Author abstract
Methodology: Literature Review and medico-legal commentary.
Results: Fatal one-punch assaults have been reported extensively in the media.
This article provides a commentary on recent policy developments and legislative amendments in Australia regarding so called 'one-punch' assaults.
Comparisons are made with the situation in other jurisdictions including the UK, US, and Europe.
The clinical forensic medical aspect of fist strikes to the head and face is examined in the context of the recent media attention and public interest these cases have attracted.
The increased recognition of the risk of harm and death inherent in these types of assaultive behaviour is reflected in the policy and legislative changes that have taken place in some jurisdictions.
Conclusion: One punch strikes may result in a range of injuries that can include permanent neurological impairment and death. Recent media and community concern regarding these cases and the need for stronger deterrence has resulted in a change in public policy and consequent legislative amendments.

Introduction
One-punch assaults often occur in the context of alcohol-fueled antisocial behavior. There are a number of colloquial terms used for these assaults including 'king-hits', 'coward punches', 'polar-bearing', 'bombs' and 'sucker punches'. The background for some of these assaults is the infamous knockout game where individuals are targeted, sometimes randomly, for a single punch assault. In other scenarios a verbal confrontation may occur often in association with intoxication which results in a fight during which a single punch being thrown and connecting. A 'king hit' is a knockout punch (1) where a single blow to the head causes a victim to fall to the ground unconscious, either from the punch itself or as a result of the impact between the head and the ground. These forces to the head can result in skull fractures, axonal injuries, and intracranial hemorrhage including intra-cerebral hemorrhage, subarachnoid hemorrhage, and subdural hematomas. (2) Damage to the brain as a result of such forces can lead to death or permanent neurological impairment. Punches directed to the face are regularly featured in media entertainment, sports culture, (3) and legal discussions. Actors depicted throwing punches in popular media (4) have raised concern that these images and fantasies could influence the pattern of aggressive behavior in the real world. (5)

In R v Loveridge, the defendant hit a young man causing him to fall to the ground. The medical details of the incident were that the victim was punched in the face with sufficient force to knock him down. He was found to have sustained a fracture of the back of the skull and brain injury due to his head striking the pavement. He died two days later in hospital. On the same evening, the offender had assaulted three other people.
The defendant, who was drunk, was at the time subject to conditional liberty that had been granted just one month before being sentenced for another act of serious and indiscriminate violence. Accordingly, he would appear to have been well aware of his anger management issues. In relation to this later offence he was originally charged with murder. However, at trial in the Supreme Court of New South Wales the Director of Public Prosecutions agreed to a plea of manslaughter. (6) The Crown later appealed the subsequent sentence of the Court (7) on the basis that it was manifestly inadequate and that the judge at first instance had erred by failing to take into account the "Additional Need for General Deterrence Due to the Prevalence of Alcohol-Fueled Offences of Violence"; failing to "Take Into Account the Need for Specific Deterrence of the Respondent"; failing to "Take Into Account Material Considerations in Relation to Intent and Risk"; erred in "Classifying Each Offence as Spontaneous"; and that "The Sentences, Individually and in Total, are Manifestly Inadequate." (8) It was noted that the respondent was very drunk (9) and was in an agitated state (10) and beginning to behave aggressively (11) committing several assaults that night. As a consequence the New South Wales Court of Criminal Appeal significantly increased the terms of imprisonment imposed for the manslaughter.

It is interesting to note that although media reports stated that the offender was a mixed martial arts (MMA) devotee, (12) this is not mentioned in the judgments by the NSW Supreme Court and Court of Criminal Appeal. However, his traumatic personal and familial background as well as his skills as a rugby league player were highlighted in the psychological report. (13).

