



Introduction

Punishment and Society: The Emergence of an Academic Field

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Does the academy need another Handbook? Encyclopedia? Dictionary? Or whatever other form of authoritative narrative you prefer? As occasional contributors to such enterprises, we have brought some serious scepticism to these questions as we have contemplated developing this *Handbook of Punishment and Society* for SAGE Publications. The publishers were keen, persuasive and clearly capable.¹ It was ourselves whom we needed to convince that this was the right time for such an intervention before we could commit our own time and more importantly our ever diminishing social capital in order to importune colleagues to commit their time. Why then is a *Handbook of Punishment and Society* a worthwhile project now?

Motivating us, was a sense that for a host of political, social and intellectual reasons, within our own academic lifetimes, and certainly within those of anyone younger than ourselves coming to the study of punishment, penal institutions and penal politics, or the cultural representation of those matters since

the 1980s, the field we denominate here as ‘punishment and society’ had come into sufficient focus and achieved sufficient definition and discursive shape to provide a rallying point for our interests and concerns. It organized a certain set of puzzles, questions and explanatory problems, just as it also offered a channel for a group of ethical and political anxieties and objections. To the extent that punishment and society became a space in which we and others could form our scholarly identities this was in part because we were offered the opportunity to pick up intellectual traces already laid down by others, and in part a response to some of the peculiarities of the times in which we were living.

Of course, all such rubrics are incomplete and provisional, even to some extent arbitrary. We could just well provide a list of runners-up. Neither, when we use the term ‘punishment and society’ do we intend to stand on our differences from other neighbouring ways of conceptualizing related problems.



We will devote no time to stipulating what is properly considered punishment and society scholarship and what is not. We simply suggest that over the last couple of decades it has come to offer a point of congregation that enables some richly contemporary and insightful work to be done without continual anxiety over whether what we are doing is more properly thought of as belonging within the bailiwick, and thus requiring the authorization of, sociology, criminology, criminal law or some other more confident and august discipline. Punishment and society is unlikely ever to aspire to the status of a discipline. It is not a thesis or doctrine or set of claims. It is not even the answer to a determinate set of questions. If anything it consists in the questions themselves: it is a *problematique*.

We certainly do not say that ‘punishment and society’ exists apart from contributions made by scholars past and present who identify themselves primarily in one of those confident and august disciplines, without any of which it would be much the lesser. Neither do we assert that that our own entire work, nor anyone else’s belongs only here. We simply say that we know this is viable space of scholarship just like an experienced climber knows that a line of cracks she has observed up a mountain face offers viable hand and foot holds all the way to the top. We might indeed add that we consider punishment and society to constitute an *essential* space of scholarship. The powers that are activated in the name of punishment, the resources generated and consumed, the claims made and disputed, the emotions aroused and, of course, the millions of lives around the world that are affected by the ways in which penal practices are conducted and applied, all argue for a concerted effort of understanding, clarification and critical reflection. We also know we are not alone. We have been fortunate to be taught by many of those responsible for crystallizing out this field, to have worked among a wave of similarly inspired peers and to have taught a growing body of younger colleagues.

Readers will find work by members of each of these groups represented below.

Whatever ‘punishment and society’ is today we suspect ‘it’ is not likely to last forever, since it arises from, and speaks to, conditions that are themselves quite historically specific. As we will sketch briefly below, we believe it opened up as a result of particular political, cultural and epistemological developments in advanced liberal states during the period from the late 1960s to the early 1980s. Our goal is not to render this configuration permanent – far from it!, since many of the developments in question have been contentious, even destructive – but rather to take advantage of a particular moment when it seems that this somewhat improbable and incorrigibly interdisciplinary field has achieved a kind of objectivity. It is a field which simultaneously involves studies of the past and present, quantitative analyses of penal trends, and ethnographic exploration of penal experiences, work grounded in core sociological theory and work stimulated primarily by studies of literature, philosophy and law. For now, and we believe for some time to come, this will remain a highly productive – indeed, in a certain sense, an unavoidable – space for scholars from a wide variety of disciplines to explore and to extend. We hope this volume will optimize access to this field for our present and future colleagues.

THE PRE-HISTORY OF PUNISHMENT AND SOCIETY

The project of interpreting the forms of punishments in terms of the social, political, cultural and historical conditions of the society in which those forms arise goes back at least to the classic study of the penitentiary system carried out by Alexis de Tocqueville and Gustave de Beaumont, *On the Penitentiary System in America and Its Applications in France* (English translation, 1833). Durkheim’s studies of penal evolution at the

end of the 19th and beginning years of the 20th century in *The Division of Labor* (1893) and his essay 'Two laws of penal evolution', published in the *Année Sociologique* (1900), offered a broad social theory of the purposes and forms of punishment. Karl Marx had referred to penal laws and sanctions in scattered fragments of his writings, but a broadly Marxist social theory of punishment would await the work of Frankfurt school scholars Georg Rusche and Otto Kirchheimer, in *Punishment and Social Structure* (1939). A separate tradition of sociology, empirical studies of small communities, began to explore the prison as an enclosed society with Donald Clemmer's (1940) *The Prison Community*, out of which emerged a sociology of the prison experience during the 1950s and 1960s in the USA (Gresham Sykes, Donald Cressey, Sheldon Messinger, John Irwin, Erving Goffman) and during the 1960s and 1970s in Europe (Thomas Mathiesen, Terence and Pauline Morris, Roy King, Stan Cohen and Laurie Taylor among others).

As this brief prospectus clearly shows, nothing that we may say about punishment and society as a distinctive field of inquiry is intended to minimize or obscure its indebtedness to, or its relations with, bodies of social and legal scholarship of longer-standing. Punishment and penal institutions play some part, if only in the margins, of each of the 'three sociologies' set in train by the work of Marx, Durkheim and Weber (Benton, 1977; Collins, 1985²). Moreover, if as Giddens (1984: xvii), among others, has argued, the distinctive task of sociology is the understanding of *modern* societies – the social forms brought into being by the political and economic revolutions of the 18th and 19th centuries and their still-resounding subsequent effects – then it is a relatively short step (and one that as we shall shortly see has now been extensively discussed) to suggest that changes in the prevailing modes of punishment and social control might play some significant roles among the causes and consequences of those transformations.

