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THE POLITICIZING OF CRIME, THE CRIMINAL AND THE CRIMINOLOGIST

CHARLES E. REASONS*

The substantive area of criminology has increasingly become politicized, with new paradigms arising to challenge the traditional perspectives.¹ Ideology has been very important in the rise of, and subsequent changing focus in, the study of crime. In a well presented socio-historical analysis, Radzinowicz² described the rise of the "liberal" position in criminology as a concomitant of the enlightenment, typified by growing scientism, emphasis upon reason and the revolt against unquestioning acceptance of tradition and authority. The system of criminal justice was subjected to a great deal of attack. Montesquieu, Voltaire and Beccaria, among others, condemned the legal institutions of the time for their arbitrariness, secrecy and cruel and oppressive nature. This Classical School of criminology arose as a reaction to the abuses of the time, and its leaders called for reform.³

Unlike the Classical School, the Positive School was committed to the thesis that any measure necessary to protect society (from which the accused and, of course, the convicted person were automatically excluded) is justifiable.⁴ The belief in the ability to use laws and other techniques of social control to make a better society led to much legislation for the purposes of guiding man's morals. Instead of serving as a panacea for man's ills, however, Positivists' approach led to increasing "overcriminalization" and the belief in the perfectability of "deviants" through the use of the social sciences and law.

Most criminologists today continue to maintain the Positivist focus upon the "causes of criminal behavior." Their efforts have ranged from the measurement of skulls, to measurement of psychic conflict, self-concept, anomia, etc., with essentially the same results: the lack of a definitive answer to the question of "cause."⁵ The law has remained

rather unscrutinized, either in its formulation, enforcement or administration.

The increasing divisiveness of the 1960's (war protest, riots, civil rights movement) magnified the fact that different perceptions of criminality were vying for public attention. The validity and efficacy of the law and legal institutions were brought into question. The consciousness of the younger generation may have precipitated a shift in perspective of societal wrongdoing.⁶ In recent years, this new perspective has led to attacks upon the legitimacy of the State. Such attacks have stemmed from several causes: (1) a belief that the law and legal institutions are not only unresponsive but illegitimate, (2) a condemnation of the bureaucratic delays, judicial indifference and overt racism of courts, (3) a rejection, and in many instances, a contempt for Establishment officials—police, judges, and lawyers and (4) an affirmation of individual rights and an identification with group, class, racial and sexual liberation.⁷ Adding to this eroding legitimacy of the state is the view held by certain segments of our society that crimes are being committed in the form of the brutal destruction wrought upon Indochina; the fraudulent dealing of large manufacturers and corporations; the prosecution and persecution of political criminals, e.g., war protesters; the lawlessness of the law, e.g., riots of 1967, Chicago, 1968, Kent State, Jackson State, and Southern University; and the lawlessness of political leaders and their accomplices, e.g., ITT, Watergate, and surveillance of political "deviants."⁸ This divisiveness and conflict brought about changing perspectives of crime and society among segments of the general public. There was a growing realization among some criminologists of the importance of interest groups in determining what crime is, and which type of crime will be of major concern to law enforcement and administration of justice personnel, and thus to criminologists.⁹ Thus, the politics of crime, including the

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¹ T. KUHN, *THE STRUCTURE OF SCIENTIFIC REVOLUTIONS* (1970); Warten, *The Sociology of Knowledge and the Problems of the Inner City*, 52 *SOC. SCI. Q.* 469 (1971).

² L. RADZINOWICZ, *IDEOLOGY AND CRIME* (1966).

³ G. VOLD, *THEORETICAL CRIMINOLOGY* (1958).

⁴ JEFFERY, *The Historical Development of Criminology*, 50 *J. CRIM. L.C. & P.S.* 3 (1959).

⁵ WILKINS, *The Concept of Cause in Criminology*, 3 *ISSUES IN CRIMINOLOGY* 147 (1968).

⁶ C. REICH, *THE GREENING OF AMERICA* (1970).