In its Judgement the New South Wales Criminal Court of Appeal made reference to the prevalence of alcohol-fueled violence and noted that single-blow manslaughter cases by unlawful and dangerous acts were not rare. It recognized that a single punch can not only cause catastrophic injuries but also death and that, therefore the principle of "general deterrence" needed to be emphasized in sentencing despite the youth of the offender. It also noted that because alcohol-fueled offenses of violence were frequently committed by young men and that the offender had a past history of alcohol-fueled acts of violence that specific deterrence was required in sentencing. Other considerations included the fact that the offender made the statement, "I swear I'm going to bash someone," then acted upon it by assaulting five randomly selected victims, and the further fact that he ran away after seeing his victim knocked to the ground--all this despite his alcohol intoxication. (14) The repeated violence against a range of people in a public place was not reflected in the sentencing by the Supreme Court at first instance. It is interesting to note that this case was considered by the appeal court to be unique, and they commented that "no other sentencing decision in this State for so-called one-punch manslaughter involves this combination of factors." (15)

The second case in Australia that sparked prolific media attention and led to calls for legislative change was the Daniel Christie case, (16) in which the offender was sentenced for "unprovoked, random and gratuitous offences perpetrated by a single or limited number of blows resulting in death" according to NSW Supreme Court Chief Justice Tom Bathurst. (17) The question whether it was the punch causing death or the secondary injury due to the head strike on the ground after the fall, (18) was also raised in the Andrew Young case, one of Britain's recent fatal one-punch assault cases. (19) In this case a trained boxer (20) delivered a full force punch blow to a defenseless man with sufficient force to stun him or
render him unconscious so that he fell to the ground without being able to break his fall. The judge's finding was that the blow was struck with an intention to cause significant injury, albeit falling short of intending to cause "really serious bodily harm." (21) Andrew Young died in the hospital later, the autopsy revealing that he had suffered a fractured skull and that he had sustained brain injury. These injuries had been caused by the impact of his head with the hard road surface. (22) The sentencing took this into consideration as well as other aggravating and mitigating factors.

The Effects of One-Punch Assaults

Where a 'one punch' assault occurs to the head of a victim, there may be a variety of injuries that result. There are two main medico-legal considerations to such inflicted head trauma: direct trauma from the blow itself and indirect trauma caused by the accelerated head hitting another structure. In the case of direct head trauma, a punch or weapon blow may cause injury to the soft tissues of the head with bruising, abrasion, and/or laceration together with deeper injuries such as fracturing to facial bones or the thinner portions of the vault of the skull such as the temporal region. Injury to the cranial contents may also occur and may involve bleeding around the brain as well as cerebral contusions, intracerebral hemorrhage, and axonal injuries. The direct injury from the punch to the head, like any impact force to the head, may cause a direct injury to the brain that clinically may lead to a temporary alteration in consciousness and which may be associated with later clinical symptoms of concussion. From a lay perspective, some of these effects might be categorized as a 'knock-out.' (23) A punch can also be applied in such a way that it knocks the opponent over and causes a mechanical fall by giving an accelerating impulse to the victim's body.

Indirect trauma to the head from a punch occurs where the accelerated moving head hits an adjacent structure, and this may occur with such force that the secondary impact causes a significant head injury. In this type of trauma, the initial force from the punch is added to by the kinetic energy acquired by the falling mass of the body. The most common scenario in which this occurs is where a person who is hit in the head falls and hits their head on the ground. This scenario may be facilitated by the original punch so disturbing brain function that the victim is unable to protect themselves during the fall. The increased force to the head from an accelerated fall with head strike from impact with hard ground can cause all the injury types mentioned above in relation to direct head injury from a punch, but the increased forces involved in an accelerative fall means that the damage to head structures including the vault of the skull may be more severe.

