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October 1997

## Introduction to special issue: INTERNATIONAL PERSPECTIVES (*Behavioral Sciences and the Law*)

Alan Tomkins

University of Nebraska, [atomkins@nebraska.edu](mailto:atomkins@nebraska.edu)

David Carson

University of Southampton

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Tomkins, Alan and Carson, David, "Introduction to special issue: INTERNATIONAL PERSPECTIVES (*Behavioral Sciences and the Law*)" (1997). *Alan Tomkins Publications*. 7.

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## Introduction to this issue

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### INTERNATIONAL PERSPECTIVES

There is a dearth of behavioral-sciences-and-law (bsl) scholarship that employs an international, comparative, or cross-cultural perspective. Traditionally, bsl scholarship is national in its orientation. Thus, it is quite pleasing to have assembled five articles for this “Special Issue on International Perspectives” that address bsl issues from a non-traditional perspective. The four core articles (there also is a “Special Perspective” that the Issue Editors have contributed) in the *Special Issue* represent the kinds of research, theorizing, and writing that can open the horizons and expand the boundaries of traditional scholarship in the bsl area.

The first article is David B. Wexler’s examination of “Therapeutic Jurisprudence in a Comparative Law Context.” Professor Wexler, a law professor with appointments at both the University of Arizona and the University of Puerto Rico, proposes a comparative law approach to assess the usefulness of the therapeutic jurisprudence notion that he and his colleague, Professor Brace Winick (University of Miami School of Law), have advanced. Therapeutic jurisprudence recommends that legal rules and practices should be examined to evaluate their therapeutic—or anti-therapeutic—consequences on those caught up in the legal system. Wexler points out some possibilities of, as well as some limitations to, undertaking comparative inquiries, and he offers a model for conceptualizing such undertakings in order to make it more likely that comparative scholarship will maximize its potential for usefulness.

The second article is by Ian Freckelton, who is both a practicing lawyer (barrister) in Australia and a law professor at Monash University (as well as current president of the Australia and New Zealand Association of Psychiatry, Psychology and Law). In “Child Sexual Abuse Accommodation Evidence: The Travails of Counterintuitive Evidence in Australia and New Zealand,” Mr. Freckelton provides an analysis of a type of expert evidence in child sex abuse cases. Mr. Freckelton is critical of the typical use of syndrome evidence in the courts. As he has elsewhere, Freckelton argues that only scientific information that corrects erroneous beliefs by factfinders regarding human behavior should be admitted into evidence. In the article, Freckelton focuses on child abuse accommodation syndrome (CAAS). He analyzes judicial opinions in Australia and New Zealand, comparing these decisions to the American legal system’s treatment of CAAS, Freckelton proposes a taxonomy of evidentiary admissibility that will help courts to admit *useful* information without usurping the function of the factfinder.

The third article is authored by Sophia I. Gatowski, Shirley A. Dobbin, James T. Richardson, and Gerald P. Ginsburg, a team of interdisciplinary researchers (representing psychology, sociology, and law) from the University of Nevada-Reno’s interdisciplinary doctoral program in Social Psychology and the University’s masters program in Judicial Studies. In “The Globalization of Behavioral Science Evidence About

Battered Women: A Theory of Production and Diffusion,” Ms. Gatowski and her colleagues offer a theoretical framework to explain how legal decisions concerning scientific evidence in one country (typically beginning with the United States) impact courts in other countries (Australia, Canada, and England). They focus on battered women syndrome evidence, and the article makes the case that there are several “diffusion mechanisms” that influence the likelihood that another country’s legal system will accept or reject novel scientific information as evidence in court. Ms. Gatowski and her colleagues rely on case analyses and interviews with legal professionals to provide some preliminary data that lend support to the potential value of their theoretical framework.

The fourth article, “The Ultimate Opinion Rule and Psychologists: A Comparison of the Expectations and Experiences of South African Lawyers,” examines the ultimate issue rule in South Africa. Once again, this is an interdisciplinary contribution, Alfred Allan and Dap Louw are both South African forensic psychologists, and Dr. Allan has a law degree as well. Dr. Allan and Dr. Louw compare the South African rule (there is no prohibition to testimony relevant to the ultimate issue) to the rules in the United States (American practices vary). The article reports on their survey of South African legal professionals (judges, advocates, prosecutors, and magistrates); the survey targets professionals’ expectations and experiences regarding ultimate issue testimony in sentencing, criminal responsibility, and child custody cases. The findings indicate a slight disparity between what legal professionals expect/want and what psychologists do.