⁷ R. LEFTCOURT, *LAW AGAINST THE PEOPLE: ESSAYS TO DEMYSTIFY LAW, ORDER AND THE COURT* (1971).

⁸ C. REASONS, *THE CRIMINOLOGIST, CRIME AND THE CRIMINAL* (1974).

⁹ W. CHAMBLISS & R. SEIDMAN, *LAW, ORDER, AND*

making of laws and their enforcement, and the administration of justice took on increased relevance and significance.¹⁰

Demystifying the Law

Important in the sociological analysis of the law is the demystification of legal institutions. There is a mystique and sacredness attached to the law and legal bodies which is in part due to the general public's lack of knowledge concerning the law. This was not always the case. Blackstone's Commentaries were lectures given at Oxford University to liberal arts students. American colonists also acquired legal education in order to establish control systems in their new land. Edmund Burke's comment on the influence of Blackstone reflects this emphasis:

In no country perhaps in this world is the law so general a study. The profession itself is numerous and powerful, and in most provinces it takes the lead. The greater number of deputies sent to congress were lawyers. . . . I have been told by an eminent bookseller, that in no branch of his business, after tracts of popular devotion, were so many books as those on the law exported to the plantations. . . .¹¹

The basic fact is that law and legal education are powerful. They have been principally in the hands of those making policy. With the professionalization of law and its institutionalization in the form of law schools, a professional monopoly was established concerning the diffusion of legal education.

As our society has grown more urbanized and our law ways more complex, young men have had progressively fewer opportunities to learn about the workings of our legal system; at the same time the United States has become probably the most law-run and lawyer-run country in the history of mankind.¹²

This professional monopoly has concentrated a great deal of power in the hands of the legal profession. The equating of legal knowledge and power is verified by the estimate that since the Civil War well over fifty percent of all elected or government officials have been lawyers.¹³

While American criminologists have long been

POWER (1971); R. QUINNEY, *THE SOCIAL REALITY OF CRIME* (1970).

¹⁰ W. CHAMBLISS & R. SEIDMAN, *supra* note 9.

¹¹ H. BERMAN & W. GREINER, *THE NATURE AND THE FUNCTION OF LAW* (1966).

¹² *Id.* at 4.

¹³ R. LEFTCOURT, *supra* note 7, at 3-17.

concerned with the control of human behavior, questioning the validity of laws has not been of major importance. The laws were a given, and the focus of attention was upon those who violated the law. Philosophies of law reflect the degree to which laws are considered reflecting the "common good" and subsequently, the degree of attention which should be paid to legal institutions versus the criminal by the student of crime. As Mills¹⁴ persuasively argues, students of "deviance" and "pathology" have assumed that legal institutions reflect the interests of all, including the "sick" deviant. Such a perspective has increasingly been eroded within recent years.¹⁵

A number of schools of jurisprudence have denied that lawmakers have value-choices in the creation of laws.¹⁶ These schools suggest that the law and its agents, e.g., enforcers and administrators, stand alone and apart from society, comprising a neutral framework within which social struggle and conflict take place. This consensus perspective views the State as a value-neutral organ for the resolution of conflict. Thus, although the adversary proceedings pits the State against the accused, the confrontation occurs within the "neutral" framework of the court. The judge epitomizes the evenhanded, non-biased, neutral arbitrator of institutionalized conflict. This perspective is still largely held among many segments of our society. The presumed non-political, and unbiased nature of the judicial system has obscured the basically political nature of law, its enforcement and administration. In order to understand the law, its enforcement and its administration, it is necessary to demystify the conceptions of the nature and function of law and its operation, and to place it in the context of power, politics, and people.¹⁷

Some schools of jurisprudence which have attempted this demystification begin with the assumption that law is a legitimizing weapon of the highest

¹⁴ Mills, *The Professional Ideology of the Social Pathologist*, 49 AM. J. SOCIOLOGY 165 (1943).

¹⁵ Bend & Vogelfanger, *A New Look at Mills' Critique*, in MASS SOCIETY IN CRISIS (Rosenberg, Gerver & Howton eds. 1971).

