

Border Criminologies

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Well before the current mass arrival of refugees, Europe had expended considerable effort to secure its external borders, making it harder and harder for large sections of the globe to enter legally. Policies associated with so-called 'Fortress Europe' prioritized internal freedom of movement for EU citizens over the entry of others, creating an internal market place for labour for all but the most highly skilled. Only those who could prove a Human Rights based claim could counter these restrictions.

As part of this attempt to 'manage migration', most member states, including Britain, have pursued a growing intersection between criminal justice and immigration policy, introducing a host of new legislation criminalising matters which used to be purely administrative. Actions that were previously considered only as immigration violations such as working with false documents, failing to produce a passport, or overstaying a visa became criminal offenses, while remaining immigration offenses as well. These dual powers, as Ana Aliverti has observed (2014; and see later in this Newsletter), offer the government considerable flexibility in managing foreign nationals, as the Home Office may either handle immigration matters administratively or pass them over to the courts.

Under these arrangements, police have acquired new roles and responsibilities related to border control within and beyond the borders of the nation state. They may now check for immigration status while conducting routine work and should, when people are arrested, run their fingerprints through the Home Office database. In a parallel development, immigration officers have acquired policing powers of arrest at the border, and, working alongside the police, regularly conduct workplace and domestic raids within the UK. Increasingly citizens too, are expected to act as border guards, checking the status of their students, tenants, and employees.

Elsewhere in the criminal justice system, other changes have been introduced. Criminal courts may, these days, hand down deportation orders as part of the sentence. Prisons must check the citizenship of their inmates, both to facilitate their eventual deportation, and to manage their regimes as foreign national prisoners face greater restrictions in security. They are now considered an escape risk and so are rarely entitled to Category D, open conditions. They may be gathered together in foreign-national only penal establishments.

Alongside these criminal justice initiatives, Britain has opened new sites of administrative detention for foreign nationals awaiting removal or deportation. A small number may also be held for identification purpose, or while an expedited asylum claim system is underway.

On any given day around 3500 people are held across 10 of these establishments. All immigration removal centres (IRCs) are contracted out by the Home Office. They are run by a collection of private custodial firms (currently Mitie, G4S, Serco and GEO) and by the prison service. In their design and regulation, they resemble penal institutions. Senior staff who run them and design policies about them have all worked in the prison service.

Most criminologists have, until recently, paid little attention to these sorts of developments. Other than a few publications from the 1990s, crime, justice and punishment continue to be presented within national frameworks, as matters limited to one jurisdiction. Just as issues of race and gender continue to be overlooked, so too, the impact of citizenship has rarely been addressed.

Matters, however, are changing. These days, there is a vibrant new subfield of the discipline, known as 'border criminologies', in which, alongside colleagues in criminal law, sociology, migration studies and beyond, criminologists have started to ask whether our existing categories of analysis and concepts work in a 'world in motion' (Aas, 2007). What does punishment mean, when it includes expulsion? What is the effect on policing, when the matter under investigation is immigration status? How do people, who may have lived among us for many years, understand their role, identity and treatment, when they are forced to leave?

In my own work, I have focused for many years on immigration detention (Bosworth, 2007; 2012; 2014). Intrigued initially by their apparent similarities to prisons, I have stayed on due to their differences. What are these places like? And what are they for? Such basic questions evade straightforward answers, raising challenging methodological and epistemological questions.

On the surface, matters may not seem so difficult. Since 2009 I have been conducting fieldwork in IRCs and, to some extent, I have deployed similar strategies to prison sociology. That is to say, I use mixed methods. I conduct formal and informal interviews. I have even developed two survey instruments – one for detainees and another on staff.

Yet, IRCs are not prisons. IRC fieldwork feels entirely different from prisons research. Its purpose and impact is far less clear. It is very painful to do, and its ethics rather more murky.

IRCs are far more politicised than prisons. It took me 12 months to obtain permission in 2009 to do my research and, since then, the government has let few others in. Their reluctance is difficult to explain as the centres are, in most respects, no worse than prisons in terms of staff culture, safety, cleanliness, etc. There are no hidden subterranean punishment cells, nor, as far as I have seen, systematic abuse.

