



OÑATI INTERNATIONAL SERIES IN  
LAW AND SOCIETY

# Criminal Policy in Transition

Edited by

Penny Green and Andrew Rutherford

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# Criminal Policy In Transition Onati International Series In Law And Society

**Anna Pivaty**



## **Criminal Policy In Transition Onati International Series In Law And Society:**

Criminal Policy in Transition Penny Green, Andrew Rutherford, 2000-12-11 Criminal Policy in Transition comes along at a time when the literature in criminology is desperately short of global perspectives It helps fill that gap while it presents important new insights into changing penal policy and practice That it raises as many questions as it seems to answer is one of its great strengths The authors write knowledgeably about their home societies without being prematurely bounded by comparative criteria As a result they develop a complex and uneven image of similarities and differences of divergence and convergence through time In this sense the collection offers a model of how international collaborative work should proceed The book is the product of a workshop held at the International Institute for the Sociology of Law IISL in Onati Spain The IISL is a partnership between the Research Committee on the Sociology of Law and the Basque Government

**Criminal Policy in Transition** Penny Green, Andrew Rutherford, 2000 The book is a product of a workshop held several years ago at the International Institute for the Sociology of Law IISL in Onati Spain Foreword

*Travels of the Criminal Question* Dario Melossi, Máximo Sozzo, Richard Sparks, 2011-02-03 The expression the criminal question does not at present have much currency in English language criminology The term was carried across from Italian debates about the orientation of criminology and in particular debates about what came to be called critical criminology One definition offered early in the debate described it as an area constituted by actions institutions policies and discourses whose boundaries shift According to this writer crime and the cultural and symbolic significance carried by law and criminal justice is an integral aspect of the criminal question The criminal question draws attention to the specific location and constitution of a given field of forces and the themes issues dilemmas and debates that compose it At the same time it enables connections to be made between these embedded realities and the wider conceivably global contours of influence and flows of power with which it connects This in turn raises many questions How far do the responses to crime and punishment internationally flow from and owe their contemporary shape to the cultural and economic transformations now widely known as globalisation How can something that is in significant ways embedded situated and locally produced also travel What is not in doubt is that it does travel and travel with serious consequences The international circulation of discourses and practices has become a pressing issue for scholars who try to understand their operation in their own particular cultural contexts This collection of essays seeks a constructive comparative view of these tendencies to convergence and divergence

Surveillance and Crime Roy Coleman, Michael McCahill, 2010-10-15 Surveillance has a long standing relationship with crime and its identification prevention detection and punishment With information on each citizen spanning up to 700 databases and over 4 million CCTV cameras in the United Kingdom alone this book explores how new technologies have given rise to new forms of monitoring and control Offering a comprehensive understanding of the relationship between surveillance crime and criminal justice this book explores the development of surveillance technologies within a broad historical context how new

surveillance technologies are shaped by existing social relations political practices cultural traditions and organizational contexts the implications of the use of surveillance in responding to crime including biometrics DNA samples and electronic monitoring how new surveillance technologies reinforce old social divisions particularly along the lines of class race gender and age The book draws upon theoretical debates from a range of disciplines to shed light on this topical subject Engaging and authoritative this is an important read for advanced students and academics in criminology criminal justice social policy and sociology The Key Approaches to Criminology series celebrates the removal of traditional barriers between disciplines and specifically reflects criminology's interdisciplinary nature and focus It brings together some of the leading scholars working at the intersections of criminology and related subjects Each book in the series helps readers to make intellectual connections between criminology and other discourses and to understand the importance of studying crime and criminal justice within the context of broader debates The series is intended to have appeal across the entire range of undergraduate and postgraduate studies and beyond comprising books which offer introductions to the fields as well as advancing ideas and knowledge in their subject areas

