

COMMENTARY

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Failure of power in primary duty

American society is a paradox. Never before has government been so powerful and pervasive in our lives. Yet it is failing disastrously in its primary duty of protecting us from crime. Why?

In 1986, a typical year, the American Bar Association estimates that 34 million serious crimes were committed in this country, fewer than 2 percent of which resulted in the imprisonment of the evildoers. The O.J. Simpson trial vividly illustrates how able lawyers can exploit the manifold weaknesses of the criminal justice system, and the trial itself has already run longer than the sentences many dangerous criminals receive. If and when and however it ends, whoever killed Nicole Simpson and Ron Goldman is all too likely to be roaming the streets.

In America today, one might say, good people are at the mercy of bad people. But if one did say that, one would be deemed unenlightened by

the experts. The phrase "bad people" is "judgmental" and naive about the "root causes" of crime, which include socioeconomic conditions and psychological factors and stuff, which must be scientifically eliminated. We no longer punish bad people; we "rehabilitate offenders" through departments of "correction."

In the determinist view, the desire for retributive justice is itself atavistic. The late psychiatrist Karl Menninger spoke of "the crime of punishment." Our concern must be not with the criminal's deserts, but with

his needs. In this way the false aloofness of the expert subtly shades into sympathy for the criminal, but not the victim. Determinist experts turn out not to be morally neutral after all.

The colossal failure of our penal system is the subject of several lively essays in a new book titled "Criminal Justice?", edited by Robert James Bidinotto and published by the Foundation for Economic Education (in Irvington-on-

Hudson, N.Y.). The "root cause" of that failure, the authors argue, is the search for root causes itself. The penal system has been reformed — or deformed — by its guiding ideology of determinism, according to which the criminal is not fully responsible for his crimes. He is himself the victim of forces beyond his control: racism, poverty, child abuse, capitalism, low self-esteem, etc.

If this ideology seems the denial of common sense, that's just what it is. To be an "expert" or "specialist" in the social sciences is to smile condescendingly at the common-sense view that some people — "bad" people — freely choose to hurt others. The expert thrives on more complex pseudo-explanations. He is a moral relativist most of the time, except when he is scolding less enlightened people for being judgmental.

The penal system, including the courts, has adopted the experts' prescriptions and, more important, their attitude. Mr. Bidinotto has plenty of stories about how absurdly, and horribly, it all works in practice.

In one 1968 case, a 10-year-old girl was murdered. The police told the suspect of his Miranda rights five times, and, thinking they were covered, took him for a ride and mentioned that the girl's parents would at least like to give her a "good Christian burial." The sus-

pect, moved by guilt and pity, took them to the body. The Supreme Court found this procedure unconstitutional and reversed the conviction.

In another case, a young man who had murdered both his grandparents was deemed no danger to himself or others by a pair of psychiatrists, while out in their parking lot his latest victim's body reposed in the trunk of his car. (He eventually killed eight women, not counting his grandmother.) As Sam Goldwyn remarked, anyone who goes to a psychiatrist ought to have his head examined.

In 1988, Mr. Bidinotto himself brought to the nation's attention the case of Willie Horton, who was doing life without parole in Massachusetts with, however, weekend furloughs, during one of which he made his reputation by dropping in on a Maryland couple.

We should do criminals the honor of presuming that they are human beings like ourselves, endowed with free will and moral responsibility. They are bad because they decide to be. It's just that simple.

The solution to the crime problem is equally simple: Bad people must be made to fear the just wrath of good people.

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