

# The ‘Environmental Factor’: When Criminals Are Also Victims

By F.T. Green | 44 mins ago



*Could the racism and poverty that fueled the Los Angeles' Watts rebellion in 1965 be considered an "environmental" cause of criminal behavior? Photo of Watts, 1965 by Beth Noe via Flickr.*

On June 5, 1968, at about 3 a.m., Murdock Benjamin and a couple of friends were in a hamburger joint in Washington D.C. when a group of six walked in to order takeout—five men, all U.S. Marines in uniform, and a woman. All were white.

A few minutes later, as Benjamin and his friends were leaving the restaurant, there was a confrontation by the door. At trial, each side said the other started it, and the details remained unresolved.

Benjamin was already outside when he heard one of the Marines say, “Get out, you black bastards ([https://law.justia.com/cases/federal/appellate-courts/F2/471/923/259535/#fn122\\_ref](https://law.justia.com/cases/federal/appellate-courts/F2/471/923/259535/#fn122_ref)).”

Benjamin reentered, pulled his gun, and started shooting. He killed two of the Marines, and seriously wounded another and the woman. He was charged with murder.

At trial, Benjamin’s lawyer admitted there was blood on his client’s hands. But he argued that Benjamin wasn’t criminally responsible for what he’d done. He had a mental condition born of the deprivations he endured as a poor black person, the lawyer argued, adding that his experiences primed him to explode the moment he heard that racial slur.

The defense was a long shot because Benjamin, by all accounts, was a sane young man. But Benjamin’s mind was in the grip of the ugly social forces that had shaped his life, according to his lawyer. After all, racism and poverty might not make a man hallucinate, but they still inflict real harm on both [body](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3483932/) and [brain](https://pdfs.semanticscholar.org/83e3/4e66d9f101b9a9b08be480e10fb5425bf784.pdf).

The trial judge, Gerhard Gesell, didn’t buy it.

“We are not concerned with a question of whether or not a man had a rotten social background,” Gesell said. “We are concerned with the question of his criminal responsibility.”

The jury convicted him of second degree murder. He was sentenced to 20 years to life in prison. He was about 20 years old.

But did Benjamin’s defense have any validity?

A closer look at Benjamin’s background suggests how someone’s environment carves out their destiny.

He was raised in the Watts neighborhood of Los Angeles. His father was a construction worker and his mother stayed home to take care of him and his siblings—he had 12. They were poor, but there was always enough for clothes and food. But then his father left the family, and life grew more difficult.

In the summer of 1965, a few years after his father left, Benjamin was one of hundreds of people arrested and jailed following what has been called the Watts Rebellion—one of many uprisings by black Americans in the 1960s that were rooted in systemic oppression. Watts’ residents suffered bad policing, bad schools and few opportunities for work, according to one [contemporary report](https://web.archive.org/web/20150905062819/http://www.usc.edu/libraries/archives/cityinstress/mccone/contents.html).

Benjamin recalled the experience as the start of his political awakening.

“It was like striking out at something, not caring whether you win or lose, as long as you strike back at it—because it had struck at you long enough,” Benjamin said in a 1970 interview with Malaika Lumumba for an [oral history](https://dh.howard.edu/cgi/viewcontent.cgi?referer=https://www.google.ca/&httpsredir=1&article=1170&context=finaid_manu) of the civil rights movement.

“They’d blew up four young girls in Alabama not more than two years prior to that,” he added. “[During Watts] we were only paying them back for the slavery and sufferings of our people.”

When he got out of jail, Benjamin found work and moved in activist circles, but his politics wavered. He had a new, promising job as an apprentice machinist, and he wanted to make good; but a year after he was hired, the company laid off all the black and Mexican apprentices.

“I realized that I couldn’t get away from racism within the United States,” he told Lumumba. “I’d sold my people out by thinking that I could ever make it within the system.”

After he lost the job, Benjamin dealt drugs for a couple of months to get by, before he soured on it. He figured he was helping the white man, hurting his community. He was arrested for a couple of other crimes he said he didn’t commit.

Then Martin Luther King Jr. was assassinated, in April, 1968. Benjamin had now come to believe a race war was coming—a belief his lawyer would later use to argue that Benjamin had a “mental condition.”

Shortly after King’s assassination, he decided to leave Los Angeles to join the Poor People’s March on Washington. A few weeks later, on the other side of the country, Benjamin shot four people.

Benjamin’s lawyers appealed his conviction, arguing that the trial judge shouldn’t have excluded the broader context of Benjamin’s life—his “rotten social background,” as one lawyer termed it—from the question of his guilt.

