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"Freedom Dreams" Symposium

Title: Implementation Has Failed, Implementation Studies Have Failed Even More: Racism and the Future of Systemic Change

Abstract: Past police reforms have tended to be small fixes to big systemic problems. As opposed to the changes advocated for in the wake of the killing of Michael Brown, Eric Garner, and others just five years ago—which included mandatory body-worn cameras and officer bias training—protesters in 2020 push for systemic change, not just policy change. We argue that a starting point to evaluate the potential outcomes of calls for systemic change is to better situate racism in the study of policy implementation. This is important for understanding why past incremental changes to policing—many well-resourced and nominally supported by police leadership—have not ultimately changed police officer behavior. If racism is to be taken seriously by public administration scholars, then a new conceptual understanding is called for along with better efforts to operationalize the crippling impact racism has on public organizations.

Introduction

Police reforms since at least the first Kerner Commission have repeatedly failed to address the brutal treatment of Black Americans in the US.¹ Past reforms have tended to focus on small, incremental fixes to systemic problems; routinely failing to change the profession of policing, specifically the relationship between police and communities of color. Though there is recent evidence of promising policies to reduce fatal encounters, such as strong police oversight agencies (Ali & Nicholson-Crotty, 2020), these policies have not been implemented nationally, only leading to short term reductions, thereby permitting violence to persist. The continuity of police violence against Black bodies motivates the growth and radicalization of mobilization against this violence and the police force. Since its emergence in 2014, the Black Lives Matter movement has changed its demands and called for more systemic approaches to ending violence against Black people.

Scholars of public policy and the study of implementation— in its simplest definition: the practice of enacting a policy decision— offer several approaches to understanding how and why policies fail or succeed. Policy may fail to meet the intended goals of its authors for many reasons, including poor design, but scholars have identified at least four factors associated with failed policy implementation, our primary focus in this paper. These factors include: overly optimistic expectations; implementation in dispersed governance; inadequate collaborative policymaking; and the vagaries of the political cycle (Hudson et al., 2019). Yet, despite an increase in the number of studies on the failure of policy implementation (Bastien, 2009; Chun &

¹ President Lyndon Johnson convened the National Advisory Commission on Civil Disorders — or the first Kerner Commission — to study policing. The final report was issued in 1968.

Rainey, 2005; Linder & Peters, 1987; Matland, 1998; Pressman & Wildavsky, 1984), implementation research has yet to acknowledge, conceptualize, and operationalize the role of structural racism.

We argue that a starting point to evaluate the potential outcomes of recent protests and calls for systemic change is to better situate racism in the study and practice of policy implementation. This is especially important for understanding why past incremental changes to policing—many well-resourced and often supported by local leaders—have not ultimately changed police officer practices or behavior. If racism is to be taken seriously by social science scholars, then a new conceptual understanding of the racist underpinnings of policing is called for along with increased efforts to operationalize the crippling impact racism has on public organizations (Ray, 2019).

This article is an initial effort to do this by contrasting lessons from failed police reforms of the past with the new calls for system-wide changes to policing.

A critique of the implementation literature

From their influential book on implementation, Jeremy Pressman and Aaron Wildavsky (1984, XXIV) write: “The separation of policy design and implementation is fatal.” They meant this metaphorically, as a way to express the idea that if the government fails to pay attention to implementation, or exactly how a policy will be enacted, then public policy will inevitably fail or die. We concur, but much more literally. The failure to properly implement police reform has resulted in death; too often the death of Black people at the hands of law enforcement officials. We also see the conceptual and practical necessity in distinguishing between the role of structural racism in policy design versus in policy implementation in policy failure.

In the case of feminist policymaking, in a comparative analysis of 27 policy cases, Mazur (2002) observes that legal interpretations of policies contributed to the failure to preserve the feminist intent of policy designs. Mazur (2002) states: “[A] law with clear feminist intent may be interpreted in quite non-feminist ways by judges and lawyers who are not interested in promoting feminist interests.” Similarly, policies adopted with anti-racist aspirations may be subject to seemingly “colorblind” judicial interpretations that run counter to their original intent. Further, policy designs that allows for a high level of discretion in implementation, such as the selective use of body cameras, may provide multiple opportunities for racial biases to influence policy outcomes and contribute to policy implementation failures. These are some of the ways in which structural racism, and what Bonilla-Silva (2010) terms the new racism, may shape the extent to which policy reforms can achieve their desired outcomes.

