DARK PRISON: RACE, RIGHTS, AND THE POLITICS OF PUNISHMENT

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Dissertation Abstract

In the span of three decades, the U.S. has multiplied its prison population by a factor of six. Indeed, since the day that the Supreme Court ruled school segregation unconstitutional in its 1954 landmark decision, *Brown v. Board*, nine times as many blacks are confined.[1] The aim of my dissertation is to understand the causes of the transformation in American criminal justice. In analyzing this question from multiple vantage points – policy history, public opinion, media attention – I show how reaction to the success of the Civil Rights Movement became embedded in a separate policy process. The punitive policy intervention was not merely an exercise in crime fighting; it both responded to and moved the agenda on racial equality.

In particular, I present the concept of *frontlash* – the process by which formerly defeated groups may become dominant in light of the development of a new issue campaign. In the case of criminal justice, rather than interests reacting directly to civil rights developments, political concerns deriving from racial dynamics were sublimated into seemingly race neutral concerns over crime. Once the clutch of Jim Crow had loosened, opponents of civil rights shifted the "locus of attack" by injecting crime onto the agenda. Through the process of frontlash, rivals of civil rights progress defined racial discord as criminal and argued that crime legislation would be a panacea to racial unrest. This strategy both imbued crime with race and depoliticized racial struggle, a formula which foreclosed earlier "root causes" alternatives. Fusing anxiety about crime to anxiety over racial change and riots, civil rights and racial disorder – initially defined as a problem of minority disenfranchisement – were defined as a crime problem, which helped shift debate from social reform to punishment.

In explaining the sustained shift of criminal justice, my account is part of a larger narrative on race and political development, positing a view of why the powerful civil rights agenda eroded and the underlying causes of American carceral "exceptionalism." The contestation over racial equality was ultimately displaced into policies with racial content, producing a revised racial order in which egalitarian norms could again coexist with "race-laden" policies. At the same time, the criminal justice system represents a new racial cleavage in American politics. In stark contrast to the watershed political gains blacks made in the decades since the zenith of the civil rights movement, prison has become a normal part of life for one in three black men in their twenties.

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[1] Mauer, Marc and Ryan Scott King. 2004. "Schools and Prisons: Fifty Years After *Brown v. Board of Education*." The Sentencing Project Briefing Sheet. www.sentencingproject.org.

Annotated Chapter Outline

I. *Bitter Fruit:* **How the Politics of Race Shaped Crime Policy**

The dissertation opens by briefly describing the seismic shift in criminal justice in recent history, highlighting the policy changes responsible for making the United States exceptional in its carceral apparatus. Seeking to explain this shift in historical perspective, I then outline a framework for understanding the mechanisms by which formerly defeated groups can reassert political advantage by strategically mobilizing a distinct issue. The theory of frontlash describes the process by which losers in a conflict become the architects of a new program, manipulating the issue space and altering the dimension of the conflict in an effort to regain their command of the agenda.

II. *Frontlash***: Racial Unrest and the Origins of Contemporary Criminal Justice Policies**

In chapter two, I show how crime was a natural vehicle for this countermobilization, tracing the development of the crime issue during the Johnson years. Relying on a rich documentary history of congressional debates and original material from the LBJ presidential archives, I explain why an issue that was originally ignored came to dominate the agenda. Several stinging defeats for opponents of civil rights galvanized a powerful elite countermovement that challenged the new paradigm indirectly by turning objective conditions into political capital. Aided by two prominent focusing events – crime and riots – issue entrepreneurs articulated a problem in a new, ostensibly unrelated domain – the problem of crime. The same actors who had fought against civil rights legislation, defeated, channeled their energies into a new, more sophisticated doctrine. Strategic entrepreneurs used the crime issue as a vehicle for a racial agenda without violating norms, attaching the outcomes of old conflict, namely Great Society programs and civil rights legislation -- to the causes of the new problem – the breakdown of law and order.

