

CULTURE OF CRIME CONTROL: THROUGH A POST-FOUCAULDIAN LENS

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ABSTRACT

The paper identifies the broad organising ideas relating to David Garland's (2001) 'Culture of Control' thesis. The critique respectfully identifies some theoretical deficits within Garland's use of Foucauldian concepts pertaining to power, discourse, the conflation of agency and structure etcetera. Several post-Foucauldian 'modifications' are recommended including the use of some insights from Owen's (2006a) Genetic-Social approach and Layder's (1997) notion of Psychobiography. The findings of this conceptual and theoretical approach illustrate that Garland's thesis would be enhanced by a post-Foucauldian, metatheoretical emphasis upon the dialectical relationship between the systemic and relational aspects of power; dualism; Psychobiography; and an anti-reductionist critique of agency-structure, micro-macro and time-space of the kind associated with the work of Owen (ibid) and Sibeon (1996, 2004).

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INTRODUCTION

‘Crime control is a reconfigured complex of interlocking structures and strategies that are themselves composed of old and new elements, the old revised and reoriented by a new operation context’ (Garland, 2001: 23).

The concern of the paper is grounded in the major ideas relating to Garland’s (2001) book, *The Culture of Control: Crime and Social Order in Contemporary Society*, which has enormous implications for theorising issues relating to crime and deviance because the ‘Culture of Control’ thesis presents a powerful yet inevitably complex argument about the rise of a schizophrenic ‘crime control complex’ that is characteristic of late modernity. In highlighting how criminal justice policies in both North America and the United Kingdom took their contemporary shape, Garland makes a very significant contribution to theoretical debates pertaining to the rise of punitiveness in contemporary Western societies, the contradictory nature of 21st century crime policy and the political interests tied to this process.

According to Garland, two social forces positioned contemporary crime control arrangements: the distinctive social arrangements that he labels ‘late modernity’, and the policies of free markets and neo-conservatism, which gained prominence in 2000 onwards in the United States. Drawing from the work of the French poststructuralist Michel Foucault, Garland compares present-day policies and practices to those before the 1970s to create what he terms, a *genealogy of crime and crime control* (‘history of the present’); observing drastic changes in criminological theory, crime, penal policy, increased surveillance, policing, sentencing, private security, crime prevention, and the treatment of victims.

For Garland, the culture of crime control is characterised by the following attitudes, beliefs and assumptions in Western culture. High crime rates are now regarded as ‘normal’ facts. Emotional investment in crime is widespread and intense, encompassing elements of fascination as well as fear, anger and resentment. Crime issues are politicised and regularly represented in emotive terms. It is worthy of note that Owen (2006a) has recently made a similar observation regarding *emotive aversion* as a ‘cardinal sin’ in the sense of arguments against the use of human biotechnologies based upon irrational, emotional reactions. Garland also identifies a growth in concerns about victims, anti-social behaviour and how public safety dominates social policy. The criminal justice system is viewed as inadequate or ineffective. Private, defensive routines are widespread and there is a large market in private security. For the author, a ‘crime-consciousness’ appears to have become institutionalised in the media, popular culture and the built environment.

What is the new problem of crime and social order? The Historical Context

Garland (2001:120) has suggested that there is an 'emerging distinction between the punishment of criminals, which remains the business of the state (and becomes once again a significant symbol of state power), and the control of crime - which is increasingly deemed to be 'beyond the state' in significant aspects'. 'What', Garland asks, 'is the new problem of crime and social order to which the new system of crime control is a response?' The first and most obvious part of his answer is the large increase in crime and the fear of crime, and the perception on the behalf of the better-off that existing policies and programmes no longer provide them with effective security. Garland describes the decades of crime policy immediately following World War 2 as the 'Golden Age' of penal welfarism. This period consisted of two fundamental ideas: (1) 'social reform together with affluence would eventually reduce the frequency of crime', (2) 'the state is responsible for the care of offenders as well as their punishment and control'. It embodied a belief in the perfectability of man and a faith in the ability and good intentions of professionals. Offenders were viewed as 'unfortunate' rather than 'evil'.

