

## Book Reviews

### **Body Searches and Imprisonment**

**Edited by Tom Daems**

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*Reviewer: **Ray Taylor** is a former prison officer.*

Most people have been searched at one time or another, perhaps when travelling and passing through airport security. Those of us who have worked in prisons are also used to being searched and may treat it as merely another routine and necessary security measure, perhaps taking it in our stride. Being searched as a prisoner, however, is a profoundly different experience. *Body Searches and Imprisonment* provides a detailed insight into how and why prisoner body searching is different, and the effect that being routinely and regularly searched may have on the people who are subjected to the practice.

The work is based on presentations at the 'Body Searches and Imprisonment' international workshop at the Leuven Institute of Criminology in April 2022. Contributions come from the Universities of Agen (France), Belfast (UK), Birmingham (UK), Geneva (Switzerland), Oxford (UK), Leuven (Belgium), London (UK), Málaga (Spain), and Pau (France).

Opening the series of essays, Jason Warr considers the imposition of power through touch. Or, as Warr puts it, exploring 'the reality of searching practices through the lens of sensory criminology, and sensory

penalties more specifically... how concepts of penal power are communicated through securitised touch' (p8).

Warr notes that Vannini and others describe the sensory element of human experience and how we derive meaning from our environment and our sensory experience of it (p9). Warr gives an account of the process of searching and the regulation governing the practice in prisons (England and Wales), as does Bennett subsequently. In these prisons a strip search (as described by Warr) is referred to as a full search and does not allow the person being searched to be completely naked and neither must the person be touched. Instead, the upper clothing is removed and replaced after visual inspection, followed by the lower half of the body. Warr also describes the different kinds of rub down or pat down searching.

He then goes on to describe the experience of being searched, drawing a stark contrast with the procedural and regulation viewpoint. He references first-hand accounts of the feeling of loss of power, of being under someone else's control and not being able to evade the experience of being touched and having the uncertainty of not knowing when it will end, or where and when it may occur.

Bennett continues the theme of experience set against the backdrop of security need: 'Despite its regularity, apparent effectiveness and regulatory controls, searching is invasive and can be experienced as harmful or distressing by those subjected to it' (p36). He explains how, during his time as Deputy Director of Operational Security (HM Prison and Probation Service of England and Wales) there were efforts to draw upon security theory

to 'refashion the approach to security practices to make them more legitimate' (p28).

Bennet begins with a critical discussion about the nature and definition of security as a 'contested term' (p29) and differing approaches to security practice. Drawing comparisons with other professions and discussing the contrasting viewpoint of traditional and entrepreneurial approaches to security, he identifies a clear need to develop professional standards. He continues by describing current security thinking in HMPPS and discusses how security practice in relation to searching might develop in future.

Barbara Bernath (p45) considers searching in the context of risk of harm to those subject to searching and how this may be mitigated through monitoring processes. She considers the work of such bodies as the European Committee for the Prevention of Torture (CPT) in checking the legality of strip searches in Norway, France, and other jurisdictions.

Bernath discusses the Legality of 'full body' searches in the context of decision of the European Court of Human Rights (ECtHR), the judicial institution overseeing the European Convention (ECHR). The ECtHR, says Bernath, has repeatedly indicated that it accepts that 'strip searches may be necessary on occasions to ensure prison security or to prevent disorder or crime' but that they are likely to be experienced as invasive and humiliating. The Court will nonetheless be inclined to scrutinise any claimed necessity (p76).

Natasa Mavronicola and Elaine Webster invite us to consider how strip searching may be seen in the context of European Human Rights law. In particular, ECHR Article 3,

which prohibits torture and inhuman or degrading treatment or punishment. In their interpretation of judgments of the ECtHR, the Court determines the practice of strip searching to be a necessary evil, only allowing appeals on the basis of contextual argument. Although the court may not consider strip searching to be contrary to Article 3 per se it has 'viewed body searches with suspicion' (p 75).

Aurore Vanliefde's chapter deals with body searching and vulnerable groups, in particular women and LGBTQI+ people, children, those with disabilities and any religious, ethnic or cultural minorities. The chapter begins with a useful discussion of key concepts including the definition and explanation of LGBTQI+ and how gender and gender identity affects how people may be treated in prison. The vulnerability of women and LGBTQI+ people, says Vanliefde, 'is not inherent to their gender identity/sexual orientation in itself, but must be understood in relation to particular contexts (such as prisons) where particular forms of masculinity prevail, and where she says misogyny, homophobia and transphobia are prevalent' (p105).

The chapter also discusses how searching can be dehumanising and isolating, and especially humiliating for women during menstruation and pregnancy. For instance, prisoners may be asked to remove their sanitary items and dispose of them before being searched. They are not always provided with new sanitary items after the search or must pay for one themselves, which adds up to other inequalities related to menstruation (p109).

Tom Daems considers what he describes as a time of controversy in Belgian prisons surrounding searching in prisons and the 2005 law on prisoners' rights. Daems discusses the original intentions of the Belgian Prison Act of 12 January

2005 and demonstrates how these intentions and the procedures that were designed, aligned with prevailing European norms on regulating strip searches (Sect. 2). Daems considers the many ways in which those intentions were challenged and circumvented by prisons on the basis that the new rules that were perceived to be an obstacle to prison security. In this way Daems ably illustrates the dynamic tension between security procedures and the need to preserve prisoner dignity, integrity and basic human rights.

Joana Falxa considers similar concerns in France, resulting in the 2009 Prison Act. This chapter provides a detailed description of the French prison regulatory regime before and after the 2009 Act. Falxa explains that Article 57 of the Act required principles of necessity, proportionality, and subsidiarity. The result of the operation of these and other principles in the Act led to an increased scrutiny of searching within the French administrative courts (p158). Dissatisfaction with Article 57 among prison managers, however, resulted in these original wording being 'immediately hampered by various forms of resistance from the prison administration' (p161), eventually allowing the reintroduction of systematic searching (p163).

