Miscarriages of Justice, Fifth Annual Issue 2014-2015

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In Partnership with
The University at Albany School of Criminal Justice

Miscarriages of Justice is a special annual interdisciplinary issue of the Albany Law School’s Albany Law Review, published in collaboration with the University at Albany School of Criminal Justice. The fifth annual issue anticipates publication in the spring of 2015. The theme for the 2014-2015 issue is:

CRIME AND JUSTICE, RIGHTS AND ROLES:
THE ALIGNMENT OF GENDER, IDENTITY AND SEXUALITY
WITH LAW AND ADJUDICATION

Miscarriages of Justice is a series that emphasizes the integration of social science and legal scholarship around problems of justice, broadly defined. Previous issues have included empirical and jurisprudential inquiries into social and legal circumstances that may produce miscarriages of justice – circumstances in which social, legal, or ethical concepts of justice are misaligned with the policies, practices, or uses of law and courts. The fifth annual issue will focus on the ways in which social and legal constructions of gender, identity and sexuality are expressed in the legal system, and, most importantly, how those expressions serve, or fail to serve, the interests of justice.

The Albany Law Review invites submission of articles that explore these issues. Examples of issues that are congruent with this issue’s theme include, but are not limited to, the following:

1. For centuries, lawmakers and judges have built substantive law on traditional conceptualizations of gender, gender identity, and sexuality. For example, the ‘marital rape exemption’ invalidated a wife’s charge of sexual assault, since assumptions about sex roles in marriage granted husbands sexual access regardless of consent. Do similar assumptions still shadow criminal justice responses to violence against women?
2. Similar assumptions also underlie standards of proof and evidence. For example, common law called for special circumstances (corroboration, fresh complaints, and utmost resistance) for conviction in rape cases but not other violent offenses.
3. Legal doctrine that delineates rights and responsibilities have also been gender-lined; for instance, assumptions about women’s and men’s relative competencies and responsibilities are embedded, in historically complex ways, in laws about statutory rape, child custody, women’s actions during pregnancy, and abortion.
4. Society’s extension of legal recognition, entitlements and protections to citizens of diverse sexualities and gender identities has been incremental and uneven. Legal statuses that many take for granted – marriage, adoptive parenthood, and ‘next of kin’ status – have slowly, and incompletely, been extended to people who are not in traditional heterosexual relationships. Cultural stereotypes of gay, lesbian, bisexual, and transgender citizens have been implicated both in laws that protect victims (hate crime statutes) and legal strategies to protect defendants (the ‘gay panic’ defense).
5. The representation of diversity in gender and identity among policy makers and justice practitioners may have consequences: are historically marginalized citizens’ justice claims muted or voiced depending on the experiences of those who make and enforce the law?

Articles must be submitted no later than December 1, 2014 to be considered for inclusion in the 2014-2015 issue. For further information, please contact Bryan Gottlieb, Editor-in-Chief for the Miscarriages of Justice issue of the Albany Law Review, at bgottlieb@albanylaw.edu.