the hard look of empiricism and legal realism. To find that legal ideals do not live up to their rhetoric – whether that occurs in Beijing, Brooklyn or Brisbane – should offer no surprise to criminal justice and human rights scholars, though it should not lead to an abandonment of the struggle to improve the quality of law and justice. No legal system is immune from this obligation to continually seek improvement and it is through meaningful and informed dialogue that legal systems evolve, drawing usefully on a range of influences, both foreign and domestic.

See page 8 for the report on the *International Workshop on Recent Reforms in Chinese Criminal Procedure* Workshop by Assoc. Prof. Sue Trevaskes.

³ Otto Kahn Freund, "The Uses and Misuses of Comparative Law" (1974) 37(1) *Modern Law Review* 1-27.



Out & About

ARC Continuity Funding in 2013 and Approval of Carryover Funding into 2012/2013

By Ms Joyce Wang

On 18 Apr 2012, the ARC announced an additional \$1M in continuity funding for CEPS in 2013. It has also approved carryover funding of the existing grant into 2012 and 2013. This announcement was preceded by an ARC panel site visit of CEPS on 24 Jan 2012 and a supplementary submission by CEPS on 6 Feb 2012 to address further clarifications requested by the ARC after the site visit.

Key findings by the ARC from the panel site visit indicate that CEPS is currently a cohesive, integrated group of researchers with very strong and productive links with industry. The relationships with industry are bridging the gap between academic research and practical application in the general community.

Overall, the 2012 ARC panel indicated that CEPS has developed significantly since its commencement in 2008 and the last ARC review of CEPS in 2009. The leadership provided by current Director, Prof. Simon Bronitt, has provided stability.

Specific recommendations by the ARC include: increasing focus to deliver consistent outstanding research; promoting its successes more widely to the general community and its importance in a security conscious environment; assistance to be provided to the Director in relation to strategic partnership development; and a Chief Investigator to be appointed at Charles Sturt University particularly to harness the education strength offered by that institution.

The Honourable William (Bill) Paterson, PSM, visits CEPS

By Dr Ashutosh Misra

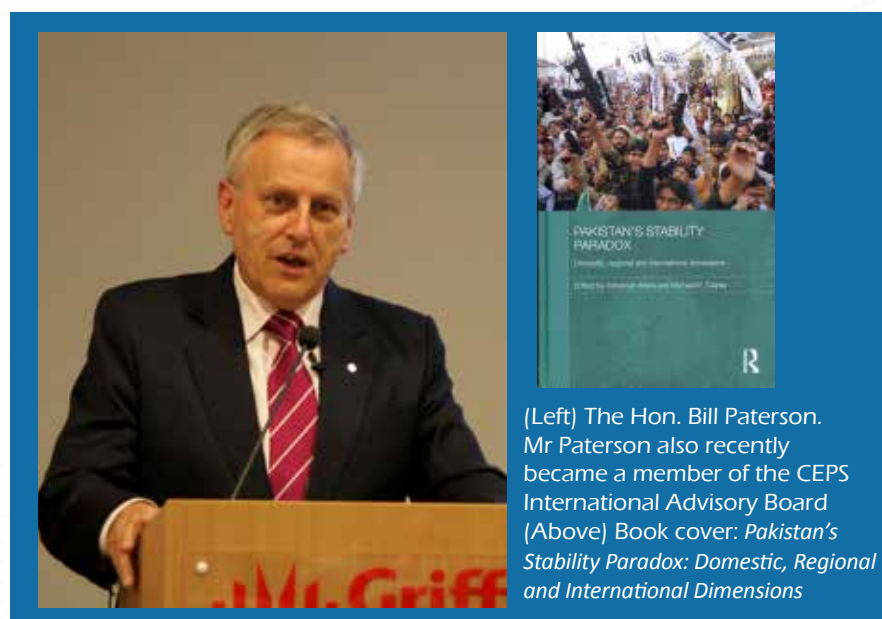
On 24 May 2012, the Griffith node of CEPS was honoured to host Mr William (Bill) Paterson PSM, Australian Ambassador for Counter-Terrorism. The purpose of Mr Paterson's visit was two-fold: to deliver a lecture entitled 'The Changing Landscape of Terrorism', and to launch *Pakistan's Stability Paradox: Domestic, Regional and International Dimensions* (London: Routledge, 2011) edited by Dr Ashutosh Misra, CEPS Research Fellow, and Dr Michael E. Clarke, ARC Linkage Fellow.

Speaking to the problem of terrorism over the last decade or so, Mr Paterson reflected on the resilient transnational terrorist threat – one which will continue to present substantial security policy challenges over an extended period. He underlined how global terrorism has become an increasingly autonomous enterprise, perpetuated among other factors by the regional franchise of the Al-Qaeda. In a wide-ranging presentation, Mr Paterson discussed and the growth of Al Qaeda affiliates in the Middle East and Africa, the drawdown in Afghanistan, and the impact of the Arab

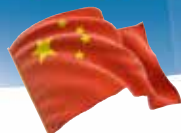
uprisings. His comments, particularly on the use of social media by terrorist groups for recruitment and propaganda purposes, were widely reported in the Australian print and electronic media.

Commenting on the book, Ambassador Paterson said, "A volume drawing together this variety of perspectives from a range of institutions and reflecting regional views is very much to be welcomed not only as a contribution to scholarship on contemporary South Asia and its recent history, but also as a resource for policy makers in refining Australia's policy setting on critical issues such as terrorism and on South Asia region more broadly. We have read this book with a great deal of interest in Canberra, and I am sure it will have an impact on those of us who work on South Asian policies".

Pakistan's Stability Paradox was first launch in New Delhi in December 2011 by Dr Shashi Tharoor, Indian Member of Parliament and former UN under-secretary general.



(Left) The Hon. Bill Paterson. Mr Paterson also recently became a member of the CEPS International Advisory Board (Above) Book cover: *Pakistan's Stability Paradox: Domestic, Regional and International Dimensions*



Research Reflections

Business and the Risk of Crime in China

By Ms Brigitte Bouhours

As one of the fastest growing economies in the world, China has become a major partner in the global economy and attracts large amounts of foreign investment. Yet, investors increasingly perceive corruption and economic crime as significant obstacles to doing business in China. Our study analyses the results of the *International Crime against Business Survey* (ICBS), the first large-scale victimisation survey conducted with Chinese businesses. It contains 5,117 responses from businesses located in Hong Kong, Shanghai, Shenzhen and Xi'an in 2005-06. The data provided by the ICBS can serve as an alternative or proxy measure of the level and nature of crime experienced by businesses. Such surveys provide valuable independent primary sources about crime and capture experiences that may not appear in police records.

