



# The Aotearoa Handbook of Criminology

Edited by  
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and Sarah Monod de Froideville





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# 1

## Introduction

### Criminological Transformations

*Elizabeth Stanley, Trevor Bradley, and Sarah Monod de Froideville*

Criminological perspectives – like the concerns of crime and justice – are always in a process of transformation. This is nowhere more apparent than in Aotearoa New Zealand, where criminology has consolidated from its 1970s introduction at the Institute of Criminology, Victoria University of Wellington, to become an integral feature of teaching and research at most New Zealand universities. As this handbook shows, the discipline that has emerged is one which is led largely by critical, decolonising and feminist perspectives – something that places New Zealand criminology at odds with dominant disciplinary approaches taken across other neoliberal states, including settler-states.

From the outside, it might be thought that this progressive disciplinary development has mirrored national policies and practices to crime problems. Internationally, New Zealand is often regarded as a place of innovation and imaginative approaches to combating crime. One example is the youth justice system, often described as ‘world leading’ for its emphasis on diverting young people from the criminal justice apparatus, its focus on restorative justice and the involvement of whānau in formal proceedings. The development of specialised courts, such as Rangatahi Courts, is another. That our police do not *yet* routinely carry firearms on their person also sets New Zealand apart from almost all other nations.

Yet these approaches distract from some uncomfortable truths. Criminal justice issues in New Zealand are highly politicised, sensitive to the demands of populist lobby groups, and sensationalised by a news media dominated by commercial interests. In turn, New Zealand has also built intensely negative and socially harmful responses to crimes and criminal justice. This

can be seen in many examples, from the entrenched use of imprisonment as a tool of colonial control and repression, to the limited protections afforded to women and children bearing the brunt of ‘family’ and sexual violence, to the reticence to criminalise multiple harms committed by powerful individuals and institutions. In short, official responses to crime have emerged in highly contradictory ways. While there are signs of progressive ventures, the overwhelming sense is of a crime and criminal justice landscape that reflects and embeds wider structural relations of inequality, and which fails to alleviate pain, violence, and harm at individual, family, or community levels.

Critics from academic, social, legal, and even government quarters have been instrumental in drawing attention to these entrenched problems, yet often to muted responses. In 2018, the newly elected Labour government launched several criminal-justice related initiatives – including an advisory group, Te Uepū Hāpai i te Ora, that reported on the profound need for transformative approaches to crimes and social harms. Whether we will see substantive shifts resulting from the group’s recommendations is another matter. Many of Te Uepū’s recommendations mirrored those from Moana Jackson’s 1988 report *The Maori and the Criminal Justice System: A new perspective: He whaipānga hou*. Despite Jackson’s astute and evidence-based critique of New Zealand’s monocultural system and its role in disproportionately criminalising Māori communities, few changes if any have been implemented over the following four decades. In the same way, other landmark reports – such as *Puao-Te-Ata-Tu / Daybreak* (1989) or *Te Ara Hou / The New Way* (1989), which sought to challenge the racism, discrimination, and inequities of criminal and welfare systems – began to gather dust almost as soon as they were published. More recent critical commentaries around issues such as detaining young people in police cells, inhumane treatments and conditions in prisons, or police pursuits of fleeing drivers have also been met with limited actions for improvements in practice. Suffice to say, from the mid-1980s there has been a troubling trajectory in New Zealand’s political leadership of dismissing expertise and evidence in favour of quick-fix, often populist policies that have exacerbated problems at significant expense. It is not incidental that this approach has coincided with an acceleration of a neoliberal agenda that has also dominated justice-sector thinking.

The need to respond to these troubling issues is joined by new concerns, including whether New Zealand can respond to the criminal justice implications emerging from the crises of climate change and the Covid-19 pandemic. These are already exacerbating problems – such as unprecedented economic and psychological strain, conflicts around resources, escalations in family violence, fears regarding the normalisation of policing ‘special powers’, or the exclusionary capacities of enhanced border controls – that are critically important to address. It is vital that our future criminologies and our social, political, and legal actions engage with the local manifestations of these and other global harms and insecurities.

