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The ‘Nadir’ of Empire or the Apex of Crime?

In this opinion piece I will take as the point of departure two points made by Biko Agozino regarding criminality and criminology. The first is that imperialism is the basic form of all criminality and that “the rapist, the pickpocket, the robber, the murderer, the arsonist, the bank fraudster, the dictator, all share the qualities of the criminal state that commits violence against the people.” The second is that criminology is a technology designed for the control (‘control freak domination’) of others.

Imperialism orders peoples. US-centered ‘super-imperialism’ (Hudson 2003) coopts the tools of liberal democracies, sometimes including law and human or humanitarian rights organisations, to strengthen central authority (Bruff 2012) and control the distribution of goods and services. Currently, ‘imperialist’ crimes against population are visible in the U.S.- led efforts to orchestrate regime change against the democratically elected Maduro government in Venezuela. That said, it is necessary to distinguish benign imperialist actors from malign depredations and to acknowledge that a ‘rules-based order’ requires such distinctions (good/bad conduct) and their enforcement (application of rules).

Maybe the most urgent task is to name evil in both its simple banality and its familiar but disguised complexity. This also permits the recognition that the subaltern status is not by

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definition non-criminal. In this regard, we must pay attention to verbs as well as nouns. Racism, sexism, colonialism are familiar, but when we arrive at them, we are not finished the quest to find fault or harm. The democratising of criminology follows acknowledging with left realism that banal street crime involves real victims and predatory criminals whose actions are not fully accountable by calling them empire's dupes. Even if we also accept that much petty and expressive criminality may also be a reaction to misfortune and a legacy of class violence and dispossession, we would not wish to erase agency or dismiss revolutionary forces from the nadir of empire. The violence of the state and empire is to be found in quotidian street conflict but is also to be found wherever people have the capacity and agency to choose good or bad.

Those who have been subjected to colonial and imperialist domination may also express a will to power or deploy 'imperialist reason' (Agozino 2003). Following Foucault (1972) and Nietzsche before him, the circuits of crime and subordination extend beyond and within class, race or ethnicity, and gender. Identity and identity politics produces power effects within and *between* subordinations and may also support reversals. There may be a blameworthy agency that emerges *from* colonial subjectivity; Australians banished for indentured servitude found still others to torment or exterminate. Jews were oppressed in the first half on the last century, and the state of Israel is a capable if not zealous oppressor of Palestinians.

Subjugation is a matter of degree, and it is manifest in the cross-subjugation by cultural and social as well as political forces or mastery. Which is to say that it is important to distinguish the relative completeness of subjugation or the relative strength, solidarity and solidity of empire. There are cross-currents of ideology and interests against the grain of regime. For Appadurai (1993), the attempt to integrate Enlightenment universalism with diasporic pluralism is unsolved. He concludes that the nation-state seeks to detect and deter 'transnations'

or transnational yearnings and organisations as it seeks to deter diversity or prescribe homogeneity. The subjective position of occupation or colonisation is more or less complete. Legitimacy is a demand on government, including imperial governments and it is important to disaggregate from the sovereign executive a platform for the rule of law, otherwise we remove an important conceptual and even material space for agency and resistance.

It follows to differentiate the requisites of the maintenance of a social solidarity from the maintenance of empire. Criminal motivations are not exclusively acquisitive or occupying, but may be defensive, seeking no more but to restrain the perceived aggression of others. Petty drug crime, public nudity and Earth Liberation Front activism are a mixed bag, and I would say for the most part crimes of the state are more egregious, aggressive and acquisitive than what can be perpetrated by those with little access to the levers of power. If petty street crime and crimes of the state are not conceptually equivalent, then it might not be too fruitful to belittle the latter according to the pettiness of the former.

At the same time, I share with Agozino a concern that the relative diminution of the role of state violence and crime in the most popular criminology discourse gives too much of a pass to powerful state actors. With critical and radical criminologists, I would place this type of crime at the centre of concern. ‘Our’ crimes, or crimes in our name, ought to be a priority. When the Australian Defence Force goes to Afghanistan or helps Saudi Arabia for atrocities in Yemen or supports a war of aggression in Iraq or Syria or perhaps Iran and Venezuela that becomes my crime against which I should be at least speaking my resistance. If we fail to acknowledge and disavow *these* acts of empire, our silence is tacit consent. If the Boycott Divestment Sanctions (BDS) movement speaks to the illegal occupation of Palestine and slows down further Israeli criminal exploitation of goods and property, then supporting BDS is useful

as an act against imperious actions and aspirations. Regarding crimes of empire it is important to register *specific* objection to harmful acts in which 'we' play a direct part (by political or commercial or other acts or omissions).