If we look back at some of the influential studies of implementation outside of police reform, we can observe a pattern of overlooking racism as a factor in failed policy implementation. This neglect of race plagues influential policy implementation books exemplified here by the formative work of Pressman and Wildavsky (1984). Pressman and Wildavsky examined the implementation failure of a job program in the 1960s in Oakland, CA, of the Economic Development Administration (EDA), a division of HUD. Despite the EDA job’s program creation as a direct response to Black organizing in Oakland, the authors underestimate how structural racism undergirded local economic and housing policies when assessing the myriad of reasons why this failure occurred. Instead, the authors argue that, though ample funding and well-meaning government officials backed the program, the “technical details” of implementation proved difficult to overcome. The program was deemed a failure and provided few of the jobs promised

at the onset. This is a small point about a major book with many contributions.² Yet, by contextualizing implementation on this micro-level, emphasizing a vast array of small decisions made across government, the authors minimize macro-level factors and system-wide features. Racism operates across and within various scales of governance in ways that are self-reinforcing, including in the “technical details” and “clearance points” that Pressman and Wildavsky (1984) emphasize. Additionally, by linking design and implementation too closely, the authors miss out on the chance to demonstrate the distinct ways that race and racism features in the design of policy versus the implementation of public policy, and how each may contribute to policy failure.

Other foundational studies contribute to this tendency to omit the mention and analysis of structural racism. Martha Derthick’s study of the federal “new towns” program explained away the failure of the program to build adequate low-income housing as a flaw of federalism and hierarchies. Derthick argues that Federal officials were “too remote from the urban scene” to realize that local rules prevented this approach: “it was learned that there were laws on the books prohibiting disposal of land at less than fair market value” (142). This oversight neglects that local zoning and housing regulations—like apparently color blind, fair market value rules—have been perpetuated to protect white property from the threat of Black neighbors. Outside of these two agencies, both systemic and institutional racism appears within local policing infrastructure as well. It is evident in the systematic targeting of people of color within vehicles (Wright, Gaozhao & Snow, 2020), the disproportionate use of force against

² Pressman and Wildavsky suggest that there were 70 “clearance points” that had to be overcome for successful implementation. At each point there was a chance that the policy would fail, meaning the odds of clearing all 70 is slim, in the case they studied but also in a more generalizable way to other policies and programs.

Black Americans (Johnson and Kuhns, 2009) as well as excess traffic fines levied against the Black community (Blessett and Box, 2016). As a result of these institutions being flawed and fundamentally racist, Black lives across the country are grappling with policy implementation that is biased and predatory. Further, Derthick does not consider how an "unawareness of arcane local rules" could stem from racism given the prevalence policymakers exercising power over communities in which they do not live, engage with, or listen to. We propose that racism may, in fact, be the root cause of failed implementation, and a contributor to the unawareness of arcane local rules among federal officials.

This point becomes clear when we look to the way other scholars have conceptualized implementation failure. Sabatier and Mazmanian (1980) summarize a host of similar factors related to clear statutes and sufficient resources. They write: "Any new program requires implementors who are not merely neutral but sufficiently persistent to develop new regulations and standard operating procedures, and to enforce them in the face of resistance from target groups and from public officials reluctant to make the mandated changes" (547). If persistent implementors are a necessary condition for successful implementation, it might appear that policymakers simply should seek out the right part of government or create new institutions. However, if structural racism pervades a sector, determining not just the outcome of any given decision point, but the foundational attitudes of officials up and down the hierarchy, a different perspective may be needed to understand systemic policy failure for Black communities. In short, the practice of public administration and policy institutions can be designed in ways that do not need the conscious discriminatory

practices against people of color to produce racist outcomes (Bonilla-Silva 2010; Stivers 2007).