## THIS COLLECTION

The *Aotearoa Handbook of Criminology* is the first comprehensive collection of readings from criminologists and practitioners based in the ‘land of the long white cloud’. We offer it as a resource that outlines the foundations of crime and justice settings alongside critical, decolonising, and feminist perspectives on criminological ideas and practices. The ensuing chapters are keenly attuned to the representations, politics, laws, policies, and practices of crime and control, and sensitive to how gender, ethnicity, class, age, ability, and sexuality intersect across these in unique ways.

While this is a substantive collection, there are important omissions. The need to develop a tight collection has meant that many scholars we admire are not featured. Some vital

criminological considerations – such as the rise of surveillance technologies, the development of privatised criminal justice responses, or diverse theorisations of crime, among other areas – are absent. There are also areas that need to be strengthened within New Zealand's criminology, not least to ensure the prioritisation of Māori and Pasifika ways of conceptualising and responding to crime and justice. The persistent hyper-incarceration of tangata whenua, and the discriminatory practices of policing, prosecution, and sentencing that precede it, require urgent and ongoing attention. Notwithstanding these concerns, the chapters in this first volume are vigorous, enticing, and intensely thought-provoking. They invite you to expand your criminological imaginations and to reassert new ways of thinking about and creating solutions for the multiple harms that are endured in New Zealand and beyond.

### ***The chapters: A thematic introduction***

The chapters are divided into four distinct sections: Part One focuses on crime knowledge, Part Two on crime types, Part Three on criminal justice, and Part Four on differential experiences of crime and justice. We provide a fuller overview of all the chapters in the introductions to each part. However, in bringing these works together, we identified four themes that are worthy of further reflection here. These relate to: (1) the representations and constructions of crimes, offenders, and victims; (2) the limits of regulation and justice measures, including how seemingly progressive shifts can increase controls over marginalised populations; (3) the significant harms that endure in criminal justice spheres, including from official responses to crime; and (4) the ongoing need for decolonising and transformative shifts to our criminal justice system and wider society. These four broad themes reflect the nature of the criminology currently being undertaken in New Zealand, and they also underline the significant problems that New Zealanders must work through to attain more effective and relevant responses to crime and justice.

With regard to the first theme, contributors to this volume demonstrate time and again how distorted constructions serve to marginalise and criminalise specific communities. Diverse groups – including drug users, young people using mobile technologies for sexual expression, gang members, those with mental illness, sex workers, and non-citizens, among others – are regularly targeted with distorted and exaggerated versions of their identities and activities (see chapters by: Hutton; Meehan; Cohen; Gilbert; Armstrong; Stanley). These depictions are personally harmful and create stigmatising associations. Moreover, such misrepresentations in the news media and across government and academic discourses reflect entrenched relations of power that can lead to ineffective and unjust policies and practices (a point also evidenced by: Gilmour; Bradley; Deckert; Gilbert).

These representations can embed a perceived need for state controls over those who are officially regarded as 'risky' or problematic. Risk-focused criminal justice approaches tend to shift the focus from contexts of deprivation or discrimination to the potential of individuals to cause harm to others. They rely on the idea that harm can be prevented by measuring, predicting, and controlling 'risky' populations, a point that serves to legitimise intensified practices of surveillance and control of individuals and communities. Such rationalities are evident right across criminal justice practices, including in crime prevention, community sentences, offender rehabilitation, and mental health treatments, and even in relation to the exclusionary restrictions on borders and citizenship (see: Durrant; Gibbs; Durrant & Riley; Cohen; Stanley). These risk rationalities are moulded to fit, and they fuel racist, ableist, and sexist discourses while downplaying the intrinsically political nature of criminal justice that serves capitalist, settler-society interests.

Misrepresentations and negative constructions are directed not just to offenders or 'risky' others. Constructions of victims and the offences against them can also serve to normalise

victimisation, or hide the conditions under which harms and violence occur. This emerges in many different ways. It can be seen in the narratives that encourage victim blaming, as well as the representations of sexual violence that explicitly and implicitly defend male entitlement to women's bodies (see chapters by Jordan or Stringer, for example). It is also apparent, as Botha and Poynting demonstrate, in the political discussions that denied the hate crimes experienced by Muslims in the wake of the March 2019 Christchurch mosque massacres.

From these discussions, it is clear that criminologists have to be persistently attentive to power differentials and the ways in which images and discourses are powerful conduits for renewing structural inequalities, including reinforcing the legacies of settler colonialism. It is also necessary to consider and challenge dominant constructions. That is, these representational forces are powerful but they are not fixed, a point all too clearly illustrated in Armstrong's exploration of the decriminalisation of sex work.

