INDEX

Acquired Immune Deficiency Syndrome (AIDS). See HIV/AIDS activist networks
biological citizenship and, 173–4
legacy of science-based reforms for, 170–4
science-based criminal law reform and, 160–7
actor network theory, agency and, 27–9
advocacy for decriminalisation of HIV/AIDS, science-based strategies for, 160–7
Africa, criminalisation of HIV/AIDS in, 105
agency feminist perspectives on, 185–90
in HIV transmission, 26–33
alcoholism, free will linked to, 38–9
Altman, Lawrence K., 48–9
American Medical Association, opposition to lethal injection, 39–40
anti-essentialism in feminist legal methodology, 178–80, 185–90
disclosure vs. non-disclosure in, 197–200
violence against women and, 190–5
Armstrong, Sarah, 46, 54
Armstrong, W. N., 62–3
Arning, Eduard, 66
Ashworth, A., 2–3
Asia, criminalisation of HIV/AIDS in, 105
Australia, history of leprosy in, 57
autonomy principles, criminalisation of non-disclosure of HIV/AIDS and, 185–90
avian influenza, military/criminal metaphors concerning, 51–2
Bad Blood: A Cautionary Tale (film), 42–3
Baier, Annette, 220–5
Ban Ki-moon, 41–2
Bartlett, Katharine, 178–80
Bashford, Alison, 57
battery, *actus reus* of, UK criminalisation of transmission and, 211–14
Bayonet Constitution of 1887 (Hawaii), 58–9, 66
Beacon: Magazine of Hawaii, 74
behaviour inefficacy of U.S. HIV/AIDS statutes concerning, 139–43
low-risk behaviours, criminalisation in U.S. statutes of, 27, 128–30, 136–8
medicalisation/demedicalisation of deviance and, 41–2
scope of, in Norwegian Penal Code, 115–16
U.S. exposure statutes and liability based on, 125–31, 134–9
Bell, Joseph, 46
Bennett, Jane, 27–9, 30
‘Best Practices Guide to Reform HIV-Specific Criminal Laws to Align with Scientifically-Supported Factors’ (U.S.), 145–7
Betteridge, Glenn, 165
Bible, illness as punishment in, 36–8
bioinformationist metaphor, 48–9

229
| Index | biological citizenship, recent scholarship on | 173–4 |
|       | biomilitary metaphor | 48–9 |
|       | biopolitics, criminalisation of HIV/AIDS and | 33–4, 155–6 |
|       | Blackstone, W. | 22–5 |
|       | blood and blood products, HIV/AIDS transmission through | 120–2 |
|       | 'bodily harm,' changing conceptions of | 208–9 |
|       | body as society metaphor | 52–4 |
|       | body in criminal law | 22–5, 208–9, 211–14 |
|       | criminalisation of HIV/AIDS transmission and | 22–5 |
|       | deconstruction of body and harm and | 26–33 |
|       | society as body metaphor and | 52–4 |
|       | Bones (television series) | 46 |
|       | Boroditsky, Lera | 44–5 |
|       | bounty hunters, roundup of Hawaiian lepers by | 67 |
|       | Braidotti, Rosi | 30 |
|       | Bray, S. | 133 |
|       | Brazier, Margaret, xiii | 4, 223–4 |
|       | breach of trust, transmission of disease and | 220–5 |
|       | Breitha, Olivia | 71–2, 75–7 |
|       | 'bright lines test,' Canadian criminalisation of non-disclosure and | 167–70 |
|       | British Association of Sexual Health and HIV (BASHH) Guidelines | 78–80, 85–7, 95–6 |
|       | British HIV Association (BHIVA) | 78–80 |
|       | Bronitt, Simon | 15, 16–17, 214–16 |
|       | Burris, S. | 133, 141–2 |
|       | Burstow case | 206–8, 209–10 |
|       | Bush, George W. | 51–2 |
|       | Canada | |
|       | criminalisation of HIV transmission in | 13–14, 151–5 |
|       | feminist perspectives on criminalisation of HIV/AIDS non-disclosure in | 175–200 |
|       | Canadian National Judicial Institute Workshop on HIV and the Law | 166–7 |
|       | “Cancer: Crime and Punishment” (Sharpless and DePinho) | 48–9 |
|       | causation, principle of, criminalisation of transmission and | 214–16 |
|       | Centers for Disease Control and Prevention (CDC) (U.S.) | 120–2 |
|       | Chan-Fook case | 208–9, 211–14 |
|       | Chief Constable of Avon and Somerset Constabulary v Shimmen | 217–20 |
|       | chlamydia, harm caused by | 3–4 |
|       | Clarke, E. | 94–6 |
|       | colonialism, history of leprosy and | 12, 75–7 |
|       | Communicable Disease Control Act (Norway) | 116–17 |
|       | Conan Doyle, Arthur (Sir) | 46, 48–9 |
|       | condom use in HIV/AIDS patients as criminal defence against recklessness, 85–7 |
|       | 'significant risk' in Canadian HIV/AIDS criminalisation and | 156–9 |
|       | in U.S. HIV/AIDS statutes, 130–1 |
|       | conduct perspective Canadian criminalisation of HIV/AIDS and, 155–6 |
|       | criminalisation of HIV/AIDS transmission and, 19–21 |
|       | in U.S. HIV/AIDS statutes, 128–30 |
|       | confidentiality, healthcare professionals guidelines concerning, 90–2 |
|       | consent, legal concept of Canadian criminalisation of HIV/AIDS transmission and, 156–9 |
|       | feminist legal scholarship on criminalisation of HIV/AIDS and, 180–5, 189–90 |
|       | Norwegian criminalisation of HIV/AIDS transmission and, 114 |
|       | contagion crime as metaphor for, 45–7 |
|       | critique of criminalisation paradigms concerning, 201–28 |
|       | leprosy in Hawai‘i and theories of, 62 |
|       | Nordic perspectives on, 98–100 |
INDEX