What did the penal-welfare system of the pre-1970s period abdicate to the new culture of control? According to Garland, problems arose because of the prevalence of high crime rates and disorder together with the recognition that criminal justice had a limited ability to control crime and ensure security. In response to this evolving environment, actors developed new strategies that appealed to political, popular and professional sectors. The rise of the culture of control corresponded to a new economic style of decision-making, a new criminology of social control, and a new conception of penal-welfarism.

Dramatic changes in crime control and criminal justice have occurred in Britain and America over the last thirty years. According to Garland, the growing personal freedoms, affluence and mobility of the 1960s, and its belief in the possibilities of rehabilitating criminals has given way to today's more anxious culture and the 'tough on crime' measures that accompany it. Garland makes the point that in the USA there are 2 million people in prison and two executions every week. He also notes that Britain's prison population is growing faster than ever before, as are our private prisons, the private security industry and the numbers of surveillance CCTV technologies on city streets. The fastest growing mode of residential living, according to the author, is the 'gated community'. The question is posed, are these fortified dwelling places emblematic of a new 'iron cage of rationality'?

Insecurity, Risk and Surveillance

Garland argues that modern living and our adaptations to it are creating a world where prisoners are not the only ones who live in an 'iron cage of rationality' (cf. Weber, 1908). In the individualised enthusiasm for market freedoms and individual liberty, individuals have neglected social bonds that hold people together (cf. Durkheim, 1897). For Garland, the resulting sense of 'insecurity' has led us to embrace habits and policies that would have seemed unthinkably repressive thirty years ago. These include shopping in controlled environments; keeping to the home rather than going out; the expression of concern about the breakdown of family, community and 'moral values'; widespread anxiousness about crime and violence; and an uneasiness about the future. For Garland, these are symptoms of the 'precariousness' that characterises late modernity. Concerns about economic insecurity and personal safety have contributed to a culture where, according to the author, voters in the UK and USA allow politicians to lock up more and more offenders; pass increasingly harsh laws (for example, 'three strikes and out'); and impose increasingly strict controls upon behaviours that were previously tolerated in the name of freedom. In this culture, the State controlled criminal justice system has come to be regarded as 'limited' in its capacity to control crime and deliver security.

According to Garland, in response to this predicament, existing social policies and welfare-state solutions perceived to be ineffective have been replaced with the following. There has been the emergence of a 'Criminology of the dangerous other' and talk about crime using the language of 'warfare' and 'defence'. Social solutions have given way to economic solutions. Welfarist Criminology, with its focus upon social deprivation, has been displaced by a new Criminology which stresses choice and control. Crime control has come to be viewed as a problem of penal disincentives, risk management and situational engineering, rather than a work of social justice or individual reform. Old welfarist ideals of 'Assist, Advise, Befriend' have been abandoned. The concern to reduce crime and monitor human behaviour with new electronic technologies in the 'tracking society', Garland observes, has led to a situation where consumers are placed under the gaze of electronic inspection and every person monitored as a potential 'surveillance object'.

The increasing deployment of information technology has increased the potential for intensive and extensive forms of surveillance and as a consequence the erosion of personal privacy. The requirement for information on the part of military, political and industrial organisations is documented by Poster (1999)- through which individuals can be traced via techniques of gaining data- credit card companies, mail order companies, telephone companies, ISP companies, banks, health, social security, law and order, TV and vehicle licences have numerous informational files/records on people, and through information technology there is a capacity for speeding up information about people to achieve composite profiles of particular individuals.