The key distinction between the two kinds of systems springs from their purpose. Whereas prisons have a range of justifications, from rehabilitation to deterrence or even simply punishment, the point of IRCs is far less clear. A range of reasons are put forward. Policy makers and politicians, for instance, claim they are part of a generalised

deterrence. They are part of the goal of making Britain hostile to irregular migrants. Custodial staff sometimes claim they are protecting the community, at other times that they are assisting a vulnerable population, housing them in a care home, a boarding school, a hospital.

Detainees, as might be expected, have a bleaker outlook. They believe detention is designed to wear them down and force them to go. In this aspect, the centres are greatly assisted by the lack of an upper statutory time limit. After a few weeks, women and men start to worry, not without reason, that they may be there forever. Every centre has someone who has been there for over a year.

Yet, in fact, only about half of those in detention are actually removed or deported. The rest are, eventually, released back into the community. They may be detained again, or they may simply be asked to report regularly to the police and the Home Office. For this section of the incarcerated population, detention primarily seems to be used to disrupt their lives, and marks out their unwelcome and precarious status within British society.

Conducting fieldwork under these conditions is very difficult. Staff and detainees are often suspicious, confused, or ill at ease. There are considerable language barriers and cultural and religious differences that have to be overcome. Unsure how long they will be detained, and often extremely fearful of where they will return, detainees are usually anxious and depressed. Their capacity to give 'informed consent' to participate in research is not always entirely clear.

Unlike prisons, where for the most part, people's sentence has been determined, in detention matters are far more fluid. Although the government has significantly reduced the capacity to appeal an immigration decision, or to lodge a new claim, detainees still expend considerable efforts in doing so. In these attempts they must tell their story over and over again. Being asked to share their experiences with a researcher can simply be too much. While some appreciate the attention from an outsider, others remain suspicious, angry at the inability of academic researchers to assist them in their case.

Finally, there is the wider immigration context from generalised restrictions to the current influx of refugees across Europe. So too, IRCs exist in the shadow of the rise of nationalist parties like UKIP to those on the far Right. They are located in multicultural, multiethnic societies with long-term migrant populations where questions of belonging and criminal justice intervention take many forms. These aspects generate specific intellectual and ethical challenges.

To what extent is migration control merely targeting the same populations who have always been managed by the criminal justice system? What of asylum seekers and refugees? Although everyone has the right to pursue a refugee claim, some detainees have asylum cases under consideration. Not only has Britain, until recently, run a 'fast-track' system for those whose claim was prima facie judged unlikely, but also individuals who arrived in Europe elsewhere, can be detained before being returned to have their case heard in their first destination.

On both counts, conducting research in IRCs needs to be considered carefully. Whereas prisons research has ameliorated many aspects of prison conditions, it is not always clear that a similar aspiration should or could animate IRC research. Is it right to improve conditions within centres that play some role in denying sanctuary to other human beings? What about their role in denying opportunities to those who come purely for economic reasons?

On the one hand, criminologists always have to deal with such matters. Prison studies is not without its critics. But, in detention, the stakes feel higher. Forcibly returning people to endemic poverty and violence, or simply extinguishing their hopes, separating them from their families, denying their past, is very hard to justify. It is painful to observe. Without a clear outcome of research, it often feels intrusive. Fears about legitimating the system are manifold, and difficult to manage.

Counteracting those fears, researchers may bear witness, to remind the IRCs, the Home Office and detainees, that people are watching and care. I also think a certain pragmatism is important. These centres are not going away soon, and their place will not depend on academic research. They are a political choice. So, any improvements that can be generated by writing about them, is worth pursuing. Academic work also needs to be motivated by academic questions. We cannot hope to solve global inequality, but we ought to consider how it affects our scholarship and discipline.

As states around the world put the criminal justice system to work in managing migration, criminologists need to adapt their ideas and strategies. These days, sentences passed in any magistrate or crown court, may have effects felt far beyond the borders of the UK. Prison and policing policies, implemented in our communities, shape the experiences of those we have never met.

The intellectual ramifications of these developments are complicated. Other than some of those drawn from just beyond the borders of Europe to the East, most of the targets of these new practices are from the global south. The ties to post-colonialism are strong. Maybe this new field can finally integrate matters of race and ethnicity more solidly into criminology. At present however, these issues are often left implicit. In sum, there is considerable work to be done on a number of fronts.

References

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