E. Stanley, ed., *Human Rights and Incarceration: Critical Explorations*. Basingstoke: Palgrave Macmillan, 2018, 311 pp., £89.99 (hardback).

Reviewed by Mark Brown

Though published within the Palgrave Studies in Prisons and Penology series, this collection edited by Elizabeth Stanley joins a welcome move to view involuntary detention more broadly, extending analysis well beyond the prison and centring human rights in a way that pushes at the boundaries of mainstream approaches to penology. *Human Rights and Incarceration* also brings a decidedly state-crime inflected vision to an area that tends to eschew questions of state culpability for the many harms that incarceration produces. The collection is coherent and well crafted and contains a useful introduction by Stanley herself. Over twelve chapters it is wide ranging in its thematic and practical concerns. What holds the collection together is an attempt to think about problems of confinement through a lens of human rights and, equally and in quite various ways, to try to think critically about human rights discourse itself and its utility in this context. To summarize each chapter here would merely be to paraphrase and truncate problematically the schematic summaries Stanley provides in her introduction. What can be noted, however, is the wide range of concerns the collection traverses across the nations and sub-national jurisdictions of Australia, New Zealand and the United Kingdom. These include the increasing application of international human rights instruments to domestic imprisonment or confinement practices; the extension of prison-like confinement into putatively non-penal spaces, such as administrative immigration detention; the special problems posed by children and youth, whether in “care” or under punishment; the long shadow of colonialism and contemporary neo-colonial practices that capture and continually reproduce colonialism’s harms on indigenous individuals, and, more broadly, on indigenous communities; and the difficulties and in some senses, the fundamentally unresolved challenges in both logic and practice of attempting to abolish the prison as a site of harm making and rights violation.

To review an edited collection such as this is a difficult task. The book abounds with complex and original thinking and with powerful arguments. To convey some of these inevitably involves cherry picking and by dint of who is mentioned and who not then also some implication that certain chapters are stronger or more important than others. Here I must urge the interested reader to search out this excellent collection for themselves, for there is not a weak chapter in the whole book and I decline the role of arbiter of which contributors should be mentioned and which not. Instead, I would like to engage with three broad threads that run

through this effort to tie the long known and well understood harms and pains of imprisonment and involuntary confinement to the project of human rights protection. To preface, these are: (1) the scope of harms and state conduct meriting attention; (2) in the context of settler colonial societies (here, Australia, New Zealand, Northern Ireland) the (in)coherence of western liberal human rights, both analytically and practically; and (3) the role of the state in guaranteeing supposedly universal human rights and the realm of the political.

With the first of these, Elizabeth Stanley's collection brings to penology a renewed attention to the role of the state not simply in imprisoning and detaining but far more broadly in setting the societal conditions out of which certain, now predictable, harms emerge. Imprisonment is one of these. Of course, penal scholars have long been aware that imprisonment is not a randomly distributed harm but instead one that lays its weight upon certain specific communities – sometimes described in terms of postcodes, other times in terms of racialized groupings – that bear the brunt not only of over-imprisonment but also of poor outcomes in health, education, employment and more. Yet the state-crime approach, from which many of the contributors to this collection set their course, has been far more inclined than many penologists to argue that claims of state criminality may be activated when the state acts or omits to act in ways that allow large-scale harms such as these to ensue. This presents clear challenges to mainstream accounts of the prison and to approaches that are incremental and reformist in character, something that is noticed by a number of contributors to the volume. Thus, whereas abolitionism remains fairly marginal within penology, here abolitionist responses to the wide-scale violation of rights that are not only civil and political, but also economic, social and cultural, begin to seem not only more reasonable but so too more necessary.

A second important contribution made by this collection, though it must be said also, one that is not wholly resolved, is its contemplation of the virtues of human rights thinking to resolving the problem of imprisonment and detention more broadly. Here, both Elizabeth Stanley herself and a number of the contributors seem to find the concept of human rights inescapably necessary yet fundamentally inadequate. This inadequacy is multidimensional and multi-layered. Human rights discourses, for example, too often seem to work in practice as a cloak, wherein assiduous attention to certain rights serves to increase status quo legitimacy while at the same time directing attention away from a broader critique of rights and harms themselves. These problems are nowhere more pronounced than in demands made by Stanley and others for decolonizing approaches to be developed. Yet decolonization remains a much more virtuous aspiration than a clear guide to action. If human rights discourse itself emerged in the context of imperial power, out of its logics and its raft of binaries – colonizer and colonized, civilised and

barbaric, and so on – then there is an inherent contradictoriness in trying to reason and to seek freedom within the very structure of power you wish to repudiate. This observation is not unique nor specific to the penal domain. Partha Chatterjee long ago made it in his critique of anti-colonial nationalist discourse. But the problems with which these contributors wrestle in the context of indigenous imprisonment brings such questions patently to the fore and should be of great interest to penal and state-crime scholars alike.

Finally, *Human Rights and Incarceration*, and in particular its contributors whose concerns lie in new forms of involuntary detention, such as the now expansive immigration detention regimes, return our attention in important ways to the domain of the political. If the elevation of human rights discourse and its protections might offer solutions to the harms wrought by involuntary confinement, then we are led invariably back to the state as the guarantor of such protections. Time and again contributors here illustrate how human rights might best be understood as a story, or narrative, held out by states but ultimately not only guaranteed by them but perhaps more importantly granted only by their fiat. Here, contributors raise a problem not dissimilar to that faced by those seeking to decolonize responses to supposed wrongdoing: how to recruit a state-led and state-arbitrated narrative to restrain or reshape the conduct of the state itself. How, in other words, to harness state reason against the state itself. The answers remain far from settled, but in this engaging collection we find at least the contours of discussions and arguments we will need to have if we're to develop fairer and more just societies. Elizabeth Stanley has done a great job of bringing these authors together and I warmly recommend the book to anyone with an interest in states, human rights and confinement.

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