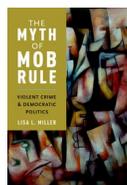


# Law and Politics Book Review

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## THE MYTH OF MOB RULE: VIOLENT CRIME AND DEMOCRATIC POLITICS



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THE MYTH OF MOB RULE: VIOLENT CRIME AND DEMOCRATIC POLITICS, by Lisa L. Miller. New York: Oxford University Press, 2016. 272pp. Cloth \$35. ISBN: 978-0190228705.

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I vividly recall walking home from my Washington, D.C. internship in 1986 and seeing blood on a sidewalk where a young man had just been shot in a drug dispute. That year 197 people were murdered in the city, up more than thirty percent from 1985. From there the numbers climbed dramatically, eventually reaching a peak of 482 in 1991. The city's newspapers were filled with stories of shootings. This was a drug war, they reported. The newspapers were also filled with stories about the Reagan Administration's so-called war on drugs. Even as my young colleagues and I scoffed at the administration's propaganda, as we thought of it, we walked the streets with an eye over our shoulders.

So I have never been fully satisfied with the argument favored by some scholars (see, e.g., Reinerman and Levine 1989) that the media frenzy over drugs and drug-related deaths in the 1980s was just hype. The Reagan Administration's punitive rhetoric and response was hyped, but there was also a bedrock reality to the misery—the poverty, the street-corner drug sales, the killings—in many of America's urban areas. But until now I have not been able to fully square how we might see a basic truth in public fear of crime without also acceding to the democratic legitimacy of what has so often come with it: a hyper-punitive response. Seeing how many scholars refer to passing to exaggerated fear of crime, I suspect that many of my scholarly colleagues are in the same boat.

Lisa L. Miller's profoundly important THE MYTH OF MOB RULE offers a truly original solution to this dilemma. Drawing on extensive empirical research, Miller shows that media attention to violent crime and public fear of it are closely connected to actual trends in crime. Rarely is there a public frenzy over crime when there is no underlying problem. Miller also shows that this is true not only of the United States but also of many other advanced industrialized countries. Deploying a nicely designed comparative case study of the U.S., Britain and the Netherlands supplemented by data from twelve other countries, Miller argues that public safety is a democratic concern “of the first order” and that governments that are the most responsive to public concerns about crime are also the most likely to adopt policies to address it. The United States, she says, is unique not in the American public's concern about crime (or media coverage of it) but in its truncated policy response to this concern, manifested mainly in policing and punishment. When European publics are vexed about crime, their governments adopt some punitive policies (e.g., more police, lengthier prison sentences) but generally as part of a wider array of social-welfare policies aimed at addressing poverty as a root cause of crime. In comparison, Miller argues, the United States, with its extraordinary levels of violent crime and incapacity to do much about it looks a lot like a “failed state.” Its problem is not too much popular control over government but too little.

Miller's book is especially important because a considerable body of research views American crime policy as deeply influenced by popular fears. Still, no prior study has really quite addressed the two basic questions that are the focus of this book. Is public opinion about crime broadly disconnected from changes in the rate of crime? And are governments more likely to adopt punitive policies, as opposed to systemic social-welfare policies, the more they are responsive to the winds of popular opinion?

Miller persuasively argues that these questions are best addressed using a long-term historical

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perspective and by comparing countries with rather different governing structures that are [\*19] thought to be more or less responsive to popular opinion. This research-design choice is crucial to her observations, as the studies supporting the conventional wisdom are usually single-country studies that use a short time frame. Examining the much-longer period from the 1950s through the 2010s in several European countries and the United States (Chapter 2), Miller reports remarkably close correlations between changes in crime rates and media coverage and public opinion on crime. In fact, the patterns are striking, the connections compelling. Crucially, in most countries for most of the past several decades there are extremely few periods in which crime rates were low and yet the public and political salience of crime was high. This basic observation calls into question the assumption that fear of crime is a product of populist demagoguery alone. As Miller observes, in their assessments of the importance (or lack of it) of crime, mass publics are remarkably responsive to actual conditions.

But that is not all that her broad historical comparisons show. Perhaps her most striking observation is that rates of violent crime in the United States vastly outstrip rates in other advanced industrialized societies. Although this is no news to most readers here, Miller's thoughtful deployment of data makes the point better and more clearly than any other study. Thus, the U.S. began the 1960s with a murder rate about three times the highest rate in Europe or Canada and it more than doubled over the next twenty years. Other countries saw substantial increases in violent crime, too, but in no country has the murder rate at its highest even approached the lowest historical rate seen in the United States. Likewise, although racial minorities in many of these countries are more likely to be victims of murders than whites, the rate of violent victimization is especially disproportionate among African Americans.