Contagious Diseases Act (1864), 1–4
Coons, Christopher, 145–7
 corporations, responsibility for
 transmission of disease by, 42–3
Craig, Elaine, 198
 criminalisation of contagious illness
 transmission as breach of trust, 220–5
 causation principle and, 214–16
 crime as disease metaphor, 47–9
 critique of paradigms for, 201–28
 current law in UK for, 211–14
 disease of crime metaphor
 and, 52–4
 disgust and, 225–7
 expansion in U.K. of, 209–10
 Hansen's disease in Hawai'i and,
 58–9, 62–3
 healthcare professional-patient
 relationships and, 78–97
 herpes transmission, 92
 inconsistency in prosecutions for
 transmission of disease, 42–3
 military/criminal metaphors relating
to disease and, 50–2
 Nordic perspectives on,
 10–12, 98–119
 Norwegian Penal Code and liability
 for, 111–16
 recklessness and transmission of
 non-STD, 217–20
 scope of liability in English criminal
 law, 203–6
 as social deviance, 35
 social roles and gatekeeping related
to, 39–40
 criminalisation of HIV/AIDS
 transmission adverse impact on prevention and
 treatment, 19–21
 biological citizenship and, 173–4
 body in criminal law and, 22–5
 in Canada, 13–14, 151–5
 construction of social order
 and, 195–7
 critique of U.S. statutes, 132–43
 disease prevention and control and,
xiii, xvi
 feminism and, 175–200
 global trends in, 10–12
 healthcare professional-patient
 relationship and, 78–97
 HIV/AIDS and, 6–7
 identity concepts and, 8–9
 impact on sexual healthcare
 of, 78–80
 international law and scientific
 evidence concerning, 103–5
 legal status in European countries
 concerning, 105
 liability principles and, 21–2
 limited impact of, in reducing
disease, 116–17
 normative perspective in Norwegian
 law concerning, 108–11
 Norwegian Law Commission
 proposals concerning,
 111–16, 117–19
 overview of scholarship on,
 18, 151–5
 public health policy and, xiii
 science-based criminal law reform
 and, 159–60
 social and policy effects of, 9
 state-level U.S. exposure statutes
 and, 125–31
 in United States, 12, 120–49
 U.S. policy changes relating
to, 143–8
 criminality, disease linked to,
 38–9
 Criminal Procedure Act
 (Norway), 116–17
 Cristof, 42–3
 critical race feminism, violence
 against women and, 190–5
 Crompton, Constance, 188–9
 Crown Prosecution Service,
 85–9, 201–3
 Cuerrier, Henry, 156–9
 culpability, in criminal law, 2–3
 cultural colonisation, isolation of
 Hawaiian leprosy patients
 and, 75–7
 Cure Violence, 46
 Curran, James (Dr.), 120–2
Index