It is the risky character of late modern life that underlies our accelerating concern with control and crime control in particular. It is not just crime that has changed; 'society' has changed too, and this transformation has, for Garland, reshaped criminological theory and social policy. Defined as the distinctive pattern of social, economic and cultural relations that emerged in America and Great Britain in the last third of the 20th century, 'late modernity' has brought with it insecurities, control problems and

risks. All of these play a crucial role in shaping our changing response to crime. Therefore, it is emblematic perhaps of contemporary Western culture that each of the realities identified in the neo-liberal order offers the promises of escape from, rather than a deepened understanding of criminality. Those who do not conform to the neo-liberal dream appear to have been shunted into a non-participative discourse, bounded by surveillance or the more palatable yet closely related discourse of policy and professional ‘monitoring’ in criminal justice. Garland appears to be suggesting that a discourse on risk impacts on everyday perceptions of crime and control of social order. This includes the risk of thereby being excluded from one’s community; the risk of being too poor to maintain a consumer lifestyle; the risk of being excluded from participation in crime control forums through social divisions; the risk of being abused; the risk of control being taken out of one’s hands; the risk of tokenism in community partnership; and the risk of intense surveillance.

Garland describes changes in crime control and criminal justice in the United States and Great Britain during the past half century. Detailing the new politics of law and order, he argues that controlling less fortunate citizens has become the priority in so-called liberal, non-oppressive states. By vilifying the undeserving poor, increasing incarceration rates, imposing mandatory sentencing, and more frequently executing criminals (US) contemporary society is indeed more akin to Weber’s ‘iron cage’ of rationality than an open democracy. Contrasting present-day policies and practices with those that existed in the 1970s, Garland has outlined a history of the criminal justice state, a theory of social and penal change, and an account of how late modern social, economic and cultural forces reshaped criminological theory taking into account both surveillance and risk (Garland, 2001: 173):

‘a large population of marginalised, criminalised poor may lack political power and command little public sympathy, but in aggregate terms, they would have the negative capacity to make life unpleasant for everyone else’.

For Garland, crime offenders have ceased to be seen as individuals in need of care and support and are viewed instead as ‘responsible’ and ‘undeserving’- as so many risks to be managed. According to the author, the rehabilitation of criminals is now inscribed in a framework of risk and private protection rather than one of public welfare and entitlement.

Problems with Foucauldian analysis

There are, it is contended here, distinct problems inherent in aspects of the Foucauldian analysis that Garland draws upon pertaining to the failure to acknowledge links between social settings and agency; a failure to incorporate a non-reified concept of agency into analysis (Sibeon, 2004); a tendency towards *oversocialised*¹ perspectives on the person and *genetic fatalism* (the equation of genetic predisposition with inevitability) and an anti-foundational relativism (Owen, 2006a; 2006b). Here, it is respectfully suggested that Garland's use of Foucauldian conceptions of *power* requires some modification in particular, because, arguably, it is essential to recognise the *relational* and *emergent* aspects of power in addition to its *systemic* and *agentic* qualities.²

There is a marked tendency in the Foucauldian analysis, drawn upon by Garland, to 'collapse distinctions between agency and structure and between micro and macro' (Sibeon, *ibid*: 72). It is perhaps necessary to offer here a *non-reductionist* definition of agency. For the purposes of this paper, and for a critique of the kind of ideas favoured by Garland, *agency* can be defined by means of Hindess's (1986:115) definition of the concept of agent /actor as a, 'locus of decisions and action where the action is in some sense a consequence of the actor's decisions'. Alternatively, to avoid *reification* and *reductionism*, social and individual actors should be defined as entities that are (in principle) capable of making, taking and acting upon decisions³. However, there are some entities that cannot under any circumstances be or become actors. These include taxonomic collectivities such as Police Officers, Magistrates, 'white people', 'black people', social classes and 'the State'. In some cases, the government of a group of 'nation-states' may decide that it is desirable to create a project such as the Human Genome Project that is 'empowered' to take decisions and act on the collective behalf of member states (Owen, 2006a). In this case we would regard it as a *supra-national organisation* rather than an actor, keeping firmly in mind Hindess's (*ibid*) useful and cogent formulation of social action. Likewise, transnational policing enterprises such as Europol are not actors as they lack the ontological status of being able to formulate and act upon decisions using agency. To argue otherwise would be to engage in *reification*. Institutions such as Europol, for example, may be regarded as examples of emergent power in the sense that power is not 'fixed' but at least partly the outcome of social interaction. To reject theories of structural predetermination. Is arguably not the same thing as overemphasising *agency* at the expense of *structure*. In other words, we recommend that a recognition that actors are constrained/enabled by *conditions of action* (Betts, 1986:41), or as Hindess (*ibid*: 120-121) puts it, by *social conditions*. One concurs with Sibeon (1996: 68) when he suggests that, 'the conditions of action/social conditions which may be thought of as the element of 'structure' in the agency/structure debate, are not structurally predetermined; they are not necessary effects of the social totality or of some systemic 'need' or 'exigency'.

