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1.

Beyond Criminal Justice

J.M. Moore and David Scott

The *European Group for the Study of Deviance and Social Control* has, since its first conference in 1973, provided a space for critical academics, students and activists to explore issues related to, among others, harm, power, social control and regulation. These examinations have been from a range of critical perspectives and the group has been characterised by its lack of a uniform dogma and openness to new and emerging ideas. For many of us who have been involved in its conferences it has offered the opportunity to meet in a supportive environment, largely devoid of hierarchies, to explore our ideas and to develop new ones. The group remains vibrant and relevant to contemporary debates as it approaches its 42nd conference in Liverpool in September 2014.¹

In 2013 (with Joanna Gilmore) we edited *Critique & Dissent*, an anthology of papers presented at the first 40 conferences of the *European Group for the Study of Deviancy and Social Control* (European Group). As we read through the available papers we were struck by the rich vein of abolitionist papers delivered to conferences. In particular the ten editions of *European Working Papers*,² published between 1980 and 1990, included a number of important abolitionist papers which we, as more recent participants of the European Group's conferences, had not previously know existed. Although we were unable to include most of them in *Critique & Dissent* we resolved to compile them into a further collection. *Beyond Criminal Justice* is that book.

A question of values

The *European Group for the Study of Deviance and Social Control* has for over 40 years provided opportunities for scholars, activists and students to critically engage with issues connected to state punishment, 'crime' and 'deviant' behaviour.³ Its 41 conferences have seen well in excess of a

¹ For more information about the group and its history see its website www.europeangroup.org/

² The full contents of the ten published *Working Papers in European Criminology* are listed in Appendix B of this edition.

thousand papers delivered which have reflected the wide range of philosophical and political viewpoints the European Group has always been open to. Many of these have focused on state punishment which has consistently been exposed as an instrument of dominance. From the first conference the influence of penal abolition on the group has been both clear and welcome.⁴ This influence has been both intellectual – how we see and understand the state’s penal apparatus – and in defining the values of the European Group. These core values can be summarised as:

- *promoting craftsmanship, intellectual autonomy and integrity;*
- *fostering mutual support, cooperation and sisterly and brotherly warmth;*
- *nurturing comradeship, collegiality and solidarity with sufferers and the oppressed;*
- *emphasising political commitments, direct engagement in struggle and compassion for fellow human beings in need;*
- *And, facilitating emancipatory knowledge that can be used to challenge existing power relations.*⁵

These ‘European group values’ – promoting mutuality, solidarity and political commitments with the oppressed and holding the explicit aim of utilizing scholarship as a means of facilitating emancipatory change – when focused upon issues of ‘crime’ and punishment, dovetail perfectly with the principles and theoretical priorities of penal abolitionism. One of the aims of this book therefore is to emphasise these interconnections and indicate how the European Group and penal abolitionism have historically had a symbiotic relationship.

Abolitionism

Abolitionism historically has had many forms; the most significant being the eighteenth and nineteenth century movements for the abolition of slavery and the continuing campaigns for the abolition of the death penalty. What characterises all abolitionist movements is a rejection of the possibility of reforming their target institutions. Neither slavery nor the death penalty needed reform. They required abolition. For penal abolitionists the same

³ Gilmore, J., Moore, J. & Scott, D. (eds) (2013) *Critique and Dissent* Quebec: Red Quill

⁴ For a discussion of the early relationship between abolitionism and the European group see Bianchi,

H, Simondi, M. and Taylor, J. (eds.) (1975) *Deviance and Control in Europe*, London: John Wiley & Son

⁵ For further details see Scott, D. (2012) *Opening address of 40th Annual Conference* [available online at <http://youtu.be/Y0B5Q5XusJ>] and Gilmore et al (2013:21)

principal applies to state punishment in general and prisons in particular. In this collection Marijke Meima describes abolitionism as:

The movement – grass-roots as well as academic – that tries to reach the diminishing and finally the abolition of the criminal law system, its rational as well as its institutions.⁶

