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Book Review | Living in Infamy: Felony Disfranchisement and the History of American Citizenship

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Pippa Holloway. *Living in Infamy: Felony Disfranchisement and the History of American Citizenship*. Oxford University Press, 2013; 229 pp.; ISBN: 9780199976089.

In a historical account of the origins of felony disfranchisement in America, Pippa Holloway details how race and regional politics formed the basis for the exclusion of African Americans on the right to vote. Holloway's *Living in Infamy* attempts to connect the dots from the past to the present by educating the reader on how America came to utilize felony convictions as a societal class preservation tool to exclude African Americans from voting. Holloway delves deeply into ancient Roman and Greek law and continues through Anglo-European law and ideology to set the stage for how our forefathers in early America inherited these customs and laws. She creates a window for the reader to see how these laws and customs were employed to continually subjugate the African American population in the Deep South, specifically by stripping them of their voting rights. Holloway describes how our founding fathers brought these customs to America and, specifically, how they were impacted the Southern culture.

The vast majority of Holloway's concentration in this book cover pre- and post-Civil War era activities, with her main emphasis focusing on the Deep South states and their legacy of slavery, segregation, Jim Crow Laws, and the South's resistance to reconstruction leading into the early 20th Century. Holloway contends that although felony disfranchisement had flourished in America since its inception, the South's segregated and racist mindset of maintaining the subjugation of the Black race was taken to new heights with the state governments' radicalization and tailoring of voting rights laws to disenfranchise the Black vote. Holloway's research provides dozens of case laws, court decisions, early constitutional state conventions, "minutes of the meetings," legislative rulings, affidavits, and personal testimonies dating back from the 17th through the early 20th century. These personal reflections and observations give a rich description of the political landscape in America, specifically the post-Civil War South. Her ability to research and find minuscule statements from archived records from over 200 years ago pertaining to disfranchisement are exhaustive. This allows the reader to fully grasp the depth and emotion of the time period.

Holloway captures the essence of the Southern White Democratic Party's ideology, which was hell bent on keeping their political and social superiority over African Americans by disfranchising them. She demonstrates this by detailing the decades of time the southern political machine spent on manipulating the voting laws in the former Confederacy, specifically by utilizing past arrest and convictions for the disfranchisement of the African American vote. Crimes that were once considered petty misdemeanor thefts were now elevated to felony disfranchisement in efforts to maintain the legacy of subjugation toward African Americans.

Having the legal authority and power to manipulate the law to one's advantage is exactly what the Southern democrats did to maintain their hierarchical White power structure. The Mississippi Pig Law is one such example of how previous low level crimes were suddenly elevated to felonies, thus resulting in voter disfranchisement and possibly several years in prison for offenders. Sadly, as Holloway points out, livestock thefts were committed disproportionately by African Americans, mainly because of their inability to maintain income and the need for survival, especially after being freed. Therefore, the Southern law makers found it quite convenient to make these offenses punishable by disfranchisement in efforts to quell the Black voting bloc. Indeed, as Clegg (2010) asserts, "no other democratic nation imprisons as many of its people because of the felony conviction. Between 1890 and 1910, five states in the Deep South (Alabama, Louisiana, Mississippi, South Carolina, and Virginia) tailored their criminal disenfranchisement laws to increase their effect on black citizens" (p. 170). Holloway describes how these once petty crimes were now elevated to felonies in Chapter Three, "A Chicken Stealer Shall Lose His Vote." According to Holloway, the Southern legislators during this time period felt that crimes mainly perpetrated by White males such as murder and robbery were crimes of passion; because they only affected individuals, they should therefore not result in disfranchisement. Legislators contended that these were "robust" crimes, whereas the predominant crimes committed by African Americans were "furtive", and thereby damaging to society as a whole. Holloway demonstrates through historical records that thousands of African Americans were disqualified from voting as a result of these bogus and racist laws.

Names such as Canary Curtis, Henry Lucas, and John Sullivan have long been forgotten in regard to the struggle for Black voting rights, but are brought back to life by Holloway as she brings their individual court cases into focus. She uses these three African Americans and their respective stories to detail the early 20th century progressive movements' successes that African Americans would eventually have in the courts. Although many more struggles were ahead for the Blacks, she lays the early foundation of what was occurring both politically and socially during these time periods, especially the visceral relationships that existed between Southern White Democrats and Republicans. This is the greatest strength of the book, and Holloway's ability to capture the essence of what life was like during that perspective time period personifies exactly how felony disfranchisement could flourish.

The author is talented, and her biography along with her numerous books are attributable to her literary success. Unfortunately, some omissions of contradictory evidence erode the academic worth of this text. This problem most notably occurs in Holloway's attempts to link past recriminations of disfranchisement from the post-Civil South to current voter exclusionary rules in today's society, particularly the 2000 presidential election.

She begins and ends this book by criticizing the 2000 presidential election won by George Bush. Holloway contends that the ghost of America's felony disfranchisement laws swarmed the state of

Florida during this election, and this was coupled with voter intimidation and irregularities. All of these actions were condoned by the Republican Party and orchestrated by Florida's Republican Secretary of State, Kathleen Harris. Holloway even mentions that the 1916 election in St. Louis "offered images that foreshadowed recent elections in the United States, most famously the 2000 election in Florida in which African American voters were disproportionately affected by false accusations of prior, disfranchising convictions" (p. 150). Burch (2012), however, contends that Florida's disfranchisement laws *did not* assist in electing President Bush; instead, had the ex-felon population of Florida been allowed to vote, they would have favored Bush during this election. Additionally, Assistant U.S. Attorney General Ralph Boyd (2002) submitted a letter to Congress stating "The Civil Rights Division found no credible evidence in our investigations that Floridians were intentionally denied their right to vote during the November 2000 election." Holloway may have been well-served by addressing contradictory evidence. Without such effort, the piece may be interpreted as unduly political or biased.

The legacy of felony disfranchisement in this nation and subsequent advancements speak volumes about how far this nation has come in regard to civil rights and justice. Holloway captures this by bringing it to life in her book. Holloway thoroughly documents the early history and legacy of disfranchisement in this nation, while glossing over the last 70 years. This time period ushered in the most radical changes for advancement and civil rights to minorities, and her lack of detailing the full progressions of disfranchisement laws is telling. Restrictive and unlawful voting laws were struck down by the Supreme Court and rightfully so; however, many states maintained their right to deny voting rights to felons based on a Supreme Court ruling *Richardson v. Ramirez* (1974). In attempting to connect the dots from America's racist past to the present, Holloway eschews legal interpretation for racist interpretation. Holloway insinuates that current felony drug possession laws are a modern day continuation of the Mississippi Pig Theft Law, as an attempt to stifle the Black vote. These opinions are without legal basis and sour the integrity of the book. While this evidence is not damning for her analysis, failure to consider it within her narrative may weaken the overall analysis.

Concluding, Holloway's attempts to resurrect the origins of felony disfranchisement into modern day society lack factual and legal standing. Her opening and closing salvos against the Republican Party give the reader the impression that the culture and laws of yesteryear are still in effect today. This ultimately denigrates the civil and voting rights accomplishments this nation has achieved, thus undermining the integrity of this book.

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