

# Prosecuting Jim Crow's Ghosts: The Racist 'Past' Lives

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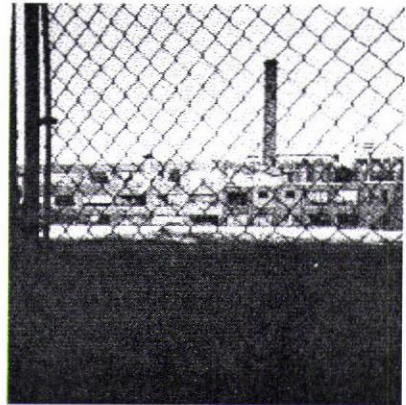
The FBI, which once covered up anti-Black crimes committed by its racist "informants" in the Deep South - and its own crimes against activists in the Black Freedom Movement - now vows to leave no stone unturned in a review of 100 cold-case murders in Dixie. Although justice delayed is better than murder with total impunity, there is also the danger that white America will conclude that racism is finally a problem of the "past," to be buried with the dead. Meanwhile, institutional racism is alive and well, daily deforming and limiting the life-prospects of millions.

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## **'Justice to the End'**

The fifty- to sixty-year-old ghosts of racial terrorism in the late Jim Crow South are making some interesting news lately. According to NBC, the Federal Bureau of Investigation has reviewed at least 100 cold cases involving racist white murders committed in the United States South during the 1950s and 1960s. A dozen are currently under active investigation, the FBI claims.

As the Associated Press reported two weeks ago, FBI Director Robert Mueller is vowing to "pursue justice to the



end...no matter how long it takes" to resolve unsolved racially motivated slayings from the middle of the last century.

There's already been some serious action on such killings. The FBI recently brought charges against James Ford Seale, a 71-year-old white Southerner accused of participating in the kidnapping and murder of two black men (Charles Eddie Moore and Henry Dee) in 1964 in southwest Mississippi. Last June, an 80-year-old former Ku Klux Klansman named Edgar Ray Killen was convicted of manslaughter in the butchering of three civil workers in Mississippi in 1964.

In 2001 and 2002, the white Southern racists, Bobby Frank Cherry and Thomas Blanton, were convicted of killing four black girls in the bombing of a Birmingham, Alabama church in the fall of 1963(3).

Nobody concerned about racial, social and human justice should be unhappy to see racists in their seventies and eighties facing the music for horrible crimes committed many decades ago. Let would-be racist murderers fear that they will be haunted by their possible crimes into old age.

### **Too Little, Too Late**

Still, there are three basic problems with, or downsides to, the convictions of geriatric, white, southern racist killers like Seale, Killen, Cherry and Blanton. The first, most obvious and irremediable problem is that the punishment is too little, too late. The racist murderers have lived most of their lives without paying appropriate penalties for horrible transgressions. If Killen dies at age eighty-five, he will have served just six years after living free for forty-three years, after killing three fellow human beings who were trying to advance racial equality.

### **Racism's Different Levels**

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The second problem is both less obvious and more remediable. It has to do with the fact that the dominant nature and form of racial oppression in the U.S. has shifted in the U.S. since the 1960s, thanks in part to the welcome but double-edged victories of the civil rights movement.

The main problem with conventional white wisdom is that it insinuates that racism no longer poses relevant barriers to blacks in post-Civil Rights America is a failure to distinguish adequately between overt "state-of-mind" racism and covert institutional, societal, and "state-of-being" racism.

The first variety of racism has a long and sordid history. It includes such actions, policies and practices as the burning of black homes and black churches, the murder of "uppity" blacks and civil rights workers, the public use of derogatory racial slurs and epithets, the open banning of blacks from numerous occupations, the open political disenfranchisement of blacks and the open segregation of public facilities by race. It is largely defeated, outlawed and discredited in the US.

The second variety lives on, with terrible consequences. It involves the more impersonal operation of social, economic and institutional forces and processes that both reflect and shape the related processes of capitalism in ways that "just happen" but nonetheless serve to reproduce black disadvantage in numerous interrelated key sectors of American life. It includes racially segregating real estate and home-lending practices, residential "white flight" (from black neighbors), statistical racial discrimination in hiring and promotion, the systematic under-funding and under-equipping of schools predominately attended by

blacks relative to schools predominately attended by whites, the disproportionate surveillance, arrest and incarceration of blacks and much more.

Richly enabled by policymakers who commonly declare allegiance to anti-racist ideals, this deeper racism has an equally ancient history that has outlived the explicit, open and public racism of the past and the passage of justly cherished civil rights legislation. It does not necessarily involve individual white bigotry or even subtly prejudiced "ill will" against blacks. Consciously or even unconsciously prejudiced white actors are not necessarily required and black actors are more than welcome to help enforce the New Age societal racism of the post-King era. This entrenched, enduring, and more concealed societal racism does not depend on racist intent in order to exist as a relevant social and political phenomenon. It only needs to produce racially disparate outcomes through the operation of objectively racialized processes. It critically includes a pivotal failure and/or refusal to acknowledge, address, and reverse, the living (present and future) windfall bestowed on sections of the white community by "past" racist structures, policies and practices that blatantly discriminated blacks.

