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***ETHNICITY AND CRIME: CRIMINAL BEHAVIOR
REDEFINED****

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Abstract

*Studies dealing with the definition of crime have primarily been concerned with developing hypotheses and theories of universal crime commission and definition. These theories of human behavior may appear plausible on paper but do not work well with people. All the theories of human behavior contain some truth. However, variables do not function one at a time nor can one theory explain all human behavior. These reasons justify studying human behavior from a social context perspective. This paper examines why one ethnic group can be heard praising a behavior while another ethnic group is doing the opposite. Factually, ethnic definition of behavior is the consequence of "Ethnic Differential Opportunity Definition" (EDOD) which states that (behavior) crime is what your ethnic group says it is. The U.S. Supreme Court is slowly accepting the EDOD. In *Small v. United States* (2005) the*

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highest court narrowed a federal law that prohibits anyone “convicted in any court” of a crime punishable by imprisonment for more than one year from possessing firearms, 18.U.S.C.§922(g)(1). The court ruled that the law does not apply to those who were convicted in (outside their ethnic group) foreign countries. Frankly speaking, it means that felony conviction (crime) does not count and could not be used as the basis for anything if it occurs outside your ethnic group (country).

Introduction:

A notable recent change in America (USA) has been a renewed interest in the connection between ethnicity and crime in which some observers of the American criminal justice system have presented contradictory and sometimes inconclusive findings. The diversity of findings is often attributed to disregarding ethnicity as a cultural attribute, which, if negatively reinforced by society's social responses and interactions or by inequalities, gives rise to (conflict) crime. As varied ethnic groups encounter different experiences in a heterogeneous culture, ethnic differences and group criminality are inevitable. *Ethnicity and Crime: Criminal Behavior Redefined* is designed to provide understanding and to prepare us for reality.

Ethnic group in this article means a group of people who share a feeling of “peoplehood.” The purpose here is to demonstrate that all people interact not just as individuals, but also as members indebted to particular ethnic groups. Hence, individuals see criminality and the criminal justice system differently, depending on the historical social context of each person’s ethnic group.

Prior Research:

The dominant criminological studies of ethnicity and crime have long taken the form of *order theories* (Pincus & Ehrlich, 1994) in which the central focus is on progressive adaptation to the dominant culture and on stability in intergroup relations (Bonacich, 1980; Gordon, 1963; Hieschman, 1983; Hullah, 1973; Park & Burgess, 1924; Devore and London, 1999).

Ethnicity is based on the conditions of being different because of cultural background--by religion, race, family patterns, national origin, and other characteristics. It is these differences in identity and social experience that give rise to the belief that the behaviors of various ethnic groups are different and that their views on criminality are also different. Most prior research has not addressed these characteristics adequately.

Issues:

Ethnicity is very significant in all societies, and particularly in America (USA), especially among fourth and fifth generation persons of European, African, Hispanic, and other heritages. In fact, the current national emphasis on ethnicity is affecting the U.S. criminal justice system in a manner that causes concern, including, but not limited to, "Racial Profiling, Hate Crimes, Muslims-9/11, etc". The United States is now at a point in history when we can no longer be blind to the many ethnic groups, particularly those of color, that are steadily growing in our midst (McAdoo 1999, p. x.) As noted by Schmalleger (1997, p.133), crime is a social construct

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arising out of a nexus of legislative action, social conditions, and ethnic choice; thus, it is necessary to ask "who defines crime and to whom?" Indeed, the relationship between ethnicity and specific types of criminality may be getting stronger rather than weaker (Landau 1998 p 265), which is opposite the hypothesized consequence of assimilation.

The controversy engendered by landmark cases involving Waco and Ruby Ridge, Rodney King, O.J. Simpson, President Clinton, September 11, 2001 terrorism and others, clearly demonstrates that whether a particular behavior is viewed as criminal conduct may depend on ethnic group identification (Lacayo 1992 and Ellis 1992). President Clinton was impeached by the U.S. House of Representatives charged with perjury and obstruction of justice, and was finally acquitted of all charges. O.J. Simpson was accused of murdering his former wife, Nicole B. Simpson, and her friend, Ron Goldman. He was found not guilty. Rodney King's assailants were acquitted in May 1992 (though two of the officers were later convicted in Federal court), a not guilty verdict that resulted in violent ethnic riots. In Waco, Texas, Davidians were acquitted of charges that they murdered four law enforcement agents. Police detective Mark Fuhrman perjured himself in the O.J. Simpson trial. In these cases, reactions were especially shaped by ethnicity. In almost all of them, reaction split along ethnic lines (McLemore and Romo 1998, and Marger 1997).