Over one-quarter (26.2%) of businesses reported at least one incident of crime against them over the past year, but risks of victimisation by non-conventional crime (fraud, bribery, extortion and intellectual property [IP] infringement) were much higher than by common crime (robbery, assault and theft). Across the four cities, non-conventional crime (22.6%) was 3.4 times more frequent than common crime (6.7%). Fraud by employees, outsiders, or online, was the most often reported non-conventional crime. It was mentioned by 13 percent of businesses. IP and copyright theft (e.g. counterfeiting) was reported by about 6 percent, but was more of a problem in Shenzhen (9.1%) and Xi'an (7.6%) than in Shanghai (6.5%) and Hong Kong (2.7%). Just over 6 percent of respondents said that they had been asked to pay a bribe, but there was a large difference between Hong Kong (2.7%) and the mainland (8.0%). Extortion, likely linked to local triad-related groups, was most common in Hong Kong and Shenzhen (reported by 3.1% of respondents) but rare in Shanghai and Xi'an.

This snapshot of criminal victimisation against business reveals that the overall level of crime against Chinese businesses is relatively modest compared to other emerging economies such as Brazil, India, Nigeria and Russia. It is also considerably lower than Western and Eastern Europe apart from incidents of bribery and

extortion. The latter crimes were more frequent in China than in Western Europe and Australia, but less frequent than in Eastern Europe. In any case, the amount of direct monetary loss due to crime was significant for the businesses examined here. We calculated that our sample as a whole lost in excess of US\$20 million to crime in the year of the survey and most of it (US\$15.1 million) was due to the various types of fraud.

Since the start of the economic reforms in China in 1979, crime has risen sharply, but economic crime, especially fraud, has increased much faster than common crime. This supports the hypothesis that a growth in property crime is associated with modernisation. Modernisation is associated with rapid economic, societal and cultural transformations. Such change leads to periods of 'normlessness' where social values are being redefined. A lag between rapid socio-economic transformations and institutional adaptations to these transformations often occurs. In China, Communist values associated with a control and command economy have been replaced with new values that support the free market, private property and the pursuit of individual wealth. Our study suggests that in contrast to the *laissez faire* transition to capitalism in the former USSR and its associated crime wave, the strong, authoritarian Chinese state has somewhat succeeded in reducing this institutional lag through planning, managing, and facilitating the economic and social transition. China's planned transition from a command to market economy, supported by an emphasis on order and authoritarian forms of policing has contributed to the containment of many crimes against business.

Yet, the effectiveness of measures aimed at mitigating crime against business has been limited because of the absence of specialised policing of economic crime. Public police have been able to contain street crime but they have not yet transformed into policing agencies with a capacity to focus on crime



against business, which is highly attractive to new types of criminals. In addition, the failure to establish independent oversight and checks and balances seem to have facilitated corruption. Corruption was more frequently reported in the mainland than in Hong Kong, especially in Xi'an where state-owned businesses and traditional Party control remain strong.

Independently of the criminogenic impact of modernisation and urbanisation, the opening up of the Chinese economy has created more opportunities for crime. First, there has been an increase in the availability of consumer goods, which are the targets of common criminals. Second, the growth in commercial activities has provided new opportunities for white collar criminals. From that perspective, larger businesses were more at risk of victimisation because they represented more attractive targets than smaller ones. Chinese businesses thus suffer similar risks found elsewhere and could benefit from many of the measures recommended by situational crime prevention approaches. These include making it harder to steal goods

or trade in illicit markets and improving the effectiveness of guardians such as police, private security or auditors. There is room for Chinese businesses to increase their crime prevention measures and develop partnerships with police and local authorities in crime prevention. Only about one in six companies had contact with police or local councils or government and were aware of co-operative action about crime (for example, joint security patrols, business watch groups, alarms/CCTV). Only one in four were interested in participating in such co-operative activities, particularly those that had been victimised.

The results of our study challenge some preconceptions particularly about the assumption that adherence to the 'rule of law' provides an advantageous context for business. At the start of the study, we expected to find large differences in crime

victimisation between Hong Kong and the mainland cities. We hypothesised that Hong Kong, with its long tradition of adherence to the rule of law would have a much lower rate of crime against business. Yet, apart from the lower level of bribery reported in Hong Kong, overall differences in crime rates were relatively modest. Indeed the size of the business, irrespective of its location was the most important predictor of crime risk. This suggests that although a legal system based on the rule of law is still under-developed in the Chinese mainland, governmental and legal institutions are sufficiently functional to provide a successful climate for business. In the mainland, the apparent demise of campaign-style policing and the shift to a prevention focus rather than reliance on crude deterrence and brutalising punishments should help release police resources for greater specialisation in complex crime such as fraud and corruption.

Detailed results of this study have recently been published: Roderic Broadhurst, John Bacon-Shone, Brigitte Bouhours, and Thierry Bouhours, *Business and the Risk of Crime in China*, published in December 2011 by ANU E-Press and available at <http://epress.anu.edu.au?p=152481>



Ms Brigitte Bouhours,
Research Officer,
ANU

Australia's Response to Outlaw Motorcycle Gangs

By Ms Julie Ayling



Since Anthony Zervas was murdered in March 2009 during a brawl between warring outlaw motorcycle gangs (OMCGs) at Sydney domestic airport, both the media and governments around Australia have focused strongly on OMCG crime and strategies for dealing with it. Popular concern over these groups has been sustained by reports of intermittent spates of violence between gangs (such as the recent drive-by shootings in Sydney). Legislation in several states (SA, NSW, NT and QLD) enacted since 2008 introduced a two-tier process whereby courts could declare organisations and then impose control orders on their members that limited communications between them. These laws aimed to deal with organised crime proactively, by preventing the planning and conduct of criminal activity. The passage of these laws was greeted with approval in some quarters and condemnation in

others. Subsequently, two High Court judgments, *Totani* in 2010 and *Wainohu* in 2011, invalidated as unconstitutional parts of the legislation. New laws have recently been passed to remedy the problems identified by the Court while retaining the two-tier model. Further legal challenges to one or more of these states' laws are likely. The WA parliament is currently debating OMCG anti-association laws and the Victorian government is planning to introduce a bill before the end of the year.

These developments have kept issues about organised crime strategies in Australia in the limelight. Calls by the NSW Premier for national laws to deal with OMCG crime were considered by the Standing Council on Law and Justice (SCLJ) in early April 2012, but the idea of a national approach was not fully supported, with the ACT, Queensland and Tasmania voicing doubts and objections.

