

FORUM: PUERTO RICO AND THE UNITED STATES AT CRITICAL JUNCTURES

Puerto Rico, Colonialism, and the U.S. Carceral State

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Puerto Ricans are living through a humanitarian crisis created by colonial capitalism. Since 2005, Puerto Rico has been in the midst of an economic recession, which intensified in April 2016 when then governor Alejandro García Padilla declared that the government was insolvent and that Puerto Rico's \$72 billion debt was "unpayable." The federal government responded by implementing an austerity regime that did away with even the veneer of limited sovereignty. In June 2016, President Obama signed into law the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA). PROMESA created a Fiscal Control Board to oversee the archipelago's finances. With virtually no local input, *la junta*, as locals call it, has the power to override the commonwealth government and implement austerity measures in order to service the debt.

One of the measures proposed by the commonwealth government to comply with *la junta's* cost-cutting demands was to move 3,200 incarcerated individuals—nearly one-third of the incarcerated population—to prisons in the continental United States over the course of the next five years.¹ The families of incarcerated people and civil rights groups protested that the plan would cause undue hardship by making contact between incarcerated people and their families nearly impossible, and make reentry difficult by exiling people away from their support networks. "They're separating families completely. They're getting rid of the strongest support and path to rehabilitation that they have," explained Madeline Gotay, a mother of two men currently incarcerated at the Bayamón Correctional Facility in Puerto Rico: "I wouldn't be able in any way to go. We would lose them."²

The callous logic of the Puerto Rican government, which views incarcerated people as disposable and as little more than an economic problem to be solved, is hardly new or original. Indeed, the willingness to fracture communities, families, and individuals through incarceration in order to solve an array of social, economic, and political problems is the very lifeblood of the U.S. carceral state. Over the course of the twentieth century and stretching into the present, the U.S. prison system has metastasized with more than two million people now locked in cages and many millions more under some form of correctional supervision such as parole,

¹Alice Speri, "Puerto Rico Wants to Cut the Cost of Incarcerating People By Shipping Them Off the Island," *The Intercept*, Mar. 23, 2018, <https://theintercept.com/2018/03/23/puerto-rico-prisons-hurricane-maria/>; Nidhi Prakash, "Puerto Rico Wants to Send Thousands of Inmates to Private Prisons in the US," *Buzzfeed News*, Apr. 25, 2018, <https://www.buzzfeednews.com/article/nidhiprakash/puerto-rico-thousands-inmates-private-prisons-united-states> (accessed May 29, 2019); Benjamín Torres Gotay, "El plan de traslado de reo genera debate sobre efecto en rehabilitación," *El Nuevo Día*, Apr. 23, 2018, <https://www.elnuevodia.com/noticias/locales/nota/elplande-trasladoereosgeneradebatesobreefectoenrehabilitacion-2416772/> (accessed May 29, 2019). The Puerto Rican government, as of the time of writing, has temporarily withdrawn its contract with CoreCivic from consideration by the Fiscal Control Board. The contract was withdrawn not due to criticism of the proposed plan but in order to gather more information necessary for the Board to eventually approve the contract. For more on the "paused" plan to transfer incarcerated Puerto Ricans to the continental United States see, Joel Cintrón Arbasetti, "En pausa' el programa de traslado de confinados a cárceles privadas de Estados Unidos," *80grados*, Apr. 19, 2019, <https://www.80grados.net/en-pausa-el-programa-de-traslado-de-confinados-a-carceles-privadas-de-estados-uni-dos/> (accessed May 29, 2019).

²Prakash, "Puerto Rico Wants to Send Thousands of Inmates."

probation, or deportation order; it has also fostered the expansion of a policing apparatus that surveils, stops-and-frisks, asks for “papers, please,” and shoots first. In recent years, historians have explored the origins of our contemporary era of racialized police terror, criminalization, mass incarceration, and deportation.³ Yet Puerto Rico has been strangely absent from historical analysis of the carceral state despite being a key site for U.S. regimes of race making, militarism, capitalist development, and punitive power.