This is simply to note that, with the partial exception of Durkheim and his successors, punishment as such was not a principal theoretical object for any of these great sociological traditions. Their deepest explanatory concerns lay elsewhere. Durkheim represents the exception here insofar as his vision of social life presupposes a continual re-making of community through the ritual assertion of membership and exclusion. It is a vision in which emotional and ostensibly non-rational dynamics play a vital role – including reactions of censure, rejection and wrath – and for which the sharing or contagion of visceral responses (through the phenomenon that Durkheim calls 'collective effervescence') is a basic feature of human societies. For Durkheim and his successors the making and circulation of categories of dirt and pollution (Douglas, 1966), fear and loathing (Erikson, 1966), attribution and blaming (Jackson and Sunshine, 2007) are part-and-parcel of the means whereby a society comes to knowledge of itself and achieves the delineation of its membership. In these respects Durkheim may justly be seen as among the most influential precursors of the sociological study of the emotions (Scheff, 1990), of identity, and of morality (Cotterrell, 1999). The maintenance of social bonds and boundaries, for Durkheim, is in a strong and specific sense a matter of ritual. For Collins (2004) this is Durkheim's specific and most durable contribution to latter-day social theory, and is among the reasons why, for example, Goffman is in [t]his view properly thought of as a rigorously faithful follower of Durkheim. Punishment properly so-called – usually the sanctioning of proscribed behaviour by constituted authorities in ways that warrant exceptional treatment and have negative effects (sometimes drastic ones) on the social standing of the persons so censured – is the institutionalized manifestation of these very basic processes.

For the most part, however, in the case of punishment (as of most facets of social life) the task lies in demonstrating how the frameworks of explanation proposed by particular

bodies of social theory may be applied or extended to account for or illuminate it (rather than claiming that the institution of punishment is integral to their construction as theory). In this regard ‘the sociology of punishment’ has proven to be a highly active and fruitful focus of activity, bringing to bear the explanatory tool-kits of Marxist (Spitzer, 1975; Chambliss, 1974), interactionist (Goffman, 1968; Carlen, 1976; Altheide, 1992), Weberian (Garland, 1990; Savelsberg, 1994) and other sociological perspectives on changing modes, patterns and practices of punishment. Indeed, ‘the sociology of punishment’ is no doubt the nearest contender for a direct synonym for ‘punishment and society’ that we can envisage. It signals the enormous contribution of the discipline of sociology, and the now-flourishing body of sociological work on punishment, to our current understanding of penal institutions and the politics, cultures and practices of punishment in modern societies, especially where these centrally concern – as they are commonly bound to do – the relations between punishment and the distributions of social power, opportunity, resources, status and so on.

The point of resisting capture of ‘punishment and society’ by sociology or any other single discipline, however, is precisely to record the primacy of the topic over the perspective. It is to insist that in the development of this field of inquiry, as we will shortly see, the contributions of scholars who do not own affiliation to sociology, but who operate as historians, anthropologists, philosophers, lawyers or practitioners of a number of other disciplines have also made contributions of the first importance. Moreover, it makes little obvious sense to restrict the range of sources from which future insight might be drawn. We know enough already about the representation of punishment in literary, cinematic and popular cultural discourses and texts, for example, to suggest that cultural theory, socio-linguistics and studies of rhetoric and metaphor might have crucial contributions to offer. Moreover, the gathering awareness of

the need to extend the study of punishment-in-societies beyond the traditional heartlands of the north-Atlantic cultural space and into the global south and east promotes a parallel consciousness of the requirement of openness to new and less familiar bodies of knowledge.

Punishment and society scholarship has, we therefore suggest, come to assume its relatively distinct and solid shape now because of a convergence of substantive interest among students from a variety of disciplinary backgrounds in the enormous explanatory, normative and practical problems posed by penal questions in our times. If and to the extent that punishment and society as a field can now usefully be distinguished from criminology, or the sociology of punishment, with which it shares so much, it is just because a sufficient number of people have arrived, by their various routes, at a realization of the necessity of contemplating penal questions in a concerted manner while sharing a sense of the need to hold in view these multiple dimensions of that subject-matter without disciplinary closure.

THE 1970s AND THE EMERGENCE OF THE PUNISHMENT AND SOCIETY FIELD

The 1960s may well be recalled as a golden age for criminology, and for the sociology of the prison, but neither discourse precisely raised punishment as a fundamental problem of social order in the manner of Durkheim or Rusche and Kirchheimer. Yet within a few years in the middle of the 1970s a host of books appeared that placed the changing nature of punishment at the centre of an inquiry into the question of social order.³

In the UK a number of radical British social historians associated since the 1950s with the journal *Past and Present* pioneered studies of working class history. This led some of their number, perhaps most notably E. P. Thompson (1975), to undertake

intensive and semi collaborative work on the role of criminal justice and especially punishment in 18th-century English society. On the European continent, Michel Foucault had offered a series of lectures at the *Collège de France* exploring the reconfiguration of punishment from sovereign to disciplinary technologies of power. He then published a monograph, *Surveiller et Punir: La Naissance de le Prison* (1975) (English translation: *Discipline and Punish: The Birth of the Prison*, 1977). Punishment, Foucault pointed out, demanded to be studied as a 'complex social function' (1977: 23), intimately related to the main vectors of social, economic and political power, but not reducible without remainder to any one of them. In Italy, at virtually the same time, two Italian sociologists, Dario Melossi and Massimo Pavarini (1978) were conducting similar research into the origins of the rationalized penal institution, which they, inspired by a rediscovery of Rusche and Kirchheimer's work saw in relation to the factory and industrial capitalism. Their book, *Carcere e Fabbrica* was published in Italian in 1977 (English translation: *The Prison and the Factory: Origins of the Penitentiary*, 1981). Also in the USA, the historian David Rothman (1972, 1980) published a monograph on the development of prisons and asylums in the first decades after the American Revolution and a follow up study of how these institutions had evolved through the 1920s. In this same period, philosophers and legal scholars in the USA began to raise moral and ethical criticisms of the form of modern correctionalism dominant at the time in which the release of prisoners was governed by administrative authorities with wide discretion and only a theoretical premise of expert knowledge on rehabilitation (Andrew Von Hirsch, 1976; Caleb Foote [American Friends Service Committee, 1971]).

