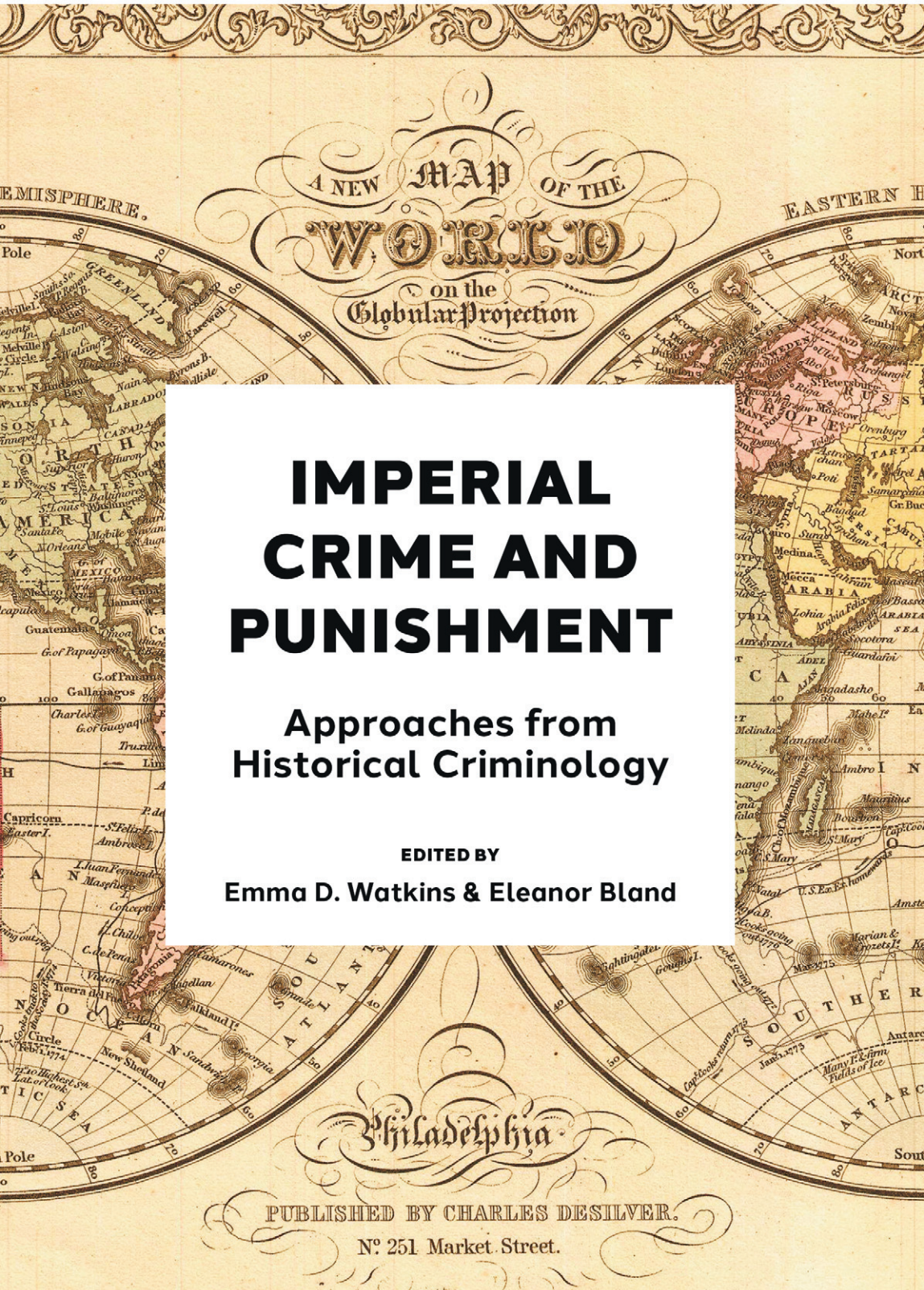
EMERALD ADVANCES IN HISTORICAL CRIMINOLOGY



IMPERIAL CRIME AND PUNISHMENT

Approaches from Historical Criminology

EDITED BY

Emma D. Watkins & Eleanor Bland

Imperial Crime and Punishment

This fascinating collection directly addresses the urgent need to understand crime and its control within historical and global contexts. Engaging with migration, settlement, race, policy transfer and more, its chapters reveal how the patterns and practices of crime, policing and punishment were – and are – frequently interwoven with the wider historical forces of imperialism and colonialism. This book resonates with many profound contemporary issues and deserves a wide audience amongst all who care about the future of criminal justice and social justice, as well as their pasts.