A team at CEPS Australian National University node is conducting research on effective strategies for tackling crime by OMCGs and other organised crime groups in Australia.

This research aims to:

- place OMCG activities and responses into the wider context of Australian

organised crime and law enforcement responses to it;

- document existing and potential legislative, administrative and regulatory approaches to OMCGs and other organised crime groups, examining federal and state-level approaches; individual and group level offences; and reactive and preventive responses;
- explore the advantages, disadvantages and risks associated with these approaches;
- review the experiences of other jurisdictions for potential lessons for Australia – Canada, the US, Scandinavia, Germany and New Zealand all experience problems with OMCGs akin to those of Australia, and many innovative approaches to organised crime, such as the Dutch 'administrative approach', are being tried around the world;
- assess the need for, viability and possible content of, national laws on organised crime.

Several publications on these issues are available and/or under preparation, and we have made submissions to relevant parliamentary inquiries. Please contact Ms Julie Ayling or Prof. Roderic Broadhurst at the Australian National University for further information.

Conference in Focus

Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime, May 2012

Dr Saskia Hufnagel

On 1 and 2 May 2012, CEPS held an international workshop on the "Detection, Investigation and Prosecution of Art Crime" at the Queensland School of Art, Southbank, Brisbane. Invited speakers included Vernon Rapley (Victoria and Albert Museum), Neil Brodie (Glasgow University), Duncan Chappell (University of Sydney and CEPS), Robyn Slogett (University of Melbourne), Lyndel Prott, Patrick O'Keefe, Ludo Block (Grant Thornton), Noah Charney, Association for Research into Crimes against Art (ARCA), Alice Farren-Bradley (Art Loss Register) and Stefan Gruber (University of Sydney). The event was organised by Dr Saskia Hufnagel (CEPS) and Prof Duncan Chappell who secured a Griffith University International Workshop Grant to fund the project.

Vernon Rapley, the Head of Security of the Victoria and Albert Museum, London, gave a very insightful and stimulating presentation on the imperatives of museum security in the intricate world of art crime. Another of many distinguished speakers in the field, Dr Neil Brodie from Glasgow University, talked about looting and its detrimental damage to cultural heritage. Other presentations included Australian, European, North American and Asian perspectives on the challenges of art crime investigations and prosecutions with a focus on art theft, fraud, and illicit trafficking of cultural property – this has received little attention in Australasian criminal law and policing research to date. Other topics included forensic procedures, international cooperation, the work of the Art Loss Register and international legal frameworks

in the field of art crime investigations. The workshop brought together ideas from many disciplines, public and private security and the art industry.

These views will foster collaborative research and further linkages. The ultimate aim of the workshop was to address similarities and differences between the different regions and



determine whether similar problems exist and whether common solutions can be identified. The perspectives from Europe, Asia and North America can inform Australian approaches. This project is significant not only because

of the apparent lack of systematic scholarly research in the local field, but also because European and North American studies reveal that art crime is an increasing and highly profitable area of criminal activity. We need to determine whether similar patterns are evident in the Australasian region. Particular questions which require analysis include whether Australasian art crime is linked to money laundering and other forms of organised crime, including the financing of terrorism. A further topic that has not been dealt with in most other regions of the world, but which is of particular concern in Australia, is fraud and illicit trafficking associated with Indigenous art.

Input from practitioner was crucial to the workshop's success. Representatives from Australian police agencies, (Australian Federal Police, Queensland Police Service and New South Wales Police), the Australian Financial Intelligence Unit AUSTRAC, Australian customs and border protection officials, and museums and art dealers, made invaluable contributions to the intellectual exchange and its practical application.

The workshop will result in a special journal issue and book publication and will pave the way for future grant applications. In a pilot project to come out of the workshop, CEPS will establish a communication point that can be contacted by Australian federal, state and territory police and which, upon request, identifies and connects police with specialists from research institutions to assist police in art crime investigations.



Participants at the Contemporary Perspectives on the Detection, Investigation and Prosecution of Art Crime Workshop

European Consortium for Political Research Joint Sessions Antwerp, Belgium, April 2012

Workshop 'Private Military and Security Companies: Transforming Security Governance?'

By Dr Ruth Delaforce

The aim of this workshop was to draw together the disparate theoretical and empirical approaches to the private military and security industry from an international relations perspective.

The workshop was chaired by Profs. Elke Krahnmann (Brunel University, UK) and Anna Leander (Copenhagen Business School). The 18 attendees included doctoral candidates, early career, mid and senior level academics, from Europe (Norway, Denmark, Czechoslovakia, Spain, Germany, France and the UK, Canada and Australia.

I presented a paper entitled 'The Private Military and Security Contracting (PMSC) Industry: Formal and Informal Methods of State Control'. My presentation noted that, in the academic and popular discourses, significant attention had been placed upon the gaps in domestic and international legal frameworks, and a seeming lack of regulation of

the industry. However, limited consideration had been given to informal mechanisms available to states to manage the industry. My paper addressed the potential responses available to states, ranging from informal to more formal legal mechanisms that could be applied to errant contractors.

It was agreed during the final roundtable session that four key points could be drawn from the workshop presentations on the PMSC industry. These were: legitimacy (implicit and explicit), influence and impact, public and private (which included 'space' and territorial differentiation between land and sea) and language. In particular, the use of language – definitions, terminology and specificity – were noted as critical issues. There was, for example, considerable discussion around whether the term 'extraordinary' could be applied to security arrangements for sporting mega- events, differentiation between the terms 'soldier' and

'mercenary,' and if 'private' denoted 'commercial' or 'non-state provided' security.

Four themes for future research were also identified during the roundtable: maritime security, exceptional security (e.g. mega-events), critical security studies, and quantitative security analysis. Research groups based upon these four themes have been proposed as potential opportunities for consolidating and extending the work of each attendee. One suggestion was the creation of a 'standing group' on research into the PMSC industry, under the auspices of the International Studies Association. Potential outputs were also canvassed, with submissions to journals, special journal issues, and a book proposal. The creation of conference panels that highlighted research into this 'new' security phenomenon was also proposed.

Peacekeeping in the Asia-Pacific: Gender Equality, Law And Collective Security - Symposium Summary

By Dr Melanie O'Brien

In April 2012, Melbourne Law School hosted a symposium on issues of peacekeeping and gender, with specific reference to the Asia-Pacific region. The symposium was convened by Dr Gina Heathcote (SOAS) and Prof. Dianne Otto (MLS), and speakers included Felicity Hill, Hilary Charlesworth and Karen Engle. It was an inspired gathering of people who champion women's rights.

