

**Joseph Pugliese<sup>1</sup>**

**Expletive Tactics of Unmasking the Infrastructural Limits of Settler Law**

In the course of his presentation, “Fuck the Law: Decolonizing Nomophilitis with the Discourse of Love,” hosted by the Forum for Indigenous Research Excellence, Macquarie University, Professor Onwubiko (Biko) Agozino (2018, p. 24) posed and examined the following question: “why ... is [there] a culture of silence among criminologists and legal scholars regarding the frequently occurring expression in popular culture, ‘Fuck the Law,’ that is found around the world and in cyber space.” Agozino’s question points to a significant lacuna within the field of legal studies. It is a question, as I demonstrate below, that resonates well beyond the field of popular culture, as the phrase “Fuck the Law” is one that is enunciated within the very decorous spaces of the courtrooms of Australian settler law by Indigenous people contesting its agendas of tacit racialisation, its privileging of white subjects and its often lethal outcomes for Indigenous subjects.

I want to frame Agozino’s phrase, “Fuck the Law,” in the context of my daily attendance of the David Joseph Dungay Coronial Inquest at the Downing Court Centre, Sydney. I was attending the inquest as I was covering the proceedings for the *Deathscapes: Mapping Race and Violence in Settler States* project. Mr Dungay, a 26-year-old Dunghutti man, died in custody in G Ward, the psychiatric wing of Long Bay Goal on 29 December 2015. His crime had been to bring a packet of biscuits into his cell on his return from the recreation yard. An Immediate Action Team, a specialist riot response unit, was called to transfer Mr Dungay from

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<sup>1</sup> Professor Joseph Pugliese, Department of Media, Music, Communication and Cultural Studies, Macquarie University, Sydney, Australia.

Cell 71 to Cell 77, which was equipped with video cameras. The catalyst for this transfer was Mr Dungay's refusal to stop eating a packet of biscuits because of officers' apparent concerns over his blood sugar levels due to his diabetes. As a number of expert medical witnesses testified, there were actually no grounds to frame the situation as tantamount to, in the words of the correctional officers, a "medical emergency." Rather than remove the packet of biscuits, the officers of the Immediate Action Team proceeded forcefully to extract Mr Dungay from his cell.

In the course of the inquest, video documenting the extraction and removal of Mr Dungay from Cell 71 to Cell 77 was shown in court. It was a harrowing video to watch. Five officers can be seen restraining him, first on the bed of his cell and then on the floor. Mr Dungay, under the weight of the officers and their restraining procedures, begins what will be his repeated and ever more urgent scream: "*I can't breathe.*" As he is removed from the cell and dragged across the corridor, he can be seen to collapse, even as he's gasping "*I can't breathe.*" By the time he is placed in Cell 77, Mr Dungay begins desperately to cry "*I can't breathe.*" Soon after being injected with a sedative while he is held down, Mr Dungay becomes unresponsive. Despite attempts to resuscitate him, he dies from positional asphyxia, literally suffocating to death in the course of his violent removal.

During the course of the questioning of the correctional officers by both the counsel representing the family and the counsel assisting the coroner, at particularly critical junctures the officers under question repeatedly articulated the phrase "I can't recall." The repeated articulation of this phrase became a type of recitational chant: it effectively worked to foreclose the possibility for the emergence of the truth of what these officers had perpetrated. At the predictable repetition of this phrase of disingenuous forgetfulness, members of the Dungay

family would rupture the ritualised decorum of the court with bursts of heartfelt expletives. The expletives worked to expose and mark what the family perceived to be the lies of the settler state's carceral operatives. Articulations of "I can't recall" were often punctuated with the eruption of under-breath, but clearly audible, expletives. Collectively, this chorus of expletives worked to spell out in no uncertain terms Agozino's formulation of "Fuck the Law." Throughout the course of the inquiry, these disruptive expletives became one way for the family to exercise its unmediated agency within the court of settler law: raw, angry and impassioned, the enunciation of expletives spoke to long histories of Indigenous refusal and speaking back to a racialised criminal justice system that rarely delivers justice to those who have died in custody or to their families.

Through the Dungay family's use of expletives in the course of the inquest, the validity of settler law to uncover the truth of how their loved one died and to identify who was responsible for this death was placed under interrogation. At those critical junctures marked by perceived lies, instances of active forgetting and the resultant occlusion and withholding of the truth, settler law was both vocally reviled and dismissed through the Dungay family's use of expletives. Their articulation of the phrase "Fuck the Law," thus, must not be seen as a glib or juvenile dismissal of law as such. Rather, these impassioned dismissals of law draw attention to the ongoing and institutionalised injustices that settler law serially reproduces in the course of Indigenous people's everyday lives. The phrase, within the charged contexts of settler law and its courts, works at once to interrogate the validity of the law in question and to name and identify its tacit racisms and infrastructural injustices. 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.

## **References**

Agozino, O. 2018. *Fuck the Law: Decolonizing Nomophilitis with the Discourse of Love*, presented at the Forum for Indigenous Research Excellence, Macquarie University, 27 June.

Deathscapes: Mapping Race and Violence in Settler States, <https://www.deathscapes.org/>