—***Henry Yeomans*, University of Leeds**

Contextualise, contextualise, contextualise! The editors and authors of Imperial Crime and Punishment: Approaches from Historical Criminology remind us why history matters. This collection, in recovering and foregrounding these imperial histories of crime and punishment, adds crucial, critical historical dimension to calls for greater epistemic expansions in criminology – calls aimed at democratising both what we know and how we know. That this necessarily begins with situating our understanding of punishment's centrality in a longer history of our contemporary arrangement becomes clear with each chapter, in this impressive collection. Contributions broaden knowledge regarding the entrenched role of punishment to our perspectives on peoples and places and our relationship with justice. In that regard, contributors help dispell deeply held illusions of punishment as an uncanny, discrete and peripheral set of logics and practices safeguarding good people from bad people, and safeguarding social stability from the impositions of those labelled and feared as keen to destabilise it. Indeed, contributors reinforce the understanding that the centrality of punishment (including the synonymity with marginality) is neither an uncanny, nor discrete, nor peripheral but is instead part of a historically embedded reproduction of logics fundamental to both organising and differentiating access to justice and positive recognition. Contributors explore a cross section of themes in this regard, including the significant role of prisons in community and social construction, the relationship between crime, poverty and welfare, the relationship between surveillance and marginality and the relationship between relocation and disenfranchisment. As editors Watkins and Bland note, one key objective of the collection is to enable the recovery of lived histories so that scholars and other interested parties can add a critical historical dimension to contemporary (criminological) concerns.

—***Esmorie J. Miller*, Lancaster University Law School**

EMERALD ADVANCES IN HISTORICAL CRIMINOLOGY

Series Editors: David Churchill and Christopher W. Mullins

This series embraces a broad, pluralistic understanding of 'the historical' and its potential applications to criminology. Providing an inclusive platform for a range of approaches which, in various ways, seek to orient criminological enquiry to history or to the dynamics of historical time; the series also offers a platform both for conventional studies in the history of crime and criminal justice, but also for innovative and experimental work which extends the conceptual, theoretical, methodological and topical range of historical criminology. In this way, the series encourages historical scholarship on non-traditional topics in criminology (such as environmental harms, war and state crime) and inventive modes of theorising and practising historical research (including processual approaches and futures research). The series thus makes a valuable contribution to criminology irrespective of disciplinary affiliation, theoretical framing or methodological practice.

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The Contemporary History of Drug-Based Organised Crime in Scotland by Robert McLean, Chris Holligan, and Michael Pugh

Politics and Public Protection by Mike Nash and Andy Williams

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Imperial Crime and Punishment: Approaches from Historical Criminology

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About the Editors

Dr Emma D. Watkins is an Associate Professor in Criminology and an AHRC Research, Development & Engagement Fellow (2023–2025) working on 'Institutional Abuse: Reformatory Schools and the use of physical force'. As an historical criminologist, Emma uses a social harm perspective in her work to explore the use of institutions and policy to control marginalised populations. Emma was awarded her PhD at the University of Liverpool. That thesis led to the monograph: Life Courses of Young Convicts Transported to Van Diemen's Land. Out of that project came her work on pauper-emancipists and the criminalisation of poverty. Her forthcoming monograph related to that research is entitled: *Transportation, Post-Penal Identity and the Life Course*.

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About the Contributors

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Foreword

In recent years, a row has broken out in the world of geology about the onset of the Anthropocene (20 April 2024, *The New Yorker*). If it is true, as was asserted at a recent global conference, that a new period in the history of earth has arisen, then the Holocene epoch, which marked nearly 12,000 years of stable global environment in which the whole of human civilisation developed, has now ended, replaced by the Anthropocene, when humankind's impact on the environment has become globally embedded and significant not just for humanity but for the existence of life on earth (Waters & Turner, 2022). Combative geologists argued over whether and when this momentous change could have happened. Events which had a slow burn and did not tip the scales for decades or centuries – the discovery of fire, the wheel or the steam engine, for example – were discounted and so were events which affected nations but not the whole world. Although still much debated, the proposal to set the start date of the Anthropocene in 1952, marked by the worldwide fallout of plutonium from nuclear weapons' tests, has become widely accepted (6th January 2023 *Guardian*).