Dominant constructions give rise to a second substantive theme: that legal and regulatory frameworks often fail to protect populations. Criminal justice interventions can both reflect and embed inequalities. Indeed, even practices that appear progressive may increase controls over marginalised populations. Contributors illustrate how policing (Bradley et al.; Workman), crime prevention (Durrant), courts (Quince; Oleson; Lynch; Gibbs), restorative measures (Tauri), correctional practices (Gibbs; Martin; Lamusse & McIntosh), and even rehabilitative, treatment, and reintegrative processes (Mills & Latimer; Durrant & Riley; Cohen) are underpinned by structural, institutional, and sociocultural settings that revolve around inequitable 'race', class, age, ability, sexuality, and gender relations. Under these conditions, every feature of criminal justice – including the use of discretion, offence recording, diversions, plea bargaining, surveillance, punishments, or other interventions – is filtered through dominant power relations in a settler-state. Those who are less powerful often suffer from a lack of protection.

The chapters in this handbook show us, then, that New Zealand's criminal justice apparatus is intrinsically unjust in its perpetuation of violence, disadvantage, and colonial controls. Inequitable situations are exacerbated further when we consider how the New Zealand state also fails to secure effective protections or punishments for many other egregious harms. Part of the problem here links to the skewed constructions in which criminality is not even seen. For example, racist hate crimes, white-collar crimes, state–corporate crimes, crimes against animals and ecosystems, digital crimes, and family violence crimes are often ignored completely, or explained away under different terminology that removes criminalising associations as they become redefined as 'accidents', 'disasters', 'one-off events', or 'personal conflicts' (see: Bradley; Jury et al.; Meehan; Botha & Poynting; Monod de Froideville & Smithline; Mackenzie; Stanley & Day). Criminal acts are, in turn, normalised, or made socially and legally permissible. This can be seen in the lax oversight and monitoring of institutions, the denial and disregard of complaints, and a 'light touch' (and often voluntary) regulatory system that enhances a landscape of impunity. These approaches enable serious offenders to evade accountability for their wrongful deeds. They also reveal that the 'crime problem' that is regularly narrated by political and media commentators tells us more about dominant practices of criminalisation, policing, or prosecution than it does about the true extent of violation and suffering that stems from offensive behaviours.

These concerns plug into the third theme around the nature, extent, and impact of harms and victimisation. Criminological (as well as political and social) attention has, historically, served to actively silence some victims of crime, or to blame them for their circumstances and the crimes against them. This has been most obvious in the mass gendered harms associated with family violence, interpersonal violence, and sexual violence (see: Gilmour; Jordan; Jury et al.; Stringer; Armstrong). Under patriarchal conditions, those who are victimised and

stigmatised are additionally burdened with the task of preventing their victimisation. The true nature of this extensive societal violence and how its impacts seep across our communities, across generations, is downplayed.

A minimisation of victimisation is also apparent in the treatment of other groups, including those harmed by the ‘crimes of the powerful’ noted above. It is rare, for example, to see official agencies funnel any justice attention to climate crises, industrial pollution, species harms, or the violence that ensues from the consolidation of border securities (Monod de Froideville & Smithline; Stanley). From official representations, such global crimes often appear to have no victims. Further, there is limited consideration of how the impacts of these crimes (their physical, economic, psychological, or emotional harms) far outstrip those that ensue from acts that normally constitute the ‘crime problem’ (see: Mackenzie; Bradley). A similar minimisation of victimisation is also apparent in the mass harms generated by new technologies. Through digital media, gendered and racist harms can be perpetuated on national and global scales (see: Gilmour; Meehan; Botha & Poynting). Transnational victimisations are changing the crime landscape in complicated ways, and we do not yet have useful or respectful responses to identify those victimised through online spheres, or to prevent, punish, or repair these types of crimes (Durrant).

Such problems dovetail with the fact that, as inferred above, many of our traditional formal interventions also create systemic and institutional harms. These are embedded through racist strategies (among others, see: Bradley et al.; Workman; Suaalii-Sauni et al.; Tauri), as well as by the neoliberal consolidation of penal populism (Pratt & Anderson), but have also been given a new lease of life through risk-based rationalities and their associated technologies that present as neutral but perpetuate bias (Cohen; Stanley). The multiple system harms in operation are wide-scale and devastating in their long-term impacts. Consider the ramifications, for example, of the hyper-criminalisation of those with mental illness (Cohen) or the hyper-incarceration of Māori communities (Martin; Lamusse & McIntosh). These experiences remind us that while significant harms result from criminal victimisation, they also emerge from many official responses to that victimisation.

