Explaining away crime: The race narrative in American sociology and ethical theory

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Abstract

Rates of crime for Blacks in the United States in the post-slavery era have always been high relative to Whites. But explaining, or minimizing, this fact faces a major problem: individual excuses for bad acts point to deficiencies, in the agent, which are perhaps forgivable, such as mental deficiency or a deprived childhood, but at the price of treating the agent as less than a full member of the moral community. Collectivizing excuses risks implying group inferiority. The history of attempts to provide an explanation of crime that mitigates blame without undermining full participation to the moral community is long and convoluted, leading to the presently widespread claim that crime is itself a product of victimization through pervasive racism. Three basic strategies – rejection of comparison, attribution to racially invariant causes and explanation by reference to uniquely Black conditions, such as subculture or extreme stigmatization – are identified and their ethical implications distinguished.

Keywords

Appiah, Black crime, Black rage, excuses, Strawson

The American race problem has always been interwoven with the problem of crime and the stigmatization of Black people as criminals. From the beginnings of American social science, the facts related to Black crime, and the problems of explaining them, have been a matter of controversy. The public, non-professional literature, as well as the memoir literature, has continued to agonize over the problem. Within the professional literature, however, the topic of racial differentials in crime has been subject to a certain aversion or

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taboo, which has taken three forms: an unwillingness to address it directly, an unwillingness to treat crime as part of the explanation for such phenomena as housing segregation and a focus on the discriminatory aspects of the justice system. The standard criminology literature provides general theoretical accounts of crime without mentioning race; the literature on Black communities omits mention of crime[1]; and the problem of racial differences in crime largely vanished from the criminology literature, and its focus, in relation to race, shifted to the sociology of law and to questions involving the justice system itself.

The fundamental issues over race and crime derive from some basic, though contested, facts. In the United States, Black crime rates, and particularly violent and property crime rates, exceed White crime rates by a large margin. With 13.4 per cent of the population, Black people account for 53.3 per cent of arrests for murder and non-negligent manslaughter, 37.4 per cent of arrests for violent crime and 30.1 per cent of arrests for property crime.[2]

The meaning of these statistics has, however, always been disputed, in large part because they represent patterns of enforcement and reporting rather than crime itself, and accordingly sociologists have often refused to take them seriously. Black rates of incarceration are also higher and reflect the seriousness of the crimes and more extensive criminal records (Wilson & Herrnstein, 1985, pp. 472–473). The consequences for Black people are dramatic:

> Black men constitute 6 percent of the US adult population but are approximately 35 percent of the prison population and are incarcerated at a rate six times that of white males (Carson & Sabol, 2012, p. 8). One in three Black men will be incarcerated at some point in his life. (Bonczar, 2003, p. 1)

The fact of Black crime itself led to a long history of negative associations (Muhammad, 2010), which were detrimental regardless of how it was to be explained. The fact of crime itself has massive consequences for Black people who are not criminals, who suffer from the stigmatizing association of Blackness with criminality, as well as suffering disproportionately as the victims of crime.

Crime is thus inseparable from the problem of race, and the problems of race, especially the problem of racial stigma and racial distrust, and therefore discrimination and segregation, are inseparable from the phenomena of Black crime. To the extent that US society as a whole is racialized in its response to various topics, crime is always a lurking variable, both as a cause and as an effect. Because the differences in crime between people in different racial categories are large, they are always confounded with other differences. Rates of poverty, joblessness, proportions living in segregated communities, as well as out of wedlock childbearing, fatherless families and other things are also higher.

My concern here will be much narrower and only indirectly with these larger problems of explanation. In what follows, I will be concerned with one class of responses to these facts: those which provide explanations which acknowledge differences in racial crime rates but explain these differences in ways that do not demean Black people as a

group. This is a place where a problem of explanation and a problem of ethics intersect. To understand the ethical side of the problem requires a brief discussion of excuses.

Peter Strawson, in a famous paper called 'Freedom and Resentment' (1962), provided a basic model for thinking about excuses. Excuses for what would ordinarily be punishable[3] acts of individuals, such as murder, typically take the following form: the offending person was not a full moral agent. The paradigm cases involve not being in control of their actions through a kind of incapacitation and involve a disability of some sort causing this incapacitation. The cases typically involved a claim that they are mentally incompetent, such as a child unable to distinguish right and wrong, or a mentally ill adult. Both kinds of disability mean they were not proper agents. But they also imply that people with such disabilities are not full members of the moral community: the standards of the moral community are for its full members, that is, agents with the mental capacities to understand and respond to the standards. Strawson notes that we have a participative attitude towards those we regard as full moral agents but an objective attitude towards those who are not, for example, those who are mentally deranged.

