

Lecture 13A: Perspectives of Criminal Justice

- **A perspective is a “view point” about a given subject. A perspective about the causes of crime, nature of criminals, the functions of government, and the rights of victims is one of the foundations on which public policy is based**

Liberal and Conservative Perspectives

- Crime policies (and associated rules) are guided by underlying assumptions of human behavior.
- Liberals and conservatives—with different assumptions—both pursue policies to control crime.

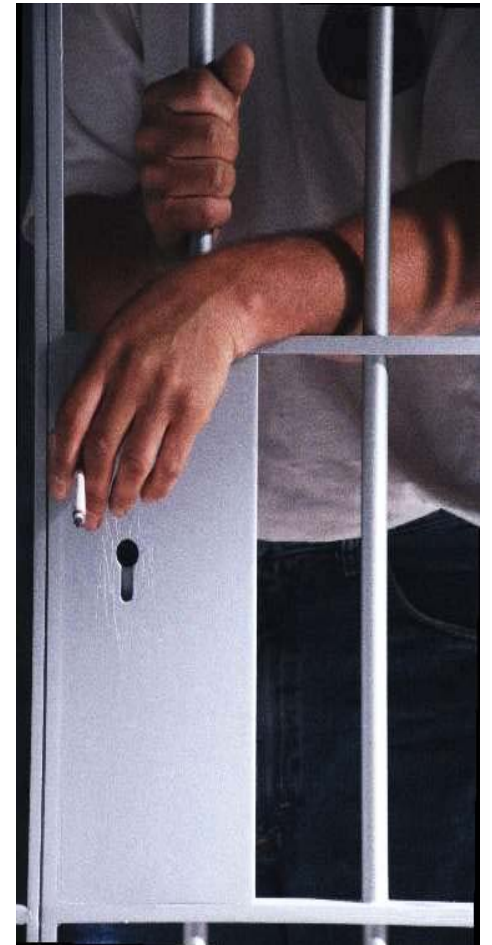


Conservative Doctrine

- Assumptions from rational choice and deterrence theory (free will, cost/benefit analysis, people make choices and should be responsible for these).
- Punishment involves morals: If individuals break rules they deserve punishment (retribution).
- Punishment involves utilitarian goals: general and specific deterrence.

Conservative Doctrine cont.

- Contradictory views on government: social programs (i.e., welfare, job training) are *ineffective*, yet more severe and certain criminal justice institutions are *effective*.
- Punishment as an analogy to patriarchal family (increasingly harsh punishments will control behavior).



Liberal Doctrine

- Assume *constraints* from social context. Choices not free, but constrained by economics, politics, and culture.
- Goal is to rehabilitate criminal offenders through less punitive programs (probation, parole, etc.).
- Less emphasis on individuals and choice, even though rehabilitation often focuses on individuals.

Theologies Contrasted

- Conservatives blame crime on weak punishment in criminal justice system, whereas liberals believe punishments are too harsh.
- Conservatives focus on criminal law (substantive rules) whereas liberals focus on criminal procedure.

Criminal Law and Criminal Procedure

- Criminal Law: rules that prohibit general behavior (e.g., rape, homicide, drugs). CONSERVATIVE FOCUS
- Criminal Procedural: rules that control the enforcers themselves (e.g., prohibiting police brutality or torture of suspects). LIBERAL PERSPECTIVE.



