

Becoming Criminal: A Phenomenological Sketch of Criminal Identification *Anonymous* *

Although I have had a longstanding interest in critical legal studies I am entirely new to criminology. My interest has been in thinking about legal codification and the relationship between ontology, property and the law, and I have been grappling with these issues and ideas in the fields of continental philosophy and social and political theory. I usually present my papers in associations such as Existential and Phenomenological Theory, Culture, and the History and Philosophy of Science. This is my first foray specifically into criminology – and I will not be presenting a conventional academic paper. I will be telling you about my criminalization.

There is much that I cannot say and there is much that I say that cannot be said anywhere else. Only in the academic sphere, according to my lawyer, is it safe for me to speak. And there is much that I will say that I must call, perhaps, fictional. I will ask you to acquiesce to this fictionality in order to preserve this sphere as one of safe speech. I do not mean ‘safe’ in the sense of uncontested – I’m quite happy to engage in even heated debate – but rather as a place where multiple truths can be told, and where we can draw on both experience and analysis to challenge hegemonic narratives.

The criminal, I have learned, is the one identity that cannot be liberated.

Abolition, civil rights, feminism, anti-racism, queer rights and now animal rights – all shared an ethical high ground. It is wrong, or so the arguments go, to own our brothers and sisters as property, to criminalize sexual choices or to slaughter our fellow creatures. Although I admit that I am not a vegetarian. But while what and who belongs in the category ‘criminal’ is quite fluid and in flux, the category itself is socially and legally removed from having any recourse to a place of moral high ground. To be a criminal means to have broken the social contract – to have sinned against society – and as such the criminal is *the enemy within*: disparaged if not despicable.

As clearly not fitting the usual stereotype of ‘the enemy within’ – I am an almost-forty-year-old white chick with a PhD – there is no question that I have been cut a lot of slack. At the same time, *as* ‘the enemy within’ I have also been largely abandoned, in my criminalization, by the academic middle class. It was not the well-heeled tenured friends, the colleagues

whose dogs I had walked when they couldn't get home from campus until late, whose gardens I watered every summer when they left for their cottages, and whose picky children I humoured by cutting the crusts off of sandwiches who bailed my son and I out of jail last summer. No, it was those living on the cusp of poverty and walking the thin edge between legitimacy and criminalization who understood our predicament and came to our assistance. My criminalization has taught me much about class and war, and their relationship to punishment and freedom.

I am released from jail into a fugitive existence. Prohibited from returning home, from accessing my research, my books, my bed. The empty guest rooms and spare basement apartments in the mortgage-free houses of the Marxist Feminist Theorists and United Nations consultants of my downtown neighbourhood are closed to my predicament. Effectively banished from all that is familiar, from any support systems that might still be open to me, I am taken in by the criminal underclass.

Finding myself far away from libraries, bookstores and people who speak in complete sentences, I venture out in search of something beautiful or nourishing, something to signify that life here in the impoverished periphery of the city may still be worth living. But I return without finding it to a bed-bug infested apartment above a methadone clinic in a strip mall facing a four lane highway. The smoke alarm has been ripped out of the ceiling, the stove doesn't work, the sink doesn't drain and the cockroaches don't even bother to scatter when the light turns on. My transition from the intelligentsia to fugitive underclass is not an easy one. I see my excessive privilege most clearly reflected in how deeply my gratitude is tinged with a rejection of the conditions and lives of my hosts, and I am ashamed of myself.

Standing in line waiting for the payphone – caught between the blinding August sun and the heat rising from pavement – attempting to call my son's university. They have accepted him on a scholarship. *How to explain that he will be a few days late for the start of classes?* That no, there is no number either of us can be reached at, we are prohibited from possessing telephones and laptops – even email is difficult. Motorcycles and trucks zoom by loudly, a man tries to solicit my sexual services. I am realizing that all women in this particular corner of town must rent their orifices – that femaleness here means the exchange of sex for drugs or money. Another man, bloodshot eyes, tells me to hurry the 'f' up, he's got a chop to make. The conditions of my bail have excluded my access to the basic material conditions of any semblance of

middle-class professionalism and with it any legitimacy I might have had as a mother able to effectively advocate on behalf of her child.

But bail, I learn, is about a lot more than foreclosing legitimacy. It is about creating the conditions of a fugitive existence – an existence lived in perpetual fear of the police, of impending arrest, of incarceration. As such it creates a certain perpetual vulnerability without recourse to the assistance of the protectors of the public. As the enemy of the public, the criminal is ostracized from inclusion in this category.

