

***Murder, Mazengarb and a Moral Panic:  
The Intersection of 'Juvenile Delinquency' and the  
Media in 1950s New Zealand***

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**I INTRODUCTION**

In 1954, New Zealand experienced a moral panic. Misbehaviour among the nation's youth brought the issue of 'juvenile delinquency' to the forefront and concerned adults, searching for an answer, fixated upon comic books as a cause of this depravity. As a result, New Zealand's censorship law underwent significant changes, demonstrating the inextricable link between law and society as the legislature responded to this national concern. This article looks first at the events that triggered the 1954 moral panic and the role of media in orchestrating it. The next section examines the Special Committee on Moral Delinquency in Children and Adolescents (the Mazengarb Committee), which made recommendations about the development of New Zealand's media law. The remainder analyses the Indecent Publications Amendment Act 1954 (IPAA), the censorship legislation that was designed to prohibit 'indecent' literature. This legislation caused major issues in terms of its hasty enactment and curtailment of adult reading matter, which ultimately led to its repeal. This article therefore provides a historical case study on how society, including the press, helped to procure legislative change, and how the societal impact of that legislation led to its own demise. The ramifications of legal change can only truly be understood in their social context, and the moral panic of 1954 and its legal aftermath are a superb example of the interaction between law and society.

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## II CREATION OF A MORAL PANIC

### What is a Moral Panic?

A moral panic describes the hype and fear that occurs when a social problem is exaggerated beyond its actual threat. Stanley Cohen has described the process of a moral panic as:<sup>1</sup>

A condition ... [that] emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians and other right-thinking people; socially accredited experts pronounce their diagnoses and solutions; ways of coping are evolved or (more often) resorted to; the condition then disappears, submerges or deteriorates and becomes more visible.

A moral panic is therefore sudden and judgemental, involving moral prognosis on the part of the media, politicians and other pressure groups in society. The moral panic of 1954 in New Zealand concerned 'juvenile delinquency'. This was a flexible concept used in the 1950s to castigate certain youthful behaviour, including gang formation and sexual activity.<sup>2</sup> Cohen argued that a successful moral panic needs a soft target that can be easily denounced.<sup>3</sup> Deviant teenagers and adolescents could therefore be viewed as such a target in 1954.<sup>4</sup>

The panic over delinquency in 1950s New Zealand intersected with another national concern: the impact of 'indecent' literature,<sup>5</sup> particularly comic books, upon children.<sup>6</sup> Concern about comics extended back to the 1930s and the Second World War,<sup>7</sup> but in 1954, New Zealanders were becoming acquainted with Wertham's *Seduction of the Innocent* (1953).<sup>8</sup> Wertham's work, which fuelled the anti-comic movement in Western

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1 Stanley Cohen *Folk Devils and Moral Panics* (3rd ed, Routledge, Abingdon (UK), 2002) at 1.

2 Bronwyn Dalley *Family Matters: Child Welfare in Twentieth-Century New Zealand* (Auckland University Press, Auckland, 1998) at 180.

3 Cohen, above n 1, at xi.

4 For example, a letter to the Prime Minister in 1954 stated that there had been "persecution of young people by righteous adults". See: Letter from a Christchurch publisher to SG Holland regarding juvenile delinquency (14 July 1954). This letter is available at the Alexander Turnbull Library, Wellington.

5 'Indecent literature' is used in this article as a broad term to encompass literature that garnered public disapproval in the 1950s, particularly pulp fiction and comic books.

6 Roy Shuker and Roger Openshaw "'Worthless and Indecent Literature': Comics and Moral Panic in Early Post-War New Zealand" in Roy Shuker, Roger Openshaw with Janet Soler *Youth, Media and Moral Panic in New Zealand (From Hooligans to Video Nasties)* (Massey University, Palmerston North, 1990) 83 at 87.

7 See *ibid.*, at 84.

8 Chris Watson and Roy Shuker *In the Public Good? Censorship in New Zealand* (Dunmore Press, Palmerston North, 1998) at 127.

countries,<sup>9</sup> condemned comic books that exposed children to violence, bloodshed, torture, lust and highly sexualised female characters.<sup>10</sup> Wertham claimed that the reading of crime novels engendered serious delinquency,<sup>11</sup> as the violent, immoral and sadistic nature of comics turned young people into criminals.<sup>12</sup> Consequently, in New Zealand and elsewhere, there was debate and controversy over the role of comics in causing juvenile delinquency and a fear that children may copy the behaviour depicted in comics.<sup>13</sup> In this way, indecent literature can be seen as the ‘villain’ of the 1954 moral panic.

A feature of a moral panic, though, is its exaggerated character. Dalley has argued that the widespread perception of a rise in delinquency did not reflect the reality.<sup>14</sup> She asserted that the castigation of juvenile delinquency in the 1950s had more to do with adult perceptions about social change in post-Second World War New Zealand than with actual adolescent behaviour.<sup>15</sup> Shuker concurred that historical moral panics concerning youth in New Zealand, including the 1950s fear of juvenile delinquency, were “greatly exaggerated” and that the “perceived threat to social harmony was by no means as ominous as many regarded it”.<sup>16</sup> Arguably, the moral panic over juvenile delinquency in 1954 was an adult preoccupation taken out of proportion.

### Social Change and Unease

Besley has argued that “moral panics tend to occur in times of profound social change”.<sup>17</sup> The 1950s was a time of major social change and uncertainty in New Zealand.<sup>18</sup> Urbanisation and mass migration were taking place,<sup>19</sup> as people moved to urban centres to find employment in manufacturing industries.<sup>20</sup> The post-war baby boom also heralded the rise of a more youthful population,<sup>21</sup> with 50,000 babies born each year during the first half of the 1950s.<sup>22</sup> Young people, as a group, became increasingly

9 Paul Christoffel *Censored: A Short History of Censorship in New Zealand* (Department of Internal Affairs, Wellington, 1989) at 21.

10 Frederic Wertham *Seduction of the Innocent* (Museum Press Edition, London, 1955) as cited in Shuker and Openshaw “‘Worthless and Indecent Literature’”, above n 6, at 89.

11 Wertham, as cited in *ibid*, at 90.

12 Christoffel, above n 9, at 21.

13 Watson and Shuker, above n 8, at 132.

14 Dalley, above n 2, at 180.

15 *Ibid*.

16 Roy Shuker “Introduction” in Roy Shuker, Roger Openshaw with Janet Soler *Youth, Media and Moral Panic in New Zealand (From Hooligans to Video Nasties)* (Massey University, Palmerston North, 1990) 1 at 1.

17 Tina Besley *Counseling Youth: Foucault, Power and the Ethics of Subjectivity* (Praeger Publishers, Westport (USA), 2002) at 152.

18 *Ibid*, at 159; Watson and Shuker, above n 8, at 41.

19 Besley, above n 17, at 159; Redmer Yska *All Shook Up: The Flash Bodge and the Rise of the New Zealand Teenager in the Fifties* (Penguin, Auckland, 1993) at 45 and 47.

20 Yska, above n 19, at 47.

21 Besley, above n 17, at 159.

22 Yska, above n 19, at 40.

visible, especially due to the expansion of mandatory education and the increased number of young people staying longer in secondary and post-secondary education.<sup>23</sup> Consumerism also contributed towards young people's visibility.<sup>24</sup> Young people who lived in the cities enjoyed leisure time and had access to employment and discretionary income.<sup>25</sup> Industries producing consumable goods such as fashion and music thus targeted young people as a group,<sup>26</sup> and many young people became strongly influenced by the globalisation of American youth culture.<sup>27</sup> However, many older people were resistant to the rise of a new and distinct youth culture during this period.<sup>28</sup> This set the scene for a moral panic over the conduct of New Zealand youth in the 1950s.

### The 'Trigger Events'

In this context of social change, two 'trigger events' sparked the moral panic over juvenile delinquency in 1954. A trigger event is a "cue-to-action" that focuses attention and action on a particular issue.<sup>29</sup> The Hutt Valley incident was one of these.<sup>30</sup> In June 1954, a teenage girl informed the police in Petone that she was a member of a gang of youths that met for sexual purposes.<sup>31</sup> The girl named her fellow gang members, allowing the police to "gain admissions and evidence of sexual misconduct by 65 young people".<sup>32</sup> As a result, 107 charges were laid,<sup>33</sup> including indecent assault and carnal knowledge of girls under 16,<sup>34</sup> with 6 boys admitted to probation.<sup>35</sup> Five girls and one boy were also admitted to the care of the state, and four girls and seven boys were placed under supervision.<sup>36</sup> The 'delinquency' thereby revealed was widespread sexual activity amongst youth to a degree that many adults found shocking.

The other event that served to shock New Zealand in 1954 was the Christchurch murder of Honora Parker by her teenage daughter Pauline, and Pauline's best friend, Juliet Hulme.<sup>37</sup> Both girls participated in

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23 Shuker, above n 16, at 2.

