

## **Putting the Offender Back into Public Opinion: The Implications of a Study of the Public's Sense of Justice**

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and a former Head of Department (1985-1988 and 2002-2005).

His research interests are in sentencing, and cover public opinion, judicial decision making and guidelines; this work is published in three research monographs as well as in law and criminology journals. He was a member of the Victorian Committee of Inquiry into Sentencing, which reported to the Government in 1988.

*Coffee and biscuits in the basement foyer will follow this seminar for attendees*

When the public turns its mind to sentencing, the idea of understanding the offender does not count for much. Indeed, punishment is seen, at least for more serious offending, as being generally too lenient; as not giving sufficient weight to the seriousness of the offence or the interests of the victim. But does this picture really reflect the public's sense of justice? This is an important question, since it is this, not public opinion, which should be the focus of attention in public debate about punishment. My current study addresses this. It explores the character of the public's attitudes to the punishment of individual offenders. Four serious cases, involving six offenders, were presented by the actual sentencing judges to a representative sample of over 470 participants in 32 groups around Victoria, Australia. The method was designed so as to be suited to revealing the public's sense of justice; thus, for example, case descriptions were particularly detailed. The participants individually imposed sentences on these offenders; as well, they gave reasons for their sentences and discussed the judges' sentences. Unnever and Cullen's theory of empathy and, to a lesser extent, Garland's concept of the offender as 'other', provided the framework for the analysis. In fact, the findings support Unnever and Cullen's theory, but only partially support Garland's concept. Thus, across the offenders, the sentences ranged from lenient to harsh in the circumstances, but clearly tended to lenience and on balance were less severe than those of the judges; there were, however, some swingeing sentences. Moreover, the reasons for and against mitigation were, respectively, empathetic and non-empathetic in character. Nonetheless, in view of the sentencing data, the public could be regarded as being more rather than less empathetic; in some instances, though, the offender was treated as 'other'. These two theories and the data are seen as relevant to understanding the factors favouring and hindering penal moderation, and in this way to providing a means of addressing the public's apparent punitive sentiments about sentencing. In respect of this, Loader's ideas for a public philosophy of punishment were found to be helpful. Finally, let it be observed, putting the offender back into public opinion should be seen as part of a larger project, namely, putting the offender back into sentencing.

Wednesday 24<sup>th</sup> August 2011, 2.00pm, Seminar Room B3

All welcome (further information is available from Joanne Garner, on: [jf225@cam.ac.uk](mailto:jf225@cam.ac.uk))