

FORUM

MANDATORY SENTENCING LEGISLATION: JUDICIAL DISCRETION AND JUST DESERTS

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FOREWORD

The object of *Forum* is to encourage thoughtful and intelligent debate on issues relevant to the law. Vigorous argument and analysis of current legal affairs is for the most part impossible in the general media, and it is hoped that the provision of a separate arena such as *Forum*, devoted to discussion of legal matters by the legal community, will promote better awareness and understanding of such issues within academic, professional, judicial and other circles.

Mandatory sentencing legislation raises issues which are fundamental to our criminal justice system. In particular, it questions what factors the community believes should be taken into account in determining criminal sanctions. By establishing uniform and inflexible criminal penalties, parliament removes the discretion of judges to consider the subjective characteristics of individual offenders and the unique circumstances of their offences. Inevitably, this will produce anomalous results.

In Australia, mandatory sentencing laws have impacted disproportionately on young and Indigenous people. The decisions about which offences to punish with mandatory penalties have tended to be highly political in nature and short term in perspective. This issue of *Forum* seeks to contextualise the debate about mandatory sentencing in Australia, to assess the aims of such legislation and to evaluate its impact.

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