

History in Criminology

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[A]nyone with half an ounce of sense has always said that a main defect of sociology and criminology is that they're not historical. We've always admitted it, but we haven't done anything about it (David Matza quoted in Weis 1971:52).

There has been a good deal of historical work in criminology since Matza's acerbic comment. Yet history¹ so often remains marginalised as, at best, introductory or background matter in criminology and elsewhere. Before considering John Pratt's argument about why this is so, I would suggest some contributory factors.

First, history offers the temptation of 'a seductive empiricism' (Cain 1978:93) in which facts and details can swamp theory and broader understanding. The problem is simply that history is so 'interesting' to those interested, while those who are not look elsewhere. This was illustrated at the Institute's conference: a good deal of the discussion of Pratt's paper concerned the detail of his case-study of dangerous offender legislation, rather than its implications for history's contribution to criminology (which is what the session was supposed to be about). At worst, the result can be slipping into 'the sort of history which knows the date of everything and the meaning of nothing' (Reiner 1978:730). Even if it had no other virtues, the Foucauldian history advocated by Pratt makes ignoring trends and theory more difficult.

Second, a related problem has been the style of much historical writing in which theory is not treated separately, but is thoroughly integrated into the analysis and presentation of data. At worst, this may be a simple failure of empiricist historians to acknowledge the inevitably theoretical nature of their work. At best, it involves the presentation of empirical material on the framework of a sophisticated but understated theory. Examples of excellent work which uses rather than flaunts theory can be found in Hay's reliance on Gramsci in his study of eighteenth century English criminal law (1975) and Finnane's drawing from Foucault in his Australian police histories (1994). The value of such work cannot be overestimated. However, one problem is that underplaying theory can encourage an empiricist reading. Debates and arguments are then conducted on the level of detail, missing the broader picture (Dixon 1991:22). Examples are provided by Langbein's (1983) critique of Hay and the dispute between Adler (1989a, 1989b) and Chambliss (1989) over the latter's well-known study of vagrancy laws (1964).

A related problem is that history can be made to seem too 'easy'. Far from, for example, the complexities of multiple regression analysis or the personal commitments of ethnography, history can be caricatured as simply collating facts from books or documents. This is to ignore the significance of historical methodologies and methods, for example its

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1 While using the singular 'history', I acknowledge the now trite observation that "history" is really "histories" ... we ought to stop thinking as though it were a simple and rather obvious thing and recognize that there is a multiplicity of types of history whose only common feature is that their ostensible object of inquiry is "the past" (Jenkins 1991:3).

procedures for checking the authenticity and reliability of sources. If criminologists who venture into history are sometimes received rather coolly by historians, the explanation may be merely a familiar defence of disciplinary ground; but it is as likely to be due to the criminologists' underestimation of the complexities of historical research and writing.

A specific problem of histories about crime and criminal justice is that attention has tended to focus on the nineteenth century. The crucial developments of police and prisons (as well as of conceptions of criminality) provided a great attraction. In addition, sources are more accessible (cf the hundred year block on access to New South Wales Police archives). Unfortunately, the result has been an unfortunate gap between 'history' and 'the present'. The problem is now being addressed to some extent: it is good to see increasing historical attention being paid to the twentieth century. Similarly, Finnane's (1994) study of policing is a notable example of a history which is at pains to link historical material with current concerns and developments.

There is also a broader resistance to history which deserves comment. This is particularly evident in the response of students to attempts to introduce historical material into courses on crime and criminal justice. Material which teachers consider to be 'interesting' and valuable is, all too often, received with boredom and lack of interest. The issue here appears to be broader understandings of history in contemporary cultures. Teaching history means not filling a historical vacuum, but rather challenging and reshaping existing historical 'knowledge'. In England (with which I am more familiar), popular cultures are saturated with historical messages about English society (Wright 1985). These run, for example, from the understandings of Empire and colonialism implicit in contemporary foreign policy to the commercialisation of history, which threatens to turn the country into a vast archipelago of historical theme parks and 'territories'. (A notable example of the latter is the designation of part of the North-East as 'Catherine Cookson territory': the area's self-knowledge and self-presentation is mediated through historical soap fiction.) In Australia, crime and punishment feature more overtly in popular history: the difficulty would appear to be the contradictory messages of a society which is often authoritarian and socially conservative, yet which finds the image of anti-authoritarianism and 'larrikinism' attractive. There are also aspects of Australian history which are, for some, more convenient and comfortable to ignore: in the cases of crime and criminal justice, the history of Aboriginal society since 1788 provides a central challenge. For history to overcome the marginalisation identified by Pratt, it has first to challenge and replace histories which are deeply-rooted, contradictory or suppressed.