The sociological literature reflects a recognition of this basic reasoning, and works within it, but in a complex and indirect way. The literature on Black crime is concerned with rates, not specific acts. The literature is concerned to refute standard prejudices to the effect that Black people as a group have a natural racial propensity for crime. The point of the argument, however, is ethical and reflects the basic structure of Strawson's argument. To say that Black people have a natural propensity for crime is to say that they lack, at least in some degree, a capacity to act freely. This implies non-membership, or lesser membership in the moral community. The goal of much of this literature is to avoid demeaning explanations of this kind, while at the same time attributing Black crime rates to conditions or aspects of Black life which make them unable to behave as normal members of the moral community. At first blush, this seems like an impossible task: most forms of incapacitation that remove a person or group from the moral community *are* demeaning. But if we can find an account of incapacitation that is not demeaning, in which the person incapacitated is a victim, or is otherwise individually innocent, this standard is met.

Racial invariance or causal muddle?

Unlike establishing incapacitation in relation to personal responsibility for crimes, establishing this extended kind of incapacitation for groups has all the difficulties of empirical social science in establishing causality. Theories of crime generally struggle to connect causes to outcomes. So there are unavoidable issues with explanation. The conventional sociological response was to reject racial theories that posited some sort of natural propensity to crime among Black people was simple: that the same causes produced the same results in different races (Johnson, 1941, p. 93). It assumes that racial disparities can be explained by 'causative factors' that are the same for both groups but vary only quantitatively. Thus, poverty should have an equal causal effect in both groups, but the group with higher rates of poverty would have correspondingly higher crime rates. This acknowledges the difference in rates but provides a kind of absolution, at the group level: Black people are no worse than Whites in the same circumstances. This has come to be

called the 'racial invariance thesis'. This does not involve a claim of incapacitation: Black people are taken to be responding as normal members of the moral community, as White people would, under similar circumstances.

The racial invariance thesis was never established as true. It functioned instead as a methodological precept and response to ingrained racism. But it was true to this extent: there were significant racial disparities in poverty, housing, family structure and other conditions associated with differences in crime rates. The thesis was a way of side-stepping the racialization of the issue of crime, and pointing to policy solutions, by assuming that racial differences would disappear along with changes in other conditions. The larger race problem itself could be taken to be subordinate to political and economic conditions which, if changed, would produce attitude change in favour of Blacks (Bobo and Smith, 2017, p. 202).

It might seem simple to support this thesis and establish the true causes of racial differences in crime. But there are at least three major methodological problems that make this topic unmanageable as well as theoretical issues that follow from the methodological ones. The key issue is with the relevant correlations and turning them into causal explanations. The conditions associated with crime are correlated with one another, or confounded, in ways that make it impossible to separate them into causes. At best, criminologists can come up with long lists of correlates of crime. Moreover, the causal relations themselves are nor additive but redundant: removing one cause through policy, for example, would not affect outcomes because another, correlated, cause would produce the same outcome on its own.[4]

The empirical flaw in the invariance thesis was that there was more Black crime than could be accounted for by the standard conditions. This led, as we will see in later sections, to a quest for conditions unique to Black crime. This produced the second methodological problem: the supposed cause was racially invariant, in the sense that theoretically any race subject to it would respond in the same way, but this was empirically impossible to assess because the cause was unique to Black people. Of the possible causes of this kind, the unique fact of anti-Black racism and its consequences in the unique responses to it by Black people looms the largest. But these facts could not be reduced to linear causal relations and required complex mechanisms. A long tradition, dating at least to the early career of W. E. B. Du Bois, relates to the differential treatment by the justice system. The ongoing theme has been over-policing: whether the crime statistics and especially the incarceration statistics are the result of racially disproportionate arrests and prosecutions. Du Bois, for example, argued that the crime statistics were the result of abusive southern sheriffs. This was countered by one of his statistical mentors, who showed that the same differentials arose in upstate New York (Willcox, 2019), and also 'cited the latest prison data that showed that black prisoners in the North had higher per capita rates of incarceration than in the South (69 versus 29 of every 10,000 residents)' (Wilcox, 1908, p. 444, quoted in Muhammad, 2010, pp. 74–75). The issue has persisted. The most famous recent example of this type of argument is Michelle Alexander's account of mass incarceration as 'the new Jim Crow', which she associates with the war on drugs (Alexander, 2010).[5] Racist over-policing is a supplementary cause consistent with, and potentially supportive of, the invariance thesis itself, but it involves

a cause unique to the Black population rather than a variable that also operates in the White population.