In terms of historical criminology, I think that the essays in this edited collection are trying to contribute to a debate which is somewhat similar. By adopting an imperial perspective across a couple of centuries, the contributors analyse national or locally established criminal justice practises and approaches which have now come to be globally embedded – the gendered nature of responses to juvenile delinquency, the use of imprisonment, the criminological focus on 'others', particularly indigenous or racial/religious others and so on. Like the geologists, the contributors balance the specificities of period, nation, imperial context within an international spread of ideas about crime and justice. As the editors themselves acknowledge, the collection inevitably still leaves a number of 'gaps', news which will be welcome to those who study empires constructed by nations and people other than the British, and periods other than those dominated by the British Empire. The geographical scope of the essays in this volume is fixed mainly on Australia, the Indian subcontinent, Russia and the United States but links them by discussion of broader mobilities, including the movement of individuals through state mechanisms of penal transportation and forced/free migration.

The collection is open textured, allowing readers with different disciplinary backgrounds, and different methodological preferences, to find a handhold in debates about the imperial context of crime and policing. The inherently

interdisciplinary and multidisciplinary tone embraces the large variety of routes that scholars take to historical criminology in the 21st century.

We, as historical criminologists, are being called to action by the editors and essayists, inviting us to help to fill in some of the temporal, geographical and jurisdictional 'gaps' that remain – this is not an insignificant challenge, considering that the intellectual landscape is fairly quick-moving. New perspectives emerge frequently to re-structure our aims and aspirations, challenging us to re-evaluate our intellectual positions. In the wake of the cultural and gender 'turn' of the late 20th century, we have recently seen significant shifts in methods and theories. Some of these changes include those made by Churchill et al. (2021) and Paul Lawrence (2019) who debated historical criminology, and before them people like Clive Emsley who put comparative crime history on the map (2004, 2007), the exciting big data digital approaches by Hamish Maxwell-Stewart (2016) and life-course approaches by Godfrey et al. (2007, 2010, 2017) and Watkins (2020). These discipline-level transformational changes and challenges presented us with new ways of looking at and studying the history of crime. So too did (and do) changing geo-political constructs. The imperial vistas considered by contributors in this volume created the context for their research studies, but past and future empires (whether political or economic) will cause us to re-evaluate the empires of the past and, therefore, the history of crime and justice across those empires. The rise of nationalism and the rise of far-right conservative politics in Europe, the retrenchment of anti-migrant policies in the United States, the continuing failure of failure to redress colonial harms to indigenous peoples – all mean that our concept of the 'imperial' will change, and so will our conception of how law and justice supports or challenges imperial forces. Indeed, 21st forms of neo-liberalism and nationalism that are largely antipathetic to the liberal and inclusive inclinations of the academic community will make it even more important that reflections on the imperial past are constantly re-examined, re-evaluated and re-evidenced by historians of crime and justice. That is why I believe that books like this are needed.

Barry Godfrey
University of Liverpool
2025

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Introduction

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Imperial Crime and Punishment: Approaches from Historical Criminology seeks to amplify research in the emerging field of historical criminology, drawing specifically on research from imperial contexts. It brings together contributions from multidisciplinary scholars, who reflect on their different methodological approaches and offer an insight into the diversity of research in this area. The collection offers both a perspective on the state of the field and a call to action for further research in this vital area. In the forthcoming introduction, the editors situate the collection within previous literature, explore its parameters, focus and scope, and the shared themes across the chapters, before setting out the structure of the collection itself.

Significant Literature in the Field

Crime and criminal justice history in imperial and colonial contexts is a well-developed field of study. There are many significant works which look globally and others which focus on individual countries and regional contexts. While some offer perspectives on aspects such as punishment or policing, others provide overviews and connections within nation states and between colonial powers, all presenting differing critical perspectives and approaches. To begin with, the edited collection by Godfrey and Dunstall (2005) examined crime and empire over the century beginning in 1840. In doing so, the contributors not only investigated the transfer of legal codes, policing and punishment in the process of colonial state-building as coercive instruments of dispossession, they also highlighted the agency and resistance to that subjugation through the utilisation of colonial law. Whereas Wiener (2009) used case studies of interracial homicides across seven colonies within the British Empire to focus on the interaction between race, the criminal justice system and contradictory ideas of 'liberal' empire and the rule of law. Using a transnational lens, Miller and Campbell (2015) turned to five continents to investigate three key stages of the criminal justice process: discipline, punishment and desistance. This interdisciplinary

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collection explored the evolution and adaptation of criminal justice and penal systems from the 19th century to the present. In consequence, they were able to forge new connections between historical and contemporary issues, as well as challenge traditional Western historiographies.