232

decriminalisation of sexually transmitted disease
information collection and management prior to, 100–3
normative perspective in Norwegian law and, 108–11
de minimis principle, recklessness and transmission of non-STD and, 217–20
Denmark, decriminalisation of HIV transmission in, 10–12, 98–100
detective metaphor, in health and disease, 45–7
determinism, disease and, 38–9
deviance
crime and illness as, 35
medicalisation/demedicalisation of, 41–2
Diagnostic and Statistical Manual of Mental Disorders (DSM), 41–2
Dica case, 201–3, 206–8, 209–10, 214–16, 223–4
diet and lifestyle choices
Canadian criminalisation of HIV/AIDS and, 155–6
illness and, 36–8
racial stereotypes concerning, 61
Dimock, Susan, 221–2
disclosure of HIV/AIDS
Canadian criminalisation of non-disclosure and, 156–9
feminist perspectives on, 175–200
U.S. statutes’ requirements concerning, 128–30, 138–9
discrimination of gay community
Canadian criminalisation of HIV/AIDS and, 151–5
employment discrimination and, 134–9
HIV/AIDS and increase of, 8–9
disease prevention and control
crime as disease metaphor and, 38–9, 45–7, 52–4
criminal law and, xii
journey metaphor of disease and, 47–9
military/criminal metaphors relating to, 50–2
Norwegian exemptions from criminal liability in presence of, 114–15
Norwegian proposals for, 116–17
‘self-other’ metaphor and, 49–50
state responsibility for, 1–4
U.S. prevention measures for HIV transmission and, 120–2, 130–1
disgust, feelings of, criminalisation of contagious illness transmission, 225–7
‘dominance feminism,’ 178–80, 185–90
DPP v K, 211–14
DPP v. Smith, 208–9
drug addiction, disease vs crime view of, 41–2, 123–4
Dworkin, Andrea, 178–80
Ebola
military/criminal metaphors concerning, 51–2
risk of transmission of, 113
Economic and Social Research Council (ESRC), 4
Edmond, Rod, 57
Elliott, Richard, 161
Emerson, N. B. (Dr.), 62–3
employment discrimination, U.S.
criminal exposure statutes and, 134–9
epidemiological research, criminal law reform and, 160–3
European Convention on Human Rights, 103–5
Article 5, 1–4
European Court of Human Rights, 103–5
European Economic Area Law, criminalisation of HIV/AIDS transmission and, 103–5
Evans, Ceri, 5, 9, 78–97
evidence-based prosecutorial guidance, development of, in Canadian criminalisation procedures, 163–7
Falwell, Jerry, 36–8
Feinberg, L., 19–21
<table>
<thead>
<tr>
<th>Index</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>feminist legal scholarship</td>
<td>233</td>
</tr>
<tr>
<td>anti-essentialism and legal methodology and, 178–80</td>
<td></td>
</tr>
<tr>
<td>Canadian criminalisation of HIV/AIDS effect on, 170–4</td>
<td></td>
</tr>
<tr>
<td>criminalisation of HIV/AIDS transmission and role of, 13–14, 175–200</td>
<td></td>
</tr>
<tr>
<td>criminal law and construction of social order and, 195–7</td>
<td></td>
</tr>
<tr>
<td>disclosure vs. non-disclosure of HIV in, 197–200</td>
<td></td>
</tr>
<tr>
<td>marginalisation and unintended consequences of criminalisation, 190–5</td>
<td></td>
</tr>
<tr>
<td>'significant risk' principle and, 180–5</td>
<td></td>
</tr>
<tr>
<td>victimhood and agency in, 185–90</td>
<td></td>
</tr>
<tr>
<td>Fernandez, Pualeilani, 64–5</td>
<td></td>
</tr>
<tr>
<td>Flew, Anthony, 38–9</td>
<td></td>
</tr>
<tr>
<td>Franke, Katherine, 196</td>
<td></td>
</tr>
<tr>
<td>fraud, Canadian criminalisation of HIV/AIDS transmission and, 156–9</td>
<td></td>
</tr>
<tr>
<td>free will, disease and, 38–9</td>
<td></td>
</tr>
<tr>
<td>Gandhi, Mahatma, 46</td>
<td></td>
</tr>
<tr>
<td>gatekeeping, sickness and crime in relation to, 39–40</td>
<td></td>
</tr>
<tr>
<td>'gay plague' terminology, 8–9</td>
<td></td>
</tr>
<tr>
<td>&quot;Gay-Related Immune Deficiency&quot; (GRID) terminology, 8–9</td>
<td></td>
</tr>
<tr>
<td>gender and misogyny issues, feminist legal scholarship on</td>
<td></td>
</tr>
<tr>
<td>criminalisation of HIV/AIDS and, 180–5</td>
<td></td>
</tr>
<tr>
<td>General Medical Council (GMC), code of professional conduct, 90–2</td>
<td></td>
</tr>