Two of these books in particular, Foucault's (1977) *Discipline and Punish* and Melossi and Pavarini's (1981) *The Prison and the Factory*, seemed to revive and to reinvent the concerns of the earlier sociology of punishment

of Durkheim, and Rusche and Kirchheimer. Both concern themselves with the birth of penitentiary style prison at the turn of the 19th century and its relationship to disciplinary technologies of power over the body that were circulating more widely in society along with the spread of capitalist social and economic relations. Both seemed to draw a line between the still dominant modes of penal-welfarism and this disciplinary logic. For both the major objective of the prison was a docile and productive population.

Just a few years later in Scotland, in a work that would come in retrospect to look rather like a deliberate act of foundation, two young scholars, David Garland and Peter Young (1983), assembled a collection of essays by several of the key authors that addressed a number of emergent themes. 'Penality', as Garland and Young now termed the object of their inquiry, following Foucault, was a 'specific institutional site' (1983: 21). Not only was it an object of compelling interest for reasons of traditional liberal concern – the deprivation of liberty, the imposition of compulsions – but it represented a point of intersection between social policy and the overt political deployment of state power. Garland and Young advocated an approach to questions of punishment and social regulation that was not limited by the terms of a primarily 'instrumental' penology (preoccupied with pragmatic concerns with effectiveness) nor by traditional philosophical debates over normative justifications for imposing punishments, nor yet by a purely internal history of penal ideas, but rather one that addressed the whole *ensemble* of discourses and practices ranged around the penal question. The approach was intended not only to stimulate more challenging and penetrating analysis of the articulation between regimes of punishment and regulation and wider social interests, ideologies and divisions, but also to free up that analysis to look at media discourse, political rhetoric, fictions, fables and so on – the realm of representations as well as sanctions. In other words Garland and Young sought to open a channel between

Table I.1. Punishment and society literature in the 1970s

David Rothman	<i>The Discovery of the Asylum: Social Order and Disorder in the New Republic</i>	1971
Stanley Cohen	<i>Folk Devils and Moral Panics: The Creation of the Mods and the Rockers</i>	1972
Antony Platt	<i>The Child Savers: The invention of delinquency, Second Edition</i>	1972
Thomas Mathiesen	<i>The Politics of Abolition</i>	1974
E.P. Thompson	<i>Whigs and Hunters: The Origins of the Black Acts</i>	1975
Douglas Hay, Peter Linebaugh, John G. Rule, E.P. Thompson and Cal Winslow	<i>Albion's Fatal Tree: Crime and Society in Eighteenth Century England</i>	1975
Michel Foucault	<i>Surveiller et Punir: La Naissance de la Prison</i> (1975) <i>Discipline and Punish: The Birth of the Prison</i> (1977)	1975, 1977
Dario Melossi and Massimo Pavarini	<i>Carcere e Fabbrica</i> <i>The Prison and the Factory: The Origins of the Penitentiary System</i> (1981)	1977, 1981
James B. Jacobs	<i>Stateville: The Penitentiary in Mass Society</i>	1977
Michael Ignatieff	<i>A Just Measure of Pain: The Penitentiary in the Industrial Revolution</i>	1978
Stuart Hall, Chas Critcher, Tony Jefferson, John Clarke and Brian Roberts	<i>Policing the Crisis: Mugging, the State, and Law and Order</i>	1978
David J. Rothman	<i>Conscience and Convenience: The Asylum and its Alternatives in Progressive America</i>	1980
John Irwin	<i>Prisons in Turmoil</i>	1980

studies of punishment and control and what was to become a central operative term throughout Garland's later work: *culture* (see further Garland, 2006; Sparks, 2010).

Clearly much of this work was in a dialogue with both critical criminology and prison sociology, but it also shared some distinctive features. First, and foremost, it embodied a sense that changing penal institutions were a key facet or at least clue to understanding structural change in the wider social order, at the level of culture as well as that of 'policy'. Second, in a manner quite different from most work in the adjoining fields of critical criminology and prison sociology, much of this work in the 1970s concerned itself with historical case studies. While certain key texts such as *Prisons in Turmoil* (Irwin, 1980), and *Policing the Crisis*

were indeed substantially focused wholly on the present, much of the most influential work from which punishment and society scholarship arose was not only historical but on relatively distant history, with a significant focus on the 18th and early 19th centuries. Yet each of the historical studies was self-consciously related to then recent trends and developments in the criminal justice and penal fields. Third, most of these studies focused on the prison, not as part of a correctional enterprise trained on deviant individuals, but as an institution of power and social control, to be understood primarily in terms of its effects on the broader population and on governance.

Had this epistemological break happened in the late 1980s and 1990s, it would have been apparent that the renewal of interest in

punishment was a direct response to the epic rise of imprisonment that took place in the USA beginning in the 1980s and in many parts of Europe in the 1990s (and as we shall see, mass incarceration has generated considerable development in the field): but, remarkably, much of this intellectual wave was produced before any evidence of a significant change in the scale of punishment was apparent.

In retrospect we can see how important social trends of the late 1960s and 1970s raised themes pursued in this emergent punishment and society literature: the emergence of a politics of law and order, most vividly in the USA; a dramatic rise in violent crime in the USA and a smaller but still distinct increase in other wealthy societies; a wave of social and political unrest, sometimes taking the form of violence in these same societies and expressing itself as well in a significant movement for prisoners' rights; and, especially in the USA, a pronounced deflation of the rehabilitative ideal and more broadly of penal-welfarism (Garland, 2001). In a variety of complex ways the prison emerged as the institution most problematized by these trends and their points of intersection including: the rising number of minorities incarcerated in American prisons at a time of widespread awakening of demands for greater social justice for minorities in the USA; the incarceration of a number of American and European radical students for protest activities during the Vietnam war years, and the reach of litigation and rights discourse into spaces of confinement as driven in the USA by the Supreme Court's 14th Amendment jurisprudence and in Europe by the European Court of Human Rights (Jacobs, 1977; Irwin, 1980; Feeley and Rubin, 1998; van Zyl Smit and Snacken, 2009). In the following two decades these tentative efforts at reform and due process were swept up and assimilated but not altogether extinguished by the turn toward punitiveness and mass incarceration, especially in the USA, but to a lesser degree in the UK and elsewhere (Garland, 2001; Pratt, 2007).

