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Decolonizing the Criminal Question

Introduction

There has never been a more appropriate occasion for questioning the colonial dimensions of criminal justice institutions and of the ways we have studied them. We are at a moment in our geopolitical landscape where, on the one hand, ideas of sovereignty, history and race relations have sought to hold onto and politically utilize these enduring imperial and colonial rationales, and on the other hand, we are seeing, finally, an effort to scrutinize and comprehensively challenge these rationales. Questions of empire and coloniality have been especially influential in activist and scholarly challenges to the contemporary structures and practices of our criminal justice institutions and these efforts implore us to re-examine what are conceived as stable concepts in ‘criminology’, as a broad, complex and polyvalent field (Sparks and Loader, 2011; Sparks, 2021; Sozzo, 2021), including ‘punishment and society studies’ (Sparks and Simon, 2013, Garland, 2018).

In the last years there has been a growing effort from different theoretical perspectives to interrogate critically the impact of colonialism in the past and present of institutions and practices of crime control, both at the central and peripheral contexts, as well as in the production of knowledge in the criminological field. These recent efforts are related to important precedents in the critical criminologies of the 1980s, both in Europe and Latin America (Cohen, 1982; Sumner, 1982; Beirne, 1983; Del Olmo, 1981; 1990; Zaffaroni, 1988; 1989). In the last two decades we have witnessed groundbreaking, detailed historical work on the relationship between imperialism, criminology, criminal law and punishment (Mukherjee, 2003; Agozino, 2003; Godfrey and Dunstall, 2005; Brown, 2001, 2014, 2015; Hogg and Brown, 2018) as well as an increasing interest in drawing out the effects of colonialism on the contemporary architecture of crime and punishment on the one hand and on criminological knowledge on the other, including appeals to build “counter-colonial”, “postcolonial”, “decolonial” and “southern” perspectives (Cain, 2000; Agozino, 2003; 2004; 2010; 2018; Cunnen, 2011, 2018a; 2018b; Blagg, 2008; Medina, 2011; Aas, 2012; Zaffaroni and Codino, 2015; Cunnen and Tauri, 2017; Carrington et al, 2016; 2018; 2019; Brown, 2017; 2018; Rodriguez Goyes, 2018; Fonseca, 2018a; 2018b; Travers, 2019; Moosavi, 2019; Blagg and Anthony, 2019). This work has sparked a crucial contemporary debate.

In this feature piece we examine this debate. We offer a critical account of key themes and problems that emerge from the intimate relationship between colonialism and punishment that directly challenge the persistent neglect of these dimensions in mainstream criminological scholarship. We aim to foreground the relevance of this relationship to contemporary enquiries. We highlight that formal processes of decolonization did not dismantle the colonial roots of the cultural, social and political mechanisms informing contemporary punishment. They are still very much part of criminal justice practice and are thus also central to criminological knowledge production.

To better reflect the standpoint pursued here, we use the idea of ‘the criminal question’, a terminology that is frequently employed by Southern European and Latin American scholars but also one that had some recent diffusion in English-speaking debates (see for example Pitch 1995; Melossi et al. 2011, Sparks and Loader, 2011). As Tamar Pitch pointed out:

To study the criminal question is different from studying crime. It means that crime is not considered independently from the procedures by which it is defined, the instruments deployed in its administration and control and the politics and debates around criminal justice and public order. The criminal question can therefore be provisionally defined as an area constituted by actions, institutions, policies and discourses whose boundaries shift... (Pitch, 1995: 52).

Academic discourses and debates about crime, punishment and crime control, broadly speaking, including those that are identified as ‘criminological’ and those that are not, are a key element of this complex area. As a consequence, decolonising ‘the criminal question’ first means, simultaneously, to identify, explain and assess the effects of colonialism in crime and crime control policies, institutions, and practices, as well as its impact in framing and shaping dominant criminological theories and methodologies. But such exercise also entails trying to successfully deconstruct those effects in relation to this complex array of discourses and practices and to contribute to building alternative paths, both at the level of thinking and intervention.