The third methodological issue also involves uniqueness, but in a different way. Correlational analysis requires a single population, with a more or less normal distribution. Causal inferences of the sort required by the racial invariance thesis are not justified when statistically distinct populations are mixed.[6] But statistically, Blacks and Whites are, from the point of view of the correlations *within* each group, different populations, with different causal processes. Krivo and Peterson (2000) summarize many studies that show

> that major predictors differ for the two groups (Harer & Steffensmeier, 1992; LaFree & Drass, 1996; LaFree et al., 1992; Messner & Golden, 1992; Shihadeh & Ousey, 1996). Harer and Steffensmeier (1992) and Shihadeh and Ousey (1996) found that intraracial inequality affects rates of violence among whites but not Blacks, and Messner and Golden (1992) reported that absolute deprivation influences white but not Black killings. LaFree and his colleagues showed that greater economic well-being significantly reduces robbery rates for whites, but has no influence on rates for African Americans (LaFree & Drass, 1996; LaFree et al., 1992). Further, educational attainment is positively associated with crime rates for Blacks during times of increasing Black income inequality. In contrast, increased educational attainment reduces crime among whites, but only during periods of decreasing white income inequality. (p. 548)

They go on to point out a variety of other differences, as well as some similarities, in the relevant predictors. Sometimes the discrepancies are quite large. Family structure has a large discrepant effect: the effect of a female headed household on robbery is three times larger for Blacks than for Whites, and 'for youth, increased per capita income reduces rates for whites, but not for Blacks, while welfare payments affect robbery rates for Blacks but not for whites' (Krivo & Peterson, 2000, p. 548). These findings undermine the racial invariance thesis as well as policy prescriptions based on it.

Another supplementary line of argument appealing to racial disparities of treatment holds that crime in general is not different between the races but that the morally reprehensible crimes typical of White people – especially crimes of economic exploitation – are not treated as such by the system for Uniform Crime Reporting, so that only the crimes characteristic of Black people are represented (LaFree & Russell, 1993, p. 283). Nor are they punished in the same draconian way. Thus, it indicts the criminal justice system itself as racially oppressive, since it is designed in such a way as to permit White people's crimes and punish Black people's crimes (Davis, 2017, p. 178).

The problem of uniqueness bedevils virtually every attempt to account for differences. The standard version of the 'same situation' argument defines the same situation as neighbourhoods and suggests that housing segregation is a major contributing cause of crime. There are good reasons for thinking that the concentration of Black offenders creates a climate for offending that is different from the pattern for White offenders, who are dispersed more widely in their communities. So this reasoning is highly plausible. It fits with a variety of theories of crime, such as the idea of differential association, meaning that one is more likely to become a criminal if one's friends are criminals, and the idea that crime is a result of disorderly communities, meaning communities with

unchecked crime and weak social networks to support such things as surveillance by neighbours. These are features of ghetto neighbourhoods, and the explanation can be extended to the phenomenon of middle-class Black crime by noting that the segregated neighbourhoods that middle-class Black people normally live in are affected by their proximity to ghettos (Gabbidon, 2007b, p. 64).[7] Thus, in practice, there are no comparable neighbourhoods: race and racism makes these conditions unique.

The difficulties with the racial invariance thesis have led some Black sociologists to take a more radical approach: to reject the project of comparison of crime rates itself. As Young and Sulton (1991) note:

> African-American criminologists generally are frustrated by their white counterparts insistence on using available crime data to show that African-Americans are disproportionately involved in crime, arguing that it is unprofessional to make such an allegation because the concept of "disproportionality," as employed by many white criminologists, is based on the groundless assumption that contribution of African-Americans to the total population should somehow influence their contribution in other areas. (pp. 104–105)[8]

The assumption *would* indeed be groundless if we accepted racial variance, without placing a moral value on it: without thinking that a special excuse involving incapacitation is needed for Black crime. We can accept that there are different mechanisms operating in different populations and determine what these mechanisms might be and how they relate to crime – without attempting to excuse it.

But this produces a new explanatory problem – of accounting for the difference in causal mechanisms. Here we have two basic options: there might be 'cultural' explanations (including the full range of social practices, interpersonal relations, social dynamics, local norms, institutional forms and so on) for the distinctive mechanisms operating in each population, or there might be universal psychological mechanisms with distinctive psychological causes operating only in and on the target population. These options are not mutually exclusive: if one frames culture as a disabling condition, it might be done by treating it as the source of the lack of self-control which is the proximate cause of crime, as it is for Gottfredson and Hirschi (1990), which is a universal psychological phenomenon activated in the particular cultural setting. But cultural explanations of either type raise problems over 'blame', for reasons that go to the heart of the problem of excuses.

