



## RACIAL THREAT THEORY AND MINORITIES IN THE AMERICAN CRIMINAL JUSTICE SYSTEM

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### **Abstract:**

People of color in the United States have historically played second fiddle. Their position in the racial caste is essentially a function of demography, fueled by competition for scarce resources. Group survival is thus at the heart of the discriminatory practices in the U.S. criminal justice system which functions as a tool to ensure that each group knows and keeps to its place in the social hierarchy. In this competition, the structure of society and its key institutions are compromised in their deployment to maintain the status quo and to ensure that the majority population's dominant position is unchallenged. In the zero-sum game of racial dominance, the criminal justice system, therefore, is a non-neutral social control mechanism and a pliant tool to restrict minority access to valued but scarce resources.

**Keywords:** racial threat theory, racial disparity, implicit bias, white privilege, discrimination

### **1. Introduction**

Racial threat theory is a framework for explaining how population composition influences the nature and character of social controls and how this is tailored towards discriminatory practices in the criminal justice system (Dollar, 2014). The racial threat theory within the larger context of class conflict thus provides a paradigm for explaining how demography may determine criminal justice outcomes in a society. It shows the process by which a major racial group holding the levers of the political economy of a nation-state impose its interests and values on the minorities by using the mechanism of social control to maintain its hold on the society (Dollar, 2014).

Blalock's (1967) minority-majority relationship perspective of minority threat theory shows how racialized competition for resources is at the heart of the

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discrimination which has been an integral part of the historical evolution of the United States as various races and ethnic groups engage in a continuous struggle for access to scarce resources. Blalock postulated three ways in which racial threat manifest-economic threat, political threat, and symbolic threat. Here, the focus is on how the racial threat theory explains the discriminatory practices in the criminal justice system raising fear at the prospect of an increasing that a large minority population might threaten the dominant position of the majority group, who then respond politically by demanding, among other things, increased social control (Blalock, 1967). This in agreement with the research which shows that Americans of European descent tend to be more anxious about crime which reflects in negative stereotypes about people of color in areas which have large minority populations (Bobo & Hutchings, 1996; Chiricos, McEntire, & Gertz, 2001; Pickett, Chiricos, Golden, & Gertz, 2012; Quillian & Pager, 2010)

The objective here, therefore, is to examine how the white majority has maintained its supremacy by keeping minorities in check through a vortex of negative stereotypes, structural barriers and a value-laden criminal justice system in the overall attempt to restrict the minority racial groups' access to valued resources. It has been demonstrated for instance that the emergence of Donald Trump as the Republican candidate in the 2016 US presidential election and his eventual victory was based on the widespread support he had among white Americans high in ethnic identification. One of the main campaign issues was the white blue-collar workers' concern about the changing demography of the country and the consequences it may portend for the white majority. Trump's rhetorics about the threat that an increasing population of non-white could in the future turn the white majority into a minority and threaten their group status coupled with his anti-immigration speeches put the issue of race right in the middle of the ugly electoral contest (Major et al., 2016; Jardina, 2019).

## **2. Literature review**

Formal social control mechanism of the U.S. criminal justice system such as the police and the court system are therefore not neutral agents of social control but agencies of government that the dominant race in the society use to put in check and suppress its minority group from threatening the vantage position of the majority (Austin & Allen, 2000). The idea of racial inequality and the discriminatory practices that flows from it is an ongoing historical attempt by one racial group to maintain its hegemony over others for it to continue to maintain its apex position in the societal hierarchy. Historically, racial conflict is at the heart of how the United States as a nation was founded. White people arrived in America in droves from different parts of Europe to meet the aboriginal Native Americans who after a series of wars over land were decimated, while the remaining population was driven to reservations on impoverished land. Regarding Hispanics, Mexico having lost a few wars to the U.S. had a substantial portion of its land annexed by the more powerful United States. The Mexicans who opted to stay within the U.S. boundary and those who crossed the border later in search of greener pastures and

became citizens or undocumented immigrants were barely tolerated as long as their expectations do not go beyond their subordinate position in the society.

