

Reviews

Travels of the Criminal Question: Cultural Embeddedness and Diffusion, Dario Melossi, Máximo Sozzo and Richard Sparks (eds), Onati International Series in Law and Society, Hart Publishing, Oxford and Portland Oregon, 2011, 234 pages (ISBN 978-1-849-46076-7)

The criminal question is more than the study of crime. By criminal question, one usually refers to a larger framework encompassing crime and criminalisation — crime being considered ‘not independently from the procedures by which it is defined, the instruments deployed in its administration and control and the politics and debates around criminal justice and public order’ (Pitch 1995:52). Conceived in such a way, the ‘criminal question’ seems to be more expansive today than ever before. In a period characterised by globalisation, the development of the internet and the proliferation of ‘expert systems’ (Giddens 1990:22), a new ‘common penal sense’ — that is, a new penal rationality of neo-liberal obedience — seems to diffuse itself from the United States (US) into the Western world (Wacquant 2009). This process is also encouraged by the hegemonic domination of the English language, which contributes to the uniformisation and standardisation of the ways of thinking in the field.

Different contributors in this book (Melossi, Rivera Beiras, De Giorgi, Sozzo), sometimes drawing upon Loic Wacquant’s work, underline this process that contributes to tougher punishment. At the same time, however, many of the contributors denounce a ‘simplistic’ vision of the dissemination process, seen as ‘mere transplants, transpositions, transfers’ or ‘mimetic reproduction’ (Sozzo, p 209). As Nelken points out, penal discourses and institutions are also ‘embedded’ in a cultural context that influences the reception ‘here’ (in the country of reception) of penal policies and practices coming from ‘there’ (the country of origin) (p 77). In other words, such a cultural embeddedness means that institutions of social control and punishment ‘cannot be conceived separately from the historical evolution and development of the larger setting of social action within which they have emerged — a setting constituted also through given cultural traditions’ (Melossi, Sozzo and Sparks, p 4). Far from pure reproduction then, the travel results in policies and practices undergoing a ‘translation’ process, as their reception is shaped by the historical and cultural context into which they are received.

Central to the travelling process studied here is, thus, the idea of ‘cultural embeddedness’. If criminal discourses and practices travel, they are never the same at the beginning and at the end of the travel. As a result of an ‘embedding’, but also ‘disembedding’ process (Nelken, p 77), the ‘criminal question travels’, oscillating *between* hegemony and autonomy, reproduction and alteration, mimetism and innovation. Cast in this light, such travels pose several questions. If the criminal question is also embedded in a country of origin characterised by a specific cultural situation (Melossi, Sozzo and Sparks), how can it be transposed elsewhere, in countries of reception which are culturally (but differently) situated? What are the effects of the cultural importation process in the reception countries? Who plays a role in the transplanting operation? What is the impact of ‘hybrid knowledges’ (*savoirs hybrides*) (Latour 1991), as mix of scientific and secular knowledge, in the translation and implementation processes?

The first part of *Travels of the Criminal Question* is devoted to a theoretical discussion of the process at stake. Discussing the concept of 'culture', Garland reminds us that the concept of 'culture' in the sociology of punishment may be perceived in two senses: 'culture as opposed to *not culture*' and '*this culture* as opposed to *that culture*' (p 20). But the important fact that Garland underlines is that, in both cases, 'culture' is not to be separated from the economic, political, legal or encompassing scientific framework. In other words, the defects of a narrow culturalistic analysis have to be avoided. As Melossi argues, the concept of 'cultural embeddedness' refers to a mix of cultural factors in the broad sense of the term as, for instance, the role of religion, the socio-economical changes or the (neo-liberal) political economy or the international relations (p 45). For Melossi, it is in the conjunction of those different factors that an explanation for the changes in punishment practices is ultimately where the transfer process is found. Such changes can take very different directions, as such a conjunction tends to 'de-emphasize the push of socio-structural forces in the direction of an increasing role of punishment' (for example in Italy) or, on the contrary, contributes to 'amplify the pressures coming from socio-structural forces' towards a hardening of punishment (in the US) (p 60). This concept of 'embeddedness', also used by Melossi in his previous work, is not easy to understand. As Nelken emphasises, it actually builds on a 'spatial metaphor' of the relationship between punishment and the wider socio-structural context in which it takes place (p 69). A metaphor that puts different questions forward when it goes on travels of the criminal question: What is the 'object' of study? Prison rates? Official and unofficial social control policies? Penal law 'in the books' or penal law 'in the facts' (as it is practised in the penal system)? *Where* is punishment embedded? For European countries: is it at a European level; at the level of the Nation State; at an intra-national level (eg, Northern Italy, Cataluña)? If embeddedness is perceived as a *process* — that is, as a 'dynamic relationship between the past and the future' — the 'here' and 'there', what kind of impact does it have on the travel and its results? And what of the *cultural embeddedness of the observer* in its efforts to explain evolutions or to translate them from another context into his own cultural world? Questions of the 'cultural embeddedness' of the observer is here problematised by Nelken, who highlights the problem faced by the theorist while trying to understand another culture (pp 83–4). The problem is likely larger and may also encompass the cultural embeddedness of the scientist in *his own culture* or in its *specific scientific discourse or paradigm*.

