

The Politics of Race and Crime in the United States

(Text of an open lecture delivered at Southampton Institute)

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Introduction

Last year at this time I was giving lectures in Japan which I regularly opened by thanking my hosts for inviting me and by apologising for having to speak to them in my language rather than theirs. Tonight: I also want to begin by thanking you for this opportunity to share my views on the politics of race and crime in the United States. I am less certain as to whether it would also be appropriate to apologise for speaking in my language rather than yours.

This Lecture in a Nutshell

My point of departure is a story told by Edward Luttwak about a visit to Japan. It seems that as Luttwak drove into a gas station, he was greeted by two unfamiliar sights. The price of gasoline was extraordinarily high, and his car was immediately surrounded by five young men who pumped his gas, cleaned his windows, checked his oil, and inspected his tires. Luttwak understood that the attentive service and high price were linked. Because in Japan, the government prohibits price competition, service has become the way to compete for customers.

Upon returning to America, Luttwak immediately noted the contrast. “[G]as is much cheaper. Nobody washes the tires, nobody does anything for me, but here, too, there are five young men.” These young Americans are, however, unemployed. Although Luttwak is not contributing directly to their livelihood as he did in Japan, he believes that he pays indirectly through more expensive car insurance, higher taxes to support the criminal justice and welfare systems, and perhaps even with his physical well-being if he is

mugged or burglarized.¹

Clearly, Luttwak's message is that crime is to a significant extent about jobs and thus the appropriate policy response should be to provide more jobs with a living wage. These jobs could be financed by drawing upon the funds now being used for incarceration and various kinds of personal security measures. Of course, the current arrangements have social and emotional, as well as monetary, costs.

As I see things, however, and as I shall argue tonight, Luttwak's message would fall largely on deaf ears in the United States, because these days Americans are less interested in preventing crime than in punishing criminals - especially if those criminals are black. We are locking up ever larger proportions of our population, and African-Americans, in particular, are bearing the brunt of this punitive binge. By way of example, consider the following:

- Between 1971 and 1991, the rate of incarceration has increased from 95 to 310 per 100,000 of population.² This rate is rivalled only by South Africa at the height of its repression.³
- Since that time a number of policies have been introduced to lock-up offenders for longer (“hard time for hard crime”)⁴ or for life (“3 strikes and you’re out” for habitual offenders⁵ and “sex predator legislation” for violent sex offenders⁶).
- Prison conditions are becoming increasingly harsh - including the return of chain gangs.⁷

¹ R Blackwell, A Dunlap, G Gilder, E Luttwak, R Reich, P Tough, “Does America Still Work? On the Turbulent Energies of the New Capitalism”, *Harper's Magazine*, May 1996, p45

² *Sourcebook of Criminal Justice Statistics*, 1992, p 608

³ *Time*, 7 February 1994, p 58

⁴ *Seattle Times*, 28 January 1995, p A-10

⁵ *New York Times*, 23 March 1995, p A-1

⁶ S A Scheingold, T Olson and J Pershing, “Sexual Violence, Victim Advocacy, and Republican Criminology: Washington State's Community Protection Act” *Law and Society Review*, 1994, pp 729-763

⁷ *New York Times*, 21 November 1995, p A-8

- In 1995 for the first time California planned to spend more money on prisons than on higher education.⁸
- Studies indicate that blacks are locked up in much greater proportions than whites and, more specifically, that anywhere from 25 to more than 50 % of black males between ages of 18 and 35 are under control of the criminal justice system - whether as prisoners or on probation or parole.⁹
- Finally the so-called war on drugs is contributing both to racial disproportionality and to the increasing incarceration of non-violent offenders. Note that under federal law the possession of crack-cocaine, the cheap drug of choice among minorities, is punished much more harshly than the expensive powdered cocaine favoured in the upper echelons of the society: “[O]ne gram of crack is treated as equivalent of 100 grams of powder.”¹⁰

To explain why this is happening, I want to redirect attention from the rate of crime and victimisation. If crime were driving punitive policies and inclinations, the Luttwak insight would have a greater chance of breaking through. I will argue instead that at the heart of the matter is a profound social malaise rooted in a sense of loss - loss of the American dream by which we define our individual and collective identities. This loss, I claim, leaves us bereft and adrift, and punishing criminals, in particular black criminals, offers illusory solace.