In many ways, then, our current approaches to ‘crime’ are damaging, failing, and counter-productive. This leads us to our final theme of the book, which involves two separate, though related, issues of significant importance for change: the decolonisation and transformation of justice responses. Currently a great deal of work, and much critical commentary, is focused on ways to decolonise and transform all facets of New Zealand’s prevailing system of injustice. While various chapters reflect on the potential to achieve meaningful decolonisation and/or transformation, they also present clear warnings about how difficult it can be to fundamentally alter the balance of power, and how even seemingly progressive shifts can result in the further embedding of inequalities. There is a need for attentive Māori-centred action to fulfil Te Tiriti o Waitangi obligations through criminological research (see, e.g.: Deckert; Monod de Froideville & Smithline; Suaalii-Sauni et al.) as well as through criminal justice organisations and programmes (e.g., Quince; Lamusse & McIntosh; Workman). Such actions also have to be honest. Many transformative policies and processes have in fact expanded the state’s reach into Māori and Pasifika communities by a dual process of co-option and indigenisation (Tauri; Suaalii-Sauni et al.). Decolonising justice can emerge only from Indigenous-led and ethical community justice alternatives, and must be attentive to the legacies and realities of a colonial society that has perpetuated intergenerational disadvantage and trauma (Mills & Latimer).

Decolonising imperatives link with wider initiatives to fundamentally transform criminal justice institutions, policy, and practice. Many reforms are already apparent in New Zealand – such as the development of a more diverse judiciary, together with the development of ‘problem-solving’ courts or Māori-focused courts (like the Matariki Court or Ngā Kōti Rangatahi) that

are changing the cultural dynamics of justice (Oleson; Quince). While these courts are gaining in popularity, they are not without their issues, not least that they can bring more people into the system through a criminalisation of social problems.

Alongside these reformist measures, there are many in New Zealand who are working towards truly transformative responses to ‘crime’, including the ways in which society is structured to make certain responses appear as necessary or correct. Contributors to this handbook regularly reflect on the need to prioritise person-centric, relationship-based, socially engaged, culturally safe, and life-improving responses to harms and violence (Jury et al.; Gibbs; Durrant & Riley). They also remind us that truly transformative responses will require radical actions (see Hutton; Lamusse & McIntosh; Armstrong; Stanley) – to decriminalise, build stronger social, economic, and cultural rights, challenge exclusionary (real or metaphorical) borders, and abolish the conditions that make so many of our harmful criminal justice responses even possible.

## CONCLUSION

Taken together, the chapters in this handbook present a troubling recognition of multiple failings around crime and justice in Aotearoa New Zealand and beyond. While there are undoubtedly useful and protective responses to crimes and harms across many areas, there remain significant gaps in knowledge, policy, and practice. Further, the ‘crime problem’ is highly politicised, and official responses are frequently led by emotion or institutional strategic intent rather than by evidence or community need.

Under these conditions, criminal justice frames are largely led by short-term political gains that have served only to reproduce and sustain settler-colonial conditions, and which have entrenched inequitable power relations in terms of ‘race’, class, gender, sexuality, age, ability, legal status, and species. Despite the continual deployment of new laws, strategies, policies, and frameworks for the criminal justice sector over the past few decades, discriminatory and harmful practices have been maintained and, in some respects, consolidated.

For criminology thinkers, there is a great deal to unpack, think through, and act on. We hope that this collection will assist you in propelling future improvements to how we define crime, how we prevent it, and how we can respond in much better ways to those who are victimised by crimes and wider harms. Further, given the many problems highlighted around our official responses, we encourage you to think and act beyond the dominant frames of criminal justice. After all, the chapters in this handbook repeatedly demonstrate the need to use criminological knowledge and imaginations to propel decolonising, feminist, critical, and socially just knowledge and transformations as a means to reinvigorate safety and well-being across all our communities.

Mā te rongo, ka mōhio. Mā te mōhio, ka mārama. Mā te mārama, ka mātau. Mā te mātau, ka ora.