Ethnography and the Governance of Il/legality: Some Methodological and Analytical Reflections

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THIS ARTICLE FOCUSES ON SOME OF THE CONTRIBUTIONS AND possibilities of ethnography in relation to the study of the governance of il/legality: that is, the ways in which societies understand and act on crime, punishment, security, and law. It represents neither a comprehensive treatise on ethnography nor a methodological how-to guide.[1] Rather, this article attempts an analytic and methodological reflection on ethnography vis-à-vis legal and penal governance. It asks, for instance: What contributions have ethnographic inquires made in these arenas? What possibilities might this methodological approach open? How can ethnography contribute to expanding and deepening the study of law, punishment, and governance? In what follows, we put forward a case for the value of ethnography for studying il/legality in our current moment that, we hope, will be of interest to individuals new to or considering ethnography as well as to those already utilizing it.

We conceive of ethnography as more than a methodological toolkit or set of procedures that researchers simply adopt and apply (see Coutin

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2002; Nader 2002). There are multiple reasons for this. First, ethnography necessitates the formation of relationships with people who are already enmeshed in complex webs of relations, processes, and groupings (Coutin 2002), and gathering data through firsthand methods places the researcher within these webs of relations. Thus, ethnographers do not only discover and report on a field site; they inevitably influence and, at least partially, constitute what they study. Second, ethnography "is a project that develops over time" (Starr & Goodale 2002a, 3): It requires a considerable investment of time, and it can necessitate adapting plans, questions, or even foci as the project progresses. Third, although participant observation and interviews are at the core of ethnographic projects, these projects can and do entail other methods, such as gathering documents (Merry 2002), archival and historical research (Friedman 2002), and linguistic analysis (Collier 2002; Richland 2008). In ethnographic projects, methods "become eclectic because a loyalty to a single technique, even participant observation, commonly stultifies research" (Nader 2002, 192). Lastly, practicing ethnography in legal and penal settings requires careful consideration of the ethical issues involved, including the often complex relationship between researcher and research subject/participant as well as a recognition of the ways in which research is inextricable from the politics of knowledge and power (Coutin 2002; Marcus & Fisher 1999).[2] Ethnography certainly entails a set of practices for gathering data—although they are more diverse than sometimes acknowledged —but this article focuses more on ethnography as a modality for engaging with complex phenomena, opening new or underexplored lines of inquiry, developing theory and critical thought, and intervening in the social world in different ways.

Penality: Embracing Mess and Entanglement

Before focusing on the place and potential of ethnography, a few words about our areas of substantive interest are in order. In particular, we focus on the relatively recent blossoming of scholarship exploring the complexity, diversity, and diffuseness of the governance of crime. Of course, recognizing multiformity in this realm is nothing new: Various observers have, for some time, called attention to the entangled nature and dispersed operations of societal efforts to govern il/legality. In a foundational text, for instance, Durkheim (1893/2014) highlighted that crime control practices are thoroughly social practices deeply interconnected with, and reflective of, other social facts and forces. Rusche and Kirchheimer (1939/2009) called attention

to linkages between political economy (e.g., labor surpluses or shortages) and punishment. Foucault (1977, 2009) enjoined readers to explore penal phenomena both within and beyond the walls of the prison and conceptualized punishment as a "carceral archipelago": a diverse and extensive array of institutions, practices, and logics. Likewise, Stanley Cohen's (1979) concept of the punitive city highlighted the dispersal and penetration of penal and social control throughout society beyond easily recognized locations such as the prison.

Notwithstanding this recognition of the diffuse nature of the governance of crime, the prison has been the centerpiece of penal scholarship throughout most of the twentieth century, both empirically and conceptually.[3] In recent years, however, there has been burgeoning attention to the ways in which the governance of crime and punishment cuts across a vast array of institutions, practices, and rationalities that are sprawling, composite, and frequently shifting. This diversification and expansion in focus can be seen in various ways. For instance, a number of scholars have called attention to the volatile and contradictory nature of contemporary penal governance by highlighting the shifts, conflicts, and even hybridizations among different logics of penality and by tracing the spread of varied and often incongruous policies and practices (e.g., Beckett & Sasson 2004; Garland 2001; O'Malley 1999; Rose 2000; Simon 1995). Further, numerous authors have not only documented the unprecedented scale of mass incarceration but also traced its scope and the dispersal of its effects. For instance, we know that imprisonment not only reflects economic and social inequality but also perpetuates and increases it (e.g., Pager 2001; Wacquant 2001b; Western 2006). The racialized and race-making effects of punishment have also been documented (Alexander 2008; Wacquant 2001a; Walker 2016). Other authors have focused on how the collateral consequences of mass incarceration, which cut across criminal, civil, and administrative law, continue to regulate and marginalize people following release from prison (e.g., Mauer & Chesney-Lind 2002). A group of scholars focused on community corrections have recently called for more attention to mass supervision (McNeill & Beyens 2013; see also Phelps 2017), explicitly noting the importance of decentering the prison as the primary location and analytic for studying penality. Likewise, we are increasingly seeing explorations of other locations and modalities of penality, such as bail (Hannah-Moffat & Maurutto 2012; Williams, this volume), fines (O'Malley 2009), community-based programs and providers (Fox 2000; Miller 2014), and immigrant detention (Bosworth 2012; Turnbull, this volume).

