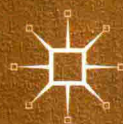


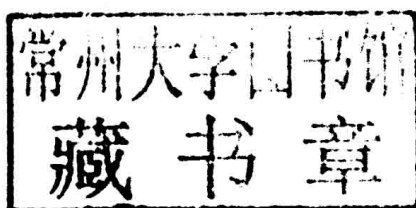
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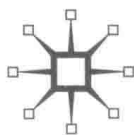


Crime, Justice and Human Rights

Leanne Weber
Elaine Fishwick
and
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Crime, Justice and Human Rights

*Dedicated to the memory of Stanley Cohen,
1942–2013*

List of Acronyms and Abbreviations

ACC	African Charter on the Rights and Welfare of the Child
ACT	Australian Capital Territory
AHRC	Australian Human Rights Commission
APF	Asia Pacific Forum
ASBO	anti-social behaviour order
ASEAN	Association of Southeast Asian Nations
ATS	Alien Tort Statute
CAT	International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CCTV	closed-circuit television
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CIA	Central Intelligence Agency
CJEU	Court of Justice of the European Union (previously ECJ)
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CRC	United Nations Committee on the Rights of the Child
CROC	Convention on the Rights of the Child
CSW	Commission on the Status of Women
CTC	Count the Costs
ECHR	European Convention on Human Rights
ECOSOC	Economic and Social Council
ECtHR	European Court of Human Rights
EHRC	Equality and Human Rights Commission
EU	European Union
GC	general comment

HRA	Human Rights Act
HRC	Human Rights Committee
HRLC	Human Rights Law Centre
HRMF	Human Rights Measurement Framework
ICC	International Criminal Court
ICCPED	International Convention for the Protection of All Persons from Enforced Disappearance
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICHRP	International Council on Human Rights Policy
ICPS	International Centre for Prison Studies
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the former Yugoslavia
LA	Los Angeles
LAS	League of Arab States
LWP	life without parole
NGO	non-governmental organization
NSW	New South Wales
NTER	Northern Territory Emergency Response
NYPD	New York Police Department
OAU	Organization of African Unity
OHCHR	Office of the United Nations High Commissioner for Human Rights
OVS	Office of Victim Services
SAHRC	South African Human Rights Commission
SIAC	Special Immigration Appeals Commission
TIP	Trafficking in Persons
TJ	Therapeutic jurisprudence
TVPA	Trafficking Victims Protection Act
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UKBA	UK Border Agency
UN	United Nations
UNHRC	United Nations Human Rights Council
UNICEF	UN International Children’s Emergency Fund
UNODC	UN Office on Drugs and Crime
UN TIP Protocol	Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children
UNTOC	Convention against Transnational Organized Crime

UPR	Universal Periodic Review
US	United States (adjective)
USA	United States of America
VDPA	Vienna Declaration and Programme of Action
WHO	World Health Organization

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About this Book

Human rights have been described at various points in history as 'nonsense' by their detractors and as 'secular religion' by their supporters. They are inescapably controversial, but at this point in time many people believe they are indispensable. Human rights provide a set of normative standards against which the performance of governments can be assessed, and are referred to increasingly in the quest for social, cultural and economic justice as well as for the protection of civil liberties. In this risk-conscious age, where security looms large as a political goal, human rights can provide the language and concepts to ask critical questions about the harms, benefits and limits of state action and inaction. Is the security of some people being pursued at the expense of the rights of others? Or are some fundamental rights and freedoms being sacrificed completely in the name of community safety, in a way that will benefit no one in the longer term? We believe that the positioning of criminology in an arena in which individuals and groups encounter the power and the promise of the state makes the critical study of human rights an essential element of contemporary criminological inquiry.

The purpose of this text is to build bridges between the knowledge domains of criminology and human rights. It is aimed at established criminologists and advanced students of criminology with little or no prior knowledge of human rights. While the book is suitable as a text for specialized undergraduate or postgraduate courses in human rights, crime and criminal justice, it has also been drafted with the independent reader in mind. In the first section, we provide a broad, multidisciplinary introduction to human rights concepts, and the law and practice of human rights. In the second section, human rights thinking is applied systematically to a range of well-established topics within criminology and criminal justice. In the final section, we identify some broad research themes within criminology that we believe illustrate the growing relevance of human rights in a globalizing world.

The book does not include important developments relating to the creation of the International Criminal Court and its dealings with large-scale international crimes such as genocide, war crimes and crimes against humanity. Nor does it review the ground-breaking work that is being done

by criminologists on transitional justice and peacemaking in international arenas. This is not because we consider these topics to be irrelevant to criminology or insignificant in the wider scheme of things. Rather, it is because important and highly specialized books are already being written on these subjects (see Parmentier and Weitekamp 2007; Stanley 2009; Braithwaite et al. 2010; Savelsberg 2010).

Moreover, these emerging areas of study extend the scope of criminology beyond the usual concern with the maintenance of social order within generally peaceful and stable societies, towards an engagement with fundamental questions of war and peace. While we wish to endorse these developments towards a more globally aware discipline, our focus is deliberately on the more familiar concerns of what we call 'everyday criminology', as it is usually practised within advanced democracies. Instead of seeking to extend the boundaries of criminology to become more globally focused, we are attempting to locate human rights within more well-trodden criminological territory. Rather than seeing human rights as applicable only to distant places with unstable and undemocratic governments, we hope to illuminate some of the connections between domestic criminology and the international human rights arena. This leads us to consider how human rights can be relevant to the operation of criminal law (Chapter 6), crime prevention at the local and national levels (Chapter 7), accountable policing (Chapter 8), and the pursuit of criminal justice (Chapters 9 to 12).

Our approach to the promise and pitfalls of human rights is both circum-spect and hopeful. We are mindful of the arrogance of simply assuming the universal acceptance of human rights, the naivety of the unreflective conflation of human rights with the content of human rights law, the danger and hypocrisy of using human rights as a shield while pursuing individual or elite interests, and the limitations of law of any kind in the face of entrenched injustice. Still, we see in human rights an important framing that is becoming essential for criminologists to understand, if not embrace, under conditions of globalization that are transforming both the world and the discipline.

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