Miller devotes a chapter to each of her three primary comparison countries. In these chapters she demonstrates that each experienced significant increases in violent crime beginning in the 1960s and that in each of these countries both media coverage of crime and public opinion on crime responded to the rising crime rate. In fact, across all three countries there was never a sustained period when the crime rate was low but the media and public were vexed about crime. (Sometimes crime rates were growing but public opinion and media coverage did not register much concern.) This much the three countries have in common. Where they differed, and, in fact, differed dramatically, was how their political institutions responded to rising public concern about crime.

In Britain, the political parties and the Government responded only very slowly, and after considerable delay, to growing crime rates. And when they did respond, the parties increasingly favored punitive policies (as in the United States) but not to the exclusion of social-welfare proposals for addressing the sources of crime.

The history is only marginally different in the Netherlands. There, the main difference is that the parties and government responded considerably more quickly to growing crime rates and public concern about crime. This institutional response to crime included some punitive elements, as in Britain and the United States. But, in comparison to the United States, the Dutch government retained its commitment to social-welfare solutions for addressing the sources of crime.

Miller's analysis of the United States is strikingly original and illuminating. Yes, crime rates soared after the mid-1960s, and the news media and public opinion registered increasingly sharp concern about crime. Even in the midst of these developments the Democrats, like their political cousins in Britain and the Netherlands, retained their long-standing commitment to social-welfare policies as part of the solution. To be sure the Democrats also came to favor increasingly punitive solutions, too—but in this they were much like their counterparts in Britain and the Netherlands. The United States differed from these other places in only one crucial respect, as Miller shows with devastating clarity. It was the inability of the Democrats to pass broad social-welfare legislation for addressing the loss of urban jobs, the crumbling housing stock, and eroding public school system. [\*20] Opponents of these measures were able to exploit the many checks in the separation of powers to block these proposals. The programs that did manage to make it through to adoption were what Miller calls "lowest common denominator" policies, those that gained support from both the liberals and the conservatives. These were, in the main, punitive policies: more police on the street, lengthier sentences, federal support for a war on drugs, and so on.

The upshot is that governments respond to rising crime rates to the extent they are democratically accountable. Democratic publics, Miller shows, are deeply concerned about threats to personal safety and public order, and it should be no surprise that governments respond to these concerns. She further shows that proposals for more police and tougher punishment are a predictable part of the policy response, even in social-democratic countries. But social-welfare policies aimed at

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addressing deeper structural sources of crime are also a predictable part of the mix, even in more market-oriented liberal democracies like Britain and the United States.

What sets the United States apart, Miller shows, is its singular incapacity to adopt much of the social-welfare part of this mix (and, indeed, its incapacity to limit the availability of guns). The result has been a ratcheting up of punitive policies as the public demands some sort of solution. But, Miller concludes, this should be seen not as an overreaction to heated populist rhetoric – “mob rule” – but a failure of governmental capacity to respond more fully to democratic demand.

With this thesis Miller brings together the growing research on racial biases in criminal justice (e.g., Lerman and Weaver 2014) and the rich scholarship on the structure of the American state. It is about time. Important studies of the American state’s varying capacity, namely its apparent strength and reach in some areas and its apparent weakness and limitations in so many others (e.g., Katznelson 2013; King and Lieberman 2008, 2009; Novak 2008) have much to offer scholarship on law. Every future study in these areas should build on Miller’s analysis.

This book is so good and so important that it may seem a bit beside the point to pose a question, but I cannot resist. How might Miller’s weak-state thesis (about the U.S.) be reconciled with the obvious power of the police and local criminal justice institutions in that country? Her focus is exclusively at the national level where, as she argues, the U.S. state certainly appears weak and unresponsive to majority opinion. But this is less clear of the local state, where policing, criminal prosecution and trial courts are concentrated. There, the state seems strong: police departments are concentrated under centralized command, their budgets have grown, and the police, sheriffs and prosecutors wield remarkable power. These institutions are also among the most politically responsive of American governments. In fact, it is their punitive practices that the “mob rule” thesis seems especially designed to explain. Thus, mob rule appears in the form of local prosecutors who, subject to election and often with their eyes on higher office, seek the death penalty more for African American defendants than whites. It appears in the form of police departments that enforce the color line in their stop practices. It appears in the form of sheriffs who champion their enforcement of immigration law. To be sure, local governments do not have the capacity to address the broad-scale economic problems that give rise to urban poverty and crime, and so their officials act in a context in which aggressive policing and punishment is often the easiest route to electoral success. Although Miller’s analysis of national-level institutional patterns is not inconsistent with these observations, extending it to the local level would have enriched the argument.

This is but a quibble about a book that is so original, important, and conceptually rich that it should be on every socio-legal and political science scholar’s reading list and its basic insights should be incorporated into every future study of these issues.

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