

# CONFERENCE ON PLACE, POLITICS, PRIVILEGE

Thursday 16th and Friday 17th February, 2017

Victoria University City Convention Centre, 300 Flinders Street, Melbourne

A range of local and international presenters will discuss different understandings of place and belonging in the context of the displacement, rupture and transformation characteristic of contemporary societies. The conference will focus on how prevailing privileges and power relations are challenged by new forms of resistance, solidarities and new possibilities for belonging.

**Keynote: Dr Tony Birch**

**Working Beyond Privilege: Aboriginal authority, hospitality and connectivity?**

Dr Tony Birch is the inaugural Bruce McGuinness Research Fellow at Moondani Balluk, Victoria University. He is an award-winning author of books and short stories, including *The Promise* (shortlisted for the 2014 Victorian Premier's Literary Award). His most recent novel, *Ghost River* (2015) won the Victorian Premier's Literary Award for Indigenous Writing 2016. Tony will deliver the keynote address to conference participants on Thursday 16th February at 9:30am.

**Public Lecture: Guy Rundle**

Former editor of *Arena Magazine*, Guy Rundle will give a public lecture on Thursday 16th February at 6:00pm. Guy is currently correspondent-at-large for Crikey and regular contributor to a wide range of publications in Australia and the United Kingdom. He is the author of several books and numerous essays on place, culture and contemporary politics in Australia and the US. His forthcoming book is *Altered States: The American Dream and the Australian Way*.

See <http://communityidentity.com.au> for more information about the full conference program for Place, Politics, Privilege. To register your interest please contact CIDRN@vu.edu.au



# arena

A MAGAZINE OF CRITICAL THINKING AND IDEAS FOR CHANGE

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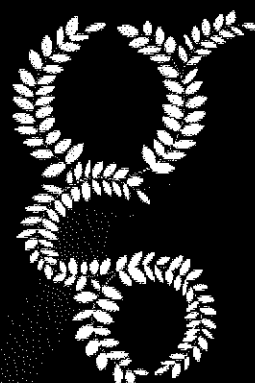
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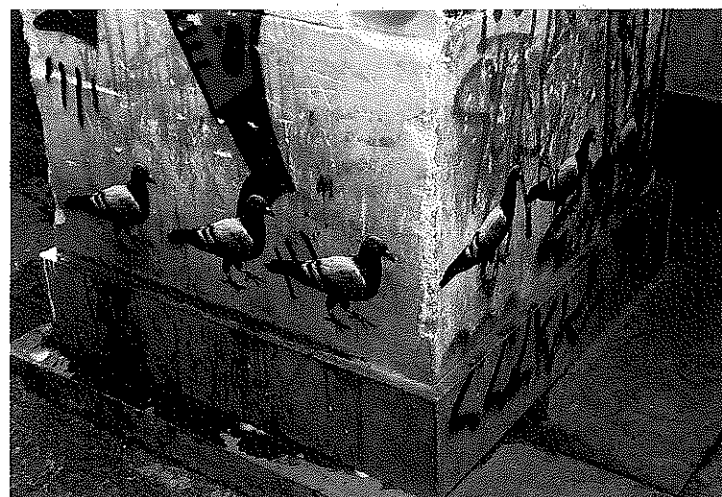
**Arena Magazine** encourages ideas and critical discussion about developments in contemporary social life, culture and politics. Elements of **Arena's** editorial approach come from the left tradition, but the usefulness of the left/right distinction

is questioned in the context of the rise of techno-scientific capitalism, and its global management in the neoliberal state. How we are constructed as new subjects, and how we are pointed towards more abstract relations generally, comes to the fore for

both critique and visioning how life might be lived differently. **Arena Magazine** is committed to publishing critical thinking from a broad range of perspectives, and to discussing and building our options for the future.