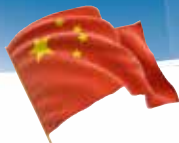
There were certainly some differences of opinion, which highlighted the open nature of the group and a willingness to confront and debate ideas. Two major feminist contradictions threaded their way through the symposium. The first concerns the struggle for recognition when it comes to the scale of sexual violence against women in armed conflict. Yet when this recognition is achieved, it is sometimes criticised. Instead, we should be embracing the fact that organisations such as the UN, including through the Security Council, are addressing

sexual violence in armed conflict on a regular basis, and acknowledging the negative outcomes of such violence, including the ostracisation and shaming of many victims.

The second contradiction was that of 'same' versus 'different'. This contradiction is the argument that, on the one hand, women are the same as men, but on the other hand we should celebrate our differences and what makes us women. This arose during the symposium with the issue of women's participation in peacekeeping missions and in the peace process. One school argues that women's participation makes a difference because of the different perspective women bring; an alternative way of dealing with situations – more conciliatory, tending more towards arbitration than aggression as a first reaction. This is in contrast to the idea that women in the military should not be perceived any differently to men; that they can undertake the same tasks and achieve

the same results; and that just because someone in a military uniform is a woman, she should not be viewed as weaker or as someone who unable take militaristic action. Both sides have valid arguments, and in practice, we should apply both.

Other issues considered were the practical engagement of women's groups in the Asia-Pacific region and accountability of peacekeepers for criminal offences including sexual exploitation and abuse. Overall, the symposium reinforced the importance of gender in peacekeeping and peace building, whether through policing, the military, peace negotiations, or in any other capacity. Nor is gender just about women. The importance of engaging women in all aspects of peace processes is relevant for women and men, boys and girls, across all ages, races, ethnicities, and religions.



Chinese Workshop Report

International Workshop on Recent Reforms in Chinese Criminal Procedure - 30 March 2012

Assoc. Prof. Sue Trevaskes, Griffith University, and Assoc. Prof. Sarah Biddulph, Asian Law Centre, University of Melbourne



(Far Left) Prof. Gu Guangzhong, Chinese University of Political Science and Law.

(Left) L-R: Assoc. Prof. Sue Trevaskes, Griffith University; CEPS Director Prof. Simon Bronitt and Assoc. Prof. Sarah Biddulph, University of Melbourne.

China's justice system has been the subject of a great deal of critical scrutiny in recent years. As Australia's relationship with China deepens, so does our day-to-day engagement with China's justice system. The law and practical aspects of the administration of justice in China are not only relevant at the academic and governmental level, but also impact directly upon individual Australians conducting business in China. A CEPS-University of Melbourne International Workshop was held in Brisbane on 30 March 2012 to discuss the amendments to the People's Republic of China (PRC) Criminal Procedure Law (CPL) which were passed by the national legislature, the National People's Congress (NPC), two weeks earlier on 14 March 2012.

This Australian initiative was the first forum of its kind outside China to be held on these significant changes that are unfolding in China's criminal justice system. China's criminal justice organs have long been criticised by human rights groups for lacking the necessary legal and systemic backbone required to support and enforce rule of law values such as procedural justice and fairness. A particular highlight of the Australian event was the inclusion of some of China's leading experts on China's justice system. The workshop was even more significant for the fact that of the six legal scholars who were invited by the national legislature to act as key consultants in the amendments, four were in attendance at the event.

Workshop Papers:

Prof. Fan Chongyi, one of China's leading CPL

scholars and consultant on the drafting of the amendments, began the day's proceedings with a paper outlining eight main aspects of changes included in the CPL amendments. Each of the remaining five speakers chose one of the eight areas to expand on.

Four main issues were highlighted in Prof. Song Yinghui's presentation on changes to China's system of evidence: incorporation into the CPL of the exclusionary rule for illegally obtained evidence; improvements to the system of compelling witnesses and forensic experts to testify in court; clarification of the standard of proof in criminal trials to require proof of guilt 'beyond reasonable doubt'; and the introduction of new changes to the types of evidence admissible in court. These changes include differentiating physical evidence from documentary evidence; changing the status of forensic examiner's evidence from a "conclusion" (objective fact) to an "opinion" (subjective expert opinion); adding the identification of the accused, investigation and forensic records, incorporating the records of investigative experiments, and electronic data as new types of evidence.

Prof. Gu Guangzhong from the Chinese University of Political Science and Law addressed developments in the area of criminal investigation including provisions to enforce protection of suspects from being interrogated in an unlawful manner, notably through practices of interrogational torture which have been widespread in China for decades. Other improvements to the system of criminal investigation covered in Prof. Gu's presentation also include developments in

the area of investigatory tools, in particular, incorporating technical investigation and covert investigation into the methods of criminal investigation.

The CPL amendment has four new chapters stipulating four new areas of law where special procedures will be adopted: (1) juvenile criminal proceedings; (2) criminal reconciliation procedures (criminal mediation); (3) proceedings for confiscation of property of corrupt officials who have absconded or died; and (4) compulsory medical procedures for mentally ill persons. These developments exemplify the progress towards more precise and specialised procedures which have the potential to enable the criminal justice system to be more active and effective in responding to a range of social problems. Renmin University's Prof. Chen Weidong acted as an expert consultant on the development of a new chapter in the CPL that deals exclusively with new procedures for compulsory medical treatment of mentally ill persons who are charged with committing a violent crime and who remain a danger to the community, but who are adjudged to be unable to bear legal responsibility for their actions. Prof. Chen talked about these new provisions, which it is hoped, will curb widespread human rights abuses of mentally ill people.

Another major development in the CPL is the incorporation of special procedures for criminal mediation. Beijing Normal University (BNU) researcher, Assoc. Prof. He Ting spoke on this area and its potential impact on criminal justice, citing a major BNU study conducted on the system of

criminal mediation in China.

The 1996 amendment to the CPL failed to properly acknowledge the role of criminal defence lawyers in the pre-trial process, where they were badged as “assistants” or “helpers” of defendants rather than their legitimate legal representatives. Ms Hao Chunli, Director of a major Beijing law firm who gave a presentation on improvements to the criminal defence system at the workshop, argued that as a result of this deficiency in the 1996 CPL, the rights of criminal defence lawyers and their clients were not protected in the pre-trial process. New provisions now establish support mechanisms that recognise the legal nature of the task of defences lawyers and their rights, to provide the right of criminal defence lawyers to be present at the first interview stage of the criminal investigation, and the right of criminal defence lawyers to investigate and collect their own evidence.