Cultural and subcultural explanations

Cultural explanations of backwardness have a long history apart from the issue of race. Such writers as Edward Banfield (1958) and Oscar Lewis (1998) described the self-defeating collective life of southern Italian villagers and poor Mexicans, respectively. The accounts served to show how cultural patterns perpetuated poverty and resisted reform. The blame, in these cases, fell not on individuals but on the culture or subculture itself. These kinds of arguments were applied to the Black American experience, in the framework of a general dispute over the relative role, and relation, between culture and structural conditions. William Julius Wilson, for example, describes how culture

explains how poor Blacks respond to the structural conditions they face (1996, p. xiv; see also Wilson, 2009).

These accounts have recently been a flashpoint for issues of blame. The new generation of scholars of poverty and culture has distanced itself from Banfield and Lewis, for reasons given by Small et al. (2010): 'The earlier scholars were repeatedly accused of "blaming the victims" for their problems, because they seemed to imply that people might cease to be poor if they changed their culture' (p. 7). This statement illustrates the centrality of the problem of blame and excuse to this literature. The significance of the issue of blaming the victim in relation to culture is, however, complex and ambiguous between several interpretations. They depend on issues of capacity and individual agency: Do cultures incapacitate, or are individuals incapable of thinking beyond and changing their culture, and if not, are they responsible for changing themselves? Is the implication Small et al. want to avoid illegitimate in some way, and if so how?

There is a philosophical literature primarily concerned with questions like 'should Aristotle have denounced slavery', which turns on these questions. One view is that the individual is not responsible for the culture in which he or she exists but that there is a vague individual responsibility to be enlightened, or to reflect critically on one's culture and recognize where it produces injustice (Moody-Adams, 1994). For many thinkers, being enlightened includes extending one's sense of empathy to others and respecting their differences – with an expectation that a higher level of enlightenment will come out of this extension of respect (cf. Prinz, 2007). Tolerance is granted differentially: these expectations are imposed more heavily on those who have the greatest access to enlightenment – more on Aristotle than the slaves. But these accounts assume that enlightenment, or justice, or some other good, such as tolerance, is available in a more or less culture-free form, rather than merely being itself a value that is the product of a particular cultural tradition.

The position taken by Small et al. could be written in a variety of ways, but it commonly follows from cultural relativism, which simply denies that any ranking or differential evaluation of culture is possible. Relativism excludes judgements of incapacity, and therefore 'blaming', because individual incapacity is itself relative to the culture. But this runs into a difficulty that has been discussed recently by Anthony Appiah in a review of a group of books on anthropology and race. He comments that even Ruth Benedict, a vocal cultural relativist who popularized the word 'racism', fell victim to her own Whiteness. Culturalist anti-racism such as hers, directed to and from Whites, is, even from a relativist point of view, just another expression of Whiteness. Her discursive 'we' was a White we; her implied audience a White audience (Appiah, 2020). Why is this an issue? Her tolerance was from a White point of view. But as Appiah (2020) notes, the kind of tolerance Benedict promoted can be an obstacle to social change, including changes desired within the culture itself. Cultural relativism is not a reason for those within a culture to be uncritical of it. Her kind of relativism is, in the context of race, as well as other contexts, condescending and implies a kind of incapacity on the part of those she is tolerant towards.

The condescension is evident in the concern over the implication that Small et al. are concerned to avoid: that people might cease to be poor if they changed their culture.

Denying this implies an incapacity of group members to transcend and reform their own culture. The problem is especially acute for subcultures, such as the ones investigated by Banfield and by Lewis, which are embedded in a larger culture that is, by the subculture's own lights, more successful and dominant and which possesses attributes that are desirable from the point of view of the subculture itself. If we regard the incapacitation produced by culture as only partial, as we are supposed to do in the Aristotle case, and regard Black people as moral agents with specific burdens, which they are responsible for overcoming, analogous to the alcoholic or drug addict, we can accommodate Appiah's critique. The burdens excuse to a limited extent, as they do for the addict or alcoholic, but they also impose a responsibility to change. And this is the case with cultural explanations of Black crime: accepting it as a feature of Black culture is not, for Blacks, an absolution but a mark of shame. It is only an absolution for, and by, Whites.

Complete incapacitation would excuse behaviour by treating it as the product of something equivalent to mental derangement. The kind of cultural relativism envisioned by Benedict does just that: it imagines people imprisoned in their culture who we must take an objective attitude towards as alien subjects and tolerate without condemning. If we assume Black people's agency, and that any incapacity produced by culture is only partial, we can ask what kinds of responsibilities to change they do have.