Within the study of implementation, Michael Lipsky's work, exemplified by *Street-level Bureaucracy: Dilemmas of the Individual in Public Services* (first published in 1980 and updated in 2010), stands out for its attention to the pernicious role of racism and bias in implementation failure. He famously conceived of the street-level bureaucrat as an important, and often overlooked, actor in implementing public policy. From the teacher to the social welfare official to the police officer, these public servants take the broad mandates from above and act on them.

The discretion granted to street-level bureaucrats and difficulty of the work, leads to coping techniques, cognitive short-cuts, and differentiation of those clients they serve into simple categories of good and bad, all contributing to held and developing biases. For Lipsky (2010), the street-level bureaucrats are predisposed to bias and prejudice, nearly as a feature of the work. Lipsky concludes that this magnifies other social conditions, especially when those correspond with the population served. He writes: "unsanctioned, persistent differentiation is supported by the racism and prejudices that permeate society and are grounded in the structure of inequality" (115). Lipsky's approach, along with others in the later generations of implementation studies, is important and a contrast from much of the other scholarship in implementation which tends to discount racism or conceptualize implementation failure in abstract or micro-level ways that demote racism to an unmeasured factor. Despite Lipsky's acknowledgement that bias may be persistent with street level bureaucrat's decision making, he does not acknowledge that racism helps create these conditions. In this view,

racism is reduced to an individual level phenomenon, all the while omitting the structural edifice of systemic racism.

More recent research on the implementation of various social policies has gone much further to integrate issues of race and racism (See: Fording et al 2011; Keiser et al 2004; Kim and Fording 2010; and Michener 2016), yet we respectfully contend that more work is needed to interrogate structural racism itself as a barrier to effective implementation of public policy. In the electoral policy arena, Jamila Michener (2016) places race into the center of implementation failure of national efforts to broaden voter registration, but it is the failure *to* implement key elements of the federal law often by unsupportive elected officials, not the failure *of* implementation, that frustrates the aims of the policy. This is more than a semantic difference, each suggesting structural racism as a common cause, yet prone to different dynamics, the former principally political and the other bureaucratic.

Moreover, Fording et al (2011) investigate the racial disparities in local implementation of TANF, especially in the biased implementation of sanctions. Their findings, based on methodologically sophisticated data analysis, point to the problem of policies that grant implementation discretion to officials who believe in racial stereotypes, and the authors suggestion potential solutions for policy makers to design sanctions that limit the risk of arbitrary and racism implementation. Nevertheless, they stop short of concluding that it is structural racism that drives their theoretical model, potentially underestimating the systemic problem that consistently leads policies, not just limited to the social policy realm, to embed racist outcomes in implementation.

Our call for the adoption of a systemic understanding of racism entails recognizing that, in the absence of street-level bureaucrat biased decision-making and

hostile partisans, racism persists. This is because racism is a structural phenomenon (Bonilla-Silva 2010). Structural racism refers to “a network of social relations at social, political, economic, and ideological levels that shapes the life chances of the various races” (Bonilla-Silva 2010). These networks of social relations enable oppression and racial domination. Oppression includes domination, which refers to the institutional conditions that prevent people from participating in determining their actions or the conditions of their actions (Young 1990). Institutions are rules (both formal and informal) embedded in social structures that shape behavior (Montoya 2016). There is a dialectic relationship between institutions and structures insofar as structures underlie and inform the creation and operation of new institutions while also stemming from existing institutions (Montoya 2016). Even after racist rules are no longer codified in law, they have lasting legacies and the practices that they sanctioned may persist, as Bonilla-Silva (2010) has argued in relation to Jim Crow and Angela Davis (2005) in relation to punishment and voter disenfranchisement.

Thus, racism is a social structure that pervades across institutions in which decision-making takes place, the formal and informal norms that govern those decision-making processes, policy implementation, and enforcement. Further, social structures consist of practices that have been institutionalized over time (Connell 1987; Montoya 2016). Collectively, formal and informal rules and institutions make up the social structures that immobilize social groups.

Institutions like policing are part of racist social structures and organizations inasmuch as they structure behavior and differentially enable the mobility of racially dominant classes while constraining that of ethnoracially marginalized groups. Marable (1981) traces the increasing reliance on the state apparatus, and the criminal justice

system specifically, as a mechanism for racial control beginning with the Great Depression, and particularly after 1945. The institutionalization of violence against Black people in the US as extra-legal lynchings were replaced by “legal lynchings” and capital punishment (Bonilla-Silva 2010). Thus, the criminal justice system has become an instrument to perpetuate white hegemony and racial dominance (Bonilla-Silva 2010).