<tr>
<td>genetics research, criminality and, 38–9</td>
<td></td>
</tr>
<tr>
<td>Gibson, Walter M., 61</td>
<td></td>
</tr>
<tr>
<td>'Global Criminalisation Scan,' 105n.16</td>
<td></td>
</tr>
<tr>
<td>global health</td>
<td></td>
</tr>
<tr>
<td>current challenges in, xiii</td>
<td></td>
</tr>
<tr>
<td>epidemics and illness recurrence and, 16–17</td>
<td></td>
</tr>
<tr>
<td>Global Network of People living with HIV (GNP+), 105n.16</td>
<td></td>
</tr>
<tr>
<td>Golding, David, 92–3</td>
<td></td>
</tr>
<tr>
<td>Goston, Lawrence O., xiii</td>
<td></td>
</tr>
<tr>
<td>Green, J., 95–6</td>
<td></td>
</tr>
<tr>
<td>gross negligence, Norwegian Penal Code and liability of, 111–16</td>
<td></td>
</tr>
<tr>
<td>guilt, mental standard of, Norwegian Penal Code and, 113</td>
<td></td>
</tr>
<tr>
<td>Gunderman, Richard, 36–8</td>
<td></td>
</tr>
<tr>
<td>Gurnham, David, 4</td>
<td></td>
</tr>
<tr>
<td>Hanne, Michael, 7–8, 35–5</td>
<td></td>
</tr>
<tr>
<td>Hansen's disease</td>
<td></td>
</tr>
<tr>
<td>criminalisation of Hawaiian patients with, 62–3</td>
<td></td>
</tr>
<tr>
<td>end of isolation for Hawaiians with, 72–5</td>
<td></td>
</tr>
<tr>
<td>Hawaiian patients' accounts of, 61, 64–5, 67, 70–2</td>
<td></td>
</tr>
<tr>
<td>Hawaiian terminology for, 68 history of legislation concerning, 8–9, 55–6</td>
<td></td>
</tr>
<tr>
<td>legacy in Hawai'i of, 75–7</td>
<td></td>
</tr>
<tr>
<td>punishment as tool for control of, 60–72</td>
<td></td>
</tr>
<tr>
<td>research in Hawai'i on, 66</td>
<td></td>
</tr>
<tr>
<td>sulfone therapy for, 69–70</td>
<td></td>
</tr>
<tr>
<td>U.S. occupation of Hawaii and control of, 68–9</td>
<td></td>
</tr>
<tr>
<td>Hanson's Disease (leprosy), 8–9</td>
<td></td>
</tr>
<tr>
<td>criminalisation in Hawai'i of, 55–77</td>
<td></td>
</tr>
<tr>
<td>pathology of, 55n.1</td>
<td></td>
</tr>
<tr>
<td>'hard law' issues, criminalisation of HIV/AIDS transmission and, 103–5</td>
<td></td>
</tr>
<tr>
<td>harm in criminal law</td>
<td></td>
</tr>
<tr>
<td>bodily harm concept and, 22–5, 208–9, 211–14</td>
<td></td>
</tr>
<tr>
<td>breach of trust as, 220–5</td>
<td></td>
</tr>
<tr>
<td>conflicting perspectives on, 19–21</td>
<td></td>
</tr>
<tr>
<td>deconstruction of, 26–33</td>
<td></td>
</tr>
<tr>
<td>definition of, 2–3, 7–8</td>
<td></td>
</tr>
<tr>
<td>HIV/AIDS transmission as, 19 liability principles and, 21–2</td>
<td></td>
</tr>
<tr>
<td>Norwegian Penal Code and, 108–11</td>
<td></td>
</tr>
<tr>
<td>'significant risk' principle and, 156–9</td>
<td></td>
</tr>
<tr>
<td>social and economic effects of HIV/AIDS and, 33–4</td>
<td></td>
</tr>
<tr>
<td>UK criminalisation of STDs and, 206–8</td>
<td></td>
</tr>
<tr>
<td>Harris, Angela, 191–2</td>
<td></td>
</tr>
</tbody>
</table>
Haw, Kaye, 46
Hawai‘i, criminalisation of Hansen’s disease in, 55–77
Hawkins J, 206–8
healthcare professionals
codes of conduct in U.K. for, 90–2
U.K. practice guidelines for herpes and, 94–5
U.K. practice guidelines for HIV/AIDS patients, 82–92
in U.S., discrimination against HIV/AIDS patients by, 134–9
herpes simplex virus (HSV) criminalisation of transmission of, 3–4, 78–80, 92
pathophysiology of, 94–5
Herpes Virus Association, 92–3
highly active antiretroviral treatment (HAART), U.S. HIV/AIDS exposure statutes and, 120–2, 130–1, 134–9
HIV/AIDS. See also criminalisation of HIV/AIDS transmission agency in transmission of, 27–9
body concept in criminal law and transmission of, 22–5
criminal justice scholarship concerning, 6–7, 151–5
epidemic in U.S., origins of, 120–2
evolution of nomenclature for, 8–9
followup care and monitoring of patients with, 87–9
military/criminal metaphors concerning, 51–2
misunderstanding of, in criminal law, xiv
non-punitive control of, 78–80
pathology and treatment, 81
patients ‘lost to follow up’ and, 85–7
personal metaphors concerning, 47–9
population statistics in UK for, 81–2
practice guidelines for treating patients with, 82–92
prognosis or treatment regimens, communication of, 84
as punishment for homosexuality, 36–8