While I am unwilling to agree that must be a presumptive purity or innocence in the colonial subject, or that colonial violence is not already a permanent condition of social, political and cultural life, I do think exposing the contours or truth of this condition in an emancipatory effort is something in which all social science disciplines ought to be permanently engaged. I believe that we should be active in continuously rethinking the terms of subordination, in all of its 'isms.' I agree that position in an imperial order is important to understanding crime. It is in the stipulating or identifying of those terms that I would take a different approach. I will concentrate my gaze at the apex instead of the nadir of empire.

Currently that approach concentrates on the epistemology of high crimes that I refer to as 'apex crimes'. In an apex crime the government, through its authorities, nominates itself as victim and one or more of its ideological opponents as purposeful perpetrator. The nomination of victim, perpetrator and implicit purpose, made by the government leader or designate, forms a 'government' or 'official narrative.' This narrative, in which there is enormous political investment, is mooted soon after the event and in advance of the criminal investigation. It therefore sets up a confirmation bias for evidence discovery, indicating what is sensible to search and examine. Due to the substantial political interest in the forensic outcomes of apex crimes, deviations from or novel applications of best practice forensics are hypothesised to occur with regularity where government has deemed an event as possessing national security implications and applications.

Apex crime events are crucially important to empire expansion inclusive militarism. There is an established playbook that seeks out triggering or signal events that serve as justifications to push war-averse polities into supporting elective belligerence abroad. To maintain institutional heft against the grain of a (largely) pacific public opinion, militarism has been dependent on signal events, where intelligence to support the agenda and an ordering principle is fixed around the objective. A national security infrastructure or deep state consisting of what C. Wright Mills termed the 'power elite' in industry, politics and military is continuously on the hunt for live training and real war. War crimes and human rights violations are carried out by careerist state actors who service and cater to elite interests. This was iterated famously by Paul Wolfowitz when he noted that weapons of mass destruction were chosen as the best expedient to set up the 2004 US coalition attack and occupation of Iraq. With war measures states seek to permit executive freedoms and to use otherwise illegal violence to seize or maintain resources. In this way war reframes or precludes crime. The information that is selected to make the case for war depends upon the attitude of authorities toward that war. A preference for martial law and greater military scope often depends upon the manipulation of facts and events.

The Nazis used an arson attack in the Session Chamber of the Reichstag (the German parliament house) to sign into law the Reichstag Fire Decree. In 1964 the Gulf of Tonkin Resolution was based on 'mistaken' reports of attacks by the North Vietnamese against a US destroyer, permitted the US under Johnson to engage in 'all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression' (Moise, 1996). The attack on the Twin Towers and the Pentagon was followed almost immediately with the passage by the Senate and House of Representatives of the Authorization for Use of Military Force (AUMF), which gave the president authority 'to take action to deter and prevent

acts of international terrorism against the United States.’ The official account of 9/11 was set within hours of the event; it was a terrorist attack, an act of war and al Qaeda was the perpetrator. The National Institute of Standards and Technology (NIST) was tasked with determining “how and why WTC1 and 2 collapsed following the initial impacts of the aircraft and why and how WTC7 collapsed.” The National Commission on Terrorist Attacks upon the United States only considered one hypothesis regarding 9/11 and did not test any evidence offering a contrary view. The NIST used computer modelling to support its hypothesis up to the onset of WTC7 total collapse, which did not answer the question of how the building could have fallen so quickly, totally and symmetrically. No forensics testing of explosives were done in determining what brought down the twin towers and WTC7. There were dozens of reports that explosives were heard or felt by first responders, but the government narrative did not incorporate a scenario in which perpetrators on the ground acted in concert with actors in the sky, and therefore the twin towers must have been brought down as a result of the impact of the planes and the resultant fires must have degraded the integrity of the steel girders to the point where they buckled. (NIST 2008) Although the Commission learned that there was grossly irregular trading in American and United Airlines stock that indicated profiteering foreknowledge, it determined it to be innocuous. According to money expert Rickards, ‘the fact that such trading occurred is beyond debate. The premise of the CIA's Project Prophecy was to use such insider behavior in capital markets to identify future terrorist attacks in advance.’

In apex crimes the forensic record to support the dominant narrative may have serious weaknesses, but the expert authority to challenge these weaknesses is itself enfeebled by limited access to original materials, methods, records and testimonies upon which to apply fresh testing according to alternative theories or hypotheses. Apex crime case studies and the

deviations or gymnastics of forensics investigations of watershed events like 9/11 suggests, to my mind, a blind spot in criminological thinking and inquiry, a blindness which is predicated on the kind of authorised knowing that critical and radical and post-colonial criminology has been instrumental in correcting. With Agozino, I support a robust examination of crimes of empire.

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