

Editorial: Race-Class-Gender Articulation and Crime in the US

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‘...we can assume that with lawful work available for young men in the drug trade, crime in many communities would drop; that as a consequence more employers would locate businesses in these neighborhoods and a self-sustaining economy would begin to take root; and that over the course of ten or fifteen years norms would begin to change, young men and women would begin to imagine a future for themselves, marriage rates would rise, and children would have a more stable world in which to grow up....What would that be worth to all of us – an America in which crime has fallen, more children are cared for, cities are reborn, and the biases, fear, and discord that black poverty feeds are slowly drained away? Would it be worth what we’ve spent in the past year in Iraq?...It’s hard to quantify the benefits of such changes-precisely because the benefits would be immeasurable.’ (Barack Obama, 2007: 259)

Introduction

In *Black Marxism*, Cedric Robinson (1983) presented evidence that the concept of race was first developed internally in Europe for the purpose of identifying different groups of Europeans before the concept was extended to Africans as a result of the Trans Atlantic slavery. Similar evidence is found in *Black Women and the Criminal Justice System* (Agozino, 1997) where I argued that the poor were seen to belong to a different race and so transportation of poor people to the colonies from Europe was designed to prevent their ‘inferior races’ from cross-breeding with the ‘master race’. The atavistic stigmata of Cesare Lombroso were racial stereotypes of the ‘dark’ Sicilians who were being conquered by the Italian army at a time that Lombroso was a military surgeon (Melossi, 2000). It was also common back then to refer to national populations as different races such as Germanic races, the Anglo Saxon race, the Irish race, etc. Karl Marx (1868) debunked such foolishness by repeatedly referring to the ‘human race’ in *Das Kapital* as an indication that the struggle against racism is a human problem facing the whole of humanity and not the exclusive responsibility of the so-called minorities.

The introductory background to this editorial will draw heavily from the valuable review of race and crime in the US by Gabbidon and Greene (2005) because the authors took their readers through a history of the term “race” which started as a biological construct from the past and they demonstrated how social scientists have since refined it as a social construction based on arbitrary classification of groups with certain features that are considered important by those doing the

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classifications. The authors refer to recent DNA evidence that human beings are remarkably identical in biological terms, lending support to archeological evidence that all human beings originated from Africa and migrated from there to populate the world at various points in time. They reproduced a *US News and World Report* of June 23 2003 which suggests that DNA can now help police to trace ancestry in criminal investigation, citing an example in Louisiana where a DNA sample from a serial killer investigation did not match any in the FBI's database of known felons. But a private lab in Florida concluded that the suspect was a black male despite the fact that some of the eyewitnesses described the suspect as a white male. The investigators refocused their investigations and then arrested a suspected black man who was later convicted of serial murder. If you were the attorney for the arrested black man, would you pack your bag and go home or would you subject the DNA evidence to reasonable doubt the way Johnny Cochrane did in the OJ Simpson case?

First of all, DNA does not involve the 'idea of measuring race – an effort long associated with bad science and bigotry' as the *US News and World Report* put it. Given the fact that all human DNAs are nearly identical, what the method indicates is the most probable ancestral place of the source of the sample. But given also that all human beings originated from Africa and given that some white Americans could be African Americans passing for white, it is possible that a white American would have West African DNA while the reality of slavery means that many African Americans have European DNA sequences. Besides, if the DNA sample came from the butt of a cigarette that was dropped at the crime scene, it does not necessarily follow that the one who dropped it was the killer. In the case of OJ Simpson, the police officers took his blood sample at the police station but took the sample back to the crime scene and when they returned, the sample was less than what they took from OJ and they claimed that OJ's blood was found at the scene despite the fact that he had no cuts.

The reader should do an internet search on the case of Derrick Todd Lee, the convicted black serial killer from Louisiana, and find out what became of the 'idea of measuring race' in that case. There is information that despite having many sex-related convictions, he was not a suspect in the killings even after one investigator called attention to him; the profile remained that of a white man. Do you agree with the argument of his attorney that DNA evidence should not have been admitted in the first case of which he was convicted because there was no rape and his voluntary provision of DNA samples to the investigators preceded the link with other rape-murder cases. Michael Moore could be proved right in his assertion in chapter four of his book, *Stupid White Men*, that there is no basis for the racist stereotyping of black men as the most dangerous Americans given that most of the violent things are attributable to white people who still predominate in the population at 75.1% in the 2000 census and down to 72.4% in the 2010 Census for all white; 12.3% for Black or African American but up to 12.6 (2000-2010); Hispanic or Latin American ethnicity recorded 12.5% in 2000 and rose to 16.3% in 2010; while American Indian and Native Alaskans have been

reduced to a stagnant 0.9% and Asian Americans rose from 3.6% to 4.8% according to the 2000 and 2010 censuses (Humes, *et al*, 2011).

Historical Background:

After Christopher Columbus lost his way to India and was discovered by hospitable Native Americans, he and his European followers concluded that the Natives were inferior people and embarked on a genocidal criminal endeavor to wipe them out without provocation, just out of greed to steal their land and the precious minerals in them. From a population of 15 million Native Americans that lived in North America when the directionless Columbus was discovered by the Caribs, the European genocidists reduced them to 250,000 people in just 400 years of holocaust as they searched for Mr. Gold, *El Dorado*. That is the genesis of race and crime in America and all criminology students should pause and pay tribute to the spirits of the destroyed millions of Native Americans who could have made the New World more diverse, more beautiful and perhaps more peaceful today had they lived. Beyond the US and Canada and down-under too, natives, Aboriginal Australians and the Maori were also nearly wiped out by Europeans who were described by Sigmund Freud (1918) as 'normal people' who celebrated genocidal victories with medals compared to the 'cannibalistic natives' that he dismissed as 'neurotic' simply because they enforced incest taboos strictly while Europeans did not mind dating within their extended families and the native warriors expressed remorse whenever they killed an enemy in a battle and were required by their culture to go into seclusion for a cleansing ritual.