In his account of history's difficult relationship with mainstream criminology, Pratt points, correctly, to the institutional and disciplinary development of criminology as a positivistic, correctionalist 'applied science'. A history seen as being concerned with discovering the past rather than addressing the present and providing solutions to its problems offered little to criminology (see also Tomlins 1985:131).

I would suggest that two elements of this argument can usefully be distinguished. From the perspective of positivist criminology, history's crucial deficiency was its failure to offer solutions to problems, to be 'practical' or useful. (The difficulties often encountered in obtaining funding for historical research on crime illustrate the continuing prejudice against history's 'impracticality'.) While history might not have been concerned with solutions, it was harder to claim that it had no interest in explaining the present (although the need to understand the present's origins might not have been appreciated). Few histories are concerned exclusively with the past: a concern to explain the present can be found (overtly or covertly) in most histories which can be distinguished from mere antiquarianism. Typically in criminal justice histories, the vehicles for this have been either Whig history, the

telling of a story in which ignorance, inefficiency and violence are 'conquered' (the work of writers such as Critchley (1970) and Reith (1943) provides obvious examples, although Radzinowicz's survey (1948–86) — a qualified blessing, despite Pratt's enthusiasm — is the most significant and extended version) or marxist social history (for example, the work of Thompson 1977 and Hay 1975).

This suggests to me that Pratt's claim about the originality of historical work inspired by Foucault needs to be qualified. There seems to me to be little particularly distinctive about the general aim of using history to understand the present. It would be hard to find historians prepared to dissociate themselves from this enterprise in any form. The point, rather, is that Foucault has provided a new way of using history to understand the present (Dean 1994). The value of this can be seen in some of the outstanding historical scholarship inspired by Foucault which authors such as David Garland (1990), Jonathan Simon (1993), and John Pratt (1992) himself have produced. The focus shifts from, for example, police institutions and police-public relations to policing in general (cf Johnston 1992), from the growth of prison to the kind of disciplinary system of which the prison is but part, and, as in Pratt's work, from the dangerous offender to the constitution and deployment of the concept of 'dangerousness'.

Pratt notes the resistance from some historians to Foucauldian work. This perhaps deserves emphasis, not least as a note of warning to criminologists interested in embarking on historical research. There are bitter disputes amongst historians about the value of Foucault's work. Some of the strongest resistance comes from those associated with the marxist social history which has had to fight a long-running battle to establish an institutional and disciplinary presence (Palmer 1990). Having done so, marxist social history found itself under challenge from a new contender which saw it as established and outdated doctrine. The result has been some ironic sharing of positions (if not alliances) between traditional history and marxist social history in attempts to repel the new 'new history'. (For an excellent review, see Joyce 1995.) There is a good deal of caricature here: as the work of authors such as Pratt, Garland and Finnane illustrates in different ways, use of post-structuralist theory does not (contra Palmer 1990) necessarily involve a 'descent into discourse' which ignores social, economic and political context and effects. (This is not, of course, to deny that there is bad post-structuralist history; but it is hardly more prevalent than bad marxist history or bad conservative history.) As Joyce (1995:89) suggests, this requires that attention be paid to 'new conceptions of structure evident in contemporary sociologies', notably the work of Giddens (1984).

The most important message of Pratt's paper is one which is not exclusive to Foucauldian history: as suggested above, it is general enough to define the distinction between history and antiquarianism. Pratt makes the point clear: 'I do not see how it is possible to understand the present, let alone think about the future, if we are unable to recognise those forces and influences which help to constitute what we recognise as the present.' This may be little more than an elegant restatement of aphorisms about the importance of history which can be found in any dictionary of quotations: but its significance for contemporary debates about crime and criminal justice is hard to overstate. It is a profound irony that people who easily dismiss historical research as 'merely academic' or 'impractical' are so often busily introducing 'reforms' which would be identified as ill-conceived and ineffective by anyone with a passing historical knowledge of the issue. Pratt's study of dangerous offender legislation is a fine example of the relentlessly ignorant insistence on re-inventing square wheels. Another pressing contemporary local example concerns the response to problems in policing: as Jill Bolen argues, the failure to appreciate what has been done before all too often leads official inquiries into superficiality and irrelevance (Bolen 1995, forthcoming). One of the key reasons why such inquiries have

achieved so little (Finnane 1994) would seem to be their failure to learn the lessons from their predecessors.