To this end, we directly engage with the coloniality of criminological knowledge (Said 2003, Mignolo 2000, Fanon 2017 [1986], De Souza Santos 2014) and share the ambition of recent efforts to shift the criminological gaze away from the North, while also intending to utilise the lessons gained from such a perspectival shift to comprehensively challenge the foundations of this field of knowledge. Our objective is thus not only to expand the geopolitical frames of scholarship on criminal justice, or to internationalize its remit (Barberet et al 2011), but also to reassess the premises and assumptions of theoretical and empirical perspectives in criminology by bringing to the fore the colonial effects in the production of such scholarship (Carrington et al. 2016; 2019). Through this mapping, and as part of a broader project (Aliverti, Carvalho, Chamberlen and Sozzo 2022), we also hope to contribute towards efforts to reimagine concepts and methodologies which can contribute to the difficult ongoing task of decolonising criminology. Through this work of deconstruction, we aim to unleash the critical potential of criminological scholarship, as a broad, complex and polyvalent field that sits at the margins of several disciplines and perspectives. With this synthetic effort we hope not only to revisit criminological ‘sins’ and shed light on criminology’s blind spots, but also -crucially- to open up new agendas and directions in the study of crime control, that are more democratic and better account for the changing and fluid nature of the criminal question in a globalized context.

The temporal, spatial and subjective dimensions

For some time, criminology has grappled with its Anglo-American dominance and bias (Aas, 2012; Lee and Laidler 2013; Carrington et al. 2016; 2019; Moosavi, 2019). Since its modern institutional foundations in the eighteenth century, criminology as well as many of the modern social sciences and humanities (Connell, 2007; Comaroff and Comaroff, 2012; De Sousa Santos, 2014) privileged particular sites and people, and excluded others. And, when otherwise neglected groups did receive attention from early criminologists, they were subjected to essentialized classificatory analyses that sought to give a pseudoscientific flavour to the discipline whilst consolidating a *status quo* in the construction of the deviant and delinquent other (Hogg and Carrington 2017). Some of the so-called ‘founding fathers’ of the discipline sought to define criminality relying on phenotypic characteristics and essentially constructing it on the basis of racist assumptions and cultural prejudices (e.g. Lombroso [1876] 2006). In the early sociological criminologies of the time, the relationship between crime and its control revolved around the question of labor discipline and productivity. Epitomized by the language

of progress and civilization, great confidence was placed on the institutions of the modern state (particularly science) to address the problems of public order that the ‘dangerous classes’ posed. Since then, even though this Eurocentric perspective was coupled with and to a large extent superseded by an Anglo-American focus, and made much more diffuse through attention to the influences of multiculturalism, transnationalism and globalization, the foundations of criminological knowledge remained solidly grounded on the North and at the heart of Empires.

Despite the intimate connection between liberal and neoliberal capitalism and their ideological links to European colonial expansion and USA imperialism, until recently little attention has been paid to their importance in shaping the boundaries of modern criminology and explaining its blind spots, exclusions and invisibilities. This review piece subjects such historical relationship and its contemporary reverberations to critical enquiry by reassessing the temporal, spatial and subjective dimensions of the criminal question.

The temporal dimension

Despite the role and importance of criminological knowledge in supporting European and Anglo-American political and economic expansion (Brown, 2005), until recently meaningful discussions of this significant aspect of the field barely figured in criminological textbooks. For many decades, criminologists took for granted the European and Anglo-American foundations of the field and the universal relevance of its knowledge, as well as the importance of the identity and positionality of criminologists for shaping methodologies and findings (in terms of their classed, gendered and racialized identities). At the same time, they neglected the effects of colonialism in existing social and global inequalities, crime forms and trends and the operation of contemporary criminal justice at both sides of the colonial divide. As societies in the North come to terms with the formative experience of empire in contemporary political, economic and cultural life, criminology should revise its histories too.

