

Introduction

Reading the Criminalization of Poverty

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In November 2004, the editors, with the non-profit Community Action on Homelessness, organized a public colloquium on the criminalization of poverty in Halifax, Nova Scotia.¹ The event emerged out of the editors' concern about the growing use of criminal law to regulate the poor in Canada. We were particularly concerned about the possible emergence of a local version of legislation along the lines of the provincial "safe streets" acts passed in Ontario (1999) and British Columbia (2004). These acts criminalize the life-sustaining activities (such as panhandling and squeegeeing) of the poor in urban space, and arguably their very presence in the public realm.² The 2004 event was co-sponsored by the Law Commission of Canada, whose interest in the proceedings stemmed from its What Is a Crime? project, which sought to develop a framework for understanding why certain behaviour is criminalized and the consequences of criminalization.³ The colloquium explored the problematic dimensions of criminalization as a response to poverty and attempted to redirect public debate into non-criminalizing solutions. Academics, policy makers, community advocates, and those with lived experience of poverty and the intense regulation that often accompanies it were gathered into public conversation. The response to this event suggested that a widely relevant book could be built from the proceedings.

The resulting volume investigates, in various locales and in broader terms, how state and private practices have increasingly come to over-regulate people with severely limited economic resources. It examines how this trend is part of broad socio-economic dynamics in contemporary liberal capitalist societies such as Canada, as well as rooted in their histories, and how various groups have resisted this criminalization. The editors hope that the book will contribute to solutions that minimize the use of criminal law or intense regulation to deal with poverty and that maximize potentials for a more imaginative and compassionate future.

Theory and Context: Neoliberalism and the Criminalization of Poverty

Theorists argue that one of the central recent developments in “advanced” liberal capitalist societies is the shift from a collective (or socialized) framework for risk and responsibility to ideas and practices centred in individual (or individualized) risk and responsibility (Rose 1996, 1999). The more socialized framework, often referred to as *welfare liberalism*, was enacted through mass industrial production and an economic partnership between capital and nation states associated with the ideas and strategies of economist John Maynard Keynes (Keynes 1936). State social welfare and insurance provision were also developed to buffer the harm and unpredictability produced through capitalism. What is termed *neoliberalism* (or advanced liberalism) has been increasingly produced over the past four decades by a range of state and non-state actors in the context of local and global capitalist dynamics. Through these developments various bodies — cities and states, corporations, communities, families, and individuals — have been constructed as competing in allegedly free (but actually widely state facilitated) realms including, and modelled on, capitalist markets. More limited state regulation of capitalist harm and resource distribution through the citizenry accompanies this “freedom” and competition.⁴ This shift has produced a widening gap between rich and poor globally and locally in liberal capitalist societies. And for all but the wealthy it has created a situation of increased labour for decreased or relatively stagnant rewards (Harvey 2007; Comaroff and Comaroff 2001; Duggan 2003; Larner 2000; Munck 2002; Stiglitz 2002; Adam, Beck, and Van Loon 2000; Barry, Osborne, and Rose 1996). At the same time, through the neoliberal “saturation of social and political realms by capital” (in Wendy Brown’s apt terms),⁵ this increase in inequality and decrease in socialized responsibility for ordinary folk is perceived as the natural (or only possible) order of things.

The ideas and techniques of market capitalism are prominently featured as the ideal template for this neoliberal individualization. As Thomas Lemke summarizes, a key feature of neoliberal ideas and practices is the overlap they seek “to achieve between a responsible and moral individual and an economic-rational individual” (2002: 60). Importantly, however, one of the key characteristics of this shift from socialized to individualized responsibility is the marked extension in the state and private regulation of individuals and populations perceived as failures or sources of “risk” in this new order. Under welfare liberalism such individuals and populations tended to be regulated through techniques of social management developed in the areas of poverty, welfare, immigration, and so on. Under neoliberalism those framed as problematic have been increasingly governed through security, policing, and criminal justice ideas and practices (Adam et al. 2000; Beck and

Beck-Gernsheim 2002; Rose 1996; Ericson and Haggerty 1997; O'Malley 1998; Harcourt 2001; Kelley 2001; Simon 2007; Mosher 2008; Pratt and Valverde 2002; Wacquant 2001). Thus the criminalization of poverty is the hard edge of individualized constructions of risk and responsibility under neoliberalism.