Whilst reformers seek to find ways of making penal sanctions more effective abolitionists represent a much more fundamental challenge, for us the penal system is not malfunctioning but fundamentally flawed, it needs abolition. Included within the broader abolitionist movement are more specific abolitionist campaigns including those arguing for an abolition of the imprisonment of women,⁷ people with mental health problems⁸ and children.⁹ Penal abolitionism has a long history. For example William Godwin’s *Enquiry into Political Justice* ‘precluded all ideas of punishment or retribution’¹⁰ whilst Edouard Desprez published his groundbreaking text *De L’Abolition de l’emprisonnement* in 1868.¹¹ Abolitionists recognise the reality that harmful acts, inter-personal conflicts, violence, problematic behaviours and a multitude of other troubles exist. What is distinctive about their thinking (and action) is the ways they chose to interpret and respond to such phenomena. By recognising that the way acts can be interpreted is socially constructed – for example by being classified as ‘crimes’ – abolitionists offer the opportunity of seeing these acts in a variety of different ways. This in turn leads to the opening up of the possibility of a wide range of solutions.¹² Whereas the paradigm of ‘criminal justice’ funnels a wide variety of acts into the category of ‘crime’ – and thereby resolvable only through firstly the identification of someone to blame and secondly through the deliberate infliction of pain – what we popularly refer to as *punishment* – abolitionism seeks to understand each act in its own situational context and thereby offers the possibility of a multitude of possible resolutions. For abolitionists the sanctions of the criminal justice system in general and prisons in particular neither addresses the underlying issues nor provides any restoration to victims. Instead these ‘solutions’ are counter-productive, generate additional

⁶ This volume p. 195

⁷ Carlen, P. (1990) *Alternatives to Women’s Imprisonment* Milton Keynes: Open University Press

⁸ Hudson, B.A. (1993) *Penal Policy and Social Justice* London: Macmillan

⁹ Goldson, B. (2005) ‘Child imprisonment: a case for abolition’ in *Youth Justice* Volume 5, No 2. pp. 77-90

¹⁰ Godwin, W. (1793) *Enquiry into Political Justice* London: G.G.J. and J Robinson p. 237

¹¹ Desprez, E. (1868) *De L’Abolition de l’emprisonnement* Paris: Librairie De E Dentu

¹² Hulsman, L. (1986) ‘Critical criminology and the concept of crime’ in *Contemporary Crises*, Vol. 10, No. 1, pp.63-80

pain, produce social divisions and create further problematic behaviours.¹³ By returning conflicts to the parties involved, by addressing them in their context and seeking to allow the participants to invent their own solutions, abolitionists offer a creative alternative to the crude infliction of blame and pain.

What's wrong with criminal justice?

In chapter twelve of this book Jolandeuit Beijerse and Renée Kool refer to the 'traitorous temptation' of criminal justice. This is both an incisive and appropriate description. Criminal justice language and thought has become embedded in our 'common sense' understanding of our world; it has, in a Gramscian sense, established its hegemony. But like much common sense we only need to scratch the surface, to see that its reality is far less impressive than its ideology.

Criminal justice's *claims* are impressive. It, in the name of the people, ensures fairness and 'justice'. It protects all equally and is enforced on all in society in a uniform manner. It protects society by controlling people who are dangerous, responding appropriately and proportionately to harmful and damaging acts. Through both its very existence and through its operation it prevents future problematic behaviour. Its operation benefits 'victims', who are portrayed as being at its core and against 'offenders'. These two groups, who are at the centre of its focus, are portrayed as belonging in separate and distinct categories.

