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# GEORGE HERBERT MEAD ON PUNITIVE JUSTICE: A CRITICAL ANALYSIS OF CONTEMPORARY PRACTICES

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## REFLEXIVE STATEMENT

We are committed to advocating social justice and find Mead a rich theorist for analyzing and developing responses to crime in America. The contemporary adoption of punitive justice in the criminal justice system exhibits all the flaws that Mead identified in 1918. Here we document that Mead's perspective remains viable and points to the need for a more progressive response to crime. In fact, we argue that Mead's perspective parallels a current movement in corrections, known as Restorative Justice.

## INTRODUCTION

Although George Herbert Mead is widely recognized as an authority on social interactions between the self and the other (see Blumer, 1969; Cook, 1993; Dewey, 1931; Habermas, 1987; Lewis and Smith, 1980; Miller, 1973, 1982), his analyses connecting the self to society, politics, social issues, and social amelioration are not as well recognized (for exceptions see Campbell, 1992; Deegan, 1988, 1999, 2001; Joas, 1985; and Feffer, 1993). As a result of many scholars' emphasis on a micro-sociological approach to Mead, <sup>1</sup> his groundbreaking analysis of crime and justice is often overlooked (for an exception see Garland, 1990). We argue here that the critique of punitive justice developed by Mead in 1918 remains viable and demonstrates the need for a more progressive response to crime.

We begin by presenting Mead's general theory and then quickly move to his analysis of crime and justice. <sup>2</sup> Although Mead did not specifically address all the flaws which currently characterize the punitive justice system, his arguments establish the foundation for our contemporary critique. More specifically, Mead's perspective is used to examine: the dramatic increase in prison populations, the gross over-representation of minorities, the increased incarceration of youth, high recidivism rates, and the increased privatization and industrialization of prisons.

## MEAD'S GENERAL THEORY

Mead's book, *Mind, Self and Society* (1934), establishes the social nature of the self, thought, and community as a product of human meaning and interaction. Each person becomes human through interaction with others, and institutional patterns are learned in communities dependent on shared language and symbols. Human intelligence is vital for reflective behavior, and social scientists have a special responsibility to help create democratic decision-making and political action, especially in urban society. The scientific model of observation, data collection, and interpretation, and reconstruction is fundamentally a human project and the needs of humankind should guide the path of human inquiry. Sociologists can learn to take the role of others and develop social responses to shape and reflect community values (Deegan, 1988; for a more extensive review of Mead's bibliography see Cook, 1993).

Mead (1934) defined the "self" as a social structure that emerges from human interaction and the meanings assigned to it. Each person is taught the meanings for behavior, and each person, in turn, teaches it to others. This process involves more than simply learning behavior; it involves the entire person in the process of becoming human. Being a member of society is an ongoing social process. Actors have the capacity to learn and create new meanings for behavior throughout their lives.

## MEAD ON CRIME AND JUSTICE

Mead's general perspective on pragmatism and criminality is classically illustrated in his article, "The Psychology of Punitive Justice" (1918), where he examines the process and relations of punishment as a response to criminal behavior. Here he emphasizes democratic solutions to reforming the institution of criminal justice as a means of reconstructing society.

Mead begins by outlining his basic assumptions about the social nature of society (1918). According to Mead, our fundamental instincts create an organized form of social conduct (the expected conduct of the individual in the group), and, although most human behavior is learned through the "other", innate drives exist. One of these fundamental impulses is what Mead refers to as the "hostile attitude". When the self has a flawed understanding of the other (what Mead refers to as a "flawed self") the negative instinct of hostility can emerge through violence, hate and criminal acts. A flawed self can be the result of a number of different barriers in the connection of the self, other and society (i.e. an inability to take the role of the other, an inability to inhibit hostile emotions, an inability to connect actions and consequences, etc).

## **SOCIAL RECONSTRUCTION OF THE SELF**

According to Mead, a successful response to crime is one which works to reconstruct a flawed self. How can the reconstruction of the individual self address the fundamental problems of crime and injustice? For Mead, crime is not a steady state. By changing criminals through the reconstruction of the self we can change the nature of crime and society. Both Mead and his Chicago colleagues Jane Addams (1910, 1930) and John Dewey (Campbell, 1992) assumed that achieving an integrated/reconstructed self occurred through specific behaviors and interactions resulting in a changed consciousness.<sup>3</sup> The first step was to take the attitude of the "other" into the self. If the self has a flawed understanding of this process it can be learned through reforming or reconstructing the self, commonly called rehabilitation.

