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Popular Culture and Philosophy™

# Hip Hop and Philosophy

## Rhyme 2 Reason

Edited by
DERRICK DARBY
and
TOMMIE SHELBY

OPEN COURT
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*This book is dedicated to the memory of Christopher L. Shelby, a loving brother, committed teacher, and true hip-hop head, and to two beloved daughters, Nastassia and Tatiana Darby, the future of hip hop.*

and outcomes in American life. So Chuck D. needn't target him in rapping: "Yeah, he appear to be fair / The cracker over there / He try to keep it yesteryear / The good ol' days / The same ol' ways."[24] Rawls's ideal theory of justice—unlike fake colorblind ideology—supports taking reasonable means necessary to bringing about justice, including racial justice, in a non-ideal world.

## Reality versus Revolution

I've argued that political rap hasn't been politically revolutionary. The amoral gangsta ethic favors individual self-interest or the collective interest of gang or crew. Afrocentric rap focuses on black group- and self-empowerment, not on a broader transformation of society. The few references to socialism Dead Prez drops are more about show than content. Radically liberal rap endorses the idea of society as a fair system of social cooperation but hardly questions whether this is ultimately compatible with capitalism. Accepting a kinder, gentler market-driven economy isn't the stuff of political revolution.

I'm not saying that "niggers are scared of revolution," as The Last Poets charged back in 1970. My point is that black politics, like hip hop, is going where we're going. As the music writer Nelson George observes, hip hop's central values—its materialism, anti-intellectualism, aggression, and spirit of rebellion—"are very much by-products of the larger American culture."[25] The revolution will not be televised for the simple reason that there's no real desire among African Americans for political revolution. Black folk do have a real desire, however, for racial progress.

Political rap is the soundtrack to the hip-hop generation's disaffection over being left out of the American dream.[26] Not all African Americans dig the soundtrack. Still, most would look forward to the day they had a truly equal opportunity for the kinder, gentler, and fairer version of the dream to pay off. [27]

[24] "By the Time I Get to Arizona."

[25] Nelson George, *Hip Hop America* (New York: Penguin, 1999), pp. xiii, 155.

[26] The hip-hop generation is said to cover African Americans born between 1965 and 1984. See Bakari Kitwana, *The Hip Hop Generation* (New York: Basic Civitas Books, 2002), p. xiii.

[27] In transcribing many of the lyrics quoted, I have consulted *The Original Hip-Hop Lyrics Archive*, http://www.ohhla.com.

# 15

# Criminal-Justice Minded: Retribution, Punishment, and Authority

ERIN I. KELLY

The payback attitude heard in gangsta rap sounds like a call for retribution. As 50 cent puts it, "Nigga you play around, I lay you down / That's how it's goin' down."[1] Justice as retribution echoes the feeling that vengeance is sweet, redeeming those who've suffered the humiliation of being wronged. This appeals to many people. It fact, it seems to express the attitude many law-abiding citizens would direct at gangstas themselves. Yet the desire for retribution that some rappers express isn't proposed as a legitimate basis for a system of punishment. To begin with, the situations they portray are sometimes way outside of the law, as Nas depicts in "Every Ghetto": "Circle the block where the beef's at / And park in front of my enemy's eyes / They see that it's war we life-stealers, hollow-tip lead busters."[2]

Behind rappers' desire to settle the score often lies a firm belief that the law does not, and doesn't aim to, protect them. If the law doesn't protect you and won't deliver justice, you may have to protect your own honor and reputation by seeking vengeance against your enemies. In Dr. Dre's words, "And if motherfuckers come at me wrong / I straight put my .44 Desert Eagle to his motherfuckin' dome / and show him why they call me the notorious one."[3]

[1] 50 Cent, "Rotten Apple," *Guess Who's Back* (Full Clip, 2002).

[2] Nas, "Every Ghetto," *Stillmatic* (Sony, 2001).

[3] Dr. Dre, "Nigga Witta Gun," *The Chronic* (Priority, 1992).

