Introduction: African penal histories in global perspective

Erin Braatz
Suffolk University Law School, Boston, Massachusetts, USA

Katherine Bruce-Lockhart
University of Waterloo, Waterloo, Canada

Stacey Hynd
University of Exeter, Exeter, UK

It has been over twenty years since the publication of Florence Bernault’s edited volume *Enfermement, prison et châtiments en Afrique: du 19e siècle à nos jours* (1999), a first of its kind collection that helped establish the field of African penal history. Since then, this field has greatly expanded (see Alexander and Kynoch, 2011; Roberts 2013; Waller, 2017) with innovative research on topics such as capital and corporal punishment (Anderson, 2005; Hynd, 2008; Gendry, 2018; Pierce, 2001; Ocoboock, 2012), colonial and postcolonial prisons (Thioub, 1999; Branch 2005; Diallo 2005; Braatz 2015; Hynd 2015b; Brunet-La Ruche 2016; Konaté 2018; Machava 2019; Bruce-Lockhart 2022), prison protests (Filippi, 2012), forced and penal labour (Sene, 2004; Hynd, 2015a; Tiquet 2018), indigenous forms of punishment (Braatz 2015; Balakrishnan, 2020), political imprisonment (Alexander 2012; Branche 2014; Munochiveyi 2014; Deslaurier 2019), detention without trial (Lobban, 2021), detention, re-education or concentration camps (Elkins, 2005; McCracken, 2011; Cruz and Curto 2017, Machava, 2019), and the relationship between penal reform and prison violence (Sarkin, 2008; Gillespie, 2011). Such studies have highlighted the significant of race and ethnicity to African penal regimes, but also their gendered (Zimudzi, 2004; Bruce-Lockhart, 2014), generational (Fourchard 2011; Hynd 2018) and economic/capitalist dynamics. This scholarship has not only provided a clearer picture of penal ideas and institutions on the African continent but has also offered insights into wider questions on the relationship...
between punishment, colonialism, and decolonization as well as the global circulation of penal techniques and practices.

This special issue speaks to the critical mass of recent scholarship on African penal histories and offers an opportunity to consider how the field has expanded and changed since Bernault’s publication and subsequent writing on colonial punishment (Bernault, 2007). It brings together scholarship that traverses multiple temporal periods (covering the nineteenth to twenty-first centuries), geographical and linguistic regions, imperial histories, disciplinary perspectives (historical, sociological, and comparative literature), methodological approaches, and spaces of punishment (central government and indigenous authority prisons, police detention and so-called vigilante justice all being examined). Our contributors – who include early career and established scholars from the Global South and the Global North – analyze African punitive systems on their own terms and demonstrate the contribution that studies of African penal systems can make to advancing understanding of global trends in punishment. As with every other academic project since 2020, the coronavirus pandemic inevitably impacted our research collaboration, but the shift to a digital writing workshop produced a supportive and engaged environment for developing our ideas and facilitating the emergence of the African Legal and Penal History Network, which we are launching this year. Along with our contributors, we would like to thank David Anderson and Fernanda Thomaz, whose engagement in the workshop and wider insights have had a significant impact on this special issue.

Despite two decades of historical work developing the history of punishment in locations outside of North America and Europe (Pierce and Rao, 2006; Dikötter and Brown, 2007; Gibson, 2011; Brown, 2014; Meranze, 2016; Jean, 2017; Havik et al., 2019; Lobban, 2021) the field of the sociology of punishment continues to be dominated by theories developed with an almost exclusive focus on the United States and Europe, and histories of punishment continue to be written with a limited appreciation of the global interconnections between penal systems (Steinberg, 2016; Fonseca, 2018). This special issue contributes to redressing these asymmetries by bringing forward some of the innovative work that is being done to study systems of punishment in Africa. The work represented in this special issue not only contributes to the expansion of the study of the history of punishment on the African continent, but also highlights sociological theories that can be challenged, expanded, or revised through exposure to more diverse geographical locations and a de-centering of Global North perspectives. Beyond this, it represents an opportunity to examine the globalization of punishment and the extent to which practices, techniques, and ideas have circulated throughout the globe and been implemented in different settings. The articles included herein help advance both comparative studies of punishment and scholarship on the globalization of penal ideas and techniques.