This Foucauldian tendency (1972; 1980a; 1980b) to compact agency and structure together, to collapse distinctions between the two, results in what Archer (1995) calls 'central conflation'. As in the case of Giddensian structuration theory, Foucault

¹ Harshly 'environmentalist' accounts which deny biological, or partially biological, causality altogether.

² The idea that power can be 'stored' in roles such as those of Police Officers, Magistrates etcetera.

³ In this context, the decision to commit crimes for example.

compacts agency and structure together instead of treating them as a dualism. Garland appears to do the same in relation to his claim that social forces, in the shape of the social arrangements of 'late modernity' and neo-liberal macro-economics, have positioned contemporary crime control arrangements. The idea of *dualism* as opposed to *duality of structure* is favoured in our post-Foucauldian approach and critique because we are of the view that, in social analysis, *agency-structure* and *micro-macro* should be employed as dualisms that refer to distinct, relatively autonomous phenomena. For example, we are critical of Shilling's (1993) analysis of the human body as simultaneously 'biological' and 'social' as it serves to collapse the terms into an amalgamated 'whole' within which elements cannot be separated, and so, in the view here, and also that of Sibeon (2004:72), a great deal of Foucault's work involves the attempt to transcend dualism in the sense of avoiding, 'the extremes of humanism and structuralism'. The main problem with duality of structure, and this is arguably borne out by Garland's over-reliance upon Foucauldian conflation, is that even if we engage in eliding dualistic distinctions, we do not remove the possibility that either agency or structure is given primacy in analysis. Foucauldian analysis of the sort drawn upon by Garland appears to elevate social structure to prominence, whilst neglecting the role of agency.

Garland (2001:120) suggests that the punishment of criminals is 'the business of the state', which he regards as symbolic of 'state power', and that 'the state is responsible' for the care of offenders. In doing so, he is arguably engaging in *reification*. As we have hopefully made clear, 'the state' cannot be regarded as an actor in the sense that Garland appears to imply. Garland's illegitimate attribution of agency to an entity which does not possess the means to formulate and act upon decisions is highly problematic. It is the contention here that Garland's Foucauldian conception of *power* requires some necessary 'modifications'. *Power* is one aspect of Foucauldian analysis which, if utilised in a selective fashion, can certainly contribute towards the study of Crime. *Power* in the Foucauldian sense, is the milieu in which individual actors and groups operate and the 'workings' of power are not centred in any one group, and do not arise from any given location in the social structure or operate from any singular site. For Foucault (1980a), power is *everywhere*- the network of surveillance and patterns of discipline and knowledge that serve them have emerged outside of any actor's control. Such ideas can be used as a corrective against systemic perspectives. Law (1986: 5) too has also cogently argued that Foucauldian concepts of power, in opposition to theories of structural predetermination, may be seen as an *effect* rather than a *cause* of 'strategic success' in social interaction. One concurs with Sibeon (2004:135) to the ends that Foucault-influenced 'actor-network' theories such as those of Callon and Latour (1981) also contain persuasive arguments in favour of power having, 'no single or prime cause, but that strategic success in the acquisition of power is always potentially reversible'. It is therefore suggested here that Garland's case would be strengthened if he utilised Foucauldian concepts in a more critical, selective fashion informed by critique of *agency-structure*, *micro-macro* and *time-space*.