¹⁶ W. CHAMBLISS & R. SEIDMAN, *supra* note 9; E. SCHUR, *LAW AND SOCIETY* (1968).

¹⁷ W. CHAMBLISS & R. SEIDMAN, *supra* note 9, suggest that the perpetration of such "myths" is a normal occurrence in law schools, political science courses on law, criminology and high school courses dealing with the law. This "Sunday school" perspective of the legal order appears to be an important aspect of socialization. Roscoe Pond's emphasis upon "law in action" rather than "law in the books" suggests the need for demystification.

order, and those making, enforcing and administering laws are merely attempting to perpetrate the existing state. These schools have demystified the nature of laws by emphasizing that they are man-made and State-given, not found in some natural state of things beyond the influence and control of man. Rather than the State and its legal actors being value-free, these perspectives invest participants in the legal system with values, feelings and bias which influence their actions. The law, therefore, is not seen as a neutral framework for the collective interests of society. It is rather an instrument of those in power used to maintain their position and privilege.

A generally increased awareness regarding the political nature of crime has resulted in heightened conflict between traditionally powerless groups—students and youth, poor and nonwhite—and those in power.¹⁸ As a result, the criminologist, traditionally submerged in a consensus perspective of society, has begun to recognize the need to critically investigate the origin, enforcement, and administration of laws within the context of interests, power and conflict.

The viewing of law as an instrument of interests has become a growing area of concern among American criminologists. Quinney¹⁹ articulates what many dissident leaders of the 1960's suggested, namely, that criminal law is made, enforced and administered by interest groups largely for their own gains. A conflict perspective has become a paradigm of increasing usefulness in criminological study.²⁰ Under this model, crime may be viewed as phenomena created by individuals in concerted action to have their definitions of rightness win out and become legitimated in public policy, *i.e.*, laws and regulations.²¹

¹⁸ J. CAMPBELL, J. SAHID, & D. STRONG, *LAW AND ORDER RECONSIDERED* (1970); R. LEFTCOURT, *supra* note 7; C. REASONS, *supra* note 8; C. REASONS & J. KUYKENDALL, *RACE, CRIME AND JUSTICE* (1972); J. SKOLNICK, *THE POLITICS OF PROTEST* (1969); J. TENBROEK, *THE LAW OF THE POOR* (1966).

¹⁹ R. QUINNEY, *supra* note 9.

²⁰ R. DENISOFF & C. MCCOGHY, *DEVIANCE, CONFLICT, AND CRIMINALITY* (1973); G. VOLD, *supra* note 3; Turk, *Conflict and Criminality*, 31 *AM. SOCIOLOGICAL REV.* 338 (1966).

²¹ For some examples of this perspective, see H. BECKER, *THE OUTSIDERS* (1963); L. FILLER, *CRUSADERS FOR AMERICAN LIBERALISM* (1950); J. GUSFIELD, *SYMBOLIC CRUSADE: STATUS, POLITICS, AND THE AMERICAN TEMPERANCE MOVEMENT* (1966); A. PLATT, *THE CHILD SAVERS: THE INVENTION OF DELINQUENCY* (1969). The area of "crimes without victims" provides an excellent example of the politics of crime, including the making, enforcement and adminis-

Political Crime and Political Criminals

Although political crime may be the oldest and most recurring criminal phenomenon in history,²² criminologists nonetheless have in large part failed to investigate this area of criminal activity. One possible "inhibiting" factor is that criminologists are generally part of the dominant political and moral order, and such a focus may connote political problems rather than criminal ones. To suggest that political crimes should be recognized as an area of criminological focus portends the analysis of political trials and the influence of politics upon the legal order. To acknowledge that political trials exist is unsettling to those steeped in the belief that the law is above politics. As one student of political justice notes:

To say that the thing exists and often entails consequences of importance is, in the eyes of such men of Law Immaculate, equivalent to questioning the integrity of the courts, the moods of the legal profession. These standard-bearers of innocence are apt to contend that where there is respect for law, only those who have committed offenses with punishment under existing statutes are prosecuted; that alleged offenders are tried under specific rules determining how to tell from falsehood in the charges preferred; and that intercession of political motivation or aspiration is ruled out by time-honored and generally recognized trial standards, which grade administration of justice among civilized or, to use a now more popular term, free nations.²³

With the "demystification" of the law through more recent events and writings, some criminologists have taken stock of their relationship vis à vis political crime. While all crime is basically political, political crime has been designated a special type of criminal definition. According to Quinney,²⁴ political crime refers to the violation of

tration of such laws. The continual debate and conflict emerging in professional journals, popular magazines, legislatures, civic organizations and public forums regarding the criminal nature of prostitution, drug use, abortion, pornography, gambling, sex laws and drunkenness, among other "victimless crimes," vividly portrays the politics of the making and taking of crime and subsequently of criminals. For an excellent overview of these "crimes," see G. GEIS, *NOT THE LAWS' BUSINESS?* (1973).

²² O. KIRCHHEIMER, *POLITICAL JUSTICE: THE USE OF THE LEGAL PROCEDURE FOR POLITICAL ENDS* (1961); Schafer, *The Concept of the Political Criminal*, 62 *J. CRIM. L.C. & P.S.* 380 (1971).

²³ O. KIRCHHEIMER, *supra* note 22, at 47.

²⁴ Quinney, *Crime in a Political Perspective*, 8 *AM. BEHAVIORAL SCIENTIST* 19 (1964).

laws created to protect the state. This strictly legalistic definition identifies such offenses against the state to include conduct threatening the existence of government, e.g., treason, insurrection, rebellion, sedition, criminal anarchy, criminal syndicalism and conduct interfering with government functions e.g., perjury, bribery, corruption, criminal libel by publication.²⁵ The greater proportion of writing and societal attention has been upon the first category of offenses, those "threatening the very existence of the state." In contemporary American society this "threat" has included, among others, the Black Panthers, Students for a Democratic Society, liberal/radical political activists, Communists, and anarchists.

The history of attempts to outlaw certain groups and ideas is the history of the use of the law to protect the viability of those in power. All nations have such laws and use them at various times to prevent attempts to change the distribution of power in society.²⁶ These laws are by their very nature repressive of free communication and have often been the product of times of "national crisis."²⁷ American examples of such efforts include the Sedition Act of 1798, the criminal anarchy laws and the criminal syndicalism laws enacted in the early twentieth century, the Smith Act of 1940, the McCaren Act of 1950, the "Rap Brown" portion of the 1968 Omnibus Bill and the more recent conspiracy trials of anti-war activists and political radicals.

Political criminals are characterized as being quite different from conventional criminals: they often announce their intentions publicly, challenge the very legitimacy of laws and/or their application in specific situations, attempt to change the norms they are denying, lack personal gain as a goal and appeal to a higher morality, pointing out the void between professed beliefs and actual practices.²⁸

²⁵ Packer, *Offenses Against the State*, 339 ANNALS 77 (1962).

²⁶ For a discussion of different positions by nations regarding the official recognition of political offenses and offenders, see Ingraham & Takara, *Political Crime in the United States and Japan: A Comparative Study*, 4 ISSUES IN CRIMINOLOGY 145 (1969).

²⁷ For an excellent discussion of the potential scientific utility of the concept "repression," see Clements, *Repression: Beyond the Rhetoric*, 6 ISSUES IN CRIMINOLOGY 1 (1971).