To what extent does this kind of reasoning mirror actual moral reasoning? In this case, very closely. Historically, the Black community and its leaders have not only formed opinions but acted to bring about change, both in conditions and internally in the culture. Some of this included action on crime – including promoting the 'war on drugs', in response to the effects on the Black community. There was a recognition that the possibility of constructive change of this kind, change desired by the community itself, places responsibility on the people in the community who could bring it about. But this too is a qualified responsibility. The failure of communities to act collectively is sometimes called the problem of collective efficacy, defined as 'the capacity of neighborhood residents to achieve a common set of goals and exert control over youth and public spaces'. It has been shown empirically that collective efficacy 'protects against serious violence' (Sampson et al., 1997). But achieving collective efficacy requires something from within the community itself, and from within the individuals, and that part becomes responsibility. To be sure, 'conditions' and outside interference can limit attempts at collective efficacy, but they cannot produce it.

The arguments considered here have the effect of distributing responsibility. Cultural and subcultural accounts distribute it in particular ways. The obligation to become enlightened, or simply 'better' from one's own cultural point of view, involves internal change. By definition the kind of change demanded goes beyond the fulfilling of normal, everyday, culturally sanctioned obligations to others. It cannot be directly induced by others – it requires at least active assent. But there are many reasons why these changes are difficult, or resisted. At no point are the relevant agents unburdened. Assimilation has costs in terms of the normal, everyday obligations and standards of respect within the subculture. And given the mixed character of cultural facts, some of which are positive and others negative, apostasy always comes with some loss. Stigma itself has psychological consequences that lead the stigmatized to embrace and take pride in the

stigmatized identity and its cultural manifestations. And perhaps most powerfully, the costs of 'enlightened' action, in a setting of the unenlightened, may be high, and the baseline, the existing 'culture', may have a moral force that coheres with the actual conditions of social life in which the agent exists, so that change, in the particular setting, violates normative impulses that are deeply rooted and supported by more immediate consequences.

A 'subcultural' pattern in the Black community that exemplifies the problem is what Oliver calls 'compulsive masculinity'. This is a behavioural pattern, with a kind of cultural ideology, which stresses autonomy and 'defines manhood in terms of immunity to the orders and instructions of others' (Oliver, 1994, p. 169). As Oliver (1994) observes,

> it is ironic that those lower class men who are least likely to participate in mainstream institutions and activities and who are the most socially impotent men in America appear to be overtly concerned with presenting themselves as free from external interference. (p. 169)

This form of self-affirmation is understandable as a psychological response to an environment filled with others behaving similarly. The pattern produces a particular kind of street crime: fighting.

The ideology that goes along with fighting itself involves normative notions, and its own account of responsibility and its own justifications. As Oliver (1994) quotes from an ethnography by Ulf Hannerz: '"He's a man and I'm a man, and I don't take no shit like that" is how streetcorner men tend to defend or explain their fighting responses' (p. 176). Oliver found that this affirmation of equality was associated with a particular pattern of excuse for violence known in the literature as denial of victim, 'a neutralization technique in which the offender justifies his delinquent or criminal behavior by defining it as "a form of rightful retaliation or punishment"'. He notes that this also fits with the idea of expressive violence as 'a form of self-help' in which justice is done to a person who deserves injury. In short, the response even evinces a certain morality, one perhaps not that far removed from the larger societal notions of justice, but played out in a violent environment.

'Compulsive masculinity', as a subcultural phenomenon, is resistant to policy changes that would be directed at transforming the individuals in the direction desired by the community itself – which would by definition involve 'the orders and instructions of others' and a degree of cooperation that would involve a surrender of autonomy (cf. Oliver, 1994, pp. 291–300).

Some forms of cultural incapacitation can be overcome intellectually – by 'enlightenment', however problematic this concept is in practice. This form of incapacitation cannot. The victim of 'compulsive masculinity' is, at least to some extent, in the grip of a 'compulsion'. But the compulsion is not only a matter of a learned disposition that can be unlearned. It is constantly reinforced by the person's social experience, which requires self-defence and the establishment of a reputation for a capacity to take revenge – the morality of the Hobbesian state of nature. 'Correcting' this is not simply a matter of persuasion leading to a better way to act. Change would require change in the social experiences of the person that compel the kinds of responses that the term describes.

If we take the obligation to transcend one's culture seriously, and consider the person on whom it is being imposed capable of doing so, failure to do so is a matter of personal responsibility. But this must apply to very few people. Moral exemplars, or role models, are likely to have a stronger effect on ordinary members of the community. For this reason, a long tradition in sociology has emphasized the importance of role models or exemplars and shown concern that successful middle-class Black people leave the ghetto. The transformation of ordinary social relations necessary to escape is not within an individual's powers, and therefore not a responsibility. An elite may take on this responsibility. But their ability to act effectively is limited by the considerations discussed earlier. 'Cultural' explanations thus have a mixed character from the point of view of excuses: they excuse only partially, in that every culture can be transformed in a more 'enlightened' direction, even by its own lights, but every culture provides obstacles to its transformation.