Stairs leading down to the Vucciria



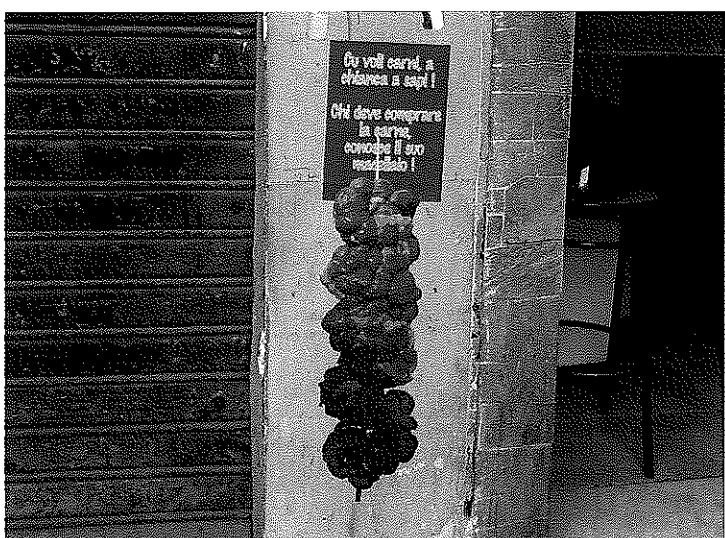
Passeggiata (promenade) of local pigeons



Orata—a tasty fish that I drew after lunching on it



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Street meat: text on the importance of knowing your butcher



Street food for the birds

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La ricchezza di la terra

Chips Mackinoly

# Our Punitive Nation

Richard Evans

→→→

Our Punitive Nation

Richard Evans

Richard Evans lectures in criminology at Deakin University.

## Incarceration's social consequences

On 30 June each year, Australia counts its prisoners. It's a big number. The most recent publicly available figure is for 2015: 36,134. That number is a record. Never before has Australia had so many people behind bars. The 2015 figure eclipsed the previous record, set the year before, of 33,789. That in turn broke the record set twelve months earlier, of just over 30,000.

We are locking up more people than ever in our history, and the numbers continue to grow with terrible speed—some 7 per cent in twelve months.

Australia does not think of itself as a punitive nation. We think of ourselves as easy-going, fair, generous—maybe even a bit soft. But this is nonsense. We are a punitive people, and growing more so. Our incarceration rate in 2015 was 196 prisoners per 100,000 of population. That was also a record. Not since Federation has such a high proportion of Australians been in jail. It is a higher rate than that in the United Kingdom, and more than twice as high as that in France or Germany.

The only First World nation with significantly higher rates of imprisonment is the United States, and that is on a planet of its own. The imprisonment rate there is just under 780 per 100,000 of population. The United States has 5 per cent of the world's total population but 25 per cent of the world's prisoners. There are 2.3 million prisoners in the United States.

You might say this is not relevant—that Australia is different. Well, we are, but decreasingly so.

Traditionally, Australia looked to British models of policing and criminal justice. This was a matter of pride in conservative circles. But, perhaps under the influence of American popular culture, that is changing. The police services in every state and territory are now routinely armed, with a wider range of more visible weapons belted to uniforms increasingly military in style.

Political parties are more willing than ever before to pursue populist 'tough on crime' policies such as mandatory sentences for certain offences. In my home state, Victoria, the opposition leader, Matthew Guy, responded to a rise in reported rates of crime (which was real, but complex and multifaceted, as crime data always is) by saying that the state was experiencing a 'crime tsunami'.

'I've never felt more unsafe from my 42 years living in this state than I do today', he said. 'My wife and I check

every door, every window at night and I know I'm not alone—all my neighbours are the same.' The notion that suburban Melbourne is somehow under siege is ridiculous, but, continually repeated on commercial television news and in the Murdoch press, it comes to be believed, as does the perceived need to 'get tough'.

'The law and order system is broken and needs extensive changes...There still remain massive problems with frontline police numbers, weak bail laws, soft sentences, and parole laws that need to be further toughened...[there is a] crisis in our prison system where there is a flood of drugs and weapons, increased escapes, prisoners rioting and "striking" because they don't like the conditions.' That was Mr Guy again, but the rhetoric is similar in every jurisdiction.

And its origin is the bare-knuckle arena of American politics. The current president-elect, Donald Trump, on the death penalty:

Civilized people don't put up with barbaric behaviour. Would it have been civilized to put Hitler in prison? No—it would have been an affront to civilization. The same is true of criminals who prey on innocent people. They have declared war on civilization. I don't care if the victim is a CEO or a floor sweeper. A life is a life, and if you criminally take an innocent life you'd better be prepared to forfeit your own. My only complaint is that lethal injection is too comfortable a way to go. [Trump's reference to Hitler is deeply ironic: see the box below.]

No, you won't hear that from an Australian politician, but that Trump can articulate all that he has and still be successful will embolden the ambitious and reactionary elements of conservative politics to push for more populist punitive measures.

A look at the past ten years shows how much social damage this can do.

