

When the call for criminal sentencing reaches a crescendo

14 March 2016

Here in Germany there's been another surge in calls for punishment and jail sentences. Whether directed against migrants involved in criminal proceedings or against violent right-wingers – more and more political and media commentators are measuring the earnestness of society's efforts to address certain issues by whether or not the courts handed down severe punishments or imposed pre-trial detention. You hear all the usual clichés about the general deterrent effect of prison sentences; in some cases there's also mention of a special penalty for non-Germans, for “abusing their rights as guests here.”

Some have even started celebrating unusually long prison sentences given to first-time offenders. See for instance this [court reporter at *Der Spiegel* on a decision from a Cologne court](#) to sentence a 19-year-old Iraqi to six months' imprisonment for stealing a pair of socks: “he has no family ties in Germany, roams around the neighborhood and doesn't pursue any work. What reason do we have to believe that he will obey the law in future?”

A look to the US system over the past decades shows us where a society can end up when the criminal justice system becomes a racist and classist tool directed against underprivileged sections of the population. Anyone interested in a theoretical look at the root causes of this can read Loic Wacquant's articles and books on the prison industry or the classic book *Punishment and Social Structure* by Otto Kirchheimer and Georg Rusche.

Bryan Stevenson's *Just Mercy: A Story of Justice and Redemption*.

Those seeking a more concrete and graphic approach should look to Bryan Stevenson's *Just Mercy: A Story of Justice and Redemption*. Alongside his work as a professor in New York Stevenson, a lawyer, is also involved in a range of projects including the [Equal Justice Initiative](#). He says his new book is “about how easily we condemn people in this country and the injustice we create when we allow fear, anger, and distance to shape the way we treat the most vulnerable among us.”

Problems start at the investigatory stage

But it's not about pointing the finger at the US or at other even more prison-happy countries like Russia, Vietnam or China. Instead we should learn from the US – from the mistakes brought to light by people like Stevenson. The problems start with at the investigatory stage, during which police prejudices and unconscious bias can lead to hasty conclusions, causing great harm to innocent people and making it very difficult to uncover the truth. And then there's the mistake of believing that more and harsher sentences will help to address societal problems.

Stevenson tells stories from his fight against the death penalty, including the case of Walter McMillian from Alabama whom he represented as a young lawyer. In 1988 McMillian was sentenced to death for killing a woman despite the fact that he was attending a church barbeque at the time of the murder. After years of work by his relatives and lawyers he was finally freed in 1993. He died twenty years later, penniless and mentally troubled. But what Stevenson shows through many other examples from his commendable legal work is that McMillian's moving story is by no means an isolated case.