Central to abolitionist thought is a deconstruction of these claims based on an empirical observation of the *reality* of criminal justice practice. In its day to day operation criminal justice reinforces the structural inequalities that characterise our socially unjust and unequal societies.¹⁴ Its energies are focused predominately on controlling marginalised and powerless people whose 'crimes' are relatively harmless whilst failing to exercise control over powerful actors who are responsible for many of the most harmful behaviours.¹⁵ With its focus on the infliction of pain as its ultimate outcome it is concerned with creating more not less harm.¹⁶ Despite its philosophical claim in practice it fails to provide either security or protection for society.¹⁷

¹³ Christie, N. (1993) *Crime Control as Industry* London: Routledge

¹⁴ Scraton, P. (2007) *Power, Conflict and Criminalisation*, London: Routledge

¹⁵ Hillyard, P. & Tombs, S. (2004) 'Beyond Criminology' in Hillyard, P., Pantazis, C., Tombs, S. and Gordon, D. (eds.) *Beyond Criminology: taking harm seriously* London: Pluto

¹⁶ Christie, N. (1981) *The Limits of Pain* Oxford: Martin Robertson

¹⁷ Mathiesen, T. (1990) *Prisons on Trial* London: Sage

Whereas victims are a relative recent discovery for criminal justice, abolitionist critique has always taken victims seriously. A major part of the abolitionist project has been to return the conflict to the victim; to actually place them at the very centre of the conflict resolution process.¹⁸ However in so doing it rejects the false dichotomy between the victim and the 'offender' instead recognising that often they have great similarities. Crucially they share a common interest in successfully resolving their conflict. Abolitionist critiques have also highlighted the differential treatment victims' experience - based around their class, 'race', gender, sexuality and age - at the hands of criminal justices agencies. They have also challenged claims that reforms have sought to address the needs of victims. These reforms have often focused on reducing the rights of the accused and increasing the severity of pain inflicted on the convicted; changes which do nothing to address the marginalisation of victims and their needs. In their implementation such reforms purely exploit victims to justify enhancing the repressive capabilities of the state which continues to be deployed to consolidate and extend unequal power relations.

At the heart of abolitionist critique is a questioning of whether justice can ultimately be delivered through the criminal process. Abolitionists have argued that rather than contributing to the creation of a just society criminal justice undermines it. In unequal societies criminal justice reinforces social inequalities and focuses on inflicting pain on the least powerful.¹⁹ Instead, they argue, to create a more just society and to meet the needs of both the 'victim' and the 'perpetrator' we need to develop alternative non-repressive conceptions of justice that can meet the needs of human beings.²⁰ In other words we must think **beyond** 'criminal justice'.

Book Overview

All the papers included in this anthology have been previously published in editions of the *Working Papers in European Criminology* published between 1980 and 1990. This series, long out of print, represents a rich source of critical and emancipatory scholarship. It was also a major logistical triumph of publishing. The papers were delivered at the European Group's annual conference, by scholars and activists whose first language was often not English, written up, revised, edited and printed in time for distribution by the following year's conference. In the era before word processors, e-mail and publishing software this required immense effort and dedication. We therefore wish to thank Manfred Brusten and Paul Ponsaers, (the editors of

¹⁸ Christie, N. (1977) 'Conflict as property' *British Journal of Criminology*, Vol.17, No. 1, pp. 1-15

¹⁹ Mathiesen, T. (1990) *Prisons on Trial* London: Sage

²⁰ Hudson, B.A. (2003a) *Justice in the Risk Society*, London: Sage

volume 2); Paddy Hillyard (who jointly edited volumes 3, 4 and 5); Peter Squires, (the joint editor of volumes 3 and 4) Mike Tomlinson (the joint editor of volumes 5, 7, 8, 9 and 10) and Bill Rolston (who edited volume 6 and was the joint editor of volumes 5, 7, 8, 9 and 10) as well as the anonymous editors of volume one. Without their commitment to the European Group and their scholarship this anthology would not have been possible.²¹ It is planned that the full series of *Working Papers in European Criminology* will be electronically republished by the European Group in the near future allowing the full collection to become widely available.