As institutionalized practices over time, social structures are persistent and operate across and within multiple scales of governance in ways that are self-reinforcing. It is challenging, but not impossible, to subvert and transform the social structures that produce oppression and domination (Montoya 2016). It is challenging to transform social structures because they are produced and reproduced through norms, habits, symbols, practices and assumptions underlying institutional rules that often go unquestioned (Young 1990). These norms, assumptions, and their consequences are also often concealed, denied, and the evidence of their existence rejected—a phenomenon that Bonilla-Silva (2010) termed colorblind racism. Collectively, these norms enable racial domination, which produces material and non-material benefits for the dominant race, whose members can actively or passively struggle to maintain their privilege (Bonilla-Silva 2010). The exercise of power is not only the result of the relation between rulers and subjects, but also the effect of “liberal and ‘humane’ practices of education, bureaucratic administration, production and distribution of consumer goods, medicine, and so on” (Foucault 1997; Young 1990). Colorblind racism pervades the institution of policing and criminal justice more generally. The absence of descriptive and substantive representation in instances of government involved in policy implementation, particularly in areas that grant significant discretion to officials

involved in implementation, or that render large portions of policies subject to broad interpretation, enables the continuity of colorblind racism in policy implementation.³

Yet, despite their persistence, social structures change over time, they are fluid, and they can exhibit aspects of the past or the future and coexist with existing ways of conducting business (Bonilla-Silva 2010). Angela Davis (2005), for instance, links the institution of policing to the history of slavery and the maintenance of racism. Social structures change because they are discursively produced by socially situated subjects whose position and discourses change over time and across place (Fraser 2013).⁴ Thus, the pervasive reach of social structures and their reproduction across cultural, economic, social, and political norms and institutions obstructs their elimination simply through the enactment of new laws, the elimination of existing legislation, or the emergence of new rulers (Young 1990).

Insofar as the institutions of policing are a reflection of broader and interlocked social structures, reforming or even abolishing the institution of policing can contribute but not fully subvert racial domination. Thus, reforming and even abolishing police is an important but not sufficient step to subvert structural racism. Accordingly, addressing biased decision-making is a necessary but not sufficient condition for dismantling racism in policing, and racism more generally. Collectively, the implementation literature has shown the failures of policy implementation, yet lacked any substantive discussion around the role of race as a social structure and systematic racism leading to these failures. We argue that an account of racism as social structure contributes to an

³ See, for instance, Ba et al's (2021) study on officer identity and police-civilian interactions in Chicago.

⁴ Black feminist policy scholarship has developed insights about the role of discursive practices in policymaking processes and questioned the racial and gendered power dynamics of the theories and methods used to conduct policy analysis (Hankivsky and Jordan-Zachery 2019).

understanding of the complex implementation roots of policy failures. The scholarship on critical institutions and Black feminist policy research provides useful points of departure for structural understandings of the drivers of implementation failures and success through the attention that these fields place on the structures, discourses, and processes that engender oppression and the voices of those who are affected by the problems that policies seek to address (Hankivsky and Jordan-Zachery 2019; Hunting et al. 2015; Hancock 2007; Jordan- Zachery 2017).

Police Reform Failures

Pressman and Wildavsky, Derthick, Lipsky, and others set the framework for studying implementation, but much of the social science literature on police failure and reform derives from the work of James Q. Wilson. Wilson famously provided much of the intellectual foundation for the “broken windows” theory of policing. Importantly, he downplayed racism as an important factor in policing and police reform. He writes “Regardless of whether the victim is black or white, there are no significant differences between victim reports and police arrests. This suggests that, though racism may exist in policing (as in all other aspects of American life), racism cannot explain the overall black arrest rate.” Instead, it was the style of policing that led Black residents to report harassment, misinterpreting the police as racist (Skolnick 2008). Similarly, police reform in the US has fundamentally lacked any apparatus to address racism in the design and implementation stage. Despite having five national police commissions since 1967 (Headley & Wright 2019) to address issues of policing, none have yielded the systemic changes that many scholars, policy makers, and advocates have called for.

