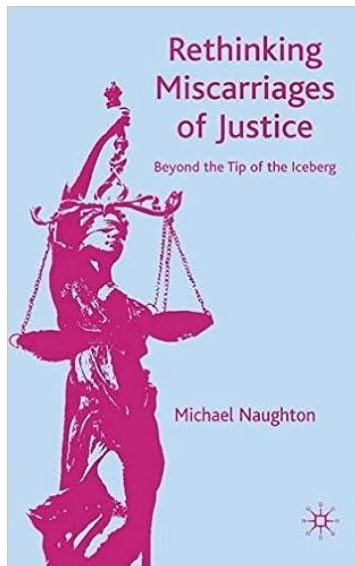


Rethinking miscarriages of justice: Beyond the tip of the iceberg (2012 [2007] Palgrave Macmillan)



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Synopsis

In this highly provocative and fascinating study, Michael Naughton radically re-assesses the notion of miscarriages of justice. Drawing on Foucauldian theory and 'social harm' paradigms, Naughton uncovers the limits of the criminal justice process and questions the dominant discourse that views miscarriages of justice as rare and exceptional cases of wrongful imprisonment. Arguing that the criminal justice process itself causes miscarriages of justice, and can prevent the overturning of convictions, Naughton interprets error as the norm – a mundane feature that is an inbuilt part of the legal system. Further, by redefining the term 'miscarriage of justice' he shows how it can be applied to thousands of cases per year. Extending previous analyses of the forms of harm that miscarriages of justice cause, this study explores the impact on a range of victims – direct and indirect – and their wider effect on society as a whole. Previous attempts to reform the system to prevent miscarriages of justice and their consequences have proved unsuccessful and here, Naughton provides an explanation of why they have failed and provides a new perspective on the ways to prevent mistakes occurring. Providing a much-needed critical appraisal of a fundamental aspect of the legal system, this book, now in

paperback and with a new Foreword by Jonathan Simon, UC Berkeley, will have a dramatic impact on the way we think about criminal justice.

Foreword to paperback edition by Jonathan Simon, University of California, Berkeley, USA

[“Wrongful Convictions, Miscarriages of Justice, and the Path to a Better Politics of Criminal Justice”](#)

Reviews

‘Michael Naughton’s *Rethinking Miscarriages of Justice: Beyond the Tip of the Iceberg*...made knowledge/power effects of wrongful convictions itself the subject of the inquiry in a central way. Rather than investigate the factual predicates of wrongful convictions or trace the pattern of discriminations inscribed in the operation of criminal justice and manifest in these miscarriages of justice, Naughton examined the consequences of how wrongful convictions were being problematized in both popular and criminological discourse and explored how those effects might be expanded considerably by problematizing them in different ways and in different fields...In this regard *Rethinking Miscarriages of Justice* anticipates Ian Loader and Richard Sparks’ recent call for criminologists to abandon the effort to wish away the public and political influence on criminal justice in favor of an effort to contribute toward a “better politics” of crime. With its focus on how the framing of wrongful conviction acts to shape the ways government itself is problematized, *Rethinking Miscarriages of Justice* is an effort to turn criminology and socio-legal studies from how criminal justice governs the population (an important topic on which much ink has been spilled), towards the possibility of counter flows of knowledge and the surveillance of government by the governed, a topic on which very little has been said and which makes this an important read well beyond criminology and socio-legal studies.’ – Jonathan Simon, Adrian A. Kragen Professor of Law, University of California, Berkeley, USA

‘Michael Naughton. . . thoroughly explains to us in his book why, after a Royal Commission and so much criminal justice legislation, reform remains

essential.’ – *Clive Walker, Professor of Criminal Justice Studies, Leeds University, UK*

‘This book provides a refreshing new approach to the analysis of miscarriages of justice. Drawing upon Foucault’s analysis of governmentality and the emerging new perspective of zemiology, it maps a new terrain for understanding miscarriages. It is clearly written and succinct. It should be essential reading for students of law, criminology, sociology and politics.’ – *Paddy Hillyard, Professor of Sociology, Queen’s University Belfast, UK*

‘Michael Naughton’s analysis succeeds in identifying a new and relevant perspective which challenges some of the assumptions made by different groups within society about miscarriages of justice. . . Most importantly the book does move the miscarriage of justice debate forward, highlighting from a humanitarian perspective not only the true scale of the problem but also the devastating and often under-estimated extent of harm that results. In addition it reflects on some avenues and approaches that can be utilised to promote positive change rather than presenting as a document of despair. As such it is an important read for all parties concerned about this issue.’ – *Dennis Eady, Criminology and Criminal Justice*

‘*Rethinking Miscarriages of Justice* makes considered and provocative arguments...[and] demonstrates effectively the clear breaches of human rights involved in cases of miscarriage of justice at any level and suggests that a judiciary that produces so many wrongful convictions is almost certainly incompatible with the Human Rights Act.’ – *Linda Moore, Critical Social Policy*