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General Editor's Preface

UCL Law School held its ninth international interdisciplinary colloquium in July 2005, in the immediate aftermath of 7/7. This book is the product of the colloquium. My thanks are to Dr Belinda Brooks-Gordon who helped me convene the colloquium, to Lisa Penfold who ably administered it—a task rendered the more difficult by the events of the previous week—and to Priscilla Saporu and Linda Thomas without whose administrative and secretarial support the book would not have seen the light of day. My co-convenor and I are also very grateful to those who chaired sessions, in particular to Baroness Hale of Richmond who took the chair at the Public Lecture by Stephen Frosh.

The next volume in this series, to be published in 2007, is on 'Law and Philosophy'.The 2007 colloquium—on 2 and 3 July 2007—is on 'Law and Bioethics'. Enquiries about this may be addressed to Lisa Penfold at <lisa.penfold@ucl.ac.uk>.

Professor Michael Freeman

March 2006

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Belinda Brooks-Gordon is University Lecturer and Programme Director of the MSc Family and Systemic Psychotherapy at Birkbeck, University of London. Her research on the sex industry addresses the psychological, political, methodological, and human rights issues surrounding sex work, sex workers, and their clients. A chartered psychologist with a PhD from the University of Cambridge Law Faculty, she has written on sexual offending for the Home Office Offending Behaviour Programmes Unit and conducted systematic reviews for the Department of Health on psychological interventions for sexual offenders. Recent publications include *Sexuality Repositioned* (Hart Publishing, 2004) and *The Price of Sex* (Willan Publishing, 2006).

Jenny McEwan was appointed Professor of Criminal Law at Exeter University in 1999. She has published widely on various aspects of the law of evidence. Her interest in the function and efficacy of the criminal trial has led to involvement in some campaigning television programmes. In 1995 she played a major role in *The Big Picture* 'Criminal Injustice' BBC 2, and in 1996 *Verdict*: 'The Persuaders' BBC 2. Her books include *Evidence and the Adversarial Process: The Modern Law* (Hart Publishing, 1998) and *The Verdict of the Court: Passing Judgment in Law and Psychology* (Hart Publishing, 2003).

Bruce J Winick is Professor of Law and Professor of Psychiatry and Behavioural Sciences at the University of Miami in Coral Gables, Florida, where he has taught since 1974. He is co-founder of the school of social enquiry known as therapeutic jurisprudence.

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Oliver R Goodenough has written on a wide variety of subjects relating to law and cognitive science. With Semir Zeki, he edited the 2004 special issue of the Philosophical Transactions of the Royal Society devoted to Law and the Brain, recently reprinted in book form by Oxford University Press. Currently a Professor at the Vermont Law School, Goodenough has also been a visiting Research Fellow at the Zoology Department at the University of Cambridge, a Lecturer at the University of Pennsylvania Law School, an

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Paul H Robinson is one of the world's leading experts on criminal law. He served as a federal prosecutor, as counsel for the US Senate Subcommittee on Criminal Law, and as one of the original commissioners of the US Sentencing Commission. He is the author of a dozen books, as well as scholarly articles in nearly every top US law review. Robinson, who has given scholarly lectures and assisted in criminal code reform throughout the world, led the only two recent criminal code reform projects in the United States and, under United Nations sponsorship, is currently drafting for the Maldives the first Islamic criminal code to use a modern code format.

Paul Dougan is Deputy Director of the LLM International Law Programmes at Brunel University, West London. After studying for science degrees at Oxford and Glasgow Universities, he qualified in law and his current research focuses upon issues in intellectual property law, transnational law, and international trade law, with forthcoming books in all three of these areas. He is a visiting lecturer on the MSc information Security programme at University College London and sits on the education committee of the Chartered Institute of Patent Agents.