The task of decolonizing such scholarship involves not only a shifting of the criminological gaze to places and subjects long forgotten -including the vast parts of the world known as the Global South-, but also unveiling the ideological dimensions through which the ‘North’ has been predominantly theorized and researched. Likewise, uncovering and reexamining these histories constitutes an important step towards questioning and – hopefully – transforming our current perceptions, attitudes and practices. For instance, in his work on penal power in colonial India, Mark Brown (2014, 38) documents the centrality of crime for British colonial rule as certain forms of crime and criminals ‘were both rendered as problems of rule and established as nodal points in the cognitive architecture of colonial governmentality.’ As he argued, crime science was a crucial tool in the production of knowledge about an unknown society from the colonizer’s point of view. Colonial rule drew from rationalities and technologies of the metropole, while at the same time shaping them by foregrounding a new logic of governance. From this perspective, the relationship between order, crime, knowledge and power was mutually constituted in an imperial circuit that bound together the colony and the metropole. Brown’s work urges us to pull apart the bracketing of metropolitan and colonial histories as discreet and disconnected.

This neglect can be identified more generally in punishment and society scholarship, where despite its vitality and buoyancy, few researchers have examined the historical significance of colonialism in the operation of modern punishment. We can point out to historian Clare Anderson’s and anthropologist Ann Laura Stoler’s critiques of Foucault’s work on punishment and race respectively (Anderson 2009, Stoler 1995, 2016); and recent work on penal colonies

and transportation (Bullard 2000; Hynd 2015; Anderson 2016; Hogg and Brown 2018; Carrington et al 2019, 99-141). This research can help us to more concretely and holistically locate colonial influences on our contemporary penal practices and rationales. In a way, two parallel efforts have operated in this direction: on one hand, critical scholars of punishment (eg among others, Gilmore 2000; Alexander, 2010; Moore 2014; Nichols 2014; Fonseca, 2018b) have sought to take historical accounts seriously and trace a continuity between histories of imperialism and colonialism and the development of contemporary prisons and criminal justice. They have argued that acknowledging such continuities is imperative for understanding both the birth of the prison and its links to empire and the abolition of slavery, and are relevant in tracking the longer history of punitive policies and practices prevalent in contemporary criminal justice systems in the US, UK and elsewhere. Abolitionist scholars have also sought to highlight and problematize these historical continuities (see, eg Davis 2003; Wilson Gilmore 2007).

Meanwhile, social historians (eg see, Havik et. al 2019; Gibson 2011; Alexander and Anderson 2008; Dikotter and Brown 2007; Salvatore and Aguirre 1996) have utilized archival methodologies to excavate key pieces around the colonial crafting of penal institutions, detailing how prisons in colonial contexts like the West Indies, Africa, and South Asia unveil a series of themes relevant to us today (including aspects of prison design and architecture, the role of convict labour, and the more general engagement of colonial penal administrators with questions around the purpose of punishment and the use of rehabilitation in the colonies). Scholars of punishment and society ought to take up the important task of considering these historical artifacts and connect them to contemporary policies, rhetoric, and practices (see also Anderson et. al 2020) as well as to prevalent themes in the contemporary punishment and prisons literature linked to issues of discrimination and the expansion of the prison industrial complex. Arguably, such histories are inseparable from the functioning and purpose of contemporary penal institutions and their targeting of particular minoritized populations.