Blacks were brought in as slaves to help with agricultural production beginning in the 1600s. Even when slavery was abolished at the end of the civil war with the 1863 Emancipation Proclamation by President Abraham Lincoln, Jim Crow laws were promulgated to keep the blacks in their place and never to be equal to the whites. The civil rights protests of the 1960s ushered in token improvement in the welfare of people of color in bringing a measure of equality and greater access to economic opportunities. Yet the zero-sum game of racial domination was never far from the surface to protect white privilege as the white majority protected its place at the top of the hierarchy by fair and foul means. As Alexander (2012) observed, *"The arguments and rationalizations that have been trotted out in support of racial exclusion and discrimination its various forms have changed and evolved, but the outcome has remained largely the same."*

### **3. Policing and race**

A major instrument of the status quo is the criminal justice system, principally made up of the police, the court system and corrections. The public nature of police activities and how it treats different races probably explain why it gets far more attention than the court system or any other agency of government regarding the disparity in its treatment of people of different races. There is a large body of literature on how the U.S. police has served as an instrument of white superiority and suppression of minorities throughout American history (Kahn, Lee, Renauer, Henning, & Stewart (2017).

The outcry against the police shooting of unarmed black men is not something that came out of the blues but a recurring incident over a long historical period that was kept out of public focus but which the advent of social media exposed and brought to the fore. The Black Lives Matter as a contemporary protest movement came into existence on the back of a disturbing pattern of the repeated killing of unarmed black people by mainly white police officers which generally went unpunished, raising questions about social justice and equality regarding U.S. minorities. The success of the movement was bolstered by the use of the social media and internet technology to draw attention to various acts of unjustified violence against blacks, an injustice which dates to the era of black lynching (Hoffman et al, 2016). As Sue (2010) observed, racism in 21st Century America has changed in its form and character generally from in your face racism of old to a systemic and structural form of discrimination that is pervasive and expressed in the form of micro-aggression and subtle and sometimes even un-intentional but ingrained non-verbal communication to communicate coded messages that people of color are inferior to white people.

Available data showed a troubling but pervasive targeting of minorities. In Los Angeles, a report demonstrated how the sheriff's department targeted blacks and Hispanics for stops, arrests, seizures and excessive use of force (Kahn, Lee, Renauer, Henning, & Stewart (2017). Data of the New York Police Department's (NYPD) stop and frisk program also showed how 87 percent of the targets of NYPD's

97,296 street stops in 2011 were mainly blacks or Hispanics. Yet nine out of every 10 people stopped were innocent. Minority neighborhoods were targeted more as blacks and Hispanics comprised 50 percent of the stops in 70 of the 76 precincts where stop and frisk took place, while blacks and Hispanics constituted more than 90 percent of stops in 33 precincts. Also, blacks and Hispanics within the age category of 14 and 24 accounted for 41.6 percent of the stops although they constitute only 4.7 percent of the population of New York City (New York Civil Liberties Union, 2012).

Again, of the four million stop and frisk searches by the NYPD between 2004 and 2012, 52 percent of those affected were blacks, while Hispanics made up 31 percent which is disproportionately higher than their general population in New York at 23 percent and 29 percent respectively (Somers & Marotta, 2014). Curiously, the study showed that majority of whites who were stopped and frisked less were more likely to be found with weapons than the minorities. This probably explains minority outcry during the 2016 US presidential campaign when the Republican candidate and now the president of United States, Mr. Trump canvassed for the return of stop and frisk as a crime control measure which from the New York City experiment is heavily skewed unjustifiably against minorities.

The racial riots in Ferguson, Missouri in 2014, and Baltimore, Maryland in 2015, represent case studies of relentless discrimination against black people by largely white police departments, a microcosm of what goes on in the larger society. When Ferguson erupted in violent racial riots in 2014, after a black teenager, Michael Brown was killed by a white officer, it caught the entire nation by surprise. But it was a desperate reaction by people fed up with age-long maltreatment at the hands of the police. As the Department of Justice's report (2015) on the Ferguson riot showed, the Ferguson Police Department had unjustifiably engaged in a routine breach of the constitutional rights of the city's black population for years. Blacks constituted 67 percent of the Ferguson population but accounted for 97 percent of total arrests between 2012 and 2014. During the same period, blacks accounted for 88 percent of the use of force by the largely white Ferguson Police Department. Blacks also comprised 85 percent of the vehicles stopped by the police and 93 percent of total arrests, while in 2013, blacks made up 92 percent of cases with warrants.

In Baltimore, the 2015 death of Freddie Gray, a black man who suffered a fatal injury while being transported by the police precipitated another race riot. In the aftermath, the Department of Justice (2016) in a report which covered the activities of the Baltimore Police Department between 2010 and 2016 found that the city's police officers repeatedly violated the constitutional rights of Baltimore's black residents through disproportionate rates of arrests, stops, searches and excessive use of force. Blacks made up 82 percent of all vehicle stops even when they constituted 60 percent of the city's driving-age population and 27 percent of the driving age of the outskirts of Baltimore. It did not matter to the Baltimore Police Department officers that they found twice as much contraband on white individuals during searches than blacks during vehicle stops. Whites also accounted for 50 percent more contraband than blacks during pedestrian stops.