Michael King is Professor in the School of Social Sciences and Law, Brunel University, UK. He has degrees in both law and psychology and has written on the relationship between the two disciplines. His books include *Psychology in and out of Court* (Pergamon, 1986), *How the Law Thinks about Children* (with C Piper, Arena, 1995) and *A Better World for Children* (Routledge, 1997). More recently, he has concentrated on the contribution of Niklas Luhmann's theory of autopoietic systems to understanding the relationship between law and psychology and, in particular, its application to decisions concerning children.

Fernand Gobet is Professor of Cognitive Psychology and Director of the Centre for the Study of Expertise at Brunel University. His research is oriented towards the psychology of expertise, the acquisition of language, computational modelling of cognitive process, computational scientific discovery, and evolutionary computation. His latest book, *Moves in Mind* (Psychology Press, 2004) provides a systematic study of the psychology of board games.

Jeffrey J Rachlinski received his BA and MA in Psychology from the Johns Hopkins University in 1988, his JD from Stanford Law School in 1993, and his PhD in Psychology in 1994. In 1994 he joined the faculty at the Cornell Law School and has taught as a visiting professor at the University of Chicago Law School, the University of Virginia Law School, the University of Pennsylvania Law School, Yale Law School, and Harvard Law School. His interests primarily involve the application of cognitive and social psychology to law.

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Anneli S Larsson PhD, is Research Associate at the Faculty of Social and Political Sciences, University of Cambridge. She received her PhD from Göteborg University, Sweden. Dr Larsson conducts research on interviewing techniques that help children to recount past experiences. She has a strong interest in promoting and protecting the rights of vulnerable groups such as abused and neglected children. Her research involves the assessment of factors that influence the accuracy and completeness of child abuse victims' reports. Her long-term intention is to work for a thorough and systematic implementation of relevant research findings within concerned authorities, establishments, and organizations.

Sarah Henderson is a Lecturer in Psychology at The Robert Gordon University, Aberdeen. Her main focus of interest is in the field of psychology and law, specifically in memory and memory disorders, and she is currently conducting research into the area of interviewing techniques in forensic settings.

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Helen J Self has campaigned for many years for legal justice for sex workers through her lecturing, writing, and reports on government papers and police initiatives. She has a BA in Social Science (history, sociology, social policy and law) and a PhD in Law from the University of Kent. Her thesis, entitled 'Prostitution, Women and Misuse of the Law. The Fallen Daughters of Eve' was published by Frank Cass in 2003. She has been a board member of the International Alliance of Women for six years and a member of the Josephine Butler Society Executive Committee for ten.

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1

Law and Psychology: Issues for Today

Belinda Brooks-Gordon and Michael Freeman

Lawyers' interests in psychology and psychologists' interests in law can be traced back a long way. Indeed, questions of a psychological nature were being asked about law long before psychology emerged as a discrete discipline. Thus, for example, the 1833 Commissioners in England were 'proud' to acknowledge their debt to Cesare Beccaria.[1] But they were much less confident than Beccaria that 'all relevant circumstances and aggravations could be expressed adequately in legal precepts'.[2] Also, in contrast to Beccaria, the factors they were willing to take cognizance of in distinguishing among 'gradations of crime, shades of guilt, and choices of punishment included a number of the offender's subjective characteristics', which, of course, Beccaria would have rejected 'as likely to lead to bias and inequality'.[3] Even at this early stage, then, law was grappling with nascent psychology and not finding its conclusions completely palatable.

Today, the disciplines of law and psychology have a more comfortable co-existence. Indeed, they may be said to be inextricably intertwined. Several journals have emerged to promote this interaction, notably *Law and Human Behavior*[4] and *Behavioral Sciences and the Law*.[5] It is not uncommon for law reviews, particularly in the United States, to devote whole issues to questions of law and psychology.[6] This is not surprising, for psychology underpins many legal decisions and is at the root of many legal principles. To take some obvious examples, legal evidence may rest upon mental state or degree of harm, on issues of duress or trauma, or questions may arise as to the limits of provocation as in the many notorious cases where battered women have killed violent husbands.[7] Legal decisions may also depend upon predictions about future behaviour, for