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David Bazelon, one of the appeals court judges, struggled so earnestly to answer that question that he made the case famous in academic circles. Bazelon began by conceding that it [probably wasn’t fair](https://law.justia.com/cases/federal/appellate-courts/F2/471/923/259535/#fn122_ref) to convict Murdock Benjamin, because forces beyond his control were responsible for the shooting, more than Benjamin himself.

But if Benjamin wasn't responsible for his actions, that only made things more complicated, because he wasn't insane and he was likely still dangerous.

Society doesn't know what to do with someone who's sane, violent and, hypothetically, innocent.

Sane people can't be locked up in an asylum, harm demands a response, and innocence precludes prison. Bazelon's ruling offered up "[social reconstruction](https://law.justia.com/cases/federal/appellate-courts/F2/471/923/259535/#fn122_ref) ([https://law.justia.com/cases/federal/appellate-courts/F2/471/923/259535/#fn122\\_ref](https://law.justia.com/cases/federal/appellate-courts/F2/471/923/259535/#fn122_ref))."

Systemic equality, he suggested, might prevent more violence than any punishment.

Bazelon seemed to want to convict America itself.

But the other two judges outvoted Bazelon. In that 1973 appeal, they reaffirmed Benjamin's conviction and kept him in prison.

"The ultimate responsibility for [the marines'] deaths reaches far beyond [Murdock Benjamin]," [agreed](https://law.justia.com/cases/federal/appellate-courts/F2/471/923/259535/#fn122_ref) ([https://law.justia.com/cases/federal/appellate-courts/F2/471/923/259535/#fn122\\_ref](https://law.justia.com/cases/federal/appellate-courts/F2/471/923/259535/#fn122_ref)). Judge Carl McGowan.

But he added: "As courts, however, we administer a system of justice which is limited in its reach."

In the decades since, judges have continued to wave off "environmental" defenses like Benjamin's, often with good reason.

Lawyers sometimes cooked up farcical excuses for their clients, like [Super Bowl Sunday Syndrome](https://www.amazon.ca/Abuse-Excuse-Cop-outs-Evasions-Responsibility/dp/0316181021) (<https://www.amazon.ca/Abuse-Excuse-Cop-outs-Evasions-Responsibility/dp/0316181021>), trying to spin an individual's misconduct into a mass phenomenon in which they had no control.

Judges are probably also wary of arguments grounded in society's inequities because they would be so powerful.

Black people aren't the only ones overrepresented in the justice system. The [poor](https://scholarship.law.umn.edu/cgi/viewcontent.cgi?referer=https://www.google.ca/&httpsredir=1&article=1219&context=lawineq) (<https://scholarship.law.umn.edu/cgi/viewcontent.cgi?referer=https://www.google.ca/&httpsredir=1&article=1219&context=lawineq>), the [young](https://www.ncbi.nlm.nih.gov/pubmed/12194611) (<https://www.ncbi.nlm.nih.gov/pubmed/12194611>), and the [queer](https://www.urban.org/urban-wire/five-reasons-mass-incarceration-queer-issue) (<https://www.urban.org/urban-wire/five-reasons-mass-incarceration-queer-issue>)—among many other demographic groups—are all disproportionately likely to be arrested for a crime.

Researchers have also found that people who have a certain genetic attribute, and who also suffered abuse as children, are more than [nine times](https://repository.upenn.edu/cgi/viewcontent.cgi?article=1088&context=neuroethics_pubs) ([https://repository.upenn.edu/cgi/viewcontent.cgi?article=1088&context=neuroethics\\_pubs](https://repository.upenn.edu/cgi/viewcontent.cgi?article=1088&context=neuroethics_pubs)) more likely than the average person to behave criminally.

Benjamin's case highlights the tension at the core of modern American justice.

Courts try people, not inequality. Judges reliably exclude big-picture phenomena—like genetics, or the ravages of white supremacy—from the question of someone's guilt. They only consider it at sentencing, where the standard for evidence is lower.

But even then, it seldom makes much of a difference. A [2012 study](https://www.ncbi.nlm.nih.gov/pubmed/22904010) (<https://www.ncbi.nlm.nih.gov/pubmed/22904010>) polled judges on how they'd sentence a man, diagnosed with psychopathy, who committed terrible violence. Overall, the judges ruled the man's mental condition made him less responsible for his crime.

But they also ruled that the same mental condition made him more of a menace.

"Psychopathy may make the defendant less morally culpable, but it increases his future dangerousness to society," one of the judges explained to the researchers. "In my mind, these factors balance out."

Still, the question from Murdock Benjamin's case still hovers on the edges of every courtroom today.

Should the victims of racism be held solely responsible for its inevitable consequences?

*F.T. Green is a reporter in Toronto. His website is [ftgreen.xyz](http://ftgreen.xyz). He welcomes comments from readers.*



***F.T. Green***

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