In a similar approach to Godfrey and Dunstall, Dikotter and Brown (2007) provide a nuanced understanding of how prisons were not simply transplanted by the West, or passively emulated, but rather were understood in culturally specific ways, and were flexibly reinvented to suit local factors across Latin America, Asia and Africa. Given the continued reliance on prisons across the globe, they produced a much needed historical and global perspective on the issue. Indeed, this collection highlighted local variation within its broad geographical reach by using empirical studies to demonstrate how institutional models change shape when travelling into foreign structures. Anderson (2018), on the other hand, focused on penal colonies across the globe, arguing that convict transportation as a punishment was intertwined with both the political economy and metropolitan and imperial governmentality. The history of penal transportation is rightly positioned as one of geographical mobility, confinement and labour extraction, where the transportation of convicts enabled occupation and settler colonialism, leaving existing legacies throughout the world. Just as with Anderson's (2018) work, Anderson and Killingray (1991) previously found that movement was important in the patterns of colonial policing as personnel were moved from one colony to another. They explored consent, control and coercion within policing, and policing policies, from 1830 to 1940 across five continents.

There has also been more geographically focused work, including those on India and Australia pertinent to this collection. This includes Hinchy's (2019) gendered study of the Hijra community in North India under colonial rule, Finnane's (1987) still significant historical study of policing in Australia and Cunneen's (2001) *Conflict, Politics and Crime,* which investigates the over-representation of Aboriginal people in courts and confinement. To understand this latter well-known but oft overlooked issue, Cunneen focused on the history of policing, the use of police discretion and over-policing alongside the nature of Aboriginal offending according to demographics within the Aboriginal community. Turning instead to punishment, Reid (2007) investigated male and female convicts transported to the penal colony of Van Diemen's Land. In taking a gendered approach, she was able to establish the agency asserted by female convicts within this imperial context.

In line with these existing studies, this edited collection will consider how local institutional cultures influence how policies, practices and institutions work in practice after travelling across the globe. Following Forth's (2017) stance, our contributors also take a broader social harm approach by critiquing within, and beyond, the criminal justice system proper. Forth (2017) studied the history of concentration camps during the late-19th century. He produced a comparative, transnational monograph which positions the Anglo-Boer War concentration and refugee camps within longer traditions of controlling the urban poor in metropolitan Britain and managing 'suspect' populations in the empire. Moreover, this

collection will build on these existing works with new empirical studies through drawing on the historical criminological field.

The emergence of historical criminology as a significant field is demonstrated by the establishment of the European Society of Criminology (EuroCrim) Historical Network in 2019,[1] and the British Society of Criminology (BSC) Historical Criminology Network was relaunched in 2019.[2] We have also seen a thematic issue within *Criminology & Criminal Justice Journal* in 2018 with contributions from Yeoman, Churchill, and Lawrence focused on the uses of historical criminology in terms of explanation, characterisation, and context. This was followed by a Howard League Special Issue entitled 'Can understanding history make a difference to criminal justice policy?' edited by Godfrey (2020). This collection offers further reflections on the place of historical criminology as a discipline (Yeoman et al. 2018), as well as empirical studies of historical criminology in action. The latter include Goldson on youth justice reform, Williams and Walklate on policy responses to domestic violence and Inwood and Roberts on the incarceration of indigenous people in British Columbia. In the same year, this (*Emerald Advances in Historical Criminology*) book series was established to platform historical perspectives and approaches within the field of criminology. With this momentum came the aptly named monograph by Churchill et al. (2022) *Historical Criminology,* which argued that there is an opportunity to embed further the historical into criminology. They pointed out that historical criminology is not a criminology of the past nor an appropriation by criminology of past methods but rather 'scholarship on crime, criminal justice and related matters conducted with respect to historical time' (Churchill et al. 2022, p. 6). In line with their thesis, our contributors' chapters are not purely backward-looking but are forward looking empirical studies concerned with the present and future. They offer empirically based studies from the archives to understand and question beliefs about crime and social harm today, as well as ongoing practices both in and outside of the criminal justice system.

Scope and Parameters

This aim of this collection is to respond to calls from historical criminologist theorists (Churchill, Yeoman, Channing, and Lawrence) by further amplifying empirical studies of contributors who use historical criminological methods. As editors, we wanted to do so within the imperial context by building on the existing imperial and colonial studies of crime and punishment. As such, this volume presents research in the emerging field of historical criminology *within* imperial contexts. The multidisciplinary contributors will demonstrate historical criminology in

[1]Relaunched in 2019 with Mikka Vuorela after a 2018 meeting of minds between Vuorela and Valeria Vegh Weis, Esmorie Miller, Fátima Rodrigues and Lizzie Seal.

