Negrophobia and Reasonable Racism

Armour, Jody David

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The “Reasonable Racist” asserts that, even if his belief that Blacks are “prone to violence” stems primarily from racism—that is, from a belief in the genetic predisposition of Blacks toward greater violence, from uncritical acceptance of the Black cultural stereotype, or from personal racial animus—he should be excused for considering the victim’s race before using force because most similarly situated Americans would have done so as well. In our criminal justice system, “blame is reserved for the (statistically) deviant,” asserts the Reasonable Racist. “Therefore,” he concludes, “an individual racist in a racist society cannot be condemned for an expression of human frailty as ubiquitous as racism.”

The Reasonable Racist’s position, though ultimately specious, can muster more factual and legal support than one might think.
With regard to his claim that average Americans share his fear of Black violence, the Reasonable Racist can point to evidence such as a 1990 University of Chicago study which found that more than one out of two Americans endorses the proposition that Blacks tend to be “violence prone.” Moreover, numerous recent news stories chronicle the widespread exclusion of Blacks from shops and taxicabs by anxious storekeepers and cabdrivers, many of whom openly admit to making race-based assessments of the danger posed by prospective patrons. Thus, it is unrealistic to dispute the Reasonable Racist’s depressing contention that Americans tend to associate violence with Black people.

That most Americans share the Reasonable Racist’s discriminatory reactions to Blacks does not necessarily mean that they also share his racial prejudice. Many may claim to have completely nonracist grounds for their fear of Blacks. Specifically, many may insist that their racial fears are born of a sober analysis, or at least of rough intuition, of crime statistics that suggest Blacks commit a disproportionate number of violent street crimes. We shall consider such “rational racial fears” in the next chapter. Here we focus on irrational racial fears for two reasons. First, as we shall see in the discussion of unconscious mental reflexes in chapter 6, irrational factors figure to some extent in the racial fears of all Americans. Thus, just as he can prove that most Americans share his belief that Blacks are “prone to violence,” the Reasonable Racist can also prove that, like him, most Americans harbor irrational responses to Blacks. Thus, his most controversial contention is that most Americans’ heightened fear of Blacks is based primarily on conscious racial animus. This is equivalent to saying that most Americans are racist. I vigorously dispute this contention throughout this book.

The most apt description of the motivations that drive racial
fears is “scrambled eggs.” That is, racial fears rest on mixed motives, with the yolks of the rational impulses completely and seemingly inextricably commingled with the irrational whites. To probe the legal relevance of racial fears, these motives must be temporarily unscrambled and separately evaluated. If neither the irrational nor the rational motives can justify racial discrimination standing alone, there is no reason to recognize such discrimination when its underlying motives revert to their naturally scrambled state. Therefore, let us provisionally accept the Reasonable Racist’s disquieting assumption that, like him, most Americans base their heightened fear of Black violence primarily on racism.

From the standpoint of legal doctrine, the Reasonable Racist also seems to have a case. Self-defense is generally defined as the use of a reasonable amount of force against another when the defender honestly and reasonably believes that she is about to be attacked, and that she must use such force to repel the attack. To be excused, then, the shooter in our tableau must convince the jury that she honestly and reasonably believed that she had to shoot just when she did to avoid being killed or seriously injured, and that nothing less drastic than deadly force would have saved her.

Reasonableness is the linchpin of legal self-defense in two respects. First, even if the defender is mistaken in her belief that she is under attack (as was the shooter in the tableau), she has a valid defense as long as her mistaken belief was reasonable. Second, from a juror’s perspective, the reasonableness of a belief is a window on its honesty; that is, the more reasonable the belief seems to a jury, the more likely a jury is to be convinced that the defendant honestly held the belief herself. In the law of self-defense, therefore, “reasonableness” is the pivotal standard to which all other legal requirements are related and by which all others are measured.