24 Ibid.

25 Yska, above n 19, at 47.

26 Ibid, at 55.

27 Ibid, at 38.

28 Besley, above n 17, at 159.

29 JW Deary and EM Rogers *Communication Concepts 6: Agenda-Setting* (Sage, Thousand Oaks (CA), 1996) as quoted in Chas Critcher *Moral Panics and the Media* (Open University Press, Buckingham, 2003) at 136.

30 See Watson and Shuker, above n 8, at 128.

31 Special Committee on Moral Delinquency in Children and Adolescents "Report of the Special Committee on Moral Delinquency in Children and Adolescents" [1954] IV AJHR H-47 [The Mazengarb Report] at 8.

32 Ibid.

33 Ibid, at 9.

34 Watson and Shuker, above n 8, at 128.

35 The Mazengarb Report, above n 31, at 9.

36 Ibid.

37 See Watson and Shuker, above n 8, at 130.

clubbing Honora to death with half a brick in a stocking.<sup>38</sup> The murder trial of Parker and Hulme resonated with the theme of juvenile delinquency in numerous ways.<sup>39</sup> For example, there was the violent nature of the matricide as well as hints that Pauline had engaged in a sexual relationship with a young male boarder. Expert witnesses at the trial also concluded that the two girls were homosexual.<sup>40</sup> The trial of Parker and Hulme as well as the Hutt Valley incident thereby emphasised two main aspects of juvenile delinquency: criminality and sexual precocity, which unsettled and disturbed many adults.

### The Role of the Media

The media was instrumental in creating this perception of juvenile delinquency as a grave social problem. At a fundamental level, it was the media that elected the matricide trial and Hutt Valley incident as newsworthy, and then communicated these events to the rest of the country in 1954.<sup>41</sup> More importantly, the New Zealand media has played a major role in influencing public perception of, and official response to, moral panics concerning youth.<sup>42</sup> It has been shown that juvenile delinquency was subject to intense media scrutiny from July to November 1954.<sup>43</sup> Both the trial of Parker and Hulme as well as the Hutt Valley incident received media attention around the same time and made headlines throughout July.<sup>44</sup> Through reporting on these events, the media was able to create the perception of widespread juvenile delinquency.

One example is an article in *NZ Truth* concerning the Hutt Valley sex incident.<sup>45</sup> It quoted Senior Sergeant FW Le Fort, who stated:<sup>46</sup>

These investigations revealed a shocking degree of immoral conduct which spread into sexual orgies perpetuated in several private homes during the absence of parents, and in several second-rate Hutt Valley theatres, where familiarity between youths and girls was rife and commonplace.

The media similarly focused on the matricide trial. A piece of writing in *The Dominion* devoted almost five and a half columns to detailing the crime and included extracts from Parker's diary confessing her desire to kill her

38 Yska, above n 19, at 60.

39 "'Milkbar Cowboys and Matricide': The Press and 'Juvenile Immorality' in the Hutt, 1954" in Roy Shuker, Roger Openshaw with Janet Soler (eds) *Youth, Media & Moral Panic in New Zealand (From Hooligans to Video Nasties)* (Massey University, Palmerston North, 1990) 19 ["Milkbar Cowboys"] at 22.

40 *Ibid.*

41 This selection and communication is important in creating a moral panic: see Critcher, above n 29, at 133; see also Cohen, above n 1, at xxiii–xxiv.

42 Shuker, above n 16, at 1.

43 "'Milkbar Cowboys'", above n 39, at 19.

44 *Ibid.*, at 22.

45 "Moral Delinquency Said to be Widespread" *NZ Truth* (New Zealand, 14 July 1954) at 9.

46 As quoted in *ibid.*

mother.<sup>47</sup> The media sensationalised this issue further by quoting from the religious sector: “Only the pedlars of organised vice will object to the implication that adolescent morals are a matter of national importance.”<sup>48</sup> *The New Zealand Herald* further reported that:<sup>49</sup>

[T]he nature of the allegations in the Hutt Valley, with the evil taint of organised vice clinging to them, will make many parents welcome the widest possible [governmental] inquiry, if only for their own peace of mind.

The press strongly condemned “disturbing and immoral” juvenile behaviour,<sup>50</sup> and depicted an exaggerated view of the entire nation as suffering from delinquency.<sup>51</sup>

Other events sustained press interest in the theme of juvenile delinquency. For example, on 5 August 1954, headlines announced that a 14-year-old schoolboy in Auckland had killed a younger boy.<sup>52</sup> Then, in mid-August, statistics taken from information released by the Justice Department indicated that the rate of sex crimes was far higher in New Zealand than in England.<sup>53</sup> While media attention focused on these further revelations as well as on the hearings of a special committee formed to investigate juvenile immorality,<sup>54</sup> only minor coverage was given to those who opposed the view of widespread delinquency.<sup>55</sup> Consequently, by September 1954, the perception of the delinquent crime wave had reached alarming heights within the media.<sup>56</sup>

The press also speculated that films and ‘indecent’ literature were a cause of delinquency.<sup>57</sup> An article in *The New Zealand Herald* quoted the clerk of the Auckland Presbytery, who stated:<sup>58</sup>

The pressure of sex-laden so-called comics, the cheap escapism of many radio serials, the false glamour of the unreal film world, and many other subtle forces, deliberately catering for the ‘teen-ager, present a pseudo-philosophy which has many of our youth in its grip.

47 “Young Girls to Stand Trial on Joint Murder Charge” *The Dominion* (Wellington, 17 July 1954) at 12.

48 Reverend Dr Owen Snedden as quoted in “Church’s Solution for ‘Moral Sickness’” *The New Zealand Herald* (Auckland, 19 July 1954) at 10.

49 Editorial “Juvenile Morality Inquiry” *The New Zealand Herald* (Auckland, 13 July 1954) at 8.

50 “Milkbar Cowboys”, above n 39, at 19.

51 *Ibid.*, at 22.

52 *Ibid.*, at 26; “Schoolboy Faces Murder Charge” *The New Zealand Herald* (Auckland, 5 August 1954) at 13.

53 “Milkbar Cowboys”, above n 39, at 26–27.

54 *Ibid.*, at 25.

55 *Ibid.*, at 24.

56 *Ibid.*, at 27.

57 *Ibid.*, at 23 and 27.

58 Reverend FR Belmer as quoted in “No Increase in Court Cases in City” *The New Zealand Herald* (Auckland, 13 July 1954) at 8.

Letters to the editor also emphasised the link between juvenile immorality and popular culture. One letter writer felt that the law should condemn all literature falling short of sufficiently high moral standards.<sup>59</sup> Another advocated the banning of “highly sensational, sexual and horror rubbish” in favour of wholesome entertainment for children.<sup>60</sup> Voices of authority also contributed to establishing this link between indecent literature and youthful misbehaviour. On 14 July 1954, *The Evening Post* ran an article detailing recent debate in Parliament, in which two members — the Minister for the Welfare of Women and Children and a parliamentarian making his maiden speech — had called for greater stringency in controlling young people’s access to literature that was perceived to have a corrupting influence.<sup>61</sup> This sentiment was reflected in the article’s headline, which proclaimed that the “Cure is Strictness, Not Laxity” as far as access to indecent material was concerned.<sup>62</sup> The press thereby brought indecent literature within the scope of the problem of delinquency.

Some parliamentarians criticised the New Zealand press for failing to handle the issue of juvenile delinquency with sufficient discretion. Michael Moohan, the Member for Petone, condemned the press for unwarranted sensationalism.<sup>63</sup> He stated that the press had a responsibility to preserve the good name of New Zealand but that the murder trial of Parker and Hulme had been treated with “sheer sensationalism”.<sup>64</sup> Other politicians agreed that the press coverage had been “harmful” and “sordid”.<sup>65</sup> However, an article in *The Dominion* stated that while the matricide trial received extensive publicity, this coverage was warranted as it would focus public concern on the issue of juvenile immorality.<sup>66</sup> In this way, the press justified wide coverage of juvenile delinquency by emphasising the seriousness of the issue.

### Political Internalisation

By mid-1954, parliamentarians had internalised the belief that New Zealand was suffering from juvenile delinquency and that comic books were partly to blame,<sup>67</sup> as speeches in the House of Representatives show. In early July, parliamentarian Henry May insisted that government action was necessary

59 ‘Clean Up’ (letter to the editor) “Unclean Periodicals” *The New Zealand Herald* (Auckland, 21 August 1954) at 10.

60 FW Guy (letter to the editor) “Responsibility to Youth” *The Dominion* (Wellington, 27 July 1954) at 8.

61 “Cure is Strictness, Not Laxity — Mrs Ross” *The Evening Post* (Wellington, 14 July 1954) [“Cure is Strictness, Not Laxity”] at 10. The content of these speeches will be discussed in further detail in the section “Political Internalisation”.