The Fist as a Weapon

Whether clenching a fist in fact means the formation of a "weapon" (24) is debated and varies from jurisdiction to jurisdiction. In some jurisdictions, a fist is not considered a weapon (25) because a "deadly weapon" may be understood as "any object, instrument or weapon that is capable of producing and likely to produce death or great bodily injury." (26) Other lawyers argue "the fist could be a deadly weapon if it is used in a way that could cause death or great bodily harm." (27)
The Circumstances of One Punch Assaults

The issue as to whether the punch caused the primary fatal injury to the body or whether the mechanical fall and secondary impact such as head strike on the ground caused the injury has been commonly raised at trial. (28) This may be as part of an argument regarding intent and consequently whether the circumstances of the offense meet the standard of proof for murder or manslaughter. The Supreme Court stated in R v Loveridge, "the various cases referred to were all put forward as examples of cases where a single blow knocked the victim to the ground and death was caused by the victim's head hitting the ground, rather than by the injury directly inflicted by the punch." (29) The courts were directed to a number of similar cases where a single blow had knocked the victim to the ground and death was caused by the victim's head hitting the ground, rather than by the injury directly inflicted by the punch. (30) In the case R v Castle, it was stated that "cases in which a victim sustains an unintended head injury after falling to the ground because of a punch are, regrettably, not uncommon." (31) Typical sentences in these cases, which included Donaczy v R [2010] NSWCCA 143, R v Bashford [2007] NSWSC 1380, R v Smith [2008] NSWSC 201, R v Greenhalgh [2001] NSWCCA 437 and R v Risteski [1999] NSWSC 1248, ranged between 5-6 years, with typical non-parole periods of 3 years and 6 months. (32)

One-punch assaults have been colloquially known as 'king hits.' More recently it seems to have been 'publicly' renamed being referred to by commentators as a 'coward punch.' (33) This seems to have received prominence following a NSW governmental advertisement campaign led by boxing champion Danny Green. Mr Green stated, "One punch can be lethal, and thrown without warning or gloves can be deadly. One punch can ruin lives." (34) This change in terminology may be an attempts to shift public perception of these acts away from the language of being a 'king' to the public view of wanting to shame such behavior by labelling it an act of 'cowardice.'

A study that used data from the National Coronial Information System to identify 'king hit' cases in Australia between 2000 and 2012 showed that 'one punch' assaults claimed the lives of at least 90 Australians. These cases most often involved victims who were previously unknown to their attackers. The victims were mostly young men with the study only identifying only 4 female victims. The age range of the victims was between 15 and 78 years with a median age of 33 years. The pre-dominant location for the assault was at a hotel or 'pub' and mostly occurred at night before 3 a.m. Toxicology reports showed that alcohol and illicit drugs played a significant role, and there was the indication that alcohol intoxication increased the risk of both victimization behaviors and aggression. (35)

The ongoing problem of 'king hits' and the serious consequences of alcohol-fueled violence in many jurisdictions including Australia and the United Kingdom (36) has led to increased local media attention surrounding 'one punch' assaults. (37) Such behavior has been variably attributed to individual seeking to exercise dominance, settling disputes and "taking the law into one's own fists." (38) An English Member of Parliament in commenting on the increased number of these offenses in his electorate stated, "I am concerned about the frequency with which this is happening. It's all very well saying 'I didn't mean to kill him', but unfortunately death can be a consequence of a single blow and that law needs to reflect that." (39) This remark was made following an incident where a fourth person in 13 years died from a single punch in the same town. In these cases the homicide offenders had been each sentenced to four years or less. (40) Attempting to respond to this situation, the British
media has commented on the policy aspects of legislative amendments in Australia who had introduced mandatory sentencing. (41)

**Mandatory Sentencing in Australia**

Community and political concerns regarding such deaths from street violence have caused widespread comments in the public media. In part this seems to be the rationale for policy review in Australia. (42) Mandatory sentencing, minimum sentencing, and standard non-parole periods for a fatal 'one punch' assaults have also become the subject of much debate in some states.