All of these factors contributed not just to an intellectual 'break' but to a kind of epistemological *break-up* of the relationship between 'scientific' knowledge⁴ about punishment and what might be called the 'peno-correctional' administration (Kadish, 1960). For as long as penal-welfarism, relatively low crime rates, and a sense of optimism about the application of scientific expertise to crime control lasted, academic reflection on penal practices was almost totally swallowed up by the professional expert production of knowledge for the purpose of penal reform and improvement.⁵ The trends that coalesced in the 1970s fractured this relationship between intellectuals and correctionalism in several ways. Rising crime rates and pessimism about scientific rehabilitation undercut the narrative that the prison was part of a social reform agenda which must be defended by educated elites, including academics. The emergence of abolitionism among criminologists and sociologists of the left, as expressed in books like Mathiesen's (1974) *The Politics of Abolition*, and Platt's (1969) *The Child Savers*, aligned to some extent with a prisoners' rights movement that also rejected correctionalism as degrading, framed the prison as a problem in itself, not one to be reformed but rooted out. (Among the things that subsequent decades have demonstrated is quite why that project turned out to be longer and harder, deeper and wider than many anticipated at the time, and why it would go on to suffer so many reverses of such extreme character.)

The emergence of disorder as a major social problem, exemplified by violent crime, but also evident in violent protest and violent police responses to protest, also provides a key background to the revitalization of punishment and society. Modern correctionalism had reached its apotheosis during decades of considerable stability in advanced capitalist countries. For some 40 years, under conditions of economic Depression, world war and then, unprecedented prosperity, crime and immigration had receded as urgent matters of public controversy and debate, along with

revolutionary politics. In books, such as Rothman's (1972) *Discovery of the Asylum*, Cohen's *Folk Devils and Moral Panics* and Irwin's (1980) *Prisons in Turmoil*, we see quite different studies animated by an interest in reactive social responses to disorder. If much of critical theory had been preoccupied since the Frankfurt school with the rise of conformity and complacency, this new wave of studies seemed to be rediscovering social conflict and disorder as problems of government, some of them examining the ways in which social control was reasserted after the last wave of revolutionary change in the 18th and 19th centuries, while others grappled with the emerging politics of law and order and authoritarian gestures of politicians such as US President Richard Nixon.

In many ways the works produced in this period already belong to what we now call the 'punishment and society' field and with some degree of self-conscious relationship to the social theorists and empirical sociologists who had come before. Mathiesen (1974), Foucault (1977), Thompson (1975) and Melossi and Pavarini (1981) among others, sought explicitly to link their work to earlier traditions and to sketch out a future programme. What they had in common, especially, was the strategy of deliberately distancing punishment from the legal and moral apparatus that normally encapsulates it, and instead viewing the discourses and practices of punishment in relation to a myriad of other institutions and social forces.

If the epistemological break-up between scientific analysis of punishment and peno-correctional administration helps explain a new wave of differently focused studies of punishment, it does not explain fully why this emergence takes shape as a new interdisciplinary field relatively autonomous from criminology, sociology and history. If, as we think, Foucault (1975) and Melossi and Pavarini (1981) play an important role in crystallizing a sense of a new field of inquiry it is in large because their inquiries, on a topic not so different from Rothman (1971), Platt (1969) or Ignatieff (1978), made

a significant break from the neo-Marxist and neo-Durkheimian orientation of most of the others. The focus on penal change and the technologies of power over the body (see Chapter 3, this volume) available in society formed an axis around which the neo-Marxist sociology of punishment of prison abolitionism, and the neo-Durkheimian sociology of disorder could coalesce and begin to form a rich mix of social theory and thick historical analysis which becomes the plane of emergence for punishment and society scholarship in the 1980s.

A theme that is evident across this body of work, but most clearly in Foucault (and arguably in Melossi and Pavarini also) is the emergence of what will later be called 'post-structuralism'. The intellectual emphasis of the 1960s in the social sciences had been toward encompassing and determinative structures, social, economic, linguistic or familial, depending on the disciplines. Foucault's work, especially from 1970 on, has been linked by many to a turn away from 'structuralism' in this sense toward what has been called 'post-structuralism' (Dreyfus and Rabinow, 1982). Regardless of whether or how one 'periodizes' Foucault's analytic approaches, *Surveiller et Punir* was for many readers a dazzling display; making original use of widely cited and discussed sources and examples to raise very new questions about the significance of penal forms and their change than Durkheim had asked or Rusche and Kirchheimer had asked. In setting up his inquiry into the prison, Foucault warmly cited the neo-Marxist approach of Rusche and Kirchheimer (1939, 2003) and emphasized the importance of political economy to his analysis (Durkheim is mysteriously not mentioned), yet economic structures seem to intrude little into the book's selection or interpretation of its materials. Likewise Melossi and Pavarini, while identifying themselves explicitly with Marxism, turn in their analysis away from the previous notion that punishment must be seen primarily as a factor in production, or in terrorizing the proletariat.⁶

The analytic approach taken in both books operated on a decidedly middle range register, neither consistently macro nor micro. Both included an historical dimension, a concern with penal change. At the same time both were explicitly histories of the present, self-conscious about the degree to which their inquiry was anchored in the problems of the present. These features help define punishment and society as an interdisciplinary field with a certain somewhat distinctive analytic structure, albeit one open to different research methodologies and theoretical traditions and variations.