As Peter Tosh, the Jamaican reggae star, wailed; the natives signed peace treaties and probably smoked peace pipes with the conquistadoras before being buried en masse at places like Wounded Knee, leaving a 'Trail of Tears' and blood as they resisted being forcibly removed from their rich land under the Indian Removal Act of 1830. Eventually, the natives were cramped into inhospitable 'reservations' with piecemeal legislations that culminated in the Indian Self-Determination and Education Assistance Act of 1975 which gave scholarships to the handful of surviving Native students while allowing tribal territories the option of running gambling casinos from which they made billions of dollars that corrupt lobbyists tried to expropriate from them under the pretence of getting favors for them from the Federal Government. In 2013, the attempt by the Obama administration to pass the Violence Against Women Act and include rape against American Indian women on reservations who were hitherto unprotected, was resisted by the Republican Party members of Congress for no explicit reason but implicitly due to what Stuart Hall (1980) theorized as the articulation of racism-sexism-classism in societies structured in dominance or what Kimberle Crenshaw identified as intersectionality, cautioning us not to talk about race in isolation.

African Americans are a major racialized group that experienced victimization from genocidal organized crime in the US for hundreds of years just like the

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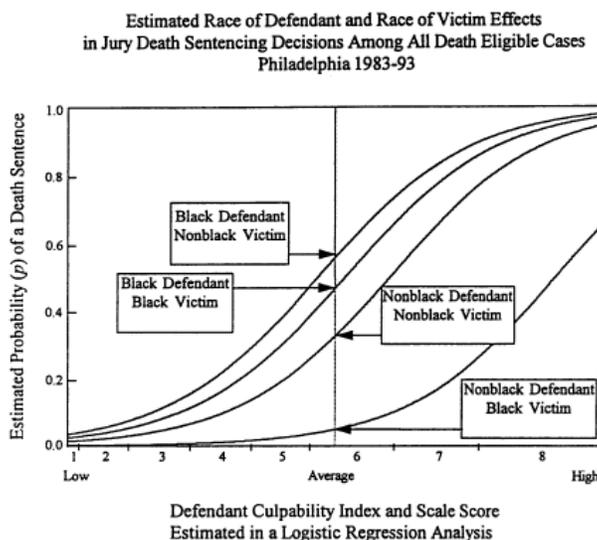
Native Americans. But unlike the American Indian Natives, Japanese Americans and even some other groups of (white) Americans who have received land and some form of reparations for the wrongs that were meted out to them (or for their 'loss of property' following the abolition of slavery), African Americans remain the only group that has not been offered any reparations and only recently did the group get an apology from the House of Representatives for the wrongs of slavery (Agozino, 2004). As the Native Americans were being decimated by the holocaust, the African holocaust was being boosted to replace the natives with enslaved Africans. W.E.B. Du Bois estimated that 100 million Africans were either killed in the enslavement raids and thrown overboard on the Atlantic as jetsam and flotsam before a fraction were landed, auctioned, and worked to death on the genocidal plantations. The women were routinely raped even in the Whitehouse by presidents like Thomas Jefferson to produce enslaved children (also their own flesh and blood) to be auctioned off like chattel. Racist scientists were recruited to propound nonsensical theories that suggested that Africans who resisted slavery were suffering from mental illness that could only be cured by mutilating them as Alex Haley dramatized in *Roots*.

Fearing rebellion from the enslaved Africans, the Europeans contrived all sorts of laws and codes to keep the Africans down for centuries. For instance, in Virginia during the era of slavery, the murder of a white victim attracted a range of penalties for whites with death penalty being the maximum but if the offender was black, the penalty was mandatory death penalty and the murder of a slave owner was called petit treason. On the other hand, white murderers were rarely prosecuted for killing enslaved Africans but if the killer of an African was another black person, it could be prosecuted and the penalty ranged from whipping and hard labor, to the death penalty. The rape of a white victim by a white man attracted 10-20 years in prison, whipping, or death if the victim was a minor. The penalty for a black rapist when the victim was white was death or castration even when it was prosecuted as attempted rape. The rape of a black woman was not considered to be a crime at all when committed by a white man and when committed by a black man it was also not considered a crime given that the plantation wanted to breed Africans for enslavement but if it was a free black woman who was raped, the black rapist could be exiled or executed. Similarly, the assault of a white person by a white person with intent to kill attracted 1-10 years in prison but if the assault was done by an African the penalty was whipping, exile, mutilation or death (Gabbidon and Greene, 2005: 10, citing Higginbotham and Jacobs, 1992 and Russell, 1998).

Greenberg and Agozino (2012) also demonstrated that in Trinidad and Tobago and in the US, the retention of the death penalty does nothing to reduce the rates of violent crime while black defendants remain the most likely to get the death penalty. The following graph shows that even after reforms demanded by *Furman v. Georgia* in 1976, the restored death penalty statutes remain racialized, class-specific and gendered in the US city of Philadelphia where Mumia Abu-Jamal was convicted and sentenced to death for the murder of a cop that he did not commit. After 27 years on death row and a few close shaves with

the executioner, Mumia and his supporters persuaded the Supreme Court to order a resentencing hearing in which he got life in prison without the option of parole, which still means a death penalty:

Figure 1:



Source: <http://www.deathpenaltyinfo.org/death-penalty-black-and-white-who-lives-who-dies-who-decides>

Such has been the case with the oxymoronic *criminal* justice system for hundreds of years with the tacit approval of the constitution which defined Native Americans and African Americans as less than full human beings and supported laws that returned enslaved Africans to slavery after they managed to escape to states without legalized slavery. In 2013, the President of Emory University caused controversy when he wrote in the university magazine that the compromise to count Africans and American Indian Natives as less than human for the purpose of allocating congressional districts was a good model of compromise for the US today! When the country needed volunteers to fight to keep the nation united during the civil war, Abraham Lincoln proclaimed the emancipation of Africans from slavery and hundreds of thousands of them volunteered to fight on the side of the union army against the confederates. However, for about 100 years after the victory of the union army, many of the former confederate states were allowed to enact Black Codes that simply replaced the Slave Codes as the instruments for the maintenance of white supremacy at the expense of Africans.