Since 2005, Australia's prison population, which was already high, has soared. In 2005, there were 23,624 male prisoners. In 2015, there were 33,256—an increase of 41 per cent.

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Over the same period, the number of women in prison increased by 66 per cent, though from a much lower base. At a time when every government in Australia has a policy of avoiding sending Indigenous people to prison, the number of Aboriginal and Torres Strait Islander prisoners leapt from 5655 to 9885, an increase of 75 per cent.

Prison is mostly a boy thing. While the number of female prisoners rises every year, both in absolute numbers and proportionally, 92 per cent of Australian prisoners are male. This is typical of most societies. Men, especially young men, commit more crime. Also typical of most societies is that people start offending seriously in their late teens, and this comes to a head in their early twenties. Rates of imprisonment are, consequently, highest for men in their late twenties and early thirties. For men aged thirty to thirty-four, for example, the rate of imprisonment is 665 per 100,000.

So, men are more likely to be in jail. Men in their late twenties and early thirties are more likely to be in jail. The rates are high because Australia sends far more people to jail, per head of population, than do most other countries.

But there is an elephant in the room.

The rate of imprisonment for all Australian men is 366 per 100,000. The rate for Indigenous men is 2253.

The rate of imprisonment for all Australian women is 31. The rate for Indigenous women is 147.

What this means is that an Aboriginal or Torres Strait Islander in Australia today is almost sixteen times more likely to be in prison than a non-Indigenous Australian. It is bad everywhere but worst in Western Australia. The Northern Territory, where conditions in the Don Dale Youth Detention Centre have recently been exposed as scandalous, has very high rates of imprisonment, and Indigenous imprisonment, but the Northern Territory has a small population: the problem of Indigenous offending and imprisonment there is very real, but the raw numbers are relatively small. Western Australia's overall imprisonment rate is very high compared to that of the rest of the nation: 278 per 100,000 of population. But the rate for non-Indigenous Western Australians, 181, is lower than for the nation as a whole. The explanation for this extraordinary difference? The rate of imprisonment for Indigenous Western Australians is 3621 per 100,000 of population. One in twenty-eight Indigenous Western Australians is in jail.

Western Australia is extreme, but it is only a matter of degree. In New South Wales an Indigenous person is fourteen times more likely to be in jail than someone from the rest of the population. In Victoria the ratio is twelve; in Queensland, thirteen; in South Australia, sixteen. Even though Indigenous people represent less than 3 per cent of the population of Australia, they account for 27 per cent of prisoners. Of our huge prison population—36,134—an appalling 9885 are Indigenous. If it has not happened already, the figure will soon top 10,000.

Just as for the wider population, Indigenous prisoners

are more likely to be male, and more likely to be in their twenties and thirties. For these men, the rates of imprisonment are almost beyond comprehension. For the age group twenty to twenty-four, the rate is 4751 per 100,000. The number is so big that we can simplify it: 4.8 per cent of Indigenous men aged twenty to twenty-four are in jail. And it gets worse: for the age group twenty-five to twenty-nine, the rate is 6.2 per cent. For thirty to thirty-five, it is 6.8 per cent. That's one in every fifteen men.

There are only two possible explanations for the huge numbers of Aboriginal and Torres Strait Islander people in prison.

## The rate of imprisonment for Indigenous Western Australians is 3621 per 100,000 of population. One in twenty-eight Indigenous Western Australians is in jail.

The first is that our criminal-justice system is racist—and rightly so! Indigenous people, in this view, are just bad—roughly twenty times as bad as the rest of the population. All they need to do to keep out of jail is to stop committing crime. It's their fault. The law is the same for everyone, and if Indigenous Australians keep committing crime and going to jail, that just shows how bad they are. This is not an argument you will ever hear from a mainstream politician or a police commissioner, but it is out there. Just read what the Internet trolls have to say after a report on an Aboriginal death in a police cell, or listen to the chat in a country pub or—and I wish this wasn't true, but I have witnessed it—a police station.

The second explanation is that our criminal-justice system is racist, and that we have a serious problem. It is not that individual police or magistrates are necessarily racist: some are, but that is actually not the problem. It is that the whole of our society and how it views crime and punishment, personal responsibility, drunkenness, the use of public space and dangerousness has made the Australian legal system objectively racist. It may not be what is intended—though sometimes it is—but the punishing hand of the criminal-justice system is aimed at Indigenous people to an extent that is grotesquely selective. This over-policing and over-punishing has been happening since colonial times, and this has been recognised for decades, but the terrible thing is that the problem is getting worse.

