

The bonus of bias

Jeffrey Reiman discusses the criminalisation of the poor.

It is quite obvious that throughout the great mass of Middle America, far more fear and hostility are directed toward the predatory acts of the poor than the acts of the rich. Compare the fate of politicians in recent history who call for tax reform, income redistribution, prosecution of corporate crime, and any sort of regulation of business that would make it better serve American social goals with that of politicians who erect their platforms on a call for 'law and order', more police, fewer limits on police power, and stiffer prison sentences for criminals—and consider this in light of what we have already seen about the real dangers posed by corporate crime and 'business as usual'.

It seems clear that Americans have been effectively deceived as to what are the greatest dangers to their lives, limbs, and possessions. The very persistence with which the system functions to apprehend and punish poor crooks and ignore or slap on the wrist equally or more dangerous individuals is testimony to the sticking power of this deception. That Americans continue to tolerate the comparatively gentle treatment meted out to white-collar criminals, corporate price fixers, industrial polluters, and political-influence peddlers while voting in droves to lock up more poor people faster and for longer sentences indicates the degree to which they harbour illusions as to who most threatens them. It is perhaps also part of the explanation for the continued dismal failure of class-based politics in America. American workers rarely seem able to forget their differences and unite to defend their shared interests against the rich whose wealth they produce. Ethnic divisions serve this divisive function well, but undoubtedly the vivid portrayal of

the poor—and, of course, blacks—as hovering birds of prey waiting for the opportunity to snatch away the workers' meagre gains serves also to deflect opposition away from the upper classes. A politician who promises to keep working-class communities free of blacks and the prisons full of them can get votes even if the major portion of their policies amount to continuation of the favoured treatment of the rich at their expenses. The sensationalist use, in the 1988 presidential election, of photos of Willie Horton (a convicted black criminal who committed a brutal rape while out of prison on a furlough) suggests that such tactics are effective politics.

The most important 'bonus' derived from the identification of crime and poverty is that it paints the picture that the threat to decent Middle Americans comes from those below them on the economic ladder, not from those above. For this to happen, the system must not only identify crime and poverty, *but also fail enough in the fight to reduce crime that crime remains a real threat*. By doing this, it deflects the fear and discontent of Middle Americans, and their possible opposition, away from the wealthy.

There are other bonuses as well. For instance, if the criminal justice system sends out a message that bestows legitimacy on the present distribution of property, the dramatic

impact is greatly enhanced if the violator of the present arrangements is without property. In other words, the crimes of the well-to-do 'redistribute' property among the haves. In that sense, they do not pose a symbolic challenge to the larger system in which some have much and many have little or nothing. If the criminal threat can be portrayed as coming from the poor, then the punishment of the poor criminal becomes a morality play in which the sanctity and legitimacy of the system in which some have plenty and others have little or nothing are dramatically affirmed. It matters little whom the poor criminals really victimise. What counts is that Middle Americans come to fear that those poor criminals are out to steal what they own.

There is yet another bonus for the powerful in America, produced by the identification of crime and poverty. It might be thought that the identification of crime and poverty would produce sympathy for the criminals. My suspicion is that it produces or at least reinforces

the reverse: *hostility toward the poor*.

There is little evidence that Americans are very sympathetic to poor criminals. Very few Americans believe poverty to be a cause of crime (six per cent of those questioned in a 1981 survey, although 21 per cent thought unemployment was a cause—in keeping with our general blindness to class, these questions are not even to be found in recent surveys). Other surveys find that most Americans believe that courts do not deal harshly enough with criminals (67 per cent of those questioned in 2002), and that the death penalty should be used for convicted murderers (66 per cent of those questioned in 2002).

It seems clear that Americans have been effectively deceived as to what are the greatest dangers to their lives, limbs, and possessions.

Indeed, the experience with white-collar crime suggests that sympathy for criminals begins to flower only when we approach the higher reaches of the ladder of wealth and power. For some poor ghetto youth who robs a liquor store, five years in a penitentiary is our idea of tempering justice with mercy. When corporate crooks rob millions, incarceration is rare. A fine is usually thought sufficient punishment.

My view is that, because the criminal justice system, in fact and fiction, deals with *individual legal and moral guilt*, the association of crime with poverty does not mitigate the image of individual moral responsibility for crime, the image that crime is the result of an individual's poor character. It does the reverse: it generates the association of poverty and individual moral failing and thus *the belief that poverty itself is a sign of poor or weak character*. The clearest evidence that Americans hold this belief is to be found in the fact that attempts to aid the poor are regarded as acts of charity rather than acts of justice. Our welfare system has all the demeaning attributes of an institution designed to give handouts to the undeserving and none of the dignity of an institution designed to make good on our responsibilities to our fellow human beings. If we acknowledge the degree to which our economic and social institutions themselves breed poverty, we would have to recognise our own responsibilities toward the poor. If

If we acknowledge the degree to which our economic and social institutions themselves breed poverty, we would have to recognise our own responsibilities toward the poor.

we can convince ourselves that the poor are poor because of their own shortcomings, particularly moral shortcomings such as incontinence and indolence, then we need

acknowledge no such responsibility to the poor. Indeed, we can go further and pat ourselves on the back for our generosity in handing out the little that we do, and, of course, we can make our recipients go through all the indignities that mark them as the

undeserving objects of our benevolence. By and large, this has been the way in which Americans have dealt with the poor. It is a way that enables us to avoid asking the question of why the richest nation in the world continues to produce massive poverty. It is my view that this conception of the poor is subtly conveyed by how our criminal justice system functions.

Obviously, no ideological message could be more supportive of the present social and economic order than this. It suggests that poverty is a sign of individual failing, not a symptom of social or economic injustice. It tells us loud and clear that massive poverty in the midst of abundance is not a sign pointing toward the need for fundamental changes in our social and economic institutions. It suggests that the poor are poor because they deserve to be poor or at least because they lack the strength of character to overcome poverty. When the poor are seen to be poor in character, then economic poverty coincides with moral poverty and the economic order coincides with the moral order. As if a divine

hand guided its workings, capitalism leads to everyone getting what he or she morally deserves!

If this association takes root, then when the poor individual is found guilty of a crime, the criminal justice system acquits the society of its responsibility not only for crime *but for poverty as well*.

With this, the ideological message of criminal justice is complete. The poor rather than the rich are seen as the enemies of the majority of decent Americans. Our social and economic institutions are held to be responsible for neither crime nor poverty, and thus are in need of no fundamental questioning or reform. The poor are poor because they are poor of character. The economic order and the moral order are one. To the extent that this message sinks in, the wealthy can rest easily—even if they cannot sleep the sleep of the just.

We can understand why the criminal justice system is allowed to create the image of crime as the work of the poor and fails to reduce it so that the threat of crime remains real and credible. The result is ideological alchemy of the highest order. The poor are seen as the real threat to decent society. The ultimate sanctions of criminal justice dramatically sanctify the present social and economic order, and *the poverty of criminals makes poverty itself an individual moral crime!*

Such are the ideological fruits of a losing war against crime whose distorted image is reflected in the criminal justice carnival mirror and widely broadcast to reach the minds and imaginations of America. ■

This article is an excerpt from the eighth edition of The Rich Get Richer and the Poor Get Prison. Ideology, Class and Criminal Justice (2007), London: Pearson, pp. 180–183.

Jeffrey Reiman is the William Fraser McDowell Professor of Philosophy at American University in Washington, DC.