W.E.B. Du Bois studied *The Philadelphia Negro* in 1895 and came to the conclusion that the reason why Africans were over-represented in the prisons after emancipation was because they emigrated from rural areas to urban areas that were unfamiliar, where they were discriminated against by employers, accused of loitering by law enforcement agents and where politicians used

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mobsters to coerce them to vote for them or risk violence during elections. He also documented that what we would call white collar crimes today were common in those days but the law enforcement agents turned a blind eye because the culprits were white business owners. Edwin Sutherland was later to plagiarize these white collar crime and racism observations of Du Bois in the same city 45 years after Du Bois made the discovery in Sutherland's presidential address to the American Society of Criminology in the city of Philadelphia but without the slightest reference to the pioneering work of Du Bois. Sutherland went on to publish this in his *Principles of Criminology* where he agreed that bias against the Negro was probably responsible for their over-representation among those arrested and jailed in the country but still did not cite Du Bois.

Hate groups like the KKK emerged to lead the terrorization of Africans through lynching, rape and the burning of African American schools and churches while segregation of public space and government offices became the norm. In the case of *Plessy v. Ferguson* (1896), the Supreme Court ruled that an African had no right that a European was bound to respect, thus enthroneing the apartheid doctrine of separate but equal that saw race riots, bombings and lynching targeting Africans at epidemic scales long before the principle was struck down in the case of *Brown v. Board of Education* in 1954. However, it was not until the Civil Rights Movement of the 1960s that African Americans and women won a Civil Rights Act that aimed at removing segregation in housing, schools and jobs. But paradoxically, according to William Julius Wilson (1990), the number of African Americans trapped in poverty in the inner cities increased disproportionately, leaving the poor as the 'truly disadvantaged'. Class warfare became a convenient way of continuing with what seems to be brazen racial discrimination but it affected all the poor irrespective of color, according to Wilson. For instance, the bifurcation of penal policy for crack cocaine and powder cocaine followed a clear racial pattern that saw poor African Americans, (but also poor whites and poor Hispanics to some extent) getting 100 times the punishment that predominantly rich white users of powder cocaine got and resulted in unprecedented ware-housing of disproportionately poor young male African Americans in the prison industrial complex. The Obama administration eventually reduced the disparity from 100:1 to 10:1 in 2010 but the disparity remained.

The white Pilgrim Fathers landed on Plymouth Rock on their voyage to escape religious persecution from Britain and thus started the British colonization of North America that resulted in Plymouth Rock landing on the backs of African Americans as Malcolm X put it. One of the earliest criminal events was the Salem Witch craze in Massachusetts which was blamed on an enslaved woman from Barbados who allegedly tried to recruit young white girls into witchcraft. Dozens of women were executed for witchcraft and my guess is as good as yours that, like the scapegoat enslaved woman from Barbados, most of those killed were probably poor African and Native American female servants who became convenient targets at a time that the colonists were threatened with economic ruin, according to Stephen Pfohl (1994).

Later waves of white immigrants included the Irish who came to escape the potato famine in their land and who faced discrimination in jobs and law enforcement but took advantage of the prohibition of alcohol in the 1920s to make a lot of money from the sale of bootleg liquor and thereby relatively escaped subsequent prejudice and discrimination as they became accepted as 'white'. Jews from Eastern Europe and Italians also arrived about the same period and competed against the Irish in organized crimes, gradually rising from stigma of inferiority to Anglo Saxon Protestants to become relatively respectable as 'white'. The cartographical school of criminology in Chicago used these examples to prove that crime was not genetic or racial given that crime remained high in the inner city zone of transition where recent immigrants settled and remained high as one race moved out to more affluent suburbs and another moved into the inner cities on their first arrival. African American immigrants from the rural parts and Latino/a immigrants from South America appear to be trapped in those inner cities today perhaps because the war on drugs is making it hard for them to make money quickly the way the other waves of white immigrants had done before moving to affluent neighborhoods.

In the case of the Chinese, the Chinese Exclusion Act of 1882 was enacted to keep them out and Japanese Americans were held in internment during World War II but were later paid reparations for the illegal detention. Asians have since become more respectable through mainly scholarly accomplishments and business acumen to the extent that racist theorists now routinely argue that Asians are more intelligent than whites. The case of Asians is often used to challenge African Americans by suggesting that if racism is to blame for the over-representation of black people in the justice system, how come it does not affect Asians as well since they too face severe prejudice? There is no need to indulge in an Olympics game of prejudice to see who suffers from the worst prejudice. Suffice it to say that Asians at home in Asia are not more law-abiding than Africans at home in Africa and so something must be wrong with a society that incriminates Africans at an alarming rate while trying to blame it on the nature of Africans.

Arabs and Muslims have recently overtaken Africans as the folk devils of racialized American criminal justice. Aaron McGruder captured this in one his Boondocks cartoon strips when he declared that for the first time in history, African Americans made progress by becoming the third most hated group in the country whereas they had always been the most hated group. Since 9/11, Arab Americans have been in the spotlight of racialized justice with a whole prison in Guantanamo Bay set aside for their incarceration (including other minority individuals) without trial. In Iraq, the Abu Gherib prison torture scandal exposed Arabs to what was routine experience in colonized Africa as Frantz Fanon (1963) documented in *The Wretched of the Earth*.

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The common explanation by Western scholars is the clash of civilizations thesis of Huntington. According to this argument, multiculturalism is dangerous because it assumes the equality of all cultural values whereas the Eurocentric values of the Enlightenment should be accepted by all as universal values, according to the end of history thesis of Fukuyama. The surprising thing is that the terrorists who attacked America on 9/11 were some of the most westernized Arabs with university degrees, fluent English language skills and professional license as air plane pilots. Paul Gilroy (2005) pointed this out in his rebuttal to critics of multiculturalism when he observed that what the Jamaican-descended UK inmate of Guantanamo Bay craved most in his two years of detention without trial was not yam, dashin, akee and salt fish or a meal of kallaloo but a treat of Scottish Short Bread biscuits, a very British treat. Gilroy is slightly mistaken here for describing the biscuit simply as a British treat without acknowledging the slave labor of Caribbean plantation workers who produced the sugar cane that went into the making of the sweet treat, a heritage that the Caribbean-descended detainee may have been paying homage to in his craving, and a heritage that Gilroy could not afford to ignore given his consciousness of that history. Moreover, Scottish nationalists would insist that there is nothing British about their biscuit, it is simply as Scottish as the kilt patterns that adorn the wrappings.