Social Malaise

According to the social scientist Jennifer L Hochschild, the American dream, is about success and in typical American fashion is primarily (although not exclusively) about material success. The three tenets that she

⁸ *New York Times*, 12 November 1995, p A-11

⁹ M Tonry *Malign Neglect: Race Crime and Punishment in America*, Oxford University Press, New York, 1995, pp 29-30

¹⁰ *Ibid*, p 188

identifies are:

1. Everyone can pursue their dream of success: “In effect, Americans believe that they can create a personal mini-state of nature that will allow them to slough off the past and invent a better future.”¹¹
2. If vigorously and steadfastly pursued it is reasonable to anticipate success. “Reasonable anticipation” is not exactly a guarantee but it does tend to spawn a sense of entitlement for oneself and one’s children - providing diligent pursuit.¹²
3. The pursuit of success is intimately associated with virtue: “virtue leads to success, success makes a person virtuous, success indicates virtue... apparent success is not real success unless one is virtuous.”¹³

From this starting point, one may readily infer the impact of “the end of affluence”¹⁴ that Americans now are experiencing.

1. The sense of loss that comes with a belief that the American dream is no longer within reach is profound, transcends material deprivation and entails a loss of meaning and identity.
2. “As resources become tighter or success is more narrowly defined, Americans are likely to shift their understanding of success from absolute to relative to competitive.”¹⁵ Thus the struggle for success is transformed into a zero-sum game - the success of others is experienced as a failure for oneself.
3. The failure to succeed is of course unbearable in so far as it connotes a loss of personal virtue.

¹¹ *Facing Up to the American Dream: Race, Class and the Soul of the Nation*, Princeton, 1995, p 19

¹² *Ibid*

¹³ *Ibid* p 23

¹⁴ J G Madrick, *The End of Affluence: The Causes and Consequences of America's Economic Dilemma*, Random House, New York, 1995

¹⁵ *Facing Up to the American Dream*, p28

I will argue that this unbearable loss is directly linked to the way in which Americans these days privilege punishment over prevention.

The Lure of Punishment

Just what are the attractions of punishment? Perhaps we can sneak up on the question by reflection on its powerful cultural resonance. In the US (and perhaps in the UK as well) it seems altogether fair to say that culturally speaking the problem is not too much crime but too little. Even though crime exists - and exists in, what the public chooses to think of as, epidemic proportions - we still feel compelled to invent it. That is, we have a seemingly insatiable appetite for crime: witness and coverage of crime by the media - electronic and print, providing news and entertainment. In a telling Doonesbury cartoon, one of the characters looks forward with great anticipation to the conclusion of a crime drama: "Here comes my favourite art, just deserts." He is, however, terribly frustrated when the defendant escapes on a technicality.

In this cartoon, Gary Trudeau takes some permissible liberties with the concept of just deserts. It has less to do in American culture with the balanced sense of justice that just deserts theorists like Andrew von Hirsch have in mind and more to do with cracking down hard on criminals.¹⁶ But how are we to explain the cultural resonance of punishment?

At the heart of the matter, as I see it, is the "myth of crime and punishment" - a simple morality play that dramatises the conflict between good and evil.¹⁷ Because of bad people, this is a dangerous and violent world. The myth helps us make sense of this precarious situation by signalling the dangers of, and revealing the solutions to, the problems posed by street crime. We learn how to identify criminals, who are portrayed as predatory strangers. We are led to think of them as persons fundamentally different in character (and appearance) from law-abiding members of society: street criminals are unknown predators awaiting their opportunity to attack

¹⁶ A von Hirsch *Past or Future Crimes: Deservedness and Dangerousness in the Sentencing of Criminals*, Rutgers University Press, New Brunswick, 1987

¹⁷ S A Scheingold, *The Politics of Law and Order: Street Crime and Public Policy*, Longman, New York, 1984, pp 66-64

persons and property. This frightening image triggers a second and more reassuring feature of the myth of crime and punishment: the idea that the morally justified and practically effective response to street crime is punishment. The moral case can be found among other places, in the Old Testament with its prescription of an eye-for-an-eye. In more practical terms, punishment is defended as a realistic way to deter some criminals and keep others behind prison walls.