The Book's Overall Contributions

What is perhaps most striking about this set of dynamics is that neoliberalism itself — through various state and private actors, the imagined demands of competition, the devaluing of labour, the privatization of care, and so on — increasingly produces structural insecurity, vulnerability, and deprivation, and criminalizes its most extreme victims (Bauman 2004). This book argues on multiple fronts that the criminalization of our society's most vulnerable — the poor, women, the racialized, the disabled, youth — is in fact materially and symbolically central to neoliberal politics and economics in at least four ways.

First, the criminalization of poverty fortifies market capitalism and the neoliberal policies that reflect and make it possible. This is enacted through the explicit criminalization of non-market activities and through the ways in which formal and informal criminalization are used to justify both state withdrawal from the provision and distribution of resources to ordinary people, and the state and private extension of policing and security against individuals and groups who somehow prove a problem with regard to the market.

Second, the criminalization of poverty (and linked ideas and practices) masks the structural sources of vulnerability produced by capitalism and linked forms of social inequality: institutionalized racism and colonialism, patriarchy, and so on. Vulnerability is reconfigured as individual (and at times family or community) failure, deception, and criminality.

Third, through this masking, the criminalization of poverty reframes the structural creation of vulnerable individuals and populations (and the refusal of collective risk and responsibility for the non-wealthy) into a neoliberal vision of responsible and irresponsible (or simply bad) individuals in competitive markets. At the same time these stigmatized individuals carry, at a safe symbolic distance, the burden of social fears and anxieties inevitably produced in our structurally uncertain age.

And finally, the criminalization of poverty empowers less vulnerable and insecure (and slightly more politically influential) groups and individuals — who are nonetheless either close to living in or at least surrounded by profound insecurity — to invest in this program for reality by imagining themselves as hard-working tax payers who should police, and who are victims of, the extreme poor as public menaces.

As is demonstrated in multiple ways in this book, this investment is most

obvious when individuals and groups are moved to action through what Jonathan Simon calls “governing through crime” (2007: 4–5).⁶ For example, “snitch lines” are established to police welfare fraud, and neighbours report neighbours. This book also shows how investment in, and resistance to, the criminalization of poverty operates through ideas and practices with explicit sources and functions outside criminal justice, but that effectively translate into, or are linked with, governing through crime. Our authors demonstrate that struggles over the criminalization of poverty are struggles over the allocation of state and private resources, including the organization and explanation of labour markets, formal and informal political power, the definition and rights of social citizenship, the production of urban space and social relations, and so on. Thus, for example, the potential threat of that neighbour’s call encourages welfare recipients to constrict their networks for the exchange of resources and communication.

In other words, criminalization serves functions beyond preventing formally criminal acts and need not target or lead to actual prosecution of precise deeds. The impact of criminalization is arguably more widely felt through its operation as a broad and vague set of social constructs. The threat of formal criminal justice action and the vague stain of criminality are as crucial as formal charges and prosecution (Mosher and Brockman 2010; Law Commission of Canada 2004). In fact it is often precisely criminalization outside the formal context of criminal law that allows for surveillance, regulation, and punitive measures without the checks and balances at least theoretically built into the criminal justice system (see, for example, Fay’s chapter on the monitoring of the always potentially fraudulent welfare recipient).

The work in this volume provides insights relevant to research i) that seeks to understand how, in liberal capitalist societies, a multitude of actors at various social levels produce and employ governing methods, and the ways of thinking that make them possible over time, and ii) that rethinks political economy as a framework for understanding the practices of, and relations between, individual or social bodies and broader patterns of governing under capitalism (Foucault 1978; G. Burchell et al. 1991; Lemke 2001; Wacquant 2001). Thinking about governing practices and ways of thinking as co-produced is especially valuable because neoliberal capitalism — and here the criminalization of poverty through which it operates — is “a political project that endeavors to create a social reality that it suggests already exists” (Lemke 2002: 60) and presents that reality as inevitable. In a related way, if we are to critique neoliberal capitalism and the criminalization of poverty as inevitable, we require a sustained analysis of how economy (poverty, wealth, independence, competition, and so on) and formal and informal politics are also co-produced: as Lemke notes, “economy is always political economy” (2002: 60, 57).