CEPS was particularly delighted to include

as speakers in the workshop, members of our international partner institution, the College for Criminal Law Science (CCLS) at Beijing Normal University (BNU). The college is the home of leading CPL scholar Prof. Song Yinghui who acted as one of China’s six scholar consultants in the drafting of the amendments and Assoc. Prof. He Ting, an expert in the area of criminal mediation.

CEPS’ relationship with BNU is expanding year by year. The first CEPS forum involving BNU, an international workshop on death penalty reform, was held in Brisbane in October 2010 and involved presentations from three of China’s leading death penalty scholars, Profs. Lu Jianping, Liang Genlin and Tian Wenchang. In October 2011, Profs. Simon Bronitt and Mark Finnane, and Assoc. Prof. Sue Trevaskes traveled to Beijing to participate in a CEPS/CCLS workshop on comparative criminal justice and where a CEPS/CCLS MOU was signed. In December 2011, Prof. Duncan Chappell, Chair of CEPS international advisory board, was invited to

speak at a CCLS international conference on organised crime.

The stage is now set for many years of fruitful exchange between the CCLS in Beijing and CEPS on criminal justice issues related to policing and procedural justice and fairness. The operational challenge for reformist-minded authorities in China is to find creative and meaningful ways to embed values of procedural justice and fairness into a criminal justice system which, in these times of rapid economic transformation, continues to operate under Deng Xiaoping’s social governance rationale that “[social] stability overrides everything else”.

Acknowledgements: We would like to thank CEPS and the Australian Research Council for financial support of this event. We would also like to thank CEPS PhD candidate, Ms Fang Qu, for her interpreting assistance at the workshop.

Privacy, Security, and Permanence in a Digital World

2012 CEPS Visiting Scholar, Dr Joseph Schafer, Southern Illinois University Carbondale, US



Technology is rapidly changing how much of our lives are digitally captured, how our information is stored and transmitted, and the ways in which we seek to ensure both privacy and security. The ubiquity of networked devices, the growing digitisation of all aspects of human interaction, and the emergence of cloud-based data systems create both incredible opportunities and daunting challenges. The speed of these technological

advances and their associated social evolutions is outpacing policy and legal responses.

Increasingly, we are seeing ephemeral parts of our lives captured in ways we often do not realise. That information is being used not only by government agencies, but also by private corporations seeking to understand consumer behavior, among other topics. Greater amounts of this data are being stored in cloud-based systems. Members of the general public often are not aware of how these and other trends create new vulnerabilities and security risks. Often we are not aware that our information might be at risk or that it might even have been compromised.

Opting out of the digital world is not a viable security strategy. Tasks and interactions that were previously conducted via print-media and the physical exchange of documents and data are

increasingly accomplished through digital methods alone. The ubiquity of surveillance systems and the latent-GPS capabilities of mobile phones means being secure in a digital world requires very real sacrifices in terms of convenience, access, and functionality in contemporary society. One might even make the case that opting out of the digital world can increase the chance that someone else might lay claim to aspects of our online identity. Involvement in social media might actually be a step towards stronger security, because I know my “footprint” in a given system has not been co-opted by someone else.

During April and May of 2012, I was able to visit CEPS to present the early stages of research I am conducting to examine how privacy, security, and permanence will increasingly intersect in the future. I had the opportunity to present on this topic at both Australian National University and Griffith University. My visit also afforded me the chance to discuss my ideas for the future directions of this project with a variety of scholars from CEPS, ANU, and GU. In addition, my time in Australia facilitated an opportunity to deliver a block of instruction at the Australian Institute of Police Management, where I lectured on issues of leadership and organisational change.

My CEPS project is an on-going effort. I am preparing a briefing paper for publication by CEPS and a white paper that will be submitted for publication with the US government. The project will continue to evolve, delivering several journal articles, and possibly, a book-length manuscript discussing the future of these matters. My time at CEPS also provided the opportunity to develop several other research initiatives that will result in future collaborations with various scholars affiliated with CEPS.

Project Update

The Australian Community Capacity Study (ACCS)

By Dr Rebecca Wickes and Prof. Lorraine Mazerolle

The Australian Community Capacity Study (ACCS) is a longitudinal program of research that explores the role of neighbourhood contexts and social processes in explaining variations in crime (particularly violent crime) and disorder over time and across place in Australia. The ACCS commenced in 2004 with Australian Research Council (ARC) funding to Prof. Lorraine Mazerolle. Since this time, the ARC has funded multiple waves of survey data collection, across multiple sites, to enhance our knowledge and understanding of the stability and change of different neighbourhood characteristics and their impact on a range of social problems. The special characteristic of the ACCS is the longitudinal collection of what is called “nested data:” we gather psychometric measures about individuals nested in a large sample of defined communities. At the community level, we gather what is known as “ecometric” measures of community-level processes. These “ecometric measures” (or ecological, geographic measures of community capacity) are difficult to gather, requiring careful consideration of samples sizes for each included community.

ACCS Wave 3 Brisbane/Wave 1 Melbourne

The third wave of the ACCS in Brisbane, Queensland and a first wave of the ACCS data collection for Melbourne, Victoria were conducted in 2010/2011. The ACCS third wave survey in Brisbane, the first wave survey in Melbourne and the Ethnic Community Sample (Ethnic Community Study) survey were jointly funded by three ARC projects.¹ The Brisbane ACCS sample comprises 148 randomly drawn communities (suburbs) with a residential population ranging

from 245 to 20,999. Many of these suburbs comprise residents from Indigenous and migrant backgrounds. The Brisbane sample comprises a longitudinal sample of 2,248 and a top up sample of 1,919 individuals residing within the 148 selected suburbs.

The Melbourne ACCS sample comprises 149 randomly selected suburbs with population ranging from 519 to 18,842. Like Brisbane, these suburbs also comprise residents from Indigenous and migrant backgrounds. For both the Wave 1 Melbourne ACCS sample (n= 4846) and the Wave 3 Brisbane ACCS top-up sample, respondents were randomly selected (using random digit dialing).