Partly there has been a reluctance to include sites such as Puerto Rico, Hawaii, Guam, and Indian Country in the historiography of the carceral state for fear that this might be a further colonizing move that normalizes the incorporation of these sites into the U.S. nation state. Yet the result has encouraged a refusal to engage with the centrality of colonialism to that history.⁴ Looking at Puerto Rico as a node in the development of the U.S. carceral state complicates the current historiographic approach to the geography, temporality, and scale of the U.S. carceral state in ways that are necessary and productive.

The dominant popular and scholarly historical narrative of the U.S. carceral state goes something like this: during the 1960s and 1970s, the state expanded its carceral capacity in terms of policing, incarceration, and surveillance, in response to proliferating protest movements. Then, as neoliberal globalization took hold, the carceral state evolved to manage not only political dissidents and racialized others, but also “surplus populations” suffering economic dislocation. Next, the War on Drugs and Broken Windows policing during the 1980s and 1990s emerged as key mechanisms for controlling an urban proletariat marked by class, race, and spatial marginality. By the early twenty-first century, the era of mass incarceration had intersected with punitive border enforcement, compounding the racist and classist dimensions of the carceral state and making clear the exclusions that inhere within categories of citizenship.

It is not that such a timeline is inaccurate. There *was* a “frontlash” by political and economic elites as well as an attempt to roll back the gains of progressive social movements.⁵ But accepting this timeline as *the* story of the carceral state’s emergence and consolidation obscures other important historical circumstances that also fed it. As Kelly Lytle Hernández notes in her examination of the settler colonial roots of human caging in Los Angeles, “the extant historiography of incarceration in the United States, which largely focuses on the particularities of race and labor in the U.S. South and urban North, did not and could not answer all the questions I had about how a town in the U.S. West grew into the nation’s, if not the world’s, leading site of human caging.”⁶ Race and labor are certainly indispensable analytics for understanding

³For example, see the special issue “Historians and the Carceral State,” *Journal of American History* 102, no. 1 (June 2015) and a special section on “Urban America and the Carceral State,” *Journal of Urban History* 41, no. 5 (Sept. 2015).

⁴Indigenous scholars have labored to demonstrate the ways in which our contemporary carceral system is born out of the history of slavery and settler colonialism in the United States. Luana Ross, *Inventing the Savage: The Social Construction of Native American Criminality* (Austin, TX, 1998) remains an invaluable text for understanding this history. See also, Nick Estes’s interview with Rustbelt Radio: “Native Resistance and the Carceral State,” July 11, 2018, <https://rustbeltradio.org/2018/07/11/ep19/> (accessed May 29, 2019). Additionally, scholars such as Jenna Loyd, Naomi Paik, Stuart Schrader, and Micol Seigel detail the transnational nature of the U.S. carceral state and its roots in imperial action and colonization.

⁵For example, see Christian Parenti, *Lockdown America: Police and Prisons in the Age of Crisis* (London, 1999); Michael W. Flamm, *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s* (New York, 2005); Vesla M. Weaver, “Frontlash: Race and the Development of Punitive Crime Policy,” *Studies in American Political Development* 21, no. 2 (Fall 2007): 230–65; Heather Ann Thompson, “Why Mass Incarceration Matters: Rethinking Crisis, Decline, and Transformation in Postwar American History,” *Journal of American History* 97, no. 3 (Dec. 2010): 703–34; Dan Berger, “Social Movements and Mass Incarceration,” *Souls: A Critical Journal of Black Politics, Culture, and Society* 15, no. 1 (2013): 3–18; and Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge, MA, 2016).

⁶Kelly Lytle Hernández, *City of Inmates: Conquest, Rebellion, and the Rise of Human Caging in Los Angeles, 1771–1965* (Chapel Hill, NC, 2017), 2.

the carceral state, but so are colonial encounters and transnational contexts. Failing to grapple with the latter risks inadvertently reproducing a kind of American exceptionalism.