Crime Control Perspective

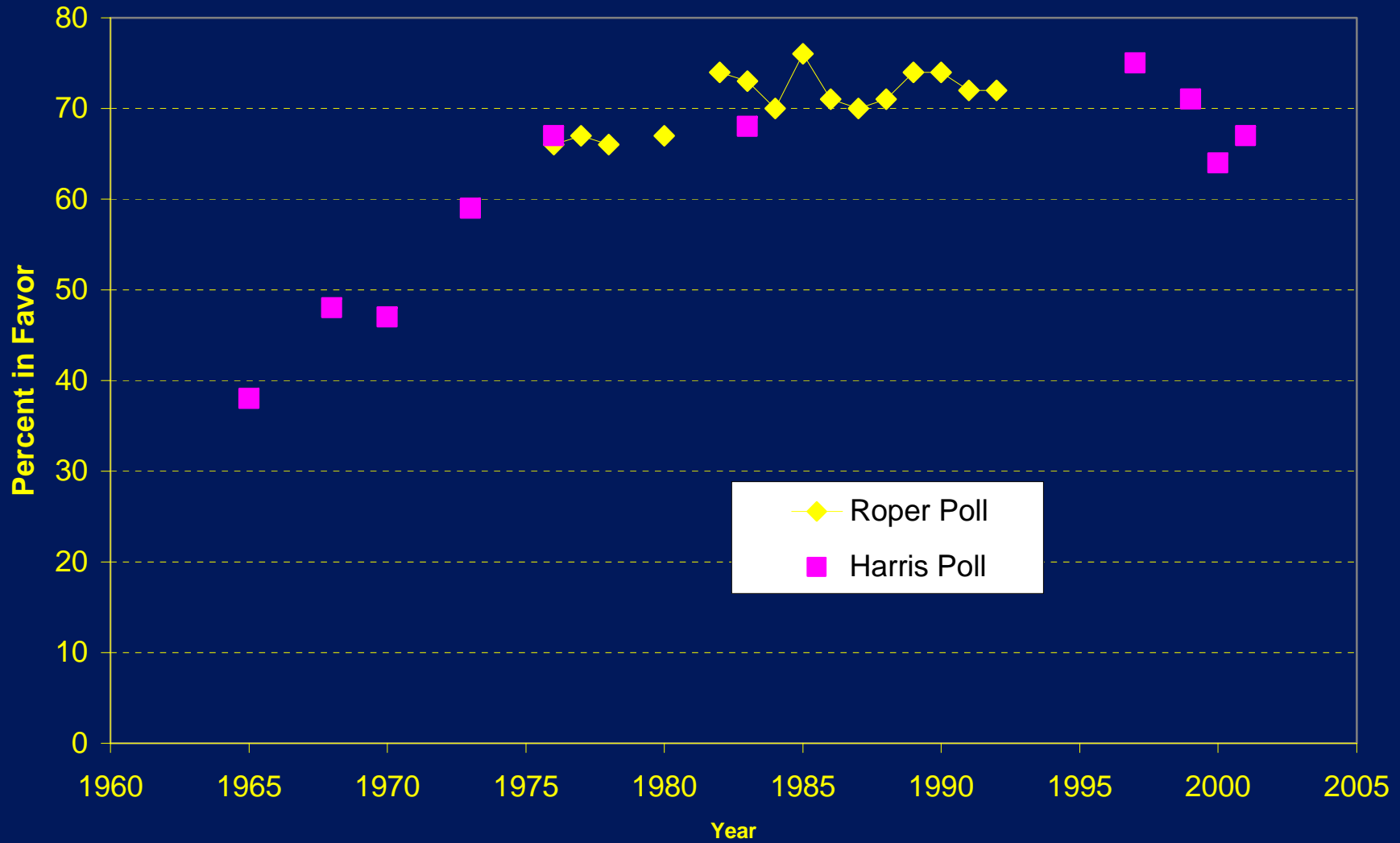
- Proper role of criminal justice is to prevent crime through judicious use of sanctions.
- If criminal justice operated effectively, criminals would be deterred.
- The system could punish in such a way to make all believe that “crime doesn’t pay”.
- Focus of justice should be on the victim.
- Crime control measures should be sure & swift.

Due Process Perspective



- Combines elements of the liberals' concern for the individual with the concept of legal fairness guaranteed by the Constitution.
- Provides fair and equitable treatment to those accused of crime.
- Advocates strict monitoring of discretion by justice officials to ensure no one suffers racial, religious or ethnic discrimination.

Public Opinion: Do You Believe in Capital Punishment?



Crime: Red Flags

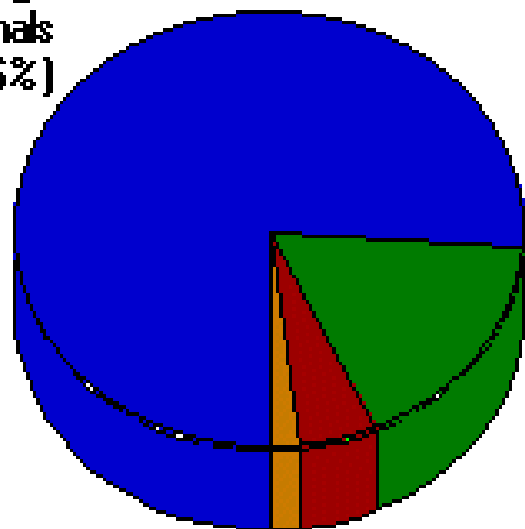


Most Americans say being tough on criminals is more important than protecting the rights of the accused

If you absolutely had to choose between each of the following two values, which is more important to you, personally? Being tough on criminals or protecting the rights of those accused of crime?