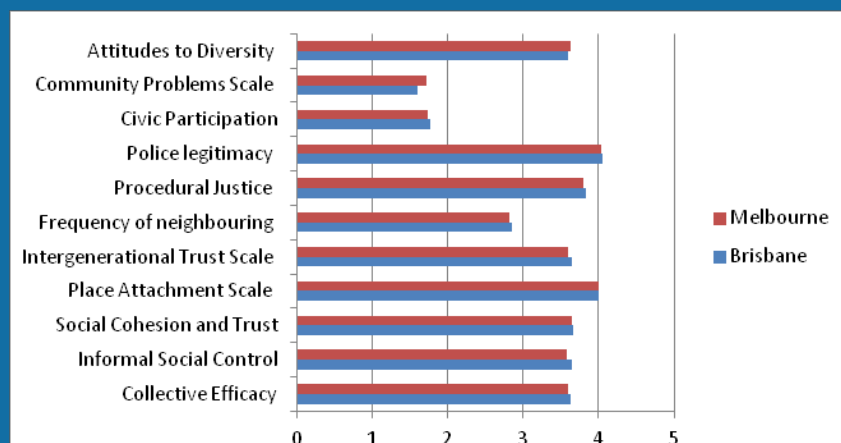
The ACCS survey Wave 3 Brisbane and Wave 1 Melbourne incorporates ecometric and spatial measures of collective efficacy, social capital, procedural justice, police legitimacy and effectiveness, crime and inter-group conflict, motivational posturing and work/community balance. An additional aspect of this wave of the ACCS involved collecting data from three ethnic minority groups in Brisbane and Melbourne.

ACCS Survey Findings

The ACCS survey Wave 3 Brisbane and Wave 1 Melbourne provided the first opportunity to compare results across two major cities in Australia and findings reveal some similarities and differences in community capacity across the two cities (see Graph 1). For example, scores on the Collective Efficacy scale were significantly higher in Brisbane (M=3.62, SD=0.645) than Melbourne (M=3.57, SD = 0.630; t (9320) = -3.121, p<0.01). Perceived Community Problems were, on the other hand, significantly lower in Brisbane (M=1.61, SD=0.426) than Melbourne (M=1.71, SD= 0.422; t (9316) =12.238, p<0.001). Attitudes towards diversity also differed significantly across the study sites with Brisbane (M=3.59, SD= 0.635) reporting more negative attitudes towards diversity than Melbourne (M = 3.63, SD = 0.646, t (9264) = 3.185, p<0.01). Results from the ACCS Wave 3 Brisbane and Wave 1 Melbourne also reveal significant variation across individual suburbs on other variables of interest.

Beyond these descriptive differences, we are now analysing these data in depth and progressing with publications. What we do know is that, in line with existing neighbourhood

Graph 1: Scale scores by research site



¹ The ARC Centre for Excellence in Policing and Security (CEPS) Vulnerable Communities Project (SR0700002; Lorraine Mazerolle and Rebecca Wickes); ARC Discovery Project (DP1093960; Adrian Cherney and Kristina Murphy), Understanding Police and Ethnic Group Interactions: Testing an Integrated Theoretical Model; and, ARC Discovery Project (DP1094589; Rebecca Wickes), Examining the Impact of Employment on Social Relationships in Urban Communities.

effects research, the ACCS survey results reveal that community structural characteristics, including median household income and ethnic composition are highly associated with social processes and community attitudes. For example, median household income at the level of the suburb is significantly and positively related to collective efficacy, frequency of neighbouring and attitudes towards diversity. Community ethnic diversity, on the other hand, is associated with greater perceived community problems, reduced frequency of neighbouring and lower levels of collective efficacy. Although, results reveal that as suburb level ethnic diversity increases, attitudes

towards diversity tend to be more positive.

Future Directions for the ACCS

The fourth wave of the ACCS Brisbane is currently in the field. It has a specific focus on social processes associated with community resilience. If you would like to know more about the Australian Community Capacity please contact Dr Rebecca Wickes or Prof. Lorraine Mazerolle or see our website www.uq.edu.au/accs

Practitioners and Partners

Mr Jeff Malone, Office of Transport Security - Department of Infrastructure and Transport, Canberra

In May 2012, I commenced an appointment as a Visiting Practitioner Fellow at the ARC Centre for Excellence in Policing and Security (CEPS), in association with the Regulatory Institutions Network (RegNet) located at the Australian National University (ANU). The focus of my research is to investigate the Australian Government's approach to regulating security risk assessments to support aviation security outcomes. Specifically, the research project entails situating the Australian Government's regulatory practice (with respect to security risk assessments in the aviation domain) in an international comparative context, and identifying potential opportunities to enhance the effectiveness of the Australian Government's regulatory approach in this field.

A focal point of my research centres on distinguishing 'regulation' from 'regulations'. Whilst formal law (e.g. legislation and

delegated regulation) is a critical component of regulation, regulatory activity entails a much greater range of 'tools' (following Arie Freiberg's 2010 work *The Tools of Regulation*) than only legal ones. My research seeks to employ a broader conception of regulation as a framework for analysing approaches to the regulation of security risk assessments to achieve aviation security outcomes. In this regard, my position within CEPS and RegNet provides me with an outstanding opportunity to work with leading researchers in this field.

Prior to taking up the Fellowship, I held the appointment of Director - Security Analysis in the Office of Transport Security (OTS), located within the Commonwealth Department of Infrastructure and Transport (DIT). My longer term career has involved appointments elsewhere in the public sector, the private sector, the Australian Army and academia. Common areas of work across my professional life have included IT

security, critical infrastructure protection, military information operations/strategic communications, and strategic planning to achieve national security outcomes. And whilst I am only several weeks into my Fellowship, the collegiate environment of CEPS and RegNet is already readily evident to me, and I look forward to working with you to progress both my own project and those of others.



Prof. Bruce Baker, Director of the African Studies Centre, Coventry University, UK



Bruce Baker is Professor of African Security and Director of the African Studies Centre at Coventry University, UK. His research

covers African state and non-state policing (see www.africanpolicing.org) security and justice reform, local justice and governance. This has been undertaken in Zimbabwe, Mozambique, South Africa, Rwanda, Uganda, The Gambia, Sierra Leone, Cape Verde, Seychelles, Liberia, South Sudan, Comoros, Madagascar, Ethiopia, Nigeria and Afghanistan. He is particularly interested in the potential of non-state justice and policing actors and of linking them with state institutions. His last book, *Security in Post-conflict Africa: The Role of Non-State Policing* (CRC Press 2009) explores these issues. It won the 2010 American Society of Criminology's Prize for Best Book in Comparative and International Criminology.