**Criminal Defence at Police Stations** Anna Pivaty, 2019-11-07 Criminal defence at the investigative stage has attracted growing attention due to the shifting focus of the criminal process onto pre trial stages and the recent European regulations adopted in this area Increasingly justice practitioners and legislators across the EU have begun to realise that the trial takes place at the police station This book provides a comprehensive legal empirical and contextual analysis of criminal defence at the investigative stage from a comparative perspective It is a socio legal study of criminal defence practice which draws upon original empirical material from England and Wales and the Netherlands Based on extensive interviews with lawyers and extended periods of observation the book contrasts the encountered reality of criminal defence with the model role of a lawyer at the investigative stage derived from European norms It places the practice of criminal defence within the broader context of procedural traditions contemporary criminal justice policies and lawyers occupational cultures Criminal Defence at Police Stations questions the determinative role of procedural traditions in shaping criminal defence practice at the investigative stage The book will be of interest for criminal law and justice practitioners as well as for academics focusing on criminal justice criminology socio legal studies legal psychology and human rights

**Rethinking Equality Projects in Law** Rosemary Hunter, 2008-08-01 The concept of equality has been a key animating principle of modern feminism and has been highly productive for feminist legal thought and feminist politics concerning law Today however given the failure to achieve material and psychic equality for women feminists have come to challenge the usefulness of equality as a concept a particular definition or a basis for strategising The papers in this collection reflect these concerns primarily in the context of English speaking common law cultures Collectively the papers analyse a range of equality projects across a number of areas of public and private law considering both competing conceptions of equality and alternatives to it In taking stock across a century and a half and around the globe the book

illustrates the range of ways in which equality projects in law have been challenged by and remain a challenge for feminism

*Regulating Deviance* Bernadette McSherry, Alan Norrie, Simon Bronitt, 2008-12-12 The criminal attacks that occurred in the United States on 11 September 2001 have profoundly altered and reshaped the priorities of criminal justice systems around the world Domestic criminal law has become a vehicle for criminalising new terrorist offences and other transnational forms of criminality Preventative detention regimes have come to the fore balancing the scales in favour of security rather than individual liberty These moves complement already existing shifts in criminal justice policies and ideologies brought about by adjusting to globalisation economic neo liberalism and the shift away from the post war liberal welfare settlement This collection of essays by leading scholars in the fields of criminal law and procedure criminology legal history law and psychology and the sociology of law focuses on the future directions for the criminal law in the light of current concerns with state security and regulating deviant behaviour

*Rethinking Law, Society and Governance* Gary Wickham, George Pavlich, 2001-12 The product of a workshop held at the International Institute for the Sociology of Law in Onati Spain the nine chapters collected here re examine the idea of governmentality most often associated with the work of Michel Foucault to measure its relevance to contemporary sociolegal issues The book considers whether political involvement should be a necessary component of a governmentality approach challenging governmentality theorists who have analyzed conceptual practices without demanding that they be applied to local political systems The contributors ponder topics including liberal government and resistance to it unemployment and crime as well as issues of philosophy and methodology Distributed by ISBS Annotation copyrighted by Book News Inc Portland OR

*Luhmann on Law and Politics* Michael King, Chris Thornhill, 2006-02-27 Perhaps more than any other social theorist in recent history Niklas Luhmann's work has aroused extreme and often antagonistic responses It has generated controversies about its political implications its resolute anti humanism and its ambitious critique of more established definitions of society social theory and sociology Now however a steadily growing number of scholars working in many different disciplines have begun to use aspects of Luhmann's sociology as an important methodological stimulus and as a theoretical framework for reorientating their studies This collection of essays includes critical and reconstructive contributions by a number of distinguished social theorists political theorists legal scholars and empirical sociologists Together they provide evidence of Luhmann's extensive and diverse relevance to the issues facing contemporary society and at the same time they enhance our understanding of the challenges posed by his theoretical paradigm to more traditional conceptions of social theory