It is argued here that it is essential to recognise the *relational* and *emergent* aspects of power, and also necessary to acknowledge that power has *systemic* qualities (Owen, 2006a; 2006b; Sibeon, 2004). Latour (1986: 265), also influenced by Foucault, claims that, 'power is not something you may possess or hoard', adding that power is also, 'an effect...never a cause'. Latour is arguably incorrect here. Power *can* be hoarded

or 'stored', and therefore power, 'though often an effect, can sometimes be a 'cause' (Sibeon, 2004:136). It is contended here that Foucault and 'actor-network' theorists such as Callon and Latour (1981) tend to push *relational* and *processual* concepts of power to the point of denying that power can be 'stored' in roles, social systems and networks of social relations. Garland's case for a 'Culture of Control' needs to acknowledge that some social agents 'possess' more power than others (Best and Kellner, 1991:70), and the reason for this may possibly lie in the fact that certain elements of power can be 'stored' in roles such as those of Police Officers, Magistrates etcetera. This would possibly strengthen Garland's argument whilst also contributing towards the effectiveness of post-Foucauldian criminologies.

Particularly useful for post-Foucauldian approaches to Criminology is the idea that there may be 'multiple' forms of power including *systemic* power (associated with power 'storage' in discourses, social institutions, social positions/roles etcetera) and *agentic* power (which refers to a capacity of agents). Such *systemic* and *agentic* power should be viewed as autonomous, though they may influence each other. Agentic power may derive from a mainly systemic source. Conversely, agentic power may be of a relatively contingent, emergent form. Agentic power may interact with systemic power (roles/positions) that is 'stored' within what Foucault terms 'discourse' and social systems. In other words, Garland's argument would be further strengthened by an acknowledgement of the *dialectical* relationship between the *systemic* and *relational* aspects of power in the context of the 'Culture of Control' thesis.

Individual Psychobiography

Garland's argument for criminal offenders to be seen as 'individuals' would be strengthened by an acknowledgement of what Derek Layder (1997) terms *Psychobiography*; the largely unique, asocial aspects of an actor's disposition, behaviour and self-identity. These elements are recognised as relatively independent of face-to-face interaction and the macro-social. For Layder, human beings are composed of unique elements of cognition, emotion and behaviour that are, in some sense, separable from the social world, while also related in various ways to social conditions and social experiences. Tim Owen (2006a) has also called for an acknowledgement of *the biological variable* (the evidence from behavioural genetics for an, at least in part, genetic basis for some human behaviour) as a meta-concept and analytic tool in a recent issue of *Current Sociology*. In *Genetic-Social Science and the Study of Human Biotechnology*, Owen draws upon the work of Ridley (1999;2003), Hamer and Copeland (1999) and Pinker (1994) to suggest that there is sufficient evidence from behavioural genetics and Evolutionary Psychology for an acknowledgement of genetic influences upon human behaviour. Here, it is emphasised that we keep in mind Ridley's (ibid) notion of *Nature via Nurture* when focusing upon biological variables in social and criminological analysis: the 'feedback loop' which embraces the *mutuality* of genes and environment. It is suggested here that Garland's argument for a recognition of 'the individual' in criminal offending would be further strengthened by an incorporation of some of the insights from Owen's (ibid) meta-theoretical framework. In particular, one emphasises the concept that genes predetermine the broad structure of the brain of Homo sapiens, and they are not 'fixed' instructions, but do 'take their cue from nurture/the environment' (Owen, ibid:899). Arguably, it is an error to equate predisposition with inevitability, or as Owen (ibid) puts it, to engage in *genetic fatalism*. Unfortunately, there appear to be many in the social sciences that reject biological, or partially biological causality. For example, Giddens (1993:57) has suggested that, 'human beings have no *instincts* in the sense of complex patterns of human behaviour'. Arguably, as Ridley (1999:306) has argued, 'after 25 years of studies in behavioural genetics, that view is no longer tolerable', and 'genes do influence behaviour'. As the author suggests:

'If genes are involved in behaviour then it is they that are the cause and they that are deemed immutable. This is a mistake made not just by genetic determinists, but by their vociferous opponents, the people who say behaviour is 'not in the genes', the people who deplore the fatalism and predestination implied, they say, by behaviour genetics. They give too much ground to their opponents by allowing this assumption to stand, for they tacitly admit that if genes are involved at all, then they are at the top of the hierarchy. They forget that genes need to be switched on, and external events- or free-willed behaviour- can switch on genes' (ibid: 53).