risk of transmission of, 85–7, 111–16
transmission as criminal harm, 7–8
treatment in United Kingdom of, 81–92
United States response to epidemic, 122–5
HIV/AIDS Legal Clinic Ontario (HALCO), 13–14, 153–5, 167–70
HIV and AIDS Reporting System (HARS) (U.K.), 85–7
HIV Stigma Index, 80
Hobhouse LJ, 211–14
Hoekema, David, 221–2
homosexuality
HIV/AIDS seen as punishment for, 36–8, 123–4
medicalisation/demedicalisation of, 41–2
Horvath, K. J., 141–2
House (television series), 46
human rights instruments, criminalisation of HIV/AIDS transmission and, 103–5
Huntington’s disease, criminality and, 38–9
Hutchison, F. W., 65–6

illness
blame placed on victims of, 36–8
crime associated with, 35, 47–9
medicalisation/demedicalisation of deviant behaviour and, 41–2
social roles and gatekeeping related to, 39–40
immigrants, infection control measures for, Norwegian proposals concerning, 116–17
immune system, ‘self-other’ metaphor and, 49–50
imperialism, history of leprosy and, 57
imprisonment of leprosy patients, criminalisation of disease and, 60–72
individual choice illness and, 36–8
inconsistency in prosecutions for transmission of disease and, 42–3
racial stereotypes about, 61
# INDEX

individuation, body in criminal law and, 22–5

infectious disease
control in Norway of, 98–100
crime linked to, 38–9
inconsistency in prosecutions for transmission of, 42–3
Norwegian Penal Code criteria for transmission of, 113
recklessness and transmission of, 217–20
survey of international controls of, 100–3
in U.S. criminal exposure statutes, 146–8

Infectious Disease Control Act (Norway), 108–11

information collection and management, decriminalisation of sexually transmitted disease and, 100–3

Inglis, Kerri, 8–9, 55–77

insanity, disease vs crime view of, 41–2

institutional ethnography
Canadian criminalisation of HIV/AIDS transmission and, 151–5
science-based criminal law reform and, 159–60

instrumentalist view of HIV criminalisation, 19–21

international law, criminalisation/decriminalisation of HIV/AIDS transmission and, 103–5

international organisations
decriminalisation of HIV/AIDS transmission and, 100–3
responsibility for transmission of disease by, 42–3

Jaffe, Harold (Dr.), 120–2

Jewish philosophy, illness as punishment in, 36–8

Johnson, Mark, 44–5

journey, disease as, metaphor of, 47–9

Judge, Anthony, 44–5, 209–10

judicial executions, physicians’ role in, 39–40

judicial reasoning, science-based evidence and, 163–70

Kahalelaau, W., 64–5

Ka Makaainana (Hawaiian language newspaper), 67

Kant, Immanuel, 22–5

Ka Nūhou (bilingual Hawaiian newspaper), 61

Keeping Confidence study, 83–4, 96–7

Keller, Evelyn Fox, 44–5

Klein, Alana, 5, 13–14, 175–200

Kleinman, Arthur, 57–8

Konzani case, 219n.71

Laird, Karl, 5, 14–15, 201

Lakoff, George, 44–5

Latham, S. R., 141–2

Latour, Bruno, 27–9

Law Commission (Norway)
Communicable Disease Control Act and, 116–17
effect of proposals from, 117–19
establishment of, 98–100
information collection and analysis by, 100–3
international law and scientific evidence, influence on work of, 103–5
legal situation in European countries and, 105
normative perspective in Norwegian law and, 108–11
proposals of, 111–16

Lazzarini, S., 133

Lee, Barbara, 145–7

Lazumi, S., 133

legal implications of sexual disease transmission
anti-essentialism in feminist legal methodology, 178–80
Canadian criminalisation of HIV/AIDS transmission and, 151–5, 163–7
disgust in context of, 225–7
future challenges in, 96–7
normative perspectives in Norwegian law, 108–11
survey in European countries of, 105
Index

236

legal implications of sexual disease transmission (cont.)

U.K. practice guidelines for HIV/AIDS and, 83–4, 90–2
U.K. practice guidelines in for herpes and, 95–6
United States criminal HIV exposure statutes and, 120–49
Legal Network (Canada), 13–14, 153–5, 159–60
activism, texts, and text-mediated relations and, 160–3
legacy of work by, 170–4
science writing for juridical readers by, 163–7
Supreme Court arguments by, 167–70
leprosy. See Hansen's disease liability principles
criminalisation of HIV/AIDS transmission and, 21–2
scope of liability in UK criminalisation of transmission, 203–6
Lili‘uokalani (Princess), 62–3
Link, B. G., 36–8
Lombroso, Cesare, 38–9
Lota Kapuāiwa (Kamehaameha V), 55–6
Lupton, Deborah, 22–5