But what really matters here is the emotional appeal of all of this. In times of seemingly insoluble problems that appear to multiply endlessly, it is not surprising that childish fantasies of cops and robbers are irresistibly diverting. In short, we take refuge from the complexity and frustration of contemporary life in the simple, liberating truths of crime and punishment.

Politicians understandably capitalize on these elemental emotions in their never ending search for campaign issues. Valence issues, like anti-communism for example, are particularly attractive in that they unite sizable majorities. The only challenge with respect to valence issues is to present them in ways that work for you and against your opponent.

- In national politics, especially presidential politics, street crime has been a valence issue - *and more*. Not only is there overwhelming agreement that street crime should be reduced, street crime has the added attraction of arousing strong emotions and of capturing the public's imagination. Street crime is also an issue that is for the public affectively related to some of the deeper anxieties that afflict Americans. Street criminals are objectionable in their own right, but also serviceable surrogates for displacing other more immediate discontents. Easier, in short, to criminalize the symptoms of poverty, unemployment and homelessness than to struggle against the underlying causes. Finally, street crime is, according to the conventional wisdom, a problem for which there are simple and satisfying remedies. According to deeply ingrained cultural truths, punishment will deter and/or incapacitate criminals. And given the harm that street crime inflicts on others, substantial satisfaction can be derived from the suffering punishment imposes on the perpetrators.
- What this suggests, of course, is that street crime is a valence issue only so long as it is dealt with in punitive ways - only so long as we

continue to believe that there are readily identifiable culprits who will somehow be prevented from committing crimes if we simply crack down hard enough. The call for punishment is so much more satisfying and reassuring than messages which locate the responsibility in the society and suggest we are all in some measure responsible for the problem. To think in these latter terms is to acknowledge that street crime, just like the problems which occasion our flight to street crime, is also intractable. Indeed to conceive of street crime as society's problem leads inevitably to solutions that are likely to be expensive, will take a long time to show results, and may not work. Simply put, the punitive message is something that we want to believe.

The media is also implicated in this process although the causal nature of that linkage has not yet been reliably established.¹⁸ Alderman points out the recent increase in the public's concern about crime paralleled "intense media focus" on the issue.¹⁹ He also calls attention to a January 1994 *Los Angeles Times* poll in which almost two-thirds of the respondents attributed their feeling about crime to what they got from the media. Certainly, both the news and entertainment media focus on the atypically horrific street crimes and on the thoroughly odious individuals, frequently black, who commit them.²⁰ The media also nurtures doubts about the criminal justice system - many of them centring on the ways in which criminals can beat the system. Accordingly, in the media, reform comes to mean making it possible to crack down on criminals. To cap it all off, punitive solutions resonate well with the culture of violence that seems so much a part of the American psyche and

¹⁸ The causal links between media portrayals and public attitudes remain very much in doubt. It does, however, seem reasonable to conclude, as does Surette, that there are indirect if not direct linkages. "The media has been found to be related to particular beliefs about crime but not straightforwardly or universally so. When effects do occur, the most common are increased belief in the prevalence and spread of crime, victimisation, and violence, and cynical distrustful social attitudes... [T]he media's portrayal of crime creates and defines a broad public awareness of crime, but... many other factors, such as social and physical environmental conditions, have more to do with the final shaping of public beliefs" R Surette, *Media, Crime and Criminal Justice*, Brooks Cole, Pacific Grove Calif, 1992, pp 96-97

¹⁹ J D Alderman, Leading the Public: The Media's Focus on Crime Shaped Sentiment, *The Public Perspective* March/April 1994, vol 5, 3, p 26

²⁰ Surette, *Media, Crime and Criminal Justice*, pp 34-37 and 64-65

that is itself constantly reinforced by the media.²¹

The Racially Biased Politics of Crime and Punishment

Lillian Rubin's brilliant book, *Quiet Rage*, provides compelling access to the relationship between race and crime in the United States. She tells the story of New York's so-called subway vigilante, Bernhard Goetz.²² Goetz shot four black youths in a subway after one of them, with his hand in his pocket (a gun?), asked Goetz for \$5. Goetz pulled out his own gun and shot the four and then, before leaving, returned to one of them and shot him again resulting in paralysis - and subsequently in brain damage from the complications of this wound. Goetz fled the scene, shouting that the young men he shot had been trying to rob him. He later turned himself in. In the interim he became a hero to the public for having stood up to four would-be muggers.