The most notable attempt to use history to show the relevance of history to understandings of crime is Geoffrey Pearson's *Hooligan* (1983). His 'history of respectable fears' challenged nostalgic invocations of 'good old days' which were enjoyed before crime and immorality broke down a 'traditional' way of life. In Pearson's account, tradition appears not as stable, secure community, but as fears about social decay and decline. This book had a significant impact on public debate about crime in England. While, of course, the references to the 'good old days' continue, there is a significant and informed challenge to such accounts. Pearson's work emphasises the point made above that the issue is not *introducing* history to understanding of and debates about crime and criminal justice — these usually rely on implicit, 'common-sense' historical accounts of social change — but rather challenging these and offering a better history. However, this sort of history has its own limitations: as Tomlins suggests in a penetrating critique, Pearson's study is historically superficial because his focus is so clearly on making an argument about the present. His evidence is 'almost invariably impressionistic, and the interpretations placed upon it are often questionable' (Tomlins 1985:138). The explanatory thesis — connecting 'crime waves' and respectable fears to material life and political crises — is undeveloped. It is here, Tomlins suggests, that history offers its main contribution — 'the construction of empirically-grounded generalizable explanations of socio-economic change with which criminological concepts and concerns may be integrated' (Tomlins 1985:139). It is unlikely that Pearson would disagree with this assessment; doing so does not detract from the significance of *Hooligan* as a finely judged and effective political intervention.

This leads to a predictable conclusion. There are many histories, and many potential uses of history. But these multiplicities contain their own limitation: history offers no objective truth, no means of empirically establishing 'the superiority or necessity' of any particular 'version of moral and political order' (Tomlins 1985:146). If this is appreciated, then criminology can be enriched by contact with history, and by self-consciously examining its own implicit historical understandings and theories. If it is demanded that criminology be 'useful', then making policy-makers aware of the histories of their projects (as John Pratt does in his analysis of dangerous offender legislation) is useful indeed.

REFERENCES

- Adler, J S (1989a) 'A historical analysis of the law of vagrancy', *Criminology*, vol 27, pp 209–229.
- Adler, J S (1989b) 'Rejoinder to Chambliss', *Criminology*, vol 27, pp 239–250.
- Bolen, J (1995) 'Prospects for sustainable police reform', paper presented at the Institute of Criminology seminar: Police Reform: Options for Change, September 1995.
- Bolen, J (forthcoming) *The Whitrod Era in Queensland Policing*, Institute of Criminology, Sydney.
- Cain, M (1978) Review of Paulus 'The Search for Pure Food', *British Journal of Criminology*, vol 18, pp 93–94.
- Chambliss, W J (1964) 'A sociological analysis of the law of vagrancy', *Social Problems*, vol 12, pp 67–77.
- Chambliss, W J (1989) 'On trashing Marxist criminology', *Criminology*, vol 27, pp 231–238.

- Critchley, T A (1970) *The Conquest of Violence*, Constable, London.
- Dean, M (1994) *Critical and Effective Histories: Foucault's Methods and Historical Sociology*, Routledge, London.
- Dixon, D (1991) *From Prohibition to Regulation*, Clarendon, Oxford.
- Finnane, M (1994) *Police and Government*, Oxford University Press, Melbourne.
- Garland, D (1990) *Punishment and Modern Society*, Oxford University Press, Oxford.
- Giddens, A (1984) *The Constitution of Society: Outline of the Theory of Structuration*, Cambridge University Press, Cambridge.
- Hay, D (1975) 'Property, authority and the criminal law', in Hay, D, Linebaugh, P, Rule, J G, Thompson, E P and Winslow, C (eds) *Albion's Fatal Tree*, Penguin, Harmondsworth, pp 17–63.
- Jenkins, K (1991) *What is History?*, Routledge, London.
- Johnston, L (1992) *The Rebirth of Private Policing*, Routledge, London.
- Joyce, P (1995) 'The End of Social History?', *Social History*, vol 20, no 1, pp 73–91.
- Langbein, J (1983) 'Albion's fatal flaws', *Past and Present*, vol 98, pp 96–120.
- Palmer, B D (1990) *Descent into Discourse: The Reification of Language and the Writing of Social History*, Temple University Press, Philadelphia.
- Pearson, G (1983) *Hooligan*, MacMillan, London.
- Pratt, J (1992) *Punishment in a Perfect Society*, Victoria University Press, Wellington.
- Radzinowicz, L (1948–86) *A History of English Criminal Law*, 5 vols, Stevens, London.
- Reiner, R (1978) Review of Critchley 'A History of Police in England and Wales', *New Society*, 29 June 1978, pp 730.
- Reith, C (1943) *British Police and the Democratic Ideal*, Oxford University Press, Oxford.
- Simon, J (1993) *Poor Discipline*, University of Chicago Press, Chicago.
- Thompson, E P (1977) *Whigs and Hunters*, Peregrine, Harmondsworth.
- Tomlins, C L (1985) 'Whose law? What order? Historicist interventions in the "war against crime"', *Law in Context*, vol 3, pp 130–147.
- Wright, P (1985) *On Living in an Old Country: The National Past in Contemporary Britain*, Verso, London.