MacKinnon, Catharine, 178–80
MacKinnon, Emily, 188–9
marital rape, feminist legal scholarship on criminalisation of HIV/AIDS and, 180–5
Marks, Richard, 70–2, 74
Mathen, Carissima, 182–3
Mawhinney, G., 15
McLay, David, 165
mea kōkua (Hawaiian leprosy caregivers), 60, 65–6, 67, 68–9
medical experimentation, leprosy research on Native Hawaiians, 66
medical isolation, history of, 56
medical professionals gatekeeping role of, in illness and crime, 39–40

INDEX

in U.S., discrimination against HIV/AIDS patients by, 134–9
mens rea, deconstruction of body and harm and, 26–33
metaphors of illness contagion by, 35–54
criminalisation of HIV/AIDS and, 7–8
flow of meaning in, 47–9
military/criminal metaphors, 50–2
public policy and, 44–5
of 'self' and 'other,' 49–50
Meyer, Rudolph, 65–6
miasma theory, leprosy and, 62
Middle Ages concept of body and criminal law in, 22–5
illness as punishment in, 36–8
isolation of lepers during, 56
society as body metaphor during, 52–4
military metaphors, disease management and, 50–2
Mill, John Stuart, 2–3
molar analysis, deconstruction of body and harm and, 26–33
molecular analysis, deconstruction of body and harm and, 26–33
Montgomery, Scott, 48–9
Morgan, Henley, 46
Mykhalovskiy, Eric, 13–14, 150–74

Nalaielua, Henry, 71–2
National AIDS Trust Report, 84–5
National Health Service (Venereal Diseases) Regulations, 90–2
Nature magazine, 48–9
needle-sharing partners, in U.S. HIV/AIDS statutes, disclosure requirements, 128–30
Netherlands, criminal law concerning HIV transmission in, 105
No Footprints in the Sand (Nalaielua), 71–2
non-governmental organisations (NGOs), transmission of STDs and, 100–3
Norway

criminalisation sexually-transmitted disease in, 10–12, 98–119
normative perspective in laws of, 108–11
Penal Code of, 98–100, 111–16
Norwegian Institute of Public Health, 117–19
NOU (Official Norwegian Reports), 98–100
Novas, C., 173–4
Nursing and Midwifery Council, 90–2
Nussbaum, Martha, 225–7

O'ahu Prison, leprosy patients held in, 62–3
Obama, Barack, 51–2, 143–8
Offences Against the Person Act 1861, 14–15, 201–3, 206–8
bodily harm concept and, 211–14
recklessness and transmission of non-STD and, 217–20
Ontario Working Group on Criminal Law and HIV Exposure (CLHE), 13–14, 153–5, 159–60
activism, texts, and text-mediated relations and, 160–3
legacy of work by, 170–4
science writing for juridical readers by, 163–7
Supreme Court arguments by, 167–70
oral sex, low risk of HIV/AIDS transmission from, 128–30
‘otherness’ of diseases, military/criminal metaphors concerning, 51–2

Parsons, Talcott, 35–6, 39–40
patient advocacy, Hansen's disease in Hawaii and, 74
Peckham, Robert, 38–9
Penal Codes of Nordic countries, 98 criminalisation of sexually transmitted disease and, 98–100
harm principle in, 108–11
Norwegian Law Commission proposals and, 111–16

penalties in criminal HIV exposure laws, harshness of U.S. statutes relating to, 131, 134–9
person living with HIV (PLHIV) body in criminal law and liability of, 22–5
liability for harm of, 21–2
Petryna, Adriana, 173–4
Phelan, J. C., 36–8
Phillips, M. D., 84
physical anomalies, disease linked to, 38–9
Plaxton, Michael, 182–3
politics
criminalisation of HIV/AIDS transmission and role of, 13–14
decriminalisation of HIV/AIDS transmission and, 100–3
leprosy control in Hawai‘i and, 66, 74
oppression through criminalisation of behaviour and, 41–2
science-based criminal law reform and, 159–60
post-exposure prophylaxis (PEP) guidelines, 85–7, 130–1
posthuman/posthumanity, 29–33
Presidential Advisory Council on HIV/AIDS (PACHA), 143–8
President’s Emergency Plan for AIDS Relief (PEPFAR), ineffectiveness of abstinence and faithfulness programs in, 135–7
preventive measures for HIV/AIDS transmission, 120–2, 130–1
proof of fault, criminalisation of HIV/AIDS and, 21–2
Provider Referral services for HIV/AIDS patients, 84–5, 89–92
psychosis, medicalisation/demedicalisation of deviance and, 41–2
public health policies
Canadian criminalisation of HIV/AIDS transmission and, 155–6
crime as disease metaphor and, 45–7
criminal law and, xiii
disease prevention and control and, 1–4
Index