**Rethinking histories of punishment: key themes and interventions**

Scholarship in the field of the sociology of punishment and in African Studies tend to share struggles common to all interdisciplinary fields: while recognizing the value of
an analyzing an object of study from multiple perspectives, the limitations imposed by lan-
guage, institutions, and research material often results in a narrow focus on specific
national contexts, spaces or forms of punishment, temporal periods, and particular discip-
lineary perspectives. While there has been some excellent research on specific case studies
in these fields, there have been fewer attempts to fully understand how wider systems of
colonialism, capitalism, and white supremacy shape penal ideas and practices on the
ground, as well as how different aspects of punishment intersect and influence each other.

Our contributors show how the study of African penal histories can lead us to rethink some
of the key questions, themes, and debates in the study of punishment, which have long been
anchored in research on Britain, the United States, and other parts of the Global North. These
include the “birth” of the prison; the relationship between prisons, slavery, and abolition; the
dynamics of punishment and resistance in colonial contexts; and the persistence of colonial
penal systems in the wake of decolonization. Specifically, this comparative approach leads us
to an expanded conception of what a “carceral state” might entail; a broader understanding
and definition of penal spaces; and finally, a pushing back against narratives of “except-
ionalism” for any particular geographic space (either in the Global South or Global North),
instead emphasizing commonalities across carceral systems.

First, examining punishment in the context of African history allows us to see more
clearly and examine more closely both the role of the state in inflicting punishment
and punishment in defining the state. One of Bernault’s central arguments was that the
prison in Africa was defined by its role in upholding and enforcing the colonial state.
Our contributors push this argument further by pointing to the ways in which the colonial
prison was simultaneously the quintessential colonial institution, used to enact a form of
rule that was centered around ethnic and racial divisions (Konaté) while also arguing that
such enactments were not limited to the colonial state (Balakrishnan, Daly, Super).
Indeed, our contributors force us to question the extent to which punishment can be
deined by its relationship to the state. One aspect of this dynamic is highlighted in
Konaté’s work, which reminds us of the close connection between punishment and citi-
zenship. While she examines the leverage and arguments prisoners were able to draw
upon based on their citizenship status in colonial Senegal, this resonates with recent
work in the United States examining the withdrawal of citizenship rights as an
ongoing aspect of punishment long after individuals have left the con-
fines of the state’s prisons. Similarly, the prisons examined by Balakrishnan were based upon par-
ticular notions of belonging that were the basis of indigenous authority on the Gold
Coast. Both articles connect to the work on the colonial state by Mahmood Mamdani
and are a reminder that how the State is conceived of by both scholars studying it and
State actors enacting it impact how punishment is both interpreted and constituted
(Mamdani, 1996). Conversely, Super’s work looks at the role of non-state actors in
South Africa after apartheid, showing how they engage in punishment in ways that
both reflect and subvert the state, while Lopes’ article on prisons and enslavement in
nineteenth-century Luanda demonstrates how the boundaries between state and private
punishment were often blurred.

Second, this special issue is informed by an increasingly capacious understanding of
and approach to punishment (Beckett and Murakawa, 2012). While Bernault’s penal
history research focused primarily on prisons and other formal sites of confinement, more recent work has increasingly explored the “coercive networks” that existed within and between these sites, not only examining the porousness of prison boundaries but also their relationship to more informal spaces of punishment (Sherman, 2009). This collection includes multiple spaces of punishment – from government prisons to “Black Marias” and garages – and the various state and non-state actors who were involved in it. We therefore not only respond to Hornberger, Le Marcis, and Morelle’s recent call (2021: xiii) to move beyond a “one-dimensional understanding of the African prison,” but also explore how punitive confinement exists beyond formal prison settings. As scholars seek to better understand how punishment is enacted and experienced, we must keep these wider systems and practices in view. As Super argues in this volume, this includes looking beyond the state to the many practices of punishment that are carried out by non-state actors or by state actors in forms that fail to follow the practices of legal punishment, because they do not follow from an official court case. Moreover, our understanding of the practices of punishment can greatly benefit from recognizing where and when they overlap with other state institutions, such as the detention of migrants at and within borders, much as Foucault fruitfully drew parallels between the disciplinary practices that he considered central to modern prisons and disciplinary practices used by the military and in school settings (Foucault, 1975).

