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EDITORIAL

After #MeToo: Law, Justice and Sexual Violence: Introduction to the Special Issue

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Introduction to the Special Issue

While Me Too originated in Tarana Burke's grassroots programme working with black and minoritised women and girls experiencing sexual violence, and which focussed on health, welfare and support, the intensity of the global #MeToo movement after 2017 shed unprecedented visibility on the ubiquity of sexual violence and questions of what constitutes justice. Through networked acts of witnessing and demands for structural change, as well as much mediated high-profile criminal cases, #MeToo sparked complex and often controversial debates around victim-survivors' perspectives on formal and informal justice-seeking, as well as strategies for reform spanning education, cultural change, abolitionism and criminal legal reforms. More than six years on from the 2017 revelations that led to the global movement, this special issue explores the complex interactions between law, justice responses, sexual violence, and feminist debates in the aftermath of the viral #MeToo movement.

From the very first #MeToo tweet, #MeToo constituted a wide call for making visible multiple forms of sexual violence and involving both formal and informal justice demands.

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The articles in this issue demonstrate the diversity of implications, materials, approaches, and conclusions that come from studying the intersection of law, justice and sexual violence in the aftermath of #MeToo. It is not so much about evaluating #MeToo as a social movement or its effects (good or bad?), but about taking a closer look at the expectations that #MeToo carried and scrutinising the response, or rather the many responses, resistance, criticism with which #MeToo was met. In all its diversity, #MeToo has served as a starting point for thinking holistically about law, justice and sexual violence. For us, this thinking process started during an online workshop in the pandemic year 2020, and continues, if not completed, through this issue. Centrally, this special issue sheds light on how the movement has evolved over time and moved into various spaces. The fact that the authors in this special issue have used different starting points, deal with very diverse material, and have arrived at different conclusions is probably a result of the fact that #MeToo cannot be described as a singular, uncontroversial, event.

This special issue addresses broad questions of law, justice and sexual violence after #MeToo across multiple places, events, and temporalities. The focus of discussion spans a number of different nations, namely Australia, Sweden, India and the UK. Not only does this MeToo dossier deal with diverse #MeToo locations in the global North and global South, this special issue also sheds light on temporally different #MeToo iterations. In their discussion of how Australian white feminism has centred criminal justice reform, and more specifically the limitations in turning to the law to address structural issues in a colonial society, Loney-Howes, Longbottom and Fileborn home in on law and policy reforms since 2010, thus covering a time period pre and post #MeToo. Karlsson's article focuses on Swedish #MeToo activists' retrospective thinking about the justice sought and builds on interviews conducted in 2020. Andersson and Wegerstad deal with Swedish #MeToo related defamation verdicts spanning from 2017 to 2020. Gangoli explores the fractured emotional justice work performed by Indian feminists in relation to a digitally published list naming harassers in academia in the fall of 2017 and its immediate aftermath. McGlynn's contribution is future oriented as she proposes new ways for criminal law to tackle 'intimate intrusions'.

Both at the zenith of the movement, and in its sustained afterlife, #MeToo accentuated already existing feminist divides. The tensions between different feminist genealogies around how to define sexual harm, how to represent sexual harm, how to work for its ending and what constitutes justice propel this volume. The initial tweet's call for digital hand-raising to showcase the magnitude of sexual harm was premised on a politics of visibility. The #MeToo politics of visibility rested on the hope that making the problem visible would work toward its solution (Alcoff 2018; Serisier 2018). Yet, visibility politics also rests on the need for uptake by the public at large, and thus the witness narratives need to be broadly palatable. Early on it became evident that the focus on gender and heterosexuality obscured intersecting power relations, in particular race and class (Phipps 2021; Patil and Puri 2021). In this volume, Loney-Howes, Longbottom and Fileborn suggest a convergence of the carceral politics of some white feminism with colonialism and the racialised agendas of the state, neglecting the interests of indigenous people. Karlsson shows how Swedish #MeToo work sector activists (with white, professional, middleclass, heterosexuals

at the forefront) strategically seized the opportunity to represent sexual harm at large in the #MeToo moment. Gangoli unpacks how a politics of emotion in relation to the digitally published list of harassers in academia shored up feminist divides in relation to caste and generation.

At large, #MeToo activism has been based on an understanding of sexual violence as existing on a continuum including sexist remarks, rape and all other forms of sexual violence and harassment (Kelly 1988). Hence, #MeToo witness narratives have reported a wide range of sexual harm including harm placed on a 'grey zone' in between consent and coercion. The promises and pitfalls of an inclusive definition of sexual harm have been debated (Cossman 2021). Further, the uneasy relationship between #MeToo as an expression of carceral feminism and the way in which #MeToo showcased incidents on a wide continuum of harm that are not easily recognized by the law has been examined elsewhere (Wegerstad 2021).