Black rage and legal cynicism

Cultural explanations, at least those that are qualified in the sense suggested by Appiah and others, preserve some sense of agency, and thus of personal responsibility. In what follows, I will consider some more radical attempts to account for Black crime, which go beyond and reject not only the racial invariance thesis but the idea of Black responsibility for Black crime.

'Denial of Victim' narratives come close to a kind of justification that has significant currency in Black culture and is deeply rooted in the well-established phenomenon of Black resentment and embodied politically in the reparations movement: a sense that justice requires that White people in general must pay for injuries inflicted on Black people, regardless of the source and actual causes of these injuries. If this resentment could be justified, and at the same time explain Black crime, we would have accomplished three things: explanation, absolution and assigning full blame to others.

There is a history of arguments that accomplish this. The classic example is Grier and Cobbs' *Black Rage* (1968). These two psychiatrists argued that the treatment of Blacks and the consequent internalization of negative attitudes towards Blacks had caused self-hatred, and in face of the hopelessness of 'righting this wrong by force, he identifies with his oppressor psychologically . . . From this new psychologically "white" position, he turns on Black people with hostility and aggression, and hates Blacks, and among the Blacks, himself' (1968, p. 199).[9] This account has two virtues: it accounts for Black crime against Blacks, and shifts blame to the White oppressors. But it does have the effect of reducing the Black male to a psychologically damaged person whose self-hatred makes him unable to act as a member of the moral community. The term 'rage' is not accidental. It captures the abnormality of this response and places it beyond normal rationality and into the realm of the psychiatric and what Strawson would call the objective point of view.

Although developed in the 1960s, Black rage became a mainstream criminological explanation of the increased crime of the 1980s through the following mechanism:

> . . . crime began to increase markedly when Blacks no longer needed to fear whites, and so some of them – young Black males, primarily – could express directly and physically a rage and a desire to prove one's manhood that formerly could be expressed only indirectly and verbally. (Wilson & Herrnstein, 1985, p. 482)

If racially based self-hatred was produced by fear, removing this fear should also have had the effect of reducing self-hatred, and also hatred of members of the same race, and therefore rage: this was the mechanism of the original Black rage thesis. But there were other sources of rage against White people. By adding the desire to prove one's manhood, the core of the 'compulsive masculinity' theory, to sheer 'rage' against injustice, and the new lack of fear, one had an account of Black crime that was also an explanation of Black crime against Black victims. But it was something of a hodgepodge that lacked the clear, if implausible, causal linkages of the original Black rage argument. Nevertheless, it reaffirmed the thought that Black crime involved a psychologically anomalous state akin to madness – itself a kind of absolution.

In the more recent sociological literature, a variant on this basic structure has produced a distinctive strategy of absolution. In its most developed form, it provides an explanation of Black male violence, rooted in culture, in which the problematic character of the culture is not only admitted but emphasized, but then, following the basic pattern of race-neutral condition-dependent subcultural approaches, explained as a reaction to extreme outside circumstances, circumstances for which blame *can* be assigned. The causes are thus universal; the extreme circumstances, however, are unique to the Black experience.

These accounts draw on existing explanatory resources. A typical example of such an account works like this:

> . . . drawing on strain and social learning theories, we conceptualize interpersonal racial discrimination as a highly stressful experience – a form of victimization – cumulative in its effect, which increases the risk of crime by producing distress and shaping cognitive frames about the way the world works. (Burt et al., 2012, p. 5)

The causal agent, extreme racial discrimination, 'produces distress, imparts messages about the unfairness of the social system, and shapes cognitive frames about relationships' (Burt et al., 2012, p. 7).[10] The cognitive frames are the content of the subculture, a product of distress. They are thus produced in ways that are psychological and subrational, as distinct from the choices of a conscious, reflective agent. But the producing condition, the extreme level of racial discrimination, is unique and produces a unique world view (Unnever, 2014, p. 23).

The uniquely Black experiences that produce distress of this kind are microaggression, or interpersonal experiences that humiliate and demean, especially interpersonal experiences with the police, which produce 'legal cynicism'. This is an account that is explicitly against subcultural explanations: indeed, the

> findings invalidate the social disorganization theorists' argument that the legal cynicism found in Black ghettos is a cultural phenomenon that is "culturally" reproduced. Rather, the contemporary day-to-day negative experiences that African Americans personally or vicariously have with the criminal justice system cause them to be cynical of the criminal justice system. (Unnever, 2019, pp. 89–90)

