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Introduction:

Democratisation and Punishment

Leonidas K. Cheliotis and Máximo Sozzo

The overwhelming majority of penological scholarship to date has been focused on Western jurisdictions with a long tradition of democratic government (Tonry, 2007; Nelken, 2010). This fact has undoubtedly conditioned the way in which the relationship between democracy and punishment –itself a growing theme in penology over recent years– has been interpreted. At the same time, there has been burgeoning attention paid by penologists to issues of punishment in non-Western societies transitioning to democracy following periods of conflict or authoritarian rule. This latter body of work, however, has not only tended to focus rather narrowly on so-called ‘transitional justice’ – namely, efforts to rectify or otherwise establish accountability for abuses carried out prior to transition–, it has also connected little and infrequently with extant literature on democracy and punishment (see further Cheliotis and Xenakis, this issue).

What has been surprisingly overlooked in these divergent if thematically interconnected fields of penological research has been the evolution of penal policies and practices in those states –a not insubstantial number of which exist internationally– that have both a recent authoritarian past and also considerable experience of democratic government. This special issue of *Punishment & Society* draws attention to the ways in which such societies have grappled with punishment during and after democratic transition. By starting to probe and reflect on the configurations of penal dynamics in post-authoritarian contexts, we may be able to provide a deeper and more reliable understanding of the relationship between democracy and punishment.

The specific analytic aim of this collection is two-pronged: first, to establish the degree to which and how processes of democratisation influence levels and patterns of punishment in disparate jurisdictions; and second, to identify the factors that facilitate or prevent such

influence. In so doing, the collection takes inspiration from so-called ‘Southern theory’ (Connell, 2007), not in the superficial sense of merely focusing on case studies from the global South, but rather in terms of exploring Southern cases by addressing themes, evaluating arguments, employing concepts and performing analytic operations that go beyond those typically found in scholarship on countries of the global North and the Anglo-American world in particular. The South, in other words, is hereby treated as more than just a testing ground for the generalizability of findings reached elsewhere. It is instead mainly approached as a source of primary insights in its own right; indeed, insights that can then be used to revisit and, if necessary, revise heretofore dominant intellectual traditions stemming from the North (see further Cheliotis, 2014; Carrington *et al.*, 2016).

It is by no means our intention to disregard or undermine variation amongst the Southern case studies discussed in this special issue. One should acknowledge, for example, that whereas democracy emerged in the place of military dictatorship both in Greece and Argentina, in South Africa it came after apartheid. And whilst processes of democratisation began in Central European countries such as Hungary, Poland, Slovakia and the Czech Republic immediately after the fall of communism, Serbia’s transition from communism to democracy was intercepted by a ten-year period of nationalist authoritarian rule, much of which also included involvement in war in the Yugoslav region. If anything, part of the contribution of this special issue is that it pays due recognition to the host of local specificities that underpin the relationship between democratisation and punishment, embedded as these are in national histories, political traditions, economic trajectories, institutional arrangements, and social and cultural dynamics in each of the countries at issue. To miss the ‘embeddedness of punishment’ (on which see further Melossi, 2001, Melossi *et al.*, 2011; Karstedt, 2015) would be to reproduce the very kind of reductionism Southern perspectives are meant to highlight and overcome.

The special issue begins with a contribution by Leonidas Cheliotis and Sappho Xenakis on punitive state policies and practices in post-dictatorial Greece. Cheliotis and Xenakis situate their analysis of the Greek case at the intersection of two bodies of scholarship that

have hitherto largely developed independently of one another, although they have both shown little concern with the effect of democratisation on levels and patterns of state punitiveness: the first is criminological work on the relationship between political systems and punishment, and the second is the field of transition studies, whose primary aim is to assess and account for the degree to which states successfully transition from authoritarian to democratic government. Taking a long historical perspective to chart the trajectory of a range of punitive state policies and practices in Greece before, during and after its dictatorship of 1967-74, Cheliotis and Xenakis reveal a striking set of continuities and recurring motifs that have themselves been closely linked to politico-economic pressures. This leads Cheliotis and Xenakis to challenge views that prior experience of authoritarianism is protective against authoritarianism in the future, and that liberalisation in the field of criminal justice follows from the commitment provided to civil liberties after the establishment of democracy. Drawing the implications of these findings for the broader relationship between political systems and punishment, Cheliotis and Xenakis conclude that democratic states are not necessarily less punitive than their non-democratic counterparts, which in its turn suggests that the standard typological division of political systems into democracies and non-democracies is a problematic framework for exploring state punitiveness.