[1] L Radzinowicz and R Hood, *A History of English Criminal Law*, vol 5 (London, 1986) 726.
[2] ibid 727. [3] ibid. [4] Now in its 30th year of publication.
[5] 2006 is the 24th year of the publication of this work.
[6] eg see (2004) 69(4) *Missouri Law Review*.
[7] See *R v Thornton* [1992] 1 All ER 306; *R v Ahluwalia* [1992] 4 All ER 889. And see P Brett, 'The Physiology of Provocation' [1970] *Criminal Law Review* 634 (which shows that legal assumptions are not borne out by psychological/physiological evidence). See also A Browne, *When Battered Women Kill* (New York, 1987).

example determining which placement is in a child's best interests[8] or whether an offender should be released from an institution, a prison, or a mental hospital.[9] There are legal principles which are rooted in doctrines of free will. The relationship between thought and behaviour is inherently psychological.

The disciplines are most obviously related in the criminal law. All serious crimes and most minor offences require proof that the defendant had the relevant blameworthy state of mind.[10] The traditional term for the state of mind that must be proved—*mens rea*—is sometimes used to include all degrees of fault, including negligence. But whilst it may be obvious that intention and recklessness are mental states, it is more difficult to conceptualize negligence as a state of mind. Recently, in *R v G* Lord Bingham stated that it was 'a salutary principle' that conviction of serious crime should depend on proof 'not simply that the defendant caused an injurious result to another but that his state of mind when so acting was culpable'.[11] But despite his strong endorsement of the subjectivist position, Parliament in the United Kingdom shows a fondness for creating serious offences in which the fault element is explicitly objective: examples include many sexual offences in the Sexual Offences Act 2003 and some of the money laundering offences in the Proceeds of Crime Act 2002.

But, as the contributions to this volume make very clear, the impact of psychology upon law goes way beyond the criminal process. There have never been more opportunities than in today's evidence-based culture for psychologists to contribute to the legal process, both at the stage of policy-making—witness the debates on law and sexuality during the passage of the Sexual Offences Act of 2003[12]—and during trial processes. Examples can be found in the area of family law. For example, the clinical psychologist, using theoretical and empirical models as guides, can provide information to help a court to determine whether a child is suffering or is likely to suffer significant harm as a result of a deficit in care by a parent. And child psychiatrists also have contributions to make.[13] Nor is this the only area of family law litigation where clinical psychology can make its mark—there are many issues adjacent to divorce where children's welfare is at

[8] See R Mnookin, 'Child Custody Adjudication: Judicial Functions In The Face of Indeterminacy' (1975) 39 *Law and Contemporary Problems* 226.

[9] See DP Farrington and R Tarling (eds), *Prediction in Criminology* (Albany, NY, 1985). See also Special Issue of *Law and Human Behavior* (2005) 29(1).

[10] JC Smith, 'The Guilty Mind In The Criminal Law' (1960) 76 LQR 78.

[11] [2004] 1 AC 1034, 1055.

[12] See A Bainham and B Brooks-Gordon, 'Reforming The Law on Sexual Offences' in B Brooks-Gordon, L Gelsthorpe, M Johnson, and A Bainham (eds), *Sexuality Repositioned: Diversity and the Law* (Oxford, 2004) 260–96.

[13] Required for a care or supervision order under s 31(2) of the Children Act 1989; and see D Jones, A Bentovim, H Cameron, E Vizard, and S Wolkind, 'Significant Harm in Context: the Child Psychiatrist's Contribution' in M Adcock, R White, and A Hollows (eds), *Significant Harm* (Croydon, 1991) 125–36. 'Significant harm' is defined by clinical psychologists, much as it is by lawyers, as extreme delays in the child's cognitive, emotional, social, or behavioural development that is attributable to inadequate parenting.

stake—but whether the courts use psychological research when they can rely on their common sense, as they see it, and their own personal experiences may be doubted.[14]

