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ARTICLES

Australia’s Child Abuse Material Legislation: What’s the Artistic Merit Defence Got to Do with It? – *Dr Hadeel Al-Alosi*

The New South Wales (NSW) child abuse material legislation was subject to considerable scrutiny following the 2008 controversy over Bill Henson’s photographs of nude children. The controversy prompted the NSW Government to remove the artistic merit defence, believing it was anomalous to retain the defence under laws concerned with child protection. This article argues that, in the midst of the debates about artistic freedom and child protection, there was a missed opportunity to reconsider the shortcomings of the current definition of child abuse material under Australian law. It addresses what should have been central in the debate, that is, the appropriateness of retaining the community standards test in defining child abuse material. This test requires asking what the “reasonable” person would find “offensive” in defining child abuse material, which can be contrasted with a harm-based definition that focuses on how the material was produced rather than its potential to offend viewers. 147

Keeping Vulnerable Offenders Out of the Courts: Lessons from the United Kingdom – *Tamara Walsh*

Vulnerability has been a focus of the English criminal justice system in recent years, and concerted efforts are being made by police to keep vulnerable people out of the courts. This empirical research project investigated the rationale behind this shift in approach, and how it works in practice. Sixteen interviews with criminal justice professionals in London, Sheffield and Leicester were conducted in 2017. Participants included representatives from the courts, the police force, local government and non-government organisations. Participants reported that, as a result of austerity measures, police forces and non-government agencies were forced to work together to prevent crime and rehabilitate offenders. They found that taking a therapeutic approach, and working in partnership with one another, was both less costly and more effective than charging, prosecuting and penalising vulnerable people. This has important implications for Australia, where criminal courts tend to have a “revolving door”, and escalating criminal justice system costs have been described as unsustainable. 160

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