Bruce is also active, as a Senior Security and Justice Adviser for the UK Government's Stabilisation Unit, in designing and evaluating justice programs. Recent work in northern Uganda and Ethiopia convinced him of the importance of donor programs addressing access to justice for women as a priority. On a recent visit to CEPS and other Australian institutions, he shared that vision and as a result is currently assembling an international research team to investigate male 'gatekeepers' who determine whether to respond to women seeking justice. This research may investigate both Melanesia and Africa in the coming years.

You can contact Bruce at bruce@bakerbrum.co.uk

CEPS Member Profiles



Prof. Geoffrey Alpert is the CEPS Ambassador to the United States. During the past two years, he has worked at CEPS supporting research efforts with the Queensland Police Service (QPS). Prof. Alpert comes to us from the Department of Criminology and Criminal Justice, University of South Carolina. He has been conducting research on high-risk police activities for more than 25 years, and has published results from his research in the academic and professional literature. Two recent books include: *Internal Affairs: Holding the Police Accountable* (with Jeff Noble) published by Waveland Press and *Understanding Police Use of Force: Officers, Suspects, and Reciprocity* (with R. Dunham) published by Cambridge University Press. Prof. Alpert has taught

at the US FBI National Academy, and the Federal Law Enforcement Training Center. He also has worked with many American police departments on policy, training, supervision and accountability issues. He has published more than 150 professional and academic articles on criminology, criminal justice and law. Geoffrey has been Principal Investigator on several projects investigating police use of force, pursuit driving and other aspects of policing that have been supported by the National Institute of Justice, United States Department of Justice. One of his goals is to translate research findings into practical and applied practices for police managers. His work on high-risk practices has helped develop evidence-based policing strategies. Most recently, he has been honored by the University of South Carolina by being awarded the institution's most prestigious faculty research award and a life-time achievement award from the Academy of Criminal Justice Sciences.

Prof. Alpert's tenure at CEPS dates back to 2010 when he began his research inquiries with QPS. Most recently, he has made presentations on his research at CEPS, QPS, Crime and the Misconduct Commission and the Australian Institute of Criminology. His research at CEPS includes inquiries into significant events, use-of-force training, procedural justice, and pursuit driving. Some

of his work on naturalistic decision making, cognitive interviewing and police culture has been published by CEPS and is available on the website. He has also been interviewed on radio and television concerning his life and work.



Geoff presenting his seminar 'Developing a Strategy for Determining the Reality in Officer Involved Shootings and Other Hi-Risk Events: Memory, Stress and Time', 12 June 2012.

Ms Nina Westera has recently been appointed as a Research Fellow to CEPS, Griffith University. Her doctoral thesis, which was submitted in December 2011, examines the use of video recorded interviews of adult rape complainants as evidence at trial.

During her time at CEPS, Nina will expand on her earlier work, and along with Prof. Mark Kebbell, she will examine systematic ways to identify persistent and dangerous offenders. Her other research interests include investigative interviewing (witnesses, suspects, children and vulnerable interviewees); the investigation and prosecution of sexual crimes; the presentation of evidence; and investigative training and development.

Nina comes to CEPS while on a period of leave from the New Zealand Police, where she has worked in a variety of roles including the investigation of serious crime both as a detective and detective sergeant. As a senior sergeant at Police National Headquarters, Nina developed and implemented national policy and training on interviewing witnesses and suspects. Nina has advised and trained investigators, police managers and prosecutors in investigative interviewing in New Zealand and overseas. She has also trained judges and justice sector partner agencies such as other law enforcement agencies, the Independent Police Conduct Authority, doctors, interpreters, and crisis support agencies.



PhD Corner

Ms Natasha Tusikov, ANU

I am in the second year of my PhD program at the Regulatory Institutions Network (RegNet) at Australian National University. Prior to beginning my dissertation, I spent several years working for Canadian law enforcement as both a strategic intelligence analyst and researcher examining various aspects of transnational organised crime, illicit markets, and developing risk and threat assessment methodology. During this period, I became interested in the policing of financial crimes. My dissertation examines the policing of counterfeit goods by private actors (including investigative firms, trademark attorneys, trade associations and brand-monitoring firms) within a transnational private regulatory regime.

I am currently conducting the second phase of my fieldwork interviews in Washington, D.C. after having spent several weeks in New York City, undertaking interviews with private investigative firms, intellectual property associations and trademark attorneys. My next phase of fieldwork will be in London, England, where I will conduct interviews before spending a term as a visiting scholar at the University of Oxford. I have presented at academic conferences in Canada, the US, Australia and Mexico. In March 2012, I presented a conference paper to the Academy of Criminal Justice Sciences conference in New York City in March 2012. Most recently, in June 2012, I presented a paper on my US fieldwork findings at the Law and Society Association conference in Honolulu.



Funding from the CEPS Discretionary Research Scholarship allowed me to participate in both conferences and undertake extended fieldwork in New York City and Washington DC. I am grateful for this funding and support. I appreciate the stimulating and interdisciplinary nature of the Centre's environment and value the opportunity to interact with top-notch scholars and experienced practitioners.

Other News

CEPS Senior Research Fellow, Grant Wardlaw is part of a team led by the NSW Bureau of Crime Statistics and Research that has been awarded a grant of \$82 265 from the National Drug Law Enforcement Research Fund for their project entitled "The impact of supply-side drug law enforcement on drug related harm". Grant's role will be as a specialist advisor on illicit drug markets and co-author of the final report.

CEPS Associate Investigator, Tina Murphy, visited Cambridge in early May to attend and participate in a 3 day symposium on "Legitimacy and Criminal Justice". The symposium was by-invitation only and included presentations from world leading scholars Prof. Tom Tyler (Yale), Prof. Sir Anthony Bottoms (Cambridge), Prof. David Beetham (Uni of Essex), and Prof. Larry Sherman (Cambridge) to name a few.

CEPS Research Fellow, Dr Ashutosh Misra along with Prof. Amitabh Mattoo, Director, Australia India Institute at the University of Melbourne visited Cambodia from 18-22 April at the invitation of HRH Prince Norodom Sirivudh to deliver a lecture on Emerging Security Challenges in South Asia organised jointly by the Cambodian Institute for Cooperation and Peace and Indian Embassy in Phnom Penh. At the lecture, several key issues including India-China relations, India-Cambodia relations, India, US and Australia trilateral cooperation in the Indian Ocean and the Asia Pacific were discussed at length. Several key officials and diplomats from the local embassies, students and journalists attended the lecture. The *Phnom Penh Post* covered the lecture under the title 'Can't sink sea dispute: experts', on 19 April 2012.