After a good deal of waffling, it was finally decided to try him for attempted murder, assault, reckless endangerment of human life, and illegal weapon's possession. He was convicted of illegal weapon's possession - the least serious of all the felonies with which he was charged. The maximum penalty for illegal weapon's possession is seven years' imprisonment; but his sentence was six months in jail, \$5000 fine, five years of probation; 280 hours of community service. He was also ordered to undergo psychiatric treatment.²³

This was the outcome despite the fact that the jury and judge had heard from Goetz's own lips in a taped interview to the police that he "had attempted cold-blooded murder"; that if he'd had more bullets he "would have shot

²¹ G Gerbner and L Gross "Living with Television: The Violence Profile", 26 *Journal of Communications*, 1976 pp173-97. As for the rest of us, we seem to have a penchant to dwell upon, and continually recirculate, much the same atypical images of street crime and street criminals as do the media (W G Skogan and M G Maxfield, *Coping with Crime: Individual and Neighbourhood Reactions*, Sage Publications, Beverly Hills, 1981, p155. And with respect to this "vicarious victimization" the causal linkages appear to be less in dispute, Surette, *Crime and Criminal Justice* pp.102-03

²² L B Rubin, *Quiet Rage: Bernie Goetz in a Time of Madness*, University of California Press, Berkeley, 1986

²³ *Ibid*, pp257 and 262. In a subsequent civil action, Goetz was ordered to pay the paralysed victim \$43 million. *New York Times*, 24 April 1996, pA-1

them all over again”.²⁴ Among other things that emerged in his taped confession were:

- He had entered the car and taken a seat at the end of the car where the four black youths were sitting rather than at the other end of the car with about 20 other passengers.²⁵
- When asked whether the shooting was due to the fact that he felt threatened (the basis for his defence), he said “That was bullshit. I knew that they didn't have a gun there. These guys are stupid; that's just part of the game...”²⁶
- Before he got to his feet he said, “I'd already laid down my pattern of fire”; he then pulled a gun from his fast draw holster; and holding the gun in both hands (in classic firing position) shot them all.²⁷

Rubin asks rhetorically: “If Bernhard Goetz had shot four white youths under identical circumstances, would this jury of reasonable women and men have shared his fear and reached the same verdict?”²⁸ Her answer is predictable but not the reasons she gives for believing that racial role reversal would have led to a dramatically different outcome. Her explanation for Goetz's light sentence are developed on three levels:

In legal terms, the jury had to decide NOT whether the objective circumstances justified his action but whether he was subjectively fearful: “The crucial issue would be whether, in the murderer's own subjective judgment, he honestly believed he was at risk. Whether that belief was right or wrong, whether it stemmed from paranoia or prejudice would be irrelevant.”²⁹ If, however, the jury listened to Goetz's words, they would not have been able to exonerate him. If the jury was not listening to his words,

²⁴ *Ibid*, p 250

²⁵ *Ibid*, p 36

²⁶ *Ibid*

²⁷ *Ibid*

²⁸ *Ibid*, p 261

²⁹ *Ibid*, p 236

what were they up to? To begin to get at this level we must move beyond the legal level to the social context in which the jury made its decision.

First, Rubin points out the extent to which Americans fear crime and the racial inflection of that fear. “We worry about crime in our streets, on our subways and buses, in our homes. And because young black men between the ages of 15 and 24 commit a disproportionate number of those crimes, when we fill in the outlines of the phrase ‘crime in the streets,’ we tend to colour it black.”³⁰ In other words, for jurors and the public more generally it seems reasonable that respectable white citizens would be afraid of young black males. Thus in so far as the jurors put themselves in Goetz's place, they might readily decide that he was fearful. Not only do they identify with Goetz's fear, they also identify with his anger. It is this combination of fear and anger that takes the analysis to a still broader, and again racially tinged, level.