Our volume contributes to this work by illustrating the wide and complex web of power relations enacted around the criminalization of poverty, and related ideas and practices. By adding to our understanding of how neoliberal governing tactics and ways of thinking work, the volume as a whole breaks open Canadian analyses of neoliberal politics and the criminalization of poverty. By way of illustration, a significant amount of the rich work on Canadian neoliberalism, and poverty and its criminalization, has concentrated on the Ontario- and Toronto-based effects of these dynamics beginning in the 1990s (Mosher et al. 2004; Hermer and Mosher 2002; Pratt and Valverde 2002; O'Grady and Gaetz 2004; Ranasinghe and Valverde 2006). This concentration in part reflects the high profile political leadership of the provincial Conservative Party government of Mike Harris (1995–2002) in the production of neoliberal ideas and practices, represented in legislation and policies such as the Ontario Safe Streets Act and that government's high profile campaign against welfare fraud. However, this concentration also reflects the dominance of Toronto and Ontario in Canadian knowledge production. Because they look elsewhere or differently in multiple ways, the chapters in this volume suggest that this concentration on neoliberalism and the criminalization of poverty dating from the mid-1990s, and prominently produced through C/conservative politics, may have influenced how we think about the politics and history of these dynamics more generally in Canada. The chapters here build on this research by continuing to expand and deepen the analysis of the longer histories and wider contexts of the political economy of neoliberalism. There is consideration of how these dynamics play out over time, space, and locale, and of political complexity across and within parties, and levels and types of governing.

Many chapters in the volume locate the criminalization of the poor in longer and broader histories of socio-economic practices and ideas under liberal capitalism. Gordon finds precedents in classical liberalism predating the welfare state for current law-and-order policing that is used to fortify the capitalist labour market. His insights are particularly important given that *neoliberalism* involves a push for mass labour conditions to increasingly resemble those of the nineteenth century (non-unionized, low wage, insecure, etc.). Fay examines the Nova Scotia social assistance policy's "man-in-the-house rule" for single mothers in the context of the development of, and shifts in, the welfare state in that province beginning in the 1930s. Gordon and Fay's strong emphasis on class and gender inequality in this longer history of liberal capitalism remind us that welfare states were developed in North America and elsewhere out of intense class conflict, economic crisis, and working-class organizing, and that although welfare liberalism responded to this by collectivizing resources and responsibilities somewhat, this was always constricted through hierarchies of class, gender, race, and colonialism, sexual

norms, age, and ableism (Gordon 1994; Fraser and Gordon 1994; Katznelson 2006; Campeau 2004). It is through very similar hierarchies that the current desocialization of resources and responsibility, and the extension of policing and security functions by the state and its private partners, impacts ordinary citizens.

Accordingly, Galabuzi scrutinizes how the regulation and punishment of poverty in Canada is shaped by longstanding histories of racism and the more recent racialization of immigration and urban poverty and segregation. Berti and Sommers trace the gradual development of neoliberalism and the criminalization of the Vancouver poor in the last three decades. This began in the early 1980s in the context of both provincial level fiscal constraint and the Vancouver-based intersection of private property interests and a crime prevention framework that first emerged through residents' association activism. Berti and Sommers then document the intensification in the punitive dimensions in municipal policy and discourse around "street people" from 1993 to 2005.