Focusing on the past several years, there have been explicit calls for re-thinking the boundaries of punishment and exploring connections between penal governance and others forms of governance (Braithwaite 2003; De Giorgi 2015; Gottschalk 2015; Hallsworth & Lea 2011; Hannah-Moffat & Lynch 2012). For instance—and relevant to a focus on ethnography—Hannah-Moffat and Lynch (2012, 120) advocate for examining the complexities of penality "beyond the macro theoretical level through an analysis of on-the-ground punitive practices, particularly in contexts that challenge traditional understandings of the penal realm." In line with this, scholars have, for some time, explored and theorized linkages between welfare and punishment (e.g., Garland 1985; Wacquant 2009). More recently, authors have been examining homologies, overlaps, and connections with other arenas as well, such as educational practices and border security policies (e.g., Reiter & Coutin 2017; Simon 2007). In this vein, Beckett and Murakawa (2012, 222) contend that punishment is "more legally hybrid and institutionally variegated than is sometimes recognized," which leads them to call for expanding the study of penality to include the shadow carceral state: institutions, actors, and practices that are outside of the arenas of criminal law and/or criminal justice yet contribute to punishment and carcerality.

Further, a growing number of authors have examined the ways in which penal and legal practices entail hybrid assemblages cutting across state and non-state institutions and actors (Gray 2013; Miller 2014; Musto 2016; Valverde 2012; Zedner 2010; cf. Hallsworth & Lea 2011). For instance, authors have examined the ways in which corporations, faith-based institutions, and community-based organizations (from prison abolition groups to border militias) participate in the governance of crime (e.g., Gilmore 2007; Hallet 2006; Miller 2014; Stillman 2014). Others have focused on linkages between politico-economic or sociocultural processes and penality. For instance, authors have traced how risk thinking, influenced by the actuarial logic of commercial insurance, has permeated the governance of crime (e.g., Castel 1991; Douglas 1992; Feeley & Simon 1992; Williams, this volume). Other authors have examined how political, economic, and social changes linked to neoliberalism have affected policing and punishment (e.g., De Giorgi 2006; Garland 2001; Lacey 2013; Wacquant 2009).

This is not to claim that penality and the governance of security have become more diffuse or entangled in the past two decades (see Valverde 2012)—just that in recent years, scholars have been increasingly interested in exploring and theorizing this complexity. Although this is certainly a welcome focus, it must be noted that it raises issues of methodology, namely

how to explore phenomena that are complex, dispersed, and entangled. In *After Method*, John Law (2004) contends that social science methods struggle when attempting to explore things that are contingent and messy. He argues, quite persuasively, that when social science tries to do this, it "tends to make a mess of it … because simple clear descriptions don't work if what they are describing is not itself very coherent" (Law 2004, 9).

Why Ethnography?

Although we concur with Law's claim, a central contention of our article is that among available methods, ethnography is particularly well suited to engage with the messiness of legal and penal governance—without ignoring, downplaying, or flattening its complexity. To be clear, we are not claiming that ethnography automatically or magically embraces and makes sense of messy phenomena. Rather, we argue that, when done well, ethnography holds the potential to shed light on contingent, entangled phenomena in different and productive ways. There are multiple reasons for this claim, which we group into three broad categories. First is the place of ethnography and its commitment to collecting thick, on-the-ground data (although, as we will elaborate upon, this runs the risk of oversimplifying things). Second is the capacity for movement in ethnographic projects: their ability to travel across locations, processes, and scales. Third, and following from the previous two, is the way ethnography can open new lines of inquiry and diversify foci, making it a valuable modality for exploring complex, contradictory phenomena.