But the same author admits

that their racialized legal cynicism is transmitted across generations – racial socialization – because African Americans continue to personally or vicariously experience profound racist encounters with the criminal justice system on a daily basis (e.g., stop and frisk, driving while Black, or shot while walking away) (Brunson, 2007; Brunson & Miller, 2006; Brunson & Weitzer, 2009; Unnever et al., 2017). In short, the peerless racialized legal cynicism among African Americans results from their incomparable grounded lived experiences with what it means to be a Black person living in a systemically racist society. (Unnever, 2019, p. 90; see also Henning, 2017, pp. 64–65)

This leads to an explanation of offending: 'the core hypothesis generated from A Theory of African American Offending is that the more the Blacks perceive personal or vicarious forms of racial injustice, the more likely they are to offend' (Unnever, 2014, p. 2). This line of argument has a familiar flaw: it does not solve the problem of why discrimination by Whites would produce crime by Blacks against Blacks. This was the problem solved by the original Black Rage argument, which posited self-hatred of Blackness as the underlying mechanism. Legal cynicism itself does not directly cause crime. But the problem of providing a link between legal cynicism and crime leads to a different ambiguity.

One of the classic discussions of Black life which does address crime specifies this connection. Charles Johnson (1934), in *Shadow of the Plantation*, notes 'either casualness or fatalism in recounting deaths in the family by violence' (p. 190), which is perhaps a product of its frequency. But what explains the frequency of violence itself? Johnson adds an explanation of crime which connects legal cynicism to the social control model established in *The Polish Peasant* (Thomas & Znaniecki, 1996):

> The courts are outside of the scheme of life; adjustment of relations in the past has been very largely the province of the white planter. Such unanimity of sentiment on law as exists is a common disposition to remain as far as possible out of contact with the courts whether as plaintiff or accused . . . Thus, differences tend to be settled on a personal and face-to-face basis. This sentiment helps further to account for the prevalence of weapons of defense. (Johnson, 1934, p. 191)

This is a kind of excuse, but a transitory one: the breakdown of social control allows crime, in the form of Hobbesian justice. But this is an excuse that does not relativize the situation in such a way as to deny agency and therefore responsibility: overcoming disorder is at least partially the responsibility of the community. Thus, legal cynicism alone is not the cause of crime: social control is the intervening variable, and it is not itself 'racial'.

Conclusion: Blaming the victim or denying agency?

The kind of excuse which keeps the person in the moral community and does not demean them remains elusive. The problem is set by Strawson, who provides a framework for discussing absolution from an objective point of view by reference to incapacity, but one confined to individual absolution and a world of clear and non-statistical causal relations. By expanding this framework to groups, to statistical relations and to less clear

categories of disability, as well as to policy responses whose moral and empirical bases are questionable, both the empirical and ethical parts of the problematic become far more complex and indeterminate.

The empirical issues, which I have only touched on, are daunting. Prediction is not explanation, and excuse requires explanation. The mechanisms relating social facts to crime are poorly understood in general, and the proposed theories of Black offending are particularly complex. They involve hypothesized mechanisms that, as we have seen, are difficult to substantiate and create their own problems: they can be as demeaning as the facts they attempt to excuse. At the heart of the empirical issues are the problems of confounding and causal arrow ambiguity: Does the fact of crime produce the negative results of relative poverty, discrimination, unemployment, police oppression and so forth, or are these the causes of crime? Confounding prevents us from separating these elements of causation, which are highly correlated and correlated with the consequences of crime itself.

The ethics issues are equally muddy. The core problem is this: absolution on the grounds of incapacitation makes a person or group into objects, subject to the objective gaze, though objects of pity. They are held to be something other than responsible and something less than full agents. This is the price of absolution. The point of many of these accounts of Black crime is to avoid this result. The racial invariance approach avoids this by appealing to proportionality, and ascribing racial differences to conditions, on the assumption that persons of any race would respond in the same way to the same conditions. It affirms the normality of Black crime: it is the normal response to conditions shared in a lesser degree by other people. And it assigns blame – to society, meaning those with the power to change conditions.

The thesis that Blacks are uniquely afflicted and disabled by discrimination, the Black rage thesis and its more recent variants, acknowledges the anomalous character of Black crime and finds a unique cause, overwhelming anti-Black racism, to explain it. But it makes all Blacks not only victims but victims so harmed by discrimination that they too are beyond responsibility and therefore not full members of the moral community. If we reject classifying Black people as so mentally compromised by racism that they are no longer properly regraded as moral agents, so that we cannot regard them from the participatory point of view.