Four times a week I find myself in breach of my bail conditions. My curfew hits during the final leg of the two hour journey between leaving my teaching responsibilities at the University and my arrival at cockroach central. I feel it viscerally. The surface of my buttocks tingle and a nervous energy spreads throughout my limbs. My stomach fills with stone ghosts – heavy but tumultuous and howling. I am on edge, easily startled. I hold onto the metal bar in the bus packed with the exhausted working class, my whiteness standing out, trying to calm the compulsion to flee with yogic deep breathing. Several times skirmishes break out in the bus – the combination of inebriation, poverty, fatigue, and sardine-like overcrowding is not one which promotes peace and serenity – and the stone ghosts in my stomach rise to my head in a chorus of high-pitched screams...*if the police are called...if they check my identity...if they find me out after curfew...*

Clinging to whatever vestiges of normalcy I can muster, wearing long sleeves to cover the bed-bug welts, I add another hour to my commute every morning and return to the yoga studio. A devout practitioner, I am asked about my unusual absence and begin to speak of my criminalization. The crown attorney with whom I've been practicing Ashtanga yoga for years insists that bail conditions are agreed to freely and that I should not have agreed to conditions I could not comply with. I look at her incredulously. "Have you ever been to jail?", I ask. I become deeply uncomfortable as I realize that this lovely vegetarian yogini plays a frontline role in sending society's most marginalized – those trapped in poverty, troubled relationships and drug addiction – to jail – in punishing those who have already lived far too much punishment by relegating them to a dehumanizing hell. How to negotiate this friendship with the enemy?

If punishment is understood as a response to crime, crime, I think, is best understood as a response to punishment. That is, punishment comes first. The punishment precedes the crime. Any good parent can tell you this.

When I was a teenage single mother on welfare – quite a while ago now – a university professor was doing a study and a man whose heavy odour of cigarette smoke permeated our all-organic tiny West Coast apartment for hours afterwards came to the door with a questionnaire, and asked all the wrong questions. I tried to explain to him why his questions didn't work, why they obviated what was significant, and how they predetermined what could be learned – but there was no room on the questionnaire for these responses. Disturbed by being the object of study without any input into framing the conversation, I decided to do a PhD and I remember the example I gave him because it was about the importance of gift and quantifiability, which continue to be central problematics in my work.

My mother had visited from overseas, and, quite distraught that my child and I had no plates or bowls and were eating out of used yogurt containers – something that hadn't bothered me in the least – stocked my house with food. The social worker told me I was to estimate the value of these groceries so that that amount could be deducted from our next month's cheque. When I protested that the food was a gift, not illicit income, I was told that to fail claim the proper amount was not only fraudulent, but would be unfair to other mothers on welfare. The language of equality was used to justify economically punishing us for receiving gifts of nourishment.

So, although I have only recently been criminalized, criminalization feels in many ways quite familiar. I know these feelings of being trapped in impossible situations and punished for telling the truth only too well from the years in which caring for an infant entailed dependence on state administrative apparati. At that time, I had considered surrogacy in order to escape welfare, renting my womb in order to stay home with my child, to take some university courses, to save towards a down payment so we could have a stable roof over our heads. Less than two years ago, I approached growing pot in much the same way – a short-term thing, for a biological cycle or two, in exchange for a lump sum which would allow us to survive as well as participate in this social and economic order – a way to get from 'A' to 'B'.

I finished my PhD in the midst of a global economic crisis and continent-wide hiring freeze. I was teaching on contract for a quarter of the pay salaried faculty make when my union went on strike. I had mortgage payments to make at twice the rate that salaried faculty and double-income families pay, and student loan payments which could no longer be deferred. My

child was now set to start university. Growing had always been there in the back of my mind, somewhere on the suicide continuum, an ‘if all else fails’ mode escape. This story of the global economic crisis and the strike is the official one, the one that can be told. But there was an existential, not just an economic element – although the two are deeply bound up in each other – to my crime. I was systemically exhausted, deeply disillusioned with academia, and, indeed, felt fundamentally betrayed by having my years of sacrifice, steadfast fortitude, and service garnering nothing more than enchainment to the basement of the ivory tower.

When I *begin* the academic climb there is a ladder with rungs on it. And in this climb I am encumbered in a way none of my peers are, leaving behind my network of friends, a rag tag team of single moms on welfare. And as I climb I tell myself, almost as a mantra, that when I make it to legitimacy I will be the voice of those who could not make the journey. As I climb the rungs below me drop away. Programs are cut. Funding is axed, but not before I have made it to the next rung. In the fourth year of my PhD studies this changes. The rungs above me begin to disappear. I reach up and there is nothing to grab onto. The funding formula has changed. Graduate students are no longer eligible for a fifth year of funds. I need this fifth year to write my dissertation. The plummeting begins. A vicious downward spiral.

Moving into my apartment to ‘help’ me in this situation a boyfriend with a secret gambling problem empties my line of credit of \$40,000. I find myself taking a job as a teaching fellow in another city. Sixty hours a week or more. No academic freedom. Teaching the children of the elite that theirs is the only story that matters. My salary keeps us at the poverty line, insufficient to provide my own child a basic education in a city in which the public system has been emptied as the middle class move their children into private schools. I am berated by the program director for facilitating too much debate in the classroom. I awake every morning exhausted, prostituted, despairing of how I will ever find the time to finish my dissertation.

