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### Penal scandal in New Zealand

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#### Introduction

Over the past 15 years or so, increasing attention has been given to what is thought to constitute “public opinion” in relation to the development of sentencing and penal policy. The views and aspirations of the general public are regularly invoked by politicians, usually as a justification for more severe sentencing, or when drawing attention to perceived inadequacies in existing criminal justice and penal systems. For example, Tony Blair has claimed that “there are more prison places, sentences are longer and sentences are tougher but if you look where the public is on this issue, the gap between what they expect and what they get is bigger in this service than anywhere else *and we have got to bridge it*” (*The Guardian* 9 June 2006, p 1, my italics). The clear implications of this and similar speeches that have been made by politicians in many other western countries are that in this area the views of the general public are paramount, and that there is something seriously amiss when public expectations are not being met by those implementing or delivering policy.

This chapter intends to address three aspects of these developments. First, what is it that is meant by the term “public opinion”? This is of considerable importance as there is a large gap between the findings of social scientific public opinion research and more volatile impressions of public mood, usually based on newspaper headlines or the like: it will be argued that it is the latter that politicians usually have in mind when they speak to public expectations in this area. Secondly, what is the sociological significance of all these invocations of the public and exhortations to judges and policy-makers? It will be argued that these are symptomatic of a new axis of power which has come into play and which significantly reorganises both the terms of penal debate and who is allowed to contribute to this. Thirdly, what consequences does this have for understanding policy development and the input of the general public, or at least those who claim to speak on its behalf? By reference to current developments in New Zealand, it will be argued that popular commonsense can now become a privileged driver of policy: but at the same time, in the more emotive context in which penal policy is now decided, strategic use of scandal is one way to undermine its influence. Scandal should not be understood as the exclusive property of the law and order lobby.

This is a preview. Not all pages are shown.

- 4 See *New Zealand Herald*, “Our Idle Jails”, 25 February 2006 to 4 March 2006; *The Dominion Post*, “Bulging Prisons Spark Rethink”, 25 February: A10.

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