### **THE PUNITIVE RESPONSE**

Mead (1918) analyzed why a punitive approach is appealing yet unsuccessful. Theoretically, a punitive system of justice is appealing because it achieves retribution (criminals should suffer in proportion to their crime) and prevention (the certainty of being sentenced to prison will deter crime). Perhaps the greatest benefit of a punitive system of justice, however, is the solidarity it creates within society. Similar to the solidarity of the nation in times of war, the common values which unite people against the criminal creates 'the most favorable conditions for the sense of group solidarity because in the common attack upon the common enemy the individual differences are obliterated' (Mead, 1918, p.580).

Punitive justice is maintained by the idea that justice is served by impartial enforcement to protect the individual interests of the common good. Recognition of this community response to common danger brings a personal 'responsibility to obey and support the law and its enforcement' (1918, p.584). Respect for the law, based on the protection of the interests of the common good, means that when crime occurs a personal enemy becomes a public enemy, and punitive justice becomes the public's weapon of defense and attack.

### **THE FLAWS OF PUNITIVE JUSTICE**

According to Mead, a successful response to crime is one which works to reconstruct a flawed self. A punitive system of justice inhibits the reconstruction of a flawed self by calling out the hostile attitude of the public. According to Mead, the public's hostile attitude demands 'retribution, repression, and exclusion. These [responses] provide no principles for the eradication of crime,

[or] for returning the delinquent to normal social relations' (Mead, 1918, p.590). This exclusion decreases the likelihood that individuals will reintegrate successfully into society and perhaps perpetuates their deviance.

Mead (1918) identifies several additional flaws in a punitive system of justice. First, efforts are made to reform individuals rather than the social conditions creating social problems (illiteracy, crime, poverty, addiction, and so on). For Mead, the reconstruction of the self occurs in a broader context than the individual; 'The test of success of this self lies in the change and construction of the social conditions which make the self possible' (1918, p.602).

For Mead, the juvenile court was one of the first examples of successful reform the criminal justice system. <sup>4</sup> The background of the juvenile, including an assessment of his or her mental and physical condition, was presented in court, and institutions other than jails reinstated the child into full social relations. Mead felt that 'It is in the juvenile court that we meet the undertaking to reach and understand the causes of social and individual breakdown, to mend if possible the defective situation and reinstate the individual at fault' (Mead, 1918, p.594). However, even with a fuller presentation of social conditions, as is provided in the juvenile court, society fails to address the causes of crime. As Mead explained: 'We demand a juvenile court with extraordinary powers and even then it is recognized that as a court this new institution is helpless and futile in meeting the proposed causes from which so called juvenile crime must spring' (Mead, 2001, p.67).

Third, Mead recognized that the punitive justice system generates stigma for offenders, or a flawed identity (see also Goffman, 1963). Although stigma has the positive function of serving as a form of social control while creating solidarity, its deterrent effect comes at a high price. The hostile attitude of the criminal calls out a hostile response from the public through stigma, and the rebellious individual is exiled from the group and excluded from all of the rights and privileges associated with the group (Mead, 1918). As labeling theorists today recognize, exclusion is not conducive to the reconstruction of a flawed self and may even strengthen a flawed identity.

Finally, just as Mead (1999; 2001) recognized the lack of reform in the education system as serving capitalist interests to socialize young workers, many capitalist goals, supported by the government, characterize punitive justice. 'In a word, the municipality has become a business body operating for the benefit of those that make it up, and is therefore not different in principle from any stock company' (Mead, 1899, p.367). In the same way, Mead recognized that the government is also susceptible to economic interests, which may partially explain the lack of assertiveness by the government to make reforms.