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Our Punitive Nation

Richard Evans

In the law-and-order rhetoric of opposition leaders, increasing the prison population is presented as if it were the perfect, lasting solution to a whole host of social problems. Drug abuse. Alcohol-fuelled violence. Family violence. Terrorism. Child sexual abuse. Internet pornography. All of these problems are real, but will sending those who commit these offences to prison, or sending them sooner and for longer, really help?

If you commit a serious crime in New South Wales, once you have been sentenced you are placed in the charge of an organisation called Corrective Services NSW. North of the Tweed, Queensland Corrective Services would control your fate. The names vary a little from place to place, but we are all used to the name, and we understand that it means the government agency that looks after prisons, parole, CBOs—all that stuff. In fact, the term 'corrective services' or 'corrections' is so familiar that often we forget what it actually means.

To correct something is to fix it. There is a spelling mistake in an essay, or some numbers in your tax return haven't been added up properly—these things need to be corrected, so that the fault is removed. Whatever it is that has been corrected should be better than it was before—not perfect necessarily, but more acceptable, less faulty.

That is what the large and expensive arm of government we call 'corrections' is there to do. A person has broken the law, and a court has found him (sometimes her, usually him) guilty and imposed a penalty, a sentence. The hope is that the experience—whether it is a fine, a CBO, a prison term—will be 'corrective': make the person less likely to do bad things again.

Given that the Australian community has decided to send more people to jail than ever before, at the cost of billions of dollars, you would imagine that there would be conclusive evidence that jail succeeds where other, lesser penalties fail. You would imagine that it 'corrects' people more than, say, a court order to attend anger-management classes, take regular drug tests and complete Year 10. That being tougher, and especially imposing jail time, is more likely to change people for the better is an article of faith among talkback callers and writers of letters to the editor. It is almost that most unassailable form of knowledge: 'common sense'.

But it isn't true. There isn't a lot that you can prove in criminology. So much about crime and offending is hard to isolate, pin down, come up with simple statements about. But this is one thing that is absolutely clear. The belief that putting people in prison will 'scare them straight' is false. They come out worse, more damaged, more likely to commit crime, and those crimes are likely to be more serious.

Of Australia's 36,134 prisoners, 58 per cent—nearly 21,000—have already served at least one term of prison before the offence that has landed

## Getting Tough on Crime?

Imagine that it is election time in your state or territory. The opposition is running on a law-and-order platform—there have been some high-profile sex crimes lately, gangs of unemployed young people have been making a nuisance of themselves, there is resentment of recent migrants, and there is a feeling that a lot of voters are fed up. This is what the shadow justice minister has to say:

'A lot of crime is the work of a small number of repeat offenders. These are people who start offending young, and they just don't get the message. They are in and out of juvenile detention and then prisons, like they are caught in a revolving door. Courts are reluctant to punish them more severely—they just go back to jail, but not for long, then they are free to offend again.

It's time to stop mucking around.

These people—youth gangs, the dangerous mentally ill, sex offenders—are fundamental opponents of our way of life. They are not going to change.

If a person has a string of convictions—more than three—then they should not be released. They will just prey again on society. Rather than waiting for this to happen, we will bring in a new measure: Security Confinement. If a person has no prospect of rehabilitation, we will be able to apply to the courts for them to be declared a Habitual Criminal. Once that is done, the offender can be held until the authorities decide they are no longer a threat to the community. These people have been given plenty of chances. They are the worst of the worst. All we can do is protect innocent people from them.

Another thing we'll do is give the police the power to act before criminals strike. For people who are known members of organised-crime gangs, or known sex offenders, the police need the power to take these people into custody if they pose a threat. This arrangement will be called Preventive Police Custody. We have to trust the police to identify these people and haul them in before they commit another rape or murder, or a terrorist attack.

We will also expand the ability of the police and immigration authorities to control non-citizens. People who come to this country must know that if they step out of line they will face consequences. They don't have, and they should not have, the kinds of rights full citizens do.

All the expense and delay of court proceedings is a waste, and the courts tend to be too lenient anyway. They get sucked in by sob stories or they listen to 'experts' who talk about mental illness and diminished responsibility. What the courts need to understand is that, when someone does a bad thing, there has to be justice. Courts spend too much time looking for extenuating circumstances. Maybe that was OK when things were more stable, in the old days, but society is under threat now. We have to be firm, set an example; that's what the community demands.