Arguably, Foucault's (1980b) claim that sexuality, for example, is purely a sociocultural creation and the product of a particular set of historical circumstances is, 'both incorrect, and an example of an *oversocialised* perspective on biology' (Owen, 2006a: 898). Garland's rather under-theorised concept of 'the individual' would possibly benefit from an emphasis upon *the biological variable*, and the idea that 'nurture' depends upon genes, and genes require 'nurture'.

As argued previously, it is essential to acknowledge the ‘multiple’ nature of power in relation to the sociological study of Crime. It is suggested here that it might prove useful for Garland to draw upon Derek Layder’s (1997) ontologically-flexible, meta-theoretical *Social Domains* approach to analysis, which avoids both the ‘absolutist’ knowledge-claims of meta-narratives, anti-foundational relativism, and the reductionism and essentialism of Modernist paradigms. Layder appears to favour a cogent, ‘modest’ approach to social explanation, which retains a distinct epistemological commitment to realism, recognising that society is multiform, relatively indeterminate and difficult to predict. This metatheoretical approach is similar to that of Sibeon (2004) and Owen (2006a; 2006b) in that it avoids unitary, reductionist explanations and opposes the idea of duality of structure, indeed any attempt to collapse distinctions between agency and structure etcetera. Layder offers some extremely convincing criticisms of Foucauldian insights in respect of their tendency towards ‘flattened’ ontologies that serve to ignore vertical differentiation of the various spheres (or *Domains*) of social reality. We are of the view that Garland over-relies upon such Foucauldian ‘flattened’ ontological perspectives in Garland’s thesis. One concurs with Layder’s emphasis upon flexible, multifactorial explanation as opposed to the relativism of Foucauldian accounts. Such an approach might prove fruitful if ‘applied’ to the sociological study of Crime. It is also suggested that Layder’s emphasis upon *Psychobiography*’s relative autonomy, in combination with Owen’s emphasis upon *biological variables* would act as a corrective against Foucauldian ‘decentring’ of the subject, and the idea that actors are the effects of discourse. Layder’s stratified ontology and theory of *Social Domains* suggests that social ‘reality’ constitutes four domains, and they relate to the subjective and objective realms. Garland’s implied call for a recognition of criminals as individuals would be strengthened by a recognition of the individual-subjective referred to by Layder as *Psychobiography*, and the intersubjective, which is labelled *Situated Activity*. On the other hand, as Layder acknowledges, it should be held in mind that *contra* Michel Foucault (1980a), power *can* be ‘stored’ in the roles of Police Officers, Magistrates etcetera, and in social systems and networks.

Garland’s over-reliance upon the Foucauldian concept of *discourse* appears to rest upon a reified concept of agency. Like Foucault, Garland appears to presume that discourses are themselves social actors in the sense of a ‘crime consciousness’ diffused throughout the media. Arguably, discourses are, ‘a form of material that must be mobilised by actors’ (Sibeon, 2004: 72) before they can be regarded as having any consequences or effects upon society. We may conceptualise discourses as potential influences upon social actors, but to regard them as agents is to engage in illicit reification.

Conclusion

As has been hopefully made clear, Garland's contribution to the sociological study of Crime and Social Order is undeniably hugely influential and powerful in terms of impact. His now famous argument about the rise of a crime control complex characteristic of 'late modernity' would be further strengthened if combined with an ontologically-flexible, post-Foucauldian critique of *agency-structure*, *micro-macro* and *time-space*; insights pertaining to *Psychobiographical* aspects of 'the individual'; a recognition of the *dialectical* relationship between *agentic* and *systemic* power and the *relational*, *contingent* and *emergent* aspects of power, together with the recognition that power can be 'stored' in the roles of Police Officers, Magistrates etcetera. These very respectful criticisms aside, it must be reiterated and acknowledged that David Garland has an unassailable reputation as an international scholar, and has contributed very significantly towards debates pertaining to the rise of punitiveness in contemporary Western countries.

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