



**TASA** The Australian  
Sociological Association

## Contact Email for March 2016

### **Sociology and the Law**

I have just started reading the 4 volume "Notable Historical Trials" edited by Justin Lovill, with an introduction by Sir John Mortimer, CBE, QC, (1923-2009), who was an English barrister, dramatist, screenwriter, and author. Sir John, in his introduction, suggests "There are three kinds of legal trials. Political trials, when the legal proceedings are merely a weapon by which the state chooses to obliterate its opponents, and which are too often, a cloak for judicial murder. There are the trials when what are put in the dock are not the accused's crimes but his or her ideas, or, frequently, ideals. Again, these are weapons with which the state has found it only too easy to stifle dissent. In such trials the law ventures into questions of morality, philosophy or the free expression of opinions, matters with which it is ill equipped to deal and where its clumsy attempts to capture abstract thought often lead to the same comic result as the spectacle of a policeman trying to arrest a sunbeam. These trials are usually a disaster for the law and, whatever the verdict, a moral victory for the person accused."

"The third class of trial is the one that has the best chance of being fair -- the decision as to the guilt or innocence of a citizen; accused of such matters as burglary or arson or murder, in which a jury can hear the arguments well presented on both sides and come, with a fair wind and a little bit of luck, to a just Verdict." The books run to over 500 pages in each volume and covers 43 trials, so I can't quote too much.

I have never thought much about Sociology and Law, and my Dictionary of Sociology suggests there is a place for such studies, but also suggests that the sociological input has been diluted by the rise in academia of socio-legal studies. Be this as it may, on reading the trial of Socrates I am inclined to suggest he was one of the first Sociologists. Socrates was charged with three things; he didn't believe in the City's gods and worshipped others, he corrupted the youth, and does evil. This apparently was a stock charge against philosophers. When Socrates begins his defence, we discover that what is annoying the upper classes, is that he has been doing research and by so doing is seen as meddling in forbidden things. This attitude that research, whether scientific or sociological, is still seen today, by some at least, as meddling in forbidden things, such as challenging political views, or religious ideas. At least youth seem to be able, in part at least, to corrupt themselves and researchers no longer get the blame.

However, there is a danger in some research presentation, where numbers are seen as the definitive answer to everything. Percentages of who people will vote for whom, or the people who answered yes to a question. I have always been sceptical of questionnaires that add up the numbers and see this as a definitive result.

Leach, in a critique (1967) of another study, suggested that some of the interpretation of an apparently, unproblematic survey data, collected a few years earlier, was convincing only because the main researchers, already familiar with the region, arrived inadvertently at their conclusions by intuitive methods. The numerical apparatus in which these conclusions are embedded seems to Leach to be very largely a complicated piece of self-deception'

Plato, who was at Socrates trial, has left us this observation: A good decision is based on knowledge and not on numbers. What does sociology say about law where you work?

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