Place Specificity: From the Ground Up

Rather than assuming or advancing from a "God's eye view" (see Haraway 1988) of the phenomena they interrogate, ethnographic projects can proceed from the ground up; they can orient themselves to, and begin from, the micro level. This does not mean, however, that (a) ethnographic projects are always located in a singular, local location; (b) they are uninterested in non-local phenomena or broader forces; or (c) they are devoid of assumptions. Rather, we are calling attention to the ways in which ethnographers often attend to what is occurring at their field site(s) and attempt to produce thick descriptions of it. Thickness refers to richness of detail, to paying careful attention to the granular and specific, but it also refers to the meanings, intentions, and insights that such attention can unearth (Ortner 2017). Although any methodology can potentially produce thick data, being immersed in what one studies and collecting data first-hand are particularly conducive to

this. Further, whereas all methods are open to diversity and contradiction, ethnography can be particularly sensitive to them. Being present in the field over an extended period of time can allow researchers to carefully trace phenomena and to discover patterns but also to attend to the unexpected, the counterintuitive, and the contradictory. Importantly, with its commitment to gathering detailed, on-the-ground data, ethnography can remain agnostic about pattern/contradiction. Rather than assuming a priori a particular model, pattern, or structure—or lack thereof—ethnography allows for studying practices, events, and processes as they unfold.

Ethnography's Movement: Traversing Locations, Processes, and Scales

This focus on tracing phenomena is related to the ways in which ethnography can travel. Although it entails gathering detailed, granular data, ethnography should not be understood solely as a micro- or local-level project that stands in contrast to more macro- or broad-level accounts. Ethnography entails on-the-ground observation, but it also traverses scales. Ethnography attempts to explore phenomena within the dynamic contexts in which they unfold; it entails exploring connections across locations, processes, and analytic levels. That is, ethnography is increasingly recognized as multi-sited, as entailing methodological and analytic movement. Whereas this understanding is sometimes invoked to denote that ethnographic projects are located in more than one geographic location, here we focus more on Marcus and Fisher's (1999) conceptualization of ethnography as a mode of research that collapses the distinction between micro and macro, between local and global. Ethnography certainly attends to on-the-ground phenomena, but it can also focus on connections and entanglements across locations and scales. It can attend to histories, processes, and forces that "generate … practices and underlie the cosmos under investigation" (Wacquant 2015, 1–2). That is, ethnography can explore how dynamic webs of forces are inscribed in phenomena in specific locations, while opening space for querying how these forces are constituted, transmitted, received, and sometimes reworked.

Thus, in addition to querying local, place-based phenomena, ethnographic projects allow for engaging what are often considered large-scale entities and phenomena—such as law, capitalism, nationalism, and the privileging of evidence-based knowledge and expertise. For example, both De Giorgi (this volume) and Myers (this volume) trace how neoliberalism—as a series of politico-economic policies but also as a cultural logic—fosters the development of penal interventions that, although certainly punitive and

intrusive, promote entrepreneurial self-care among penal subjects and display indifference, if not neglect, towards their material needs. Kaya Williams (this volume), in examining proposals to reform bail in New Orleans, traces how modern conceptions and measurements of criminal risk are entangled with histories of commercial insurance, slavery, and racism. Further highlighting the multi-scalar potential of ethnography, Reuben Miller's (2014) research in Chicago traces how prison reentry policies and interventions not only span levels of government (federal, state, and municipal) but also entail devolution of responsibility from the state to civil society, including nongovernmental organizations and for-profit companies.

New Questions and Diversifying Foci

Ethnographic projects, we argue, can be particularly adept at opening new lines of inquiry and diversifying foci. This stems from attention to on-the-ground phenomena within specific field locations but also from attending to how these phenomena and field locations intersect, interact, and resonate with forces that are not contained by their particular localities. But the potentials of ethnography also flow from a number of other, related aspects, especially: (a) an openness to adaptation and change; (b) a theoretically informed approach at all stages of the research process; and (c) an engagement with the perspectives, meanings, and understandings of research participants.

A commitment to tracing phenomena on-the-ground and looking for connections across analytic levels means that ethnographic projects can end up quite far—geographically, analytically, or even topically—from where they begin. In fact, we contend that part of ethnography's transgressive potential resides in remaining unsettled and adaptive throughout the research process. As data proliferate and new actors, processes, and phenomena emerge, ethnographic projects need to remain open to following—and hence, changing with—these developments. Put another way, ethnography can trace the ways in which phenomena unfold, rather than seeking to find or impose preestablished patterns or theories.

Related to this is the place and role of theory. First, it is important to note how engagement with theory can and should take place at all stages of ethnographic projects. The importance of integrating theory during the later stages (after fieldwork has concluded, while analyzing data and writing results) is widely recognized. Yet, we call particular attention to the import of theory during the early stages (when deciding what and where to study

and developing questions) and middle stages (throughout the period of data collection). Second, we advocate for a particular orientation that entails using theory not only to think *about* data, but also to think *with* data. That is, rather than viewing theory as a knowledge bank from which to select and apply an explanation, we call for engaging with theory as a way to provoke and carefully think through ethnographic data (Ballestero 2015b; see also Wacquant 2002b).