#### 4. The drug war and race

Even the zero-tolerance drug war of the 1990s which ostensibly was pursued to reduce crime rates eventually turned out to be a powerful weapon employed to clamp down on minorities because it was implemented based on the false myth that the drug epidemic was essentially a black problem. The consequence was that thousands of black males were thrown into prison often with harsh sentences whereas empirical evidence demonstrated that whites were more involved in both drug selling and use than other races. Blacks were routinely likely to get arrested for drug selling at 2.6 times more than whites, and for drug possession at more than 2.5 times more than whites, despite that whites were more often involved in drug possession than blacks (Rothwell, 2014). The same conclusion was reached by Knafo (2013) that while whites preponderantly use controlled substances such as LSD, marijuana, and cocaine, blacks were the ones who were likely to get a prison sentence for drug crimes (National Survey on Drug Use and Health, 2011). This suggested that race was a factor in the arrests of blacks for marijuana and that people of certain races were being unjustifiably targeted by the police (Nguyen & Reuter, 2012).

If there is a need for further evidence that the drug war was a racial war to put minorities in their place, particularly blacks, one need not go beyond the dichotomy in sentencing for crack cocaine and powder cocaine. Data showed that whites were more likely to use powder cocaine, while blacks preferred crack. Rather than treat possession of the two different types of cocaine in the same way and since there was no conclusive proof of a difference in terms of its effect on users, possession of crack received harsher sentencing than powder cocaine. The 1994 Violent Crime Control and Law Enforcement Act under the 100 to 1 sentencing rule imposed a mandatory five-year sentence on a first offender with 28 grams of crack. But it will take an offender found with powder cocaine to have in his possession 500 grams of powder cocaine to get the same sentence. This was an unfair practice because the two controlled substances are pharmacologically the same (Mauer, 2009).

Studies have also shown that suppression of minorities occurs through the disproportionate concentration of police presence on black communities leading to a greater number of arrests and imprisonment. (Belenko et al., 1991; Liska, 1992). Over-concentration of police presence in poor neighborhoods where many blacks live has been suggested as a major reason for the disproportionate arrest of blacks for marijuana possession despite that the rate of marijuana possession by blacks and whites is approximately the same (Eversman, 2013).

Suspicion of a hidden agenda is justified in a situation where more drug offenders are white rather than blacks, yet the latter are disproportionately imprisoned for the same offense, implying there was an undeclared race war to use the criminal justice system to whip minorities into line (Chin, 2012). The racial threat theory is thus an appropriate framework for explaining *"how the rise in social control (via the increase in police presence) led to more black drug sale arrests over time while exhibiting no effect on the change in black total and possession drug arrests"* (Parker & Maggard, 2005).

## **5. Media and racial prejudice**

The U.S. mainstream media may not be an agency of the criminal justice system, but it has been blamed for much of the racial stereotypes about people of color for a justifiable reason since it is the single largest influencer of public perception of the relationship between race and crime. Over-reporting of crime news is a staple of local television news. The crime news are sensationalized in a way to confirm racial stereotypes and to acutely increase the fear of crime which often does not bear a corresponding relationship to current crime rates (Callanan & Rosenberger, 2011). The broadcast media because of its immediacy and relentless 24 hours news cycle perhaps more than the print media has been at the forefront of force-feeding the public with the perception of race in a manner that paints minorities in a bad light. It is not surprising that the fear of crime and the public perception of minorities as a threat to public safety as well as the consequent social control mobilization and policy of exclusion are some of the major contributions of the media to the discourse of race in the United States (Chiricos & Eschholz, 2002).

Implicit racial bias is integral to how U.S. media conduct its business just like the police. It could even be argued that the media has contributed far more to the strained race relations in the society, even if more subtly, more than the police. But there is no doubt that it is as much a pliant instrument of class and a racial war against the minorities, as it vigorously promotes the status quo. Historically and even contemporaneously, the U.S. mainstream media consistently under-reports disparities in police treatment of people based on race, encourage a negative stereotype of U.S. minorities through sensational and selective reporting of deviant behavior, and consistently associating deviant behavior with minorities even when there is no empirical basis to support that notion (van Dijk, 2015). The rise of the social media as a competing platform for mass communication is, however, beginning to expose how the U.S. mass media influence the perception of race for a captive audience which until recently had no alternative means of confirming reality beyond what the media manipulate the public to believe (Carney, 2016).