This collection has been organised into three sections. The first of these focuses on the theoretical contribution of European Penal abolitionism, whilst the second contains essays that expose and resist the harms generated by criminal justice. The final section highlights abolitionists' capacity to look beyond criminal justice and advocate alternative responses to conflicts, harms and disputes. In the next chapter, in a paper originally published in 1989, Jacqueline Bernat de Celis provides reflections on a how we can foster greater cohesion of the abolitionist movement as a whole. Locating her discussion in an international context rather than just a European one, her central premise is that for penal abolitionists the prison is 'unacceptable' and must be rejected as a legitimate response to human conflict. This is because of three fundamental reasons, which should be reiterated today with equal vigour – first, the prison is counter-intuitive to normal human values, ethical codes and commitments to human rights and well being; second, the prison reflects an abstraction of humanity and its continued existence can lead only to further reification and alienation; and third, the prison has a clear political function in maintaining social inequalities.

The prison cannot be humanised and therefore a further central unifying theme of penal abolitionists is the demand for radical alternatives to prisons and other forms of penalisation. This requires radical transformation of the social system which perpetuates penal incarceration alongside pragmatic interventions for handling human conflict and problematic conduct that respect human diversity. To be an abolitionist means bearing witness to the violence of incarceration and being prepared 'to stand up against it'.²² Jacqueline Bernat de Celis points the way forward by considering strategies that could be adopted by penal abolitionists to challenge the power to punish on both an individual and collective level.

In chapter three Heinz Steinert explores the relationship between Marxism and abolitionism. He recognises a natural sympathy between these two

radical and emancipatory traditions – both abolitionism and Marxism have similar value bases and to differing extents draw upon the assumptions of a libertarian socialism that pre-dates the emergence of both perspectives. Writing in the 1980s, however, his initial focus is to critically review a then recent perspective that appeared to have its roots in Marxism but was often considered as hostile to abolitionism – 'left realism', and especially the issues and debates rehearsed in Roger Matthews and Jock Young's 1986 reader *Confronting Crime*.²³ Identifying the limitations and contradictions within the (then fashionable) left realist perspective, Steinert systematically outlines the close relationship between Marxian analysis and penal abolitionism. In so doing he draws attention to their shared philosophical underpinnings in libertarian socialism and the ideas of socialist diversity, ironically fundamental to the Marxist abolitionism found in the 'new criminology' proposed by the later 'left realists' Ian Taylor and Jock Young.²⁴

Pat Carlen has observed that whilst the history of penology has been characterised by 'the failure of punishment in general, and imprisonment in particular ... (p)hilosophies of punishment, by contrast, have enjoyed a continuing success.'²⁵ Most abolitionist critique focuses on this failure of punishment in practice but in chapter four Willem de Haan develops a powerful abolitionist response to the justifications of punishment articulated through moral and political philosophy. His essay sets out a rational challenge to the assumptions underpinning the incorporation of punishment as a social institution into philosopher's theories of justice and their attempts to reconcile punishment with a just social order.

Of fundamental importance in de Haan's critique is a rejection of the direct association of the concept of punishment with justice. How can one person's rights be restored by inflicting pain on another person? Surely, he argues, compensation or restitution are more effective expressions of justice than punishment. By separating out the concept of sanctions from that of punishment de Haan provides for the possibility of just responses which are not based on the pain-infliction. His 'plunge into moral and political philosophy' provides abolitionism with a much firmer theoretical grounding and shows how a just social order is not only possible without punishment but requires its rejection.²⁶

²³ Matthews, R. and Young, J. (eds) (1986) *Confronting Crime* London: Sage

²⁴ Taylor, I., Walton, P. & Young, J. (1973) *The New Criminology* London: RKP

²⁵ Carlen, P. (1983) "On Rights and Powers: Some Notes on Penal Politics" pp 203-216 in David Garland and Peter Young (Eds.) *The Power to Punish: Contemporary Penalty and Social Analysis*. London: Heinemann Educational Books p. 203

²⁶ de Haan, this volume p.72

²¹ Such is the contribution of Bill Rolston and Mike Tomlinson to the papers selected in this volume that we felt it appropriate to acknowledge this by including them as co-editors.

