

Moving Beyond Crime and Punishment Narratives and Analyses: Critical Race Theory and Racial Specificity in Youth Justice

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In criminology, a developing reliance on the analytical currency of Critical Race Theory (CRT) has found grounding on the basis of CRT's capacity to expand what is known about the experiences of racialized peoples, beyond the conventional myopia of crime and punishment (Ugwudike, 2015; Glynn, 2013; Phillips and Bowling, 2003; Delgado and Stefancic, 1999; Crenshaw *et al.*, 1995; Bell, 1980). The racially specific logic defining CRT's critical scope illuminates what is known about racialized experiences of crime, punishment and justice as characteristic of both invisibility and distortion (Hills-Collins, 2000; Crenshaw, 1989). What is known about racialized peoples, for instance, is problematically defined without consideration for social histories, despite well established reliance on historically informed analyses to illuminate contemporary experiences of factors such as class and gender (Phillips *et al.*, 2019). CRT, therefore, contributes necessary epistemological equalization by specifying historical frames of reference, in attempting to account for, and to remedy, criminology's neglect of racial specificity.

Scholars of race have redoubled calls for greater racial specificity in British criminology, arguing that more enhanced understandings of the contemporary struggles faced by racialized peoples can only be achieved by expanding the analytical scope to consider the historic role of racialization. Criminologists Phillips and associates (2019: 13), for example, argue that 'Re-historicizing the contemporary contours of race is an urgent intellectual task 'notably to better understand present struggles and to negotiate a more egalitarian future. Such appeals, coterminous with efforts to expand the analytical scope, place crime and punishment narratives within a broader frame, to be interrogated in relation to how racialized peoples have fared in their negotiation of modern institutions, in general. Consider, for instance, that the positive rights obligations inaugurated within modernising institutions to support

wellbeing enhancing opportunities and resources for the modern individual, including civil, political and social rights (Marshall, 1950) did not extend to racialized peoples. According to periodization, the occurrence of (and need for) the Civil Rights Movement makes this exclusion abundantly clear. Indeed, as such rights expanded a parallel, paradoxical process of racial derogation took root and as noted by those like activist Michelle Alexander ([2012] 2020) the penal estate became a primary site of recognition for racialized peoples, within a transformative colonial context. Unlike Marshall's exposition of the progress built into the recognition upon modernity, the racial specificity supported by CRT makes it possible to explore the distinct positioning of racialized peoples within this history. Ultimately, to understand crime and punishment, it is necessary to interrogate how racialized peoples have fared in their negotiation of the modern institutions purportedly inaugurated to support human progress.

Against this backdrop, struggles defining the contemporary experiences of racialized youth remain open to the kind of historically expanded explanatory scope CRT supports. Indeed, youth justice (YJ) itself provides a unique opportunity. For instance, to date, the place race occupies in early twentieth century youth penal reform, in Britain remains largely¹ (Cox, 2018) unexplored, and this is despite the rich knowledge that numerous studies on gender and class contribute to our understanding of those contemporary experiences (Shore, 2011). A CRT approach supports the proposal that racialized youth's contemporary struggles are best understood as continuities of a broader historic exclusion from the privileges associated with the modern expansion of rights, including those established in early twentieth century youth penal reform. For YJ, the possibilities for exploring contemporary crime and punishment narratives as part of a longer trajectory of cross institutional marginalization is particularly unique, since criminal justice interventions occurred through a range of institutions, of which correction remains only one part. Historically, exclusion from these did not simply mean exclusion from carceral control; instead, exclusion signified prohibition from key resources, identified through the institutional advocacy professing the necessity to

¹ Cox, P. (2018) 'Race, Delinquency and Difference in Twentieth Century Britain', in Cox, P. and Shore, H. (eds.) *Becoming Delinquent: British and European Youth, 1650-1950*. London: Routledge, pp.159-178. This work is a social history and not criminology.

support youth's individual and social development. The task for CRT is to interrogate the continued relevance of this history, particularly the role of institutions.

The proposal to look beyond crime and punishment is a call to understand that no single institution matters more than the other so we should look at how youth fare across institutions, in terms of their levels of exclusion—after all, by the time youth encounter criminal justice they are said to have experienced a plethora of deficits (Lammy, 2017), noted here as cross institutional failures to support wellbeing.

Philosopher Denise da Silva's (2007) admonition on the lack of ethical crisis in the continued global impact of anti-Black racial discrimination is also a commentary on the role institutions play. Consistent with the CRT logic, Da Silva (2007: 35) argues that 'For the arsenal of raciality does precisely that when it produces both (a) the affectable (subaltern) subjects that can be excluded from juridical universality without unleashing an ethical crisis. 'Da Silva alludes to the taken-for-granted response to the disproportionate levels of punishment, in general, and its correlate exclusion, in particular, meted out to racialized youth. In England and Wales, for instance, the normalizing of particular practices such as the inclusion of over 22,000 Black Asian and Minority Ethnic individuals (Lammy, 2017) on the Police National Databases, sustains the crime and punishment lens at the expense of considerations for the long term implications for these youth. According to one devastating estimate: 'The result in adulthood is that their names could show up on criminal record checks for careers ranging from accountancy and financial services to plumbing, window cleaning and driving a taxi '(Lammy, 2017: 5). This concerns more than crime and punishment and invites consideration of how indices of crime and punishment suture penalty into youth's existence. My own research bears out the claim that the wider social life of Black youth is rife with deviance amplification and criminalization, as illustrated in the following excerpts taken from my fieldwork:

Stop and searches happen. Police are not fire fighters they can't wait for a crime to happen (Field Interviewee).