As stated by Nettler (1974, p. v11), "On the right, the Governor of California tells us that the Watergate burglars and their accomplices are not 'really criminals.' On the left, defenders of campus arsonists and urban guerrillas tell us that the goodness of their ends and the meanness of conditions transform their acts from

crimes to 'social banditry.' ” The September 11, 2001 terrorist attack in the United States speaks for itself. And the list goes on.

Problem Of Definition

Crucial to understanding criminal behavior is knowing that an accused offender's ethnic characteristics have acquired meaning within a given social context that changes over time. A question that has puzzled criminologists is why, in the face of increasing assimilation, does ethnicity continue to account for differences in the prevalence of crime? Wilson and Hernstein (1985) observe that every ethnic group has its distinctive folklore and norms (p.142).

Although Wilson and Hernstein observe the effect of daily ethnic group negative experiences, they fail to touch on important individual differences among members of ethnic groups. Eitzen and Zinn (1985) see some ethnic groups as being disadvantaged by society's institutions. They state that ethnic stratification is a basic feature of American society and that stratification offers occupational, income, and educational advantages to one ethnic group at the expense of others. Now the question is this: Can this situation create in an ethnic group a "special" group experience and behavior?

Part of the reason a higher crime rate persists in some ethnic groups more than in others may rest in the criminal justice system itself and the media. The criminal justice system (i.e., the police, the courts, and the corrections system) continues to rely upon outdated ethnic policies and biased methods. Schmallegger (1997, p. 133) saw the Rodney King "incident" as a transfiguring event in

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the history of American criminal justice. It made us realize that a behavior is defined differently depending on the ethnic "choice" of the "victim" and the definers. Clearly, minority ethnic group members are overrepresented at all stages of criminal justice processing. Similarly, minority ethnic youth violate 'laws' with considerably greater frequency than do other youths. But the question is, whose laws are these youths violating? And to whose standards are they being held accountable? Would it be possible to prevent crime through ethnic definitions?

Walker, Spohn, and Delone (1996) suggest an explanation for the high level of ethnic composition in corrections facilities: "There are many problems surrounding the official data on race and ethnicity in the United States...[and] this creates a number of difficulties when we try to determine the exact racial and ethnic composition of prison populations" (p.13). Walker et al. note evidence that judges impose higher bail or are more likely to deny bail altogether if the defendant is a member of an ethnic minority. They conclude that explanations for the apparently disproportionate rate of criminality are complex. The reason for the complexity is that criminologists look at single factors one at a time, when, in reality, factors operate in 'contextual union.' Variables do not function individually or independently at any particular time; this alone justifies studying ethnicity as a central point in understanding behavior within society at large.

It has been suggested that further explanations lie in differences in income levels, education, and occupational success among American ethnic groups; emphasizes has been laid on the external constraints, disabilities, limitations and continuous barriers to which an ethnic group is subjected, and which serve as obstacles

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and set backs to achievement (Mendoza 2000). Some groups have been confronted with substantial barriers that have limited or eliminated the resources available to them and precluded their free, voluntary and equal participation in the open market (Drewnowski and Darmon 2005). This explanation focuses on achievement only and the role that barriers and obstacles play in attaining a status and does not clarify the definition of crime along ethnic lines.

Most criminology literature (e.g., Walker, Spohn & Delone., 1996) describes various disparities in the ethnic and racial makeup of the correctional system. Bonacich (1994) identifies law enforcement as playing a special role in relation to ethnically oppressed communities. She claims that the police serve as a controlling force, protecting the rich from the poor. Bonacich sees the police similarly as a kind of army of occupation, representing just one ethnic group as opposed to the residents of inner-city neighborhoods. These assertions are partially correct, but the overall picture of ethnic-group representation in the criminal justice system does not lend itself to a single-factor explanation for the relationship between ethnicity and crime.

Conflict theory obviously supports the contention that the administration of criminal justice reflects the unequal distribution of power in society (Turk 1969). According to this theory, the ethnic groups in power use the criminal justice system to maintain their dominant position so as to oppress ethnic groups that threaten their power (Greenberg 1991; Lisker 1992). Conflict theory however is concerned with social class and fails to show that some ethnic groups lack the types of ties that hold different ethnic group members together. Therefore, conflict theory does not fully explain ethnic crime nor an ethnic definition of crime.