[2]Launched by David Churchill and now chaired by Esmorie Miller. More information here: #HCNet (historicalcriminology.com).

action and draw out their methodological approaches, covering crime and social harms, punishment and enforcement.

This collection is inherently interdisciplinary and multidisciplinary, embracing the variety of routes that scholars take to historical criminology. The editors themselves are interdisciplinary; both are trained as historians and have moved into social sciences departments and approaches in their research methodologies. The individual research chapters have been written by scholars working in Law and Social Sciences (Bland), Sociology, Social Policy and Criminology (Roscoe, Watkins), Criminal Justice or Criminology (Alghrani, Bleakley), Social Sciences (Nagy), Humanities (Harman) and Law departments (Gokhale), and many of these contributors position themselves as interdisciplinary scholars. The forthcoming chapters reflect the interdisciplinarity of the field of historical criminology, as the contributors use historical methods and sources in combination with contemporary criminological theory and approaches.

With a shared focus on imperial contexts, the geographical scope of the chapters in the collection is intentionally broad, drawing in work on Australia, the Indian subcontinent, Russia and the United States. Beyond these specific contexts, the individual chapters reflect on broader mobilities, including the free and unfree movement of individuals through transportation and immigration around the world in the 19th and 20th centuries (Roscoe, Bland and Tepperman). This broadens the scope of the collection to (indirectly) embrace Africa, the Caribbean, Asia and the Pacific Islands. Some also engage with geographical scope through reflecting on the movement of ideas from the metropole to colonial contexts (Alghrani and Bland). The chapters in the edited collection span the period between 1818 (Gokhale) and 1935 (Tepperman), with most clustered around the second half of the 19th century and early years of the 20th century. This temporal focus is shaped in many cases by the period in which colonial institutions and structures were developed, including welfare provision (Watkins), policing (Bland and Gokhale), prisons and juvenile detention (Alghrani and Roscoe) and the convict system (Nagy and Harman). In Tepperman's case, the temporal focus shaped the time of Jewish immigration from the Russian Empire to the United States.

However, it is also important to recognise the limitations of the scope of this collection. There is a relatively heavy focus on Australia, and a limited focus on imperial contexts beyond the British Empire. The British Empire focus reflects the fact that this has been a rich seam for engagement with historical criminology in imperial contexts, and we anticipate that this collection will provoke ideas that can be shared and translated beyond these contexts. The work is also limited by the lack of input from scholars working in the Global South although there is strong engagement with indigeneity and indigenous peoples in individual chapters, which aims to go some way to addressing this (Bland, Bleakley, Gokhale and Roscoe). Despite these limitations, this collection draws together scholarship from several areas and with different approaches and aims to act as a call to action, inviting further contributions and discussion to broaden our understanding around historical criminology in imperial contexts.

Themes and Methods

The chapters in this collection broadly explore crime and social harms, enforcement and punishment and while they are divided into sections on Institutions and Punishment, Policing and Enforcement and (Un)free Mobilities, they also reflect other commonalities and shared themes and could be redivided in several alternative ways. All the chapters, in different ways, explore the varieties of physical or psychological violence inflicted through imperialism, colonial expansion or colonial institutions. Bleakley, Gokhale and Bland explore the inherent violence of colonial policing, especially recognising the ways in which indigenous peoples were the victims of much of this violence even as they themselves were co-opted into policing roles. Alghrani, Roscoe, Watkins and Nagy and Harman examine the more indirect violence that was inherent in colonial institutions of punishment even where these institutions were intended to involve some benevolence or welfare focus (Alghrani and Watkins). Roscoe also explores the theme of indigeneity shared by Bleakley, Gokhale and Bland in her inclusion of Indigenous Australian prisoners imprisoned at Cockatoo Island in her analysis.

While Tepperman and Nagy and Harman specifically focus on mobilities, the work of Roscoe, Watkins and Bland is also shaped by transportation and migration. Tepperman examines Jewish immigration from the Russian Empire to New York while Nagy and Harman explore how free migrants to Australia were captured within the convict system and potentially transported to Tasmania. Watkins examines former convicts, who had been transported to colonial Tasmania, and in later life were no longer able to subsist economically and were caught up in punitive charitable institutions. Bland and Roscoe both explore those who migrated to Australia for work, from areas including China, Africa, the Caribbean, the Indian subcontinent, Pacific Islands, Japan and the Philippines, and how they were captured within the criminal justice system through policing and imprisonment.