III. No Turning Back: The Permanent War on Crime

The contestation over this issue was not a flashfire that quickly burned out; instead, the paths that were blazed in this moment had a continuing impact on crime policy to the present, though the racialized connection would shift from being a causal argument and implicit rhetorical device to being a tangible outcome once the effects of these policies had time to settle in. It is with this perseverance, the second stage of development, that Chapter Three is concerned. This chapter continues the chronological political development of criminal justice through the 1970s, based on primary documents from the Nixon archives, congressional debates, and governmental reports. I find that early and dramatic policy changes resulted in a mutation of the policy path; the approach to criminal justice remained punitive and the federal role was further strengthened. While crime discourse and political initiatives on crime slowed, the early policy changes became entangled in complex vines of vested interests, making policies impervious to change. Crime rises and violent riots were ephemeral, but the policies to deal with them had great staying power.

IV. Conflating Race and Crime: How the speed of racial change increased public support for law and order policies

In chapter four, I turn to examining how the implicit connection of crime and civil rights had significant consequences for public opinion. The crime frontlash relied on a strategy of

implicit communication, based on observing racial norms while implicitly connecting crime, riots, and civil rights. Relying on a descriptive analysis of public opinion, a composite analysis of aggregate trends, and a multivariate analysis of individual level determinants of support for punitive criminal justice (using 3 surveys), this chapter traces the rise of the crime issue. It demonstrates that as the frame around civil rights became connected with crime, support for punitive policies increased. Resentment over racial change exaggerated fear of crime and shifted public support from addressing the underlying social causes of crime to cracking down on criminals and deviants. Support for law and order policies became a channel for racial anxieties and commitment to the racial status quo. Rather than being a sleeping giant that awoke, punitive sentiments were cultivated by strategic appeals of politicians, tapping a reservoir of fear over racial change.

V. The Media's Portrait of Crime & Construction of Threat

Chapter five unpacks the role of the media in the political development of the crime issue. As the main conduit between the public and crime, the news media was a key intermediary in the depoliticization and criminalization of racial conflict, providing crucial insights into how the crime problem was collectively defined. This chapter examines feature articles on crime and a sample of all other stories in major newsmagazines with national readerships (*Time*, *Newsweek*, and *US News and World Report*) from 1958 to 1988. I complement this with an analysis of the television news, using a random sample of stories on crime in the nightly news in the three major networks (ABC, CBS, and NBC) from 1968 to 1975 from the Vanderbilt Television News Index and Abstracts. I then match these data with public opinion data. This exploration reveals a consistent trend -- the pattern of media attention and substance of coverage changed (exaggerating the level of crime and racializing the perpetrator), which affected public receptivity to the frontlash problem definition. Specifically, it demonstrates three findings: 1) connected to racial discord, crime became more newsworthy; 2) as crime news became racially charged, public opinion became more punitive and beliefs about black criminality increased; and 3) media helped reinforce the association drawn by strategic politicians by depicting crime with a racial cast, advancing their policy objectives and creating a cognitive link between racial struggle and crime in the public's mind.

VI.

The frontlash on crime altered the racial fabric of post-civil rights America. The struggle for black equality figured prominently in the development of the crime issue and the shift in punitive preferences. I conclude this analysis by focusing on a question: why isn't there more political opposition to these policies and their racially detrimental effects? The answer, I contend, is located in the confluence of two streams – the erosion of the Great Society and progressive civil rights agenda and the punitive approach to crime. The former impeded the progress of the egalitarian project, allowing socioeconomic inequalities to fester and feed racial disparities in crime, while the latter expanded punishment. Meanwhile, racial liberalism allows massive racial disparities in imprisonment because it doesn't violate norms of racial equality. Thus, paths toward tightening criminal justice and liberalizing civil rights were connected and can tell us much about the causes of the transformation of criminal justice as well as its consequences.

This, in essence, is the racial dilemma of the 21st century.

*Chapters 1, 2, and 4 are complete. Chapters 3, 5, and 6 will be available Dec. 1, Feb. 1, and Mar. 1, respectively.

Dissertation Summary