**Crafting Transnational Policing** Andrew Goldsmith, James Sheptycki, 2007-11-16 The book examines the phenomenon of crafting transnational policing By this term is meant the different forms of engagement in policing reform by international donors national governments foreign police and law enforcement agencies in the domestic policing agencies and programs of recipient countries It includes inter alia peace keeping in post conflict situations reconstruction and capacity building as part of nation or state building exercises and the

provision of technical assistance in relation to certain aspects of law enforcement In each instance there is a cross border provision of resources with a view to shaping the kind of policing provided in recipient nations Why do some countries engage in these activities Why has policing become a preferred form of foreign policy engagement in some countries What forms of policing development are provided How are they delivered And how are they received How should these kinds of assistance and or interventions be conducted in future In this regard is there a non negotiable core of good policing that needs to be developed and nurtured as an integral part of all defensible transnational policing engagements These are some of the questions raised by the contributions to this book The book arises primarily from papers presented at a workshop held in Onati Spain in July 2004 on the emergence of a global constabulary ethic The book has also been supplemented by two solicited chapters

**Política criminal y sistema penal** Iñaki Rivera Beiras, Elisabet Almeda, 2005 Debates epistemológicos y desarrollos históricos Constitucionalismo social y política criminal inicios desarrollos y crisis El estado español y la política criminal en el nuevo milenio

*Criminology and Archaeology* Simon Mackenzie, Penny Green, 2009-11-04 This collection is the product of a collaborative venture between criminologists and archaeologists concerned with the international market in illicit antiquities It examines the state of regulation in the antiquities market with a particular focus on the UK's position but also with reference to the international context Looting happens routinely and many countries have rich deposits of cultural material Antiquities are highly collectable and there are several prominent international centres for trade As well as the legitimate face of the antiquities trade there therefore exists an international illicit market in which cultural objects are trafficked for profit in breach of national laws and international conventions It is within such a complex international and local regulatory context that the essays presented here emerge focusing upon three areas in particular the demand for looted antiquities the supply of cultural artefacts which originate in source countries and regulation of the international market in antiquities Criminology has long been interested in transnational crime and its regulation Archaeologists concerns lie in the destructive consequences of antiquities looting which erases our knowledge of the past In the papers presented here both disciplines present new data and analysis to forge a more coherent understanding of the nature and failings of the regulatory framework currently in place to combat the criminal market in antiquities

*The Impact of Covid-19 on Prison Conditions and Penal Policy* Frieder Dunkel, Stefan Harrendorf, Dirk van Zyl Smit, 2022-04-19 The Impact of COVID 19 on Prison Conditions and Penal Policy presents the results of a worldwide exchange of information on the impact of COVID 19 in prisons It also focuses on the human rights questions that have been raised during the pandemic relating to the treatment of prisoners in institutions for both juveniles and adults worldwide The first part brings together the findings and conclusions of leading prison academics and practitioners presenting national reports with information on the prison system prison population rates how COVID 19 was and is managed in prisons and its impact on living conditions inside prisons and on reintegration programmes Forty four countries are covered many in Europe but also Argentina Brazil Chile Colombia Per

Costa Rica Canada the USA Kenya South Africa China India Japan Australia and New Zealand In the second part thematic chapters concentrate explicitly on the impact of the pandemic on the application of international human rights standards in prisons and on worldwide prison population rates The book concludes by drawing out the commonalities and diverging practices between jurisdictions discussing the impact of measures introduced and reflecting on what could be learnt from policies that emerged during the pandemic Particular attention is paid to whether reductionist strategies that emerged during the pandemic can be used to counteract mass incarceration and prison overcrowding in the future Although the book reflects the situation until mid 2021 after the second and during the third wave of the pandemic it is highly relevant to the current situation as the living conditions in prisons did not change significantly during the following waves which showed high infection rates in particular in the general population but increased vaccination rates too In prisons problems the pandemic raises have an even greater impact than for the general society Revealing many notable and interesting changes in prison life and in release programmes this book is essential reading for students and scholars of penology criminology law sociology and public health It will also appeal to criminal justice practitioners and policy makers **Adapting Legal**