²⁸ This classic distinction between "aberrant" and "nonconforming" behavior appears in R. MERTON & R. NISBET, *CONTEMPORARY SOCIAL PROBLEMS* (3rd ed. 1971). Schafer, *supra* note 22, suggests that criminologists distinguish between the "true" political criminal (convictional) and those who are political criminals in

Given this distinction, the "political criminal," e.g., draft-resister, sit-in demonstrator, conspirator, may be difficult to "explain" according to traditional criminological theories. Social scientists, including criminologists, have already begun to study these "new deviants," and will undoubtedly attempt to explain their behavior according to modifications of traditional paradigms. The study of the "new" criminal is obviously of concern to those in power because they are "enemy deviants" who represent a threat to those in political power.²⁹ While all violators of political crime statutes may be regarded as political criminals, such a narrow definition fails to consider a number of significant issues. The analysis of the political prisoner suggests that the concept of the political criminal is undergoing much change among certain segments of society.

Political Prisoners

Of particular concern to penologists is how to deal with the political criminal and the politicizing of criminals.³⁰ While our legal system does not officially recognize political crime or criminals, they have been differentially treated in the correctional setting. There is apparently a great fear of the political criminal infecting the "common" criminal.³¹ In fact, the politicization of prisoners has been increasing rapidly. The dissent and rebellion at San Quentin, The Tombs, Folsom, Soledad, and

appearance but not substance (pseudo-convictional). While it would seem that such a distinction could be useful, he fails to give examples or criteria for making such distinctions.

²⁹ For the distinction between repentant, dominated and enemy deviant behavior, see J. GUSFIELD, *supra* note 21, at 66-68.

³⁰ For a discussion of the politicizing of the trial, see Sternberg, *The New Radical Criminal Trials: A Step Toward a Class-for-itself in the American Proletariat?* 36 *Sci. & Soc'y* 274 (1972).

³¹ There is often separation of conventional and political prisoners within the prison, if the vagueness of the law that defines political action as criminal were extended, perhaps it is feasible to define criminal behavior as political. If political behavior is criminal, as the law says, then it could be expected that old criminals may infect each with a politics of common interest: They are all losers of society, the outsiders. If conventional and political criminals represent lawyers groups, their union could foreshadow a dangerous class struggle. All commonly punished crimes would suddenly have political implications and only the white collar crimes, these seldom punished now, would remain as true crimes.

CONTINE & RAINER, *PRISON ETIQUETTE* 51 (1950). See also Engquist & Coles, *Political Criminals in America: O'Hare (1923): Contine and Rainer (1950)*, in 5 ISSUES IN CRIMINOLOGY 209 (1970).

Attica has given notice to the public and correctional officials that prisoners are organizing for their collective goals.³²

Bettina Aptheker has delineated a typology of four groupings of prisoners based upon their political views and activities. Each is specially victimized on the basis of class, racial or national oppression, which portends large increases in the number of political prisoners.³³ Aptheker first points out that one group of prisoners includes those who became effective political leaders and who found themselves victims of politically inspired frame-ups. While the proportion of prisoners under this category is undoubtedly small, evidence suggests such cases do exist.³⁴ A second group consists of those who have committed various acts of civil disobedience, including draft resistance. These violations are clearly political acts. This category also includes acts of resistance or self-defense, both within and outside prisons, which violate the law. As a result of the Civil Rights Movement, draft resistance, anti-war protests, student activism and other militant protest in the 1960's and 1970's, this category has greatly increased. A third group is composed of those who have been arrested and convicted of crimes which they did not commit, this due to a lack of legal knowledge and political power.³⁵ Finally, there is the large bulk of prisoners who committed a variety of non-political offenses but who have begun to develop a political consciousness while incarcerated, e.g., Soledad Brothers and Ruchell Magee. How has this occurred? Ac-

ording to Davis,³⁶ this politicization has resulted from the increasing influx of political criminals in prisons who have organized their activities around the problems of the institution. In assessing the causes of politicization, Davis notes the changing conceptions of the causes of criminal behavior:

Prisoners—especially Black, Chicanos, and Puerto Ricans—are increasingly advancing the proposition that they are political prisoners. They contend that they are political prisoners in the sense that they are largely victims of an oppressive politico-economic order, swiftly becoming conscious of the causes underlying their victimization.³⁷