At all stages of the research process, theory can be used to expand options rather than delimit them; to multiply questions and understandings rather than settle on a (or *the*) theoretical approach. Although considering and thinking with theory at the early stages of ethnographic projects is imperative, it must be noted that bringing a priori theoretical assumptions to empirical work runs the risk of overdetermining what one finds—or, as Phoenix and Kelly (2013) note, of foreclosing certain questions or even rendering them unknowable. That is, we call for using theory as a parallax (Ballestero 2015b): as a way to open different, perhaps unexpected, angles from which to perceive and think about projects and the data they produce. Importantly, this orientation is not limited to utilizing theory only to make sense of what one is finding, but also to provoke and query that which one is not considering, seeing, or hearing. In this way, theory stimulates a concern for what has been excluded from consideration and not yet explored conceptually or empirically (Ballestero 2015b). Thus, rather than regimenting the analytic imagination, theory can alert us to consider the possibility of changing tactics or directions—for instance, by speaking to other people, asking different questions, going to new locations, or thinking with other theories.[4]

Ethnography further contributes to expanding our focus through attending to how research participants understand what they are doing and what is occurring around them. In addition to tracing conduct, practices, and occurrences, ethnography entails attention to the understandings, perspectives, and subjectivities of research participants. Whether rooted in a Weberian conception of *verstehen* or in a phenomenological approach, ethnographic projects include an effort to explore phenomena from the point of view of the actors involved. They attempt to situate social phenomena within the universe of preexisting and ongoing meaning making; they pay attention to how individuals interpret, produce, and deploy symbols, accounts, and understandings as they act in the world. Put another way, ethnographers borrow other people's facts; they take seriously and explore the role that individuals' perspectives, beliefs, and certainties play in producing social action. This of

course entails attention to the ideas and beliefs that interlocutors articulate, but it can—and should—also entail attention to the taken-for-granted: to the assumptions and affects that may not be easily or clearly expressed. In so doing, ethnography opens a way to avoid treating action as a *fait accompli*, as a temporally discrete event; rather, it can attend to the ways in which action is situated in a dynamic ensemble of social forces, including the intentions, meanings, and assumptions of research participants.

Exploring both practices and meanings—events and how they are understood—allows for examining how seemingly coherent phenomena may be more contradictory or unstable than they appear. For instance, Tara Opsal's (2011) ethnographic work shows how the deployment of a pro-social identity among women on parole seemingly reproduces the rehabilitative logics of the state; yet Opsal traces how this identity is also deployed as a form of resistance to penal power. Conversely, ethnography can help trace how phenomena that appear as fractured or conflictual from one vantage point may, viewed from another, be rendered coherent or complementary. For instance, based on ethnography with parole agents, Werth (2013) shows how their deployment of a "tough love" approach appears to conflict with institutional mandates to promote rehabilitation and provide reentry support; yet, for parole agents, this control-oriented, tough approach is seen as an efficacious way to encourage individuals on parole to rehabilitate and help themselves.

Another way in which ethnography can help diversify our empirical and analytic focus is through its underappreciated and underutilized ability to explore the technical dimensions of legal and penal governance. Attention to this is particularly important given the increasing number of voices calling for technocratic solutions—such as relying upon evidence-based corrections or risk and needs assessments—to address mass incarceration and the colossal penal state. Further, the importance of studying the technical domain draws both from work in science and technology studies that calls for attention to sociotechnical relations (e.g., Law 1991) and from Annelise Riles's (2005) enjoinder to rediscover legal technicalities and take them seriously as objects of inquiry (see also Latour 2005). Drawing from this work, we contend that ethnography is well equipped to query the interactions and constitutive relations between technology and social action. It can map how individuals engage with technology, including an exploration of how this can shape subjectivities and structure possibilities. It can also trace the ways in which actors may contest, resist, or repurpose technologies. Existing ethnographic work has, for instance, shed light on technologies and procedures of policing

(Fassin 2013; Garriott 2015; Stuart 2016), prison classification procedures (Goodman 2008), risk assessment instruments (Ibara et al. 2014; Werth 2017b; Williams, this volume), and GPS monitoring devices (Shklovski et al. 2015). Yet it is worth noting that some scholarship, although recognizing the import of technology, tends to treat the technical dimension as part of the immediate yet external context, as an element that helps explain social phenomena. Here, we call for troubling, if not dissolving, the distinction between the technical and the social, and for focusing on the constitution, operations, and effects of sociotechnical relations. Further, we advocate for taking technical devices as objects of ethnographic study in their own right. For instance, ethnographic methods can examine technologies from the inside out, so to speak; they can be used to trace and unpack the internal operations and logics of technologies (see Ballestero 2014, 2015a).