An important aspect of this genealogical work also involves mapping the relevance of colonial influences for understanding patterns of global interdependence and connectivity. Colonial expansion not only produced enduring patterns of polarization, hierarchies and divisions but also created links and connections at a global scale. As historians of empire demonstrated, the colonial period witnessed an unprecedented level of international mobility and sheer exchange of ideas, people, goods, and institutions (including criminal laws and forms of punishment) at a global scale (Dorsett and McLaren 2015, Hall and Rose 2006, Hay and Craven 2004, Hall 2002, Armitage 2000). As Hay and Craven (2004) documented, the legal transplantation of masters and servants legislation was instrumental in controlling and disciplining the army of workers post-emancipation, while distributing the labor force across the British empire. Animated by the incipient modern capitalism, colonialism is in this vein an earlier precursor of contemporary globalization. Despite the enduring social, political and economic force of colonialism, much of the social sciences, including criminology, continue to neglect its importance in forging contemporary patterns of interconnectivity and interdependence (Fonseca, 2018a). Moreover, much criminological work still remains constrained by the borders of the nation-state, thus falling foul of methodological nationalism (Wimmer and Glick Schiller 2002). Even if globalization has entered the criminological orthodoxy, it has often been conceptualised in highly orientalist terms, particularly in the context of 'organised crime' and 'failed states', without a critical examination of historical links between crime and political and economic imperialism (Ferguson, 2006).

Overall, it is necessary to recognise the extent to which criminology has overlooked the ‘recursive history and the uneven sedimentation of colonial practices’ in the penal practices of our ‘colonial presents’ and has not exposed their endurance and duress in our globalized world (Stoler 2016, ix). We need to actively challenge the notion that colonialism belongs to the past and put the linear Western narrative of progress into question by highlighting alternative histories, as well as seeking to uncover possibilities for the present and the future. The forthcoming Special Issue on Legacies of Empire in *Punishment & Society* (Black, Seal, Malkani, Seemungal and Ball 2021) will be a welcome contribution, and one which along with other published research (including Brisson-Boivin and O’Connor 2013, Buffam 2020, Astudillo and Jamieson 2021) will likely help steer punishment and society scholarship in important new directions.

The spatial dimension

While certain metropolises—like Los Angeles, London, Chicago and New York—have been over-researched, significantly less attention has been paid to the contours and exercise of punishment and crime control in vast portions of the globe, particularly in the Global South. Enduring distinctions and assumptions about the ‘north and south’, ‘west and the rest’ and the ‘centre and the periphery’ embed the production of criminological knowledge, marking out the boundaries of ‘respectable’ scholarship and presenting theories and findings produced in Anglo-American jurisdictions as normative (Aas, 2012; Carrington et al. 2016; 2018; 2019).

This Anglo-American dominance does not mean that criminology as a field has not flourished in other latitudes, like Australia, South Africa and Latin America. Indeed, Latin America has a long tradition of embracing criminological concepts and methods both from positivism, particularly between the 1880s and 1940s, and from the critical tradition, since the 1970s onwards. Throughout this history, local intellectuals -not always defining themselves as ‘criminologists’- borrowed from these established narratives of the Global North but also produced adaptations and innovations, generating a diverse metamorphosis of the theoretical vocabularies of the field (Del Olmo, 1981; Sozzo, 2011b; 2017; 2021; Fonseca, 2018a). However, as Melossi and colleagues observed, in general, the direction of ‘travel’ of criminological concepts, ideas and methods has been predominantly southbound (Melossi et al. 2011). As a consequence, the relevance of studies done in sites outside the ‘civilized west’ in broader criminological debates remains limited, as they are confined to the exotic and the particular or used as a confirmation of ‘universal’ truths created in relation to the problems, developments and contexts of the Global North (Carrington et al., 2016; 2019).

In other regions, like South East Asia, the appeal of criminology has been more limited as the study of the criminal question, when pursued, has until recently been taken over by disciplines like anthropology and conducted by researchers from the Global North. Indeed, we might question the division of labour between ‘sociologists’ and ‘criminologists’ on one hand, and ‘anthropologists’ on the other, in relation to the geopolitical distribution of their subject matter, and possibly explain it as yet another legacy of colonialism. While sociology and criminology in Northern countries have been traditionally ascribed to the urban metropole, postcolonial contexts remained for the most part radically separated from ‘home’ and conceived as natural and pure in what Gupta and Ferguson (1992) call ‘anthropological naturalism’. ‘Some places’, they observed, ‘are much more “anthropological” than others... according to the degree of Otherness from an archetypical anthropological “home”’ (13). These spatial politics are thus crucial in understanding how criminological matters have been studied in different disciplinary perspectives. Arguably, such politics has had consequences both for how criminal justice

institutions in particular jurisdictions are represented in scholarship and for how, time and again, our overall knowledge in criminology is crafted without due attention to those ascribed this 'peripheral' geopolitical role.