For that reason, another measure will be to give the state premier the right to intervene if courts are too lenient. It is not the judge's duty to dream up some wonderful system of universal values. His role is to safeguard the community—to prosecute all acts harmful to the community. There have been

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them back in stir. Whatever prison did to these 21,000 offenders, it certainly didn't scare them straight.

If you drill down into the figures, things look even worse. Of the 12,453 prisoners who received their sentence in the previous twelve months, 65 per cent have been in jail before. Of the nearly 10,000 prisoners who are Indigenous, 77 per cent have been in jail before. Of Indigenous prisoners sentenced in the previous twelve months, 81 per cent are going back in.

The rate of prior imprisonment varies between offences. Of prisoners who are in for homicide (which includes manslaughter as well as murder), the rate is relatively low: 38 per cent. This is what you would expect: most homicides occur within families or between intimate partners, and the killers in such cases often have no previous criminal record. Sexual assault, similarly, has a low rate of prior imprisonment: 32 per cent. Other crimes more likely to be the work of a habitual offender have much higher rates: acts intended to cause injury, which include various degrees of assault: 65 per cent; robbery: 64 per cent; burglary: 77 per cent. Even higher are traffic offences (84 per cent) and the mysteriously titled 'offences against justice procedures, government security and government operations' (84 per cent). This last category is extremely broad, ranging from 'aid pirates' to 'fail to vote at election', but it usually means breaching some sort of court order. Many of these are conditions that have been imposed on people on bail or on parole—hence the very high rate of prior imprisonment—but they also include breaching domestic violence orders and failing to pay fines.

What does all this jumble of numbers tell us? Jail, the form of corrective services that is ten times more expensive than community-based alternatives, is ineffective. Most prisoners have already been to prison. Prison did not correct these people; it made them worse, more likely to offend.

Law-and-order politics is not 'tough'. It is reckless and irresponsible, a waste of public money that ruins lives and makes the community less safe. By pandering to our community's punitive streak, our political leaders have us sleepwalking into a social disaster. **[a]**

too many cases where judges have failed to do this. So, when it is clear that in a serious case a judge has not imposed the kind of sentence the community demands, the premier will be able to override the inadequate sentence.

We need to make prison more of a deterrent. A lot of criminals are not afraid of prison. The prison authorities need to be able to maintain proper discipline. If prisoners misbehave we need to be able to use shackles and solitary confinement. It is outrageous that prisoners can sue for damages, or even press charges, if they are hit or manhandled by prison staff. We will change the law so prison staff are allowed to do what they need to do, without having to justify it in court.

It's time to stop being squeamish about the worst offenders, especially rapists and paedophiles. All serious sex offenders should be castrated, otherwise they should never be released back into the community.

And it's time to consider bringing back the death penalty, too. Since we stopped enforcing the death penalty the most serious criminals have lost all fear of the law. They yell their defiance at the community as they are taken off to prison. This is intolerable. We have to make sure that criminals fear the police, and the courts. The death penalty will make this happen. And if the community demands it, why shouldn't the death penalty apply to other serious crimes: violent crime, especially if a gun is used, or rape or looting in a declared disaster zone?

The days of false sentimentality are over. In government, we will deliver the firm justice the community demands and deserves.'

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This statement would certainly be extreme in modern Australian politics, but it is possible to imagine parts, maybe most, of it being suggested, and some elements are in fact live topics at the time of writing.

Where does this statement come from? The words are mine, but it is a summary that is correct in every factual detail of the crime and justice policies of the Nazi Party in Germany in the years 1932 to 1944.

It goes without saying that the Nazis did a great deal worse than what is outlined here. Their murderous program of extermination against Jews, Roma, the mentally handicapped and many other groups is infamous, and of another order to the persecution of ordinary criminal offenders. However, two things are relevant.

First, the Nazi Party's efforts to get tough on crime were a failure. Most of those caught up in Security Confinement were petty thieves, pickpockets, prostitutes, gays and the like. Serious criminals adapted to and often infiltrated Nazi organisations to run criminal rackets. Crime of all sorts, including street crime and fraud with no connection to politics, worsened greatly under the Nazis.