The politicization of prisoners can only be understood within the context of the attempts at democratization of major social institutions. For example, universities, which have been traditionally characterized as apolitical, became the brunt of a rapid politicizing and conflict during the 1960's. The Civil Rights Movement, anti-war movement, poor peoples movement, welfare rights movement, among others, challenged the legitimacy of power distribution in our society. The law and legal institutions increasingly came under fire as they were exposed as being highly political. Youth, non-whites, the poor and other previously powerless groups were increasingly politically sensitized, and since they are the prime "recruits" for correctional institutions, this undoubtedly has had many ramifications for the prisons. As Fox has noted; "The same civil rights issues, religious issues, and other social issues appear in prison as appear in the city. The prison reflects the society it serves."³⁸

The changing nature of the prison population is well stated by a prisoner:

Compounding the morass of penal problems is the little known fact, at least to the tax-paying public, that approximately 700,000 of the 1.3 million incarcerated offenders consist of a revolutionary new breed of prisoners; Blacks, Mexican-Americans, Indians and an ever present number of socially

³² For discussions of these revolts, see H. BODILLO & M. HAYNES, *A BILL OF NO RIGHTS: AMERICAN PRISON SYSTEM* (1972); A. DAVIS, *IF THEY COME IN THE MORNING* (1971); G. JACKSON, *SOLEDAD BROTHERS: THE PRISON LETTERS OF GEORGE JACKSON* (1970); Fox, *Why Prisoners Riot*, 35 *FED. PROBATION* 9 (1971); Martinson, *Collective Behavior at Attica*, 36 *FED. PROBATION* 3 (1972). Important to understanding recent revolts is realizing the extent to which they differ from those in the past. Of major importance is the manifestly political nature of the demands and rhetoric of recent uprising. See Pallas & Barber, *From Riot to Revolution*, in 7 *ISSUES IN CRIMINOLOGY* 1 (1972).

³³ Aptheker, *The Social Function of the Prisons in the United States*, in *IF THEY COME IN THE MORNING* 51 (A. Davis ed. 1971).

³⁴ C. REASONS, *supra* note 8; A. DAVIS, *supra* note 32. Criminological literature is replete with data regarding differentials in the administration of justice based upon these factors. See R. QUINNEY, *supra* note 9; C. REASONS & J. KUYKENDALL, *supra* note 18; J. TENBROEK, *supra* note 18. While students of crime agree that most convicted defendants are in fact guilty, various revelations, particularly evident in appeals, of the practices of police and the courts, e.g., interrogation techniques and plea bargaining practices, give credence to this category.

³⁶ A. DAVIS, *supra* note 32.

³⁷ *Id.* at 37.

Of course, the vast majority of inmates in American prisons are political prisoners in the wider sense of the word. Prisons reflect the class bias of the society which they serve, and the inmates are its victims; it is our continuing responsibility to point out the political nature of the courts and prisons.

H. LEVY & D. MILLER, *THE POLITICAL PRISONER* xix (1971).

³⁸ Fox, *Prisons: Reform or Rebellion*, in *THE CRIMINOLOGIST, CRIME, AND THE CRIMINAL* (C. Reasons ed. 1974).

disadvantaged whites under 30 years old, who came out of subcultures which spawned this decade's protestors, radicals, and liberation movements. This articulate new breed of prisoner is politically motivated and is demanding social and humane reform at every level.³⁹

Thus, the politicizing of previously powerless and apolitical segments of society, e.g., poor, non-white and youth, has had tremendous ramifications upon the penal system.

Politicizing of the Criminologist

Important to an understanding of the politicizing of the prisoner is an assessment of the changing conception of the causes of crime among criminologists. Traditional correctional policies and practices have been based upon a "medical model" of deviance, subscribing to an erroneous analogy of the physician's method of practice. Thus, like a patient, the criminal was to be diagnosed, prognosed, prescribed, treated and cured of his "illness." Unfortunately, the "medical model" has resulted in a plethora of nebulous and often damaging labels, such as psychopathic and paranoid schizophrenic, with no real measurable effect upon positively changing or understanding an individual's behavior. The major problem with this model has been its dependence upon the "sick-well" dichotomy, focusing upon the individual as both the cause and effect of his illness (criminality). The basic legal concept of *mens rea* is predicated on individual responsibility for one's actions, and this legal concept of culpability has been firmly entrenched in treatment models in corrections. Like the leper, the insane and other "sick" people, the criminal must be isolated and treated for his "illness."⁴⁰ This "kinds of people theory" has gone