The theme of mobilities also highlights the cultural diversity of populations and groups examined in the collection and the attempts that the contributors make to explore a wide variety of different experiences. The colonial criminal justice institutions examined here were imposed on indigenous peoples, diverse migrant populations and those characterised as criminal. The scholars contributing to this collection have attempted to explore the impacts of these policies and institutions on these communities through reading colonially produced sources 'along' and 'against' the grain (Stoler, 2008). While it is typically challenging to capture the experiences of those who were subjects of such policies or institutions, as they themselves did not create the colonial records, the contributors have captured their experiences in diverse ways.

One valuable approach here adopted by Watkins and Nagy and Harman is through life course research, providing a detailed exploration of specific pauper-emancipists (Watkins) or convicts (Nagy and Harman). These detailed life course narratives provide insights into individual experiences but also stand as part of the analysis of wider datasets, generated from colonial records. The analysis of such datasets is an approach used also by Roscoe, Tepperman and Bland, who examine prison records (Roscoe and Tepperman) or records of policing (Bland) to construct

their analysis. Their approaches include both quantitative analyses of the datasets and qualitative analyses of individual cases. The other contributors approach their research through detailed close reading of original sources, either archival or published sources (Alghrani, Gokhale and Bleakley). All the contributors acknowledge the contexts in which the sources were produced and examine in more detail in their individual chapters how they have specifically approached these sources.

Organisation

This collection is divided into three thematic sections: Section 1 – Institutions and Punishment, Section 2 – Policing and Enforcement and Section 3 – (Un)free Mobilities.

In *Institutions and Punishment*, Alghrani, Roscoe and Watkins examine penal institutions and institutions of care in India and Australia and the ways in which ideas around punishment and institutionalisation were translated between, and within, the metropole and colonial contexts. Alghrani (pp. 31–51) draws on the writings of the famous social reformer, Mary Carpenter, to explore how race, gender and institutional ideologies intersect in the historical treatment of juvenile offenders by applying the theoretical framework of Orientalism. Roscoe (pp. 53–77) turns her attention to the bureaucratic records left by the convict era to reconstruct the offending histories of not just transported convicts but also Indigenous Australians, immigrants and those born free in the colony of European descent. Using these historic prison registers and entry books she challenges three myths associated with Cockatoo Island (1839–1869). Watkins (pp. 11–30) moves across policy arenas to explore the long established, and continuing, link between poor relief and penal confinement.

Policing and Enforcement turns to an examination of policing structures, personnel and practices in Australia (Bland and Bleakley) and India (Gokhale), with these scholars examining policing violence and the connections between policing and Indigenous societies. Bland's chapter (pp. 99–118) explores the policing of marginalised communities in Western Australia and Queensland (c. 1864–1914), drawing on quantitative and qualitative analysis of evidence of policing practices in the Police Gazettes. Bleakley (pp. 81–97) analyses the connection between capitalist expansion and state violence in Queensland during the imperial period, demonstrating the violent role of the police in protecting capitalist interests against Indigenous peoples and striking labourers. Gokhale (pp. 119–138), in turn, explores the engagement of Indigenous Bhil communities in policing in Western India in the 19th century under the East India Company, highlighting the complex negotiations between colonised peoples and colonisers.

In *(Un)Free Mobilities*, Nagy and Harman and Tepperman draw on themes of movement, through migration from the Russian Empire to the United States (Tepperman) and transportation and deportation (Nagy and Harman), offering powerful connections to the contemporary significance of these themes. Nagy and Harman's chapter (pp. 141–160) examines free migrants to Australia who were captured within the convict system and transported to Tasmania in the mid-19th century, and the applications of contemporary understandings of border control and migration to this historical phenomenon. Tepperman (pp. 161–179) examines

patterns of criminality among Jewish people in the Russian Empire and following migration to New York City at the end of the 19th century, using quantitative records on arrest and incarceration, exploring the impact of these translations across space.

Together these contributions not only offer interdisciplinary empirical research in their respective fields, they also consciously reflect on their methods and explicitly engage with the critique of their sources. Taken as a collective, these contributions reflect on crime and social harm, enforcement, and institutions and how individuals were caught up in these processes and practices. The editors look forward to increased diversity in geographical focus and methodological range, from those working within the historical criminological space, that this publication aims to engender.

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