CEPS Research Fellow, Dr Saskia Hufnagel and **CEPS Research Associate Dr Carole McCartney** have been successful in securing funding from the Onáti International Institute for the Sociology of Law for the organisation of an international workshop to be held on the 4 and 5 July 2013 at the Institute in Onáti, Spain. The workshop (entitled "A question of trust?: Social & legal imperatives in international police and justice co-operation") will explore the legal imperatives and social parameters that shape international police and justice co-operation. It will bring together experts from Europe, Australasia, the US and Canada to discuss and compare recent co-operation experiences and the impact of national and international legal frameworks on practice.



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This conference will bring together a wide range of speakers drawn from experts in the fields of security, criminal justice and policing. Researchers from Australian, European and other universities across the globe will present research on national, regional and international challenges in policing and security. Public and private actors cooperating with CEPS will contribute to and convene panels showcasing collaborative research projects.

The conference will provide a platform to strengthen links between researchers, policymakers, practitioners, students and many others interested in the fields and provide a fascinating display of policing and security topics for a wide audience.

Topics and Panels of this conference aimed at providing insight into CEPS projects as well as research collaboration and partner institution's activities include, but are not limited to:

- Histories of Policing, Crime, and Security
- Challenges and Progress in Police Integrity
- New Perspectives on Police-Researcher Collaboration
- Transnational Public-Private Security
- Policing and Peacekeeping
- Policing and Prosecuting Art Crime
- Cross-Border Policing - Policing the Global and the Local

Panels will be open to participation from researchers and practitioners not related to CEPS. Please send your abstract to s.hufnagel@griffith.edu.au or melanie.davies@griffith.edu.au by the 30th of July 2012.

Organising Committee: Professor Simon Bronitt & Dr Saskia Hufnagel

Selected Recent Publications



2012 e-Book Release - Hong Kong International Violence Against Women Survey (IVAWS): Final Report of the 2006 Hong Kong IVAWS

By: Roderic Broadhurst, Brigitte
Bouhours and John Bacon-Shone

The International Violence Against Women Survey (IVAWS) is a comprehensive instrument that measures women's experiences of physical and sexual violence by men, including intimate partners, victims' help-seeking behaviour and the response of the criminal justice system. Our study focuses on the Hong Kong component of the International Violence Against Women Survey (IVAWS), which was carried out by telephone in 2006 and included 1,295 women aged 16 years and over. We analyse victimisation by seven types of physical violence and five types of sexual violence over the adult lifetime, the previous five years and the previous 12 months. Women who had experienced violence since the age of 16 were asked further questions about the most recent incident; for example, on the perpetrator and whether they had reported the assault to the police or victim support services.

Just under 20 per cent of women had experienced one or more incidents of physical or sexual violence by any man in their adult lifetime. About one in ten women reported experiencing violence by an intimate partner. This type of violence, however, was more likely to have been perpetrated by a former partner (9.4%) than by the current intimate partner (5.3%). A higher proportion of respondents (14%) said that they had been victimised by a non-partner male in their adult lifetime, and the perpetrators were more likely to be strangers (8%) than known men (4.9%, friends and acquaintances and 2.5%, family members).

Few victims reported the most recent incident to the police, with a similar proportion doing so for partner and non-partner violence (12%). Physical violence was much more likely to be reported to the police than sexual violence (23% and 3% respectively); however, the majority of sexual violence consisted of unwanted sexual touching, unlikely to lead to injury, which accounts in part for the low reporting rate.

Compared to the countries surveyed by the IVAWS in the same period, Hong Kong, along with the Philippines, recorded the lowest rates of violence against women. Such a rate is consistent with low prevalence rates across all types of crime in Hong Kong, and suggests that cultural influences, which maintain criminality at low levels, are at play.

Porter, L. & Prenzler, T. *Police Integrity Management in Australia: Global Lessons for Combating Police Misconduct* (2012) CRC Press.

In the past two decades, Australia has been the site of major police misconduct scandals and inquiries, leading to reform initiatives at the cutting edge of police integrity management practices. Presenting interviews with key informants and an analysis of key documents, *Police Integrity Management in Australia: Global Lessons for Combating Police Misconduct* offers a comprehensive study, conducted from 2008 to 2010, of strategies and systems in Australia.

Bronitt, S. & Donkin, S. Australian Responses to 9/11: New World Legal Hybrids? in Masferrer, A. (ed), *Post 9/11 and the State of Permanent Legal Emergency Security and Human Rights in Countering Terrorism* (Springer: Dordrecht: 2012), 223-240 (Ch 10). Series: *Ius Gentium: Comparative Perspectives on Law and Justice*, Vol. 14.

The central hypothesis of this chapter is that the post 9/11 era has spawned a new hybrid form of terrorism regulation. The Oxford English Dictionary defines hybrid as follows: "Derived from heterogeneous or incongruous sources; having a mixed character; composed of two diverse elements; mongrel". Hybrid for the purpose of our legal analysis is defined as a measure or law containing elements/ characteristics of two previously distinct legal entities. The contention is not entirely novel. Equally, in the Australian context, scholars have identified the hybridisation of techniques of power, as well as the blurring of police and military powers, and crime and war. Hybrids are not, however, exclusive to terrorism law. Legal hybrids are also evident in fields such as drug law and public order, where strict liability, reverse onus clauses and civil standards of proof have been long applied. That said, the scale and extent to which regulatory efforts to counter terrorism in Australia span various modes of governance (criminal versus civil measures; judicial versus administrative power) makes legal hybrids a mode of regulation worthy of examination.

Media Bytes



CEPS Adjunct Prof. Geoff Alpert stirred media interest with his research on police use-of-force and high-risk policing activities. Geoff spoke with Channel 7 News on 18 June 2012 regarding the proposed changes to Queensland Police's Use of Force Policy. Geoff also spoke on ABC's Conversations program hosted by Richard Fidler about the need for more Australian-based research into how traumatic events affect memory and perception in high-risk police situations.

On 1 June 2012 CEPS Director Prof. Simon Bronitt spoke with ABC's Drive host Bernadette Young about the Queensland Police using legislation to target the Finx Motorcycle Club. He said one of the key issues will be that once the court declares an organisation to be unlawful the police will need to identify key people involved. He also said there are federal laws that deal with organised crime and says a national coordinated approach might be beneficial.

CEPS Chief Investigator Prof. Andrew O'Neil spoke with ABC's Radio host Tim Cox on the Drive program (25 May 2012) about the details of what's involved in the release arrangement for Schapelle Corby.

CEPS Research Associate Dr Raymond Choo spoke with the *Sydney Morning Herald* on 5 April 2012 about the importance of funding researchers to help secure cyber space.

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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