Sociologists follow the lead of politicians by demanding that immigrants must be forced to learn English in order to be integrated as Bill Clinton stated in one of his State of the union addresses. The fact remains that African Americans are not discriminated against simply because they cannot speak English for they are native speakers of the language. Besides, countries like Germany, Somalia and Rwanda have a couple of things in common – only a single language was officially spoken in each and each was almost crushed into the dirt of history by the frenzied search for mythical uniformity.

Empirical Evidence of Disparities in US race and crime

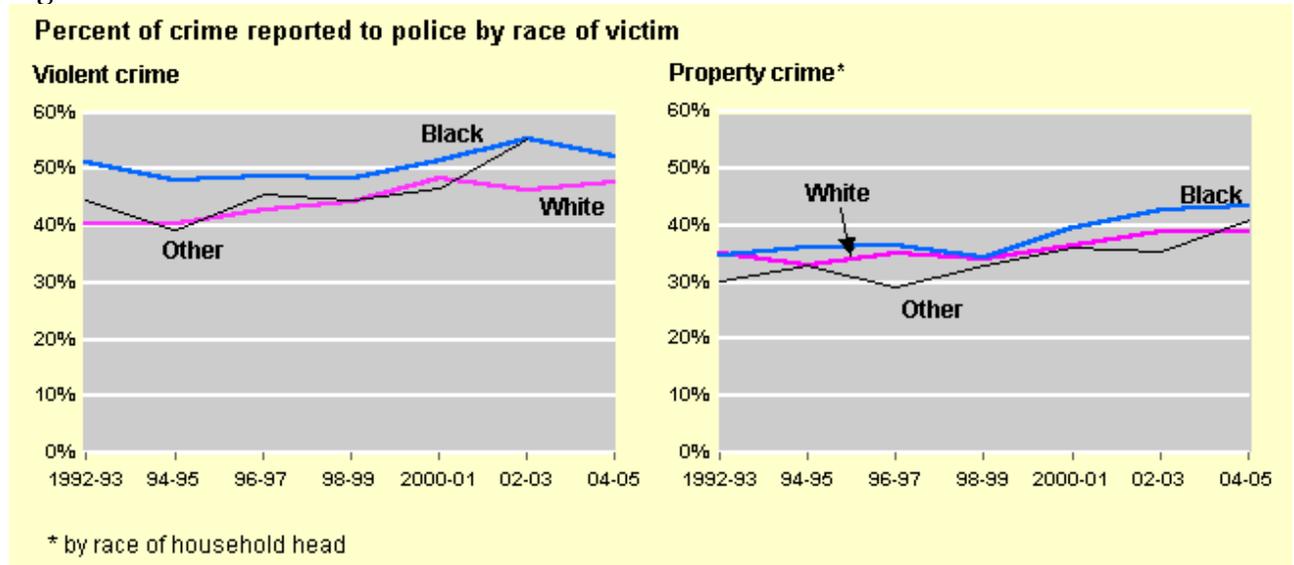
Policing in the US exhibits what is known as racial profiling and the bureau of justice statistics documents the disparate treatment of drivers based on race. For instance, while there is no significant difference in the rates at which drivers of different racial backgrounds are stopped, Hispanic drivers and black drivers tend to be more likely to be searched than their white counterparts:

- The likelihood of being stopped by police in 2002 did not differ significantly between white (8.7%), black (9.1%), and Hispanic (8.6%) drivers.
- During the traffic stop, police were more likely to carry out some type of search on a black (10.2%) or Hispanic (11.4%) than a white (3.5%).

<http://www.ojp.usdoj.gov/bjs/abstract/cppo2.htm>

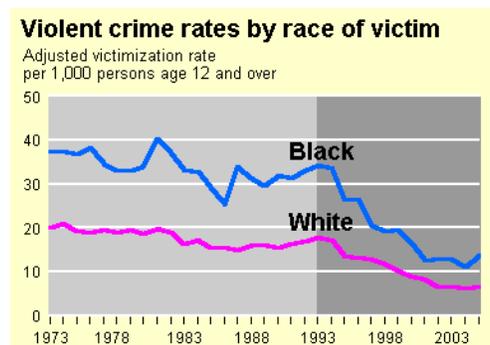
The police argue that such racial profiling is dictated by available evidence which suggests that offenders are more likely to have certain racial backgrounds in certain kinds of offence categories. The police could also argue that a high number of crimes reported to the police involve black victims and so they have a reason to suspect that the offenders are more likely to come from the same ethnic group as the victim.

Figure 2



If black people have a higher rate of criminal victimization than whites, it could be assumed that the majority of the offenders against black people would be fellow black people just as the vast majority of the offenders against white people would be white offenders and the same goes for Hispanic offenders and victims. We need to figure out how the black victimization rates have remained so high despite the fact that black victims have the highest rate of reporting crime to the police or because of that. If black victims are more frequently victimized than other racial groups, chances are that they would also be more likely to report them to the police. However, is the police doing enough to reduce the rates of victimization against black people or is it the responsibility of black people?:

Figure 3

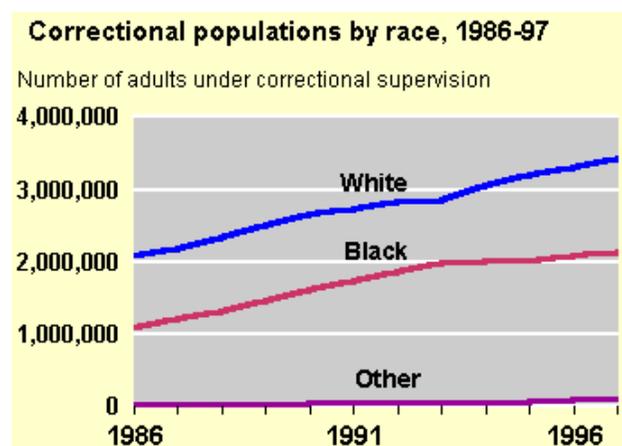


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The rate of victimization against black people seems to be falling towards the rates for white people from 1973 to 2003 but it is not known whether this is the result of more effective law enforcement protection or due to the fact that many black people may have moved out of the inner city locations to more secure suburban locations. The common explanation is that increasing zero tolerance has resulted in the incarcerations and incapacitation of serious serial offenders, thereby resulting in reduced victimization. Do you think that this is evidence that the fall in the victimization of black people is negatively correlated with rises in the rates of incarceration of black people? Think again more critically.