## **6. The legal system and racial bias**

The U.S. legal system in its form and character is structured to protect white privilege. The legal system pontificate on higher human ideals of freedom, liberty, and justice for all. The reality is however different as those ideals appear to be meant for only white people (Moore, 2014). A few studies have detailed how sentencing disparity has been employed against minorities who are less likely to be given a benefit of the doubt in the judicial system. Indeed, blacks are not only likely to be sentenced to prison at a higher rate than other races, they are also more likely to be given longer sentences than whites for similar offenses (Feldmeyer et al., 2015; Freiburger & Hilinski, 2013). The sentencing disparity has widened since 2005 when the Supreme Court in the U.S. vs Booker struck down a 1984 legislation limiting the discretionary powers of judges and requiring federal district judges to follow sentencing guidelines in imposing sentences to reduce racial bias.

It is estimated that blacks now get about 20 percent longer sentences than whites for the same offense, affirming the old saying that the more things change, the more they remain the same (United States Sentencing Commission. (2017).

Aside from racial bias emanating from the misuse of discretionary power by many white judges, another critical factor for racial disparity in sentencing is poverty-related. Many blacks cannot afford to hire attorneys or sustain court costs over a lengthy period. As a result, they are more likely than whites to seek plea bargain and, in the process, receive harsh sentences rather than go to court to plead their innocence because of financial difficulties (Savitsky, 2012).

Mass incarceration has been integral to the white majority's method of dealing with the perceived minority threat. Often targeted are black males and it is no coincidence that the U.S. prison population has a disproportionate number of minority offenders in comparison to the general population. For instance, blacks constitute 40 million, representing 12 percent of the U.S. population out of which the black males make up roughly 50 percent. Among female prisoners, black females had an incarceration rate of 1.6 to 4.1 times than white females of all age groups.

The policy of mass incarceration has also inflicted severe collateral consequences on the black community, destroying families, marriages and community solidarity with a conspicuous absence of male figures in the community, turning many children into products of single-parent households and the attendant socio-economic consequences. It has been shown that 66 percent of black children compared to 42 percent and 25 percent of Hispanic and white kids respectively were born into single-parent families, a disparity that was consistent between 2010 and 2014 (Annie Casey Foundation, 2014). The obvious consequence is that many black millennial male children are growing up without a father figure in their lives.

Equally affected is the diminished electoral value of the black community which is a collateral consequence of mass incarceration. Between 1976 and 2016, the number of Americans disenfranchised because of laws restricting the right to vote for those with felony convictions increased from 1.17 million to more than 6.1 million. But the blacks are more affected because one in 13 blacks of voting age cannot vote compared to one in every 56 non-blacks. The rate of blacks restricted from voting is four times more than for non-blacks and more than 7.4 percent of adult African Americans are barred from voting in comparison to just 1.8 percent for the rest of the U.S. population (Uggen, 2016).

## **7. Conclusion**

The structure and pattern of white majority domination are central to understanding the political economy of the United States. This underpinning ideology of a superior race permeates virtually all sectors of the society and there is implicit consensus to keep minorities in their place. Eight years of the Obama administration has heightened the racial competition and he has been a victim of the backlash mainly because of his color. The voting pattern that assisted the ascendancy of Trump in the 2016 presidential election and the campaign issues that dominated the contest offer clear evidence of a white

majority that fought back because of its fear of losing its privileged position in the society. The rhetorics of the post-2016 presidential election, with the rising influence of white nationalism, suggest that the notion of a sustained racial competition in the fabric of American society is real and alive (Major, Blodorn, & Blascovich, 2016).

It is not difficult to see that white majority domination of the U.S. minorities is backed by the full force of the country's critical political and social institutions. The whites see racial competition as a zero-sum game that they cannot afford to lose, particularly in the light of the changing demography resulting from immigration and higher birth rates among minorities compared to lower birth rates among whites (Huber, 2016; Bobo, 2017; Craig, Rucker & Richeson, 2018). This has raised concern within the white community based on statistical predictions that the white majority may become a minority race within the next two decades, a fear that was at play during the 2016 U.S. presidential election. The opposition to the Obama administration by some whites has been described as being more about what he represented than about the man himself. The idea of a black man being a two-term president for so long raised fear about minority challenge to white domination. Trump's electoral victory is thus a redeeming factor, assuaging the fear of loss of white privilege and by which the white majority expect to continue to protect its dominant position in the society.

### **About the Author**

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