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Introduction to the special issue of the  
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Criminology

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# Introduction to the special issue of the Australian and New Zealand Journal of Criminology

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## **Abstract**

This paper is an introduction to the special issue of the Australian and New Zealand Journal of Criminology focuses on the prison, its contexts and effects.

## Introduction

This special issue of the *Australian and New Zealand Journal of Criminology* focuses on the prison, its contexts and effects. Prison expansionism has defined the last several decades of criminal justice policy. Even in the face of falling crime rates, the penal estate expanded: simultaneously redefining itself (through for example post-sentence preventive detention) and re-inventing its importance (for example by claiming improved community safety through the incapacitation of dangerous and repeat offenders). Put simply, more and more people have been incarcerated for ever longer periods of time. Meanwhile the effects of imprisonment are unevenly felt: racial minority communities continue to bear the brunt of extensive criminal justice interventions – indeed many would argue that imprisonment and criminalisation are key institutions in the construction and maintenance of the racialised boundaries of late modern societies; women's imprisonment rates have increased more rapidly than men's; and people diagnosed with mental illness and cognitive disability are re-cycled in and out of prison more rapidly than ever.

Yet like all stories, the story of penal expansionism has multiple interpretations and complexities. Some of those issues are addressed in this issue. We lay no claim to comprehensiveness. This is hardly surprising given that the prison embodies a range of different historical, political and cultural trajectories. The prison reflects and reproduces legal relations (for example, sentencing requirements, citizenship restrictions) and social relations (for example, relationships between prisoner and the prisoner officer, the community and family). How these relationships are understood and negotiated are key to understanding the day to day lives of those incarcerated. However, the nature of those legal and social relations varies across time and place. Indeed discussions in this special issue indicate some of the complexity of the links between imprisonment and welfare, between social and penal policy and the broader impact of neoliberalism on penalty in a number of jurisdictions in Australia, England and northern Europe.

One of the key debates is whether we can talk sensibly of a type of neo-liberal punitive penalty that permeates late modern societies, or whether the penal exceptionalism of the United States is mistakenly taken as a more generalised phenomenon. It seems self-evident from the articles in this collection that specificity is necessary. For example, the lessons that can be learned from Scandinavian countries include the positive consequences on the prison of inclusionary rather than exclusionary politics and the contribution strong welfare states can make to enhancing social capital and cohesion. Prison policy is the outcome of long term socio-political forces and cultural values, and this is true of both societies that imprison excessively as well as those that are moderate or frugal in the use of the prison.

A theme which runs through several articles is the movement of the prison and its relationships into the community – the prison has redefined its own internal areas as community corrections and non-carceral, so that one is both simultaneously in and not in the prison, and in the case of home detention it has redefined a non-penal space as imprisoning. These are new custodial environments which recreate prison in the community at various sites, and with differing outcomes. A common thread is the expansion of penal relations across new domains. Perhaps immigration detention with its primary focus on containment captures the punitive prison in its purest form, and in this sense is similar to the experience of remand populations and subgroups such as those convicted of terrorism offences or sex offences. For the immigration detainee/remand prisoner/ sex offender/ terrorist imprisonment can be indeterminate – a 'liminal punitive space' – with little or no focus on rehabilitation, skills, education,

work or community reintegration; a place where punitive administrative decisions operate outside the formal sentencing process.

The outside/inside dichotomy is a constant theme in writing about prison. The prison is a place outside the civil: outside civil rights, outside the civil law and outside civility. It is a place where multiple forms of punishment occur; where people are punished for being prisoners rather than for their crime. For those detained under the immigration laws there is the possibility of inconsistent and discretionary political intervention against those defined as 'deviant'. The *absence* of citizenship (and its attending legal rights) for detainees under immigration legislation creates a different and exacerbated situation compared to the partial *loss* of citizenship inflicted on other prisoners.

Many articles in this collection require us to think about what the prison could become under different circumstances. What would the prison be if it provided support for generative acts and dispositions? If the prison was a 'generative society' where those types of acts were nourished and valued? A core relationship in the prison is between inmate and officer. We know that prisoners' feelings of fairness and being cared for, and their levels of distress, can be negatively affected by staff culture. The way in which prison officers use their authority shapes prisoner experience. Some prisons appear to develop staff cultures that are more positive and respectful towards prisoners than others. The very nature of the prison itself though appears to call forth in prisoners a desire for orderliness and security above friendly staff-prisoner relations. But there are many constraints on re-imagining the prison. The question of how we research and write about the prison and its multiple effects has long been a concern of critical prison studies. While superficially prisons might seem more open for research than ever before, the nature of that openness is also constrained. Government research agendas set the parameters of research which in reality significantly limits research to predetermined administrative agendas. In this context 'appropriate' research is defined a priori as that which is consistent with bureaucratic interests.

Critical prison writing has always had an activist dimension – from opposition to the death penalty to prison abolitionism. The articles in this special issue indicate that activism can operate on many levels. The defence of prisoners' basic human rights and the need to protect and extend their civil and political rights has always been a key area for activism. Yet activism can also extend to changing the broader political and cultural milieu in which the prison operates. Lessening the social distance between prisoners and the rest of society and eliminating the principle of less eligibility (that prisoners always have to be worse off than the poorest of free citizens) could have a significant impact on how we envisage the role of the prison and the frequency of its use.

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