62 *Ibid.*

63 (28 September 1954) 304 NZPD 2009.

64 *Ibid.*, at 2010.

65 *Ibid.*, at 2026 and 2030.

66 Editorial “Out of Evil May Come Good” *The Dominion* (Wellington, 1 September 1954) at 8.

67 See Watson and Shuker, above n 8, at 130.

to stall “the flood of suggestive comics and magazines and pornographic literature” from entering New Zealand.<sup>68</sup> Another parliamentarian also felt that some of the recent “sordid” happenings were “premeditated” and he implicated the role of popular culture in inspiring this delinquency.<sup>69</sup> Hilda Ross, the Minister for the Welfare of Women and Children, was the most virulent. She lamented the “unclean literature which [was] flooding the country”, believing that the propagation of lustful images in trashy magazines and unclean reading matter would lead to societal degradation and increased sexual offending.<sup>70</sup> Ross labelled comic books as “powerful stimulants to sadism” that encouraged “admiration of successful villainy, contempt for the law, and almost every other antisocial activity”.<sup>71</sup> Thus censorship was needed to counter the “national emergency” of delinquency.<sup>72</sup> This shows clear internalisation of the belief that comics were to blame for juvenile misbehaviour.

### **Media, Politics and Perception**

Whilst these politicians were convinced of the magnitude of juvenile delinquency, it is pertinent to ask whether the greater populace shared these concerns. Cohen, in his case study of a 1960s moral panic, found that the public was able to form less exaggerated opinions than those found in the media,<sup>73</sup> which suggests that the images disseminated by the press were not always shared by its readers. Critcher has asserted that it does not matter whether the public share these concerns or not, for the media neither creates nor reflects public opinion, but constructs it.<sup>74</sup> He argued that a moral panic is created by the communication between claim makers,<sup>75</sup> the political elite and the media.<sup>76</sup> The potential for a moral panic arises where enough of these groups agree that “there is an issue and that action is necessary”.<sup>77</sup> All that was needed to create a moral panic in 1954 were the claims of the media, with support from politicians and pressure groups, that juvenile delinquency existed. The formation of a special committee to inquire into delinquency facilitated this process.

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68 (13 July 1954) 303 NZPD 374. This speech had been the subject of “Cure is Strictness, Not Laxity”, above n 61.

69 (15 July 1954) 303 NZPD 446.

70 (13 July 1954) 303 NZPD 377. This speech was also the subject of “Cure is Strictness, Not Laxity”, above n 61.

71 *Ibid.*, at 378.

72 *Ibid.*, at 379.

73 Cohen, above n 1, at 49–55.

74 Critcher, above n 29, at 137–138.

75 ‘Claim makers’ are non-official sources of information, such as pressure groups: *ibid.*, at 134–136.

76 *Ibid.*, at 138.

77 *Ibid.*

### III POLITICAL RESPONSE: THE MAZENGARB INQUIRY

#### Creation of a Special Committee

The New Zealand government was proactive on the issue of delinquency. On 23 July 1954, the Mazengarb Committee was appointed to consider youthful misbehaviour.<sup>78</sup> Its chairman was OC Mazengarb QC.<sup>79</sup> It has been argued that an official inquiry during a moral panic “temporarily appeases the moral campaigners and dissipates the sense of panic”.<sup>80</sup> Seen in this light, the Mazengarb Committee of 1954 was a means by which the government could be seen to be actively addressing the problem of juvenile delinquency. The Mazengarb Committee’s Order of Reference read:<sup>81</sup>

To inquire into and report upon conditions and influences that tend to undermine standards of sexual morality of children and adolescents in New Zealand, and the extent to which such conditions and influences are operative, and to make recommendations to the Government for positive action by both public and private agencies, or otherwise.

The Mazengarb Committee was composed of seven members, including the Archdiocesan President of the Catholic Women’s League and the Director of the Division of Child Hygiene in the Health Department.<sup>82</sup> While all members of the Mazengarb Committee were middle-class professionals, there were no social workers, educationalists or any others with practical experience in adolescent misbehaviour.<sup>83</sup> Nor were any of the Committee’s members youthful: Nigel Stace, President of the Junior Chamber of Commerce,<sup>84</sup> was asked to serve on the Mazengarb Committee as a representative of youth.<sup>85</sup> He was 39.<sup>86</sup> Although the subject matter of the inquiry was very much focused on youth, the composition of the Mazengarb Committee reflected the idea that juvenile delinquency was an adult concern.

#### Evidence Heard by the Mazengarb Committee

The Committee commenced hearings in Wellington on 3 August 1954.<sup>87</sup> It

78 The Mazengarb Report, above n 31, at 7.

79 Ibid, at 1.

80 Stuart Hall and others “The Changing Shape of ‘Panics’” in Chas Critcher (ed) *Critical Readings in Moral Panics and the Media* (Open University Press, Maidenhead (UK), 2006) 41 at 43.

81 The Mazengarb Report, above n 31, at 7.

82 Ibid, at inside front cover.

83 Yska, above n 19, at 70.

84 Ibid, at 69–70.

85 Ibid, at 70.

86 Ibid.

87 The Mazengarb Report, above n 31, at 7.

then sat in Christchurch on 31 August and 1 September before travelling to Auckland, where it sat from 6 to 10 September.<sup>88</sup> The Committee heard 145 people in total.<sup>89</sup> Many expressed a belief that indecent literature contributed to juvenile delinquency. Person A<sup>90</sup> felt that the type of literature accessible to children was one of the major causes of delinquency,<sup>91</sup> while Person B, though not in favour of censorship, advocated the prohibition of pulp fiction and magazines of a criminal or sexual nature.<sup>92</sup> Person C similarly felt that youth were surrounded by sex appeal, which contributed to delinquency, and could be found in films and popular songs as well as literature.<sup>93</sup> Person D also expressed concern that he had found high school pupils in a store reading literature featuring nude women, and felt that young people had ample means of learning indecent behaviour.<sup>94</sup> One person had even conducted their own empirical research into the availability of indecent literature. This person had bought 37 comics at random and spent two months analysing their contents, finding on average eight direct sexual allusions per comic (although some had none).<sup>95</sup> Such people perpetuated the belief that indecent literature contributed to delinquency.

The Mazengarb Committee also received information from the academic quarter, which evinced a more equivocal response. Academic X felt that there was insufficient research to show that literature or the cinema had a detrimental effect on children, although it may gently “push” a child that was already inclined to misbehave, towards further deviancy.<sup>96</sup> Academic Y also felt that comic books were not a major cause of delinquency; rather, they were a contributory factor that impacted upon community and moral values.<sup>97</sup> In this way, even if the evidence did not always establish a direct link between popular culture and delinquency, some academics conceded that indecent literature might have contributed towards youthful misbehaviour.

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88 Ibid.

89 Ibid.

90 Due to privacy concerns, the names of individuals have been suppressed in this article.

91 Hearings of the Special Committee on Moral Delinquency in Children and Adolescents, Part I (3–10 August 1954) at D 2. The transcripts of these hearings, as well as the submissions to the Mazengarb Committee that are referenced in this article, are available at the Alexander Turnbull Library, Wellington.

92 Ibid, at V 4.

93 Hearings of the Special Committee on Moral delinquency in Children and Adolescents, Part III (30 August–7 September 1954) at 7A 3–4.

94 Hearings of the Special Committee on Moral Delinquency in Children and Adolescents, Part II (10–13 August 1954) at 4G 3.

95 Hearings of the Special Committee on Moral Delinquency in Children and Adolescents, Part IV (7–13 September 1954) at 8B 2.

96 Hearings of the Special Committee on Moral Delinquency in Children and Adolescents, Part II, above n 94, at 4W 1.

97 Hearings of the Special Committee on Moral Delinquency in Children and Adolescents, Part IV, above n 95, at 8M 1.

### Submissions Received by the Mazengarb Committee

The Mazengarb Committee received 203 written submissions.<sup>98</sup> Most of these emphasised the role of indecent literature in causing delinquency. One religious group submitted that the widespread distribution of objectionable literature, which glorified crime and overemphasised sexual pleasure, threatened the moral life of New Zealand.<sup>99</sup> A submission made on behalf of the Communist Party of New Zealand similarly felt that, although most children were not directly affected by indecent literature, “a constant barrage of these horror comics” could make even a model citizen “deteriorate”.<sup>100</sup> A private citizen also submitted that while there needed to be censorship of the cinema, radio, comics and magazines, the basic fault of such media was that it presented false values, focused too much on sex, and failed to “indicate the kind of behaviour likely to lead to happy marriage and responsible parenthood”.<sup>101</sup> A submission from the Hastings Housewives Union even stated that, alongside the prohibition of “questionable sexy magazines”, there needed to be moderation in advertising women’s underwear.<sup>102</sup> In this way, submissions received by the Mazengarb Committee further emphasised the role of indecent literature in causing abnormal juvenile behaviour.