Rubin argues that our society is increasingly “frightened and insecure” and she makes this point in ways that resonate with Hochschild's account of a *receding American Dream*. According to Rubin the only way to explain the “enormous rage this case let loose” is to look beyond victimization to a broader sense of “anxiety about our helplessness” rooted in:

“a set of contradictions that inhere in our society and in our lives - in a society that once seemed so open and that has suddenly inexplicably closed down; in a nation where the median family income for whites is \$21,902, yet where most people are so heavily in debt that even a temporary disruption in their paycheck would be devastating; in the peculiar paradox of an affluent middle class that *feels* poor because it cannot afford decent housing, especially in cities like New York; in a history of racism for which we are being called upon to pay the price.”³¹

Had she written this a little later, she could have added corporate downsizing and stagnant wages to the painful indicators of economic decline. Had she cast her net a little wider, Rubin could have gone beyond economic

³⁰ *Ibid*, p 260

³¹ *Ibid*, p 239-40

matters to the sense of society in turmoil - a society that is turning away from traditional values (God, family, and country) and hierarchies (in particular gender and racial hierarchies).³²

These economic, social and moral fears are then compounded by a racially tinged sense of physical jeopardy - "a fundamentally new sense of vulnerability".³³

"For the first time in our history, it is the white pulse that quickens in fear at the sound of footsteps on a darkened street; it is white feet that hurry across to the other side at the sight of blacks ahead. Suddenly, we have no way to protect ourselves; we are no longer in control."³⁴

Since this loss of control is intolerable, "we defend against it with our rage... A rage that has no easy target, therefore finds expression in a script that pits the dark barbarians against the brave, blond knight."³⁵

The Prohibitive Costs of the Politics of Crime and Punishment

Punitive responses to crime divert attention from the intractable forces that are casting shadows over the American Dream. The myth of crime and

³² J D Hunter, *Culture Wars: The Struggle to Define America*, Basic Books, New York, 1991

³³ *Quiet Rage*, p 240

³⁴ *Ibid*, p 240

³⁵ *Ibid*, p 250. The circumstances in the Goetz trial were strikingly similar to the Rodney King case. In both proceedings, the jurors had conclusive evidence of the defendants' gratuitous violence but nonetheless acquitted them of virtually all charges. The jurors in the Goetz case knew from Goetz's own words that he did not act in self-defence and that his intention was to murder the unarmed black youths. Although Goetz did not testify, the jurors saw his taped confession, and it was just as damaging as was the tape of the police officers' assault on Rodney King. Consider also Kathlyn Gaubatz's study of "crime in the public mind." Her intensive five-hour interviews with a dozen individuals led her in much the same direction. "Many Americans have decided to tolerate behaviour which they nevertheless find bothersome. Thus they go about their lives, still carrying the burden of feeling that their fellow citizens are engaging in activities which are somehow distasteful, unnatural, sinful, dangerous, immoral, or uppity. But they choose not to release that psychological burden into advocacy or prohibitions on these activities... [As a result, they have been] developing a pool of insufficiently actualised negative feelings, and... they [have] needed some place to put them. What better place than in strenuous opposition to the acts of criminal offenders?" *Crime in the Public Mind*, 1994, A Arbor, University of Michigan Press, p 162

punishment offers only scapegoats and illusory solutions to the complex problems of economic decline and racial justice. As a consequence, street crime and street criminals, along with welfare cheaters and drug addicts, become easy targets of our anxieties and code words for our racial antipathies.

Thus a poisonous compound of race and crime has become the drug of choice for Americans and for their political leaders. Serious answers to these problems are not only elusive but also require us to take responsibility for both causes and solutions. Better, then, the comfortable moralising of the myth of crime and punishment. Like all drugs this one represents a flight from reality and a primitive form of escapism. Punishment fails to address the underlying problems and, indeed, intensifies these problems by swallowing up scarce resources and further polarising the society along race and class lines. Among the predictable consequences of growing poverty, inequality and conflict will be increases in the public's paranoia and the politicians' sense of impotence.

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