

JOURNAL OF JUDICIAL ADMINISTRATION

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ARTICLES

Mandatory sentencing: A bird's-eye view – *Peter A Sallmann*

Calls for mandatory minimum sentencing are still common, especially in community discussions about the operation of the criminal justice system. In recent times a couple of Australian jurisdictions have actually experimented with such regimes. This article explores the literature on mandatory sentencing, with a particular emphasis on the Australian context. It looks at what a series of expert commentators have had to say about aspects such as legal principle, judicial independence, constitutionality, international law and criminological impact. Its general conclusion is that the various justifications given for mandatory sentencing are very dubious from all these perspectives.177

Problem-oriented courts: An update– *Arie Freiberg*

Over the last 10 years in Australia problem-oriented courts such as drug courts, family violence courts and mental health courts have been developed and become established as part of the judicial landscape. The nature and practices of these courts and the underlying theory of therapeutic jurisprudence are becoming mainstream issues that are transforming court practices. This article provides an overview of recent developments and explores the possibilities for their further development.196

Judicial activism versus judicial restraint: Bangladesh's experience with women's rights with reference to the Indian Supreme Court – *Afroza Begum*

The tension between judicial activism and judicial restraint has generated important controversies. Proponents of judicial activism claim that adherence to activism is inevitable to cope with society's changing values and aspirations. Opponents argue that such adherence unduly reflects the personal opinions of judges, and undermines one of the core aspects of good governance, the balance of separation of powers. Despite these controversies, existing legal

literature supports the view that judicial activism has a commendable significance to advancing women's rights. In the absence of the expansive and dynamic approaches developed by the judiciary, enforcement of ever-growing women's human rights would have been far fewer or, on some occasions, even impossible, and women are now more conscious of, and better equipped with, legal sanctions than in the 1940s, partly because of this judicial trend. Based on this observation, this article suggests that judicial activism is not only desirable but essential to accommodate women's contemporary needs and experiences in Bangladesh.220

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6. Sheehy EA, Stubbs J and Tolmie J, “Defending Battered Women on Trial: The Battered Woman Syndrome and its Limitations” (1992) 16 Crim LJ 220.
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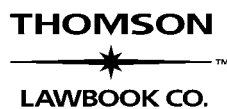
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