

*Crack-Powder Cocaine Disparity and Commodity
Fetishism*

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Abstract

This is a case study of discriminatory drug policy in the US from a political economy perspective. Convictions and sentencing for drugs offenses are far higher for African Americans than white Americans even though white people use more drugs than African Americans. Two kinds of cocaine usage are bifurcated in penal policy – cocaine powder, more expensive and used more by whites and the affluent, and crack cocaine, cheaper and hence used more by the poor and by African American users (though two-thirds of those who use crack are white). The theory of commodity fetishism in the legal form will be applied to offer an original insight into this problem and the innovative abolitionist solution consistent with the theory.

Introduction

Efforts to end race-class-gender disparities in the criminal justice system may benefit from knowledge of the political economy theory of Commodity Fetishism which was borrowed from Africans by Karl Marx to explain the mystery of the values exchanged in goods and services. In an earlier essay for roape.net, I argued that Marx consciously acknowledged that he was borrowing some of his ideas from people of African descent but many Marxists are not fully aware of this (Agozino, 2021).

Classical economists were of the view that the use values of commodities determined their market prices but Marx differed by identifying the amount of labor involved in the production

of the goods or services as what determined the exchange prices. For instance, a table is a table with the same use value, but only under certain circumstances does it ‘step’ into the market and become a commodity, said Marx. Similarly, he stated that Africans are part of the ‘human race’ but only under certain conditions were they commodified as enslaved people to be hunted and sold.

The use value of goods and commodities may remain the same even if the good or service is not sold or exchanged but is produced to meet the needs of individuals or members of a community or when it is abused and not considered valuable in the case of drugs that Marx likened to religion – ‘Religion is the sigh of the oppressed creature, the heart of a heartless world, and the soul of soulless conditions. It is the *opium* of the people.’ (Marx, 1843)

Capitalist apologists agree that what Max Weber called ‘the spirit of capitalism’ comes from ‘the protestant ethic’ of working hard and saving for investment (Weber, 1930). Many believe that Adam Smith was being Enlightened when he talked about the hidden hand of the free market as if it was a spiritual force. Marx suggested that it was similar to the magical thinking of pre-capitalist societies with fairy tales about hard-working people who get rich and lazy people who stay poor. To Marx, the poor are even more hard-working but remain poor due to exploitation by capitalists who expropriate the surplus value of their labor power as profits.

Marx solved the mystery of exchange values by applying the labor theory of value to say why pearls are more expensive than pebbles and why food grown for the family may have the same use value as food bought from the market even if the home-grown food is not priced for sale; though it may be exchanged with other goods or services through the ancient African system of trade by barter. In a capitalist economy, the commodity price becomes a fetish or ‘magic’ with which to estimate the value of everything and everyone as if following an ancient African system of divination, necromancy (literally also called negromancy), that Europeans borrowed from Africa or trying to decipher an ancient African system of writing, hieroglyphics, according to Marx who was fond of borrowing partially from African spirituality, mode of production, and class struggles, to critique political economy, though political economists rarely recognized the African influences on the thoughts of Marx (1867).

Crack-Powder Cocaine Commodity Fetishism

The crack-powder cocaine disparity of 100:1 imposed by the Anti-Drug Abuse Act of 1986 may have followed the commodity fetishism logic by assuming that powder cocaine was safer or better simply because it cost more per unit than crack cocaine which was more affordable to poor consumers. Therefore, a sentence for five ounces of crack cocaine was made equal to

the sentence for 500 ounces of powder cocaine. The implementation of the law was also racist and sexist by assuming that African American crack users were more dangerous and deserved to be racially and sexually profiled for longer sentences compared to white drug users. Assata Zeraï and Rae Banks (2002) theorized how such racist-sexist-imperialist repressive fetishes targeted pregnant African American women for forced sterilization even after the courts ruled against such measures.

Eliminating Quantitatively Unequal Application of the Law (EQUAL) is a Bill sponsored by Dick Durbin (D: IL), the Chairman of the Senate Judicial Committee, and Senator Corey Booker (D. N.J.) seeking to end the disparities between crack and powder cocaine. The Biden-Harris administration is in support of ending the disparity which was reduced to 18:1 during the Obama-Biden administration in 2010 through a Bill also written by Durbin. There is bipartisan support for ending the disparity with the Republican Governor of Arkansas, Asa Hutchinson, agreeing that chemically identical substances should not be judged to have unequal dangerousness. Senator Chuck Grassley (R: Iowa) supports the elimination of the disparity but calls for more studies of the potential public safety impacts.