Intervening (Differently)

Thus far we have made a case for the empirical and analytic potentials of ethnography. In this final section, we focus explicitly on the type of inter-ventions that ethnography has made and can make. A frequently perceived merit of ethnography is the ability to collect micro data and therefore provide a rich, detailed account of ground-level phenomena. This is certainly an important part of ethnography's methodology and its possible contribu-tion. At the same time, ethnography is more than exposé (Ortner 2017); it should not be equated to shining a flashlight into a previously obscured corner. Ethnography's multi-sited capacities—its ability to traverse analytic levels and locations—mean that this method should not be understood solely as a way to document details, illuminate concealed phenomena, or complement macro scholarship.

Another perceived merit of ethnography is its ability to document the economic, political, and social harm inflicted upon vulnerable people and, in the process, to "speak truth to power." Exploring this possibility seems all the more pressing after the 2016 presidential election in the United States, the early moves of the Trump administration, and the current "post-truth" moment, in which the conditions for what counts as valid knowledge are being challenged in powerful and seemingly successful ways. For instance, attempts to speak truth to power—via fact checking, expert knowledge, and science—have not been particularly effective before, during, or since the election and have, in fact, often been framed as evidence of a disconnect between "elites" and everyday people. Of course, this runs the risk of over-

privileging the exceptionality of recent events. As Valverde (2012) notes, there is a long history of policy makers being unmoved by empirical evidence, research, or science. But it seems the issue today is not only whether one is heard or not by policy makers, but also how regimes of power are actively contesting the idea that non-conforming voices can legitimately speak at all—by attempting to discredit these voices as blatantly wrong, intentionally mendacious, or rooted in elitist values. These conditions make a consideration of the politics of different forms of knowledge production a crucial concern.

Given this context, rather than focusing on the kind of facts or truths produced by ethnography, we attend to the types of interventions ethnography has and/or can bring about in research participants' lives, in scholarship, and in the world. Specifically, we contend that ethnography can—and sometimes does—intervene (a) through disrupting temporally and slowing down our analytics, and (b) through destabilizing and diversifying current (policy, academic, media, and popular) conversations about crime control policies.

Temporal Disruptions

A variety of factors seem to be contributing today to a sense of temporal acceleration.[5] For instance, in an era of big data, an array of technologies (e.g., social media bots, risk prediction algorithms, CCTVs, and drones) allow for the capture and sharing of immense amounts of information and the making of ever more rapid decisions based on this information, although our ability to carefully analyze these data tends to trail behind. Furthermore, many of the political tactics of the current US administration (e.g., enacting executive orders with little notice and using multiple media to convey conflicting information) operate via accelerating time (Harrer 2017). Moreover, even the research process—within and beyond academic settings—has not been immune to an acceleration of time. In the past two decades, there has been a movement towards what Isabel Stengers (2012) terms "fast science": research that is competitive, benchmarked, and oriented towards recognizable policy goals.

Alongside this sense of accelerating time is a widespread mood of crisis among many interested in criminal justice policy in (and beyond) the United States. In the last few years, it has become increasingly common to hear claims that the criminal justice system is in crisis (e.g., Chettiar & Austin-Hillery 2014; Deal 2015). These claims are coming from diverse actors (e.g., academics, activists, journalists, and legislators) with varying foci; some focus on the racial and class imbalances in policing and punishment, others

on the community-level effects of unprecedented mass incarceration, and others on the immense fiscal costs of penality. Across this diversity, criminal justice reform has become something of a clarion call. Yet, compounding the sense of crisis, there is considerable concern, if not pessimism, about how the Trump administration will affect this push towards reform. For instance, the Department of Justice has already rolled back limits placed by the Obama administration on the use of private prisons and is attempting to vacate federal consent decrees with municipal police departments.