Puerto Rico and other colonized sites highlight the ways in which the carceral state has always been a colonial project. Indeed, the subjugation, captivity, enclosure, and violence associated with (settler) colonialism in tandem with the enslavement of African peoples rest at the foundation of the U.S. carceral state. Policing, incarceration, and martial law formed central components of early U.S. rule in Puerto Rico following the Spanish American War of 1898, and remained so for many decades after. The historical sociologist Kelvin Santiago-Valles has painstakingly shown how the implementation of U.S. rule in Puerto Rico depended on the widespread dispossession of the local population through the expansion of U.S. capital and juridical regimes, which resulted in the criminalization of the Puerto Rican poor and their survival strategies and resistance practices. Santiago-Valles notes that the rates of arrest more than quadrupled between 1899 and 1905 and doubled again in the late 1930s and early 1940s, which coincided with periods of profound economic crisis and political unrest.⁷

In Puerto Rico, carceral logics and practices have long been used to consolidate and expand colonial power, even as the archipelago shifted toward a supposedly decolonial context after 1952, when Puerto Rico's new constitution identified it as an *Estado Libre Asociado* (Associated Free State), or commonwealth of the United States, which granted the United States ultimate authority over the archipelago but gave the local government a greater degree of autonomy in local affairs. This "soft" colonialism of the mid-twentieth century succeeded in no small part through the surveillance, harassment, torture, arrest, and incarceration of members of the Puerto Rican Nationalist Party or individuals suspected of being sympathetic to pro-independence causes. Scholars have noted that the commonwealth's implementation would have encountered much more resistance if surplus laborers had not been encouraged to migrate on the one hand and political dissidents criminalized on the other.⁸

Further, during a resurgence of pro-independence political action during the 1970s, the U.S. carceral apparatus in the form of the FBI trained its sights on Puerto Rican radicals associated with the *Fuerzas Armadas de Liberación Nacional* (FALN), or Armed Forces of National Liberation, and other clandestine armed resistance groups advocating for Puerto Rican independence through direct action. On charges of seditious conspiracy, which essentially criminalized anti-colonial struggle, fifteen FALN members were sentenced to thirty-five to ninety years in maximum security federal penitentiaries. The liberation of the Puerto Rican political prisoners became a key component of leftist and pro-independence organizing throughout the 1980s and 1990s both in Puerto Rico and its stateside diaspora. While most of the Puerto Rican political prisoners received presidential pardons in 1999, the last of them, Oscar López Rivera, served thirty-six years before finally being pardoned in 2017. Linking this history of the repression of anticolonial activists in the archipelago to the contemporaneous history of attacks on U.S. radical left organizers and Black freedom movements would deepen our understanding of the function and reach of the carceral state.⁹ Other possible connections abound. For instance, what happens if we look at the National Guard's bombing of the Puerto Rican interior

⁷Kelvin A. Santiago-Valles, *Subject People" and Colonial Discourses: Economic Transformation and Social Disorder in Puerto Rico, 1898–1947* (Albany, NY, 1994), 71–3.

⁸For information on the exile of surplus labor see, for instance, James Dietz, *Economic History of Puerto Rico: Institutional Change and Capitalist Development* (Princeton, NJ, 1986), 227–8. For information on the criminalization of pro-independence dissidents, see Ramón Bosque-Pérez and José Javier Colón Morera, eds., *Puerto Rico under Colonial Rule: Political Persecution and the Quest for Human Rights* (Albany, NY, 2006); and Ivonne Acosta-Lespier, "The Smith Act Goes to San Juan: *La Mordaza, 1948–1957*," in *Puerto Rico under Colonial Rule*, ed. Bosque-Pérez and Morera, 62.