Third, this collection also demonstrates the close connections between the penal systems of the Global North and the Global South, pushing back against longstanding tropes of African “exceptionalism” (Hornberger, Le Marcis, Morelle, 2021). Within the Global North, representations of punishment on the African continent have typically emphasized its uniquely horrific nature, with sensational accounts of “dungeons,” extrajudicial killings, and arbitrary detention. Such framings have a long history: Europeans seeking to justify the imposition of prisons and other coercive technologies of colonial rule characterized systems of punishment on the continent as “backwards” and “barbaric,” using such discourses to support their racist claims of European superiority (Braatz, 2015). The persistence of such narratives today, whether through the language used by non-governmental organizations or in sensationalized media representations, speaks to the ongoing ways in which colonial frameworks continue to shape knowledge production about the African continent. We argue that historical perspectives are needed to challenge such framings. As Mester’s article on Equatorial Guinea demonstrates, engaging with the histories of punishment in Africa reveals the colonial origins of contemporary penal practices and policies, the wider structures of power that sustain penal systems, and the extent to which certain phenomena transcend temporal periods or political contexts. This reminds us that inhumane conditions, violence, and other problems within penal systems cannot simply be dismissed as the product of a particular regime, but rather are shaped by longer histories of colonialism and captivity. Such histories are more urgent than ever, as societies on the African continent and elsewhere in the world increasingly reckon with state violence, whether through literary culture as Mester explores, or in large-scale protests like the recent #EndSARS movement in Nigeria, or the global activism in response to the murder of George Floyd in the United States.
Our contributors and workshop participants explored these broader issues through turning to case studies from around the continent. The articles by Tracy Lopes and Sarah Balakrishnan challenge Eurocentric narratives about the dichotomy between “premodern” and “modern” forms of punishment. Lopes’ article, “Slave ‘Corrections’ in Luanda, Angola from 1836 to 1869,” engages with questions about the relationship between slavery, abolition, and incarceration. While much of the scholarship on the history of enslavement and incarceration focuses on the Americas (Paton, 2004), Lopes turns to Luanda, which was both a slaveholding society and the largest slave port in the Trans-Atlantic Slave Trade. She examines how the use of prisons was shaped by the gradual abolition of slavery in Angola during the mid-nineteenth century. Lopes argues that prisons were used as spaces of “correction” for enslaved persons after new limits on private punishment were introduced, transferring violence from the private sphere to the state sphere while also blurring the boundaries between them.

Balakrishnan’s article, “The Jailhouse Divergence: Why Debtors’ Prisons Disappeared in 19th Century Europe and Flourished in West Africa,” looks to prisons run by indigenous authorities on the Gold Coast (now Ghana). She demonstrates that during the exact period that imprisonment for debt was ending in other parts of the world, it was a central feature of indigenous imprisonment on the Gold Coast. Balakrishnan argues that these divergent paths were a result of differing social and cultural factors, which led to hostage taking (in the form of imprisonment for debt) serving a functional purpose in swiftly forcing family and kin networks to pay creditors in the Gold Coast, whereas in Europe and the United States, imprisonment for debt failed to leverage the same networks and so therefore became a dysfunctional approach for creditors to extract payments from debtors.

Like Balakrishnan’s work, which analyzed one particular institution, the indigenous prison, that existed within a larger constellation of institutions (including, e.g., British colonial prisons (Braatz, 2015)), Fernanda Thomaz, one of our workshop participants, similarly recognized the plurality of institutions that could exist within colonial settings. She analyzed the interplay between competing indigenous, Islamic, and Portuguese colonial penal traditions occurring in early twentieth-century Mozambique. Thomaz used criminal trial records from Portuguese courts as dialogic sources to explore both colonial sentencing and the insights into African perspectives on punishment that can be drawn from the recommendations of African assessors and vogais (local legal experts). She thereby demonstrated how, despite Portuguese efforts to hegemonically impose a “colonial” system of sentencing and punishment, African populations continued to contest and debate what constituted appropriate and effective punishment for different categories of offense and offender (Thomaz, 2012a; Thomaz, 2012b).

