

‘Fuck the Law’: Decolonizing Nomophilitis with the Discourse of Love

A Special Issue of the *Journal of Global Indigeneity*

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This special issue of the *Journal of Global Indigeneity* builds upon the interdisciplinary, international dialogues arising from the travels and provocations of Professor Onwubiko (Biko) Agozino to Australia and Aotearoa, New Zealand in June 2018. We say provocations deliberately- the expression ‘fuck the law’ was flashed up on screens by Agozino in Australia asking why such critical views of the law had been neglected by criminologists when millions of images expressing the sentiment could be found via simple online searches? His contention that ‘law tends to be imperial and undemocratic’ is sobering but also a critically important idea to be taken up within and beyond the disciplines of law and criminology. How can scholars working within and across these and other disciplines respond to Agozino’s call for an ethic of love to inform the work of law makers, law enforcement agents and criminologists as a way of disturbing the entrenched assumptions that the people targeted by (imperial) law are public enemies? The short papers collected here are connected by their relevance to an ethic of love and decolonization and it is hoped they will help to promote interdisciplinary debates about the role of the law in the continued subjugation of Indigenous peoples throughout the world. Contributions to this special edition are from scholars who attended one of the events where Professor Agozino presented and includes scholars from the University of Auckland, Aotearoa, New Zealand, Flinders University, Adelaide, South Australia and Macquarie University, Sydney New South Wales.

The New Zealand contributors build upon discussions that took place during Professor Agozino’s visit to the University of Auckland in 2018, including a symposium on issues related to ethnicity and criminal justice, and most especially during the official launch of the journal [*Decolonisation of Criminology and Justice*](#) on the 7th of June, where Professor Agozino, and contributing authors’ Dr Juan Tauri and Dr Tash Norris discussed strategies for decolonizing the discipline, and crime control in settler-colonial jurisdictions. There are three papers from

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contributors from New Zealand. The first paper by Frea Anderson, Grace Gordon and Robert Webb is co-authored by Indigenous and non-Indigenous (Pākehā) scholars. It is the authors view that the coming together of both Indigenous and non-Indigenous people is necessary in order to effectively challenge systems of oppression. In exploring the ‘crime control agenda—that has progressed through the colonial to neo-colonial contemporary times’ and which ‘has produced ongoing marginalisation and intergenerational social harm that disproportionately impacts upon Māori’ they also reflect upon the unique challenges faced by those committed to a critical research and social justice oriented research agenda with the aim ‘of transforming criminological knowledge both here in Aotearoa New Zealand and abroad’.

In response to questions from the floor after Professor Agozino and other panellists on the topic of decolonising criminology and criminal justice, Juan Tauri advances two key arguments, firstly that while it is important to reveal the ‘historical specificity’ of different colonial contexts and experiences of colonised peoples, it is not necessary for authors’ to expend copious amounts of text exploring the differences between one peoples’ experience, and another, especially in a journal dedicated to ‘decolonising criminal justice’, unless that is the specific focus of the article. And secondly, he argues that journals like *Decolonisation of Criminology and Justice* are not by default, part of the ‘white space’ of the academy, as was hinted at by a respondent to Professor Agozino and his fellow panellists. Such an argument ignores the long history of Indigenous peoples utilising the journal format and process as an effective part of their resistance – to the academy, and to the settler-colonial state.

Adele Norris reveals the way in which decolonisation is inextricably linked to freedom and that this necessitates the formation of ‘coalitions of consciousness’. In particular she asserts that academics have a crucial role to play in developing disruptive strategies geared towards ‘achieving racial and economic equity’. It is ‘unequal experiences of citizenship’ that are ‘the hallmark of a settler-colonial state’ even as ‘diversity claims’ work ‘to license the erasure of experiences and continued oppression of historically subjugated groups’.

In Adelaide, Australia a formal roundtable discussion was held with Professor Agozino titled ‘Law, Love and Possibilities for Decolonisation’ as well as many other more informal discussions which were concerned with formulating ways to think beyond the dominating and oppressive truths held by the colonising disciplines of law and criminology. Margaret Davies in her piece titled ‘Decolonizing Property Justifications’ asserts that this task would involve

among other things the recognition ‘that Aboriginal peoples did work the land extensively prior to colonisation in a sustainable, rather than an extractive, way’. There would also be an acknowledgement of ‘the role of the earth in creating, providing, and maintaining processes of production. Individuals are nodes or elements in these cycles of production, but are not in any way independent of them, or even in control of them’.