Work from the mid-1980s to the early 1990s, completed the process of opening a clear field around 'punishment and society'. Pieter Spierenburg, a Dutch history student inspired by the renewed recognition of Norbert Elias, brought Elias's powerful theory of the civilizing process (1939, English translation: 1969, 1982) to close historical study of the decline of public executions and tortures in Europe and the rise of greater reliance on incarceration. In his *The Spectacle of Suffering* (1984), Spierenburg set up Elias's account as an alternative to both Foucault's power analysis and the prior tradition of celebrating the self-evident rise of humane punishment, Spierenburg helped begin a process of interpellating the study of punishment across different social theorists that has made 'punishment and society' such a dynamic and productive field for developing social theory. David Garland's (1990) *Punishment and Modern Society* brought almost all of these strands together in what amounted to a theoretical treatise on punishment and society with extensive annotation and illustration. For many of us who began to work on 'punishment and society' in the early 1990s, Garland's book was a kind of intellectual platform, promising to hold up our own construction on a foundation of classic social theory and modern empirical work.

The body of work that emerged during the 1970s and 1980s and which formed something of a canon for punishment and society

scholarship was not only important to revitalizing traditions of social theorizing on punishment but also in developing models of empirical work. As noted above, much of the work was historical in nature. While social science work on punishment before the break down of penal-welfarism tended to presume that only the present and its possibilities of reform were important, much of the new work took on the character of a revisionist history of the now-problematized present (Ignatieff, 1981).

While historical studies, or studies including a pronounced historical dimension (for example: Simon, 1993; Pratt, 2002; Gottschalk, 2006), have remained a vital presence in shaping punishment and society scholarship, the field has significantly expanded and diversified in topic, method, range and scope over the intervening decades. Moreover, stimulated in large measure by the intense politicization of penal questions in the USA and some other jurisdictions, it has tended to become more concerned to interrogate contemporary conditions (and their manifold political and geographical variations), to have re-focused upon producing primary research into the scale and effects of current institutions, practices and rhetorics of punishing, and to become more involved in the reflective analysis of policy. By the 1990s, work of a distinctive punishment and society cast was visible in social science journals such as *Criminology*, *The British Journal of Criminology* and *Law & Society Review*, among many others. By the end of the decade a new journal titled *Punishment & Society: The International Journal of Penology* had been launched by SAGE seeking to encourage and cultivate this theoretical and methodological ensemble. In his opening editorial, founding editor David Garland described the ambit of the field in these terms:

The collapse of a long-established institutional framework tends to prompt intellectual ferment and innovation as old habits of thought and recipes for action lose their epistemological privileges and institutional supports. It is not, then, surprising that the traditional assumptions of a correctionalist,

technicist penology have been increasingly disrupted over the past two decades by more critical and diverse ways of thinking about penalty. From the mid-1970s onwards, penal institutions and ideas have become a focus for path-breaking work in numerous fields as scholars have come to question the practices of mid-century penalty and probe further into the social, political and cultural rationales upon which these were based. (1999: 8)

As we go on to detail below the emergence of the phenomenon of mass incarceration, especially in the USA, and the gathering realization that changes in the political cultures and economic organization of contemporary societies (see, for example, de Giorgi [Chapter 2], this volume) were likely to relate in complex and uneven but important and potentially fateful ways to their penal politics and practices, have brought more people, from more diverse starting-points, to the cross-roads of punishment and society scholarship. What they find there comprises a big series of linked explanatory puzzles, normative perplexities and political challenges.

If punishment and society scholarship was inspired by the new social histories of the 1960s and 1970s, it also had a focus on the history of ideas – or the ‘history systems of thought’ as Foucault had it – that would have been less central there (Foucault, 1977; Cohen and Scull, 1983; Garland, 1990). Its development was also animated by the philosophical debates about punishment (including the various abolitionist and other alternative agendas) that circulated around the same time, especially in the period of intense reflection that ensued following the collapse of the so-called rehabilitative ideal (American Friends Service Committee, 1971; von Hirsch, 1976; Allen, 1981; Feinberg, 1984; Duff, 1986). Likewise, the punishment and society scholars focused on the importance of subjectivity, and how penal practices invest the individual’s identity and self-understanding consistent with earlier sociological work anchored in ethnographic observation and ethno-methodology

(Garfinkel, 1956; Goffman, 1961). These concerns with the construction of penal subjects received huge impetus from the development of studies of the particular arrangements that penal systems reserve for the punishment of women (Carlen, 1983; Carlen and Worrall, 1987; Bosworth, 1999; Hannah-Moffat, 2001; Bosworth and Kaufman, Chapter 9, this volume). Such concerns have developed the founding concerns of the punishment and society tradition with modes of domination and the relationships between forms of punishment and the dimensions of inequality in the direction of a sophisticated understanding of the manifold varieties of penal social relations. In addition to the long-standing concern with gender recent work addresses the intersectional character of penal power in along the vectors of class and, especially, race (Bosworth and Flavin, 2007). The justly celebrated work of Loïc Wacquant, for example, situates the current bloating and racial disproportionality of the US prison system in terms of his wider account of the history of ‘ethno-racial domination’ in the USA (for example, Wacquant, 2001, 2008, 2009).

Many of these strands would suggest a heavily qualitative focus to punishment and society scholarship in contrast to the heavily quantitative focus of the scientific study of penal treatment during the era of peno-correctionalism. Certainly it is the case that the flourishing of scholarly interest in penal questions has favoured a renewed focus on the operation of penal institutions and processes, often in their hidden and intimate aspects, and that these concerns have done much to reinvent the ethnographic study of prisons and other sites of punishment, and the close study of penal ideologies and practices, not to mention the infiltration of these into popular culture and media and political rhetorics. These are all interpretive tasks, some of them focusing on the critical reading of discourses and texts, others strongly centred on in situ fieldwork. Nevertheless while qualitative work has undoubtedly been of central importance in punishment and society

scholarship, a gathering concern with the shifting scale of punishment, beginning in the 1980s, has also left a deep mark on the field (Zimring and Hawkins, 1991; Greenberg and West, 2001). That concern has been most pronounced in the USA, where the rapid growth in incarceration has been both a pressing social concern and a phenomenon whose dimensions (not least its wide geographical variations, and its unequal impacts on different social groups [Western, 2006]) stand in flagrant need of documentation and analysis (Mauer and King, 2007; Zimring, 2010). More recently however growing concerns over rising penal populations in Europe, again exhibiting notable variation and unevenness have similarly stimulated a requirement for quantitative studies and for attempts to model and explain the observed differences (Cavadino and Dignan, 2006; Lappi-Seppälä, 2008).