Linguistic and structural barriers to research access and knowledge production remain a significant obstacle to decolonise criminology and punishment and society scholarship. Often taken for granted, the dominance of English as criminology's 'lingua franca' marginalizes work produced in other languages, and significantly limits their dissemination and relevance for theoretical innovation, while (in the absence of translation) also restricting access to criminological knowledge to non-English speakers (Faraldo Cabana, 2018; Faraldo Cabana and Lamela, 2019). So too -and especially given the expensive and challenging nature of much criminological research (both in its quantitative and qualitative variants)-, limited access to research grants and financial support, as well as significant difficulties in accessing institutional actors and availability of data, militate against the production of research in Southern contexts (Moosavi, 2019; Travers, 2019; Carrington et al, 2019). While we cannot completely remedy these structural aspects, we need to explicitly acknowledge them as a force shaping criminological epistemologies, invisibilities and exclusions, and ought to incorporate them in the very exercise of researching and theorizing the criminal question. We might think of those challenges not just as limitations but also as a driving force for methodological and theoretical innovation to expand criminological imaginations. In this vein, we need to contextualise Northern (and western) theory, and provincialize its findings and conclusions, while also questioning the very premises through which the Northern processes and dynamics have been conceptualized (Chakrabarty, 2000; Carrington et al, 2019, 181-196). As Katja Franko (2012, 16) argued, 'developing more democratic epistemologies is not only a question of epistemological justice, but increasingly also an analytical imperative and an opportunity for theoretical innovation'. It is urgent to address these gaps by exploring the different spaces and geographies of crime control through the colonial and imperial formations which shape and frame them.

A particularly crucial area of research is that of the 'transfer' or 'mobility' of institutions, techniques and practices of crime control (Cohen, 1982; Jones and Newburn, 2019; Melossi et al. 2011; Newburn, Jones and Blaustein, 2018; Jones, Blaustein and Newburn 2019). Through the long history of colonialism -in its various forms and moments, there have been constant importation processes from the metropolises to the colonies and ex-colonies. In some cases, they are simple dynamics of imposition and coercion that are based on the inequality, subordination and dependence that structure colonialism and neocolonialism. In others, they involve more complex dynamics in which actors from peripheral contexts play an active role promoting the adoption of crime control institutions, techniques and practices produced in central contexts as a form of incorporation into 'civilization', 'modernity' or 'development' -but also as a way of obtaining benefits of various kinds. These processes evidence various forms of interventions on the part of actors of the Global South involved in these policy transfers (Newburn & Jones, 2019, 16-20). A fairly well-investigated example is that of the diffusion of the prison as a modern modality of punishment from the North to the South from the 19th century onwards (Salvatore & Aguirre, 1996; Dikotter and Brown 2007; Aguirre, 2009). Another important example, already previously mentioned, is that of convict transportation as a penal technique carried out by European empires (Bullard 2000; Hynd 2015; Anderson 2016; Hogg and Brown 2018; Carrington et al 2019, 99-141). In most cases, these processes try to transplant institutions, techniques and practices that are at least to some extent 'out of place', since they were originally developed in the face of problems and in contexts different from those in relation to which they were subsequently implemented. Such disconnect generated different

degrees of adaptation and modification, resulting in their peculiar forms (Sozzo, 2011a, 186-187; Newburn, Jones and Blaustein, 2018, 574). For instance, in the case of the prison in Latin America, it has been pointed out that, in scenarios marked by a chronic lack of material resources, the creation of some prisons that sought to embody the ideal of correction, from their architectural design to the deployment of a series of practices of work and ‘observation and treatment’, coexisted with a majority of confinement institutions in which overpopulation, violence and abandonment reigned (Caimari, 2004, 109-124; Aguirre, 2009, 216- 220; Carrington et al, 2019, 189).