Several of our contributions recognized a plurality not only in institutions but in types of prisoners within institutions. In our workshop, David Anderson examined the role of political detainees within British detention camps during the Emergency period in Kenya between 1952–1960, showing how their resistance within carceral spaces played a key role in decolonization. Dior Konaté’s article in this collection, “Imprisonment and Citizenship in Senegal, 1917–1946: The Case of the Originaires,” takes a slightly different approach, examining the way racial categories informed and were informed by
penal practices in colonial Senegal. Konaté examines petitions made by *Originaire* prisoners (prisoners who were able to assert citizenship rights based on having been born in one of the four “original” communes of French Senegal). She shows how *Originaire* prisoners argued that their status as French citizens meant that they should receive the same treatment within prison as White French citizens did. Konaté’s article complicates the racial divisions Bernault and others have seen as central to colonial penal practice (Bernault, 1999; Gibson, 2011; Meranze, 2016) by drawing upon the African Studies literature that argues that racial categories are not fixed nor biological but are rather socially constructed and contested.

Anna Mester’s article “The Nexus of History and Carcerality in Contemporary Literature of Equatorial Guinea” uses contemporary novels to explore histories and politico-cultural imaginaries of incarceration in the notorious Black Beach Prison on the island of Bioko, in Equatorial Guinea’s capital Malabo. Black Beach was the site of the Macías’ regime’s most egregious torture, and Mester highlights how Equatorial Guinean fiction has attempted to rescue forgotten histories of incarceration, and to represent the interplay between the structural and individual violence of the carceral state. She argues that a distinctly “Afrofascist” penal system emerged in Equatorial Guinea, one which showed significant continuities between colonial and postcolonial carcerality. Mester demonstrates the methodological utility of literary approaches to penality, particularly in cases like Equatorial Guinea, where postcolonial experiences of authoritarian rule and state violence render empirical, archive-based, and fieldwork-based ethnographic or sociological approaches extremely difficult.

Samuel Fury Childs Daly and Gail Super also turn to the postcolonial period, considering how both state and non-state actors have carried out punishment beyond prison spaces. Daly’s article, “Death in a Black Maria: Transport as Punishment in an African Carceral State” examines the “Black Maria Tragedy” of March 1980, in which fifty men – most of them immigrants from other West African countries – suffocated to death in a police van, or “Black Maria” in Lagos, Nigeria. By focusing on the “Black Maria,” the genealogy of which is tied to wider histories of confinement and punishment in the Atlantic world, Daly draws our attention to the role of transport in penal systems. Vehicles such as Black Marias, he argues, are not simply vessels through which captive individuals can be moved but are also sites of punishment and terror for those held within them and the wider publics who are forced to reckon with their threatening presence.

Gail Super’s article, “Cars, Compounds and Containers: Judicial and Extrajudicial Infrastructures of Punishment in the ‘old’ and ‘new’ South Africa,” also looks at the use of vehicles and other spaces of confinement and punishment. She analyzes how non-state actors used these spaces as part of wider infrastructures of vigilante violence that “mimic, distort, and amplify” the violence of the state (Super, 2022: 1). Super turns to police records and court cases from 2000–2016 to examine the contemporary dynamics of this violence in post-apartheid South Africa, situating this in a longer history of punishment during colonialism and apartheid. Her work challenges punishment and society scholars to rethink the boundaries of the field, expanding conceptions of punishment beyond a “post-conviction event” (Super, 2022: 13).
Future directions

As this special issue attests to, there has been a tremendous increase in research on African penal histories in recent decades. We would like to end by outlining some of the important new agendas and directions in this field. First, the articles by Daly, Mester, and Super reflect the increased attention to postcolonial systems of punishment (Alexander, 2013; Berridge, 2016; Bertlesen, 2011; Machava, 2011, 2019; MacDonald 2012; Bruce-Lockhart, 2018; Mbembe, 2019; Quarshie, 2021; Pfingst and Kimari, 2021) but there is still much work to be done in this area. As Bruce-Lockhart (2022) argues, scholars need to critically analyze why and how prisons and other elements of colonial penal systems persisted after independence. While scholars have shown how European colonial regimes imposed penal systems throughout empires, they have not adequately analyzed why prisons, police, and other aspects of colonial punishment not only endured in postcolonial states, but remained central to governmentality. As Pfingst and Kimari argue in their recent work on Kenya, “The spatiality and materiality of colonial violence remain in the sites of mass graves and executions, detention camps, screening centres, and concentrated villages inscribed throughout the Kenyan landscape, and are also present, in more contemporary iterations and avatars, across the poor urban settlements of Nairobi (Pfingst and Kimari, 2021: 715). Such insights extend beyond Kenya and the African continent, reflecting the ways in which colonialism continues to structure practices and policies of punishment in both the Global South and Global North.

