Crime, Inequality and the State

Edited by
Mary E. Vogel

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Routledge
Taylor & Francis Group
LONDON AND NEW YORK

First published 2007
by Routledge
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

Simultaneously published in the USA and Canada
by Routledge
270 Madison Ave, New York, NY 10016

Routledge is an imprint of the Taylor & Francis Group, an informa business

Typeset in Perpetua and Bell Gothic by
Newgen Imaging Systems (P) Ltd, Chennai, India
Printed and bound in Great Britain by
TJ International Ltd, Padstow, Cornwall

British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library

Library of Congress Cataloging in Publication Data
A catalog record for this book has been requested

ISBN10: 0–415–38269–6 (hbk)
ISBN10: 0–415–38268–8 (pbk)

ISBN13: 978–0–415–38269–4 (hbk)
ISBN13: 978–0–415–38268–7 (pbk)

Crime, Inequality and the State

Why has crime dropped while imprisonment still grows?
This thoughtful, well-edited volume of ground-breaking articles explores criminal justice policy in light of recent research on changing patterns of crime and criminal careers.

Showing that prison expansion contradicts recent findings of "what works" in reducing crime and reoffending, Mary Vogel situates this development socially and historically to present a very different explanation. She argues that Western societies have shifted in recent years away from chiefly welfarist approaches towards control, surveillance and policing methods. In a context of growing social diversity, this has contributed to a crisis of authority.

Highlighting the role of conservative social and political theory in giving rise to criminal justice policies (from Schmitt and Strauss in the US to Parsons and Levitas in the UK), this innovative book focuses on such policies as "three strikes (two in the UK) and you're out," mandatory sentencing, and widespread incarceration of drug offenders. In addition to comparing this scenario to that in social democratic countries, this volume highlights the costs – in both money and opportunity – of increased prison expansion. Among the factors explored are:

- labour market dynamics;
- the rise of a "prison industry";
- the boost prisons provide to economies of underdeveloped regions;
- the spreading political disenfranchisement of the disadvantaged it has produced.

Throughout, hard facts and figures are accompanied by the faces and voices of the individuals and families whose lives hang in the balance. This volume uses a compelling inter-play of theoretical works and powerful empirical research to present vivid portraits of individual life experiences.

Included are works by: **Robert Sampson; Michael Tonry; Eli Anderson; Charles Ogletree; Ben Bowling; Tom Tyler; Jonathan Simon; Tony Jefferson; Lorraine Gelsthorpe; William Julius Wilson; David Farrington; Rosemary Gartner; Jurgen Habermas** and **Elliott Currie**.

Mary E. Vogel is a Reader at King's College London School of Law and Associate Senior Research Fellow at the Institute of Advanced Legal Studies, University of London. Since earning her doctorate at Harvard University, she has taught at several US institutions including the University of Michigan at Ann Arbor and the University of California. She has also been a Visiting Scholar at the American Bar Foundation and the University of Oxford; Bunting Fellow at Harvard University; and John Adams Fellow at the University of London. Vogel is the author of *Coercion to Compromise: Plea Bargaining, the Courts and the Making of Political Authority* as well as numerous articles. Her work won the American Sociological Association Law Section's Article Prize for 2001 and the Law and Society Association's Best Article Prize in 2000.

For

Virginia Vogel McLeod,
my mother,

and for

Tony Long,
orphan at risk who forged adversity into art,

with all my love

Preface

THIS BOOK BEGAN AS a conversation with Tony Long about how some youth at high risk end up in crime while others do not. Tony had himself lost his father to World War II, grew up in a rough mill town, lived as a small child with his mother and brother in a one-room apartment without hot water, and spent several years in an orphanage. He had lots of rage. Tony became a sculptor. By his 35th birthday he had a solo show of his work at the Centre Georges Pompidou in Paris. Why, we wondered, had his life taken this turn? And had the country, we also asked, changed since the 1980s so that perhaps he would not, despite his gifts, have fared so well today?

The pages that follow present an inquiry and an argument about what accounts for the increasingly punitive turn taken by Anglo-American criminal justice policy in recent decades. This shift, dubbed "the carceral turn," appears to reflect neither rising crime, since crime has dropped, nor recent research about "what works" in rehabilitating and reintegrating offenders. Much excellent work has been done depicting the contours of this "carceral turn" by Feeley and Simon (1992), Garland (2001), Western and Beckett (2001), Bottoms (1987) and Hudson (2002). What this book does is to build on and advance that work by situating this "turn" socio-historically and exploring further the forces that have given rise to it. My argument is presented in the Introduction.