THE 2000s AND THE MATURING OF PUNISHMENT AND SOCIETY – MASS INCARCERATION AND BEYOND

If the research agenda of the emerging punishment and society field in the 1970s was set by the politicization of prisons and the waning of intellectual solidarity with the penal-welfarist project, the mature field that has developed since the 1990s, has been largely engaged with understanding the punitive turn associated with the rise of mass incarceration.

The intellectual tool kit forged in the 1970s, and showcased by Garland's (1990) *Punishment and Modern Society* was directed towards the task of describing and explaining the punitive turn in general (which includes the resumption of regular executions in the USA during the 1990s) and mass imprisonment in particular. The first wave of such research, represented in Table I.2, concentrated on characterizing mass incarceration and explaining its rise. Mass imprisonment seemed a dramatic shift from the version of

penal modernism accepted by the punishment and society scholars during the 1970s on two dimensions; the quantum shift in scale, identified by Zimring and Hawkins (1991), and the shift from prison as a tool of individualization to a tool of categoric or class control (Feeley and Simon, 1992; Garland, 2001). Others would point to the qualitative dimensions of the new incarceration practices, the loss of internal programming in favour of warehousing prisoners (Simon, 2007) and their commitment to degrading gestures (Whitman, 2003) and the racializing effects of mass imprisonment (especially in the USA) (Tonry, 1996; Wacquant, 2000; Western, 2006).

The development of mass incarceration was explained with reference to political, economic and cultural developments. In terms of politics, mass imprisonment seemed to be a crucial source of legitimacy for a state battered by the failures of welfarism and the globalization of the economy (Scheingold, 1992; Savelsberg, 1994; Garland 2001; Gottschalk, 2006; Simon, 2007). This political crisis was seen by others as part of the larger restructuring of political economy associated with the rise of neo-liberalism, with mass imprisonment as a new way to manage the poor in a context of neo-liberal restructuring of the state (Beckett and Western, 2000; Wacquant, 2009). A third approach emphasized a sense of cultural anxiety, perhaps generated by both political and economic change, creating the conditions for new penal expression of social morality (Tyler and Boeckman, 1997; Simon, 2000; Pratt, 2007). More recent work has continued all these themes while shifting the inquiry toward both comparisons across countries (Cavadino and Dignan, 2006; Tonry, 2007) and sub-national units such as the states of the USA (Greenberg and West, 2001; Barker, 2006; Lynch, 2009).

Around the problem of mass imprisonment, other punishment and society scholarship has looked at different modes of punishment. One area which has continued to receive a great deal of attention by punishment and

Table I.2. Mass incarceration as a subject of punishment and society literature

Zimring, Franklin and Hawkins, Gordon	<i>The Scale of Imprisonment</i>	1991
Scheingold, Stuart	<i>The Politics of Street Crime: Criminal Process and Cultural Obsession</i>	1992
Savelsberg, Joachim	'Knowledge, domination, and criminal punishment', <i>American Journal of Sociology</i> 99: 911	1994
Tony Michael	<i>Malign Neglect: Race, Crime, and Punishment in America.</i>	1996
Tyler, Tom and Boeckman, Robert	'Three strikes and you are out, but why? The psychology of public support for punishing rule breakers', <i>Law and Society Review</i> , 31: 237–65	1997
Beckett, Katherine	<i>Making Crime Pay: Law and Order in Contemporary American Politics</i>	1999
Caplow, Theodore and Simon, Jonathan	'Understanding prison policy and population trends', <i>Crime and Justice</i> , 26: 63–120	1999
Garland, David (editor)	'Mass imprisonment', Special Issue, <i>Punishment & Society</i> 3(1)	2000
Greenberg, David and West, Valerie	'State prison populations and their growth, 1971–1991', <i>Criminology</i> , 39: 615–53	2001
Garland, David	<i>The Culture of Control: Crime and Social Order in a Contemporary Society</i>	2001
Sarat, Austin	<i>When the State Kills: Capital Punishment and the American Condition.</i>	2002
Zimring, Franklin, Hawkins, Gordon and Kamin, Sam	<i>Democracy and Punishment: Three Strikes and You're Out in California</i>	2003
Whitman, James	<i>Harsh Justice: Criminal Policy and the Widening Divide between America and Europe</i>	2003
Cavadino, Michael and Dignan, James	<i>Penal Systems: A Comparative Approach London</i>	2006
Gottschalk, Marie	<i>The Prison and the Gallows: The Politics of Mass Incarceration in America</i>	2006
Western, Bruce	<i>Punishment and Inequality</i>	2006
Pratt, John	<i>Penal Populism</i>	2007
Gilmore, Ruth	<i>Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California</i>	2007
Simon, Jonathan	<i>Governing through Crime</i>	2007
Wacquant, Loic	<i>Punishing the Poor: The Neoliberal Governance of Insecurity</i>	2009

society scholars is capital punishment which remains a symbolic focus of contestation even as it has virtually ceased to count in the quantitative measure of punishment (Sarat, 2002; Zimring, 2003; Garland, 2010). Another is the continuing transformations of community sanctions that emerged during the era of penal welfarism, but which have survived and proliferated as an adjunct to mass incarceration (Simon, 1993; Lynch, 1998; Petersilia, 2003) sometimes with the aid of new high technology surveillance (Jones 2000; Nellis, 2009).

ORGANIZATION OF THE BOOK

Even a field as relatively young as punishment and society is already too complicated to be mapped in any precise sense within the confines of a single book, even a weighty handbook. What we have sought to identify here are main lines of inquiry out of which the field developed and along which much research in the area develops. The present handbook is intended to supplement not to replace the important monographic efforts at synthesizing theoretical and empirical work

in punishment and society that continue to emerge along with multi-authored thematic volumes. Nor is our goal to provide a comprehensive synthesis of research in the field as reflected in journals like *Punishment & Society*, *Theoretical Criminology*, *Criminology*, *The British Journal of Criminology* or *Law & Society Review*. The chapters here instead aim to give the reader an intense introduction to the most productive theoretical tools and topical areas of empirical research as we see the punishment and society field today. That our view is partial should be obvious and there are quite a number of other ‘tool-kits’ and topic areas that could be justly included. The chapters should be read as guides to relatively safe and productive ‘routes’ in what remains a mountainous and unpredictable intellectual landscape.