²² Bernat de Celis, this volume p.22

Sebastian Scheerer in chapter five considers why the abolition of the prison failed to materialise as predicted by influential social commentators in the 1970s. Indeed, rather than seeing its end we have, instead, witnessed the expansion of the prison at a frightening pace in many countries, with Scheerer focusing on the case study of the Federal Republic of Germany in the mid 1980s. Drawing upon the insights of key thinkers such as Max Weber, Scheerer explores the interrelationships between what he refers to as 'autopoietic subsystems'.²⁷ In this chapter his primary focus is on the relationship between the 'relatively autonomous fields' of prisons and the criminal law. Scheerer starts by considering right and left wing arguments about the 'death of law' as a coherent and rational set of principles guiding human conduct and the implications of this dissolution for the meaning and practical application of the 'rule of law'. Throughout Scheerer presents an analytical framework that incisively and insightfully explains why the criminal law must be located within a wider administrative 'system' that has created not the 'death of criminal law' and penalisation but rather their enormous expansion. He concludes with a consideration of exit strategies and alternatives to current forms of 'over-criminalisation'.

The next section opens with Ida Koch's critical evaluation of the use of isolation in the detention of suspects before trials in Denmark. In 1985 when this paper was written Denmark had the highest per capita prison population in Western Europe and routinely solitarily detained those remanded in custody. Many of these prisoners were held in these conditions for months and sometimes years and Koch explores the harms caused by this isolation. Through a combination of interviews with prisoners, second-hand accounts of prison staff and documentary evidence Koch details the impact of isolation. The harms suffered by the prisoners are extensive and include: nightmares, anxiety, suicide attempts (sometimes successfully), self harm, difficulties concentrating, a loss of memory, fatigue, rage, declining physical health, hallucinations, and paranoia. The impact of isolation continues beyond release, with great difficulties being experienced in engaging in social interaction and with some reporting themselves 'no longer (able to) cope with physical and emotional intimacy and contact ... They feel severely handicapped'.²⁸ Koch's conclusion is that detention in isolation is both unnecessary and 'inhuman and cruel treatment'; a violation of the detainees human right.

²⁷ Scheerer, this volume p.78

²⁸ Koch, this volume p.104

The next two chapters explore the political context in which prisons operate in Italy and in England and Wales. Raffaele Calderone and Piere Valeriani in chapter seven explore developments in the operations of Italian prisons in the 1970s and the relationships between prisoners' struggles and the wider left wing movements. In their review they identify, from the 1960s, an attempt to develop significant progressive reforms in penal policy. These included a greater focus on rehabilitation and maintaining prisoners' contacts with their families and communities. However despite this they highlight how these reforms have been systematically clawed back with the core functions of order and security reasserting their dominance of penal practice. In a Marxist analysis Calderone and Valeriani see the conflicts taking place within prisons as reflections of 'the political and social conflicts taking place in the world outside (and) as a theatre of class conflict'.²⁹ Their account emphasises the various attempts made by the prisoners' movement to link their campaigns with those of workers and others outside the prison.

Calderone and Valeriani were writing at a time when the constitutional parties of the left, the Socialists and the Communists, held considerable political power, particularly within local government. It was also the time when an extra-parliamentary left was emerging. They suggest the failure of the political parties to utilise the (limited) power they had to realise progressive change in prison conditions had resulted in the prisoners' movements becoming dominated by what they describe as 'counter-power organisations'.³⁰

The political situation Joe Sim describes in mid-1980s England in chapter eight is very different. The Thatcher government had recently defeated the miners' strike and was implementing economic policies which represented major defeats for working people. Prison populations had grown significantly amid an increasing strengthening and militarisation of policing. The government's rhetoric focused on their alleged concerns about serious crime whilst their actions displayed an increasing capacity to maintain 'public order' and ruthlessly respond to dissent and political resistance.