³⁹ Weeks, *The Prison of Tomorrow*, in RESIDENT GOVERNMENT COUNCIL, INSTITUTE I: A SEARCH FOR THE PRISON OF TOMORROW, (1972). This Institute took place on January 10, 1972, at the Washington State Penitentiary. Criminologists, reporters, concerned citizens and representatives of the prison (residents, custody, administration and treatment) met to share ideas on prison reform in light of recent events, e.g., Attica. For a more extensive and polemical discussion of the politicization of prisoners, see G. JACKSON, *BLOOD IN MY EYE* (1972). While Weeks statistics may be questioned, the thrust of his observation is becoming increasingly evident.

⁴⁰ The "good guy" and "bad guy" dichotomy is still important in criminological thought. "The image of the criminal in a given historical era emerges from those positions in the social structure which constitute a threat to the established power system." Poveda, *The Image of the Criminal: A Critique of Crime & Delinquency*, 5 ISSUES IN CRIMINOLOGY 59, 61 (1970). For

through the stages of biological determinism to psychological explanation.

Contemporary criminological thought is based upon a different conception of causality and culpability. While the individual is legally culpable for certain actions, it is acknowledged that many societal factors, e.g., economic, family, peer group, and racism, impinge upon and affect everyone's behavior, including those who commit criminal acts and are officially labelled criminal. The circle of causality and thus treatment has broadened from the individual to the family, peer groups and community, with community based corrections, e.g., work-study release, furloughs and halfway houses, the basis of new and innovative techniques of habilitation.⁴¹ This "kinds of environment" approach has become the dominant causal model in criminology and is increasingly making inroads into the prison, which has been a stronghold of psychological causality.

Criminologists have long indicted the environment, differential opportunity structures, discrimination, unemployment, and poverty as basic "causes" of crime. In fact, Edwin Schur's *Our Criminal Society*⁴² eloquently argues that the "real crimes" in our society are poverty, racism and war. It is not difficult to see how such causal analysis has been taken as fact by inmates. This is not to say that criminologists are to "blame" for such interpretations, for they are hardly responsible for such criminogenic conditions. However, such reasoning by the inmates seems to be a logical extension of a "kinds of environment" assessment of

other discussions regarding stereotyping of criminals, see D. CHAPMAN, *SOCIOLOGY AND THE STEREOTYPE OF THE CRIMINAL* (1968); Antilla, *Punishment versus Treatment: Is there a third alternative?* 12 ABSTRACTS ON CRIM. & PENOLOGY 287 (1972); JOHNSON, *A Basic Error: Dealing with Inmates As Though They Were Abnormal*, 35 FED. PROBATION 39 (1971).

⁴¹ Habilitation seems more appropriate than rehabilitation in light of basic criminological research finding. Habilitation means essentially to "make suitable" or clothe, equip or outfit, which is essentially resocialization in terms of most prison inmates. Rehabilitation means to "restore a dependent, defective, or criminal to a state of physical, mental, and moral health through treatment and training." Its moral basis is the religious concept of "falling out of grace," a basis which fails to recognize the social and cultural plurality of our society. More specifically, the idea of restoration to a former state of well being may be largely inappropriate for those who have evidenced a life history of differential opportunity structures and learning processes. To paraphrase a convict, "ain't no way I want to return to a former state of my life." Furthermore, the concept of rehabilitation is too tied to religious meaning and the "medical model" of deviance.

⁴² E. SCHUR, *OUR CRIMINAL SOCIETY* (1970).

cause to a power/conflict perspective. If the way to correct environments and conditions conducive to crime is through political change, then politicization of prisoners makes sense. Such a phenomenon is understandable given recent changes in consciousness among the new generation.

