Negrophobia and Reasonable Racism

Armour, Jody David

Published by NYU Press

Armour, Jody David.
Negrophobia and Reasonable Racism: The Hidden Costs of Being Black in America.
Project MUSE. muse.jhu.edu/book/7872.

For additional information about this book
https://muse.jhu.edu/book/7872

For content related to this chapter
https://muse.jhu.edu/related_content?type=book&id=172371
large risks of error and the grave social consequences of error that racial generalizations involve. And, yes, I understand that everyday I willingly expose myself to many risks greater than those incremental risks posed by Blacks, in some cases for lofty reasons and in other cases for very mundane ones. Nevertheless, I do not consider the interests of Black Americans worth incurring any incremental risks for. So I will not buzz them in, pick them up, or wait as long to shoot an ‘ambiguous’ one as I would wait for a similarly situated White.” Appeals to principle like those developed in this discussion may reach only those well-intentioned people who seek to avoid racism, and who therefore can be persuaded to stop engaging in racist practices. Racially illiberal Americans who refuse to adequately credit the interests of Blacks in their decision making, on the other hand, require alternative approaches to helping them avoid discrimination. We will discuss some alternative approaches for racially illiberal decision makers in the last chapter.

This analysis retains its vitality even if the risk estimates concerning Black assaults are modified. There may continue to be debate about the most accurate risk-of-assault statistics for Blacks, but as long as the risks of error in the racial generalizations remain high, and the social consequences of error remain grave and far-reaching, moral and policy arguments against using statistical generalizations to visit serious injuries on Blacks remain compelling.

**Race and the Subversion of Rationality**

The preceding discussion assumed that considering race might incrementally promote rationality by marginally increasing the accuracy of factual judgments of risk, but concluded that the
benefits of these incremental gains in rationality are so decisively outweighed by the social and moral costs of race-based predictions that relying on race is unreasonable. Now we examine how considering race in self-defense cases can undermine rationality itself. However pure a defender’s conscious intentions, considering the race of an “ambiguous” Black person before shooting him impairs the capacity of the defender rationally and fairly to strike a balance between the costs of waiting and the costs of not waiting. By the same token, permitting a defendant who shoots a “suspicious” Black person to focus on race at trial, even for the ostensibly neutral purpose of supporting the rationality of his factual judgments, impairs the capacity of jurors rationally and fairly to strike the same balance.

A large and compelling body of social science research—including case studies, studies of conviction rates, death penalty statistics, laboratory findings in mock jury studies, and general research on racial prejudice—establishes that racial bias affects jury deliberations.27 These studies indicate two distinct kinds of jury bias operating in criminal cases: own-race favoritism and other-race antagonism. Both kinds of bias subvert the rationality of the decisionmaking process in self-defense cases.

Other-race antagonism tends to cause White decision makers to devalue the interests of the Black victim and the group to which he belongs. The tendency of juries to devalue the lives of Blacks can be seen in the proven tendency of juries to punish defendants more severely when their victims are White than when they are Black, suggesting that the lives of minority victims are valued less highly than White victims.28 Conversely, own-race favoritism tends to cause White decision makers to overvalue the interests of the White defender and the group to which he belongs.29 In other words, through
racially selective sympathy and indifference, decision makers (often unconsciously) fail to feel as much sympathy and exercise as much care for marginalized people as they routinely do for their own group. Consequently, they tend to misassess the comparative costs and benefits of their decisions for the respective groups.

In self-defense cases, this means that conscious or unconscious bias may cause both defenders and juries (often all White)\textsuperscript{30} to miscalculate the costs of not waiting as long for Blacks to reveal their intentions as for non-Blacks, since an individual and a group with which they do not identify will bear those costs, while “one of their own” would bear the cost of waiting for a suspected assailant to exhibit his violent intentions.\textsuperscript{31} Thus, even if the racial factor marginally promotes rationality on the issue of risk assessment, it substantially undermines the rational determination of how long the defender should have waited for the stranger to clarify his intentions before resorting to deadly force. In the professional patois of lawyers and judges, its “probative value [may be] substantially outweighed by the danger of unfair prejudice.” And surely a paragon of rational thinking like the “Intelligent Bayesian” would not urge us improperly to fasten upon a factor that subverts the rationality of the fact-finding process.\textsuperscript{32}

Fortunately, and seemingly paradoxically, there is a way for decision makers properly to focus on the racial factor. Unlike the Bayesian, who considers race to justify his quicker use of force against “ambiguous” Blacks, decision makers can approach race-consciousness in a way that helps them avoid giving in to their discriminatory impulses to treat Blacks (and other marginalized groups) less favorably than Whites. Rationality-enhancing color-consciousness is examined in the last chapter.