### Findings and Recommendations of the Mazengarb Committee

The Mazengarb Committee’s findings were published in *The Report of the Special Committee on Moral Delinquency in Children and Adolescents* (the Mazengarb Report), which was tabled before Parliament on 21 September 1954.<sup>103</sup> The Mazengarb Report concluded that there was a new and alarming type of immorality among young people in New Zealand.<sup>104</sup> This was characterised by female sexual precocity, homosexuality and younger people increasingly engaging in sex, alongside other factors.<sup>105</sup> In searching for causes, the Report reflected the conviction that popular culture, including comics, film and radio, was a major factor in delinquency.<sup>106</sup> The Report stated that pulp fiction did not, in itself, cause delinquency, but excited immorality in youth to an “unhealthy degree of sexual emotionalism”.<sup>107</sup>

98 Special Committee on Moral Delinquency in Children and Adolescents, above n 31, at 7.

99 Catholic Youth Movement, Wellington “Submission to the Special Committee on Moral Delinquency in Children and Adolescents”.

100 On behalf of the Communist Party of New Zealand “Submission to the Special Committee on Moral Delinquency in Children and Adolescents” (12 August 1954) at 2.

101 Private citizen from Auckland “Submission to the Special Committee on Moral Delinquency in Children and Adolescents” at 1 and 4.

102 Hastings Housewives Union “Submission to the Special Committee on Moral Delinquency in Children and Adolescents” (24 August 1954).

103 Yska, above n 19, at 77.

104 The Mazengarb Report, above n 31, at 17.

105 Ibid, at 15–16.

106 Watson and Shuker, above n 8, at 131.

107 The Mazengarb Report, above n 31, at 18.

The Mazengarb Committee recommended a number of strict controls to combat indecent literature. It proposed the banning of literature “injurious” to children, in order to encourage better reading material and discourage publishers from distributing indecent material.<sup>108</sup> The definition of “indecent literature” in censorship legislation also needed to be enlarged so as to cover all material that unduly emphasised sex, crime or horror.<sup>109</sup> Furthermore, the Mazengarb Committee recommended requiring all distributors of books, magazines and periodicals to register their names as well as the titles of their publications, so that their licence to distribute could be cancelled if they offended against censorship legislation as amended.<sup>110</sup>

Other outlets of popular culture were also targeted, namely film, radio and advertising. In regards to film, the Report recommended the restriction of youth admissions for films with adult content. Other practices such as the screening of inappropriate trailers and the use of sex and sadism in advertising films through posters and newspapers were also deemed undesirable.<sup>111</sup> Radio broadcasting was similarly criticised; the Mazengarb Committee felt that children often listened to the radio for too long in the evenings and consequently heard material not intended for them.<sup>112</sup> The consequences for youth would not be serious if the message that “crime does not pay” was apparent in crime serials,<sup>113</sup> but there needed to be greater care taken by the Broadcasting Service in arranging and timing radio programmes.<sup>114</sup> Advertising was another problematic medium. The Mazengarb Committee felt that advertisements increasingly featured sex, horror and crime, necessitating a rise in standards.<sup>115</sup> In coming to these conclusions, the Mazengarb Committee admitted that it was impossible to say how influential the media was in directly causing delinquency, and acknowledged that popular culture may only have had a secondary impact.<sup>116</sup> Nevertheless, the Mazengarb Committee insisted that controls were necessary to show concern for the moral welfare of New Zealand youth.<sup>117</sup> The undesirable material needed to be replaced with something better.<sup>118</sup>

### **Evaluation of the Mazengarb Committee’s Findings and Methods**

Both contemporary and later commentators have criticised the overall methodology and findings of the Mazengarb Committee. At the time,

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108 *Ibid.*, at 19.

109 *Ibid.*, at 62.

110 *Ibid.*

111 *Ibid.*, at 20–21.

112 *Ibid.*, at 22.

113 *Ibid.*

114 *Ibid.*, at 60.

115 *Ibid.*, at 23.

116 *Ibid.*, at 23.

117 *Ibid.*

118 *Ibid.*

Wellington's Elected Committee of Citizens believed that the Mazengarb Committee's methods were "unscientific" and that it lacked the participation of experts.<sup>119</sup> The group's submission to a special select committee considering the Mazengarb Report in the mid-1950s disapproved of the reliance on statements of personal opinion, unsupported by evidence or full inquiry. These statements, "offering faint faith in New Zealand education", should not have received nationwide publicity.<sup>120</sup>

Official reaction to the inquiry also varied. On one hand, there was approval. The Social Security Department distributed the Mazengarb Report to all households in New Zealand receiving the family benefit, orphan's benefit or war pension, so that by March 1955, nearly 300,000 copies had been distributed.<sup>121</sup> On the other hand, when interest was expressed from New York in publishing the Report in the *Ladies Home Journal*,<sup>122</sup> the Secretary of Internal Affairs declined the invitation. He replied:<sup>123</sup>

We doubt whether it is advisable that the report should receive worldwide publicity of this nature. It does not give a balanced picture of New Zealand life, nor of juvenile behaviour in this country. For the sake of the good repute of New Zealand, it therefore seems preferable that publicity should be discouraged rather than welcomed.

In this way, there were contemporary doubts about the methods and findings of the Mazengarb Committee.

The evidence used by the Mazengarb Committee was also suspect. For example, the Committee had considered the views of religious, social and youth groups but did not seek the advice of professionals who had expertise in the matter.<sup>124</sup> No delinquent youths were interviewed, either.<sup>125</sup> These factors indicate bias, in that the Mazengarb Committee failed to consider the evidence of those with the most practical experience and insight into juvenile misbehaviour. Moreover, much of the evidence heard by the Mazengarb Committee was second-hand,<sup>126</sup> which calls into account its verity and validity. Although the Report admitted that much of the evidence was secondary or hearsay, the lack of direct evidence on indecent behaviour did not deter the Committee from looking at the

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119 Dalley, above n 2, at 187.

120 Elected Committee of Citizens, Wellington "Submission to the Special Select Committee of Parliament" (28 February 1955) as quoted in *ibid.*, at 188.

121 *Ibid.*, at 187.

122 Yska, above n 19, at 83.

123 AD McIntosh, Secretary of Internal Affairs Memo to Counsellor, New Zealand Government Office, New York as quoted in *ibid.*, at 84.

124 Dalley, above n 2, at 181.

125 The Mazengarb Report, above n 31, at 8.

126 Besley, above n 17, at 154.

problem in general.<sup>127</sup> Without reliable statistics to ascertain whether immorality among youth was, in fact, increasing,<sup>128</sup> the Committee stated that the phenomenon of sexual laxity was a matter of impression, based on inference from known facts.<sup>129</sup> Arguably, the findings of the Mazengarb Committee completely lacked substantial foundation.

Jack Somerville, a member of the Mazengarb Committee, later admitted that the work of the Committee was “painfully moralistic” but that it “appeased the public thirst for an inquiry into events which were exaggerated at the time beyond their importance”.<sup>130</sup> It is therefore important not to disconnect the Mazengarb inquiry from its social context: it was action taken by a government in the midst of a moral panic, where exaggeration, morality and judgement became intertwined. It was in this environment that changes to New Zealand’s censorship law occurred.

#### IV THE INDECENT PUBLICATIONS AMENDMENT ACT 1954

##### Creation of Legislation

Whether there was evidence or not, a widespread belief existed amongst parliamentarians in 1954 that comic books and other forms of indecent literature contributed to juvenile delinquency.<sup>131</sup> Before the Mazengarb Report was tabled before the House of Representatives on 21 September 1954, Prime Minister Sidney Holland stated: “This matter [of juvenile delinquency] is a serious and grave social problem and the Government will not hesitate to take whatever action is called for.”<sup>132</sup> The response taken was in the form of legislation, which, according to Critcher, symbolised the “resolution of the moral panic”.<sup>133</sup> Three statutes were enacted to address deviant behaviour, one of these being the IPAA.<sup>134</sup> OC Mazengarb and Nigel Stace assisted in drafting the new legislation,<sup>135</sup> which shows the input of the Mazengarb inquiry in precipitating legislative change.

The first reading of the Indecent Publications Amendment Bill 1954 took place on 24 September.<sup>136</sup> The Associate Minister of Finance stated in his address that the Bill aimed to suppress “pulp literature”.<sup>137</sup>

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127 The Mazengarb Report, above n 31, at 8.

128 Ibid at 10.

129 Ibid, at 11.

130 Radio New Zealand *Spectrum* (14 August 1991) as quoted in Yska, above n 19, at 83.

131 Christoffel, above n 9, at 22.

132 (21 September 1954) 304 NZPD 1835.

133 Critcher, above n 29, at 141.

134 Watson and Shuker, above n 8, at 131.

135 Yska, above n 19, at 79.

136 (24 September 1954) 304 NZPD 1943–1944.