238

public health policies (cont.)
Hansen’s disease in Hawai’i and, 57–8, 60, 72–5
military/criminal metaphors concerning disease control
and, 51–2
Norwegian law on disease transmission and, 110–11
state-level U.S. exposure statutes and, 125–31
stigmatization in U.S. criminal exposure statutes as damaging
to, 136–8
United States criminal HIV exposure statutes and, 120–49
U.S. occupation of Hawaii and leprosy management by, 68–9
U.S. response to HIV/AIDS epidemic and, 122–5
public policy, conceptual metaphors and, 44–5
Punikaia, Bernard, 75–7
punishment
disease control using, 60–72
illness as, 36–8
quarantine, for leprosy, 55–6
Quirk, Hannah, 1–17
race and racism
Canadian criminalisation of HIV/AIDS transmission and, 151–5, 163–7
isolation of Hawaiian leprosy patients and, 60–72, 75–7
theories concerning leprosy and, 62
rational segregation, medical isolation and, 56
Radcliffe, Keith (Dr.), 92–3
Reagan, Ronald, 123–4
Real Existing Policies that Encourage and Allow Legal (REPEAL) HIV
Discrimination Act (U. S.), 145–7
recklessness
condom use by HIV/AIDS patients as defence against, 85–7
convictions in United Kingdom based on, 14–15, 80, 83–4, 85–9, 96–7
criminalisation of disease transmission and, 3–4, 6–7, 12, 21–2
expanding criminalisation in UK of, 209–10
harmful conduct principle and, 30
herpes transmission and, 92
inefficacy of U.S. HIV/AIDS statutes in deterrence of, 139–43
Norwegian Law Commission sanctions concerning, 100–3, 111–16, 117–19
transmission of non-STD and, 217–20
‘relations of ruling,’ opposition to criminalisation of HIV/AIDS transmission and, 153–5
research texts, science-based criminal law reform and, 160–3
Resolution on Ending Federal and State HIV-Specific Criminal Laws, Prosecutions and
Civil Commitments (United States), 143–8
responsibility, doctrine of agency and, 26–33
body in criminal law and, 22–5
normative perspective in Norwegian law and, 108–11
Rhoades, Nick, 27, 136–8, 146–8
risk of transmission
assessment criteria for, 85–7
Canadian criminalisation of HIV/AIDS transmission and, 155–6, 163–7
inefficacy of U.S. HIV/AIDS statutes in reduction of, 128–30, 136, 139–43
Norwegian Penal Code criteria for, 111–16
Rose, N., 173–4
Roskill (Lord), 206–8
R v Clarence case, 203–6
R v Cuerrier case, 13–14, 156–9, 161, 166–74
feminist legal scholarship concerning, 180–5
R v DC case, 167–70, 193–4
R v Mabior case, 13–14, 153–5, 166–7
feminist legal scholarship and, 180–5, 193–4, 197–200
Ryan White Comprehensive AIDS Resources Emergency Act, 124–5

safe sex practices
Canadian criminalisation of HIV/AIDS and, 155–6
healthcare professionals communication with patients concerning, 85–7
'significant risk' concept and, 156–9
in U.S. HIV/AIDS statutes, 128–30, 134–9, 141–2
Schembri, G., 84
Schön, Donald, 44–5
Schultz, Viki, 196
'science-based activism,' Canadian criminalisation of HIV/AIDS transmission and, 153–5

scientific evidence
activism, texts, and text-mediated relations based on, 160–3
Canadian Supreme Court on criminalisation of HIV/AIDS transmission and, 167–70
criminalisation/decriminalisation of HIV/AIDS transmission and, 103–5, 150–74
criminal law reform based on, 159–60
presentation for juridical readers of, 163–7
unintended consequences in presentation of, 170–4
'self-other' distinction, metaphors of disease and, 49–50
sentencing guidelines, in Norwegian Penal Code, 115–16
serious disease criteria, Norwegian law on disease transmission and, 110–11
Severe Acute Respiratory Syndrome (SARS), military/criminal metaphors concerning, 51–2
sexually transmitted diseases (STDs) causation in criminalisation of, 214–16