The meaningfulness of these longer histories of neoliberal capitalism and the criminalization of poverty can be further illustrated by highlighting aspects of Harrison's analysis of the governing of Alberta welfare "fraud." One method of unpacking the thinking that makes specific governing forms possible is to trace it backward from the time with which it is most commonly associated. Their advocates and many commentators explain neoliberal tactics — such as cuts in state social welfare and the policing of welfare fraud — as responses to fiscal crisis and scarcity, especially in the 1980s and 1990s. Harrison expands the commonly understood timeframe for welfare state retrenchment back into the mid-1960s and early 1970s, a period of economic plenty in Alberta and one associated with a significant expansion of Canada's welfare state generally. Further, Harrison's long view demonstrates how lower levels of state social provision often continue long after recessions pass and deficits are eliminated. This is evident both in welfare policy under the Alberta government of Ralph Klein and at the federal level, where the Canadian government enjoyed huge budget surpluses repeatedly, but continued to refuse serious budget transfers to facilitate social investments that benefit the non-wealthy, such as affordable housing, higher education, and daycare.⁷

In at least three further ways our authors show the complex governing practices and ideas of neo/liberal capitalism and the criminalization of the poor: first, through the transnational and intranational migration and the local emergence of such practices and ideas in a range of places; second, through the formally political intricacies of these dynamics across multiple levels of the state and party lines; and third, through the intricate network of state and private actors and tools used.

With regard to the translocal and local production of criminalization, Karabanow extends the lens widest, arguing that we must see continuities between the brutal public cleansing of poor youth in Guatemala and the intense regulation of street-engaged youth in countries like Canada. Berti and Sommers investigate the unique combination of Vancouver's and British Columbia's specific municipal and provincial political and economic developments, with the importation of Ontario's legislation for policing the street poor in the Safe Streets Act and the largely New York City-based rhetoric and tactics of the Broken Windows model. Harrison examines the local and fragmented emergence of welfare policies in Alberta from the 1960s. Fay offers a longer history of the gradual and sporadic development of the intense regulation of poor women in Nova Scotia. This was shaped by both local dynamics provincially and in the capital of Halifax, and national-level shifts around policies such as the Canada Assistance Plan.

As these few examples indicate, the volume also brings us research on how these dynamics work outside Canada's dominant city and region, in as yet under-examined ways. Our authors do consider Toronto, but through gender- and race-critical analyses of the criminalization of poverty. Vancouver and Montreal are examined, but so are Halifax and Ottawa; Ontario, Nova Scotia, and Alberta policy and politics are all addressed.

The chapters also explore how players across state levels and parties deploy the formal politics of liberalism and neoliberalism and the criminalization of the poor. This includes consideration of the roles played in these dynamics by provincial and federal representatives of the Liberal Party, provincial and federal representatives of the Conservative Party, regional conservative variations in the British Columbia and Alberta Social Credit parties, municipal governments, and leaders from municipal parties such as the centre-right and business-oriented Non-Partisan Association, which has given Vancouver three of its last four mayors (current B.C. premier for the Liberal Party Gordon Campbell, Philip Owen, and Sam Sullivan).

This web of formal political actors, policy, and rationales is further filled out by our authors' investigation of the society-wide spectrum of state and private agents active in connection and conflict with politicians around the regulation of the poor: police, security guards, and para-military, lawyers and judges, business and residential property owners and their organizations, case workers, civil servants, financial institutions, non-profit organizations and advocates for the poor, media outlets and consumers, writers of letters to the editor, urban drivers and pedestrians, tourists, neighbours, and over-regulated but resilient poor men, women, and youth. Our contributors show this plethora of actors employing amazingly diverse tactics in their struggles. Military, para-military, and military-like policing techniques are employed against street youth in Guatemala and racialized youth in Toronto

(Karabanow, Galabuzi). Canadian provincial “safe streets,” trespass, and motor vehicle legislation and municipal by-laws (regulating everything from panhandling to sign usage) have been designed, resurrected and enforced to effectively criminalize the public survival activities of the urban poor (Berti and Sommers, Glasbeek, McNeil). Social assistance recipients are surveilled and criminalized through provincial regulation (Fay, Harrison), at times with the assistance of the Canada Revenue Agency or local private actors (Fay). The poor and their advocates and sympathizers produce counter-governing forms through anti-poverty activism, subsistence economies, alternate communities and political alliances, and legal challenges (Shantz, MacNaughton, Karabanow, Glasbeek, Freeman, McNeil), and the struggles continue.

Chapter Overview

The authors and editors represent the diverse voices of academics (in sociology, criminology, history, political science, geography, architecture, public administration, social work, and legal studies), as well as front-line workers and people whose daily existence is lived out under regulatory systems enacted and analyzed by others. These diverse authors are reflected in the range of styles in the volume, from chapters written in an academic style to material centred on front-line professional experience and first-person accounts.