Second, if you favour indefinite detention for recidivists, or the return of the death penalty, or the castration of rapists, just be aware of the company you are keeping. **[a]**

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Our Punitive Nation

Richard Evans

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Self-Immolation

Tim Robertson

Tim Robertson is an independent journalist and writer. He tweets @timrobertson12.

**[a]** ←

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# Self-Immolation

Tim Robertson

## Tibetans' refusal to live under circumstances prescribed from above

Wherever there is oppression, there is resistance.

Mao Zedong

For all the book's flaws, Albert Camus' *Myth of Sisyphus* remains one of the best encapsulations of what it means to engage in political struggle. Faced with insurmountable adversity, in Camus' meaningless world the only answer is to make resistance one's *raison d'être*. How, then, does one square the injunction to 'imagine Sisyphus happy' with the almost certain death of those Tibetans who, in protesting Chinese rule, self-immolate?

In a recently published book, *Tibet on Fire*, poet, essayist, blogger and leading Tibetan dissident Tsering Woeser challenges many of the assumptions—often unconsciously informed by a Western cultural bias—made about self-immolation and the broader Tibetan struggle.

All too often Western progressives are dismissive of religion and refuse to take its radical core seriously. But, as Susan Buck-Morss has argued, this rigidity and lack of imagination isolates those for whom atheism is a precondition of their 'progressivism' from the majority of the world's population. If one is serious about bringing about change, it means rescuing and reinventing the revolutionary power of religion.

For many Tibetans the political and the religious are inseparable. But religion is also part of the reason that Tibet is one of the most difficult places in the world to be an activist: Tibetans are constrained not only by the Chinese police state but also by their abiding, absolutist belief in non-violence. For readers from a more Western-centric radical tradition, Woeser's book presents a number of challenges in terms of thinking about direct action within tightly constrained ethical and moral boundaries (but more on that later).

Firstly, it's important to understand what the wave of self-immolations since the 2008 Beijing Olympics have grown out of because, contrary to what many assume, there is no tradition of self-immolation in Tibetan culture. Woeser makes the point that, instead of viewing them as individual acts, they should be viewed as part of a broader collective resistance. They are a continuation of the popular protests that erupted in March 2008; since then, around 145 Tibetans have set themselves on fire.

The Chinese Communist Party has depicted these protests as the work of 'terrorists' and 'separatists' carrying out orders from the 'Dalai clique'. In reality, Tibetans were simply responding to decades of occupation and persecution. The protests began peacefully in the Tibetan capital, Lhasa, before spreading throughout the Tibetan Plateau. On 10 March, Tibetans gathered to commemorate Uprising Day, which marks the anniversary of their 1959 insurrection against the Communist Party. It's a day of great national (read: Tibetan) pride, but it's also imbued with a profound sense of sadness and loss, since it was this event that drove the Dalai Lama into exile, from which he's never returned.

Led by the monks, great saffron hordes marched through the streets of Lhasa and occupied public places. The Chinese security forces were cautious—aware that, with the Beijing Olympics just around the corner, the world was watching a little more closely. In China the

Olympics were widely seen as the beginning of a new era—a period in which a more confident China was accepted as a leading global power. The horrors of Tiananmen Square in 1989 had faded; yet, on the eve of the biggest international event in China since then, scenes in Lhasa were beginning to look hauntingly familiar.

Some Chinese security personnel tried to prevent the monks from assembling and, while there were isolated reports of violence committed against protesters, officials were keen to avoid scenes of large-scale riots being beamed throughout the world. But that's exactly what soon happened. Just after lunchtime on 14 March, four days after the protests had begun, a riot broke out after bystanders went to the assistance of monks who were being roughed up by security officials. As more laypeople intervened, police and security officials—realising they were outnumbered and that they'd lost control of the situation—fled the scene. Many in the crowd then turned their anger toward the Han Chinese civilians who have migrated to Tibet and, in the eyes of many Tibetans, have corrupted their culture and hijacked their economy. As many as 1200 Chinese shops, offices and residences were ransacked and burnt. In his book on the uprising, *Tibet's Last Stand*, Warren W. Smith Jr. writes that '[t]hree hundred twenty-five people, mostly Han Chinese, were injured and twenty-two, mostly Han shopkeepers, were killed. Total damage was estimated at 280 million Yuan (40 million U.S. dollars)'. Lhasa was put into military lockdown, but the protests spread throughout the Plateau as monks and laypeople continued to defy Beijing and take to the streets.

**If one is serious about bringing about change, it means rescuing and reinventing the revolutionary power of religion.**