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Penal Policy and Racial Prejudice in the United States

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After the war on poverty, the United States declared a war on crime. This history of penal policy since 1960 looks at the intellectual and political roots of the punitive treatment often reserved for minorities.

Reviewed: Elizabeth Hinton, *From The War On Poverty To The War On Crime: The Making Of Mass Incarceration in America* (Cambridge: Harvard University Press, 2016), 464 p.

In a media and academic context strongly marked by the controversies surrounding A. Goffman's book, there would have been every reason to fear a decline in work on the criminalisation of young Blacks and Latinos in the United States. In her study, based on long-term immersion in a black neighbourhood in Philadelphia, A. Goffman described omnipresent police repression, to which the recent 'Black Lives Matter' movement also testifies. The debates resulting from her book offered a reminder of the breadth of studies on the criminalisation of poor, and particularly African-American, youth.[1] A historical perspective, however, in the vein of African American Studies, can give new momentum to this research. Returning to the ambivalence of post-war policies against social exclusion, historian Elizabeth Hinton shows that criminal policy in the United States, and the resulting mass incarceration, originates in a set of culturalist theories about 'black criminality'.

[1] For an overview of the controversies surrounding A. Goffman's book (2014) and an original critique of her analysis, see Sallée 2015 and Portilla 2016.

A book 'that evolved from barbed wire'

The book takes mass incarceration in the United States as its starting point and is part of a range of studies that offer an account of its segregationist and racial logics.

> Thus the expansion of the carceral state should be understood as the federal government's response to the demographic transformation of the nation at mid-century, the gains of the African American civil rights movement, and the persistent threat of urban rebellion. (p. 11)

However, the final pages reveal that the author's choice of topic was also personal. Her intellectual journey seems to have been informed by indirect experience of imprisonment: when she wrote the book, several of her friends, family, and loved ones had been or were still incarcerated:

> This book evolved from the barbed wire, concrete, metal detectors, and watchtowers that define the American carceral landscape. (p. 433).

Like many authors working on mass incarceration (Wacquant 2001, 2010; Gottschalk 2006; Alexander 2010), her account focuses less on its evolutions than on the political and penal strategies underpinning them. E. Hinton retraces the recent history of how a particular type of poverty – African-American – has been criminalised. This perspective is probably linked to her own trajectory. A former student of Columbia University, where she completed her PhD and was awarded a prestigious Ford Foundation grant for her final year of research, she is now Assistant Professor in the Department of African and African American Studies at Harvard – a research field that has followed on from Black Studies since the 1990s.

Compared with the vast literature on the topic, her approach is striking. First, the period she examines (1961-1988) is not insignificant. Unlike others (Alexander 2010; Hagan 2010), she does not only look at Reagan's punitive policy but goes back to the Kennedy and Johnson administrations' policies against social exclusion – in her view, the breeding ground for today's surveillance measures targeting African-Americans. From this perspective, the Reagan administration was less a break with repressive and discriminatory policies than their 'culmination' (p. 4 and p. 10-11).

This reflection also stems from her choice to look at 'top-level positions' in policies regarding crime, a decisional level she believes is often under-estimated. While the centralisation of crime government has already been documented (see Gottschalk 2006, as well as Hagan 2010 p. 21-27 for a summary), Hinton's aim was to reveal its racial bias.

Manufacturing 'Black criminality' again

Her investigation begins with the following paradox: the recognition of African-Americans' civil rights and the implementation of social policies went hand-in-hand with tighter surveillance of poor neighbourhoods. The ambivalence of the Welfare State's measures regarding African-Americans, particularly following the civil rights struggle, was highlighted from a very early stage (Piven, Cloward 1979). However, E. Hinton takes this further.

She describes renewed interest in a racist etiology of crime, extending K. G. Muhammad's study on this point. For K. G. Muhammad, the statistical identification of criminals with Black Americans in the early twentieth century reflected a racism that was no longer biological but cultural (Muhammad 2010). The first two chapters of E. Hinton's book also revisit the reception of theories interpreting delinquency as the product of African Americans' 'cultural and behavioral deficiencies' (p. 30-31). However, in a context marked by strong urban protests, researchers and political leaders alike agreed on a new locale (urban centres) and a new target group (young Black men). At this point, the author distances herself from the hypothesis of a 'colorblind' penal system, in which discriminatory practices are dressed up in racially neutral language (Alexander 2010, p. 54), emphasising instead the explicit racial rhetoric present in the official reports and discourse of the time.

In order to understand this phenomenon, E. Hinton returns to the creation of a national committee on juvenile delinquency under the Kennedy administration, in charge of devising anti-delinquency programmes. As well as the secretaries of Labor and Health, Education, and Welfare, the committee also included proponents of pathological interpretations of 'Black' delinquency (p. 19) including L. Ohlin and R. Cloward from the University of Columbia and, later, D. P. Moynihan.