137 Ibid, at 1944.

On 28 September, the Bill had its second reading,<sup>138</sup> where the Minister stated that the Bill's purpose was to fix liability for distributing indecent literature on the distributor.<sup>139</sup> He believed that the public would welcome this legislation as a positive measure to prevent the pollution of young minds by "the flood of worthless, depraved, and harmful magazines and booklets which threaten[ed] to engulf New Zealand".<sup>140</sup> The Bill had its third reading the next day,<sup>141</sup> and passed into law on 1 October 1954.<sup>142</sup> The IPAA was thereby rapidly enacted with the specific intention of targeting indecent literature.

A factor behind the speedy enactment of the IPAA was that 1954 was an election year. The issues of juvenile delinquency and indecent literature became national concerns at a time when there was little else to preoccupy the nation's imagination.<sup>143</sup> Each party therefore felt committed to addressing the problem of delinquency.<sup>144</sup> Thus, when the IPAA and two other pieces of legislation designed to combat youth delinquency were enacted, none were opposed.<sup>145</sup> A parliamentarian even commented that party politics had not really entered the debate,<sup>146</sup> demonstrating the high degree of political unity in enacting the IPAA and other legislation to reduce delinquency. New Zealand was also not alone in passing legislation aimed to combat delinquency, echoing overseas concerns about comic books.<sup>147</sup> For example, legislation was passed in Britain to ban the sale of comics.<sup>148</sup> The IPAA itself was also based on legislation passed in Victoria, Australia.<sup>149</sup> In this way, the enactment of the IPAA is evidence of the transnational character of the anti-comic campaign in the 1950s.

### Provisions of the IPAA

The IPAA amended the Indecent Publications Act 1910 (the principal Act). The principal Act gave a very broad definition of "indecent document", which included almost any publication or written material containing "indecent" matter.<sup>150</sup> Anybody who disseminated an "indecent document" was guilty of an offence.<sup>151</sup> The IPAA amended s 6 of the principal Act, which deemed certain matter to be "indecent". Section 3 of the IPAA added

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138 (28 September 1954) 304 NZPD 2034.

139 *Ibid.*, at 2006.

140 *Ibid.*, at 2007.

141 (29 September 1954) 304 NZPD 2034; Yska, above n 19, at 80.

142 Yska, above n 19, at 80.

143 See Watson and Shuker, above n 8, at 127.

144 Stuart Perry *The Indecent Publications Tribunal* (Whitcombe and Tombs, Christchurch, 1965) at 50.

145 Christoffel, above n 9, at 22.

146 (28 September 1954) 304 NZPD 2027.

147 Watson and Shuker, above n 8, at 132.

148 Shuker and Openshaw "'Worthless and Indecent Literature'", above n 6, at 92-93.

149 See "Australian Laws on Literature" *The Dominion* (Wellington, 1 October 1954) at 8; Watson and Shuker, above n 8, at 132.

150 Indecent Publications Act 1910, s 2.

151 *Ibid.*, s 3.

to the list of subjects in s 6 anything that “unduly emphasises matters of sex, horror, crime, cruelty, or violence”.<sup>152</sup> Section 5 of the principal Act had also set out factors for a magistrate to consider when determining whether a document was indecent or not, such as literary merit.<sup>153</sup> Section 2 of the IPAA replaced this section with a codified version and inserted a new factor: the actual, intended or likely audience of the document and the tendency of the document to deprave or corrupt that audience.<sup>154</sup> Amendments to New Zealand’s censorship law clearly extended to pulp fiction and comic books.

The IPAA also set out a system of registration for book distributors. Section 5 required the registration of all distributors of printed matter in New Zealand. “Printed matter” was defined in s 4(1) as including all documentation apart from newspapers and certain literature such as business or religious texts. “Distributor” meant the publisher of all matter printed in New Zealand or, in regards to matter published outside New Zealand, the person “primarily responsible for its distribution or sale in New Zealand”.<sup>155</sup> Under s 9 of the IPAA, no distributor could sell or distribute any printed matter unless they were registered. All printed matter was to be marked with the name and address of the distributor.<sup>156</sup> If a distributor committed an offence against the IPAA or the principal Act, then the court had the discretion to cancel or suspend that person’s registration.<sup>157</sup> Breaching the IPAA could also lead to a fine or imprisonment under s 15(1). This system thereby set out further controls to suppress “indecent” literature.

### The Mechanics of Censorship

In the 1950s, the Customs Department and the Justice Department both governed indecent publications under the legislative scheme.<sup>158</sup> The Customs Department was involved because imported books formed 80 to 90 per cent of the total sold in New Zealand.<sup>159</sup> It was advised in its censorship work by a Literary Advisory Committee, while the Justice Department had two committees of its own to provide advice.<sup>160</sup> A problem emerged in that “department officials often failed to consult the advisory committees or ignored their advice”.<sup>161</sup> Moreover, the Customs and Justice Departments sometimes made contradictory decisions.<sup>162</sup> For example, the Justice Department had banned the novel *Mandingo* in 1959, but the

152 Indecent Publications Amendment Act 1954 (IPAA), s 3.

153 Indecent Publications Act 1910, s 5.

154 *Ibid.*, s 5(1)(d).

155 IPAA, ss 4(1)(a) and (b).

156 *Ibid.*, s 10.

157 *Ibid.*, s 11(1).

158 See Roy Parsons “Indecent Publications and the New Act of 1963” (1964) 27 *New Zealand Libraries* 49 at 53.

159 *Ibid.*, at 54.

160 Christoffel, above n 9, at 23.

161 *Ibid.*

162 *Ibid.*, at 24.

Customs Department did not follow suit for another four years.<sup>163</sup> These were the difficulties involved when five different bodies administered a broad definition of “indecent” as amended by the IPAA.<sup>164</sup>

The law worked against those who possessed or disseminated indecent literature in two ways. First, the police could apply for a search warrant to seize any indecent documents from those yet to commit an offence against the principal Act.<sup>165</sup> The seized goods were then brought before a magistrate, who had to be persuaded not to destroy the documents.<sup>166</sup> Prosecution could also begin with the leave of the Attorney-General against those who had allegedly committed an offence.<sup>167</sup> A magistrate would try the case and decide if the goods were “indecent”.<sup>168</sup> An example of state intervention in the name of censorship was the book purge suffered in 1955 by dairy proprietress Nellie Bell, who had received three copies of *The Nude Was Framed* and other American novels.<sup>169</sup> Although her distributor had vouched for the legality of the books, Bell was nevertheless required to appear in court, answering questions concerning 107 copies of 11 books published by Milestone Books of America.<sup>170</sup> She was not convicted but the local magistrate ordered the incineration of *The Nude Was Framed* and similar titles under the IPAA.<sup>171</sup> This demonstrates how the new censorship provisions could have severe legal and economic impacts on New Zealand businesses.

### “Panic Legislation”

Some commentators have described the IPAA as “panic legislation”.<sup>172</sup> This means that the legislation was hastily drafted and implemented with little consideration for the wider political, economic or social implications. On 28 September 1954, a piece of writing in *The Press* expressed the concern that hastily written legislation on important subjects might be ill-informed and be written virtually overnight.<sup>173</sup> No doubt parliamentarians had good intentions, but their eagerness to pass legislation might undermine the importance of thorough consideration.<sup>174</sup> The IPAA was the result of such a process.

Of particular concern, given that the Act provided for compulsory

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163 Ibid.

164 Ibid, at 23.

165 WJ Scott “Indecency in Literature” (1959) 13 *Landfall* 311 at 312.

166 Ibid.

167 Ibid.

168 Ibid.

169 Yska, above n 19, at 87.

170 Ibid.

171 Ibid.

172 Gordon Tait *The Bartlett Syndrome: Censorship in New Zealand* (Freedom to Read, Christchurch, from lectures delivered in 1979) at 4; Perry, above n 144, at 50.

173 *The Press* (28 September 1954) as quoted in Perry, above n 144, at 47.

174 As cited in *ibid*.

registration of book distributors, was the lack of government consultation with booksellers.<sup>175</sup> The registration provisions had practical implications for those involved in the book trade in New Zealand. These provisions were widely condemned, given the logistical problem of registering more than 500 importers and publishers and the perceived bureaucratic intrusion.<sup>176</sup> Booksellers also felt that marking all printed matter with the distributors' details would be a time-consuming task.<sup>177</sup> While the registration of distributors was no longer required by the latter part of the 1950s,<sup>178</sup> a greater chance to participate in the formation of the legislation would have been appreciated.