**Cultures** David Nelken, Johannes Feest, 2001-11-07 This exciting collection looks at the theory and practice of legal borrowing and adaptation in different areas of the world Europe the USA and Latin America S E Asia and Japan Many of the contributors focus on fundamental theoretical issues What are legal transplants What is the role of the state in producing socio legal change What are the conditions of successful legal transfers How is globalisation changing these conditions Such problems are also discussed with reference to substantive and specific case studies When and why did Japanese rules of product liability come into line with those of the EU and the USA How and why did judicial review come late to the legal systems of Holland and Scandinavia Why is the present wave of USA influenced legal reforms in Latin America apparently having more success than the previous round How does competition between the legal and accountancy professions affect patterns of bankruptcy The chapters in this volume which include a comprehensive theoretical introduction offer a range of valuable insights even if they also show that the **Contemporary Issues of the Semiotics of Law** Anne Wagner, Tracey Summerfield, Farid Samir Benavides Vanegas, 2005-09-20 The law is a symbolic construction and therefore rests on a variety of undertakings What gives law its meaning is for some ideology for others the welfare of the majority However what is manifest is a conception of the law as a material structure that carries symbols of everyday life The analyses that are made in the law and semiotics movements show that the law's symbolism cannot be understood by reference only to itself a strictly legal meaning It is a symbol that conveys life a symbol that in itself is contaminated with life politics morality and so on Law and Semiotics is an obvious meeting point between traditions because it is the place where all the discussions about the law can find a common language This is a collection of different papers where the institution of the law is investigated in combination with and as part of a multiplicity of sign systems Firstly law can be understood as part of a global system of

meaning Part I and secondly that despite the homogenising threat of globalisation the play of legal meaning retains a socio historical specificity Part II The global issues of human migration human rights colonisation and transnational power are played out in local spaces in the public discourses through which they are given localised representation in moments of activism and as a tool of subversion The law is a rhetorical device which at once constitutes these global and local truths but which is also constituted by them

**Living Law** Marc Hertogh, 2008-12-13 This collection of essays is the first edited volume in the English language which is entirely dedicated to the work of Eugen Ehrlich Eugen Ehrlich 1862 1922 was an eminent Austrian legal theorist and professor of Roman law He is considered by many as one of the founding fathers of modern sociology of law Although the importance of his work including his concept of living law is widely recognised Ehrlich has not yet received the serious international attention he deserves Therefore this collection of essays is aimed at reconsidering Eugen Ehrlich by bringing together an interdisciplinary group of leading international experts to discuss both the historical and theoretical context of his work and its relevance for contemporary law and society scholarship This book has been divided into four parts Part I of this volume paints a lively picture of the Bukowina in southeastern Europe where Ehrlich was born in 1862 Moreover it considers the political and academic atmosphere at the end of the nineteenth century Part II discusses the main concepts and ideas of Ehrlich's sociology of law and considers the reception of Ehrlich's work in the German speaking world in the United States and in Japan Part III of this volume is concerned with the work of Ehrlich in relation to that of some of his contemporaries including Roscoe Pound Hans Kelsen and Cornelis van Vollenhoven Part IV focuses on the relevance of Ehrlich's work for current socio legal studies This volume provides both an introduction to the important and innovative scholarship of Eugen Ehrlich as well as a starting point for further reading and discussion