In the analyses, justice and justice seeking appears in many different meanings and variants. Across the articles, the authors refer to the apparent opposition between formal, procedural justice provided by state institutions and alternative, informal or community responses to sexual violence. While this dichotomous position appears dominant across many discourses, others, such as Terwiel (2020) eschew the binary choice commonly presented of carceral versus anti-carceral feminism, of engaging with the criminal justice system versus developing community-based justice and accountability mechanisms (Terwiel 2020, 423). Instead, Terwiel advocates a "spectrum of decarceration" to encourage a more fluid and nuanced understanding of criminalisation and the role of the state (Terwiel 2020, 423). We see this challenge to binary thinking in Karlsson's article which concludes that a binary framework, with formal law on one side and viral community justice practices on the other, does not offer an understanding of the justice interests of #MeToo activists. Instead, the justice interests of activists span both. Karlsson describes the search for justice in Swedish #MeToo as pragmatic with a pedagogical aim to inform and educate a broad public about sexual violence. Concepts of justice were also differently considered by Gangoli who discusses how the online list naming alleged sexual harassers from academia provoked a response letter that stressed the significance of procedural justice, and concludes that the list and the responses to the letter challenged the limits of procedural justice.

Justice is commonly understood as being listened to or having one's experiences recognised. Here, many authors refer to Fricker's (2007) concept of epistemic injustice, encompassing testimonial injustice in which victim-survivors' acts of witnessing have been met with systematic disbelief and hermeneutical injustice in which victim/survivors have been neglected in their capacity as knowledge makers. Gangoli discusses how due justice processes at the university display systematic distrust in victim-survivors implictly forms a sort of epistemic justice. Karlsson discusses how #MeToo activists depart from multiple experiences of testimonial and epistemic injustice in their activism and assess that the rhetorical situation that emerged through MeToo constitute a justice window where they may be able to impart knowledge about sexual violence to the public at large. However, the articles differ on the question of what recognition should look like. Loney-Howes, Longbottom and Fileborn argue that the long-standing efforts to use criminal justice reform as a mechanism

for addressing gender-based violence has failed to adequately listen to the needs of Indigenous women, and they argue for de-carceral and decolonial modes of justice. For them, listening to Indigenous women means moving away from criminal law as a solution and to alternative justice pathways. Alternatively, McGlynn suggests that there is a role for a criminal law that recognises women's experiences of intimate intrusions through its classifications and definitions of criminal behaviour. In this way, McGlynn stresses the expressive function of the criminal law, while Loney-Howes, Longbottom and Fileborn engage with the negative consequences of an expanding carceral state for marginalised women and the colonial past and present of criminal justice.

However, criminal law is not only about setting normative standards for the public, but also about holding individuals accountable for their actions. One question raised in the aftermath of #MeToo more broadly, and by the articles in this issue, is the extent to which individuals should be named and singled out as perpetrators, be it through the criminal justice system and/or in informal contexts such as on social media. Online reporting can be seen as a form of active resistance against epistemic injustice (Gangoli), but as shown by Andersson and Wegerstad, the criminal justice system in Sweden clamped down on the practice of naming perpetrators online through defamation charges and convictions. For some #MeToo activists, the naming of individual perpetrators was not so important – the petitions in Sweden, for example, did not contain any names.

This special issue, therefore, raises the vexed and on-going question of feminists turning to law. Many examine and refer to the long-standing critique of Carol Smart who warned feminists against fixating on law as a main site of struggle; stating that in "accepting law's terms in order to challenge law, feminism always concedes too much" (Smart 1989; 5). Nonetheless, far less cited is Smart's later comment that de-centring law did not mean ignoring or abandoning it as a site of struggle (Smart 2012, 162). Indeed, Smart acknowledged that law has a "positive capacity" to "offer recognition and affirmation" (quoted in Auchmuty and Van Marle 2012; 66). The argument made is that even if feminists choose to disengage, law's power is not diminished. Law will continue to shape, influence and determine much of our lives, whatever strategy we adopt. Joanne Conaghan has suggested, therefore, that while the law should be "neither the starting point nor the end result"; due to its power, it is an inevitable part of this struggle and "must be addressed" (Conaghan 1996; 431). This special issue continues this engagement with the role of law, in all its varied forms, and the complicated and nuanced responses to its power to both liberate and subjugate.

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