The chapters in the book’s first section examine the criminalization of poverty as formal and informal policy and politics. The piece that begins this section, by political scientist Todd Gordon, argues that law-and-order policing in Canadian cities is not aimed at fighting crime, as its supporters insist, or criminalizing poverty, as its critics assert. Rather, he argues that urban policing through tactics such as the enforcement of anti-vagrancy statutes and zero tolerance policies enact neoliberal capitalist political economic aims by criminalizing public subsistence labour alternatives to the low-wage labour market, such as panhandling and squeegeeing. In fact, Gordon convincingly argues that law-and-order policing is the state’s response to people’s public socio-economic resistance to coercion at the bottom end of the neoliberal labour market.

We are reminded here of the dynamics around the long-standing pattern of the policing of the underground economy more generally in capitalist societies. Gordon’s focus on the functions of policing beyond criminal justice importantly underscores the neoliberal (rather than the neoconservative) dimensions of specific “governing through crime” initiatives that are not just or even primarily about crime at all, but rather further state neoliberal economic policies prioritizing capitalist market relations and profit accumulation. This is especially resonant if Gordon’s analysis of law-and-order policing as reinforcing capitalist labour markets is read together with the ways in which state and private policing works to cleanse urban publics for capitalist

market operations through shopping, tourism, commercial recreation, and commuting (see Berti and Sommers, Wanzel, McNeil in this volume; Brenner and Theodore 2002).

In a related way, sociologist Trevor Harrison details how the crackdown on welfare fraud in Alberta, allegedly launched to prevent improper use of public funds, actually served a broader political purpose. As noted above, Harrison expands the commonly understood timeframe for the development of welfare state retrenchment and criminalization of “fraud” back into the 1960s and 1970s, a period of plenty in this province, and further illustrates that low levels of social provision continued under the Klein government after deficits and debts were eliminated. Given that economic scarcity has been both a key political rationale for state social provision cuts and a factor in how people date its history, Harrison complicates explanations of the welfare state, state retrenchment, and forms of liberal capitalism.

Harrison’s cost-benefit analysis reveals that, when the large costs and small returns of policing are calculated, the primary “benefit” of welfare fraud campaigns is not cost savings from fraud, but rather legitimizing cuts to social service provision and upward wealth distribution through tax cuts.⁸ In line with the insights of others working on welfare fraud in Canada, Harrison also further debunks the crime prevention explanation of fraud policing by demonstrating that state efforts to locate, publicize, and prosecute welfare fraud (which as he documents has always significantly involved administrative error) effectively produces this “fraud.” Finally, Harrison’s documentation of the Alberta government’s criminalization of welfare recipients, despite its knowledge that policies were already in place to ensure that fraud was infrequent, provides evidence that governing through crime can involve very deliberate political tactics.

Anti-poverty advocate Wayne MacNaughton provides a first-hand account of how the security climate produced through longer standing neoliberal dynamics, and exaggerated through the events of September 11, 2001, has impacted the experience of being homeless in cities such as Montreal. MacNaughton describes how the security efforts of bus terminals, baggage claim agents, and security guards further criminalize those living on the streets and attempting to use public space. He describes how homeless people — who often move around a lot precisely because of the criminalization patterns described in this volume — attempt to counter these practices by circulating local “street-savvy” knowledge to newcomers in their midst. However, MacNaughton argues that more structural responses are essential, beginning at least with the development of multi-function urban drop-in centres.

Geographers Mario Berti and Jeff Sommers examine how the criminalization of poverty in Vancouver, British Columbia, allows private actors and

their property interests to govern urban public policy priorities and space, in cooperation with police and local and non-local politicians. They trace this recent history back to provincial and municipal developments beginning in the 1980s, but primarily explore how private downtown business improvement associations “have deployed the Broken Windows theory of crime and neighbourhood decline as a discourse of neoliberal governance,” through which they present themselves as *public* guardians. Berti and Sommers illustrate that “spatializing poverty” through Broken Windows discourse frames it “as a local problem” centred in problematic individuals rather than in “structural and institutional” factors. Solutions are thus to be found in the “management and regulation” of the street poor, “rather than political intervention” that addresses the long-term and structural conditions that have produced their situations.