Cristina Güerri Looks in detail at prison searches and punishment in Spanish prisons, considering data sets on how many searches are conducted, what kind of searches, and whether searches have positive result (unauthorised or banned items found). Guerri's analysis of these data indicates that over 95 per cent of searches produce a negative result — nothing is found. On this basis, Guerri argues that such searches are mostly unnecessary.

Conor Byrne and Linda Moore remind us that strip searching was among a range of measures used against those who considered

themselves political prisoners in Northern Ireland in the 1970s and 80s. Prisoners who participated in the 'blanket protests' — refusing to wear prison uniform after their clothing had been taken away, instead covering themselves with just a blanket. Already without clothes, they were in a vulnerable position, exacerbated by an attempt by the prison to 'assert control through the use of force, including violent and intimate body searching' (p233).

In Armah women's prison, the authors describe how the position was worse and became worse still in the 1980s. Then, routine strip searching was increased, prisoners not conforming to regime requirements were denied access to toilet and sanitary provision and strip searching took on an even more aggressive form. This included women who were pregnant and those who had recently given birth or miscarried. Searching was fully naked, witnesses by multiple women officers.

Anaïs Tschanz acknowledges the widespread criticism of searching but takes a contrasting look into technology as a potential alternative to the practice of body searches in prison. His analysis draws on multi-method research split into two parts. The first consisting of interviews with male and female prisoners of all age groups incarcerated in prisons in the Quebec province of Canada. The second part looks specifically at one device — the so-called BOSS chair (Body Orifice Security Scanner).

Tschanz quotes one prisoner as saying: 'You have staff who are alright, courteous, and respectful. But then you've got others, it's like day and night. There are others still who have no notion of respect. Then, it's out of control' (Jerome, 30 years old).

Another: 'Once, I had a strip search where 12 of them got together, making jokes,

inappropriate jokes' (Étienne, 51 years old) (both quotes p250).

The introduction into Canadian prisons of the BOSS chair brought with it, says Tschanz, a new ritual (p252) to replace the old. The change and difference is considered against the manufacturer's claims of a 'non-intrusive and non-invasive search method that does not require contact' (p251).

Concluding the series, Daems discusses the future of searching as new body scanning technologies are introduced into prisons across the globe. Will this development result in a reduced requirement to conduct full body searching or will it, as in the UK, be used in addition to body searching as a further control and security measure?

Overall, the book provides a comprehensive account of various aspects of security searching of the person, including a range of views and perspectives from those people subject to searching in prisons. It does not, however, give any insight into the perspective of those who are required to carry out bodily searching as part of their duties. As such, we have accounts of the regulatory perspective, the prisoner perspective, but none in relation to the operational practitioner, the person required to carry out the searching procedures. This would appear to be a glaring gap in an otherwise multi-faceted account of searching of the person, as part of the prison security process in European jurisdictions.

### **Introduction to Convict Criminology**

By Jeffrey Ian Ross

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*Reviewer: Dr Baris Cayli Messina, Associate Professor of Criminology, University of Lincoln and Editor of Temple Studies in Criminalization, History, and Society and Editor-in-Chief of International Social Science Journal.*

This book stands as a cornerstone in the domain of convict criminology. Penned by a world-renowned criminologist and one of the esteemed founding scholars of the discipline, it presents a compelling and indispensable perspective, explaining in an accessible way why the lives of convicts are not only relevant to the field of criminology but are also essential for fostering positive social change.

The book is structured into three distinct parts, each meticulously arranged to provide readers with a comprehensive understanding of the significance of convict criminology within the broader context of crime, punishment, and justice. The first part explores the foundational aspects of convict criminology, offering a detailed examination of the ontological, epistemological, theoretical, and methodological underpinnings that emphasise the importance of convict criminology. This section helps readers to better understand the importance of this growing discipline thanks to an insightful introduction, elucidating why this special sub-field is integral to the field of criminology as a whole.

In the second part, the author redirects our attention towards pedagogy and mentorship, underscoring the critical importance of education and guidance in empowering inmates and ex-convicts to play active roles in shaping convict criminology. By positioning convicted individuals as partners in this endeavour, this section compellingly illustrates the transformative potential inherent

within this collaborative approach, both academically and in practice.

The final part of the book uncovers the role of activism and public policy, providing a compelling exploration of the intersection between academia and advocacy. Through a nuanced examination of activism and engaging with the public, Ross elucidates the vital role of engagement with broader actors but always bringing attention to the survivors of criminalising justice system in advancing the objectives of convict criminology. In addition, the section offers invaluable insights into the future trajectory of this burgeoning field, offering readers thought-provoking reflections on its potential evolution and impact of activism in convict criminology.

Francesca Vianello, in her forward for the book, eloquently articulated the transformative power in amplifying the voices of those who have long been silenced by systemic injustices. She astutely noted that by granting access to these hidden realms of human resilience, transformation, and redemption, we not only enrich our understanding but also pave the way for meaningful societal change (p. 15). Indeed, Jeffrey Ian Ross has masterfully achieved this objective within the pages of this book. Ross transcends the realm of mere statistical analysis by accurately dissecting the nuanced experiences of convicted individuals. In doing so, he offers a renewed perspective on the multifaceted dimensions of their personal journeys, providing valuable perspective for educators and all those who interact with individuals who have been convicted. Through empathetic analysis, Ross challenges established criminological frameworks and proposes a potential path towards comprehending punishment and its profound impact on the lives of the