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Lecture

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In *Bugmy v The Queen*, the High Court of Australia established that an offender's experience of social deprivation during childhood can be a mitigating sentencing consideration. Empirical research has confirmed that there can be an extremely strong connection between the experience of childhood sexual abuse and physical abuse and subsequent criminal offending, especially in the case of female and Indigenous offenders. Arguably, the *Bugmy* principle is broad enough to encompass most instances of childhood sexual abuse and physical abuse. Yet, in many cases, application of the *Bugmy* principle will not in fact result in a sentencing discount for an offender who has been the victim of childhood sexual and/or physical abuse. The major reasons for this are that the contours of the *Bugmy* principle have not been clearly defined and its mitigatory impact may be diluted or negated by the operation of aggravating factors, such as pursuit of the sentencing objectives of community protection and specific deterrence. This article argues that it is desirable that an offender's experience of childhood sexual abuse and/or physical abuse is recognised as a discrete mitigating consideration, as it can diminish his or her moral culpability.

The judgment of the UK Supreme Court in *One Step (Support) Ltd v Morris-Garner* deals with Wrotham Park damages, defined by the trial judge as 'such amount as would notionally have been agreed between the parties, acting reasonably, as the price for releasing the defendants from their obligations' (that is, from those for the breach of which damages are being sought). Lord Reed, speaking for the majority, promises to provide a theoretical underpinning for such awards and thus end the confusion surrounding their availability in breach of contract cases. In pursuit of these aims his Lordship seeks to confine such awards to the breach of contractual obligations which have created or which protect valuable assets, giving as examples the right to control the use of land, intellectual property and confidential information. Non-compete and non-solicit covenants as in *One Step*

(Support) Ltd v Morris-Garner are said not to qualify. The author is unconvinced and prefers the solution offered in the concurring judgment of Lord Sumption who regards such damages as an evidential technique for assessing a party's loss the extent of which cannot be established satisfactorily by other means. This fits Wrotham Park damages neatly into the process of quantifying loss in monetary terms, a role not in need of 'theoretical underpinning'.

There are questions about the effectiveness of prisons in reducing crime, their economic and social costs, and their moral justification. It has become increasingly clear that prisons are unfit for the widespread purposes for which they are used today. Radical reform is necessary to transform the role of prisons from being a core part of a largely fragmented problem into one element of a cohesive solution. A more consistent sentencing framework, incorporating multiple alternatives, would include electronic monitoring, increasing monitoring and police presence, and investment in rehabilitation and reintegration programs, could enable prisons to serve a clearer purpose in the sentencing mix. These alternatives to prisons are not in themselves a silver bullet, and a comparative analysis of Australian and international experiences with alternative correction systems reveals that these measures have their own flaws. Prisons are unlikely to ever be eliminated, but alternatives to prison should be considered as part of a multidimensional shift towards evidence-based policymaking. This article focuses on electronic monitoring as one important contributor to a holistic and contextualised approach to criminal punishment, which would improve outcomes for victims, offenders, and society at large.

This article considers the legal basis and functioning of the Order of Australia in general, with special reference to the innovations under the prime ministership of Tony Abbott: his two schemes for again awarding Knighthoods in the Order, the first of which bypassed the Council of the Order, as well as his decision to award a Knighthood to Prince Philip. The separate roles of the Council, the Governor-General and The Queen are outlined. International comparisons with Canada and New Zealand are made and case law on honours considered. Other questions not examined by scholars to date include whether failure to confer, or the deprivation of an award in the Order can be reviewed in administrative law. The article concludes by asking what reforms could be made to place the Order on a firmer legal basis, avoid any further embarrassing adventurism and further reinforce the Order's independence from politicians.