Nevertheless, this committee gave rise to two different conceptions of controlling delinquency. The first emphasised the need to increase connections between young people from poor neighbourhoods and social institutions. For Ohlin and Cloward, delinquent behaviour depended less on individual behavioural pathologies and more on inadequate punitive responses (p. 36). They therefore emphasised 'community action', the pioneering symbol of empowerment, as a lever for change. This consisted in promoting the direct involvement of residents in local action.

Moreover, Moynihan went on to insist on the need to extend federal criminal policies to Black communities. Known for the report that bears his name, presented to the government in 1965, Moynihan argued that unstable Black families, supposedly founded on a single-parent model, had failed to prevent deviant behaviour. E. Hinton views this approach to delinquency as a tipping point that 'introduced black family life into the crime control equation' (p. 61).

Warning sign issued by law enforcement authorities during the Watts uprising in Los Angeles in August 1965 (p. 70). Source: Getty Images

The cost of repression

This book also examines the conditions of possibility for this punitive turn. How, in a decentralised federal system, did the government manage to determine the orientation of urban and repressive interventions? The author points first to the exponential increase in public funding in both areas. In 1968, the equivalent of 400 million dollars today were allocated to the 'War on Crime' (p. 2), while Reagan's 'War on Drugs' garnered some 900 millions dollars (p. 317).

As vertiginous as this increase in allocated funds may seem, it cannot altogether explain the success of national programmes on the ground. The author also looks to the new model of local authority funding that was centralised through the Law Enforcement Assistance (LEAA) in charge of anti-delinquency funds. This agency, dependent on the Department of Justice, managed to align local actions with nationally determined directions. Some of the funding even corresponded to discretionary funds in the hands of presidential administrations, allowing support for police operations despite opposition from Congress (p. 265). Overall, the LEAA laid the foundations for a repressive centralised government (p. 318).

The creation of the STRESS unit (Stop the Robberies, Enjoy Safe Streets) in Detroit in 1971 testifies to this. This federal project for police foot patrols received 35,000 dollars funding from the LEAA. Nixon took advice from political scientist and academic James Q. Wilson, one of Moynihan's close colleagues, who saw these patrols as a means to resolve 'social conflict', especially 'that which involves Negroes and other minority groups'

(p. 186). Embedded in low-income mainly Black neighbourhoods (p. 191), STRESS was one of the most repressive experiments in community policing. Won over by the predictive strategies approach, its commanders authorised decoy operations leading to 6,000 arrests and killing 18 civilians in two years (p. 192).

Thinking about penal and racial policies in the present

From the War on Poverty to the War on Drugs offers a detailed account of how surveillance – omnipresent and experienced as such – became established in poor neighbourhoods. However, by focusing on the post-war government's racist assumptions about African Americans, the author perhaps gives too short shrift to other targets of repressive action, particularly young Latinos. Despite noting, on several occasions, the harmful effects repressive policies have on them (p. 5, p. 175, p. 326), she fails to offer any account of how this functions, giving the impression of a somewhat too restrictive approach.

This is partly due to how the book defines criminal policies, excluding the issue of immigration control despite the fact that, in practice, it is part and parcel of penal action (Hagan 2010, p. 31-38). While African Americans have more chance of being incarcerated or put on probation than their white and Latino counterparts (p. 310, 326), many Latinos originally from Mexico or Latin America can be deported and therefore face the threat of different administrative and penal measures. But the author says nothing about the construction of these other 'undesirables'. And yet, Muhammad had already shown that, in order to understand the link between criminality and black Americans in the early twentieth century, we have to think about how immigrants were categorised. At the time, the latter, mainly of European origin, were identified with the white working classes and were considered able to 'assimilate', thus protecting them from a stigmatising delinquent identity. In this sense, it would have been interesting to see the author examine the new, post-war forms of categorisation and stigmatisation of immigrants, including some Hispanics.

Moreover, the book's top-down approach compounds the impression of a unidirectional repressive policy. This is the case, for example, when the author notes that, with Reagan's support, policies for breaking up drug rings and gangs in California 'targeted African American and Chicano residents with a series of penal code revisions' (p. 322). In this passage, she puts forwards the powerful hypothesis of a legal and punitive turn that now included young Latinos. It is a shame, however, that the question remains open, whereas other observations about the 'hyper-criminalisation' of young Blacks and Latinos corroborate this idea. In his investigation on the matter, Victor M. Rios noted the arrival in the 1980s of Hispanic communities in Californian neighbourhoods that had previously been mainly African-American (Rios 2006). Did this demographic evolution contribute to the state and federal governments defining new targets? If so, how? Conversely, did other demographic and

social mechanisms – for example, the relegation of the poorest populations to black ghettos during the same period (Anderson 1990) – strengthen the penal hold over African Americans? The perspective Hinton chooses focuses solely on the federal level and therefore does not address these questions, which is sometimes frustrating. She does, however, open up important avenues of thought about the Reagan administration's legacy in terms of mechanisms of exclusion and stigmatisation.

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