

involved in these questions, this book renews the necessary dialogue about criminology's place in public life.

The book is a useful resource for anyone working in social science disciplines dealing with these issues; however it would also be of interest to anyone curious about our international political landscape and questions of justice and injustice caused by global transformations.

## References

- Bauman, Zygmunt (1990) *Thinking Sociologically*. Oxford: Blackwell.
- Nora, Pierre (1989) "Between Memory and History: les lieux de mémoire," 26 (Spring) *Representations* 7–24.
- Vidal, John (2015) *Arnold Schwarzenegger: Climate Change is Not Fiction*. Available at: <http://www.theguardian.com/environment/2015/jul/21/arnold-schwarzenegger-climate-change-is-not-science-fiction?CMP=EMCENVEML1631>

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*Inferno: An Anatomy of American Punishment*. By Robert A. Ferguson. Cambridge, MA: Harvard University Press, 2014. 337 pp. \$29.95 paper.

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In this learned and emotionally charged book, Robert Ferguson, Professor of law, literature and criticism at Columbia University, asks questions usually elided by specialists in criminal law and criminology. Why are Americans so ready to punish fellow citizens with prison sentences, sometimes astoundingly long ones? Why do Americans seem to care so little about what the lives are like of people they actually exile to those prisons? Is the combination of mass incarceration and chronically overcrowded and inhumane prisons for which the United States is now globally infamous a result of good intentions gone awry? Or is this precisely our intention in voting for laws that produce, and approving elected public officials who preside over, prisons that deny human dignity in the words of Justice Kennedy's landmark *Brown v. Plata* (2011) decision capping California's prison population?

The basic figures and facts about mass incarceration in the U.S. today are well-known, but this book moves into topics and sources generally ignored. Ferguson takes far more seriously than most critics of mass incarceration the formal legitimacy of prison as

punishment for crime. To critics the crime explanation for punitive legitimacy is a sham or an ideological effect of a system premised on a racialized system of caste control system. But these accounts, as crucial as they have been to defining the evil of mass incarceration, cannot explain why it retains the enormous legitimacy it has even now in contemporary American society. Ferguson seeks to understand what could be called our “will to punish.”

To do so Ferguson provides an “anatomy” of the logics and institutions that amplify that will into an extraordinary vehicle of coercive power beginning with Friedrich Nietzsche’s observation that all the rational purposes bestowed on punishment by eager reformers could not cover up its essential propensity toward cruelty. The problem Ferguson discovers with punishment is not that it is too hard to rationalize, but that it is too easy to do so. Our reasons can always make punishment seem compelling and no sense of proportionality can survive the stacking of ends that can transform human lives into mere means of penal action. Worst of all perhaps is retribution, which law professors even now believe can somehow save us from over punishment with its implications of proportionality. But it is precisely because retribution can both take on much of the extra punitiveness of consequentialist rationales like incapacitation and yet be wrapped in a smooth surface of moral legitimacy that it supports rather than checks excess punishment.

Throughout the book, Ferguson is driven by the agonizing insight that the very nature of the prison makes its inhumanity invisible and, thus, unremarkable to most of us most of the time. He seeks to fill the gap between the metaphor of time served, and the reality of overcrowded prisons dominated by the norms of prison gangs and hostile prison officers.

Throughout the chapters, he includes individual stories of suffering as well as facts about the qualitative nature of imprisonment, its overcrowding, its physical insecurity, its lack of meaningful pathways of rehabilitation. Yet he seems to recognize that even these facts are fleeting; the isolation of prison and the powerful sense that retributive justice requires severe suffering makes them disappear almost as quickly as we turn the page. Ferguson, a professor of literature, turns to writers—Kafka, Dostoevsky, Zola, Jack Henry Abbott, and Dante (from whose allegorical description of Hell the title comes from) in an attempt to keep the central moral questions in focus.

Seeking the origins of American punitiveness, Ferguson rightly rejects deep historical traits and focuses on a constellation of forces and factors that have helped normalize a uniquely harsh and general degree of punitiveness over the last half century including commonsense beliefs about crime, criminals, and the criminal justice system that emerged beginning in the 1970s and have profoundly shaped our democratic political culture. Our punitiveness is not a function simply of our vices—racism, colonialism, and huge class

disparities—but the peculiar ways those vices have married our cultural virtues in the criminal justice realm—equality, individualism, and mistrust of government.

The book's penultimate chapter is perhaps its most important one for Law & Society readers. Interdisciplinary studies of law are all too often associated with bringing social and psychological realism to the understanding of legal processes and, thus, understanding how the promise of equality and fairness in the law's majestic documents so often fails to be delivered on the street. Yet as much as we need to highlight those multiple sources of bias (implicit and explicit), the great evils of America's criminal justice system are profoundly ones of law itself, intended and carried with deliberation and efficiency by a vast army of state functionaries. Ferguson points to the significance not only of our laws but also of our strong version of legal positivism, that is, our strong cultural investment in the idea of legality as a sufficient basis for legal legitimacy without regard to moral or political dimensions, in enabling the active complicity of so many thousands of professionals in carrying out cruelty on such a massive scale.

Although Ferguson's personal narrator voice and the literary nature of his references make this book quite different from almost anything else published on the problem of contemporary American punishment, his conclusions are highly consistent with the growing view that holds mass incarceration to be a moral catastrophe for American law and society on par with our most disgraced institutions. That recognition is opening the possibility for a new conversation about crime and justice in America. Ferguson's direct and eloquent language and his relentless moral framework will be crucial to advancing that conversation beyond the bromides of criminal justice reform.

## Reference

Brown v. Plata, 563 U.S. 93 (2011).

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*Cheap on Crime: Recession-Era Politics and the Transformation of American Punishment.* By Hadar Aviram. Oakland, CA: University of California Press, 2015. 272 pp. \$29.95 paper.

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