In crafting this book, I have benefited from the contributions and support of many people. My colleague at King's, Ben Bowling, has stimulated my thinking about the links of criminal justice policy to politics through both his own exemplary work and insightful questions. He and my colleague Elaine Player have welcomed me to King's and created the kind of atmosphere where one learns every day. Their commitment to the criminological project is a constant inspiration. Also at King's my colleagues Alan Norrie, Sionaidh Douglas-Scott and Vanessa Munro have extended a warm welcome and challenged me to think more deeply about how social theory can shed light on legal and political events today. I am particularly indebted to Alan Norrie for his lectures on Jacques Derrida and

to Sionaidh Douglas-Scott for hers on Carl Schmitt. Their collegiality, intellectual engagement and friendship has in no small part nurtured this book to press.

At Routledge, Gerhard Boomgaarden has from the start been a constant source of enthusiasm, support and encouragement. Someday I may work faster and no doubt be a better person for it. If so, it will be due largely to Gerhard's efforts and patience. Special thanks to him for helping to shape the book and for shepherding it to press. Thanks too to Constance Sutherland, who served as editorial assistant on this project, for her fine work and patience. Her successor, Ann Carter, has big shoes to fill and is certainly doing so. Elisabet Sinkie has been clear and most helpful as production editor on this volume. She herself copyedited the Introduction after Marjorie Leith did a beautiful job of copyediting the text. Last but not least, special thanks to the artists who created, I think, just the right design for the cover.

For my part, the logistics of working transatlantically have created many challenges. That they are overcome is due largely to the intelligence and hard work of freelance associate John Callahan. John tracked down contributors, coordinated the process of gaining permissions to use the articles included in this book, and faxed a continual stream of hard-to-locate articles to me across the Atlantic. For his competence and good humor I am deeply grateful.

This book has had the benefit of comments and consideration from my students, first, at the University of Michigan at Ann Arbor, and then at the University of California at Santa Barbara, the University of Leicester, England, and Kings College London. Their spirited encounter with the ideas I present and, especially, their interest in the rich portraits of lives of offenders in biography, fiction or music has been continually engaging and affirming to me as I wrote. Earlier, I benefitted from Alan Brinkley's inspiring lectures on "America Since 1945" at Harvard, which ignited my interest in this period and, no doubt, contributed to whatever of merit may be found in my approach. Its limitations remain, of course my own.

Most of all, the long process of creating this book benefited from the encouragement of my mother, Virginia Vogel McLeod, who seemed to adopt it as a sort of step-grandchild and take special interest in its development. Tangibly and emotionally, she has helped in ways too numerous to count. Her willingness to laugh, to help out in crucial moments, and to keep faith in hard times means more than words can say. When research speaks of the importance of parenting, it must have in mind such a mother. Equally my sisters, Christine and Virginia, who share that same wonderful capacity to give love and remain steadfast, have been there at each step and encouraging all the way. Last December, we all grieved the loss of Elvira Rigo, a Cuban woman of colour, who, along with our own mother, "mothered" my sisters and I through much of our childhood. Her warmth, humor, love, resilience and sense of abundance amidst scarcity helped inspire this book and will be with me always.

Tony, this book started out as a conversation with you and, like all else, concludes with you. In your capacity to see and make beauty in the most unlikely of ways lies the raison d'etre for this book. Against all odds, you show that courage, authenticity and greatness of heart can sometimes make a difference. This book is for you, Tony, and for those struggling with risk, as have you, to transform their lives. It comes, as always, with deepest love and affection.

Mary Vogel
11 September 2006
Biarritz

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Contents

Introduction

THE IRONY OF IMPRISONMENT

The punitive paradox of the carceral turn and the "micro-death" of the material

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CHANGING LANDSCAPES OF CRIME, order and social control are, it is said, inspiring a reimagining of criminology (Loader and Sparks, 2002: 83). Shifts in arrangements of governance, public perceptions of punishment, boundaries between public and private security, orientations to risk, cultural images of crime and disorder, and transnational patterns of offending are all connected with a fundamental rethinking of the nature of social ordering, political institutions and the role of the nation state today (Feeley and Simon, 1992; Beckett and Western, 2001; Garland, 2001; Dryzek, 2002; Hudson, 2002; and Loader and Sparks, 2002). A recurring question among the many raised is in what form, if at all, the nation state will continue to occupy the primary place of sovereignty, security and response to harm and risk in society (Loader and Sparks, 2002: 84). This paper builds on previous research to contribute to the project of situating these transformative changes historically to better understand them – particularly the rich analyses advanced by David Garland (2001) and by Malcolm Feeley and Jonathan Simon (1992), respectively. I suggest some further causal forces at work in criminal justice today en route to shaping what may ultimately be nothing less than a new global order.

In this paper, I focus on the paradox that we see today in criminal justice a growing punitiveness and use of mass imprisonment that has made the United States, since the late 1990s, the country that incarcerates the gretest share of its population of any in the world and Britain among the highest in western Europe (Mauer, 2003). Yet this punitiveness seems to respond neither to trends in crime nor to recent research about what works in reducing offending and reoffending. Recently, such coercive public action has been theorized as reasserting the sovereignty of states that had been weakened in recent years through their inability to assure public and private security. While that makes a compelling claim for the near term, I would like to suggest that something quite different may lie