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We assert as an element of contextual union that ethnic group criminality (behavior) cannot be explained through a single theory, particularly as each group has different experiences and tolerance ability. This position is consistent with Siberman's (1978) view that what makes the tradition of a particular ethnic group distinctive is that so many of its manifestations--jokes, toasts, and boasts---have in common an ability to convert negative stereotypes about the group into positive ones. This argument brings forth the proposition that different ethnic groups have different methods of dealing with situations.

The Causes of Ethnic Crime and Failure of Theories to Explain:

“Institutional ethnocentrism” is a term that refers to rules, policies, practices, and laws that may appear to be ethnically neutral but which, in fact, have ethnocentric effects on a particular ethnic group. The key issue here is result, not intent. Institutional ethnocentrism is both very complex and less visible than other types of ethnocentrism (systematic, contextual, or individual). As Yetman (1993) explains, racism that does not result from the motivations or intentions of specific individuals is more impersonal and its effects more easily denied, ignored, or overlooked. Ethnocentrism as used in this article is an extended form of nepotism--the act of favoring in-group behavior over out-group behavior.

It is true that some ethnic group members lack the educational qualifications and occupational skills necessary to compete in the

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marketplace, but this might be, in part, the result of barriers encountered within the system. Economic opportunities for minority ethnic groups are not equal, and this fact reflects the inequality in society.

The concept that ethnic barriers lead to criminal behavior is expressed by Robert Merton's strain theory. According to this theory, people normally obey society's rules; they are pushed to violate them when obeying those rules does not enable them to achieve their legitimate goals. Given the evidence that there are several ethnic groups of society in which legitimate avenues to success are blocked or restricted, U.S. society seems to be in a permanent state of anomie, [and] the individual or ethnic group caught in these conditions is then faced with the strain of attaining their goals with their limited opportunities (Williams & McShane, 1988). Consequently, they embrace antisocial or criminal values and means. This is a useful view but it pays little attention to individual differences; hence, the strain theory explanation of ethnic crime is too simplistic.

The main point here is that blocked opportunities alone do not account for all ethnic group criminal activities because only poor ethnic group people whose educational and occupational opportunities are blocked do not commit crime. This is why we have to look at crime from a contextual union perspective. Because blocked opportunity exists together with insults, threats, discrimination, and so on, we have to explain ethnic criminality in totality.

Because of unequal shares of income and wealth, social classes emerge in society. Turner (1993) argues, "a social class is thus a

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subpopulation of people who, on the basis of their income and wealth, reveal common outlooks, behaviors, and lifestyles" (p. 6). This group of people has a distinct behavior and lifestyle, but the total number of this group of people in a particular ethnic group varies; hence, their ability to maintain an out-group behavior is limited. Rousseau argued that society tends to corrupt naturally good men. The class explanation for crime arises from the observation that different social classes experience different rates of arrest and conviction for serious offenses. According to Nettler (1974), ethnic traditions that are less congruent with the requirements of "a system" are likely to be associated with a higher crime rate. Ethnic tradition, economic position (social class), and personality traits are intertwined determinants of lawful and delinquent careers.

This belief promotes the idea that behavior is not the result of choice but the consequence of unequal divisions in society. An ethnic group may retain group awareness despite growing class heterogeneity, and the upwardly mobile classes are still more likely to be the most strongly in-group oriented. As observed from her interviews, Hochschild (1995, p. 115) stated that despite the gains made in many areas, successful ethnic minorities still contend with "inhospitable personnel officers, informal social ostracism, excessive penalties for mistakes, exclusion from communication networks, resistance from subordinates, assumptions about ethnic/cultural and personal inferiority, lower ratings from bosses and 'ghettoized' assignments." From the perspective of those who exhibit these behaviors, minorities deserve such treatment. But, from the perspective of the ethnic minority, these behaviors carry criminal responsibility and those who engage in them have to be taken care of. Here then is the issue: Who is going to take care of

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these "criminals," and how? Ethnic inequalities are sustained by the upper class and true equality can be gained only when the upper class gives up and redistributes some of its power and privilege (Yetman, 1993). Low social class is associated with lawbreaking (Shaw and McKay 1942). It is undeniable that ethnic class discrimination aggravates the social and economic problems of some ethnic groups. But it does not explain the agreement or disagreement within groups for what is or is not a crime.

Since the founding of America, ethnicity has been in the national consciousness and ethnic inequalities have resulted in riots and personal crimes. Today, ethnicity helps to define liberal and conservative ideologies in American politics.