In the next article, Máximo Sozzo traces the evolution of penal policy in Argentina from 1983 onwards, when its democracy was finally restored following repeated and extended periods of dictatorial rule. Sozzo demonstrates that while Argentina has not suffered a relapse into an authoritarian political regime, there are clear indications that state punitiveness has undergone substantial overall growth in the country since the 1990s. Up to that point, Sozzo argues, the use of punishment remained relatively restrained thanks to the elitist, formalist and expert-driven nature of penal policy-making that was privileged in the early years of democratic transition. Thereafter, however, against the background of spreading neoliberalism and a mounting economic crisis, the rise of populist politicians willing to boost their authority by pandering to an increasingly punitive public paved the way to higher levels and harsher patterns of state punishment, especially in the form of long-term imprisonment, although recent years have witnessed a

certain degree of reversal of these trends in the context of further political and economic changes. The complexity of the Argentinian case, Sozzo concludes, underlines the importance of distinguishing between different types of democracy, according to their quality and their stage of democratization, when studying the relationship between democracy and punishment.

Gail Super's article looks at trends in punishment in South Africa since 1994, at which time the country emerged from apartheid rule and held its first democratic elections. Based on in-depth qualitative research in Khayelitsa, a black township on the outskirts of Cape Town, Super demonstrates that democratization has been accompanied by a range of populist punitive developments. It is not only that there has been a dramatic increase in the judicial use of long-term prison sentences as a means of appeasing what are often perceived as punitive public sentiments. In the name of local-level democracy, and drawing on historical residues of violent modes of popular sovereignty, the South African state has been complicit in the transformation of community-based crime prevention initiatives into vehicles of vigilante violence. Super's analysis of the South African case suggests that a fuller assessment of the penal effects of democratization requires addressing hybrid forms of punishment that may be undertaken by non-state actors outside formal legal boundaries, thereby also reminding us that democracy should not be conflated with the rule of law.

The article by Lynne Haney explores penal discourse and policy in Central Europe in the aftermath of communism. Taking Hungary, Poland, Slovakia and the Czech Republic as her case studies, Haney argues that populist politicians and key state actors across Central Europe have used tough, law-and-order rhetoric and have promoted the disproportionate use of custodial punishment as means by which to redraw the lines of social inclusion and exclusion, thereby ultimately seeking to re-establish order and strengthen their authority in a world appearing disorderly amidst conditions of rapid socio-political change. Penal populism in the Central European context, Haney goes on to explain, has been given a strong nationalist spin inasmuch as its latent political function has been to appease concerns generated amongst domestic publics by broader shifts in national citizenship and ongoing processes of Europeanisation, which are commonly perceived to imply

loss of national independence and autonomy. This, Haney points out, means that the penal role an excessively punitive past plays in post-authoritarian societies needs to be understood in terms of facilitating, rather than being a singly sufficient cause of, excesses in the use of punishment.

The last article, by Milena Tripkovic, sets out to assess whether democratic transition in Serbia after Slobodan Milošević's authoritarian regime fell in 2000 has brought about a more democratic governance of crime in the country; that is, a mode of crime governance that adheres to norms and promotes policies and practices that are conducive to balanced, parsimonious and dignified punishment. Tripkovic demonstrates that while penal norms and policies have undergone a significant degree of democratisation insofar as their outlook has tended not to be punitive, the judiciary (and, to some degree, other actors in Serbia's penal field) has been increasingly inclined towards punitive practices. To explain this discrepancy, Tripkovic takes an institutional approach, interrogating the degree to which separation of powers, itself an essential yet often overlooked component of democracy, has been achieved in Serbia since 2000. She argues that pockets of authoritarianism in the executive have survived the transition to democracy and have continued to exert pressure on the judiciary in ways that have influenced judicial decision-making towards greater punitiveness. What has thus emerged is what Tripkovic terms 'authoritarian governance of crime within democracy'.

It is our hope that this special issue will facilitate and encourage future research, whether in the form of single-case studies or international comparisons, on punishment in countries around the globe that have experienced processes of democratization in the recent past (or, indeed, are undergoing such processes in the present), not least in order to further advance the deprovincialisation of ongoing debates amongst penologists about the broader relationship between democracy and punishment.

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