A sense of crisis, we recognize, is quite understandable. In fact, it is possible to argue that crime control policy has surpassed crisis and entered the realm of catastrophe. Yet, rather than advance in this direction, we think it is valuable to pause and unpack the very concept of crisis and to focus on the effects that a sense of crisis can bring about (see Roitman 2013). First, invocations of crisis tend to bring about a search for the moment when things went wrong. Yet doing so can obscure—and normalize—longer histories that contributed to the present moment. Connecting this to the realm of crime control, Naomi Murakawa (2014) has shown that many explanations of the rise of mass incarceration over-privilege the import of conservative, tough-on-crime measures in the 1970s and 1980s and fail to account for the ways in which liberal state-building and civil rights measures laid the foundation for the modern penal state.[6] Second, crises denote and incite urgency, and hence can further contribute to the acceleration of time. Such urgency, as Zizek (2008, 6) notes, often has an anti-theoretical element to it, as it suggests that "there is no time to reflect: we must *act now*."[7]

In response to this sense of urgency, we think it is important to stress that political, social, and practical action should always be informed by carefully developed empirical and theoretical analyses. The obligation to transform the present does not preclude the need for patient, thorough investigation: It reinforces if not intensifies it. As such, we advocate for what Isabel Stengers (2012) terms "slow science."[8] As Stengers observes, the current push towards fast science tends to avoid the messy complications of the world and, in the process, deters against slowing down or diversifying foci, because recognizing and contending with messiness or contingency either decelerates the research process or casts its reliability into question. Slow science, by contrast, is open to embracing mess; it is oriented towards proceeding deliberately and patiently in the face of uncertainty, contingency, and contradiction.

Of course, any research method is potentially compatible with slow science—yet ethnography is particularly well aligned with this approach. As

previously discussed, ethnography entails ongoing, long-term engagement with research participants, utilizes theory at all stages, is open to alteration or reconfiguration, and traverses scales. These aspects of ethnography open researchers to engaging with messiness and necessitate progressing slowly, thereby holding the potential to disrupt temporal accelerations.

Destabilizing and Diversifying Existing Conversations

Alongside and in conjunction with temporal disruption, ethnography holds the potential to help unpack, complicate, and diversify existing conversations about crime control efforts in a variety of ways. This applies to policy conversations, but also to scholarly, journalistic, and popular discourses.

To start with, ethnography is a valuable methodology for examining the effects of existing policies and practices. Of course, a variety of methods are used—and needed—to explore policy effects. For instance, quasi-experimental designs are frequently deployed to measure the efficacy of an intervention. Yet, as Maruna (2015) notes, evaluations of policy efficacy often do not shed light on the mechanisms through which a particular practice works or does not work. Ethnography can be particularly valuable in this regard, as it may be utilized to examine how a practice produces effects. It can, for instance, help us explore the social processes that an intervention enacts, enlists, and/or neglects as it operates.

Further, ethnography can help complicate discussions about evidence-based policy and practice—basing policy on "what works"—by calling attention to what counts as evidence and, importantly, to what does *not* count (see Maruna 2015). Specifically, whereas most policy evaluations focus on outcome measures such as aggregate crime rates or individual recidivism as the metrics of program success, ethnographic work has documented the importance of other factors—such as establishing social connections, securing non-precarious employment, and developing a sense of hope (e.g., Farrall 1995; Maruna 2001)—that are worthy of greater consideration in policy discussions.[9]

Moreover, within conversations about the effects of criminal justice policies, the documentation and quantification of deleterious effects has outpaced work on the actual experience of penality (Rhodes 2001; see also Wacquant 2002a; Walker 2016). Ethnography can help us move beyond reporting on the contours and figures of penality (e.g., documenting its massive class and racial asymmetries) and toward exploring its lived realities. For instance, recent ethnographic work has examined the ways in which racial

classification and segregation unfold within prisons (Goodman 2008) and shape residents' daily experiences (Walker 2016). Other work has ethnographically explored the quotidian ways in which individuals on probation or parole experience and navigate state requirements, criminal stigmatization, long waits for program slots, and the difficulty of finding employment (De Giorgi, this volume; Leverentz 2014; Opsal 2011; Werth 2012).

Related to this, ethnography can sometimes direct our attention toward less visible or ignored effects of penal practices. For instance, ethnographic accounts have explored how incarceration affects and sometimes reshapes families, neighborhoods, and community relations far from the prison's walls (Comfort 2008; Cunha 2014; Lara-Millan 2014). Likewise, ethnographic accounts have shown how the specter of contemporary urban policing techniques can reshape social relations within communities (Stuart 2016; see also Goffman 2015). Other ethnographic work has explored how gender affects the ways in which penal interventions are enacted and understood (Bosworth & Carrabine 2001; Haney 2010; McKim 2008), and how contemporary penal interventions rely upon and promote forms of autonomous, self-reliant subjectivity that resonate with late neoliberal capitalism (De Giorgi, this volume; Haney 2010; Kramer et al. 2013; Myers, this volume; Werth 2012). Moreover, ethnography can investigate implicit knowledges and foundational assumptions within policy discussions. For instance, existing ethnographic work has called into question the idea that acts of noncompliance or resistance from program participants necessarily signal rebellion, antisociality, or future offending (Fox 2000; Robinson & McNeill 2008; Werth 2017a).