The academic response to the new legislation was also scathing. Campbell, a law lecturer at Victoria University College,<sup>179</sup> published a critique of the registration provisions of the IPAA.<sup>180</sup> He noted that interested parties had had little opportunity to participate in the formation of the Act and suggested "that the Act bristles with ambiguities, and that its enactment was an ill-considered move".<sup>181</sup> Campbell thought that marking every single document with the name and address of the distributor would impose a cumbersome burden on those in the book trade, especially importers who handled thousands of items.<sup>182</sup> The procedure was "indefensible" unless there were no other ways of suppressing indecent literature.<sup>183</sup> He therefore suggested an alternative: make it compulsory for a person in the possession of an indecent document to reveal the source of supply.<sup>184</sup> Campbell concluded his critique by labelling the IPAA a "monumental instance of misdirected bureaucratic control" and stated that one of the first things the legislature should do in 1955 was to repeal the IPAA in its entirety.<sup>185</sup>

The press response further highlighted the perception that the IPAA and the other pieces of legislation designed to combat delinquency were panic legislation. This was ironic, given that the press had earlier supported legislative change and amplified public concern over juvenile delinquency.<sup>186</sup> It shows, however, contemporary concerns as to the efficacy of the new legislation. *The Christchurch Star-Sun* stated that "mature consideration ... could present a finished job rather than the hurried patchwork".<sup>187</sup> The *Wanganui Chronicle* similarly felt that the legislation

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175 Ibid, at 50–51; Dalley, above n 2, at 188.

176 Christoffel, above n 9, at 23; Yska, above n 19, at 89.

177 Parsons, above n 158, at 51.

178 Yska, above n 19, at 104; s 4(1) of the Indecent Publications Amendment Act 1958 (an enactment that also repealed and amended other sections of the Indecent Publications Act 1910).

179 "Milkbar Cowboys", above n 39, at 29.

180 ID Campbell "The Indecent Publications Amendment Act, 1954" (1954) 30 NZLJ 293.

181 Ibid.

182 Ibid, at 294.

183 Ibid.

184 Ibid.

185 Ibid.

186 "Milkbar Cowboys", above n 39, at 29.

187 *The Christchurch Star-Sun* (29 September 1954) as quoted in Dalley, above n 2, at 188.

looked “to be spineless, consistent with the customary technique once again of seeming to do something and yet committing the Government to no decision at all”.<sup>188</sup> In November, an article in *The Evening Post* publicised a public meeting in Wellington in which a speaker stated: “The dramatic and unexpected publicity about the behaviour of a few juveniles had shocked the Government into action and this atmosphere of shock, sensation, and shame had handicapped the inquiry.”<sup>189</sup> This highlights the social context of the legislative changes: that the government had acted in response to a moral panic.

### Inherent Conflict of Censorship

A further issue with the IPAA was the effect it had on curtailing adults’ reading matter. Proponents of the legislative scheme argued that stricter censorship was necessary to protect children from the corrupting influence of comic books. Others, however, wondered at its impact on reducing available reading matter in New Zealand. This conflict was expressed in the House of Representatives in August 1954, when parliamentarian Richard Gerard felt that it was relevant to ask “where the censorship and control should stop, and the freedom of the people should begin”.<sup>190</sup> This was a concern that others shared.

It has been argued that in moral panics about youth, the state has historically assumed responsibility for regulating the activities of youth via legislation.<sup>191</sup> When the moral panic is about popular culture, then children and youth are seen as the main group at risk from the medium, and censorship emerges in the public good.<sup>192</sup> The moral panic of 1954 contained both elements — concern about juvenile delinquency and the influence of popular culture on this behaviour — so that statutory censorship was both a means to regulate juvenile behaviour and to protect young people from the corrupting influence of comic books.

The contemporary arguments put forward in favour of heightened censorship thereby reflected concern for New Zealand’s youth. WJ Scott, a contributor to the literary journal *Landfall*, stated in 1959 that while the law should interfere as little as possible with one’s choice of reading material, society, particularly the young, should be protected from the influence of “purely pornographic” publications.<sup>193</sup> The Indecent Publications Act 1910 as amended was consequently a “sensible” piece of legislation, which accommodated both the protection of the young and reasonable freedom

188 *Wanganui Chronicle* (30 September 1954) as quoted in *ibid.*

189 *The Evening Post* (3 November 1954) as quoted in Yska, above n 19, at 82.

190 (20 August 1954) 304 NZPD 1328.

191 Roy Shuker and Roger Openshaw “Conclusion” in Roy Shuker, Roger Openshaw with Janet Soler *Youth, Media and Moral Panic in New Zealand (From Hooligans to Video Nasties)* (Massey University, Palmerston North, 1990) 105 at 105.

192 *Ibid.*

193 Scott, above n 165, at 318.

of reading matter.<sup>194</sup> Scott explained that all law-abiding people in a democracy must make a decision as to what is ‘indecent’ at some stage, and that such people accepted that this line should be drawn arbitrarily but at a generally acceptable point in censorship legislation, thereby creating a “rough and ready social compromise”.<sup>195</sup> Some parliamentarians shared this view. In August 1954, the Member for Riccarton argued that while abstract human rights and the protection of human liberty should not be “unduly infringed”, it became “a different matter when the minds of young people were being poisoned”.<sup>196</sup> The protection of children was therefore prioritised over freedom of expression.

Others, however, were gravely concerned. In July 1954, *The Christchurch Star-Sun* stated that “in the slashing of the parasitical growths on the tree of culture care must be taken lest the tree itself suffer”.<sup>197</sup> The writer also stated: “It could be easy ... to justify censorship for the protection of the young, where no justification could be found on the ground of protecting the adult.”<sup>198</sup> MSL Vale, President of the New Zealand Booksellers’ Association,<sup>199</sup> shared this concern. Vale felt that trade in indecent literature should be suppressed, but was equally concerned that “freedom of books, a previous democratic privilege, should remain for the adult”.<sup>200</sup> He felt that reputable books that frankly discussed sex might be deemed indecent by the judiciary under the new legislation.<sup>201</sup> Vale’s concerns were not without basis: in Christchurch, the Booksellers’ Association confirmed a rumour that Hans Christian Andersen’s fairy tales had been considered for banning, as they contained violence including decapitation.<sup>202</sup> No action was taken, and *The Press* responded: “It was just as well. We would have been the laughing-stock of the world[.]”<sup>203</sup> There were therefore very real concerns that the Indecent Publications Act 1910 as amended would impact heavily on freedom of reading material.

### Lack of Transparency

It was also difficult for those involved in the book trade to know which publications were deemed “indecent” under the new legislation. The Justice Minister, John Marshall, was unwilling to reveal a list of banned books for fear that this would actually increase interest in them.<sup>204</sup> Furthermore, he did not believe that the suppression of comic books

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194 Ibid, at 316 and 318.

195 Ibid, at 314.

196 (20 August 1954) 304 NZPD 1321.

197 “Inquiry May Include Comics” *The Christchurch Star-Sun* (Christchurch, 28 July 1954).

198 Ibid.

199 Perry, above n 144, at 51.

200 *The Dominion* (1 October 1954) as quoted in *ibid.*, at 51.

201 *The Dominion* (1 October 1954) as cited in *ibid.*

202 Yska, above n 19, at 94.

203 *The Press* (15 July 1955) as quoted in *ibid.*

204 Ibid, at 91; (17 August 1955) 306 NZPD 1826.

constituted censorship; rather, he regarded it as merely the “cleaning up” of indecent literature.<sup>205</sup> To publicise a list of banned publications would therefore look like censorship.<sup>206</sup> The Customs Department did make lists of restricted or prohibited books available to those in the book trade, but these were often messy, particularly where amendments or additions were made.<sup>207</sup> Consequently, it was difficult for a bookseller or distributor to screen their stock for indecent material as they had little official guidance.

The definition of “indecent” literature under the indecent publications legislation also lacked transparency. One difficulty, when interpreting s 6 of the amended Indecent Publications Act 1910, was determining the exact degree of “sex, horror, crime, cruelty or violence” that made a particular publication “indecent”.<sup>208</sup> Even New Zealand’s judiciary agreed that the phrase “unduly emphasises” in s 6 of the Indecent Publications Act 1910 as amended was problematic.<sup>209</sup> Parliamentarians had pointed to the subjective nature of ‘indecenty’ even before the IPAA was enacted. In August of 1954, the Member for Marlborough stated that there was danger in defining “indecent” literature, as what is considered indecent now might not be so in a few years’ time.<sup>210</sup> In this way, it could be difficult to determine exactly what was prohibited.

### The *Lolita* Decision

These two themes — the ambiguity of ‘indecenty’ and fears that adults’ reading matter might be curtailed — came to a head when the judiciary came to consider whether the novel *Lolita* was “indecent” under the Indecent Publications Act 1910 as amended. The origins of the case are extraordinary. In 1959, the Minister of Customs prohibited the novel — which details the sexual desire of a middle-aged man for an adolescent girl — as an indecent document.<sup>211</sup> The Minister then publicly invited contestation of this decision.<sup>212</sup> If a party was willing to import *Lolita* into New Zealand, then the novel could be seized, which would allow the judiciary to determine whether it was indecent or not.<sup>213</sup> The New Zealand Council for Civil Liberties took up this invitation, thereby initiating proceedings.<sup>214</sup> The case was heard at first instance by Hutchison J in the Supreme Court.<sup>215</sup> He considered that a book had to be judged by the

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205 (17 August 1955) 306 NZPD 1825.