As indicated above, the Editors have contributed a Special Perspective on “The Need for and the Role of Comparative and Cross-Cultural Perspectives in Behavioral-Science-and-Law Scholarship.” In this Special Perspective, we document the lack of international and cross-cultural perspectives in the bsl literature (using a comparison of *Behavioral Sciences and the Law to Expert Evidence*), with particular emphasis (and blame) on American activities. We also examine some of the causes for the dearth of international and cross-cultural perspectives in the U.S. and U.K. literatures. We conclude with a call for precisely the kinds of bsl scholarship reflected in the previous four articles. We only hope that this is the start of a trend!

In addition to the international-focused articles, this issue of *BS&L* includes three other articles. A Research Report from Dr. Steven K. Hoge and five of his colleagues presents the results of a MacArthur Research Network study of a set of forensic measures of adjudicative competency administered to a sample of mentally-disordered criminal defendants. Drs. Deborah Cooper and Thomas Grisso provide a complementary Research Report in which they examine the literature on competence to stand trial for a five-year period (1991-1995). Their report follows-up on Grisso’s review of 1986–1990, also published in this journal.

The last article of the issue is *BS&L*’s first Book Review. David B. Wexler, a member of the journal’s Board of Editor’s, inaugurates the journal’s intent to broaden the kinds of offerings we will consider for publication. In this issue, Professor Wexler reviews James McGuire’s *What Works: Reducing Offending* (Wiley, 1995). *What Works* is an edited book in which Professor McGuire and numerous contributors examine issues related to the rehabilitation of criminal offenders, and Wexler’s review/essay of-

fers some novel ways of applying the contributions of rehabilitation scholars to the legal system, particularly in light of the therapeutic jurisprudence approach to conceptualizing legal issues.

Finally, a personal note from the Editor (AJT). This issue culminates the transition of editorial responsibility from Robert Wettstein to the Editorial triumvirate of Charles Patrick Ewing, Alan R. Felthous, and myself.

In the spring of 1996, Bob announced his intent to step down as Editor effective with the completion of Volume 14 (1996). Nevertheless, Bob remained actively involved in editorial responsibilities until the end of 1996. It is only now that we are operating without Bob's leadership, although his influence remains. Indeed, even the theme of this Special Issue was worked out in conjunction with Bob.

Bob's efforts on the International issue typified his approach to the editors responsibilities. He was cautious when the topic was proposed, wanting to make sure that there would be quality manuscripts for the special issue. At the same time, he was—as usual—supportive of trying out new ideas.

In all, Bob provided hands-on leadership to *BS&L* for 2/3 of the journal's existence (10 to 15 years), first as Co-Editor and then as Editor of the journal. For Special Issue editors, Bob always could be counted on to offer invaluable ideas for encouraging the submission of quality manuscripts. For authors, he provided guidance in improving manuscripts so that they were more likely to be accepted for publication. During his tenure as *BS&L* Editor, Bob succeeded in maintaining the strengths that were already manifest in the journal while simultaneously improving the editorial process and the resultant articles *BS&L* published.

Bob especially was interested in improving the peer-review process by which manuscripts are evaluated. Bob drew on various writings and ideas intended to expedite and improve the process. For example, he posited the possibility of having authors identify possible reviewers for their manuscripts. Several funding agencies (e.g., National Science Foundation) have adopted this procedure. Although we have yet to publicize this option, we plan to implement Bob's idea in the near future.

In conclusion, speaking on behalf of Chuck Ewing and Alan Felthous, the current and former Editorial Board members, and the publisher, Michael Coombs, we offer the following: We wish you well, Bob. We very much appreciate your splendid service for so many years. We hope to rely on your continuing participation with *BS&L*, even as you move on to new professional challenges. In a word, thanks!

Alan J. Tomkins, J.D., Ph.D., and David Carson, L.L.B.,  
Special Issue Editors