

Labour

Journal of Canadian Labour Studies

Le Travail

Revue d'Études Ouvrières Canadiennes



Carolyn Strange, *The Death Penalty and Sex Murder in Canadian History* (Toronto: The Osgoode Society for Canadian Legal History and University of Toronto Press 2020)

Jonathan Swainger

Volume 88, Fall 2021

URI: <https://id.erudit.org/iderudit/1084987ar>

DOI: <https://doi.org/10.52975/lt.2021v88.0012>

[See table of contents](#)

Publisher(s)

Canadian Committee on Labour History

ISSN

0700-3862 (print)

1911-4842 (digital)

[Explore this journal](#)

Cite this review

Swainger, J. (2021). Review of [Carolyn Strange, *The Death Penalty and Sex Murder in Canadian History* (Toronto: The Osgoode Society for Canadian Legal History and University of Toronto Press 2020)]. *Labour / Le Travail*, 88, 185–186. <https://doi.org/10.52975/lt.2021v88.0012>

ignore malheureusement la question du militantisme auprès des partis politiques.

ALVIN FINKEL

Athabasca University

Carolyn Strange, *The Death Penalty and Sex Murder in Canadian History* (Toronto: The Osgoode Society for Canadian Legal History and University of Toronto Press 2020)

CAROLYN STRANGE of Australia's National University is one of Canada's foremost crime historians. Indeed, any serious engagement with the nation's history of capital punishment begins with her work. Offering clear and compelling writing, a sharp eye for detail and example, thoughtful analysis, and a willingness to wade into a topic attracting impassioned debate, this book testifies to the energy and insight characterizing her scholarship. The result in this instance, where she asks uncomfortable questions about the prerogative review of deeply troubling crimes, is a compelling and, in truth, harrowing book.

Centered on the 61 sex murder cases from among the over 1500 capital cases reviewed since 1867, Strange's treatment explores the administration of the royal prerogative of mercy and the means whereby senior bureaucrats in the Department of Justice shaped advice for the Governor-General in council. Clothed in the idea of an impartial review of cases involving sexual violence and death, it was a system which, despite such dispassionate pretenses, assumed that individuals convicted of these offences "deserved" execution. This expectation ignored the contradiction of attempting to make "sense" of these offenders, concluding that there was something "wrong" with them, and confirming that they should be executed, despite that "wrongness" negating responsibility for

their actions. It remains an irreconcilability at the heart of the process. And even after psychologists had given that wrongness a name, indeed an assortment of names, the process of review held to the expectation that these specific offenders had "earned" the noose.

Organized into six chronological and thematic chapters, an epilogue, and a "Reflection on sources and methods," Strange's book charts the early reliance on morality and the struggle against evil before proceeding to the emergence of a sharpened debate over the substance of insanity, an increasingly sophisticated psychological understanding of human sexuality, the language and meanings of normality, and, ultimately, a dawning acknowledgment that capital punishment – however it was practiced and adjudicated – was inherently inequitable and could never protect society from acts that refused easy explanation. Throughout, she guides us through the system where these cases and verdicts were dissected by the federal cabinet, a process centered on the chief clerk in the Department of Justice summarizing the particulars, noting jury recommendations, detailing the presiding judge's impressions, and sifting through petitioners' pleas and the objections of defense counsel. The clerk's brief to cabinet invariably echoed his class, his whiteness, and his morality. Nonetheless, one suspects that for even the most conscientious cabinet members, the clerk's summary must have been, ironically enough, a lifesaver. Still, deliverance from the weight of such decisions proved elusive. For just as the public hungered for reassurance that we could recognize evil and that our instincts could identify a damaged individual beneath a veneer of seeming "normality," researchers and physicians continually reminded us of the inscrutability of human beings.

Strange's evidence shows that the nature of these crimes, the shock they

produced, the presence of sexuality, the moral outrage, and the insistence that something must be done, place an enormous emphasis on producing such a response rather than asking whether such a response was appropriate. The trouble with the collision of these forces was laid bare in the aftermath of Stephen Truscott's trial and conviction for the rape and murder of Lynne Harper. As Toronto lawyer Andrew Brewin acknowledged, the atmosphere created by such "horrible and detestable crimes" leaves room for mistakes (211). Indeed, it is arguable that such an environment created errors. Brewin's point is punctuated by the Ontario Court of Appeal reversal of the Truscott verdict and by the fact that had it not been for his age, he would have been hanged. Impressions aside, Truscott had been fortunate. In most of these cases and because of the nature of their crimes, these defendants were less likely to be represented by skilled counsel and the accused were apt to be condemned for reasons of homophobia, race, the absence of social standing, and poverty. Equally true, because some defendants did possess the necessary identity and resources to finance an energetic defence, they would escape the gallows because of factors beyond questions of guilt and responsibility. In both cases, the chance at clemency was largely determined by who they were before they had broken the law.

Although Strange does not dwell on the issue, it is difficult to come away from these cases without pausing on the worrisome history of Canadian police investigatory technique. For some, the confident racism, homophobia, and sexism will not be a surprise while the persistence of such perspectives should unsettle others. Too often this type of "knowledge" possessed by the police (and many other actors in the national system of criminal justice), determined everything from the identification of suspects to fateful decisions

as to how justice was to be allotted. At the same time, Strange's "Reflection on sources and methods" deserves specific note for her reflections on how she managed the enormous and emotionally difficult archival record. Having made a conscious decision not to dwell on family information about victims or perpetrators, her approach respectfully avoids the perils of voyeuristic sensationalism. The effort is laudable for despite the barrier of decades, these files do exact a toll on the researcher and reader alike.

Published as one of the latest additions to the library of scholarship produced by the Osgoode Society for Canadian Legal History that, in 2021, will mark 40 years since its publication of the inaugural *Essays in the History of Canadian Law*, Strange's book sets a standard. By moving beyond a hypothetical conversation about whether poverty, sexism, and white supremacy shaped our historic criminal legal systems, her argument begins with those contributing, and often determinative factors, as a given. The evidence for this is plain. And in an era where the thinking public is bombarded with fabricated conspiracy and defiant idiocy dressed-up as principle, we do well to insist that the weight of evidence does matter. In doing so, Strange has not only offered a challenging, thoughtful, and often unsettling work, but has done so in a fashion solidifying her place as one of this nation's very best historians.

JONATHAN SWAINGER
University of Northern
British Columbia

Vijay Prashad, *Une histoire politique du tiers-monde*, (Montréal : Écosociété 2019)

UNE HISTOIRE POLITIQUE du tiers-monde de Vijay Prashad relate l'histoire du projet politique du tiers-mondisme