Now, in the present, this direction of policy transfer from the Global North to the South has intensified, registering a strong process of multiplication of the actors involved, including academics and state authorities and officials -as in the 19th century- but also a vast array of consultants, private companies, non-governmental and supranational organizations (Wacquant, 2009; Sozzo, 2011a; Blaustein, 2016; Blaustein, Pino and Ellison, 2018; Carrington et al, 2019, 190. Newburn and Jones, 2019, 22-23). These contemporary travels are therefore becoming increasingly complex. They reproduce, albeit in a new way, the old problems of inequality, dependence and subordination, that frequently articulate the relations between central and peripheral countries. Some of them have been the object of specific investigation, like the transfers of techniques and practices of ‘crime prevention’, especially ‘situational prevention’ and ‘evidence-led prevention’ (Steinberg, 2011; Sozzo, 2011a; Blaustein, 2016), of the model of ‘community policing’ and other policy imperatives to ‘democratize’ police institutions and practices (Brogden and Nijhar, 2005; Ellison, 2007; Ellison and Pino, 2012; Brogden and Ellison, 2013), of the plea bargaining within criminal justice reforms that seek to adopt an accusatory model (Langer, 2004, 2007; 2021), of practices of migration and penal control (Bosworth, 2017), or of ‘supermax prisons’ (Macaulay, 2013).

Despite all that has already been done, much remains to be researched in this area, which is fundamental within the project to decolonize the criminal question.

The subjective dimension

The identification and construction of dangerous and criminal subjectivities based on notions of otherness has been at the heart of criminological enquiry. Within these processes and discourses, ideas of difference, threat and danger condensed to embody the criminal subject, which in turn traveled and formed the staple to define and deal with colonial subjects – and vice-versa. While much has been written on the extent to which crime and criminalization have historically served as tools for social oppression, less attention has been paid to the racialized nature of the criminal question, a gap that until very recently has remained largely unaddressed (Phillips et al. 2020). Particularly in European criminology, ‘the problem of race’ has been either completely neglected or subsumed into the ‘problem of class’. When tackled, it has often been reduced to statistical variables reinforcing the notion that, as Phillips and colleagues (2020, 432) argued, ‘racism operates only in singular or binary form, marked by an identifiable presence or absence’. Still, few efforts have been devoted to exploring its complex and dynamic cultural scaffolding (Hall et al. 1978).

The neglect of race within (European) criminology is particularly astonishing given the centrality of race and racial taxonomies in (northern and western) European colonial expansion and their reverberations in contemporary systems of crime and migration controls (Bosworth et al. 2018, Phillips and Webster 2013, Feischmidt et al. 2013, Parmar 2011). Historians noted the circular economy of visual representations of ‘otherness’ between the metropolis and its

periphery, which gave shape and meaning to modern discourses of race and racial culture in Europe (Poole 1997, Anderson 2004). Europe's 'internal enemies' were constituted through racial categories produced through imperial conquest whereby '[d]istinctions of color joined those of religion and culture to distinguish the rulers from the ruled' (Stoler 1995, 27). The relationship between crime, race and state authority endures as racial categories and hierarchies stayed fluid, contingent and unstable. In what he calls the 'geopolitical potency of race', Paul Gilroy advocates for a better understanding of the relationship between race, statecraft and empire (Gilroy 2004). The colonies, he argues, were not just sites of extractive commercial exploitation but crucially: 'a location for experimentation and innovation that transformed the exercise of governmental power at home and configured the institutionalization of imperial knowledge to which the idea of "race" was central' (Gilroy 2004, 46). He notes that the 'myth of black criminality' (Gilroy 1982) acquired particular connotations in the British public context: not only as dangerous, but subversive of a 'unified national culture articulated around the theme of legality and constitution' and 'foreign to the English style of crime' (Gilroy 2002, 91). Looking back at the connections between race, crime and empire, Gilroy argued, is critical for understanding racism and nationalism.