characterization of leprosy as, 62, 71–2
criminalisation of, 3–4, 78–80, 201–3
recklessness and transmission of, 217–20
scope of liability in UK criminalisation of, 203–6, 211–14
survey of international controls involving, 100–3
U.S. exposure statutes concerning, 125–31
sexual offence cases
criminalisation of HIV/AIDS non-disclosure and, 177–8
feminist legal scholarship on criminalisation of HIV/AIDS and, 180–5
infection status assessment in,
Norwegian proposals for, 116–17
state-level U.S. exposure statutes and, 125–31
sexual partners of HIV/AIDS patients
Canadian criminalisation of non-disclosure and, 163–70
consent of, as liability exemption in Norwegian Penal Code, 114
feminist perspectives on nondisclosure and, 185–90
notification protocols for, 84–5, 89–90, 95–6
'significant risk' principle and notification of, 156–9
in U.S. HIV/AIDS statutes, 124–5, 128–30
Shrira, I., 38–9
Sierra Leone, Ebola epidemic in, 1–4
'significant risk' concept ambiguities in, 155–6
basic parameters of, 156–9
criminalisation of HIV/AIDS transmission and, 153–5
feminist legal scholarship and, 180–5
problems and limitations of, 163–7
science-based criminal law reform and, 159–60
Silva, Noenon K., 64–5
sin, disease linked to, 38–9
Slater, James, 222–3
Slutkin, Gary, 45–7
Smith, George, 159–60
social order
criminal law and construction of, 195–7
illness and crime in, 39–40
society as body metaphor, disease as crime and, 52–4
Society of Sexual Health Advisers, 90–2
sodomy laws in U.S., Supreme Court ruling against, 136n.98
'soft law,' criminalisation of HIV/AIDS transmission and, 103–5
Stainback, Ingram M., 73
Stanton, Catherine, 1–17
state institutions
criminalisation of STDs and, 100–3
health prevention and control and, 1–4
isolation of leprosy patients and, 60–72
oppression through criminalisation of behaviour by, 41–2
responsibility for transmission of disease by, 42–3
U.S. federal government and HIV/AIDS epidemic and, 123–4
statutes for criminalisation of disease transmission
future challenges in, 96–7
normative perspectives in Norwegian law, 108–11
survey in European countries of, 105
U.K. practice guidelines for HIV/AIDS and, 83–4, 90–2
U.K. practice guidelines in for herpes and, 95–6
United States criminal HIV exposure statutes and, 120–49
sterilisation policies for leprosy patients, Hawaiian public health program for, 70–2
stigmatisation of illness, 36–8
Canadian criminalisation of HIV/AIDS transmission and, 151–5
feminist perspectives on criminalization of HIV and, 193–4
herpes infection, 92–3
impact on patient behavior of, 85–7
isolation of Hawaiian leprosy patients and, 60–77
Norwegian Law Commission proposals and issue of, 111–16
United States response to HIV/AIDS and, 122–5, 134–9
Stone, Deborah A., 46
sulfone therapy for Hansen's disease, introduction of, 69–70, 72–5
Sweden, criminalisation of HIV/AIDS in, 105
Symington, Alison, 172
syphilis
leprosy linked to, 62, 71–2
as punishment, religious belief in, 36–8
Syse, Aslak, 5, 10–12, 98–119
terrorism, as metaphor, 51–2
testing for HIV/AIDS, U.S. criminal exposure statutes as deterrent to, 134–9
text-mediated relations, science-based criminal law reform and, 160–3
Thatcher, Margaret, 8–9
Thibodeau, Paul H., 44–5
trans/posthumanity theory, 29–33
trust, ethics of, transmission of disease and, 220–5
Uganda, criminal law concerning HIV transmission in, 10–12
unhealthy food, transmission of disease through, 42–3
UN High Commissioner for Human Rights (OHCHR), 103–5
United Kingdom
changing conceptions of ‘bodily harm’ in, 208–9
criminalisation of STDs in, 201–3
criminal law concerning HIV transmission and, 10–12, 14–15, 78–80, 105
criminal transmission of herpes in, 92–3
INDEX

against women, unintended consequences of criminalisation linked to, 190–5
viral load assessment in HIV/AIDS criminal law reform and, 162–3
risk of transmission and, 85–7
voluntary HIV disclosure
Canadian criminalisation of HIV/AIDS transmission and, 151–5
U.S. statutes as barrier to, 138–9

Weait, Matthew, 7–8, 18–34, 108, 185–90
Webster, G. D., 38–9
will, acts and consequences and, 26–33
Williams, Nushawn, 124–5, 127
Wilson case, 206–8, 209–10
Wisman, A., 38–9
Wolf, Leslie E., 12, 120–49
women
Canadian criminalisation of HIV/AIDS effect on, 170–4
feminist perspectives on criminalisation of HIV/AIDS impact on, 175–200
impact of U.S. HIV/AIDS exposure statutes on, 141–2, 146–8
marginalisation and unintended consequences of criminalisation for, 190–5
violence against, unintended consequences of criminalisation linked to, 190–5

World Health Organisation (WHO), 100–3
disease nomenclature guidelines and, 8–9

valverde, mariana, 38–9, 46
victimhood
blame for illness and, 36–8
feminist perspectives on, 185–90
violence
as disease, 45–7

United Nations Development Programme (UNDP), 100–3
United States
criminalisation of HIV transmission in, 12, 120–49
critique of criminal exposure statutes, 132–43
future of policy changes and statutory reform in, 143–8
occupation of Hawaii and management of leprosy by, 68–9
origins of HIV/AIDS epidemic in, 120–2
response to HIV/AIDS epidemic in, 122–5
state-level HIV exposure statutes in, 125–31, 146–8
UN Special Rapporteur on the Right to Health, 103–5
US Conference of Mayors, 146–8

Valverde, Mariana, 38–9, 46