



Written by [Thomas R. Eddlem](#) on July 5, 2009

## Free Bernie Madoff? That's a Little Too Much

I think the brilliant Tucker makes a series of good points in support of a hopeless cause, but he begins with his weakest argument:

His life is already ruined. He is a pauper. He will never again do business. From the innovative genius whose information technology in the 1960s became the basis of NASDAQ, he rose to the heights and fell to the depths where he will stay this way until death. He won't be able to be seen in public for the rest of his life without encountering scorn and derision from everyone around him. Maybe the idea of jail is punishment. I don't see how it can be a worse punishment than he would face on the outside.



This is what would happen in a normal society, but celebrity, even infamous celebrity, is a lucrative business in America. Accused murderer O.J. Simpson took a [\\$1 million advance](#) for his *If I Did It* book deal with HarperCollins. The American public regularly reelects lying presidents who promise such things as "Read my lips, no new taxes" ([Bush 41](#)), "I did not have sexual relations with that woman, Miss Lewinsky" ([Clinton](#)), "A wiretap requires a court order. Nothing has changed." ([Bush 43](#)) and "Under my plan, no family making less than \$250,000 a year will see any form of tax increase, not your income tax, not your payroll tax, not your capital gains taxes, not any of your taxes" ([Obama](#)). Clearly, being a well-known, lying swindler or even a murderer is no barrier to financial wealth or position in American society.

If Madoff were indeed released, he would be more in demand from the press than he ever was before the scandal was revealed. He would have multiple lucrative media deals to choose from, and would be able to profit heavily from his crimes.

But I too have led with my weaker argument. The real dangers of keeping nonviolent property criminals out of jail is that getting caught and released from prison could become part of the plan from the beginning. Madoff's scam was initially listed as having been at "only" \$50 billion, but several months later [investigators discovered](#) another \$17 billion "secret" fund. It's not unthinkable that Madoff — or those who follow him — would create other lucrative "legitimate" funds to reward friends and family that would welcome him after his scheme was exposed. Indeed, Madoff did lavish millions on his sons. This scenario is not unlike the Biblical story of the dishonest steward:

A rich man had a steward who was reported to him for squandering his property. He summoned him and said, "What is this I hear about you? Prepare a full account of your stewardship, because you can no longer be my steward."



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The steward said to himself, "What shall I do, now that my master is taking the position of steward away from me? I am not strong enough to dig and I am ashamed to beg.

I know what I shall do so that, when I am removed from the stewardship, they may welcome me into their homes."

He called in his master's debtors one by one. To the first he said, "How much do you owe my master?"

He replied, "One hundred measures of olive oil." He said to him, "Here is your promissory note. Sit down and quickly write one for fifty."

Then to another he said, "And you, how much do you owe?" He replied, "One hundred kors of wheat." He said to him, "Here is your promissory note; write one for eighty."

And the master commended that dishonest steward for acting prudently. "For the children of this world are more prudent in dealing with their own generation than are the children of light." [\[Luke 16:1-9\]](#)

It's quite possible that criminals like Madoff could see this end from the beginning, and plan for it from the beginning. It would be practically impossible to protect honest society from such a calculated theft through legislation. And the risk of this scenario would be obviated by the imprisonment of the criminal. A criminal imprisoned for a long time after his theft would be unable to financially profit from his crime.

But just because the libertarian Tucker makes the erroneous point that Madoff shouldn't be jailed doesn't mean he doesn't have a number of valuable points that make his brief essay well worth reading. Tucker disapprovingly [notes](#) that "some ¾ of all the prison population" are nonviolent offenders. Would the offenders and society be better served by a simple fine in the case of nonviolent crimes? How about protesting in front of an abortion clinic, owning a gun that is the "wrong" size or type, or even nonviolent drug offenses?

Tucker [notes](#) that we have all been trained to hate the rich by the class warriors who are now in charge of our government, and we are especially trained to hate those "white collar criminals" like Madoff who steal pension funds:

We are all supposed to feel some kind of joy at his captivity. For decades we've been told by sociologists that the real criminals in society are not muggers and murderers and rapists but rather "white-collars criminals" who are capitalists sneakily stealing money using fancy finance. They are the ones who should be in jail. And so now, those educated by the sociologists, forever soft on real crime but oddly tough on financial crime, have their way, as the bourgeoisie cries out for vengeance against a guy whose sole victims were the rich people who were his own customers.

Tucker is right that class warfare shouldn't be a reason for a stiffer sentence against Madoff, but it probably was a factor in the 160-year sentence he was given.

But Tucker's [best argument](#) was simply that Madoff didn't do anything that our federal government doesn't do on a daily basis: "The whole notion of paying off past investors with the funds of present investors is at the very core of the Social Security system." Jeff Tucker almost has me convinced that Madoff didn't do anything worthy of imprisonment here on that point.

Madoff's system also serves as the basis of our national debt system, which is why Euro Pacific Capital President Peter Schiff has [often quipped](#) that "I don't even know why we put Bernie Madoff in jail. We



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should have made him Secretary of the Treasury. He understands the whole concept perfectly, of what we're doing."

And that pretty much sums up my argument for keeping Madoff in jail. I suspect he would be put in charge of running the U.S. Treasury if we didn't put him in prison.

But that leads to the next question: how do we get the people running the U.S. Treasury right now put into the hoosegow as well?

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