While the relationship between criminological knowledge and state power in the nineteenth century has been scrutinized in relation to the European nation-state, through the importance of the positivist school on a range of penal technologies (Garland 1985, Mucchielli 1994, Pifferi 2016), less attention has been paid to assessing its relevance in the context of colonialism and imperial expansion. Criminological knowledge (in the form of genetics, eugenics, anthropology, legal medicine, psychiatry and psychology) crafted in European metropolises informed technologies and tools to make sense of and act upon an unknown social topography in colonial domains, which were in turn refined through their operation (Brown 2001; Cole 2002, Radhakrishna 2008). Race knowledge and categories remain tied to the modern impulse to typify, compare and hierarchize that has been fundamental for the formation of modern statecraft and political domination (Foucault 1990, Stoler 1995, Scott 1998). The material and symbolic effects of racial violence and racism during colonialism are critical for understanding current patterns of social marginalization and criminalization of racialized and marginalized groups around the world. We can see the legacy of slavery in Black subordination and mass incarceration and surveillance in the USA (Alexander 2010; Browne 2015) and Brazil (Harris, 2012), or the cumulative disadvantages among indigenous populations in Australia who make between 30 and 54 percent of those in prison despite representing only 2 percent of the total Australian population (Cuneen and Tauri 2017, Cuneen 2018b).

The contemporary concern about migration controls in Northern states maps onto and contributes to reinforcing those colonial legacies. Passport controls and technologies were significantly boosted by attempts at the turn of the twentieth century to curtail the movement of non-white colonial subjects who started to move North. Contemporary visa regimes have deepened that unequal access to global movement in a process that brings to the fore the intimate connection between global inequalities, race, and criminalization (Mongia 1999). As border criminologists explained, the contemporary regulation of migration in countries around the globe relies upon and reinforces longstanding racial hierarchies, and racialized ideas of national identity and belonging (Aliverti 2016, Parmar 2018, Bowling and Westera 2018; Barker 2018). By exploring migration control regimes, some criminologists have not only demonstrated the endurance of race in penal power but also how it underpins the elasticity of the criminal question (Weber and Bowling 2004, Bosworth et al. 2008).

In sum, attention to the colonial and imperial formations underpinning the social construction of the Other is imperative to understanding the roots, development and effects of technologies and apparatuses of crime control and punishment. Prioritizing questions of ‘who’ in the criminological realm is a political act of recognition towards those most often invisibilized, silenced and side-lined in contemporary criminal justice practices and in knowledge constructions. Thus, questions of agency, and subjectivity ought to be central to any methodological and epistemological efforts geared towards decolonising criminological scholarship.

Another equally important outcome of engaging with the colonial histories of the institutions and social groups we study has to do with the historical knowledge we can derive on resistance in colonial penal spaces. Such engagements can humanise further our research subjects and locate them within the broader context of the nexus between domination, punishment and subjectivity. Histories of political and other resistance, found for instance in historical accounts, diaries, letters and political manifestos of prisoners who resisted not only their imprisonment but also their colonisation (eg see, Anderson 2014; Paisley and Reid 2013, Gopal 2020) are crucial for revisiting the political nature of contemporary punishment and for theorising the operation of activism and resistance in spaces of coercive control.

Decolonising the criminal question: what, why and how?

A much welcome appetite for critically assessing the theoretical and empirical foundations (and assumptions) of the field has already advanced our knowledge of these epistemological and theoretical pitfalls and opened up exciting areas of criminological enquiry. Such work has been galvanized and expanded in recent years by the urge to decolonize our ways of doing criminology today. This short paper sought to chart such movement and to identify areas for further improvement, and avenues which can be taken to strengthen its potential, while expanding its horizons. Indeed, the impetus to decolonize (and democratize) criminology has yet to be comprehensively and more actively theorized and embraced, with the result that we have today is closer to a patchwork of different approaches and often competing claims (Moosavi, 2019; Carrington et al. 2019). While this plurality is inevitable and even desirable to some extent, future pursuits in this direction ought to strive to facilitate a dialogue between different streams of thought within the field (southern, counter-colonial, postcolonial, indigenous, decolonial), and to connect these strands of research to more general insights from debates elsewhere in the humanities and social sciences, in an effort to catalyze its transformative potential.