However, Berti and Sommers also demonstrate that this regulatory construction of public space is profoundly political: it “aims to decrease homeless and marginalized people’s use of public space for private functions, in an attempt to increase the use of public space for the private functions of business and corporate control.” Further, this cleansing of public space for commerce does not eliminate poverty; it simply removes it from the public realm, discourse, and politics (Hermer and Mosher 2002; Mitchell 2003). Through extensive interviews with homeless people, Berti and Sommers also bring the consequences of this purification of urban space on behalf of the capitalist market down to the most basic level: a street-engaged person asking for help is read as “disorder” by a more privileged person moving through reluctantly shared social space (see also Glasbeek, Collins, Karabanow, Greg X, Shantz in this volume). The discomfort that relatively privileged people (including business owners and politicians and media representatives) experience with confronting poverty, and with calls to recognize their relation (or even responsibility) to that poverty, is central to how these people invest in the criminalization of poverty. Finally, the street-engaged who are interviewed by Berti and Sommers indicate that if the homeless are ever victimized through exchanges with others, the law is of little help. In this way the law is a weapon and a damaging failure for the poor: it is used against them by virtue of their being poor in public space, and they are refused justice through it when they themselves are harmed by others directly.

Architect and urban planner Grant Wanzel addresses related themes in his chapter, further arguing that the social exclusion effected through the criminalization of poverty is part of a broader “impoverishment of public spaces” through their increasing regulation with reference to narrowly defined private sector interests. He asserts that this is reflected in and enacted through city, neighbourhood, and site specific planning and design. One of the main results is an urban public catering to high-end consumers and tourists, who

are sought after by state and business agents acting on the perceived demands of a corporate-dominated global economy.

While we may be familiar with this dynamic in large cities (Brenner and Theodore 2002; Ruppert 2006), Wanzel demonstrates its impact in small cities like Halifax, convincingly arguing that this not only affects those already facing high levels of social exclusion, but also undermines the democratic interests of all citizens and our ability to interact as communities. To this impoverishment of public space, priorities, and citizenship we can add questions about the long-term economic sustainability of the growing gap between rich and poor, and urban development of the sort Wanzel describes. In Halifax, for example, recent waterfront development has almost exclusively involved residential and commercial projects that operate primarily for a high-end and tourist market in the summer months (selling souvenirs, candy and snack foods, “boutique hotels,” and deluxe dining). The waterfront is drastically under-used the rest of the year.⁹

The book’s second section contains three chapters that enhance our understanding of how poverty is criminalized at the intersection of class, race, and gender. Politics and social justice scholar Grace-Edward Galabuzi demonstrates that the racialization of poverty is linked with criminalization and that the intense marginalization of the racialized poor in Canada’s cities is itself criminalizing, as urban neighbourhoods become increasingly segregated by the disadvantages of racialization, immigration status, and class. Through analysis of socio-economic data, immigration policy, and media and political discourse, Galabuzi makes a strong argument that socio-economic discrimination and deprivation co-produce victimization, violence, and criminalization through cultural stereotypes and hyper-policing and -incarceration. He also considers how the recent racialization of immigration to Canada and the events of 9/11 add new rationales and intensity to historical dynamics of racism and criminalization.

Galabuzi gives us at least two strategies for carefully and compassionately approaching the racist co-production of poverty, victimization, violence, and criminalization. First, he urges us to see how race is central to the production of poverty and its criminalization in Canada. In particular, he illustrates how racism shapes the media, public, and political production of practices and ideas around African Canadian low-income neighbourhoods and crime. This racism means that class and other structural forms of deprivation (including racism itself) get read out of dominant constructions of harm and violence. Galabuzi shows us how racism and the criminalization and urban segregation of poverty in Toronto mean that “crime” is defined as centred in the violence of individuals. Alternately, a small minority of African Canadian young men’s misbehaviour is construed as (racialized) organized crime by “gangs.” This presents the structural inequalities experienced by urban