The increasing resort to the use of imprisonment is seen by Sim as a direct result of this political situation. However, it placed considerable strain on the penal estate's capacity and contributed to a deepening of the crisis within the prison. This crisis he explores in detail, highlighting that it extends beyond the impact of overcrowding and includes conflict between prison staff and management; conflict between prisoners and staff; increased resistance by prisoners (including peaceful direct action and legal challenges); and ultimately leads to the questioning of the legitimacy of the prison. In response

²⁹ Calderone and Valeriani, this volume p. 116

³⁰ Ibid, p.121

the state has sought to increase capacity and to introduce a range of control techniques intended to isolate and neutralise the most 'difficult' prisoners. Re-reading Sim's article nearly 30 years after it was written is sobering. The English and Welsh prison system's expansion has accelerated and resistance within prison has, at least to date, largely been successfully managed. In a time of austerity for the majority of the population Sim's reference to 'an increasingly fragile social order beset by economic decline, industrial stagnation and political conflict' remains highly relevant.³¹ In such a context the abolitionist's challenge to the very legitimacy of the prison and penal system is particularly important.

The consequences of the reality of imprisonment are explored in the next chapter by Phil Scraton and Kathryn Chadwick. They focus on the Glenochil Complex in Scotland, which when this paper was delivered incorporated both a detention centre and a young offenders institution, and critically evaluate an official inquiry into it following the death of seven young teenage prisoners in the early 1980s.³² Such deaths threaten the legitimacy of penal institutions and Scraton and Chadwick highlight how in seeking to defuse this challenge the inquiry team led by Derek Chiswick sought to focus on the individuals who had died at their own hands rather than the institution in which their deaths had occurred. The inquiry report by-passed the 'broader structural and political contexts' and instead seeks to establish a category of particularly vulnerable prisoner at risk of attempting to take their own lives.³³ Although Glenochil utilised a medical model to identify vulnerability Scraton and Chadwick highlight how in its practical management of those defined as vulnerable it adopted an entirely punitive approach. Rejecting the report's naïve belief that the institutions exist for the care and treatment of the young people confined within them, Scraton and Chadwick firmly locate the cause of the deaths in the violence and pain inherent in penal institutions. Those who have killed themselves they argue should not be seen as deficient, instead we should consider them as 'responding *rationality* to inhuman policies and practices which are inherent in harsh regimes'.³⁴

In the first chapter of the third section of this anthology Rene van Swaaningen argues for following Michel Foucault's advice and avoiding the mistake of 'thinking we can present another – better – "law and order" so as to create a more righteous society'.³⁵ In examining the relationship between criminology and abolitionism he highlights a major difference – abolitionism

³¹ Sim, this volume p. 148

³² Glenochil currently (in 2014) operates as an adult male prison.

³³ Scraton and Chadwick, this volume p. 155

³⁴ Scraton and Chadwick, this volume, p. 168. Emphasis in original

³⁵ Swaaningen, this volume pp. 173-4

extends beyond criminology and its focus on 'crime' and punishment. Abolitionist alternatives don't only seek to redirect the responses to conflicts and harmful acts away from the criminal justice system but also to critique the authoritarian nature of those alternatives. For real change 'punitive and repressive attitude(s)' need challenging as well as specific institutions. Central to this is the rejection of the 'authoritarian idolatry' that comes from abdication of responsibility to the 'professionals in charge' and state agencies. Ultimately, abolitionists are arguing for us all to reclaim our collective responsibility, or as Swaaningen argues:

if we want to put a stop to an undesirable situation, and we want our personal views and wishes to play a role in the settlement of the conflict, we should not just rely on some kind of authority to do it for us. We should take up our personal responsibility as well; before, during and after a criminalisable conflict.³⁶