The court system in this country does too much to protect the rights of people who are accused of crimes, and not enough to protect the rights of crime victims. Do you agree or disagree?

**Being tough
on criminals
(76%)**

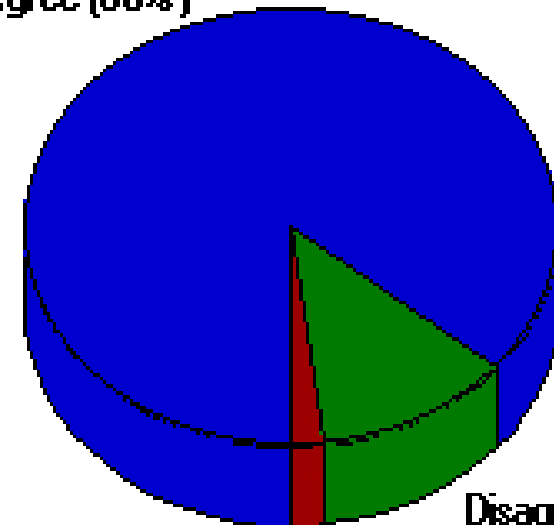


**Protecting
rights of
accused (17%)**

Both equally (5%)

No opinion (2%)

Agree (86%)



Disagree (12%)

Don't know (2%)

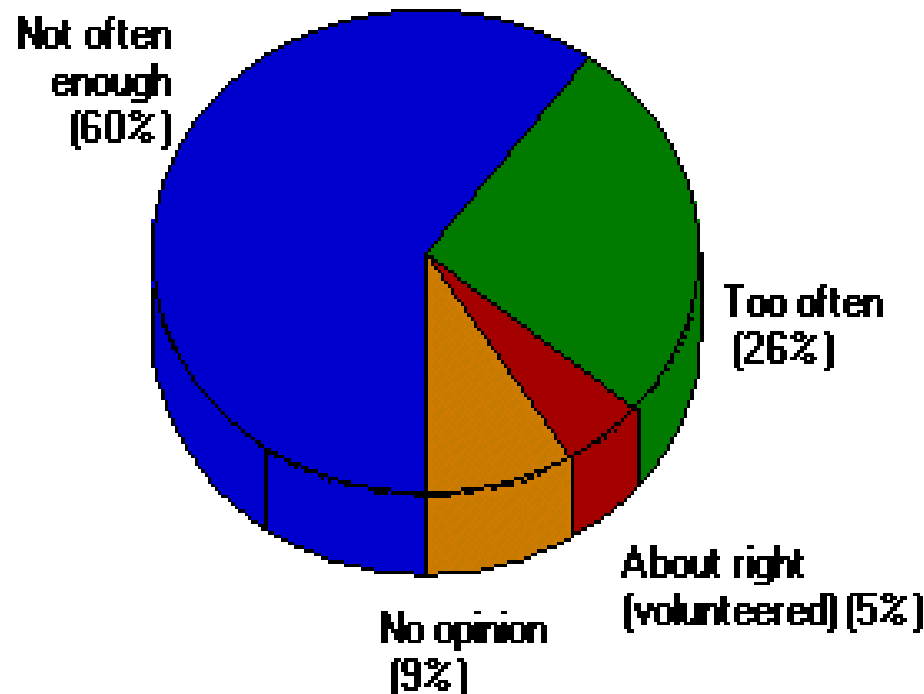
Source: Kaiser / Washington Post / Harvard 8/98