As a result, ethnographic research has helped promote a more complex understanding of how policies and interventions operate in people's lives, and vice versa. For instance, ethnographic research has traced the ways in which individuals respond to, engage with, and co-constitute programmatic interventions (Haney 2010; Phoenix & Kelly 2013; Werth 2012), highlighting that recipients are active participants in, rather than passive objects of, such interventions.

It bears noting that conversations about the social impacts of criminal justice policies have expanded considerably in the past few years. Alongside growing attention from activists and scholars, the voices of journalists, politicians (from both parties), policy makers, celebrities, and business leaders have decried the costs and harms of mass incarceration and, in some cases, aggressive policing. In fact, as Wacquant notes (2002a, 392), examining the negative and distortive social impacts of criminal justice practices has

become a "mini cottage industry." Further, borrowing from Joel Robbins (2013), perhaps it could be said that we are in an era of exploring the "suffering subject" of criminal justice policy. Robbins notes that in the 1980s the discipline of anthropology saw a general movement away from studying "racially other" societies—and the "others" or "natives" residing there—towards exploring the suffering subject: the subject living in poverty, pain, or under oppression. A somewhat analogous shift seems to have taken place in recent years among scholars interested in crime, criminalization, and punishment.[10] An emphasis on studying offenders and offending (e.g., comparing crime rates geographically or measuring deterrence) has had to make room for scholarship on the suffering subject of criminal justice policy (e.g., calling attention to the racial imbalances of policing and punishment, noting the high incidence of mental illnesses among the incarcerated, or documenting the economic and political marginalization caused by imprisonment).[11] Unquestionably, this shift represents a positive development; it has deepened and complicated our understandings of criminal justice practices, fostered national-level conversations, and likely contributed to the current push for reform.

Clearly, examining the deleterious effects of criminal justice policies and focusing attention on their disproportionate impact on the most socially and economically vulnerable citizens reflects a humanitarian logic; it reflects concern with second chances, social inclusiveness, and equity. Yet, this burgeoning attention to the suffering penal subject in recent years is not without cost. In particular, we suggest it runs the risk of reinforcing the logics, assumptions, and oppression it seeks to counter.

Drawing from Gayatri Chakravorty Spivak (1988), we suggest that conversations focused on the impacts of criminal justice policies on marginalized "others" may contribute to epistemic violence against and cultural erasure of these already marginalized individuals, thereby potentially reinscribing and reinforcing the exclusionary rationalities of criminal justice regimes. In "Can the Subaltern Speak," Spivak (1988) focuses specifically on postcolonial scholarship on economically dispossessed individuals in India, but her cautionary reflections are also relevant to current conversations about the effects of criminal justice policies, given their tendency to focus on the poor, the under- or unemployed, and racial and ethnic minorities. As Barbara Jeannie Fields (1990, 98) notes, it is a commonplace view that persons are more often oppressed when they are viewed as inferior or other; yet the reverse can also occur, as "people are more readily perceived as inferior by nature when they are already seen as oppressed." Although conversations about the

detrimental effects of criminal justice policies draw attention to the harm, suffering, and oppression experienced by actual persons, they also participate in shaping cultural understandings and representations of (oppressed) penal subjects. And these representations and conceptions, particularly in an era of responsibilized neoliberal citizenship, hold the potential of reinforcing individuals' otherness and, in the process, of legitimizing existing penal practices. For instance, Werth (2017a) notes that the considerable body of scholarship detailing the challenges faced by formerly incarcerated individuals—such as a lack of educational attainment, precarious or non-existent employment, and the prevalence of substance abuse and mental illness (e.g., Petersilia 2003; Travis 2005; Western et al. 2015)—draws attention to the difficulties these individuals face and to the vast overrepresentation of the impoverished in prison. Yet, at the same time, this work resonates with and reifies a conception of penal subjects as deficient, as in need of remaking the self, and as requiring intensive state intervention and regulation to be(come) ethical citizens.

To be clear, our point is not to criticize scholarship exploring the negative impacts of criminal justice policy; quite the contrary. Critiques and calls for change must by necessity engage with—and therefore run the risk of reinforcing—existing institutions and dominant ideologies (Crenshaw 1988). Rather, our goal is to call for greater recognition and reflexive consideration of the ways in which these conversations may reproduce and legitimate existing criminal justice logics and practices. Further, although ethnography has certainly contributed to these discussions, we contend it can help complement and expand them by exploring how the practices and regimes of power that inflict suffering and perpetuate inequality are constituted.