There are some important landmarks in law and psychology, and a number of significant texts have helped to define the subdisciplines which have emerged. One of the earliest books was Haward's *Forensic Psychology*.[15] Three years before this a conference in Oxford led to Sally Lloyd-Bostock's *Psychology in Legal Contexts*.[16] This concentrated on the reliability of witness evidence, on interrogation and confession, the psychologist as expert (including a piece by Lionel Haward), legal language and communication (this examined whether legal jargon was a restrictive practice),[17] and the applications of psychology in areas of substantive law, including family violence.[18]

There have been important studies into eyewitness testimony; Elizabeth Loftus's appeared in 1979.[19] Her main reason for writing this was a long-standing concern with cases in which an innocent person has, as a result of false identification, been gaoled. She has since co-edited (with Gary Wells) *Eyewitness Testimony: Psychological Perspectives*[20]—this included a legal response to the 'inherent dangers' of eyewitness identification testimony.[21] And there is now a handbook written by Wells[22] and in addition several other studies,[23] and a considerable body of psychological research which examines in detail the criteria which affect the quality of identification evidence.[24]

There are also important overviews, for example by Hollin[25] and by Blackburn.[26] Blackburn addresses, albeit briefly, the problem of role ambiguity and the ethical dilemmas this may cause. Who is the client? Of course, it is not just in the context of law that this arises—it clearly occurs in health and education as well—but here there are issues of liberty at stake. A significant development is Bull and Carson's edited volume offering a comprehensive handbook.[27] It provides a framework for the three subdisciplines that, McGuire argues, have emerged in forensic psychology.[28] These are *criminological* psychology, which provides

[14] See P Harnett, 'The Contribution of Clinical Psychologists to Family Law Proceedings in England' (1995) 6 *The Journal of Forensic Psychiatry* 173.
[15] (London, 1981).
[16] (London, 1981).
[17] It would be nice to think that this has influenced the Woolf reforms, but we think this unlikely.
[18] By Michael Freeman (who has no recollection of writing this!).
[19] (Cambridge, Mass, 1979).
[20] (New York, 1984).
[21] By Joseph Grano (see 315–35).
[22] *Eyewitness Identification: A System Handbook* (Toronto, 1988). For some of the latest developments, see O Machin, L Zimmerman, and R S Malpass (2005) 29 *Law and Human Behavior* 303–21.
[23] Including B Clifford and R Bull, *The Psychology of Person Identification* (London, 1978).
[24] See B Cutler and S Penrod, *Mistaken Identification: The Eyewitness, Psychology and the Law* (New York, 1995) and G Wells and E Olson, 'Eyewitness Identification' (2003) 54 *Annual Review* of *Psychology* 277.
[25] *The Psychology of Crime* (London, 1989).
[26] *The Psychology of Criminal Conduct* (Chichester, 1993).
[27] *Handbook of Psychology in Legal Contexts* (Chichester, 1995).
[28] *Understanding Psychology and Crime* (Maidenhead, 2004).

explanations for and an understanding of offending behaviour—using direct research with offender populations in prison, probation, juvenile justice, and allied settings; *legal* psychology involving such things as the study of juries, decision-making process, eyewitness testimony, employment and discrimination issues, family law including child protection, and the scientific and ethical aspects of expert witness testimony; and *forensic* psychology, which includes research into memory for faces and events, witness reliability, interviewing vulnerable witnesses, false confessions, mental health tribunals, and hostage-taking. There is also *investigative* psychology, which includes offender-profiling[29] and explores crime scene analysis.

The history of the relationship of psychology with legal practice has been charted by Kapardis. He describes some recent influences on the inter-disciplinary enterprise such as the foundation in 1981 of the APA Psychology and Law Section, the setting up of the British Psychological Society Forensic Section, and the establishment of the European Association of Psychology and Law. There is now greater opportunity than there ever was for lawyers and psychologists to meet and to collaborate in a productive way.