While claims that all prisoners are political prisoners is hardly justifiable in any substantive sense, the politicization of inmates and their subsequent organization and activities portend to be a persistent facet of corrections in the future. This phenomenon may present increasingly difficult problems for the criminologist in the future. Innumerable studies and reports have indicated the general state of corrections in the United States; however, proposed solutions must be within the proper ideological context of those currently in political power to be acceptable. Therefore, institutional changes are usually less favored than changes in the individual.⁴³ It is much easier for those in power to accept an "individual deficiency" assessment of the crime problem and the subsequent implications for change rather than an indictment of the laws and/or agencies of the criminal justice system as major criminogenic conditions. John Irwin,⁴⁴ professional criminologist and ex-convict, provides a recent example of the way in which even those rehabilitative programs which are proclaimed as directed toward "improving the quality of individuals' lives and the society, by reshaping those to be rehabilitated into more effective, self-sufficient, self-actualized, socially aware and socially involved individuals;" subsequently emphasize passivity among prisoners and maintenance of the status quo. Using the Newgate college projects as an example, Irwin documents how truly rehabilitated, active prisoners threaten the status quo, and how any change is thereby stifled by those wed to current policies, practices and procedures. Such an analysis compliments his earlier study of the criminal justice system from the perspective of the felon.⁴⁵

The politicizing of the criminologist is evident in his research.

⁴³ Warren, *supra* note 1.

⁴⁴ Paper by John Irwin entitled *The Trouble with Rehabilitation*, presented to the American Sociological Association Annual Meetings in New York City, August, 1973.

⁴⁵ J. IRWIN, *THE FELON* (1970).

When the researcher comes forward with certain ideas about man and society, and methods to approach these ideals, he leaves his sanctuary to confront politically opposing positions. Under these circumstances how can one hope that those responsible for administration will not look upon these researchers as a political pressure group whose weapon in the social struggle is called 'scientific research'... We may conclude then that researchers, by becoming spokesmen for reform, are regarded by administration as representatives of a pressure group who use 'scientific research' as a tool to disguise plans for a test of strength designed towards the exercise of power.⁴⁶

The ramifications of Wolfgang's⁴⁷ recent suggestions portend more, not less, politicizing of the criminologist. "We have focused long enough on the offender and his weaknesses. It is time we look to ourselves—to this chaotic, decaying, degrading system and indict it for its failures."⁴⁸ Therefore, our attempts to change the extent and nature of crime in our society should focus upon structural factors as criminogenic. As Schur notes:

All available evidence indicates that crime in America will not effectively be reduced until we make basic changes in the structure and quality of American life. Respect for law and order will not be restored until respect for the nature of our society is restored. Our confrontation with crime cannot be successful if we persist in viewing it as a battle with some alien force. Since America's crime problems are largely of our own creation, we have it well within power to modify them and to bring them within reasonable control.⁴⁹

⁴⁶ Szabo, Libbonc, & Normandeau, *Applied Criminology and Government Policy: Future Perspectives and Conditions of Collaboration*, 6 *ISSUES IN CRIMINOLOGY* 55, 68(1971). The authors argue for the conceptions of criminology as an applied science. However, it remains to be resolved as to whom it is applied to, by whom, for what purposes, and with what results. Given the politicization of traditionally powerless groups, e.g., non-whites and poor, when the criminologist assigns "blame" (causes) for crime, he increasingly must be accountable to non-establishment groups. He cannot please all of the people all of the time!

⁴⁷ Wolfgang, *Making the Criminal Justice System Accountable*, 18 *CRIME & DELINQUENCY* 15 (1972).

⁴⁸ *Id.* at 22.

⁴⁹ E. SCHUR, *RADICAL NONINTERVENTION: RE-THINKING THE DELINQUENCY PROBLEM* 237 (1973). Edwin Schur has been a consistent critic of the criminal justice system and the "overcriminalization" of our laws.