Swaaningen's analysis touches on the way the women's movements campaigns against sexual violence have been 'defined in' by the criminal justice system. This theme is central to the next three chapters which all provided abolitionist insights into gendered violence and the possible responses. Common to all three is an acknowledgement, from a feminist perspective, of the seriousness of sexual and other gendered violence. In the first of these papers Marijke Meima sets out to critique both existing criminal justice responses to sexual violence and potential abolitionist alternatives. For Meima the criminal process has a number of fatal flaws. The most serious being the number of possibilities of escape – in the police investigation, in the decision to prosecute and in the trial – offered; the ineffectiveness of the sanctions available in the event of a conviction and the way criminal justice formalises and removes the conflict from the parties. Echoing critique from earlier chapters, 'neither the 'culprit' nor the 'victim'; Meima argues, 'will recognise himself or herself in the legal version of what has actually happened'.³⁷

The absence of a single authoritative abolitionist approach is highlighted by Meima. Instead abolitionists argue for enabling people to find ways of resolving their own conflicts. This raises the obvious problem of the co-operation of the alleged perpetrator. However by moving away from criminal justice's focus on blame and penal sanctions (and the associated legal protection of a defendant) an abolitionist approach promotes this co-

³⁶ Swaaningen, this volume p. 184

³⁷ Meima, this volume p. 200

operation. Meima draws on the conferencing approach of restorative justice allowing for the parties to reach a resolution without the need for judicial intervention (although some form of civil judicial intervention may be necessary where agreement has not been reached).³⁸ But does this mean effectively the 'rapist' will get away with their sexual violence? For Meima this is not the central question, instead she prioritises the objective of stopping sexual violence. She argues that under an abolitionist approach not only is the necessary message about the unacceptability of sexual violence communicated, but also that:

The chance that a rapist will learn from this procedure, being confronted with all the suffering and problems he has caused, is much bigger than the chance that he will learn from the distant, authoritarian and uniform procedure we know now.³⁹

In chapter twelve Jolandeuit Beijerse and Rene Kool explore the relationship between the Dutch Women's Movement and the Criminal Justice System in respect of responding to violence against women. Their starting point is the encounter between women as victims and the criminal justice system. They conclude, like most research, that criminal justice largely fails to hold perpetrators to account and where it does it can only offer women 'that the violator will be punished'.⁴⁰ This failure has led to a number of responses from the women's movements. Initially their focus was firstly on a political understanding of sexual violence which located it within the context of power relations and secondly on the provision of direct services to women victimised by this violence. This political understanding has led inevitably to a critique of criminal justice and its potential role in responding to sexual violence. For significant sections of the women's movement this has led to calls for reform of criminal justice to make it more effective through for example revised legal definitions of offences and the training of police and prosecutors. The authors highlight how such moves have largely failed and will prove 'a dead-end street'.⁴¹ Such a failure is, they argue, inevitable when women rely on an institution whose primary function is the maintenance of social order. The women's movement they conclude must avoid 'the traitorous temptation of criminal justice'.⁴²

³⁸ For a critical discussion of some of these points see Hudson, B.A. (2003a) *Justice in the Risk Society* London: Sage and Hudson, B.A. (2003b) *Understanding Justice*, London: Sage.

³⁹ Meima this volume p. 203

⁴⁰ Beijerse and Kool, this volume p.211

⁴¹ *Ibid.*, p. 219

⁴² *Ibid.*, p. 207

In chapter thirteen Willemien de Jongste seeks to explore the understandings of power that underpin feminist theory and the abolitionism of Louk Hulsman. Like the previous paper de Jongste's analysis is based on the experience of law reform and the women's movement in the Netherlands. She identifies a conflict between the movement's theoretical understanding of both sexual violence and the operation of criminal justice as strategies of patriarchal power and its increasing advocacy of criminal law as the appropriate paradigm within which to respond to sexual violence. By deploying Hulsman's apple model of criminal justice this essay identifies how the attempts to reform criminal law inevitably lead to the reinforcing of existing power relations. Whatever success is achieved in changing the wording of the penal code with respect to sexual violence the reliance on criminal justice leads to 'an implementation of a dominant view of rape rather than a means of fighting against it'.⁴³