Mandatory sentencing (43) in its most extreme form can be seen in relation to offenses that attract the penalty of capital punishment. (44) In addition, the "three strike laws" in the U.S. for habitual, repeat, or persistent assault offenders represent another form of such a mandatory approach to sentencing. (45) Mandatory sentencing with minimum penalties for serious offences is different to the practice of prescribing a maximum penalty and leaving it to the discretion of the judiciary to identify the appropriate sentence in an individual case. (46) Mandatory sentences are commonly prescribed for minor regulatory offenses such as car parking and driving offences etc. with fines and loss of driving licenses. They are aimed at achieving consistency in sentencing, and supporting public policy in specific and general deterrence, while also promoting certainty in regards to adequacy of punishment, community protection, conduct denunciation and recognition of harm. However, mandatory minimum sentencing has also been criticized as causing an imbalance in the 'separation of powers' with a shift towards extending the influence of the legislature over judiciary. This means courts have less discretion in determining the degree of culpability of an offender, in considering the individuality and complexity of the offender's condition and behavior or the specific offence and in deciding the extent of punishment. (47)

**One Punch Legislation in Australia**

In response to the problem of alcohol-related violence and public campaigns concerning 'one punch' killings, (48) NSW amended its Crimes Act S25A, (49) Queensland its Criminal Code S302A, (50) and Victoria (51) the respective sentencing legislation by enacting minimum sentencing provisions. Such legislation is said to have "calmed down" public calls for tougher sentencing. (52)

**New South Wales**

The provisions in the NSW legislation states that a person is guilty of an offense if the person assaults another person by intentionally hitting the other person with any part of the first person's body or with an object held by that person without authorization and the assault causes the death of the other person. In the case of the person over 18 years of age with self-induced intoxication being found guilty of the offence, a maximum sentence of 25 years imprisonment and a minimum mandatory sentence of 8 years applies. (53)
**Queensland**

Amendments in Queensland include a provision whereby a person who unlawfully strikes another person to the head or neck causing the death of the other person is guilty of a crime with a minimum non-parole period for manslaughter of 80% of the head sentence or a 15-year term of imprisonment. A strike is defined as a directly applied force to the person by punching or kicking, or by otherwise hitting using any part of the body, with or without the use of a dangerous or offensive weapon or instrument. (54) It has subsequently been argued that a "moral panic" (55) containing elements such as concern, hostility, consensus, disproportionality, and volatility (56) have contributed as a sociological factor in such amendments. (57)

**Victoria**

The Victorian government has recently introduced legislation in which manslaughter--by a single punch or strike--is included within the offense of causing death by an unlawful and dangerous act under section 4A of the Crimes Act 1958 (Vic). This amended the Sentencing Act 1991 (Vic) to introduce a minimum mandatory sentence of 10 years for manslaughter and gross violence offences under certain circumstances. (58)

**South Australia**

Proposed new legislation in South Australia (59) follows the sentencing regime of NSW with the notable difference of the law applying to offenders aged 16 years or more at the time of the offence.

**Northern Territory**

In the Northern Territory, new legislation sought to "close the gap" in the Criminal Code by creating a charge that can be used when manslaughter is too difficult to prove, e.g., in some cases of fatal one punch assault. (60) Whereas the Act (61) amends the Criminal Code Act (NT) in section 161A and the Sentencing Act (NT) by creating a new criminal offence in that a person engaging in a violent act to another person causing death is liable to a penalty, it does not set out minimum sentencing but leaves it at a maximum of 16 years imprisonment. (62)

**Western Australia**

In Western Australia, the wording "if a person unlawfully assaults another who dies as a direct or indirect result of the assault, the person is guilty of a crime and is liable to imprisonment for 10 years" (63) represents only a maximum sentencing provision.
Australian Capital Territory

The Australian Capital Territory (ACT) (64) has not yet followed NSW and Victoria regarding mandatory sentencing for fatal 'one punch' assaults (65) but appears to continue to deal with such offenses under current assault legislation (66) despite case-related concerns about the importance of sending "a very clear and simple message to offenders and potential offenders." (67)

