

Human Rights and Incarceration: Critical Explorations

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The role of human rights in the context of incarceration is considered in this collection, with contributions focusing on Australia, New Zealand and the UK. While many lawyers have remained enthusiastic regarding the power of rights to improve the status and conditions of prisoners and detainees, some criminologists have been more sceptical of their value in neo-liberal states. This ambivalence is reflected in this collection which demonstrates both the value of rights, but also the failure of rights-based campaigns to achieve structural change.

The treatment of adult and child refugees in immigration detention in Australia and the limits of human rights, are considered by Grewcock, who sees such detention as inherently abusive and emphasises the importance of cooperation between detainees and outside groups in challenging detention. The incarceration of adults with cognitive disabilities in Australia is considered by Baldry, while Lynch considers alternatives to imprisonment for serious offending by children and young persons in New Zealand. Blagg and Anthony review the treatment of indigenous children in the Northern Territory of Australia and analyse imprisonment as a site of colonial subordination and resistance. Stanley and Mihaere address the issue of the over-representation of Māori in New Zealand's prisons and include discussion of the ritualism of human rights when states hide behind the preparation of reports for the UN and receive recommendations, but fail to pursue them. Carlton and Russell examine anti-carceral feminist campaigns undertaken in the 1980s to improve the conditions of women prisoners in Victoria. They are critical of the liberal rights framework which, they argue, can entrench imprisonment and legitimise women's imprisonment and stress that 'a rights compliant prison is still a prison' (pp 200). However, they acknowledge that subsequent anti-carceral feminist campaigns have had some positive effects, but the problem remains for activists how to challenge the structural conditions which underpin women's criminalisation and imprisonment. Closer to home, the position of children deprived of their liberty in the UK is considered by Haydon, while Scraton examines the breaches of human rights in prisons in Northern Ireland since the Good Friday Agreement. The experience of women in Scottish prisons is considered by Malloch, while Scott discusses the social, civil and physical death of prisoners in the UK. The collection ends with MacIntosh's discussion of indigenous rights, poetry and incarceration.

This collection covers a range of groups and jurisdictions. However, a common theme is the problem of relying on rights discourse to achieve meaningful reform and the question of whether

engaging in prisoners' rights campaigns reinforces the permanence of the prison as an institution. Several of the papers are written from an abolitionist perspective, so the work will be of interest to those wishing to explore the potential for abolitionist strategies while supporting humanitarian campaigns in these diverse contexts. Even if rights-based reforms ameliorate the pains of imprisonment, they do not address the structural conditions of marginalisation and criminalisation. As Baldry notes: 'Addressing individual circumstances and rights one at a time and when a person is already involved in the criminal justice system does not deal with the structural inequities driving criminalisation of disadvantaged people with disability in the first place' (pp 69).

But of course we are not yet at the stage where rights have been fully protected. While rights are well established in international human rights instruments and states recognise the importance of engaging with rights to ensure legitimacy, in practice prison conditions and lack of resources for prisoners often make it difficult to realise their rights. Enforcement will inevitably be limited by access to legal aid to bring cases and rights have often been subordinated by the courts to the administrative needs of the prison. Clearly stronger external scrutiny is needed as well as stronger enforcement of recommendations from external bodies. In the UK rights jurisprudence is well embedded in the penal context with many prisoners aware of their rights. But while the formal protection of prisoners' rights is at a highpoint, levels of violence and disorder in UK prisons have risen.

Given the magnitude of the issues identified by the contributors to this collection, it is perhaps not surprising some of them are sceptical of the value of rights to achieve change. However, the advantages won through rights claims should not be under-estimated and what may seem limited issues, for example, the 'books for prisoners' campaign may make a substantial impact on prisoners' lives and facilitating access to knowledge and ideas may have longer term benefits. Even if structural inequalities are not affected by the recognition of rights, success in pursuing rights claims may still have value in reducing the pains of imprisonment. The experience of fighting for rights also develops prisoners' skills and some campaigns, such as the demand for voting rights, have engaged large numbers of prisoners.

This book will be useful for those wanting to find out more about detention in Australia and New Zealand and will no doubt offer new insights to those already familiar with the systems of detention in place. The problems raised, such as the treatment of individuals with cognitive disabilities, extend beyond the Antipodes and will be of interest to those addressing similar issues in the UK. The book will appeal to criminologists, sociologists and to critical lawyers who are mindful of the potential of law to improve the position of groups marginalised by the current social structure,

while acknowledging law's limitations. This collection is a useful contribution to materials on comparative imprisonment and critical criminology. In several papers the voices of prisoners are at the forefront of the discussion and the book includes original case-study material. The price of the book may limit its readership which would be a pity as there is plenty of original and interesting material here, but hopefully university libraries may purchase it and a paperback edition would be welcomed.

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