The section concludes with Marti Gronfors's account of a mediation scheme introduced in 1984 to the city of Vantaa in Finland. The paper provides an account of the scheme's first two years of operation before drawing some important conclusions. The project had been set up on good abolitionist principles – for example recognition that conflicts are normal, best resolved quickly and between the people directly involved – although it operated alongside criminal justice interventions. This meant that some cases were both resolved in the mediation scheme and processed through the courts. Gronfors's evaluation reaches some important conclusions. Firstly mediation operates at its best when deployed to resolve a conflict between the parties. Where someone has a more general problem expert advice is required rather than the communicative skills offered by mediators. Secondly whilst the scheme was initially characterised by mediation resulting in creative solutions it rapidly lost this aspect and by the end of the two years was exclusively trying to resolve disputes by financial compensation, often at levels far higher than would have been awarded by courts. Thirdly participants reported high levels of satisfaction with a significant proportion feeling they were getting 'justice'. His final point is to raise the danger that such schemes, particularly when funded by the state, will be co-opted. There was already evidence of this happening in Vantaa.

The books come to a close with a chapter by David Scott and J.M. Moore which locates the key themes and issues raised in the previous thirteen substantive chapters within our contemporary social and political contexts. Scott and Moore point to a number of lessons that can be drawn from these European Group Working Papers which abolitionists can adopt today in 2014.

⁴³ de Jongste, this volume p. 236

Bibliography

- Bianchi, H, Simondi, M. and Taylor, I. (eds.) (1975) *Deviance and Control In Europe*, London: John Wiley & Son
- Carlen, P. (1983) "On Rights and Powers: Some Notes on Penal Politics" pp 203-216 in David Garland and Peter Young (Eds.) *The Power to Punish: Contemporary Penalty and Social Analysis*. London: Heinemann Educational Books
- Carlen, P. (1990) *Alternatives to Women's Imprisonment* Milton Keynes: Open University Press
- Christie, N. (1977) "Conflict as property" *British Journal of Criminology*, Vol. 17, No. 1, pp. 1-15
- Christie, N. (1981) *The Limits of Pain* Oxford: Martin Robertson
- Christie, N. (1993) *Crime Control as Industry* London: Routledge
- Desprez, E. (1868) *De L'Abolition de l'emprisonnement* Paris: Librairie De E Dentu
- Gilmore, J., Moore. J. & Scott, D. (eds) (2013) *Critique and Dissent* Quebec: Red Quill
- Godwin, W. (1793) *Enquiry into Political Justice* London: G.G.J. and J Robinson
- Goldson, B. (2005) 'Child imprisonment: a case for abolition' in *Youth Justice* Volume 5, No 2. pp. 77-90
- Hillyard, P & Tombs, S. (2004) 'Beyond Criminology' in Hillyard, P., Pantazis, C., Tombs, S. and Gordon, D. (eds) *Beyond Criminology: taking harm seriously* London: Pluto
- Hudson, B.A. (1993) *Penal Policy and Social Justice* London: Macmillan
- Hudson, B.A. (2003a) *Justice in the Risk Society*, London: Sage
- Hudson, B.A. (2003b) *Understanding Justice*, London: Sage
- Hulsman, L. (1986) 'Critical criminology and the concept of crime' in *Contemporary Crises*, Vol. 10, No. 1, pp.63-80
- Matthews, R. and Young, J. (eds) (1986) *Confronting Crime* London: Sage
- Mathiesen, T. (1990) *Prisons on Trial* London: Sage
- Scott, D. (2012) *Opening address of 40th Annual Conference [available online at <http://youtu.be/Y0BsQj5xusj>]*
- Scruton, P. (2007) *Power, Conflict and Criminalisation*, London: Routledge
- Taylor, I., Walton, P. & Young, J. (1973) *The New Criminology* London: RKP

Section A:

Theoretical Contributions