Evidence from the US Sentencing Commission shows that two out of every three crack cocaine users were white but more than 80% of defendants being tried for crack-related offenses were African Americans. The commission recommended that the disparities should be ended in 1995 but Congress rejected the recommendation (the only time that Congress rejected a recommendation of the Commission) and the Clinton administration signed the 1995 (Three Strikes) Act to continue the 100:1 disparity that saw increased racial disparities in US prisons, with the increase in the population of African American female inmates rising fastest by 800% compared to 400% increase for all women in 2006. In the year 2000, there were more African American men in prison than in college or university partly due to the discriminatory application of the law.

The EQUAL Bill seeks to correct this by removing mandatory minimum sentences to allow judges more discretion in sentencing, by ending the unscientific assumption that crack cocaine is more addictive and more dangerous than powder cocaine, and by seeking funding to address the needs of communities that suffered the disadvantages of the race-class-gender disparities. However, by seeking to calibrate the punishment for quantities of crack to equal the punishment for similar quantities of powder cocaine, Congress may still be operating under the influence of commodity fetishism.

An original alternative to commodity fetishism is penal abolitionism to allow harm reduction by using education to get people to say no to drugs while treating people addicted to drugs in the healthcare system rather than relying on the criminal justice system. Tobacco and alcohol account for more fatalities than cocaine but are regulated with the support of the

public healthcare system while education succeeds in getting many people to say no to the addictive substances. Congress should consider the theory of the withering away of punitive law as a flawed response to drugs abuse. The war on drugs has failed at a huge cost and the Biden-Harris administration can help to end this war by starting with the Federal legalization of marijuana.

Conclusion

African states should take bold steps like South Africa, some Caribbean countries, The Netherlands, Portugal, Uruguay, and many states in the US by legalizing the cultivation, sale, and use of marijuana for medicinal or recreational purposes. They should stop enforcing the penal commodity fetishism imposed by imperialism on Africans for a herb that is much safer than alcohol and tobacco which remain legal in the interest of big corporations and tax revenues despite the public health hazards they cause in Africa and across the world (Carrier and Klantshnig, 2012). When marijuana is legal, small farmers will make a living from it and African youth will have a safer alternative to hard drugs while elderly patients who need it for pain management will avoid the deadly opioids being pushed by big pharmaceutical companies to get them addicted and leave them vulnerable to death by overdose. Marijuana is neither addictive nor is it possible to overdose on it, according to scientists (Agozino, 2014).

Since the punitive commodity fetishism of making the punishment fit the crime is not applied to big drugs companies that cannot be jailed or executed for drugs, such laws should be made to wither away to allow Africans to regulate the use of marijuana on the principle of, to all according to their needs and from all according to their abilities. End the war against Africans in the guise of the war on drugs. We can rely on education to get Africans to say no to drugs or treat them in hospitals, not prisons if they are sick from drugs habits. Southeast Asian countries that have the death penalty for drugs should abolish such penalties instead of using them as the racist excuse to keep executing lots of African youth caught with drugs there while the European suspects always get released for some reason.

In *State and Revolution*, Lenin (1917) followed Engels to theorize the withering away of the socialist state and the withering away of socialist law after classes are abolished and there is no longer any need for the state to play the role of class dictatorship. Meanwhile, according to Lenin, the bourgeois law must be abolished immediately and replaced with socialist law once the revolutionaries win state power. The irony is that socialist law tends to become entrenched while even some bourgeois countries take steps to abolish some repressive bourgeois laws. The socialist countries should have been among the first to legalize marijuana especially because it has been used for thousands of years as an ingredient in traditional medicine by in-

digenous peoples. African states should abolish such laws imposed by colonizers and allow consenting adults to choose what herbs to consume in the comfort of their own homes. No religion should prohibit a herb like marijuana that heals the sick or is enjoyed by the working people as food or for recreation with less risk than tobacco and alcohol that are marketed to the masses massively. What Angela Davis (2005) called abolition democracy, following Du Bois, would be a more sustainable solution for all.

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