This volume seeks to explore all the main areas of psychology:

(1) attribution (social knowledge and explanation);
(2) social identity (self-motives, self-esteem, impression management);
(3) values, beliefs and attitudes and their relationship to behaviour;
(4) persuasion and attitude change (arguments and behaviour);
(5) compliance and social influence (including obedience and conformity);
(6) groups (group cohesion, socialization, group structure);
(7) leadership and decision-making;
(8) prejudice (stigma and discrimination);
(9) inter-group behaviour (relative deprivation, realistic conflict);
(10) aggression (personal and situational factors);
(11) cognition and language communication; and
(12) culture (norms, contact between cultures).

And in doing so to relate them to law and its processes. The relationship of law and psychology is considered first in the three chapters by Jenny McEwan, Bruce Winick and Mandeep Dhami (Chapters 2 to 4). McEwan describes the points of contact between psychologists and lawyers since the Devlin Report of 1976[30] to analyse the classical psychological concept of attribution and how it has been used. Winick shows how therapeutic jurisprudence[31] can enhance the relationship

[29] See B Turvey, *Criminal Profiling* (London, 2002).
[30] *Evidence of Identification in Criminal Cases* (London, 1976).
[31] A term he coined together with David Wexler. See also Special Issue of *Contemporary Issues in Law* (2004) 7(1).

between psychology and law. Both McEwan and Winick discuss the contribution psychologists have made to the legal system. McEwan discusses confession evidence, identification evidence, and vulnerable witnesses—Winick, by contrast, offers a psychological approach to law that provides a new focus for law and psychology scholarship. He identifies new roles and contexts for clinical psychologists working in the legal system for transformative work, especially in the mental health system and offender rehabilitation. He offers a new lens though which to examine the legal system which both raises new questions and sets a new research agenda for immigration, juvenile justice, and human rights law.[32]

Dhami also bridges the divide between 'psychological reality' and 'legal idealism' in her study of magistrates' bail decisions in pre-trial cases. The performance of legal decision-makers is often divergent from, or in conflict with, legal ideals. Dhami presents original findings before scrutinizing the explanations for this practice, such as cognitive capabilities and task conditions, and offering potential interventions for change. Psychological research explains the inconsistencies in magistrates' decision-making, and why they do not work in accordance with due process considerations.

The law's relationship to the study of cognition is evaluated in the three chapters by Oliver Goodenough (Chapter 5); Paul Dougan, Fernand Gobet, and Michael King (Chapter 7); and Jeffrey Rachlinski (Chapter 8). Goodenough takes a provocative look at what psychology has offered the law. He argues that the limitations of some psychological models have prevented them from being foundational in law. His somewhat controversial chapter sets the scene for the chapters by Dougan and his colleagues and by Rachlinski. Dougan, Gobet and King use computational modelling to contrast legal and scientific communications. Rachlinski explores individual differences in the making of cognitive errors to consider the possibility of reducing the incidence of such errors in an identifiable group of people in the context of marketing techniques. This analysis shows that individual differences in cognitive errors cannot be overlooked.

Chapter 6—by Paul Robinson—shows how psychology is changing the debate about the theory of punishment. Psychology has been more successful, it may be thought, in helping the law to get its best evidence in forensic settings. Indeed, achieving the best evidence in such settings may be considered to be a major contribution of psychological scholarship to the legal process. It is certainly one of the ways in which psychology has altered the process of information gathering and analysis. In Chapter 9, Michael Lamb and Anneli Larsson explore developmentally appropriate interview techniques. In a state-of-the-art chapter, they encapsulate current understanding of the factors which affect children's ability to provide accurate information about experienced events. They discuss how to retrieve information, and how it can be communicated more effectively. They review

[32] For another application see C Shaffer, 'Therapeutic Domestic Violence Courts: An Efficient Approach to Adjudication?' (2004) 27 *Seattle University Law Review* 981–97.

current protocols to show how the interviewer can improve performance by changing his or her own behaviour so as to help children to retrieve as much remembered detail as possible, uncontaminated by the interviewer's own beliefs and expectations.