## **PUNITIVE JUSTICE TODAY**

The United States' criminal justice system is based on the public ideals of retribution and even more so, prevention, claiming that tougher sentences will both deter crime within the criminal and others. While a punitive system may arguably achieve retribution, specific examination of the increases in incarceration (Austin and Krisberg, 1985; Justice Policy Institute 2002; Mauer, 2001) and the high rates of recidivism throughout the country (Bureau of Justice Statistics, 2002) demonstrate that the goal of prevention is unfulfilled and ineffective. The reconstruction of the self, which Mead suggested would happen under a successful approach to crime (1918), is seldom attempted. In fact, reconstruction of the self is arguably retarded by incarceration's incapacitating efforts. As more funds are appropriated to handle new inmates, less money is invested in rehabilitation (Austin and Krisberg, 1985). The criminal justice system instead limits crime by warehousing criminals in prisons. There is considerable scholarly debate as to whether and to what extent incarceration impacts crime rates (Levitt, 1996; Marvel and Moody, 1994; Zimring and Block, 1997).

The flaws that Mead (1918) identified with punitive justice—society's hostile response to crime as an individual rather than a social problem, the failure to ameliorate the causes of crime, the stigma attached to criminals, and the capitalist ideology that underlies the system—continue to characterize the criminal justice system. These flaws, however, appear in new forms: the dramatic increase in prison populations (Justice Policy Institute, 2002; Mauer, 2001), the gross over-representation of minorities (Gordon, 1999; Irwin, Austin and Baird, 1998; Justice Policy Institute, 2002; Mauer and Huling, 1995), the increased incarceration of youth (Leadership Conference on Civil Rights, 2000; Mauer, 2001; Taylor, 2000), high recidivism rates (Bureau of Justice Statistics, 2002), and the increased privatization and industrialization of prisons (Gordon, 1999; Hammond, 2000; Tomz, 1996; Young, 2000). Although these specific flaws were neither predicted nor specifically addressed by Mead, we extend his arguments here to critique them.

## **SOCIETY'S TENDENCY TO BLAME THE INDIVIDUAL**

Evidence that society blames the individual rather than examining and addressing the social conditions which generate crime is perhaps best illustrated by the steep increase in the number of individuals incarcerated (Mauer, 2001). The United States prison population increased from 502,000 to 2.1 million between 1980 and 2000. In fact, with only 5% of the world's population, the United States imprisons around 25% of the world's inmates (Justice Policy

Institute, 2002). The fact that so many of our Nation's citizens are incarcerated leads one to wonder why crime is often framed as an individual rather than a social problem. Then again, by incarcerating the homeless, the unemployed, those addicted to drugs, and those who are illiterate, the United States is somewhat successful at masking the social conditions which promote crime (Gordon, 1999).

Although the prevailing attitude is that the law is administered in an unbiased and even-handed fashion, racial and ethnic minorities appear to be disproportionately affected by the imprisonment binge. For instance, while blacks constitute only 13% of the entire United States population they comprise around 50% of the inmate population (Justice Policy Institute, 2002). Unfortunately, the steep increase in the incarceration rates of minorities does not lead to social or systemic inquiry or reform. Instead, researchers show that many people characterize African Americans as violent and criminal (Steffensmeier, Ulmer and Kramer, 1998). They perceive crime as a "minority" problem and ignore the social conditions which may induce crime; namely, poverty, limited educational opportunity, and discrimination (Gordon, 1999; Irwin, Austin, and Baird, 1998).

Unfortunately, the earlier strides Mead identified with the juvenile courts are now at risk. Incarceration now characterizes juvenile justice (Austin and Krisberg, 1985; Mauer, 2001; Taylor, 2000). The historical improvements made by the United States to separate juveniles and adults within the justice system also appears to be reversing, as changes in juvenile justice policy increasingly blur the distinctions between children and adults (Bazemore and Umbreit, 1995; Leadership Conference on Civil Rights, 2000). In fact, 'as legal responses to juvenile crime have become progressively more punitive... so have the number of juveniles in criminal (adult) court' (Taylor, 2000, p2). The increased detention of juveniles is of serious concern because 'the whole point of the juvenile justice system is to head off adult criminality' (Leadership Conference on Civil Rights, 2000, p.37).