Three years and many teaching contracts at various universities later, writing through every weekend and holiday, I do finish. And it is a painful finishing. My supervisor and I have a fundamental disagreement about the relationship between phenomenology and epistemology. Ethics and science must be put into fruitful dialogue, I argue. But for my supervisor their discourses belong fundamentally to different registers. They cannot be put into the same conversation. Repeatedly sending me back to the drawing

board only further radicalizes my thought. I ultimately argue for a material inception of ethics. My defence is a heated one. I leave with a PhD, but also with the sense that after all these years I have ultimately failed.

It is in this context of failure and exhaustion that I create, and fall in love with, my secret garden. It is the perfect environment to escape the cold darkness of the winter or the stinking summer city heat. A clear bright light, a gentle breeze from the fan, the gurgle of water, a faint odour of fresh fruit as buds formed amidst dark green serrated leaves. Bright red ladybugs crawl around, happily mating, fanning their wings, eating the gnats and the aphids.

I grew organic pot, of course, which went to a local compassion center for distribution to those who found it helpful. And unlike the labour of writing papers for edited books, journals and conferences, for which only salaried academics are remunerated, leaving the rest of us to try to eke out enough of a living to find time around the edges to contribute to these conversations, and unlike the lifetime of labour involved in raising a child, the fruits of my gardening labour, these lovely sweet-smelling sticky green flowers, belonged, at last, to what felt like a fair economy. While the other labours of love I have engaged in have entailed my exploitation, this was the one labour which I could both love and be reasonably paid for.

I'd like to conclude with a few words about profiting from the avails not of crime, but of criminalization.

After the dramatic part was over, that is, after the 4 a.m. raid on our small little downtown apartment filled with books and guitars, and the sweetest little pomeranian-poodle you've ever met. And after the detective let me sit in pool of my own menstrual blood for hours, refusing to let me use the toilets, and telling me that I must be insane, that the neighbourhood was trying to rid itself of socialists like me, and that if I didn't sign a statement my 18 year old son would be sodomized in jail. And after four days of incarceration which I am not yet able to talk about, after my release on bail, the extortion begins.

The police call the hydro company who cuts the power to my apartment pending a \$3000 half-hour inspection by a certified industrial hygienist which must indicate that there are no mould spores in the house and that it is safe for the company's employees to inspect for electrical anomalies. The certified industrial hygienist informs me that the hydro company's mould standards are so stringent that every house in the city would fail. I call a

mould specialist company. They suggest I pay them \$25,000 to rip out all the drywall in the apartment. “But there is no mould,” I say, “nothing wrong with the electrical, only a few plants – gosh, they could have been tomato plants!” The police call the city authorities who slap an order to remedy an unsafe building on the door. The cost of its removal: \$5000. The police call the mortgage company which sends me a foreclosure notice. All this takes place while my bail conditions prevent me from even going to my house. I sneak in a couple of times to pick-up these notices and some of my research. My apartment seems to have been broken into multiple times. Windows have been broken, and everything of value, all our tools and musical instruments, have been taken. All that remains is the books.

After repairing the windows and the damage done to the property, and proving there is no mould, and nothing was wrong with the electrical, and after paying off the city, I fight the foreclosure. The mortgage company charges me \$15,000 in extra fees and skyrockets my interest rate. A mortgage which should be \$1700 a month is now \$5000 a month. I start looking for a new mortgage company, but just as I begin this process Public Prosecutions Canada registers a forfeiture restraint order against the title of my property. The Crown Attorney tells my lawyer that they will remove the restraint order in exchange for a guilty plea. Just as I think it can’t get any worse, the police send me a bill for \$2000 to cover the costs of arresting me.

When I go to the police headquarters to talk to the woman in the finance department, when I say: “I don’t have anything left. I don’t have \$2000” and “isn’t there any way that you could arrange for a reasonable payment plan that I can afford? I do need to eat. And I do need to sleep. And short of starting a massive grow operation, my four-courses-a-term teaching load just doesn’t pay these bills”. I am told that to give me a payment plan would be unfair to others. The language of equality is again used to justify the punishment – which, I am informed, is not punitive but administrative. Okay, I think, a punitive administration, then, which requires the escalation of the crime in order to be complied with.

And so I stand here before you a drowning woman. As I surface after each wave which crashes over my head and drags me under, as I surface and gasp for air, as more and more solid material I could cling to is wrenched from my grip, I cease to wonder how long I can keep this up, how many more waves will drag me under before my surfacing becomes a lifeless one. This drowning of mine is no longer about survival. Survival would

be nice, don't get me wrong, but what is emotionally and intellectually necessary now is to speak and write about this process of drowning called criminalization.

ENDNOTES

- * An earlier version of this paper was presented at an academic conference to a group of criminologists and socio-legal scholars.

ABOUT THE AUTHOR

The author currently teaches on a contract basis at a Canadian university and is the single mother of an amazing teenager full of life and fortitude. She is pursuing a law degree and working on two books while awaiting trial. The first book, provisionally entitled *Suicide Letters from a Reluctant Criminal*, gives an account of her own criminalization. The second book provides a historical and a philosophical analysis of the entwinement of slavery, criminalization and private property.