Often the indirect result of these task forces has been an increase in racial disparities within the criminal justice system (Ridgeway 2007). Each commission took

on critical issues, such as police corruption, excessive police use of force, crime prevention, recruitment and retention, building police community relations (Cook 2015), but not racism. Without an explicit focus on racism, these commissions have failed in changing police culture in the United States. Two principal examples of this are the National Advisory Commission on Criminal Justice Standards and Goals, 1973 and the President's Task Force on Policing in 2015.

In 1971, the Law Enforcement Assistance Administration appointed a National Advisory Commission on Criminal Justice Standards, also known as the second Kerner Commission. Its goal was to create national criminal justice standards and goals related to crime reduction and prevention that could be administered at the state and local level. The commission sought to explore the criminal justice system holistically to reform and reduce crime. The second Kerner Commission's focus on the reduction of crime failed to place the perspectives of Black communities within this focus. Among the perspectives excluded was the notion that police violence instigated riots. Notably, James Q. Wilson pressured the Commission to delete any reference to these statements, claiming that refuting it could give the idea credence (Schrader 2020).⁵

Most recently, President Barack Obama formed the President's Task Force on 21st Century Policing (2015) after a series of police-civilian interactions resulted in the death of a Black American at the hands of the police in Ferguson, MO. As a consequence of these deaths, a wave of protests began across the US focused on combatting unjust police violence geared at Black Americans. The task force sought to quell these protests by focusing on issues such as the need for trust between the community and the police,

accountability, transparency, and better training standards. While it went a step further in acknowledging that implicit and explicit racial bias may exist, the task force did not adopt an understanding of racism as a structural phenomenon nor solutions to combat systemic racism.

As a consequence, the progress the task force petitioned for in changing police practices has led to no results except for increased diversity in hiring practices (Silvestri 2019). Furthermore, one of the main drivers of the task force was to reduce negative confrontations between police and civilians of color that results in deadly violence (Malm 2019), however, since 2016, incidents of deadly force between officers and civilians of color has remained the same (Schwartz & Jahn 2020). As recently as 2020, policing policy failures persist in spite of the activist and scholarly calls to address racism as a structural phenomenon (Carruthers 2018; Taylor 2016). In so far as the institution of policing is merely a tentacle of a broader system of racial oppression, efforts to reform it might only produce incremental improvements, if any at all. Policing in the U.S. and the race-based violence that it enables is a manifestation of the institutionalization of violence against Black people. Policing in the U.S., along with other institutionalized practices and norms, is part of the institutional edifice that constitutes structural racism.

Conclusion

We have argued that the tradition in implementation studies is to focus on factors that overlook racism in all its forms. Policy failures have been attributed to dozens of factors, including hierarchies, communication problems, but rarely to racism. We demonstrated this with a scan of the literature and a more in-depth analysis is surely needed in the future. Nevertheless, the literature suggests a blind spot which has led to a

misunderstanding of why many social policies, in general, and policing policies, in particular, have often failed to deliver equitable and just treatment for Black people.

Scholars of implementation are not to be blamed for policy failures, but their role in misinterpreting these reasons for failure has perpetuated several unfounded myths, including the regular claim that racism is not the reason for implementation failure, social movements do not understand what it takes to actual make change, and that movements are too vague about policy goals. Past studies of police reform and major policing commissions demonstrate this problem, and centering racism in the social science study of implementation and policing, a potential solution.

Enacting such solutions for future scholarship, though, is far from obvious. We suggest social scientists follow the words of Bonilla-Silva (2010) who wrote: “the task of analysts interested in studying racial structures is to uncover the particular social, economic, political, social control, and ideological mechanisms responsible for the reproduction of racial privilege in a society.” In the case of the study of implementation, what this might mean is to shift the focus from racially-disparate outcomes of public policy, to the mechanism that embed racism in implementation systems. This would include everything from studying the mechanisms that allocate resources to implement public policy, to the mechanisms that give particular people the power to implement public policy, to the ideologies that grant discretion, autonomy, and oversight to the implementers.

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