**Contractual Certainty in International Trade** Volkmar Gessner, 2008-12-19 Global business interacts efficiently despite the heterogeneity of social economic and legal cultures which according to widespread assumptions cause insecurities and uncertainties Breaches of contracts may occur more frequently and business relationships may be terminated more often in international than in domestic trade But most business people engaged in exporting or importing products or services seem to operate in a sufficiently predictable environment allowing successful ventures into the global market The apparent paradox presented by cultural institutional diversity and contractual efficiency in cross border business transactions is the focus of this volume of essays The wide range of approaches adopted by contributors to the volume include the Weberian concept of law as a tool for avoiding the risk of opportunism economic sociology which treats networks and relationships between contractual parties as paramount representatives of new institutional economics who discuss law as well as private governance institutions as most efficient responses to risk comparative economic sociologists who point to the varieties of legal cultures in the social organisation of trust and national and international institutions such as the World Bank which try to promote legal certainty in the economy The purpose of the volume is to build on this interdisciplinary



exercise by adding empirical evidence to ongoing debates regarding enabling structures for international business and by critically reviewing and discussing some of the propositions in the literature which contain interesting hypotheses on the effects of the internationalization of markets on market co ordination institutions and on the role of the state in the globalising economy

**Legal Institutions and Collective Memories** Susanne Karstedt, 2009-08-03 In recent decades the debate among scholars lawyers politicians and others about how societies deal with their past has been constant and intensive Legal Institutions and Collective Memories situates the processes of transitional justice at the intersection between legal procedures and the production of collective and shared meanings of the past Building upon the work of Maurice Halbwachs this collection of essays emphasises the extended role and active involvement of contemporary law and legal institutions in public discourse about the past and explores their impact on the shape that collective memories take in the course of time The authors uncover a complex pattern of searching for truth negotiating the past and cultivating the art of forgetting Their contributions explore the ambiguous and intricate links between the production of justice truth and memory The essays cover a broad range of legal institutions countries and topics These include transitional trials as monumental spectacles as well as constitutional courts and the restitution of property rights in Central and Eastern Europe and Australia The authors explore the biographies of victims and how their voices were repressed as in the case of Korean Comfort Women They explore the role of law and legal institutions in linking individual and collective memories in the transitional period through processes of lustration and they analyse divided memories about the past and their impact on future reconciliation in South Africa The collection offers a genuinely comparative approach allied to cutting edge theory

**Multicultural Jurisprudence** Marie-Claire Foblets, Alison Dundes Renteln, 2009-01-16 As individuals travel across borders societies have become more and more pluralistic The result of increased migration is the interaction among cultural communities and inevitably clashes between state law and customary law These cultural conflicts have given rise to a new multicultural jurisprudence In this volume scholars grapple with the immense challenges judges are currently experiencing everywhere To what extent can and should courts accommodate litigants requests by taking their cultural backgrounds into account This collection brings together powerful examples of the cultural defense in many countries in Western Europe North America and elsewhere It shows the ubiquity of this defense contrary to the mistaken impression that it has been invoked principally in the United States This book makes the case for undertaking studies of the use of the cultural defense in jurisdictions all over the world where this has not been previously documented Many of the chapters concentrate on criminal cases including homicide in the context of honour crimes provocation based on loss of face or witchcraft killings Some deal with other areas of law such as asylum jurisprudence family law and housing policy They show in concrete cases how cultural claims have arisen and how legal systems wrestle with these arguments It is clear that judges have had considerable difficulty handling many of the cultural claims The authors demonstrate persuasively the need to reconsider the proper use of cultural evidence

in legal proceedings Those interested in the ways in which expertise influences the disposition of cases will find this book compelling

**Imaginary Boundaries of Justice** Ronnie Lippens, 2005-01-14 It has become increasingly difficult to speak or even think social or legal justice in an age when words have left their moorings Perhaps images are more stable than words maybe images and imagery possess a certain viscosity even a sensory quality which prevents them from evaporating This maybe is what this book is about The contributors to this collection explore the issue of how the Imaginary images imagery imagination has a role in the production and reproduction of visions of legal and social justice It argues that visions of justice are inevitably bounded Boundaries of visions of justice however are also imaginary They emerge within imaginary spaces and as they are imaginary they are inherently unstable The book captures an emerging interest in the humanities and social sciences in images and the visual or the Imaginary more broadly This collection will appeal to scholars and students of social and legal theory visual culture justice and governance studies media studies and criminology

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