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The racism that matters most today does not require a large portion of the white population to be consciously and willfully prejudiced against blacks or any other racial minority. "State-of-being" or structural racism generates racially disparate results even without racist intent - "state-of-mind" racism - on the part of white actors. It oppressed blacks with objectively racialized social processes that work in "routine" and "ordinary" fashion to sustain racial hierarchy and white supremacy often and typically without white, racist hostility or purpose. As Stokely Carmichael and Charles Hamilton perceptively noted at the beginning of their book *Black Power: The Politics of Liberation*:

"Racism is both overt and covert. It takes two, closely related forms: individual whites acting against individual blacks, and acts by the total white community against the black community. We call these individual racism and institutionalized racism. The first consists of overt acts by individuals, which cause death, injury or the violent destruction of property. This type can be recorded by television cameras; it can frequently be observed in the process of commission. The second type is less overt, far more subtle, less identifiable in terms of specific individuals committing the acts. But it is no less destructive of human life. The second type operates in the operation of established and respected forces in the society, and thus receives far less public condemnation than the first type."

Carmichael and Hamilton illustrated their distinction between overt-"individual" racism and covert-"institutionalized" racism with some compelling historical examples:

"When white terrorists bomb a black church and kill five black children that is an act of individual racism, widely deplored by most segments of the society. But when in that same city - Birmingham, Alabama - five hundred black babies die each year because of the lack of proper food, shelter and medical facilities, and thousands more are destroyed and maimed physically, emotionally and intellectually because of conditions of poverty and discrimination in the black community, that is a function of institutionalized racism. When a black family moves into a home in a white neighborhood and is stoned, burned or routed out, they are victims of an overt act of individual racism which many people will condemn - at least in words. But it is institutional racism that keeps black people locked in dilapidated slum tenements, subject to the daily prey of exploitative slumlords, merchants, loan sharks and discriminatory real estate agents. The society either pretends it does not know of this latter situation, or is in fact incapable of doing anything meaningful about it."



### The Ironic Price of Past Victory

Sadly, the fact that level-one (overt) racism has been defeated while the deeper racism survives is not just a matter of the social and racial justice glass being half-full. It's more complicated than that. The second and deeper level of racial oppression may actually be strengthened by civil rights victories and related black upward mobility into the middle and upper classes insofar as those victories and achievements encourage the illusion that racism has disappeared and that the only obstacles left to African-American success and equality are internal to individual blacks and their community - the idea that, in Derrick Bell's phrase, "the indolence of blacks rather than the injustice of whites explains the socioeconomic gaps separating the races."

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"It's hard," Leonard Steinhorn and Barbara Diggs-Brown have noted, "to blame people" for believing (falsely in Steinhorn and Diggs-Brown's view) that racism is dead in America "when our public life is filled with repeated affirmations of the integration ideal

and our ostensible progress towards achieving it." In a similar vein, Sheryl Cashin notes that "there are [now] enough examples of successful middle-class African-Americans to make many whites believe that blacks have reached parity with them. The fact that some blacks now lead powerful mainstream institutions offers evidence to whites that racial barriers have been eliminated; the issue now is individual effort."

Furthermore white-run culture, and its regular rituals of self-congratulation over the defeat of overt, level-one racism - the Martin Luther King national holiday, the playing of King's "I Have a Dream" speech over school sound systems and on television, the routine reference to integrationist ideals in political speeches, etc. - tend to reinforce the dominant white sentiment that the United States no longer has much of anything to answer for in regard to its treatment of black America.

Belated though it may be, the prosecution and conviction of older white, racist killers from the dying days of the Jim Crow South reinforces the ritual cultural denial about the living and even deepening racism that matters most in the post-Civil Rights era - the one that "operates in the operation of established and

respected forces in the society." "See," some whites are certainly concluding, "the U.S. is so militantly opposed to racism that we even prosecute these old Klan types at the end of their lives."

### **'Long Ago' Racism Still Matters: The Living Windfall of Not-So 'Past' Racism**

The third problem is that the pursuit and conviction of these ancient Deep South killers tends to reinforce the ubiquitous white American notion that racism is something from the now relatively irrelevant and distant past, and something that existed only, or at least, mainly beneath the Mason Dixon line. "Wow," contemporary Americans are encouraged to say, "the U.S. used to have some really terrible racism down South. It's good we got our racial house together and fixed all that. Too bad some of the worst perpetrators managed to live into their seventies and eighties without being punished. Still, King would be gratified to see people like Killen getting prosecuted, and with good reason."