Part I: punishment and social theory

One of the strengths of punishment and society scholarship is how often a broad range of theoretical tools are used with sensitivity to their discursive origins (and limits) but with a pragmatic willingness to create a mixed toolbox appropriate to the particular topic addressed. The chapters in Part I cover the major lines of social theory that have informed most punishment and society scholarship. As noted above, the formation of the field in the 1970s drew on neo-Marxist and neo-Durkheimian ideas along with the post-structuralism now associated with Foucault. Garland in *Punishment and Modern Society* included chapters on all three, as well as chapters on Max Weber and Norbert Elias. Since then the work of Pierre Bourdieu and cultural theory have also been drawn on by punishment and society scholars. This section is organized around avenues of approach or, as we have taken to calling them ‘tool-kits’ rather than particular social theorists themselves in order to enhance the value for

readers wanting to continue the pragmatic tradition of mixing and matching. This is by no means comprehensive, but the chapters reflect on the most frequently used and productive approaches including ‘social solidarity’ (Durkheim); ‘political economy’ (Marxisms); ‘technologies of power’ (Foucault, and Melossi and Pavarini); ‘civilising process’ (Elias); ‘culture’; ‘risk’ (Douglas, Beck and others); and the ‘penal field’ (Bourdieu).

Part II: mass imprisonment and its consequences

Although the rapid growth and transformations in imprisonment was not the main stimulus for the formation of the punishment and society field, it has very much set its research agenda over the last 20 years. This section takes up a number of topic inquiries that unfold from the problems posed by mass imprisonment including: inequality; gender; politics; social psychology; and democracy.

Part III: modes of punishment

The punishment and society field is grounded in a concern with actual forms and methods of punishment and the changing configurations of power and meaning in which they are deployed. This section takes up the major forms of punishment operating in contemporary society: the prison; capital punishment; re-entry and community corrections; youth justice; restorative justice: monetary penalties.

Part IV: new contexts

Looking beyond mass incarceration, this section seeks to describe new developments around which new work in punishment and society seems to be coalescing: human rights; migration; conflict and reconciliation; and security and terrorism.

CONCLUSION

We began by trying to give voice to our sense that punishment and society was maturing into a significant intellectual field of its own at the intersection of the social sciences and humanities as well as professions like law and public policy. That such a vision involves a degree of retrospection, by way of establishing a context is perhaps inevitable. We do consider that this recent past will continue to be a useful guide to the upcoming future and of at least some help to those joining the field now in navigating from where we find ourselves today. In conclusion, by contrast, we want to turn towards the future and to some thoughts on where the plate tectonics of this field may lead it. One very current concern is that the twin developments which seem to have formed this field, the delegitimation of penal-welfarism in the 1970s, and the build-up of mass incarceration since the 1980s, seem poised to yield to a third, the threat of descent into degrading and inhuman punishment, and the corresponding call to our conscience of dignity.

Mass incarceration, especially in the USA where it has taken root earliest and most profoundly, has enjoyed widespread legitimacy in the eyes of legislators and large sections of the public despite its visibly unbalanced racialized application and great economic costs, based on the premise that it makes communities safer without subjecting prisoners to cruel and unusual, or degrading and inhuman, punishment. 'Humane containment', as the practice of incapacitative segregation has sometimes been known (or 'warehousing as it has come more colloquially to be termed) has been assumed by many, including some who should have known better, to be compatible with basic constitutional guarantees. Or, we might more cynically suggest, the risk that it might turn out not to be so humane or lacking in cruelty after all, has been one that many politicians and voters, have been prepared to take for the sake of the presumed gains in their security, not least because it is generally visited upon

people other than ourselves or those whom we know. These premises have been reinforced by a number of features of the penal field itself associated with mass incarceration, including the exclusion of researchers, journalists, and independent health professionals from the new mass incarceration prisons (Wacquant, 2002). It was also sheltered, in the USA, by Supreme Court doctrines and Congressional legislation aimed at reducing the ability of federal courts to intervene in prisons to protect constitutional rights.

Today there are signs that mass incarceration is losing its legitimacy on both sides of these assumptions. 'Supermax' prisons,⁷ very high security institutions, exhibiting a tendency to rely on total lockdown isolation to control prisoners, were widely adopted by American states starting 20 years ago as a crucial supplement to mass incarceration strategies of 'supersizing' overall prison populations while at the same time reducing internal sources of legitimacy in their day-to-day management. Today these institutions are under increasing attack for their psychological effects on prisoners when used for sustained periods and for the lack of due process in assignment of prisoners to such prisons (Gawande, 2009). In California, the state with the largest prison system in the USA, and the state which led the charge into mass incarceration more than 30 years ago, litigation over health care has exposed a humanitarian crisis as prisons never designed to provide for the predictable medical needs of their inmates have been operated at nearly 200 per cent of design capacity for more than a decade (Simon, 2012). In a decision upheld by the US Supreme Court, a special three judge court condemned the inhuman treatment accorded to prisoners as cruel and unusual punishment and explicitly rejected the claim that reducing the prison population would endanger public safety in California (*Brown v. Plata*, 2011). Faced with billions of dollars in court ordered reforms of prison conditions, and an unprecedented order to reduce its overall population by 30,000 prisoners,

California has abruptly adopted policies designed to permanently alter the flow of new prisoners (although without the politically far more challenging work of reforming the basic sentencing laws).