Many rappers are skeptical about justice in America and alarmed by our system of punishment. They suggest that racial bias in our criminal justice institutions—police, courts, and prisons—undermines the notion that criminals are getting their "just deserts." Rappers also call into question whether the massive effort to incarcerate black men serves the purpose of public safety. The rhetoric of both retribution and the public good seem to them to be a front for unjust forms of social control that help to maintain a system of racial privilege for whites. I will discuss "retributivist" and "consequentialist" philosophies of punishment and how rap music aims to snatch the disguise from the ugly face of the system.

## Punishment as Retribution

Retribution as a justification for the state-sanctioned, legal practice of punishment has become popular. Punishment as retribution is based on the idea that criminal wrongdoing calls for punishment—quite apart from the consequences of punishment, such as incapacitating or deterring offenders. The demand for retribution would be considered justified even at substantial economic and social cost. The point is that justice is done only when wrongdoers suffer. This punishment is imposed through the formal procedures of the law, where punishment takes place well after the crime and for reasons other than self-defense.

In lawless circumstances, by contrast, the line between retribution and self-defense gets blurred. Retaliation and even preemptive action might seem necessary to defend person and property. "Ready to rhyme / Standin' my ground / Never back down," says OutKast, "Willin' to rob, steal, and kill any thang that threatens mine."[4] But advocates of retribution (a.k.a. retributivists) are not interested in retaliation as a means to personal safety or as a reaction to a threat. They advocate retaliation for wrongdoing as a matter of justice. This has led famous retributivists, the philosophers Immanuel Kant (1724–1804) and, in our time, Robert Nozick (1938–2002), to stress differences between vengeance and retribution. Vengeance is emotional, personal,

[4] OutKast, "Return of the 'G,'" *Aquemini* (La Face, 1998).



reckless, and often disproportionate to the wrong. Retribution is impartially applied by a dispassionate and legitimate authority, and carefully calculated to fit the crime. In a civilized society, these philosophers claim, retribution should replace vengeance. This does not mean that retribution will be less violent or brutal. The death penalty and maximum-security prisons are hardly gentler alternatives to vigilante vengeance—as the French philosopher Michel Foucault (1926–1984) emphasizes in *Discipline and Punish: The Birth of the Prison* (1975).

Yet the ideal of retribution carries with it more than a trace of vengeance. Indeed, some recent books, such as Peter French's *The Virtues of Vengeance* and Jeffrie Murphy's *Getting Even*, urge us to embrace the emotional, personal, and expressive value of punishment as retribution. These philosophers accept continuity between vengeance and the justification of punishment. French offers four conditions that vengeance must meet if it's to count as justice:

1. *Communication.* The penalty must effectively communicate that what the offender did was wrong.
2. *Desert.* The penalty must be deserved.
3. *Proportionality.* The penalty must fit the crime.
4. *Authority.* Someone with legitimate authority must administer the penalty.

When these conditions are met, vengeance guides us to justice, or so it is claimed.

## Doubts about the Justice of Retribution

Rappers tell a cautionary tale—the retributivist's conditions for justice aren't met. Here is Public Enemy's angle on political authority:

I got a letter from the government
The other day
I opened and read it
It said they were suckers
They wanted me for their army or whatever
Picture me givin' a damn—I said never
Here is a land that never gave a damn

About a brother like me and myself
Because they never did
I wasn't wit' it, but just that very minute . . .
It occurred to me
The suckers had authority.[5]

PE's Chuck D implies that the authority of a government that doesn't care about some of its people can't be legitimate. A legitimate government serves the interests of all of its people, including minority groups. A government that fails to do this exercises only power, not legitimate authority—might, not right.

The most basic rights associated with our criminal justice system, guaranteed by the U.S. Constitution, are these: people should not be subjected to unreasonable searches and seizures (Fourth Amendment); people are innocent until proven guilty through due process of the law (Fifth Amendment); people should not be subjected to cruel or unusual punishment (Eighth Amendment); people should be equally protected by the law (Fourteenth Amendment). Many rap artists point to violations of these basic constitutional rights—police and prosecutorial misconduct, lack of access to legal counsel, unfair sentencing policy, and inhumane prison conditions. These are well-documented problems that disproportionately affect African Americans and Latinos.