It is useful to consider this argument from the point of view of the claim that earlier analysts of the culture of poverty were engaged in '"blaming the victims" for their problems, because they seemed to imply that people might cease to be poor if they changed their culture' (Small et al., 2010, p. 7). To call the people being studied 'victims' is a claim that someone is to blame for their situation. But it also implies that they are not acting as full agents, that they are under compulsion which prevents them from changing, and that this is the reason they are not blameworthy and that someone else is. It should be observed that this is a misleading account of these now unfashionable texts, which made clear how difficult it was for an individual to escape the cultures that held poor communities back. But individuals were not reduced to non-agents, and indeed there was a constant movement of population which flowed from these communities to places where individuals assimilated to a different cultural setting.

A parallel issue arises with the Black rage argument, which is another case of rejecting 'blaming the victim'. The victims, in this case Black people generally, and those who are most sensitive to injustice specifically (cf. Unnever & Chouhy, 2020), are depicted, somewhat inconsistently, as so cognitively damaged by racism that they commit crimes. They are agents, but abnormal ones, whose incapacities absolve them. They are victims because they are governed by the compulsion of the alternative world view imposed on them by their experience of racism and injustice. Ironically, this reasoning, opposed to the racial invariance thesis, results in a novel form of the racial invariance thesis: it asserts that Black crime is no different from what White crime would be if the conditions for Whites were the same. This displaces responsibility: the blame for Black crime falls to those who control the 'conditions'.

The two populations or subcultural account distributes blame differently. It treats the culture not as a form of compulsion, in the fashion of Ruth Benedict, and as a difference which we as enlightened people must tolerate, but as something that members of the subcultural community *can* take action on. Social responsibility – responsibility for a group, or on behalf of a group, is different than individual responsibility. But there are parallels. The alcoholic admits deficiency and is obliged to correct for it. He is not merely a blameless victim of his disease. Criminals, similarly, can take responsibility for self-stigmatization and acts which facilitate group stigmatization. But social responsibility in the sense of taking responsibility for one's group or another group requires the power to act as an agent, and to act as an agent for a community.

These are not mere ethical abstractions. A sense of collective responsibility for the behaviour of Blacks and their uplift has in fact traditionally been an issue within the Black community. Cultural change has often been a part of uplift, whether in the form represented by Booker T. Washington or the form represented by W. E. B. Du Bois, or in the form of Malcolm X. Change in the community generally is a responsibility that Black police and participants in the justice system, elites and religious leaders have often accepted. And they accepted this responsibility because they believed they had agential powers – and on the basis of the belief that there are things that only Blacks can do for Black people, and that this, combined with an obligation to rescue and a special relation of solidarity with other Blacks, creates a special obligation.

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Notes

1. In the case of Chicago alone, the classic *Black Metropolis* (Drake & Cayton, 1945) does not mention crime, nor does William Julius Wilson mention it in such texts as *When Work Disappears* (1996), and it is largely ignored in *There Goes the Neighborhood* (Wilson & Taub, 2007), in spite of extensive memoir material attesting to its centrality in racial change. See also Heppner (2019), Rosen (1998), and McCall (1994) for a Black perspective on the general phenomenon.

2. https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-43 https://www.census.gov/quickfacts/fact/table/US/PST045219.

3. Some excuses, involving matters of inadvertence, ignorance and unintentional consequences, do not exclude the person from the moral community, because they do not involve personal incapacities.

4. A recent survey of the use of statistics in the social sciences singled out criminology for these issues: 'Other fields have a mix of good and bad papers, but criminology is a shocking outlier. Almost every single paper I read was awful. Even among the papers that are highly likely to replicate, it's *de rigueur* to confuse correlation for causation' (de Menard, 2020).

5. For the contrary view, that *violent* crime led to mass incarceration, by Black authors, see Butler (2017, p. 117) and Forman (2017).

6. The most extreme consequences of mixing are shown in what is known as Simpson's paradox.

7. The uniqueness of neighbourhood segregation means that the effects of segregation cannot be separated from the effects of race. So in a sense it is the perfect absolving explanation: there is no empirical way to counter it. It is, however, incomplete as an explanation because minority group segregation is not always associated with crime. Some forms of minority group segregation in the United States, notably Chinese segregation, produced low rates of crime (Wilson & Herrnstein, 1985, p. 474). So segregation by itself is not an explanation, though concentration might be – but if segregation results in the concentration of criminals, it is because there are more criminals in the segregated group; we still need an explanation of why there are more criminals in the segregated group.

8. They also, however, appeal to a form of racial invariance when they refer to work that shows that if income or misery as shown by the 'misery index' is held constant, racial differences are greatly reduced or disappear (Young & Sulton, 1919, p. 101).

9. A similar line of reasoning was used in the expert opinion that contributed to the *Brown v. Board of Education* decision: Kenneth Clark's experiments with dolls that showed that Black children preferred white dolls.

10. This messaging goes back to early Du Bois (Gabbidon, 2007a, p. 17). Kristin Henning gives the example of school discipline (2017, pp. 65–68).

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