206 *Ibid.*, at 1826.

207 Parsons, above n 158, at 54–55.

208 Watson and Shuker, above n 8, at 131.

209 *Re “Lolita”* [1960] NZLR 871 (SC) at 876; *Re Lolita* [1961] NZLR 542 (CA) at 559.

210 (20 August 1954) 304 NZPD 1318.

211 *Re “Lolita”* [1960] NZLR 871 (SC) at 871–872 and 876.

212 *Ibid.*, at 872.

213 *Ibid.*

214 *Ibid.*

215 *Ibid.*, at 871.

standards of the community to determine whether it was “indecent”.<sup>216</sup> He believed that the theme of *Lolita* was “a perverted sexual aberration” and taken as a whole, the book unduly emphasised matters of sex.<sup>217</sup> The novel also acted as an aphrodisiac, and so had a tendency to corrupt or deprave under s 5(1)(d) of the Indecent Publications Act 1910 as amended by the IPAA.<sup>218</sup> Hutchison J therefore affirmed the bar on importing *Lolita*.

This decision was appealed in the Court of Appeal, with the majority agreeing that *Lolita* was “indecent” under the indecent publications legislation. North and Cleary JJ felt that under s 6 of the Indecent Publications Act 1910 as amended, a publication unduly emphasised sex if it offended against the standards of the community.<sup>219</sup> North J felt that *Lolita* failed this standard as the author had written “a very lewd book, in which an abnormal sexual relationship is the all absorbing subject”.<sup>220</sup> Cleary J also felt that *Lolita* lacked restraint in detailing a number of erotic episodes and that the “repugnant” theme had received such “constant and disproportionate” emphasis as to render the book objectionable.<sup>221</sup> It was inevitable, then, that the majority found that the book had a tendency to corrupt or deprave under s 5(1)(d) of the Act,<sup>222</sup> meaning that *Lolita* was held to be “indecent”.

Gresson P dissented. He did not consider that a document that unduly emphasised sex should be decided by the standards of the community, as these standards would likely be subjective and diverse.<sup>223</sup> Gresson P found that *Lolita* did not unduly emphasise sex as it was wholly devoted to a sexual theme, so it was necessary that sex be given prominence.<sup>224</sup> In regards to whether *Lolita* would corrupt or deprave, he did not think that it would,<sup>225</sup> as the book was so “boring and tedious” that not many people would read it in any depth.<sup>226</sup> He stated:<sup>227</sup>

I do not think that a book innocuous to adults is to be denied to a community merely because its theme or passages in it may conceivably be injurious to juvenile minds.

In this way, Gresson P gave a strong argument as to why *Lolita* should be available in New Zealand.

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<sup>216</sup> *Ibid.*, at 876.

<sup>217</sup> *Ibid.*, at 876 and 878.

<sup>218</sup> *Ibid.*, at 878–879.

<sup>219</sup> *Re Lolita* [1961] NZLR 542 (CA) at 559–560 and 568.

<sup>220</sup> *Ibid.*, at 564.

<sup>221</sup> *Ibid.*, at 570 and 571.

<sup>222</sup> *Ibid.*, at 566 and 571–572.

<sup>223</sup> *Ibid.*, at 549.

<sup>224</sup> *Ibid.*, at 548.

<sup>225</sup> *Ibid.*, at 550–551.

<sup>226</sup> *Ibid.*, at 550.

<sup>227</sup> *Ibid.*, at 551.

## Need for Reform

These proceedings confirmed the fear that the Indecent Publications Act 1910 as amended did, in fact, curtail reading material for adults. The New Zealand Centre of the PEN wrote to the Minister of Justice in the wake of the Supreme Court's decision, arguing that legal proceedings governing censorship could "exclude from this country a large proportion of the world's great literature".<sup>228</sup> This association consequently urged the government to revise the legislation as it applied to acclaimed literature.<sup>229</sup> The Court of Appeal's decision also showed the Indecent Publications Act 1910 as amended by the IPAA to be "a muddy pond where it should have been crystal clear", as one commentator has stated.<sup>230</sup> This can be seen in the split in the Court about whether common standards of the community should be used to determine if a publication unduly emphasised sex. Consequently, the banning of *Lolita* under legislation originally aimed at comics and pulp fiction created an opposing demand for liberalisation of the law.<sup>231</sup> This decision displayed the inherent dilemma faced by those who draft censorship law: in protecting one section of society from inappropriate material, another section of society had their freedom of reading material curtailed.

An advisory committee, however, had been established in 1959 to discuss changes in the Indecent Publications Act 1910.<sup>232</sup> Its deliberations led to the enactment of the Indecent Publications Act 1963, which repealed both the Indecent Publications Act 1910 and the IPAA.<sup>233</sup> The Indecent Publications Tribunal was established and Gresson P, the dissenting judge in the Court of Appeal *Lolita* decision, became its chairman.<sup>234</sup> A new meaning of "indecency" was provided, with the Tribunal being the only body which could make a decision as to "indecency".<sup>235</sup> The real importance of this legislative change, however, was that it resulted from the ramifications of the IPAA. Hastily enacted legislation that unnecessarily restricted reading matter led to public dissatisfaction, which in turn prompted further law change. Once again, the law was shaped in response to societal pressure.

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228 Letter from the Honorary Secretary of the New Zealand Centre of the PEN to the Honourable HGR Mason regarding the Supreme Court's decision (28 October 1960) as quoted in Perry, above n 144, at 63.

229 Letter as cited in *ibid*, at 64.

230 *Ibid*, at 67.

231 Christoffel, above n 9, at 24.

232 Parsons, above n 158, at 56.

233 *Ibid*, at 59.

234 Christoffel, above n 9, at 24; Parsons, above n 158, at 56.

235 Parsons, above n 158, at 58–60.

## V LESSONS FOR TODAY

This article has considered the events of 1954 and their subsequent effect through the lens of a moral panic. Such a perspective explains the events of the past in a way that is accessible to modern audiences. What is the value of the moral panic analysis in this particular case study for contemporary society? For a legal audience, it highlights the process that results in “panic legislation”. The Mazengarb inquiry, which led directly to the IPAA, was predicated on biased thought and opinion. As part of a moral panic narrative, it forms the point at which the New Zealand government firmly brought the perceived issue of juvenile delinquency into the political arena. The results of the inquiry informed the legislature’s response to the problem of juvenile misbehaviour, whether real or imagined.

Such a relationship between government inquiry and subsequent legislation shows the importance of engaging with primary, rather than secondary, sources of information. Receiving input from relevant interest groups is crucial to ensure that the most accurate information can be obtained and the most effective strategies can be implemented. The biased methodology of the Mazengarb inquiry serves as a reminder to modern audiences of the dangers of misconceived judgement. Personal subjectivity on the part of those who undertake such inquiry can never be erased but it should be possible, if a diverse range of views are represented on an investigating committee, for this to be mitigated. That diversity was lacking on the 1954 Mazengarb Committee, resulting in a potentially misleading view that New Zealand’s young people were indeed more corrupt than in previous decades.

The bias inherent in the Mazengarb inquiry drove the changes in New Zealand’s censorship legislation brought about by the IPAA. This is perhaps where the practical effect of the moral panic is felt, for new legislation results in new law upon which it is incumbent for lawyers to interpret and to instruct clients. Problems arise, as they did in 1954, whenever “panic legislation” is formed. What is “panic legislation” can be a subjective matter: what appears to be hasty, ill-formed legislation to one person may appear to someone else to be a sensible resolution to the problem. There is no doubt that some people did feel that the IPAA enacted sensible changes to control the corrupting effect of indecent literature. Yet its rapid enactment and lack of adequate consultation with those affected by the registration provisions, as well as the problems over its broad definition of what was “indecent”, suggest that it was an expedient response to the issue of delinquency.

It is true that all legislation, to a degree, is political and that this element can never be eliminated. There have been more recent examples in New Zealand of what could be termed “panic legislation”. The Foreshore and Seabed Act 2004, which vested the public foreshore and seabed in the

Crown to the detriment of Māori with potential customary title claims, can be seen as another example of “panic legislation”. The Act was hastily enacted, with both the second and third readings taking place in a matter of days under urgency.<sup>236</sup> Compared with the IPAA, enacted almost 50 years earlier, a pattern emerges in regards to this sort of “panic legislation”: rapid enactment lacking adequate consultation with those most affected. The context of a moral panic can explain why such legislation occurs: fear and exaggeration of the problem become intertwined, hindering careful and considered decision-making. Recognition that the morality and righteousness of the issue have been overemphasised, however, can allow for a more balanced examination of the issue at hand. Political issues can never be removed from statute law, but if the dangers of hasty enactment under the conditions described above are recognised, the harms could be appropriately mitigated. Politicians might take more deliberate care in crafting legislation on a subject that has seized popular passions and the national consciousness. Any subsequent dissatisfaction with so-called “panic legislation” — necessitating further legislative changes or even repeal in a relatively short period of time after enactment — might be avoided.