There is also a need for more projects that have a comparative focus and a collaborative ethos. While special issues such as these play an important role in facilitating comparative work, there is a great deal more that can be done moving forward. We applaud the recent major collaborative research projects on punishment and empire, including “The Carceral Archipelago: Transnational Circulations in Global Perspective, 1415 – 1960,” led by Clare Anderson (2018), and “The Digital Panopticon: Tracing London Convicts in Britain and Australia, 1780–1925,” led by Barry Godfrey.² While these projects look at the dynamics within and across empires, there is also a need for projects that work across multiple scales and time frames, including research that looks comparatively at postcolonial states and explores dynamics across the Global North and the Global South. Quantitative methodologies and statistics have also been markedly absent from the study of African penal systems in historical perspective, but we hope that future work in this area, including from Michiel de Haas, will aid analysis of broader trends in punishment across African regions. In these comparative projects, it is important that cases in Africa and the rest of the Global South are not only brought in to complement or serve as a counterpoint to cases in the Global North, but instead are centered and understood on their own terms.

To this end, we think there are numerous points where scholars focusing on trends in the United States and Europe could benefit from more closely engaging with African History. For example, those studying electronic monitoring and the close surveillance that attends either bail reform or parole could greatly benefit from studies examining the attempts at close surveillance practiced by colonial and apartheid states (Dlamini, 2020; Pfingst and Kimari, 2021). Similarly, some scholars in the United States have suggested that the racialization of policing and punishment in the United States demonstrates
a particularly colonial relationship between the White majority and Black minority, a direction of study that could benefit greatly from the nuanced treatment of race and racial governance that can be found in African Studies (Mamdani, 1996). Another area of more recent study in the Global North that could benefit from engagement with scholarship on the Global South is the treatment of migrants at borders and offenders within borders who are “banished” from particular spaces as part of their punishment. The spatialized regulation of populations has been central to colonial rule and studies from Africa can help provide frameworks for and tools for studying these practices (Morgan and Rushton, 2013). Finally, the dynamic relationship between state and non-state actors, pre-conviction and post-conviction techniques of punishment, and formal versus informal systems of punishment that have been an aspect of African penal history could help inform recent practices and studies in the Global North as recent headlines attest cases like those of Ahmaud Arbery, Trayvon Martin and Freddie Gray all bear resemblances to the type of violence seen in settler colonies, e.g. (Wiener, 2008).

Beyond this special issue, we intend the newly launched African Legal and Penal History Network to contribute to facilitating research connections between scholars across Africa as well as between multiple parts of the globe, and across both History and related disciplines, working from pre-colonial to contemporary eras. In particular, this network will support the next generation of Africa-based researchers and foreground their expertise in the shaping of this research agenda. Within African Studies, Criminology, Sociology and other disciplines, there have been growing calls to challenge colonial structures within academia, which continue to foreground and privilege the perspectives of White scholars (Allman, 2019; Pailey, 2016). As Black, Seal, Seemungal, Malkani, and Ball argue, “For scholars of crime and punishment, greater commitment than ever is necessary to engage with perspectives that critique the colonial past and use this awareness to recognise global inequalities in the present” (Black et al., 2022: 610). We recognize the ways in which we, the editors, have benefited from these inequitable power structures as White female scholars based at institutions in the Global North, and we look forward to working alongside colleagues around the world through the African Legal and Penal History Network to generate new opportunities for meaningful collaborations that disrupt longstanding dynamics of colonial knowledge production.

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Notes
1. This was translated into English as *A History of Prison and Confinement in Africa* in 2003. Bernault’s own conception of imprisonment was further developed in Bernault (2003).
2. See https://www2.le.ac.uk/departments/history/research/grants/PreviousProjects/CArchipelago and https://www.digitalpanopticon.org/

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**Erin Braatz** teaches legal history, criminal law and related courses at Suffolk University Law School. Her scholarship examines the history of criminal law and punishment in British West Africa and the United States.

**Katherine Bruce-Lockhart** is an Assistant Professor of History at the University of Waterloo and a faculty member at the Balsillie School of International Affairs. Her research critically examines the histories of prisons and detention camps and she is the author of *Carceral Afterlives: Prisons, Detention, and Punishment in Postcolonial Uganda* (2022).

**Stacey Hynd** is Senior Lecturer in African History at the University of Exeter and Co-Director of the Centre for Imperial and Global History. Her research focuses on capital punishment, state violence and colonial penalty in British colonial Africa.