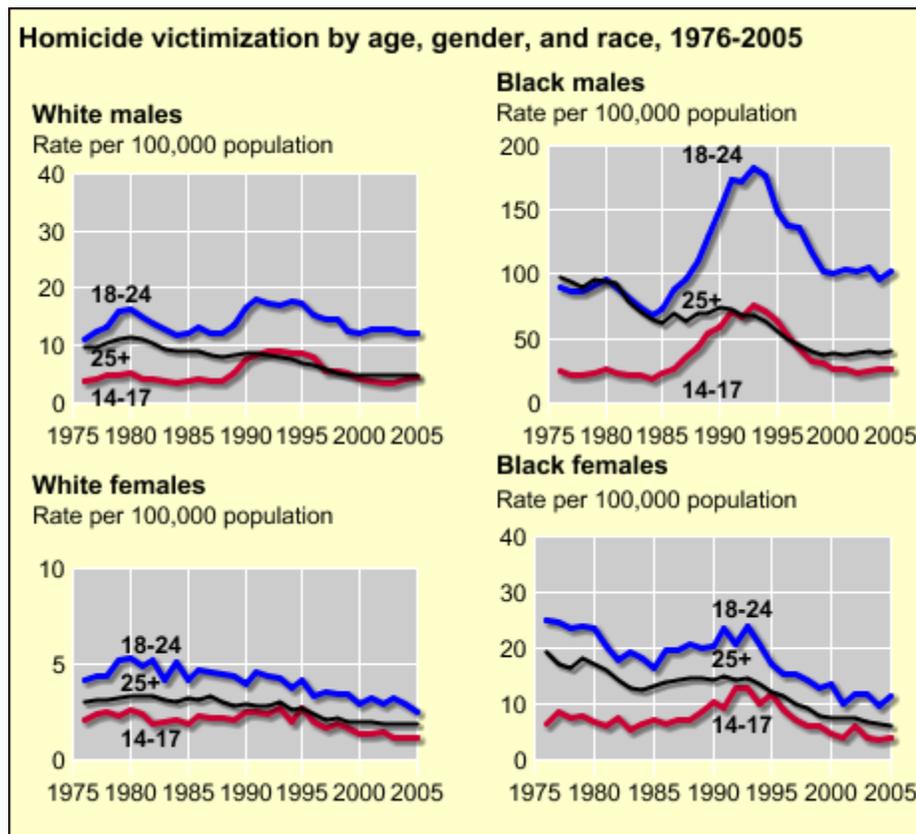
Unnever and Gabbidon (2011) tried to explain the higher rates of arrests for violent crimes in the US among African Americans by suggesting that the African American worldview is uniquely crime-prone due to emphasis on resistance to perceived discrimination and oppressive policing in the socialization of African American males. They identified the negative perception of the criminal justice system, the experience of racial discrimination, and the racial socialization of African Americans as the factors that predict excessive offending among African Americans but found that relatively few African Americans engage in excessive criminality, contrary to the predictions of conventional criminological theory. They claim to base their theory of the inimitable African American worldview on the call by Du Bois for the study of the basic conditions under which African Americans live but their emphasis was on the ‘experience’ of African American men compared to African American women who are arrested less frequently than the men but more frequently than white women. In order not to fall into the trap of projecting that African American men are more crime-prone, we may need to return to the call of Du Bois to study the historically specific conditions under which African Americans are forced to live. Obama indirectly highlighted that condition by identifying the link between the drugs trade and violent crimes in the black community in the epigraph at the beginning of this editorial. Let us push for Obama to follow through with his logic and legalize the drugs so that the violence associated with the trade will wither away just as the violence associated with bootleg liquor disappeared with the end of prohibition (Alexander, 2012).

Figure 4:



If we take a look at the rates of homicide by race and gender, we will see that black victims top all the different categories and this is especially so for black males aged 18-24 who may have been killed in droves as a result of the inner city drugs warfare of the late 1980s and early 1990s. Again, there must be some cross-racial cases in these homicide figures but evidence suggests that it is mostly black people who kill black people while white people kill white people and Hispanics kill Hispanics:

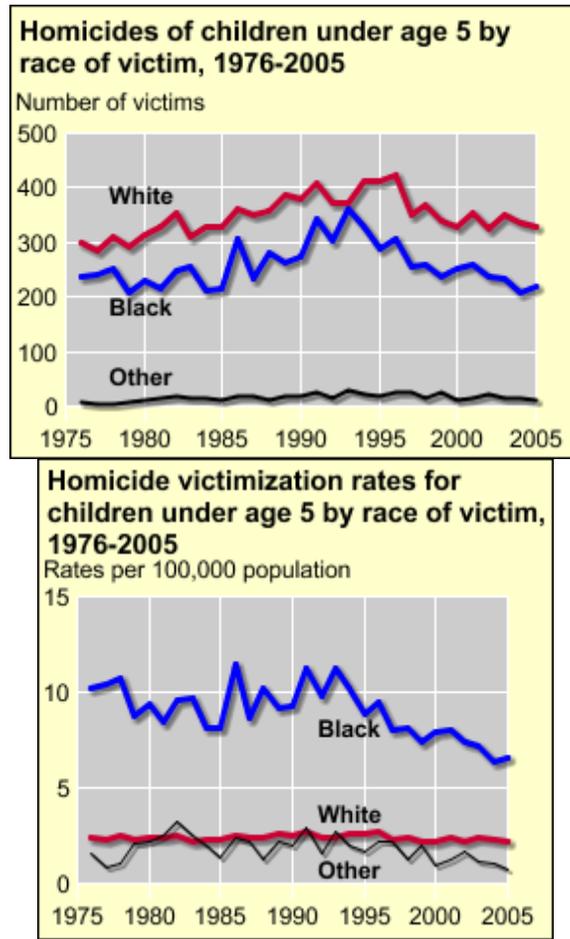
Figure 5:



When we take a look at the killing of children, this worrying pattern becomes more evident as the number of homicide against black children appears to be lower compared to the homicide of white children but given the small number of black children in the total population, it is obvious that black children also have the highest rate of homicide than any other racial category as figure 6 below shows:

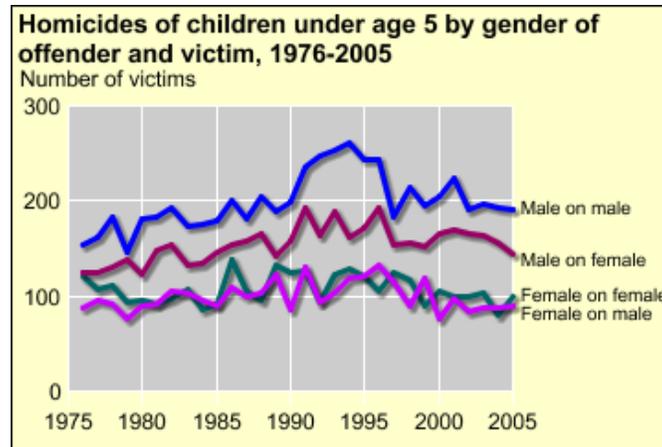
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Figure 6:



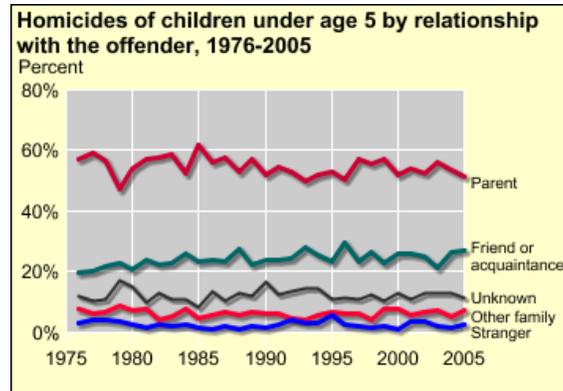
Certainly, it is not white people who are going into black homes to kill their children as the killing of children appears to be largely intra-racial. It is also clear that the ones doing most of the killing are males and the children most likely to be killed are also male children as figure 7 shows:

Figure 7:



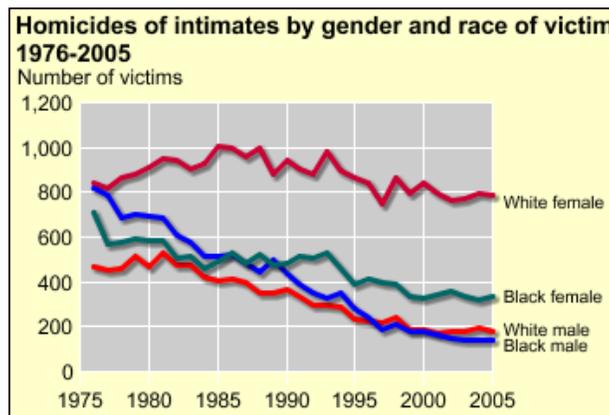
Also by far, the ones who are most likely to kill children are the very parents who are supposed to love and protect them. This suggests that apart from the few multiracial families, black parents are the ones most likely to kill black children, followed by friend or acquaintance, unknown killers, other family members and finally by strangers. Yet the standard advice we give to children to keep them safe is that they should not talk to strangers!

Figure 8:



When we look at the killing of intimate partners, we see a similar pattern because white women appear to be the ones who are killed most often by the ones they are intimate with but if we calculate the rates as opposed to the raw numbers, black women would still top the chart by miles. In 1975, the raw numbers for black women even matched those for white women but it has fallen steadily while those for white women rose in the 1980s and 1990s before dropping back to the level of 1975 in 2005 and those for black women dropped below the number of white men killed in 2005 for the first time:

Figure 9:

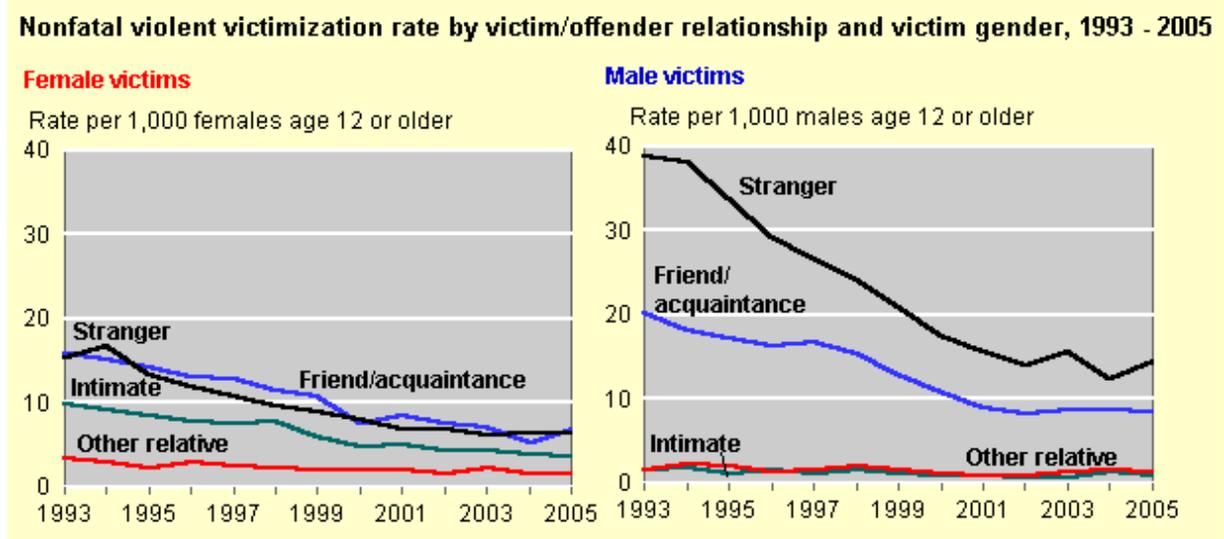


A clue to the responsibility for killing people by race and gender in America is found in Bureau of Justice Statistics graph that shows that men are more likely to be attacked non-fatally by strangers, friends and acquaintances while females are more likely to be attacked non-fatally by strangers, those they know as friends or