At the heart of this exercise lies the work of scholars who have questioned dominant criminological epistemologies and sought to rethink them from different perspectives. A crucial next step in the effort to decolonize the criminal question thus involves diversifying the voices, the locales and the methods in its study and investigation. In pursuing this goal, it is imperative that we do not circumscribe future analyses to particular sites and topics. We understand the decolonizing project to encompass not only the shifting of the criminological gaze ‘southwards’ and the expansion of the geopolitical realms of the field, but also the questioning and reassessment of the sites, topics, identities and subjectivities, and methods that pervade the study of the criminal question in the North. This effort involves bringing colonialism to the fore to understand contemporary social inequalities, institutional practices and cultural imageries, but also, crucially, to re-imagine the criminal question through subaltern epistemologies, methods and practices, such as those found within Indigenous Criminology (Cunneen and Tauri 2017; Cunneen, 2018a). Indeed, it is necessary to challenge the very status

of criminology, since it was precisely its institutional authority and epistemological apparatus in some contexts that have enabled it to ignore and repress its colonial and imperial roots, aspects and ramifications. To move beyond a sterile hegemonic conception of the criminal question, we must start by shaking the foundations of the dominant epistemological structures in the field, including the very boundaries and frontiers dividing North and South (Carrington et al, 2016; 2019; Fonseca, 2018a; Moosavi, 2019; Sozzo, 2021).

This piece has suggested that the idea of ‘decolonization’ ought to be understood through a multiplicity of angles and dimensions (temporal, spatial, subjective), and called for an appraisal of the criminal question in ways that avoid the distortions and blind spots noted above. Doing so means, to borrow Gilroy’s (2004: 46) words, to reconsider criminological theories, concepts, shadows and omissions in light of their colonial and imperial provenance. But it also entails paying attention to the endurance of ‘imperial debris’ (Stoler 2016) (in its affective, symbolic and material articulations) in interrogating the boundaries and content of the criminal question in our (post)colonial presents, questioning its matter-of-factness and unveiling their fragile and precarious nature. Ultimately, we have argued it is now time that scholars of crime and punishment take the necessary steps towards lifting the veil and offloading the baggage of colonial common senses in the field to open up intellectual avenues that will enable us to rethink the criminal question, without denying the cultural and structural influences of colonialism inherent both in our knowledge production narratives and in the criminal justice institutions we seek to study and challenge.

Arguably, criminological scholarship offers unique opportunities as a site in which to take up such a decolonizing project. At the same time as it has enjoyed significant prestige and influence, in academia as well as a tool of governance and power more broadly, criminology has also been unable to completely abandon its ‘liminal’ status as a field in-between fields and disciplines. As such, at the same time as the hegemonic apparatus grounding criminological knowledge has deep foundations, intertwined with several institutional and epistemological frameworks in society, these foundations are also fragile, hence why they require constant reinforcement and legitimation in public and academic discourse alike. By the same token, once these foundations start to falter, this process is likely to reverberate well beyond its formal reaches.

This is particularly pertinent to punishment and society scholarship. Given its symbolic influence and the role it plays not only in the legitimation of legal authority but in the grounding and exercise of state power more broadly, punishment operate as a kind of nexus in which diverse structures of domination and exclusion meet and intersect. If, on the one hand, this means that the task of decolonizing punishment necessarily involves a laborious process of uprooting longstanding assumptions at the core of the very idea of social order, on the other hand it also opens up the possibility that, in so doing, we may not only better understand the societies in which we live, but also foster the space for different, non-punitive social imaginations and practices.

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