That is, ethnography can be deployed to examine how criminal justice polices are made thinkable, enacted, and sustained over time by individuals in positions to do so. It can trace the rationalities, assumptions, ethics, alliances, and processes that lead to and shape existing practices. Here, rather than focus on the targets, objects, or bystanders of penal interventions (e.g., penal subjects, family members, neighborhoods), ethnography can be used to "study up" (Nader 2002) and attend to the architects, proponents, and enactors of penal policies. Research conducted with, for instance, policy makers, administrators, supervisory personnel, or field staff can explore and unpack the logics that undergird governing regimes and produce law, policies, and institutional arrangements (e.g., see Fassin 2013; Gonzalez van Cleve 2016; Page 2011).

This opens and encourages a wide range of empirical and analytic possibilities.[12] For instance, how do dominant or particular understandings of crime causation enable or infuse particular crime control policies? Do these understandings rely on or create type-of-person taxonomies of criminal versus law-abiding citizen, rational versus irrational, redeemable versus irredeemable? How do particular interventions (e.g., zero-tolerance policing or solitary confinement) get perceived as potentially or actually effective, or as ethically thinkable, permissible, or desirable? How do moral sentiments and ethical considerations infuse policy creation and enactment? For example, in Didier Fassin's (2013) ethnography of urban policing in France, attention to the moral sense-making of police officers allows for exploration of how dissatisfaction with the actions of the courts shapes the police's ethical understandings of the deployment of "street justice." And Judah Schept's (2015) ethnographic work documents how, among policy makers, NGO members, and community residents, perceptions of the possibility of reforming criminal justice are structured—and in fact limited—by histories of job loss and capital flight as well as by existing ideologies that have normalized mass incarceration and penal intervention in the lives of economically marginalized citizens.

Conclusion

In closing, it is important to note that various research methodologies and approaches have made, and will continue to make, essential contributions to the study of crime, punishment, security, and legality. Our focus in this essay has been on the contributions and possibilities of ethnography in this realm. As John Law (2004) observes, social scientific methods often have difficulty with complex and contingent phenomena. Yet we contend that, for a number of reasons, ethnography can—and often does—participate in strengthening and diversifying our understanding of how societies attempt to govern il/legality.

Through producing rich data, traversing scales, and provoking consideration of overlooked/excluded phenomena, ethnographic explorations can open up new questions, topics, and analytic avenues. Through its capacity to disrupt temporally and destabilize existing conversations, ethnography can "interrupt the terms of debate" (Rhodes 2001, 66); it can help alter the parameters of contemporary conversations and understandings. Thus, ethnography not only helps us illuminate our present social world and trace how past forces contributed to it; it can also aid us in the process of imagining and bringing about a future that is different.

ACKNOWLEDGMENTS

NOTES

1.   See, for instance, Starr and Goodale (2002b) and Ferrell and Ham (1998) for more in-depth discussions of ethnographic research methods for the study of law, crime, and punishment.

2.   For a productive discussion of the epistemological and ethical dilemmas involved in doing ethnography in penal settings, see Phillips and Earle (2010).

3.   For instance, see Mathiesen (1965) and Sykes (1958).

4.   Put another way, we advocate for conceptual work as opposed to theory application. Rather than selecting and applying a particular theory or argument to empirical material, ethnographic engagement with theory should aid in recognizing, complicating, and thinking through mechanisms operating in the social world.

5.   This claim echoes and pulls from scholarship exploring the sociopolitical implications of globalization (e.g., Brenner 1999).

6.   See Jordan Camp (2016), who argues that the penal state was born out of a crisis of state power.

7.   Similarly, Althusser (1969) contends that a sense of political crisis in postwar France contributed to a lacuna of empirical, theoretical, and philosophical investigations.

8.   The slow science movement draws from the slow food movement and has primarily focused on the natural sciences, yet it is highly relevant to the social sciences.

9.   As Cooper (this volume) notes, utilizing quantifiable metrics to determine success reflects a neoliberalized audit culture wherein market principles are used to judge non-market phenomena (see Foucault 2008).

10. For instance, as Michelle Brown (2014) notes, the quintessential carceral image is of abject subjects.

11. As noted above, ethnography has contributed to this focus; it has helped identify, specify, and trace the ways in which criminal justice practices (re)produce harm, inequality, and suffering.

12. It also opens, as Sherry Ortner (2017) notes, potential ethical dilemmas. Ethnography involves establishing some level of rapport with research participants. Critiquing them may involve or be perceived as a betrayal of that rapport, whereas not critiquing them can entail complicity with power and oppression.

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