Sarah Henderson and Linda Taylor (Chapter 10) show how external stimuli, such as inappropriate questioning, can affect individual recall, especially in the preliminary legal interview and subsequent court process. They consider the impact of various questioning styles on recall, including complex syntax and vocabulary.

In Chapter 11, Aldert Vrij and Samantha Mann examine the extent to which the two lie detection methods of physiological response and speech content meet the criteria required for the admission of expert scientific evidence in criminal cases, according to the standard set by the *Daubert* decision of the US Supreme Court.[33] (Though it should be stressed this was not a criminal case.)

The major advances in our understanding of eyewitness identification—already referred to in this introduction—are explored further by Andrew Roberts (Chapter 12). He puts forward a theoretical framework into which this decision-making process can be placed. He demonstrates how the various aspects of procedure relate to, and might be affected by, what precedes and what follows in the legal process.

Helen Westcott's essay (Chapter 13) concludes this part of the collection. She examines where the gaps remain in current understandings of evidence, and she looks to the future by forging a new research agenda.

A number of chapters in this volume explore issues of family law: questions about the best interests of the child and about domestic violence featuring prominently. Nicholas Bala and Katherine Duvall Antonacopoulos (Chapter 14) focus on the clinical assessment by experts and mental health professionals as court-appointed assessors. Their chapter explores the influence of assessors. It investigates some of the controversies in the system as it exists and asks questions about the value of assessments as a source of information for judges and as assistance in reaching settlements. The extent to which it promotes the best interests of the child is also examined.

There are two contributions on domestic violence. Elizabeth Gilchrist (Chapter 15) reviews the research on domestic violence with a view to constructing typologies of perpetrators. With a focus on the best interests of children she reports on an ongoing study to explore issues related to risk and to child protection. Our understanding of domestic violence is further explored in relation to ethnicity and prejudice by Cynthia Willis Esqueda and Melissa Tehee

[33] 113 S Ct 2786 (1993). There is an extensive literature on this case including B Black, F Ayala, and C Saffron-Brinks (1994) 72 *Texas Law Review* 715, and J Sanders (1994) 78 *Minnesota Law Review* 1387.

(Chapter 16). They describe new legal and psychological approaches to violence against women in their research with Native American women.[34]

The theme of aggression permeates the chapters by Lizzie Barmes and Peter Bartlett (Chapters 17 and 18). Barmes examines psychological research on workplace bullying. She raises challenging questions about the application of learning derived from outside her own discipline of law to appraise legal responses to a growing social problem. The analysis of power issues and aggressive behaviour is taken a stage further by Bartlett, who considers the psychological issues raised by gay homicides. Drawing on data from a large study, he argues that these homicides are sufficiently similar to form a coherent subject for investigative study.

The development of human rights laws has given a new emphasis to the right of defendants to a fair trial. The problems of ensuring that this happens are aggravated when the trial is for terrorism. Neil Vidmar (Chapter 19) explores one aspect in particular of this problem: can we find jurors with sufficient impartiality to try such cases? Jurors will come to court against a background of intense media coverage, much, if not most, of it highly prejudicial to the defendant. Psychological research shows how prejudicial attitudes and beliefs can affect trial processes. Vidmar breaks down the dimensions of prejudice and advocates trial judges taking extraordinary steps to ensure a jury which can provide a fair trial.

Judith Fordham (Chapter 20) is also concerned to explore how juries process evidence, in particular how they assimilate, evaluate, and use expert testimony.

Justice for juveniles is a theme that runs through the next group of chapters. In the first of these (Chapter 21) Julia Fionda, Robert Jago, and Rachel Manning provide a critique of anti-social behaviour orders (ASBOs), which were introduced in England in 1998 as part of New Labour's 'respect' agenda. There is a concern now that these are over-used and are stigmatizing and, ultimately, criminalizing young people in particular. Far too many ASBOs have been imposed on learning disabled young people: estimates put the proportion as high as a third of such orders. Because ASBOs restrict space, they can be seen as an example of conflict over territory. Fionda and her colleagues challenge some manifestly outdated assumptions about the nature of group behaviour, and they look widely at some of the implications of these orders, for example at the criminogenic effects of 'grounding' young people.