Within this narrative of a moral panic, the importance of the media also emerges. New Zealanders of 1954 read and digested newspapers, just as they do today. Newspapers both informed and entertained; the sensationalised news reports of the Parker and Hulme murder trial satisfied both accounts. Such reporting is important in that it constructs a reality that accords with the hype and exaggeration of the moral panic. This is not the same as saying that it reflects community concern. In 1954, a number of people agreed with the image perpetuated by the media of juvenile delinquency, and believed that popular entertainment was, at least partly, to blame for this. Yet it should not be presumed that the entire country shared these concerns. The media did, however, paint a certain image of New Zealand youth, one that was reflected in the findings of the Mazengarb inquiry.

Critcher’s suggestion that moral panics are created by a synergy between newspapers, politicians and pressure groups — the last two often receiving voice in the media — is therefore apt. It shows the role that the media has in constructing a reality that heightens emotion surrounding an issue. This connection between the reality created by the media and the political response can perhaps be the subject of greater research and raises questions about the quality of media reporting. Do consumers of news reporting desire objective, well-balanced media reports? Or do they want information that exhibits bias or is sensationalised? Perhaps the media can never be completely objective, but it does raise issues of what is, and what is not, responsible reporting.

What is particularly relevant for today's audiences of the events of 1954 is the purported link between the media, including popular forms of entertainment, and antisocial behaviour committed by youth. Controversy concerning the media, violence and sexuality is longstanding, and fears about the impact of popular culture in encouraging antisocial behaviour will continue to be articulated.<sup>237</sup> This concern has permutated in a number of ways: video games are thought to inspire violence,<sup>238</sup> while song lyrics, music videos, television and movies have been similarly targeted. It is not a new concern but a historical one, which depends on the assumption that what is perceived by the eye and ear leads to antisocial behaviour.

This is what occurred in 1954. The IPAA broadened censorship law, assuming that indecent literature, namely comic books, contributed to juvenile delinquency. It was not the only reason for delinquency discussed by the Mazengarb Committee; other causes of teenage misbehaviour were also canvassed, but the strong concerns surrounding popular culture and indecent literature were evidenced by the fact that legislation was passed to control this corrupting influence. Questions emerge, however, as to whether changes to New Zealand's censorship law were ever going to curb the perceived delinquency. It all depended on 'juvenile delinquency' being a real phenomenon. But did it ever really exist, except in the minds of some? Were most teenagers of this time difficult or 'delinquent'? Perhaps the terrible murder in Christchurch or scandal in the Hutt Valley could be explained by reasons other than delinquency. If so, the increasingly stringent censorship legislation enacted by the IPAA would seem to have been inadequate to prevent such events from happening.

The potential inadequacy of measures that aim to limit people's exposure to certain material can be seen in relation to contemporary concerns. In Australia, plans for a mandatory internet filter were released in 2008 as part of a government initiative to increase "cybersafety".<sup>239</sup> The proposed internet firewall would black out websites categorised by the Australian Communications and Media Authority as "Refused Classification", in order to protect children from accessing offensive material such as online child pornography. A number of concerns emerged from this proposal, which is yet to be implemented. While the Australian government refused to reveal blacklisted websites officially, a list leaked last year included the

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237 Watson and Shuker, above n 8, at 18.

238 In 1999, David Grossman, a retired member of the United States Army, gave a speech at Massey University condemning the violence children were exposed to in popular forms of entertainment: Hank Schouten "Expert blames TV, video games for crime stats" *The Evening Post* (Wellington, 23 August 1999) at 2. Grossman blamed television and video games for raising "a generation of barbarians who have learned to associate violence with pleasure": as quoted in *ibid*. His speech took place against the backdrop of a number of high school shootings in the United States in 1999, and typifies the attitude that the media can directly contribute to desensitising youth. Debate surrounding video games persists: in 2008 there was concern surrounding the release of Grand Theft Auto IV, a video game with a R18 classification, and the need to limit children's exposure to it: see "Contains Violence" *The New Zealand Herald* (Auckland, 3 May 2008) at B1-B2.

239 See Marina Kamenev "First, China. Next: the Great Firewall of... Australia?" (16 June 2010) TIME <[www.time.com](http://www.time.com)>.

websites of a Queensland dentist and a pet care facility, and thereby raised concerns about the scope of the filter.<sup>240</sup>

Concern also arose that ultimately, the firewall would not increase cybersafety. One prediction was that those behind blacklisted websites would respond by creating new websites for their material, thereby expanding the list of blocked sites and slowing down the internet's speed.<sup>241</sup> Another concern was that by closing down these websites, it would be harder to monitor and catch perpetrators of crimes such as child pornography, and would shift the focus away from those responsible for committing these crimes. Geordie Guy, the vice-chairman of Electronics Frontiers Australia, described the filter as "trying to ban burglaries by banning pictures of crowbars".<sup>242</sup> This raised the concern that, while the intentions behind such state-sponsored internet censorship are worthy, the application was ill-conceived.

The proposed internet filter in Australia chimed with the events of the 1954 New Zealand moral panic in a number of ways. One was its focus on youth and the adult reaction to the effect of potentially corrupting material. Another was the delicate balance that needed to be struck between limiting the freedom of expression of some in order to protect the morality of others. This was the issue faced by the New Zealand government in 1954, and also when *Lolita* came to be scrutinised by the judiciary. Such concern resurfaced in the debate surrounding the Australian firewall. There is certainly material available on the internet that many people would agree to be harmful to society. It seems instinctive that access to such material should be banned. Yet any attempt to impose such a ban would ultimately limit freedom of expression, which may be criticised if such censorship is deemed to be unnecessarily broad. The moral panic of 1954 in New Zealand and the resultant amendments to censorship legislation is a case study in attempting to strike this balance, and shows the problems that can occur when censorship is used to address a perceived social problem: in this case, delinquency sparked by comic books.

Given the problematic nature of such attempts to limit this form of popular entertainment, as the implementation of the IPAA showed, perhaps it is better to be cautious and to consider other options before censoring such material. This is not to suggest that censorship is ineffectual, but rather to highlight that some problems in society cannot be resolved by simply limiting people's access to certain texts or images. These are the issues raised by the events of 1954, and the censorship regime that was imposed on reading material, showing why it remains a relevant case study for today.

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240 Ibid.

241 Jarrod Trevathan as cited in *ibid*.

242 As quoted in *ibid*.

## VI CONCLUSION

Shuker and Openshaw, in their study of moral panics concerning youth and popular culture in New Zealand, argued that an obvious sequence emerges in such situations. First, there is the development of a 'problem' accompanied by community concern, which is amplified or orchestrated by the media.<sup>243</sup> Then there is a political reaction, usually involving legislative change.<sup>244</sup> The moral panic of 1954 followed this sequence. A problem of 'juvenile delinquency' emerged in the wake of the Hutt Valley incident and the Parker and Hulme matricide. This issue was made prominent by the extensive media coverage of 'abnormal' delinquent behaviour. The political reaction was twofold: first, there was the Mazengarb Committee, which in turn prompted the IPAA, a significant change in New Zealand's censorship law. The moral panic of 1954 was therefore particularly ironic. The press helped to construct a panic, then that panic had a legislative response, which impacted on another aspect of the media: comic books and popular culture.

This reaction to comic books in 1954 may have seemed out of proportion, but Shuker and Openshaw have argued that such overreaction exposes underlying community fears, which are heightened during periods of moral panic.<sup>245</sup> The relationship between law and society is underscored in a case study such as this one: the IPAA only came about because widespread fears about delinquency, circulated by the media, parliamentarians and an official inquiry, created a moral panic and a fear of indecent literature. In turn, the IPAA was repealed because its societal impact created desire for less strict censorship. In all of this, law and society are inextricably linked: law does not exist without the input of politicians, the media, religious groups or even delinquent teenagers. And society too, is shaped by the law, as calls for reform come only when there is dissatisfaction with the impact of the current legal system. The two elements exist in tandem, one always informing and impacting upon the other.

In this particular case study, the relationship between law and society occurred in the context of concern over popular culture and its impact upon young people. It therefore has implications for current debates as to controls on popular culture, particularly the need for informed debate, responsible press coverage and government inquiries that engage with primary, rather than secondary, evidence. Any legislative change needs to avoid the dangers of panic legislation and not unduly restrict freedom of expression. The moral panic of 1954 shows the consequences if none of these are followed. It therefore remains a lesson for the 21st century.

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243 Shuker and Openshaw "Conclusion", above n 191, at 105.

244 *Ibid.*

245 *Ibid.*