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EDITORIAL

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ARTICLES

**Please mind the gap: An assessment of fatal "one punch" provisions in Australia** – *Dr Andrew Hemming*

This article contends that the recent spate of one punch causing death provisions introduced in Australian jurisdictions, the majority of which create partial mens rea offences by making foresight of the result of the punch, strike or blow irrelevant, fills a "gap" in the criminal law. This gap involves an assault which causes death but where the Crown cannot prove manslaughter. It further argues that s 161A of the Criminal Code 1983 (NT) provides a model template for one punch provisions because it is constructed under the physical and fault element formula set out in Ch 2 of the Criminal Code 1995 (Cth). The Northern Territory provision is favourably contrasted with the less clearly phrased equivalent s 281 of the Criminal Code 1913 (WA) and s 314A of the Criminal Code 1899 (Qld), necessitated by the need to circumvent the archaic s 23 and the reasonably foreseeable consequences test. Finally, it is suggested that criticism of the one punch provisions based on the removal of defences such as accident, consent and provocation is misplaced, as the provisions have addressed community concerns that alcohol-induced violence causing death was inadequately punished previously. Their introduction is also consistent with long-standing offences of driving a motor vehicle causing death which are strict liability offences if the person drives dangerously and the conduct causes the death of another person. ..... 130

**A comparative study on the offence of "maintaining a sexual relationship with a child" in the Northern Territory and Queensland** – *Alannah Brown*

The Northern Territory offence of "maintaining a sexual relationship with a child" under s 131A of the Criminal Code Act 1983 (NT) was introduced in 1994 to overcome the difficulties of particularisation in prosecuting child sex cases and to encapsulate a course of conduct offence that properly reflected the persistent nature of child sexual abuse. The provision mirrored the Queensland offence under s 229B of the Criminal Code Act 1899 (Qld) that was enacted sometime earlier. However, the narrow interpretation of the offences in both jurisdictions has restored the requirement for proof of sufficient particularity and has removed the gravamen of the offence – the maintenance of a sexual relationship with a child. Queensland reformed its legislation; however, the limitations regarding the Northern Territory provision remain. Reform of the section should be urgently addressed in order to restore Parliament's intention that persistent child sex offenders be brought to justice. ..... 148

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