The second part of the book is devoted to the 'Diffusion of Post-Fordist Penalty' and illustrates in a certain way some of the problems mentioned above. Starting from the new punitive rationality that emerged in the US in the 1970s, Rivera Beiras questions the 'Welfare Crisis and the export of the penal industry to Europe' (p 102). Performed through the role of British and American think tanks, this exportation process took place with the background of the social state crisis and a culture of 'emergency and penal exceptionality' due to terrorism in Europe. Taking the Spanish penal measures after 11 September 2001 ('9/11') as an example, the author concludes that Spain adopted a clear 'authoritarian drift' bringing the country closer to a new 'Criminal Law of the enemy' (p 109). He also suggests that the evolution in Spain — and in Europe generally — is only partly due to the reception of the US/British punitive direction. The same kind of analytical grid is to be seen in De Giorgi's contribution on 'Post-Fordism and Penal Change'. The 'new penal common sense' that seems to emerge in our Western democracies is here analysed more through its 'structural determinants' than through its peculiar cultural and empirical translations (p 114). The focus rests on the shift from the Fordist paradigm to a post-Fordist productive management, from a knowledge-based control of individuals to a 'non-knowledge' control of artificially constructed categories or from an 'inclusive' disciplinary project to an actuarial and managerial rationality of risk control. Of course, De Giorgi quotes the

persistence in Europe of a 'welfare-model' that prevents the temptation to 'govern through crime' (p 132). But, he nevertheless endorses the idea that the American model of 'penalisation of poverty' (Wacquant 2009) is probably still to come as the diffusion of a 'neo-liberal common sense' already spreads across Europe. In the tension and power relationship between structural and cultural factors, 'disembedding' and 'embedding' processes, both Rivera Beiras and De Giorgi emphasize rather the influence of the hegemonic structural changes that encourage the dissemination of a common set of models and practices.

The contrast with the more empirical contributions (in the third part of the book) is interesting in this regard. Centred on the 'new prevention' policies and their importation in Italy and in Argentina, Selmini and Sozzo both insist on the translation aspect of the travel: in both cases, the analysis focuses on the innovations and alterations of a transcultural model of 'new prevention' due to its importation in a culturally embedded context. While De Giorgi and Rivera Beiras, in their more theoretical constructions, insist mostly on the 'disembedding' aspects of the travel, Selmini and Sozzo concentrate on the 'embeddedness' of the reception process. This brings them also to more nuanced conclusions on the relation between structural and cultural factors, mimetic reproduction and open translation at the core of the travel. Both authors underline the importance of the local context (influence of neighbourhood countries, role of the local actors, tradition of the police culture) in the importation of a new object. As Sozzo proposes, the travel can then be seen as a 'metamorphosis' (p 187), generating a culturally embedded object that is at the same time 'different and the same as those from 'there'¹ and whose form will depend on more or less existent 'electives affinities' (p 210) with the context of origin. Therefore, also of interest is a genealogical approach as promoted by Foucault, an approach that Melossi, quoted by Sozzo, rightly says 'cannot be other than local' (p 211).

In a different way, the contribution of Rafter on 'Lombroso's "La Donna Delinquente"' goes in the same direction. Rafter also emphasises the importance of the cultural circumstances that influence the translation and the reception in the English-speaking world of a book first written in Italian, with all the choices and distortions possibly made by the translators due to their own cultural embeddedness; another object, another kind of travel, but the same kind of questions. If the title of the book insists on 'travel', 'culture' and 'embeddedness', the real key reading of the problematic at stake could be the one here mobilised by Rafter: translation is maybe one of the most promising paradigms to come to the social sciences.²

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¹ We might add 'different and the same as those from before', as the concept of metamorphosis also often refers to a 'rebirth' of a same thing under different terms.

² On the role of translation as new paradigm in human sciences, see Ost (2009).

References

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