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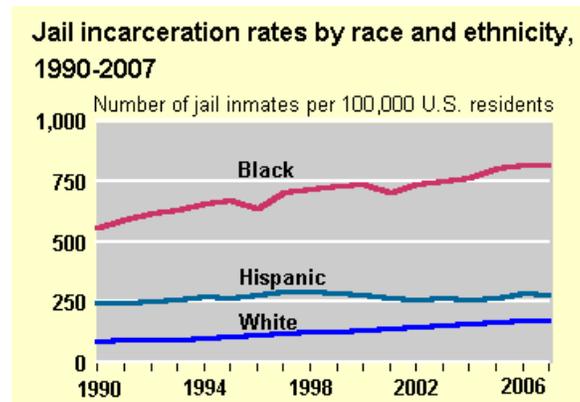
acquaintances, intimate partners and other relatives in close proximity to each other:

Figure 10:



This final graph from BJS gives us a clue as to where these violent statistics come from. It is known that the rate of incarceration of black people is higher than any other ethnic group in the country. Since this is the case, it is hypothesized that the violence we are seeing in the black community largely from the hands of black men is a direct consequence of the dehumanization of black people in the prison industrial complex:

Figure 11:



Discussion:

We could be accused of lying with the above statistics if we are seduced into thinking that the alarming evidence of the victimization of black people is mainly the fault of black people. Some criminologists might even use the same evidence

to argue that the criminal justice system is objective and not biased against black people because it seems to be the case that black people are committing a lot of violent crimes against other black people and others and are being locked up disproportionately for such crimes. However, apportioning blame might be a cheap political shot but it is not a clear sociological analysis of causation and how to solve the problem. What the statistics above indicate to us is that black people are paying the price of the carceral society both in the sense of being the ones most likely to be incarcerated whether they are guilty or innocent and also being the ones to face the wrath of the young people who return to the community in droves with anger against those nearest to them. The great W.E.B. Du Bois offered this relevant sociological analysis after he was repressively indicted as a felon just because he was running a Peace Information Center that was considered anti-American in the 1950s by Senator Joseph McCarthy:

‘What turns me cold in all this experience is the certainty that *thousands of innocent victims are in jail today* because they had neither money, experience nor friends to help them. The eyes of the world were on our trial despite the desperate effort of press and radio to suppress the facts and cloud the real issues; the courage and money of friends and strangers who dared stand for a principle freed me; but God only knows how many who were as innocent as I and my colleagues are today in hell. *The(y) daily stagger out of prison doors embittered, vengeful, hopeless, ruined.* And of this army of the wronged, the proportion of Negroes is frightful. We protect and defend sensational cases where Negroes are involved. But the great mass of arrested or accused black folk have no defense. There is desperate need of nationwide organizations to oppose this national racket of railroading to jails and chain gangs the poor, friendless and black’ (Du Bois, 1968: 390), emphases added.

If we look at critical race studies, we will see that this analysis of Du Bois has received widespread support in the literature many decades after he brought out this powerful thesis and despite the intervention of the Civil Rights Act that supposedly reduced overt discrimination in civil matters (on which the bulk of critical race theorists focus) but apparently not as much in the criminal law as yet, despite reforms such as the Miranda warning and the ending of the use of the death penalty for rape in *Furman V. Georgia*. In *Black Women and the Criminal Justice System*, this insight was theorized as Victimisation As Mere Punishment (VAMP) with reference to innocent black women who were victimized for their close proximity to suspected black men and yet criminology continued to theorize what Garland (1990) termed the punishment of offender (POO) without reference to the punishment of the innocent (POTI) as if all those who were punished were necessarily offenders (Agozino, 1997). What Du Bois clearly pointed out is that if we use the criminal justice system to victimize thousands of black people, they were going to return to our communities ‘embittered, vengeful,

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hopeless, ruined' and would perhaps be condemned to a life of criminalization during which they pass through the revolving doors of the prisons at the disproportionate expense of the black community. The following statistics from American Civil Liberties Union bring out the war crimes being committed against the black community in the guise of the war on drugs:

Today, 1 in 4 black men aged 20 to 29 are in prison. Parole, probation, or imprisonment account for 1 in 3. [also see [Prison Overpopulation](#)]

Source: "American Drug Laws: The New Jim Crow," by Ira Glasser, hereafter "New Jim Crow."

According to the National Institute of Drug Abuse (NIDA), 13% of all monthly drug users in America are black. (That's about the same as the percentage of the population that's black.) But 35% of those arrested for drug possession are black; 58% of those convicted of drug possession are black; and 74% of those imprisoned for drug possession are black. Also see ["Punishment and Prejudice: Racial Disparities in the War on Drugs."](#)

There is a [hundred-fold disparity](#) between sentences for conviction of possession of equivalent amounts of crack cocaine (a drug used primarily by blacks and Latinos) and powder cocaine (a drug used primarily by whites), despite the fact that there is no pharmacological difference in the effects of the drugs on the body. Crack prosecution is 96% black or Latino. The prosecution of high-level dealers amounts to less than 5% of this. Source: U.S. Sentencing Commission, The Sentencing Project, National Drug Strategy Network

Drug possession, without violence or third-party deaths, is almost always prosecuted as a felony. Two-thirds of those prosecuted are black or Hispanic. By contrast, drunk driving is an offense that resulted in 22,000 deaths last year, almost all of which were treated by fines and as misdemeanors. It is committed mostly by whites.

Source: "New Jim Crow."

A 2000 California study, ["The Color of Justice,"](#) shows that minority youths are more than twice as likely as their white counterparts to be transferred out of California's juvenile justice system and tried as adults. Once in the adult system, the study found, black juvenile offenders are 18.4 times more likely to be jailed than whites for equivalent crimes; Hispanic youths are 7.3 times more likely to be imprisoned; and Asian youths are 4.5 times more likely to serve time.

Source: "The Color of Justice," a study by the Justice Policy Institute of the Center on Juvenile and Criminal Justice (above link).

These punishment and prosecution disparities violate the right to equal protection under the law guaranteed by the Fourteenth Amendment to the U. S. Constitution.