Consider, for example, racial profiling. As Mos Def describes it, "The po-po stop him and show no respect / 'Is there a problem officer?' / Damn straight, it's called race."[6] Racial profiling is a policing strategy that is strongly correlated with the excessive use of force and with disproportionate incarceration of minorities.[7] Problems such as these threaten not only U.S. Constitutional rights but also internationally recognized human rights. They give us reason to doubt whether many punishments have been justly imposed.

But grounds for doubt about punishment as retribution may extend beyond worries about racial bias in its application. How

[5] Public Enemy, "Black Steel in the Hour of Chaos," *It Takes a Nation of Millions to Hold Us Back* (Def Jam, 1988).
[6] Mos Def, "Mr. Nigga," *Black on Both Sides* (Rawkus, 1999).
[7] See Amnesty International's report, *Threat and Humiliation: Racial Profiling, Domestic Security, and Human Rights in the United States* (New York: Amnesty International USA, 2004).



could we know whether the desert condition or the proportionality condition for justice as retribution has been satisfied? Consider this discussion about fitting the punishment to the crime:

> Tailoring the fit appears to depend on the moral sensitivity or intuitions of the punisher(s). When is the fit 'just right'? When does a suit of clothes fit? When it feels right? Yes, but also when it looks right to the wearer and to others. . . . Morality is an art, not a science.[8]

Statements such as this should worry if not alarm us. The lack of a cohesive moral community and a shared basis for moral judgment in multicultural, multiethnic, multireligious America dooms this justification of punishment. We simply don't agree about who deserves what. The haphazard nature of desert judgments cannot justify the high-stakes social policy of criminal punishment. Our system of punishment costs us almost 60 billion dollars per year;[9] it disrupts families and communities; and it deprives offenders of their most basic liberty, sometimes for a very long time. Metaphorical and biblical references to cosmic balance, the scales of justice, "an eye for an eye," or the art of morality are inadequate as rational and public justifications for a system of punishment. We must look elsewhere for a more plausible rationale.

## Punishment as Social Control

The main alternative rationale for punishment is about social control, not desert. Many rappers know this all too well through personal experience. The standard philosophical theories of punishment as social control come from a tradition influenced by the work of Jeremy Bentham (1748–1832). Bentham and other "consequentialist" philosophers have argued that punishment can only be justified when it has good consequences for society. In particular, punishment can be justified by considerations of deterrence, rehabilitation, or incapacitation.

[8] Peter French, *The Virtues of Vengeance* (Lawrence: University Press of Kansas, 2001), p. 227.
[9] Unless otherwise specified, the statistics in this essay come from the Bureau of Justice Statistics, United States Government.

Deterrence is achieved when, by punishing offenders, criminals or potential criminals are effectively discouraged from committing crimes. Rehabilitation is achieved when an offender's desire to re-offend is extinguished and replaced by respect for the law. Incapacitation is achieved when the guilty are rendered incapable of re-offending because they're locked up. Rappers express skepticism about whether anything but incapacitation is achieved by punishment.

We have seen that the moral authority of the criminal justice system is precarious when the rights of members of minority groups are not protected. This makes it hard to secure respect for the law, which dims the prospects for rehabilitating criminals. A deterrence rationale is also on unsteady ground, since deterrence is ineffective when the conditions outside prison are like the "jungle" that Melle Mel describes in "The Message":

> Broken glass everywhere
> People pissin' on the stairs
> You know they just don't care
> I can't take the smell, can't take the noise
> Got no money to move out, I guess I got no choice
> Rats in the front room, roaches in the back
> Junkies in the alley with a baseball bat
> I tried to get away but I couldn't get far
> 'Cause a man with a tow truck repossessed my car.[10]

When people are poor, unemployed, without hope, and subject to street violence and police abuse, prison may seem a lot less like something to fear, as Dead Prez makes clear in "Behind Enemy Lines":

> You ain't gotta be locked up to be in prison
> Look how we livin'
> 30,000 niggas a day, up in the bing, standin' routine
> They put us in a box, just like our life on the block.[11]

Of course, prison is in many ways worse than "life on the block." The point is that people in difficult social circumstances

[10] Grandmaster Flash and the Furious Five, "The Message," *The Message* (Sugarhill, 1982).