Michael and Diane King (Chapter 22) are concerned about another group of young people, those with autism. They examine the ways in which legal decisions relating to the education of such children are taken. By applying a theoretical approach that concentrates on the interface between different social systems, they raise key questions about the claims of justice and how the educational needs of children with autism are met.

[34] For work on sexual abuse across American cultures—though this does not discuss Native Americans—see L Aronson Fontes, *Sexual Abuse in Nine American Cultures* (Thousand Oaks, California, 1995).

Ya'ir Ronen (Chapter 23) explores society's conflict over collective memory and the question of responsibility to minority groups. His chapter describes how professionals who fail to perceive this conflict can also fail to respond to individual suffering. By focusing on child protection and the public response to the victimization of young offenders, he shows how psychotherapists, judges, legislators, and also legal scholars can project meanings of their choice on to our collective and personal pasts. Such projections can then become part of the 'history' or 'the facts'.

In Chapters 24 and 25, issues relating to finance are addressed. Robert Mason and Safaa Amer discuss the dynamics of tax payment. How are we to persuade people to pay their taxes? What they found was that the persuasive force of a sanction threat is undermined because people interpret the message as being there to influence others rather than themselves. They look also at media messages: how these impact or are discounted and how this affects tax compliance.

Susan Block-Lieb and Edward Janger examine the mediated risk in consumer credit and bankruptcy (Chapter 25). In the light of the US Bankruptcy Act of 2005, they question the empirical accuracy of the picture painted of paradigmatic debtors by proponents of the legislation. They offer instead a more plausible and more problematic scenario of honest borrowing and inadvertent but crushing debt. Financial literacy, with large sanctions for the financially illiterate, is inevitable in the current climate. These two chapters illustrate important new terrain in which fruitful collaboration between law and psychology can take place.

In the final two chapters Helen Self (Chapter 26) explores the regulation of prostitution and Stephen Frosh (Chapter 27) the attitudes of the Nazis towards the 'Jewish science' of psychoanalysis. Although not immediately obvious, there is a link in these expositions. Both provide historical accounts of prejudice and intolerance. Self first explores the coercive intent running through prostitution legislation before we reach the 'New Labour' rhetoric of 'protecting the vulnerable', with its accompanying claims to be 'victim-centred'. She shows how the prostitute was constructed as 'the other' by the disciplines of psychology, psychiatry, and the law. She then explores the contemporary legal context, including the police strategy documents which have demonized clients but at the same time and paradoxically created a climate of greater vulnerability for sex workers.[35]

In Chapter 27, Stephen Frosh's paper reproduces the public lecture given at the end of the colloquium. It is about a clash of cultures, about prejudice and racism and the power of the state and of professional organizations. It describes and analyses what happens when the state tries to control science.[36] It offers, we believe, salutary lessons way beyond its immediate subject.

[35] An interesting comparison is with Victorian England: see the classic account by JR Walkowitz, *Prostitution and Victorian Society—women, class and the state* (Cambridge, 1980).

[36] An example of a text he does not discuss but which is highly pertinent, is O Weininger's *Sex and Character* (London, 1906) (previously published in Germany in 1903). And see further MC Nussbaum, *Hiding from Humanity—Disgust, Shame and the Law* (Princeton, NJ, 2004) 108.

As was said in the Preface, this colloquium was held against the backdrop of the London bombings. We would like to think that the productive discussions that took place at the colloquium and which are reflected in this volume contribute a little to our understanding of these events. The interface between law and psychology is not a bad place to begin exploring the issues of fear and control which surrounded the events of that day. The events gave the colloquium and this book a new relevance. It is clear to us that volumes such as this can promote understanding. We would hope that policy-makers will find important insights in this book and that researchers will investigate further some of the newer terrain explored herein.