⁹See, for example, Dan Berger, *The Struggle Within: Prisons, Political Prisoners, and Mass Movements in the United States* (Oakland, CA, 2014).

communities of Jayuya and Utuado during the Nationalist Uprising of 1950 as an ideological blueprint for the MOVE bombing in 1985? Although Philadelphia police may not have had this in mind when they decided to incinerate members of a radical Black community, the decision to bomb U.S. citizens identified as rebellious or threats to national security had already become justified and normalized in the colony before “returning home.”

As a colonial site, Puerto Rico also brings into sharp relief the ways in which the various scales of the carceral state from the top down to the bottom up collaborate or clash as actors at each scale attempt to consolidate unequal power relations. As both Dan Berger and Simon Balto note, scholars tend to give disproportionate attention to federal officials, agencies, and policies at the expense of a more nuanced analysis of the various scales at which carceral power operates.¹⁰ Thus, while federal officials may have greased the wheels, so to speak, by providing resources, funding, and legal infrastructure, local actors had to “play along,” often using federal policies and resources to advance their own goals or facilitating repressive local regimes that were already at work. The local Puerto Rican state, for example, not only supported federal “tough on crime” policies during the 1980s and 1990s, but also sought to become a vanguard for the punitive policing and privatization of public housing, not because it was foisted on them by the colonial government, but because it became an avenue for Puerto Rican political elites to demonstrate their significance in a moment when Puerto Rico’s strategic value to the United States was perceived as in decline.¹¹

Thus this history requires tracing not only the imposition of U.S. approaches to crime in colonial contexts, but also the roles played by local elites in the immiseration of populations living under colonial conditions. Ignoring the latter can lead to the reproduction of paternalistic ideas about the subjects of U.S. colonialism as docile, ignorant, and lacking agency. Historically, Puerto Ricans who experienced the violence of the carceral state and its exclusions saw the complicity of local elites clearly, and described U.S. and Puerto Rican law enforcement agencies as “*la misma porquería*” (the same crap). In turn they organized against both Puerto Rican and U.S. political elites, and protested against both local and federal law enforcement agencies for their roles in creating and maintaining oppressive conditions.

Puerto Rico is like a “boomerang” that slices through the neat and linear narrative of carceral expansion in the United States.¹² Studying the archipelago challenges a top-down narrative of the carceral state. It foregrounds how perceived “Made in the USA” punitive measures are shaped through imperial and colonial power relations. And, as numerous colonial historians and postcolonial studies scholars have shown, it highlights how the core and the periphery are mutually constitutive and greatly shape each other’s development, albeit asymmetrically. By elucidating the unequal power relations that undergird the carceral state—capitalism, colonialism, anti-Black racism, xenophobia—we also catch glimpses of the solidarities that must be forged in order to build a more just future.

¹⁰Dan Berger, “Scales of Struggle and the Carceral State,” *Black Perspectives*, Oct. 29, 2018, <https://www.aaihs.org/scales-of-struggle-and-the-carceral-state/> (accessed May 29, 2019); Simon Balto, “The Carceral State’s Origins, from Above and Below,” *Labor: Studies in Working-Class History of the Americas* 14, no. 4 (Dec. 2017): 69–74, here 72–4.

¹¹Marisol LeBrón, *Policing Life and Death: Race, Violence, and Resistance in Puerto Rico* (Berkeley, CA, 2019). Zaire Dinzey-Flores documents the privatization of public housing and rise of the security industry in her book *Locked In, Locked Out: Gated Communities in a Puerto Rican City* (Philadelphia, 2013).

¹²Michel Foucault, “*Society Must Be Defended*”: *Lectures at the Collège de France 1975–1976* (New York, 2003). See also, Stephen Graham, “Foucault’s Boomerang: The New Military Urbanism,” *Open Democracy*, Feb. 14, 2013, <https://www.opendemocracy.net/opensecurity/stephen-graham/foucault%E2%80%99s-boomerang-new-military-urbanism> (accessed May 29, 2019).

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