In the UK, after more than a decade of expanding prison populations and changes in the administration of incarceration that have at least partly echoed some features of American mass incarceration, there are also growing signs that the project has reached its limits and can be pushed back. The UK's turn toward escalating imprisonment took a decisive upward turn under the last Conservative government in the early 1990s. The mantra articulated in 1993 by then Home Secretary Michael Howard was that 'Prison works'. The 'New' Labour governments (1997–2010) successfully out-flanked the Conservatives for much of their extended period in office in an embrace of an only slightly more nuanced rhetoric: 'tough on crime, tough on the causes of crime'. At the time of writing (October 2011) the current UK government, a coalition of Conservative and Liberal Democrat ministers, has given mixed signals but these have included a distinct lack of enthusiasm on the part of the Ministry of Justice for continuing to rely on expanding incarceration (although early signs of a consensus to reduce imprisonment have slackened with the waning of the new government's traditional 'honeymoon'). In Scotland, which a generation ago had even more punitive policies than England and older more degrading prisons, the Scottish National Party has made its rejection of over-reliance on incarceration a significant element in their vision of a distinctly Scottish public policy. In both the USA and the UK, it appears that concern about government excess (in respect of the erosion of traditional civil liberties and constitutional protections) in the name of the 'war on terror' (see Lazarus, Goold and Goss, Chapter 22, this volume) has rebounded to stimulate a growing challenge to the penal policies of the domestic war on crime.

If the legitimacy of mass incarceration in its heartlands of the USA and the UK is

being undermined by recognition of its inhuman and degrading potentials, a more positive but complementary trend is the influence of human rights norms on the penal imagination, especially in Europe, South Africa and Australia. In Europe most clearly, these human rights norms have formed an important counter force to penal populism and resulting pressure for mass incarceration. The European Convention on Human Rights, and the organs created to realize its objectives, including the European Court of Human Rights, the Committee for the Prevention of Torture, and the Committee of Ministers of the Council of Europe have produced a significant body of law aimed at preventing prison conditions from becoming degrading and inhuman. These laws, while lacking in strong enforcement power, have undeniably forced governments and penal administrations to scrutinize their penal practices and to dialogue in the language of evidence based criminology, public health, and human rights to defend their records. This sets limits to the growth of prison populations not evident in the heyday of mass incarceration, and may be beginning to generate its own penal imaginary, one anchored in a vision of dignity rather than fear (van Zyl Smit and Snacken, 2009).

We think the spectre of degradation and the promise of dignity offer an exceptional opportunity for punishment and society scholarship to broaden and to become part of new policies and politics aimed at restoring balance and legitimacy to a penal field transformed by mass incarceration and penal populism (Loader and Sparks, 2010). As it does so we suspect the scholarship itself will change again. We expect quantitative research, long an important but minority strain in punishment and society work (Western, 2006; Wacquant, 2010) to become yet more important. Mass incarceration has produced social facts on the level of demography, and these require quantitative tools to gain purchase on and theorize. At the same time, we expect normative scholarship, especially philosophy, jurisprudence, and political theory, long

an important influence on punishment and society (von Hirsch, 1976; Duff, 2001) to become more central as one of the key theoretical axes for punishment and society work. In this we expect humanities scholarship drawing from literature, rhetoric, and history to be an important component (Smith, 2008; Brown, 2009). We also expect the new scholarship to be more comparative (or perhaps we should say, more self-consciously and fully comparative) than it has been (Nelken, 2010) as societies struggle to replace the excesses of mass incarceration and balance the tensions of human rights and penal populism. We certainly expect the centre of gravity of such scholarship to shift away from its overwhelming historical preoccupation with the USA and other Anglophone countries and with Western Europe as more diverse voices from Asia, Africa and Latin America extend, re-shape and re-define the field (Agozino, 2004; Jefferson, 2005; Hamai and Ellis, 2008; Miyazawa, 2008; Adorno et al., 2009).

Perhaps these final reflections will seem unduly optimistic in the face of the often grim and intractable realities that punishment and society scholarship has been called upon to document and to theorize in the last several decades. We make no apologies for adopting a hopeful orientation towards the future, even in the face of the seemingly inexorable weight of the historical record. The forms of work that we wish to see and to encourage will not rest content with the mere recording of endless problems for all the dismal prospects that we survey when we consider our field. We expect (perhaps indeed we may go so far as to say that we insist upon this) emergent work to address the worlds of legal and political theory more vigorously and more consistently, as some of the best of it has already done. We hope to encourage more frequent and more mutually informed conversations across the boundaries between those who consider themselves to be mainly engaged in the work of empirical discovery and those whose concerns encompass the normative dimensions of the penal realm.

Punishment and society as field of inquiry deals in matters of the most grave public interest, and it is bound to seek to address them in as responsible a manner as it can. The forms of work exemplified in this volume stand at the intersection of a range of traditional disciplines – history, sociology, social psychology, law, politics – as we have sought to explain. But since the power to punish still stands among the weightiest capacities of states in respect of citizens (and aliens), and since its consequences for all concerned can be so fateful, it is every citizen's business, whether or not they regard themselves as specialists in some part of it. In this respect it is not only the intersection between disciplines that should concern us but also that between scholarship and the more troubling dimensions of contemporary public life.

NOTES

1 Any doubts we may have entertained in no way reflected on the people or organization with whom we were working. We had great confidence in SAGE to produce a quality volume and especially in Caroline Porter's acute reading of the complex discursive field of journals, monographs, and edited volumes addressing the penal field in English today.

2 In the earlier version of this discussion Collins characterized the three sociological traditions in question as the 'conflict', 'ritual solidarity' and 'micro-interactionist' perspectives. He later (1994) concluded that there were four principal sociological traditions rather than three, adding the rational choice/utilitarian perspective as a distinct body of thought.

3 In the USA, the sociologist Erving Goffman (1961) produced an important book about total institutions that described the prison alongside institutions like mental asylums and the military and which had considerable influence on criminology and studies of mental health. Only during the 1970s would it come to seem also like a book about punishment and society.

4 In the sense of systematic, empirical, and rational inquiry.

5 That did not stop much of the work from being highly insightful about the nature of contemporary penal practices, but kept this field largely self identified with the penal-welfarist practice they studied.

6 For Melossi, Marxism itself was being reworked and re-vitalized at that time by the influence of social history and a cross fertilization from new translations of Max Weber's work (pers. comm. with Melossi).

7 For accounts of the rise of 'Supermax' prisons see inter alia King (1999), Davis (2001), Mears and Watson (2006) and Reiter (2012). For accounts of the social-psychological effects of confinement at such depth see Haney (2003) and Shalev (2008, 2009).

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