[11] Dead Prez, "Behind Enemy Lines," *Let's Get Free* (Loud, 2000).



are more willing to take risks, especially when they're angry or desperate. This fact, which might be called "the ghetto factor," substantially weakens the effectiveness of punishment as a deterrent.

We're left with incapacitation, and herein lies a deeper story. It begins with an agonizing recognition of the prospects facing many people who get caught up in the system: "They're scared of us, rather beware than dare to trust / Always in jail, million dollar bail, left there to rust."[12] Incapacitation could be a legitimate rationale for punishment only if the aim is public safety. But rappers charge that the long sentences that many African Americans face often serve interests that reach beyond the safety of the public.

For instance, federal sentences for cocaine possession and distribution are much harsher for the drug in crack form as compared to powder form. Possession of five grams of crack triggers a five-year mandatory minimum sentence, whereas it takes five hundred grams of powder cocaine to trigger the same sentence. Although evidence indicates there are far more white crack users and dealers than black ones, 84 percent of crack defendants are African American.[13] By contrast, only 31 percent of powder cocaine defendants are African American. The racial disparity may be explained by a concentration of drug law enforcement in urban, minority communities in which crack, the cheaper form of cocaine, is more prevalent than powder cocaine. The media also hyped the "evils" of crack as the government launched its "war on drugs" in the 1980s. The result is what Human Rights Watch has described as "an indefensible sentencing differential [that] becomes unconscionable in light of its racial impact."[14]

The idea that our criminal justice system punishes not only crime but also race comes up time and again in rap tracks. In the words of Ice Cube: "I think back to when I was robbin' my own kind / The police didn't pay it no mind / But when I start

[12] Big Punisher, "Capital Punishment," *Capital Punishment* (Loud, 1998).

[13] U.S. Sentencing Commission, 2000 Sourcebook of Federal Sentencing Statistics.

[14] Human Rights Watch Presentation to the United States Sentencing Commission (25th February, 2002).

robbin' the white folks / Now I'm in the pen wit' the soap-on-a-rope."[15]

## Prison/Ghetto

Let's further probe the relationship between prison and ghetto. Here's Goodie Mob's "Cell Therapy": "Loc up folks they in the hood, got an eye on every move / I make open your face to info you ain't know / 'Cause it's kept low how the new world plan / Reeks the planet without the black man."[16] The ambiguity of the line, "Loc up folks they in the hood, got an eye on every move," implies that both prison and ghetto serve to control and to segregate African Americans, especially young men.

Similarities between prison and ghetto have caught the attention of sociologists. The ghetto is a physical space that segregates, stigmatizes, coerces, and makes people vulnerable to economic exploitation.[17] Ghettos have worked this way, in apartheid South Africa, the Jim Crow American South, Chicago, and New York City. The racial profile of the U.S. prison population—65 percent of the prison population is non-white—suggests that prison too contributes to racial segregation. No doubt it also stigmatizes. And further, private companies are making big money marketing products and services. Telephone companies, for instance, are reaping hundreds of millions of dollars on unregulated phone rates for calls from prisons, some as high as $2.20 per minute.[18]

Greater racial integration in American society achieved by the civil rights movement of the 1960s has been followed by a massive increase in the incarceration rate. The total U.S. prison population has shot up, incredibly, from less than 200,000 to almost 1.4 million today—about seven times. In addition, close to 700,000 people are held in local jails. This brings us to a grand total of 2.1 million people behind bars in America today.

[15] Ice Cube, "AmeriKKKa's Most Wanted," *AmeriKKKa's Most Wanted* (Priority, 1990).

[16] Goodie Mob, "Cell Therapy," *Soul Food* (La Face, 1995).

[17] See Loïc Wacquant, "From Slavery to Mass Incarceration," *New Left Review* 13 (2002), pp. 49–54.