Tasmania

Tasmania appears not to favour new 'one punch' legislation despite arguments being raised in favour of more stringent laws with possible mandatory sentencing as a deterrent. According to Tasmania's Attorney-General Brian Wightman, (68) the Criminal Code Act 1924, (69) is sufficient to deal with king-hit assailants. However, high incidence of alcohol-related assaults and recent unprovoked 'coward punch' assault cases, (70) have motivated the Tasmanian police to crack-down on alcohol-fueled violence, in particular 'coward punch' assaults, and for the public media to campaign to raise the issue of the need for legislative change. (71)

Tests of Dangerousness

Whereas the definition of the common law "test of dangerousness" remain the focus of English manslaughter law for fatal punch assaults, the position in Victoria, Australia now is to "encompass one-punch deaths within unlawful and dangerous act manslaughter" and to "remove any uncertainty." (77) A single punch or strike delivered to a person's head or neck that caused injury to the head or neck may be legally viewed as "inherently dangerous" (78) and medically certainly can involve a potential risk of serious harm. The appreciation of the dangerousness of one-punch assaults to the head is demonstrated in Victoria by their mandatory minimum non-parole period of ten years which sits at the extreme end of sentencing practices. (79)

The dangerousness of an act must be clearly distinguished from the dangerousness of an offender. (80) The difference is not defined in the common law "test of dangerousness." The transfer of the severity of an offender's personal or psychological dangerousness to the quality of the act that has resulted from his behaviour may assist in resolving some of the intent issues that are problematic in manslaughter offenses.

Culpability reflects the willingness to inflict harm. By including dangerousness as a sentencing criterion to the new one-punch legislation, governments in Australia seem to have appreciated that dangerousness and culpability may converge in a particular case. (81) The bridging between the psychological and material aspect of dangerousness is mirrored by merging the different aims of mandatory one punch sentencing, that is, incapacitation, deterrence, community protection, and rehabilitation with regard to the mildly, moderately, or severely dangerous offender, (82) and accountability, conduct denunciation, and recognition of death as maximum harm subsequent to the committed act of punching to the face. To achieve this, Western Australia, Queensland, NSW and Victoria created new offenses to
address this type of crime for which a traditional classification of either "murder" or "manslaughter" seems inadequate. (83)

**Intoxication as a Defense**

Alcohol and drugs are known to play a significant role in crimes against the person and intoxication is considered to increase the risk of victimization and violent offending and is a particular feature of 'one punch' assaults. (84)

Like other jurisdictions Australian legislation has addressed the issue of alcohol-related capacity impairment and the responsibility for violence that is related to self-induced alcohol intoxication. It has been legislatively recognized that alcohol intoxication can decrease capacity for decision-making and consent in sexual matters. (85) Voluntary intoxication by drugs or alcohol as a mitigating factor when courts determine sentences has been addressed. This reflects the view that the choice to become intoxicated should not lead to reduced culpability, and that self-induced intoxication is no excuse for violence. (86)

**Conclusion**

'One-punch' assaults targeting the head are dangerous and can cause serious harm including permanent injury and/or death. These assaults are often committed by intoxicated young males, and their victims may be unknown 'passersby' who are not engaged in any behavior that might be seen as provocative of violence. These cases have caused considerable community angst with media and community calls for both enhanced policing and more stringent legal penalties. Some jurisdictions in Australia have partly responded to the problem of fatal one-punch assaults by enacting various mandatory sentencing provisions and addressing the issues posed by possible defenses. Such stringent legislation is controversial and has been criticized. (87) However, the Australian approach is distinguished from other jurisdictions that deal with fatal one-punch assaults in a more traditional manner that may be considered as not meeting current community concerns. Whether the Australian approach will have a deterrence effect on this violent conduct remains unclear, and it remains possible that there may be a range of further legal issues that could complicate the prosecution of these offenses. However, the fact that many Australian jurisdictions have acted to set minimum sentencing provisions for these offenses may have gone some way to satisfying the understandable public outcry over 'one-punch' assaults.

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