## **FAILURE TO AMELIORATE THE CAUSES OF CRIME**

States' primary response to rising incarceration rates has been capacity expansion (building new facilities, renovating older facilities or by amending capacity limits to allow more inmates per cell) (Austin and Krisberg, 1985). The United States' strategy of reducing crime by focusing on individuals may actually be working against itself. By pumping more and more money into corrections, we may be 'significantly curtailing the funding of education, healthcare and other vital services' (which may have far more to do with public safety and crime rates than increasing prison populations) (Irwin et al., 1998, p. 33). National statistics

support this assertion. The average annual increase in corrections spending from 1985 to 1996 was higher than spending increases in health, education, public welfare, and natural resources (Bureau of Justice Statistics, 1996). In fact, the Justice Policy Institute reports that between 1980 and 2000, corrections' share of state and local spending grew by 104%, while higher education's share of state and local spending declined by 21% (Justice Policy Institute, 2002).

## **STIGMA**

The stigma associated with being incarcerated has dire consequences and inhibits the reconstruction of a flawed self. As Terry (2000) explains, the stigma associated with crime and/or criminals, reinforces difference from and separation between offenders and the community. The "we" vs. "they" mentality that stigma generates reinforces fear of crime and criminals. Heightened fear then translates into policies which further separate offenders from society (maximum security facilities, longer sentences, stricter legislation) (Mauer, 2001; Terry, 2000). In fact, the stigma associated with incarceration continues to punish offenders even after they have "served their time". For instance, felons are restricted from obtaining certain professional licenses; individuals convicted of drug charges are not eligible for student loans, and felons in many states are politically disenfranchised for life (Mauer and Chesney-Lind, 2002). These policies act as substantial barriers to offenders attempting to re-establish themselves with the community.

Stigma not only decreases the likelihood of successful reintegration with the community, it may also increase the likelihood of recidivism (Terry, 2000; Williams and McShane, 1999). As Taylor (2000) explains:

the results of involvement in the system for the youth who engage in the problematic behaviors often include feelings of victimization, stigmatization, and diminished status. Rather than integrate and conform many of the youth re-offend and become further enmeshed in the system (Taylor, 2000, p. 2).

## **CAPITALIST INTERESTS**

The punitive justice system's focus on incapacitation rather than on preventative aims exacerbates the flaws identified by Mead, especially in relation to capitalist policies and practices. Two prime examples of capitalism's hold on punitive justice are the recent patterns of prison privatization and industrialization. These examples are profitable to owners of the means of production, but do little to address crime.

## **PRIVATIZING PRISONS**

The recent burgeoning of prison populations has legitimized the privatization of prisons (Mauer and Chesney-Lind, 2002). Though historically outlawed to protect prisoners from exploitation and abuse, the practice of private ownership of incarceration facilities is now on the rise (Hammond, 2000; Mauer and Chesney-Lind, 2002; Tomz, 1996). In fact, Gordon (1999) reports that private prisons have multiplied at four times the rate of expansion of public prisons.

The corrections industry, moreover, is very lucrative, providing new incentive for imprisonment (Hammond, 2000). 'In arrangements reminiscent of the convict lease system, federal, state and county governments pay private companies a fee for each inmate which means that private companies have a stake in retaining prisoners as long as possible, and in keeping their facilities filled' (Gordon, 1999, p.153).

## **PRISONERS AS EXPLOITED WORKERS**

Another trend in the United States' corrections system is increased industrialization (Hammond, 2000; Schlosser, 1998; Terry, 2000; Young, 2000). This trend also serves capitalist interests as prisons contract out inmate labor in order to produce a profit. From 1980 to 1994, while the prison population in the United States increased by 358%, prison industry sales soared from \$392 million to \$1.31 billion (Ehrlich, 1995, p. 3).

Advocates argue that prison industrialization is in the public's best interest, stating that prisoners are only taking jobs that the general public would not want. Advocates also argue that if private industries did not employ cheap labor, the price of goods would increase for consumers. Additionally, for those inmates who do make money by working, this income is taxable, thereby slightly increasing the Nation's tax base.

Opponents, however, argue that thousands of public sector jobs are lost to prison labor, especially within the textile and automotive industries (Young, 2000). Opponents also argue that the coercive nature of recruiting inmate labor has been identified as a form of modern slavery (Gordon, 1999; Young, 2000) and that inmate jobs do not develop marketable skills (Needles, 1996), thereby increasing the difficulty for former prisoners to reintegrate into society.

The exploitation of inmates' labor increases their anger, hostility and separation from the larger community. Low-wage, unskilled labor is also a source of stigma which limits the enjoyment of human work and the development of a sense of accomplishment through one's labor. If prison inmates develop a sense of self that is undervalued in the marketplace, then earning capital through criminal acts can be more attractive (Finn, 1998; Willaims and McShane, 1999).