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Reality is more complex. Martin Luther King, Jr. and other civil rights leaders were actually most concerned by the middle 1960s, about the deeper institutional and societal racism that existed across the entire country - a racism that is still very much alive and well today. King and others were deeply concerned that the defeat of open segregation and racial terrorism in the South would reinforce the white majority's tendency to avoid more covert and nation-wide forms of racial oppression while encouraging whites to falsely conclude that all the United States' racial problems had been solved.

At the same time, it is critical to note that the older, more open racism of the long pre-Civil Rights past continues to cast more than just an incidental shadow over contemporary racial inequalities. Most white Americans object strenuously to the idea that "past racial discrimination matters in the present." But, as anyone who examines capitalism in an honest way knows, what people get from the present and future so-called "free market" is very much about what and how much they bring to that market from the past.

"Long ago" racism continues to exact a major cost on current-day black Americans, raising the question of whether unresolved historical inequity is really "past." Slavery and then Jim Crow segregation in the South and for that matter the open racial terrorism, discrimination and apartheid imposed on black northerners in places like Chicago and Detroit "long ago" continue to shape present-day racial inequality.

As Michael K. Brown and his colleagues note in their study *Whitewashing Race: The Myth of a Color-Blind Society*, racial "inequalities are cumulative, a fact adherents of the new public wisdom on race ignore in their rush to celebrate [racial] progress." Because the "inequalities accumulate over time," the authors argue, the distinction frequently made by "racial conservatives" between "past and present racism" is often inadequate and deceptive."

The ongoing need for historical acknowledgement and correction, commonly called reparations, is developed quite well in the following useful analogy advanced by political scientist Roy L. Brooks:

"Two persons - one white and the other black - are playing a game of poker. The game has been in progress for some 300 years. One player - the white one - has been cheating during much of this time, but now announces: 'from this day forward, there will be a new game with new players and no more cheating.' Hopeful but suspicious, the black player responds, 'that's great. I've been waiting to hear you say that for 300 years. Let me ask you, what are you going to do with all those poker chips that you have stacked up on your side of the table all these years?' 'Well,' said the white player, somewhat bewildered by the question, 'they are going to stay right here, of course.' 'That's unfair,' snaps the black player. 'The new white player

will benefit from your past cheating. Where's the equality in that?' 'But you can't realistically expect me to redistribute the poker chips along racial lines when we are trying to move away from considerations of race and when the future offers no guarantees to anyone,' insists the white player. 'And surely,' he continues, 'redistributing the poker chips would punish individuals for something they did not do. Punish me, not the innocents!' Emotionally exhausted, the black player answers, 'but the innocents will reap a racial windfall.'"

Seen against the backdrop of Brooks' living "racial windfall," there is something significantly racist about the widespread white assumption that the broader white majority society owes African-Americans nothing in the way of special, ongoing compensation for singular black disadvantages, resulting from past explicit racism.

Roy Brooks' surplus "chips" are not quaint but irrelevant hangovers from "days gone by." They are weapons of racial oppression in the present and future.

The common, negative, white reaction to the notion that whites should pay through programs like affirmative action or even reparations for slavery and discrimination that took place before they were born is typically accompanied by the admonition to "let bygones be bygones." "The unjust enrichment gained by whites over centuries should be forgotten," the argument runs, even though, as sociologist Joel Feagin noted in 2000, "some black Americans are [still] only a couple of generations removed from their enslaved ancestors" and "the near slavery of legal segregation only came to an end in the 1960s, well within the lifetimes of many Americans alive today." As Brooks and Feagin argue, even if the contemporary socioeconomic system had become free of racial discrimination and bias in its current operation, compensatory programs, including reparations, would be required to undo the racially disparate historical "windfall" and thereby generate actual equality of opportunity for African-Americans. Official public "apologies" for slavery, like the one recently issued by the state of Virginia, cannot change this harsh reality.

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Given what is well known about the relationship between historically accumulated resources and current and future success, the very distinction between past and present racism ought perhaps to be considered part of the ideological superstructure of contemporary white supremacy functioning as an ongoing barrier to black advancement and equality.

It is important to remember that the explicit and overt southern racism whose defense turned Killen, Seale, Cherry and Blanton into killers was about more than the sadistic infliction of racial terror in and of itself. That open racism served and enforced the economic exploitation and material subordination of southern blacks. That long exploitation gave rise to a historically cumulative racial wealth and power gap whereby contemporary disparities are deeply fed by past inequalities.

In addition, reflecting and feeding present, racial inequalities, the post-Civil Rights United States currently conducts a giant program of racial reparations in reverse. Under the regime of mass black incarceration, droves of younger black males serve as the essential raw material for "economic development" in predominantly white and rural prison towns. Most of them serve time and carry the crippling lifelong mark of a felony record for drug and/or drug-related activities that do not lead to prison in most of the rest of the world. Many spend much of their adult lives moving in and out of deadly "correctional" facilities, including some of the same prisons that now warehouse Killen et al. at the end of their lives, enjoyed until long after the commission of truly terrible crimes.