Social climate influences an individual and an ethnic group in unintentional and even unconscious ways. One of the reasons people are likely to adopt an ethnic opinion is that having the "popular" ethnic opinion often helps one to gain acceptance and prestige. Ethnic concentration in a particular area because of segregation has the effect of establishing the ethnic poor as role models for their young. The fact is that many of the young will adopt the attitudes of the poor (hate, inferiority, and even "us against them"). Turner (1993) suggests that poor ethnic people are often viewed by society as welfare-dependent and morally compromised (by crime, laziness, or other character flaws) because they do not have enough education, income, or work. This type of climate influences the group to give up hope for a better future.

Williams and McShane (1988) note that Chicago schools saw the weakening of primary social relationships as a process of social disorganization. Social disorganization is seen as the primary

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explanation for the rise of ethnic drug-related crimes. Social disorganization theory came to the forefront as a means of explaining crime during the Great Depression; it dealt with rapid mass immigration. Now there is no great depression, but the crime rate is not low enough, and we are still defining crime along ethnic lines. The notion of social disorganization should be reviewed and applied in combination with other explanations for ethnic criminality. Social disorganization alone does not define crime along ethnic lines. A disorganized society without opportunities for crime may remain a disorganized crime-free society. Opportunity, as referred to in this article, means a physical and psychological entity (physical space, and psychological reality--racism, sexism, prejudgment, or generally ethnocentric views of other ethnic groups).

Towards The Definition Of Crime

Students of ethnic heritage believe that every child born into a society comes to learn its traditions and norms. Ethnic behavior is included among those traditions and norms. Although not everyone accepts this aspect of the ethnic idea, society has to deal with it. Ethnic beliefs persist for generations after the reason for the emergence of such beliefs has decreased or even ceased to exist.

After all the likely explanations are put forth, there still seems to be a question as to whether ethnicity is an independent variable. From the time a person is born, that individual responds to ethnic cues and beliefs mediated by representatives that help shape his or her personal character structure. The individual internalizes experiences from earlier social positions and ethnic matrices; his or

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her personality may act as a determinant or character interpreter of that person's present world. There are explanations for the persistence of individual ethnic identification on behavior. Even when people have frequent contact with those of other ethnic groups, their early experiences, personal history, and observations of the way society treats their own ethnic group may have engendered in them a natural awareness of their own ethnic origins. Historic beliefs are far more persistent than current learning or teaching. Historical ethnocentrism certainly remains in the minds of some ethnic groups and is passed on from generation to generation. And in many areas of life, including the labor market, some ethnic groups are still being discriminated against, and the history of discrimination remains a catalyst to behavior in many places in the world. As Walker et al. (1996) put it, "The most disturbing aspect of social inequality in America has been its persistence over thirty years despite a national effort to reduce or eliminate it" (p. 77).

Pareti (1967) states that the greater the animosity, exclusion, and disadvantage one experiences, the more will ethnic self-awareness permeate the individual's feelings and evaluations. Pareti's conclusion perfectly defines the future by stressing that family and early group attachments hold some carryover meaning for the individual; ethnic identifications and ethnic-oriented responses will still be found.

To these writers' knowledge, there are no ethnic historical after-effects studies on crime. As implied above, the groups most disliked by the wider society harbor the greatest number of individuals with militant ethnic self-awareness are the "suffering" group. The theory closest to explaining the connection between

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historic after-effects and crime is Sutherland's differential-association theory. Sutherland (1934) found that behavior is learned.

“First, any person can be trained to adopt and follow any pattern of behavior which he is able to execute. Failure to follow a prescribed pattern of behavior is due to the inconsistencies and lack of harmony in the influences, which direct the individual, and the conflict of culture (ethnic groups) is therefore the fundamental principle in the explanation of crime.” (p 52)

Sutherland did not explain the importance of opportunity or lack of it in expressing the learned behavior. Someone may learn a behavior but have no opportunity to express it. Learning alone does not constitute criminal behavior. This article's definition and explanation of behavior (crime) takes into account a capable person (offender), the opportunity for the behavior (crime), the condition in which they come together (contextual union), and an ethnic group to define the behavior.

One ethnic group may find a certain behavior to be criminal while the other may find the same behavior to be normal. As an example, most Whites (Jury) did not see anything wrong with the police beating of Rodney King, but nearly all Blacks saw it as a crime. Also, on the issue of President Clinton's impeachment, most Whites see his behavior as a crime but people of color sees it as a private matter. When O . J . Simpson's “not guilty” verdict was read on October 3, 1995, the New York Times reported that 400

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African Americans students at the historically black Morehouse College roared and cheered; while whites who stopped work to watch the jury decision on television responded with disbelief and anger (McLemore and Romo 1998 p 294; and Marger 1997 p 2).