## **A MORE PROGRESSIVE RESPONSE TO CRIME**

The flaws identified by Mead (1918) demonstrate the need for a more progressive response to crime. As it stands now, the current justice system is characterized by punitive goals rather than a genuine concern with re-connecting the offender with the community in an attempt to correct a flawed self. Rather than organizing and responding to crime through a hostile response (punitive justice), Mead recommends responding with a "reconstructive attitude" by reconnecting the offender with the community (1918).

Although a full analysis is beyond the scope of this article, a current movement in corrections, known as Restorative Justice, is compatible with Mead's vision. Under a restorative model, communities work with the justice system to create an environment conducive to reconstructing the flawed self. This is accomplished by removing the stigma attached to offenders (Christie, 2000); involving the victims of the offense in the reparation of harm in order to help offenders take the role of the other and help them to connect their actions with consequences (Brookes and Sturt, 1998; Christie, 2000; Zehr, 1990); and by strengthening bonds between offenders and community members (Bazemore, 1998).

Restorative justice practices take many forms (victim-offender mediation, conferencing, circles, victim assistance, ex-offender assistance, restitution, community service, etc.) and are used as a response to crime under many different circumstances (Bazemore, 1998; Brooks and Sturt, 1998; Christie, 2000; Taylor, 2000). Although restorative justice is not always an appropriate response to every crime and flawed self, Mead would agree that it is particularly effective for youthful offenders who are still developing their sense of self. Most applications of restorative justice practices have, in fact, been targeted at juveniles and appear to be relatively successful in dealing with less serious offenses (Bazemore and Umbreit, 1995; Wright, 1991).

## **CONCLUSION**

Mead is widely recognized as an authority on social interactions between the self and the other, but his analysis of crime and justice is often overlooked (for an exception see Garland, 1990). We address this lack of scholarship here by presenting Mead's theory of crime and justice in the context of his general theory and by extending Mead's arguments in light of the contemporary practice of punitive justice.

The flaws that Mead identified with punitive justice, namely the hostile response to crime as an individual rather than a social problem, the failure to ameliorate the causes of crime, the stigma attached to criminals, and the

capitalist ideology that underlies the system, continue to characterize today's criminal justice system. These flaws, however, appear in new forms: the dramatic increase in prison populations, the over-representation of minorities, the increased incarceration of youth, high recidivism rates, and the privatization and industrialization of prisons. The current practice of punitive justice blames the individual, fails to ameliorate the causes of crime, and limits the opportunities for reintegrating the criminal with the community, thereby hindering offender's reintegration into society and the reconstruction of the self.

Although the restorative justice model does not improve all of the flaws identified by Mead (1918), it is more conducive to the reconstruction of the self by removing the stigma attached to offenders; involving the victims of the offense in the reparation of harm in order to help the offender take the role of the other and helping offenders to connect their actions with consequences (Christie, 2000; Zehr, 1990); and by strengthening bonds between offenders and community members (Bazemore, 1999).

## ENDNOTES

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<sup>1</sup> George Ritzer's (2000) influential textbook on sociological theory exaggerate the effect of this micro-emphasis as the only one.

<sup>2</sup> This work was developed in his own writings and in that of his students who helped form the Chicago school of crime and delinquency (Bennet, 1981; Faris, 1967; Galliher, 1995). He also actively supported the work of sociologists at Hull-House who co-founded a number of innovative institutions in criminology: the Juvenile Protective Association, the Juvenile Court, the Psychopathic Clinic, and the Institute of Juvenile Research (Mead, 1999; Addams et al., 1925). These other aspects of Mead's work that are relevant to the criminal justice system are beyond the scope of this paper but are part of a more extended project.

<sup>3</sup> Mead, like Dewey, emphasized the intellectual apparatus for this new self while Addams emphasized the embodied and practical process of generating this new self.

<sup>4</sup> Mead was active in establishing the first juvenile court in Chicago in 1899. Mead helped select the first head of the Juvenile Psychopathic Institute, William Healy; chaired a section at "The Child in the City Symposium" (Deegan, 1999, p.lxiv) and probably authored the article on juvenile delinquency "Probation and Policy" (1912).

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