Willem de Lint in his piece ‘The ‘Nadir’ of Empire or the Apex of Crime?’ contends that ‘the most popular criminology discourse...gives too much of a pass to powerful state actors’ and as such he identifies ‘apex crimes’ as important sites for interrogation since it is within these crimes that ‘government, through its authorities, nominates itself as victim and one or more of its ideological opponents as purposeful perpetrator’. De Lint argues that apex crime ‘case studies and the deviations or gymnastics of forensics investigations of watershed events like 9/11’ reveal ‘a blind spot in criminological thinking and inquiry, a blindness which is predicated on the kind of authorised knowing that critical and radical and post-colonial criminology has been instrumental in correcting’. The study of apex crime adds to the ‘robust examination of crimes of empire’.

Maria Giannacopoulos contends that contemporary universities are structured by the colonial logics of austerity. She argues that law, in particular the *Fair Work Act*, plays a critical role in eroding basic rights, freedoms and conditions for academic workers and in so doing produces and maintains class hierarchies that structure the contemporary university where imperializing dynamics are present in multiple ways. While the *Fair Work Act* does not eliminate unions, it does function to shrink the ‘legal’ space in which it is possible to resist by designating strict criteria for taking what is termed “protected industrial action”. By submitting to the legislative will in this way, unions may become *nomophilic*, in other words, complicit with the legalised (colonial) violence against workers that is licensed at the legislative level.

A [Forum for Indigenous Research Excellence \(FIRE\)](#) symposium was held at Macquarie University where scholars were invited to respond to Professor Agozino’s presentation titled ‘Fuck the Law’. Agozino is a long term member of FIRE as are several of the contributors to this special issue. In his presentation he questioned the assumption that global cultures and especially Indigenous peoples are to be civilised and modernised by being subjected to the rule of European law, Euro Rechtsstaat, under racist, patriarchal imperialism as a result of centuries of conquest, genocide, slavery, apartheid and colonisation. The symposium concluded that

decolonisation-centricity in legal discourse will involve the extension of the ethic of love to institutions of the state and to research methodologies to such an extent that any law made or enforced and any methodology devoid of love at the heart or at the center of it would be deemed to be fatally flawed and deserves to be erased through abolitionism or decolonisation. Four Macquarie University scholars responded.

Joseph Pugliese, responds to Agozino's work with reference to his attendance at the Coronial Inquest regarding the death of David Joseph Dungay, a 26-year-old Dunghutti man who died in custody for the crime of bringing a packet of biscuits into his cell. He argues that the 'impassioned articulations of "Fuck the Law," such as I witnessed in the course of the David Dungay inquest, effectively address what would otherwise remain unspeakable: the violent incommensurability of law to justice; more precisely, the expletives unmask the infrastructural limits of settler law to deliver Indigenous justice'.

Rolando Ochoa reveals the challenges stemming from the 'intersectional nature of humanity's conundrums' which means that 'there is no united de-colonising front'. His argument is that analytical sociology can provide a suitable framework for common ground to be found and for 'criminological understanding of class, gender and race must be articulated in such a way as to facilitate decolonisation'.

Lara Palombo in her piece 'The Necessity of Decarceration' reveals how racial penal governance is the mechanism through which the criminality of imperialism and colonialization is negated while subjecting First Nations Peoples to western forms of penalty. Palombo asserts that 'what racial penal governance tells us is that the enmeshment of particular bodies with crime is central to settler colonial power' as it 'interlocks with terra nullius and moves along the axis of racial differences, gender hierarchies and binaries, sexual violence, disabling institutionalisation, immigration status and mechanisms of Empire as part of population control. Palombo calls strongly for decarceration which would require a rejection of western penalty and its draconian laws.

Francesca Dominello reveals that her work from within the discipline of law makes her 'very conscious (and critical) of the dominant paradigm that views law as objective and neutral – and thus beyond question' as this disconnects decision makers from the judgements made and

reduces accountability for them. While Dominello agrees with Agozino that ‘achieving greater solidarity among oppressed peoples is a worthwhile cause, especially considering the oppressive divide and rule mentalities we find in law and policy’ she wonders whether privileged groups would let go of their ‘self-love’ which she argues depends on the oppression of others.

The short reflective pieces in this special issue from Australia and Aotearoa, New Zealand have taken up the work of Professor Onwubiko (Biko) Agozino, a rigorous and truly original intellectual and pioneer of decolonial criminology, in order to move closer to the goal of a more deeply democratized world.