According to Yetman (1993), three students with the same ethnic background at Smith College received anonymous hate messages in 1989. Researchers found that students' opinions in relation to the anonymous hate messages were influenced by the opinions expressed by their confederates. The students who heard others express antiracist opinions voiced similar sentiments, whereas students who first heard expressions more accepting of racism offered significantly weaker antiracist opinions (Fletcher, Lilly, & Vaughn, 1991). The surrounding human environment is important in defining behavior, and demonstrates that discrimination or any behavior is influenced by group/ethnic allegiance. Hence, as opportunity to learn and act lessens, ethnic definition of behavior lessens, and thus, correspondently, crime rates decline.

Finally, Gary Small completed his three year term in a Japanese prison for illegally importing weapons into that country. He came back and bought a gun in the United States, which is a violation of U. S. Statute, which makes it unlawful for a person "who has been convicted in 'any court' of a crime punishable by imprisonment for a term exceeding one year" to possess a gun. The U. S. Supreme court ruled that Small's firearm ownership did not violate the statute, because his former conviction occurred (outside his ethnic group) in a Japanese court (Small v. United States [2005]). The phrase "any court" does not mean any court in a general sense; it means any court approved by your ethnic group.

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In sum, for behavior to carry the appropriate stigma it has to be defined by the actors' ethnic group. Now, since the U. S. Supreme court never explains its departure from the simple meaning of "any," but ruled that "any" does not really mean "any." The phrase "convicted in any court" encompasses only domestic and not foreign conviction. Justice Breyer delivered the opinion of the United States Supreme Court (*Small V United States* (2005), and seem to rely strongly on the basic fact that Congress traditionally legislates with domestic concerns in mind, because foreign countries may criminalize behavior that is permissible in the United States. Equally, a misdemeanor conviction in the United States that relates to domestic violence may prohibit gun ownership, whereas the same foreign convictions may not. It is fair to say that the United States is not an "Ethnic Group" but it is a "subset of 'Ethnic Groups.'" This study redirects the true meaning of domestic as it relates to ethnic behavior and definition.

Discussion:

It is the authors' opinion that the social context explanation of crime centers on the "ethnic differential opportunity definition" (EDOD). The EDOD of crime explains it as a social construct arising out of a connection of an able person, opportunity for behavior, and a group to define the behavior. Many of the events or insights that shaped the idea of the ethnic differential opportunity definition come from events of the 1960s to 2000s. Evidence shows that certain ethnic groups were more likely than others to see some behavior as criminal. Ethnic Differential Opportunity Definition is the way different ethnic groups define behavior as criminal or not. Also, the opportunity or access to

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perform this behavior is the key issue: Without the opportunity to perform certain behavior, there would be no "criminal" behavior. Ethnic variability in definition is also important in the causation and definition of crime.

The major points of the ethnic differential opportunity definition (EDOD) are these:

1. The principal aspect of human behavior is a product of an ethnic environment.
2. Ethnic environments provide ethnic values and definitions that govern their members.
3. The particular direction of behavior is built from an ethnic definition of what is right or wrong.
4. The presence of an ethnocentric view of an ethnic group (racism, sexism, prejudice) and physical space create opportunities. As the above situations occur, new definitions about proper/improper behavior arise. Then each ethnic group justifies its behavior and definition.
5. Criminal behavior occurs when one's behavior is not in accordance with one's (ethnic) group behavior definitions of proper behavior (crimes that carry a stigma).
6. Behaviors defined by "other" ethnic groups as criminal do not have the weight of a negative stigma on the out-group criminal.

The definition of proper behavior that results in the intended creation of opportunity presupposes criminal behavior. Opportunity in both a physical and a psychological sense (physical space and racism, sexism, prejudice) and ethnicity are factors in the occurrence and definition of crime. The weakness of one always goes hand-in-hand with the strength of the other. When the "opportunities" created by a state are great, the ethnic definition of

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proper behavior has to be high; consequently, the crime rate must be high. All other behaviors that do not fit the EDOD of crime but are improper are the result of (mental) illness. As opportunities lessen, the ethnic definition of behavior (crime) drops and crime rates decline. A society with fewer ethnic groups is bound to have fewer crimes.

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18 U.S.C. § 922 (g)(1) “ unlawful for any person-----who has been convicted in any court, of a crime punishable by imprisonment for a term exceeding one year ---to --possess any firearm”; *The United States Criminal Code*.