<http://www.aclu.org/drugpolicy/racialjustice/10856res20011217.html>

The above statistics and opinions support the view of W.E.B. Du Bois that there are probably thousands of innocent black people who are being 'railroaded' into the correctional system in America and he is right in predicting that they are more than likely to return to the black community with anger which those closest to them would suffer most. In other words, there seems to be a self-fulfilling prophecy in the sense that the over-incarceration of black youth in the US is fulfilling the promise to incarcerate more black youth in the future.

Without reference to the criminal justice system, Crenshaw (1988) challenges both neoconservative and critical critics of anti-discrimination law in the US. According to her, the neoconservatives are wrong to assert that formal equality in the law means that the struggle for civil rights is no longer necessary because such a view neglects substantive inequality and the material subjugation of black people as 'Other'. She finds the critique of critical scholars more persuasive because they focus on the repackaging of racism in such a way that discrimination against black people could continue in other guises despite formal equality but disagrees with this view when it goes on to assert that a focus on individual rights would negate the search for broader social justice. The above statistics indicate that clearer evidence exists in the criminal justice system to illustrate the critical race studies opinion of Crenshaw and others and extend their focus beyond civil litigations against discrimination.

Paul Gilroy brings the focus closer to the criminal justice system by considering how ethnic minority individuals had been detained without trial in Guantanamo Bay, Cuba, by the US government in violation of principles of fairness that would hardly be sustained if the inmates were predominantly US or European citizens. The argument of Gilroy could be further illustrated by the fact that those of the detained inmates who were citizens of European nations or of the US were either tried or released to their countries where they were mostly freed on return. It is

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interesting that one of the first Executive Orders issued by President Obama during his first term was for the closure of Guantanamo Bay and the transfer of the prisoners to the US for due process trials but Congress blocked the order for fear that the suspects were too dangerous to be brought to American prisons.

W.E.B. Du Bois alerted us long ago that there are many more minority detainees who might be innocent within the US prison system itself. Although Gilroy could be critiqued for reducing the relevance of anti-African racism in his comments on the Scottish biscuit as a symbol of Britishness, Delgado (2006) would commend this type of analysis by Gilroy (2005) because of his attempt to address the discrimination against minorities whether or not they are black whereas most critical race theorists focus on African Americans for different reasons. In addition, Delgado calls for an examination of white privileges as part of the problem rather than focus only on black disadvantage.

Conclusions:

A search on Amazon.com reveals more than 6,000 book titles on the subject of race and crime. It was not my aim to offer an annotated bibliography of all those books in this editorial. It is sufficient to state that most of those authors will share the views in this editorial but some would disagree and say that the over-representation of black people in American criminal justice statistics is only a problem for black people. I wish to conclude by stating that what is important is how to solve this social problem and not just to play the blame game.

It appears that there is a consensus that the biggest disparities in the criminal justice system in America and indeed around the world has been led by the war on drugs which has turned out to be a war on poor people and on minorities. My recommendation is that it is time to end the war by trying the 'Dutch experiment' of controlled decriminalization of drugs with emphasis on harm reduction in line with resolutions passed by the African Criminology and Justice Association such as the one 'Against the War on African Americans' that was published in this journal. That courageous resolution that was offered to other associations of black scholars in the US but they failed to endorse it has since been validated by the 2012 election during which the states of Washington and Colorado voted to legalize marijuana for recreational use, not to mention the 16 states that legalized medical marijuana already. The experience of the US with alcohol prohibition has taught us that war on popular substances tend to fail at a huge cost to society and so what works best is to use education to turn people away from drugs and use taxation to extract surpluses from the drug dealers for the medical treatment of those who might become sick from drug abuse as is the case with tobacco and

alcohol which cause more harm than many of the prohibited substances. This will not solve all the problems of race-class-gender and crime in the US but it will go a long way towards helping to solve it in the US but also across Africa, the Caribbean and South America.

Other issues like the discriminatory use of the death penalty against the male, the poor and the minority will remain until the US follows the civilized world by abolishing this cruel and unusual punishment. Similarly, the problem of jury selection and the discrimination against minority defendants will remain due to the persistence of prejudice but only a tiny minority of cases go to jury trial given that most cases are plea bargained in the US. The problem of racial minority victims of crime would remain as the media concentrate on the plight of privileged white victims but it is hoped that ending the decades-old war against the poor and against racial minorities in the guise of the war on drugs would reintroduce sanity in US and in international communities and lead to less violent victimization of men, women and children irrespective of their racial or class backgrounds.

Finally, I recommend that an Institute of Love Studies should be established to teach parents and children the wisdom of loving their children and parents, friends and colleagues because the above BJS figures on rates of violent victimization indicate that people are ignorant of how to show love or of the benefits of loving one another. We have war colleges and institutes of peace in the US but there is yet to be established an Institute of Love Studies. Moreover, as I concluded in *Counter-Colonial Criminology: A Critique of Imperialist Reason*, crime is just a form of imperialism in which more powerful individuals try to colonize the private and public spaces of others. Thus if we deepen democratization of the society especially at the interpersonal level, we will be making power more accountable and thereby reduce the chances of power imbalances that lead to the invasion of the spaces of others. One major source of power imbalance today remains the war on drugs that unwisely makes available enormous resources to drugs gangs who proceed to abuse such power absolutely. I call on President Obama to follow through with the logic of his observations in *The Audacity of Hope* and legalize the drugs so that responsible adults will exercise their democratic freedom regarding what they choose to consume or sell legally while we use education to get the people to say no to drugs as we do with respect to the more dangerous tobacco and alcohol today.

In this issue of our journal we present ten papers, a book review and a research note that directly and indirectly reflect on the criminological crisis facing people

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of African descent at home and abroad. This editorial encourages us to go beyond the exclusive focus on race or ethnicity and always bring in class and gender in explaining these issues and ultimately changing the material conditions that sustain them. Having written these editorials since 2005, I am pleased to announce that the time has come for me to step down as the Editor-In-Chief. Those who are interested in applying for the position of the Editor-In-Chief should send their curriculum vitae with their proposed vision for the journal to the Managing Editor, Dr. Emmanuel Onyeozili and or to the President of the African Criminology and Justice Association, Dr. Charles Ubah, for review.

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