[18] Kim Curtis and Bob Porterfield, "California Inmates' Calls Home Prove Costly to Families, Friends." *The Boston Globe* (6th September, 2004).



At the current rate, about 1 in 3 black men will do time at some point in their lives. Sociologist Loïc Wacquant remarks on the post-civil rights era: "As the walls of the ghetto shook and threatened to crumble, the walls of the prison were correspondingly extended, enlarged and fortified, and 'confinement of differentiation,' aimed at keeping a group apart . . . gained primacy over 'confinement of safety'."[19] Wacquant draws a contrast here between incarceration as a way to make society safer and incarceration as a way to stigmatize and ostracize a despised group. His point is that our prison system has increasingly functioned to stigmatize and to ostracize African Americans; the advancement of public safety cannot plausibly be characterized as its primary aim. Some rappers, like Nas, seem to be making the same point:

> My country shitted on me (My country)
> She wants to get rid of me (Naw, never)
> 'Cause the things I seen (We know too much)
> 'Cause the things I seen (We seen too much).[20]

Rappers challenge us to be more aware and critical of the systematic abuse, exclusion, and marginalization of the black urban poor. They protest the endless cycling of black men between ghetto and prison. Their strategy is aggressively provocative—by being provocatively aggressive. Ice-T's "Cop Killer" is an early example that prompted a censorship debate in the 1990s. The lines I quoted from OutKast are more subtle. We don't know whether "standin' my ground, never back down" is a matter of rhyming or something more threatening. We often find rappers playing on words, or signifying, in order to drive home a deeper message. Think of KRS-One's play on the similarity between the words "officer" and "overseer" to draw a parallel between the control and violence that people in each role have exercised over the lives of African Americans.[22] An aim in the music here, as elsewhere, is to destabilize our perceptions of state legitimacy and criminal justice.

[19] Wacquant, "From Slavery to Mass Incarceration," p. 52.

[20] Nas, "My Country," *Stillmatic* (Sony, 2001).

[21] See KRS-One, "Sound of Da Police," *Return of the Boom Bap* (Jive, 1993).

Criminal "justice" in an unjust society is suspect. The burden on those who shoulder it is heavy. Despite the materialistic, consumerist values frequently found in rap tracks, sometimes a simpler, deeper, and more soulful plea can be heard, as in Dead Prez's cry for freedom:

> Yo, this world is oh so cold, I think about my ancestors
> Being sold, and it make me wanna break the mold . . .
>
> I don't wanna be no movie star
> I don't wanna drive no fancy car
> I just wanna be free, to live my life, to live my own life.[22]

[22] Dead Prez, "We Want Freedom," *Let's Get Free* (Loud, 2000).

# 16

# Gettin' Dis'd and Gettin' Paid: Rectifying Injustice

RODNEY C. ROBERTS

The slave trade and its progeny of racial injustice are excelle examples of far-reaching, unresolved, and massive injustic Although the U.S. didn't, much of the global commun acknowledged these injustices in 2001 following the Unit Nations World Conference Against Racism, Racial Discriminatic Xenophobia and Related Intolerance (WCAR), held in Durb South Africa. The participants acknowledged that "slavery a the slave trade are a crime against humanity . . . and are amo the major sources and manifestations of racism, racial discri nation, xenophobia and related intolerance, and that Africa and people of African descent, Asians and people of Asi descent, and indigenous peoples were victims of these acts a continue to be victims of their consequences." Moreover, it w strongly reaffirmed that "as a pressing requirement of justice, t victims of human rights violations" such as these, be assured "the right to seek just and adequate reparation."[1]

The importance of these issues to hip hop is reflected in t words of Chuck D. Performing "Down to Now" with The L Poets (*Time Has Come*), he describes how we came from Afri in ships, with most of us dying along the way. He asks what t tax would be on the horrors of the Middle Passage, and wh

[1] Report of the World Conference Against Racism, Racial Discriminatic Xenophobia, and Related Intolerance, Durban, South Africa (31st August–8 September, 2001), U.N. Doc. A/CONF. 189/12 (2002), http://www.unhc .ch/html/racism/index.htm, pp. 11, 24.