Source: ABC News 2/94

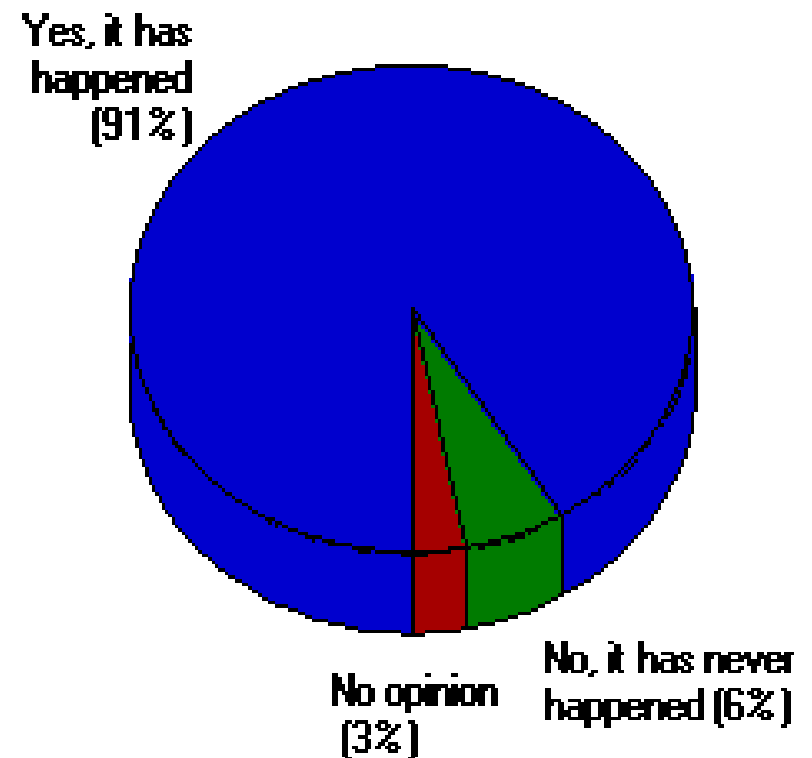
Crime: Major Proposals

More than half of Americans say the death penalty is not imposed enough, but nearly all believe that at least one innocent person has been sentenced to death

Is the death penalty imposed too often today or not often enough?



In the last twenty years, do you think a person has been sentenced to the death penalty who was, in fact, innocent for the crime he or she was charged with, or do you think it has never happened?



Source: Gallup Organization 2/00

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Lecture 13B: *Sungusungu*
“Vigilante” Social Control in
Tanzania, East Africa

Objectives

- Social control systems defined
- Overview of *Sungusungu* tribal justice organizations
- *Sungusungu* and the importance secondary rules.

Systems of Social Control: Types of Controllers

- **Unilateral** (self-help violence; cultures of honor).
- **Bilateral** (informal “peacemakers” involving communities, organizations, etc.)
- **Trilateral** (usually formal peacemakers such as states).