When a crime happens what we hear is male, black, baggy blue jeans. This is very general. So, we stop each group of black kids we see and question them

asking about their criminal history. Some people get stopped more than five times per week (Field Interviewee).

Adapting Da Silva's perspective, sociologist Sherene Razack (2014) examines punishment meted out to racialized youth within contemporary YJ systems, such as Canada. For Razack, the YJ system does not exist autonomously, but is an offshoot of the modern system and, like other institutions within this sphere, was built on a narrative excluding racialized youth from the universal category of what it means to be citizen, person, and social partner; this is a context where being among the included denotes being White, European, upper-class and male. Razack (2014: 2-3) argues that 'It bears emphasizing Silva's point that to be excluded from the universal is to be placed at a social and moral distance from the European. Violence can be directed with impunity at those outside the domain of justice. 'In Razack's equation, placement at both social and moral distance from the 'European 'is part of a normalization of exclusion from personhood and citizenship, indicating an outsider status which places one beyond institutional obligations of care, in general. It is within this arrangement where punishment becomes the normalized mode of recognition; moreover, penalty itself is sustained more widely due to the disciplinary outcome wrought by exclusion from opportunities and resources. The logic informing these analyses attest to the need to move beyond the customary crime and punishment lens and to consider racialized youth's situation within a longer trajectory of their universally legitimized exclusion from the features marked out as equality, impartiality and personhood.

The English context is rife with examples of the crime and punishment myopia. Here, I draw on Labour Member of Parliament David Lammy's (2017) account of racial discrimination in England and Wales. Consider clear misnomers in Lammy's characterization of contemporary institutions, for racialized youth: Lammy indicts the criminal justice system (CJS), exploring its role in the racialization of deviance and the subsequent criminalization of disproportionate numbers of Black and other racialized youth. In emphasizing the CJS as a failure, he represents other institutions as more (if only relatively) progressive, hailing the increased numbers of racialized youth 'achieving in school' and being admitted to Higher Education (HE), and arguing that 'Powerful, high-profile institutions, like the House of Commons, are slowly becoming more diverse '(Lammy, 2017: 3). Against the backdrop of advancement for racialized

peoples, 'our justice system bucks the [purportedly progressive] trend (ibid). It is easy to be taken in by the shining prospect of greater acceptance for racialized peoples within institutions which historically excluded them from participation. However, read more closely the misnomers become apparent (reflecting a narrowness of thinking which informs racialized youth's equivocal positioning as the most punished and the most punishable). Indeed, recent scholarship (Philips *et al.*, 2019; Maynard, 2018) has exposed the reality of how racialized peoples fare in their negotiation of the very institutions Lammy highlights as progressive, including high profile roles. For racialized peoples, being admitted does not equate to equal recognition and equitable treatment.

Remarkably, Lammy's is decidedly the most recent of a multitude of reports and investigations into institutional racism, a now standard band-aid response which itself speaks to the distinct and continued lack of progress in race relations (See also Macpherson, 1999; Scarman, 1981). Indeed, that disproportionality—denoting systematized marginalization from resources and opportunities—is the terror gnashing at the heels of Black youth. It can be observed in their deficit positioning across the varied institutions, where modern individuals are otherwise invited to negotiate wellbeing enhancing resources and opportunities. Record numbers of school exclusions, for instance, for racialized youth dispute notions of progress offered in the report's conclusion (Graham, 2016). The same can be said for Black youth's experiences of HE, notable in an ongoing debate, polarized around two narratives: the first narrative, branded an *Attainment Gap*, professes that racialized students struggle to achieve (Peterson and Ramsay, 2020; Runnymede, 2012). This first account has met with admonition from an alternate school looking at the issue as an *Awards Gap*, reorienting debates from the focus on students' efforts, to also consider structural deficits (UCL, 2020). Youth do not fare better outside of education, showing high representation in care and therefore the care-to-prison pipeline (Lammy 2017); they have increasing levels of mental health concerns; and they face overall struggles to secure meaningful employment to support progress towards career, family and citizenship (ibid). It is important, therefore, to examine the extent to which for young people this is especially nefarious; after all, this widespread deficit positioning holds hostage their transformative potential, amid criminal labelling.

In summary, a CRT logic contributes much needed racial specificity to customarily narrow criminological research approaches into the struggles faced by racialized peoples. In taking social histories as a starting point for such queries, the framework enables a more expanded analytical scope, beyond the apparent biases of a limiting crime and punishment lens. Through the CRT frame, when observing YJ in particular it becomes apparent that the quality of individual transformation is bound up with the quality of the recognition received in the negotiation of those institutional tiers purportedly created to enhance individual wellbeing. All these considerations form the expanded scope for thinking about the cross section of deficits disproportionately impacting Black youth, showing these to be beyond the matter of crime and punishment. Indeed, thinking in this more expansive way calls explicitly for contemplation that the penal estate is not the only institution where justice matters. Justice is a cross-institutional concern. And it is the historic exclusion from access to justice that contributes to, and sustains, the intertwining of the lives of racialized youth with crime and punishment.

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