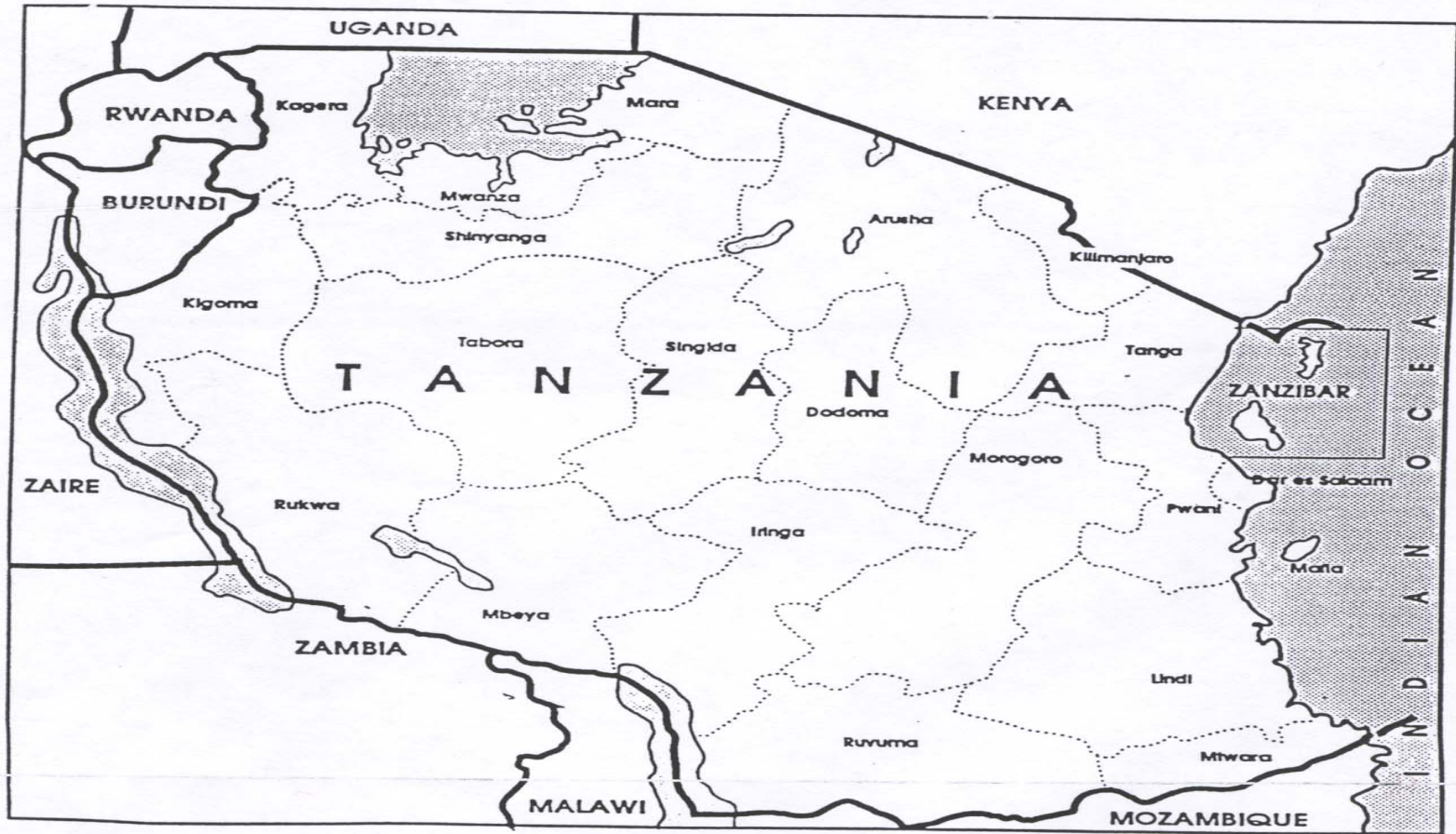
Controllers: Actors, Rules, Sanctions

- Actors: Individuals (or hierarchies of individuals) who enforce rules with sanctions
- **Rules**: Primary and secondary rules
- Sanctions: Rewards and punishments

Rules are Culturally Transmitted

- Rules emerge slowly and often diffuse with difficulty to individuals and groups
- Pre-existing institutional rules pre-adapt future institutional arrangements

MAP OF THE UNITED REPUBLIC OF TANZANIA



Sungusungu of Tanzania

- Informal justice organizations
- Emerged in 1982 to combat cattle thieves
- Started by the Sukuma tribe from northern Tanzania (based on traditional institutions and modern institutions)
- Have been legitimized (with some reservations) by the Tanzanian state

Methods

- Participant observation, surveys
- Analysis of *Sungusungu* records

Hierarchical Structure of *Sungusungu*

Chief (Ntemi)

Chairman

Secretary

Grand Commander

Committee

Sub-commanders and Rank and File “Soldiers”
(Each commander controls about a dozen young men)

Political Units of *Sungusungu*

Village

Ward

Division

District

Region

Nation

Substantive Rules Enforced

- Property theft (especially cattle theft)
- Adultery
- Debts
- Slander
- Violence
- Witchcraft

Procedural Rules

- Participation
- Controlling corruption
- Procedural justice
- Policing behavior
- State/*Sungusungu* relations

Participation

- Sukuma pre-existing institutions important (secondary rules stimulate cooperation from most Sukuma and legitimize punishments)
- State mandated participation in urban areas
- State encouragement of other tribes to adopt *Sungusungu* practices (e.g. Kuria)

Controlling Corruption

- Tanzanian state justice system corrupt and inefficient (citizens expect to pay bribes)
- *Sungusungu* forbids corruption. Extensive monitoring of organizational members to prevent corruption

Procedural Justice

- Thieves: public display and use of violence (forced confessions and few procedural rules)
- Witches: forced migrations and executions. (procedures extremely secretive)
- Debtors: sophisticated arbitration (council, witnesses, evidence)

Policing Behavior

- Soldiers and leaders prohibited to sell protection or market their services
- Weakening rules near urban areas leading some organizations to behave similar to Mafia organizations

State/*Sungusungu* Relations

- Incorporation of *Sungusungu* into the national justice system
- *Sungusungu* concessions: no guns, fewer murders, meetings with state officials
- *Sungusungu* used by state to collect taxes, protect roads during epidemics, and police illegal beer brewing

Conclusions

- *Sungusungu* emerged among the Sukuma because of pre-existing institutional rules
- Secondary rules promote inter-village cooperation, limit corruption and rent seeking, but encourage violence in cases involving witches and thieves
- *Sungusungu* similar to a state justice system