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Gresham M. Sykes

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CRIMINOLOGY

THE RISE OF CRITICAL CRIMINOLOGY

GRESHAM M. SYKES*

I.

In the last ten to fifteen years, criminology in the United States has witnessed a transformation of one of its most fundamental paradigms for interpreting criminal behavior. The theory, methods and applications of criminology have all been exposed to a new scrutiny, and there seems to be little doubt that the field will be involved in an intricate controversy for many years to come. It is the nature of that controversy, its sources and possible consequences with which this paper is concerned.

In the social turbulence of the 1960's, institutions of higher education were at the center of the storm. Students supplied much of the motive force, and the university frequently served as a stage for, as well as a target of, conflict. The university, however, is more than a place or a social organization. It is also a collection of academic disciplines, and these too felt the tremors of the time. Sociology, in particular, was subjected to a barrage of criticism from a variety of sources, and it is within that framework that we need to examine the change that has overtaken criminology.

It was the special claim of sociology—as almost every introductory textbook in the field was quick to point out—that the discipline had largely freed itself from social philosophy. If the status of sociology as a science was not exactly clear, there was no doubt about its dedication to scientific methods and objectivity.¹ Sociology, it was said, was value-free.

It was precisely this point, however, that served as the focus of attack for a number of students and teachers.² Sociology, they argued, was still contaminated by the bias and subjectivity of particular interest groups in society. The claim to the cool neutrality of science was a sham. This was

* Department of Sociology, University of Iowa, Iowa City, Iowa.

¹ See, e.g., Mazyur, *The Littlest Science*, 3 AM. SOCIOLOGIST 195 (1968).

² See, e.g., Gouldner, *Anti-Minotaur: The Myth of a Value-Free Sociology*, 9 SOCIAL PROBLEMS 199 (1962).

especially evident in the area of sociological theory. Social structure, it was said, had been interpreted in terms of consensus, but it was really conflict that lay at the heart of social organization. People in positions of power had traditionally been analyzed in terms of bureaucratic roles aimed at the rational accomplishment of organizational objectives. In reality, people in positions of power were motivated largely by their own selfish interests. A great variety of social problems had been viewed by sociology as flowing from individual pathologies. In fact, however, this approach merely disguised the extent to which the existing social system was at fault, and thus helped to buttress the status quo. Sociology had long been wedded to an evolutionary model of social change, whereas the truth of the matter was that real social change came about not through small increments but through far more radical leaps.

This debate, which broke out into the open in the sixties, involved a great many of the intellectual specialties of sociology, but it was particularly evident in the field of criminology. The study of crime, its causes and its cure had long been regarded as a borrower rather than a lender when it came to the intellectual substance of the social sciences. It had seemed a bit marginal to the major concerns of a science of society, from the viewpoint of many sociologists—perhaps because of its connections with the study of social problems, which many sociologists had viewed as being too deeply enmeshed in value judgments. Now, however, the growing argument about the objectivity of sociology suddenly found many of its crucial themes exemplified in how academic criminology had handled the subject of crime.

II.

As a special field of knowledge, criminology had its origins in the attempt to reform the criminal law of the eighteenth century. Bentham, Romilly and Beccaria were all children of the Enlightenment, and they shared the objective of making the

law a more just, humane and rational instrument of the state. With the rise of the Positivist School in the nineteenth century, however, with its optimistic faith in science, criminology began to move away from the domain of legal thinkers—a movement that became particularly marked in the United States after 1900.³ In some parts of Europe, and in Latin America, criminology maintained its links with jurisprudence, but in the United States we witnessed a peculiar split. Criminal law became a subject matter for lawyers and law schools; criminology, on the other hand, turned up in the liberal arts curriculum of almost every college and university, largely a creature of the social sciences and particularly sociology.

In some ways, this might have seemed to be a reasonable division of labor. A knowledge of the criminal law was, after all, a part of the lawyer's professional training, even if, until fairly recently, it tended to lack the éclat that attached to areas of law that were potentially more financially productive. The lawyer's interest in the criminal law was apt to center on the nature of the legal rules and their interpretation by the courts; and his concern with why people break the rules and what happens to them after they leave the courtroom was likely to be rather fleeting. These were questions, however, that fell naturally into the theoretical and conceptual framework of the sociologist. Often enough, he had neither the training nor the inclination to enter the thoughtways of the legal scholar to pursue the law's meaning of *mens rea*, search and seizure and conspiracy.⁴

It is possible that this matter of thoughtways was as important as any special taste in subject matter in the mutual neglect exhibited by criminologists and scholars of criminal law. The study of the law, it has been said, is organized for action, while the social sciences are organized for the accumulation of knowledge; and this aphorism points to a fundamental conflict between the intellectual discipline of law and sociology that helped to keep their practitioners apart. As Robert Merton has indicated, sociologists are guided in their work by the scientific ethos, not in terms of an individual ethical choice, but as a matter of institutionalized professional norms. The search for knowledge is to be undertaken in a spirit of neutrality, and the scientist must have the same passion for proving his hypotheses wrong as for

proving them right. The validity of ideas is to be established by impersonal standards of proof; and learned authority must stand on an equal footing with the brashest newcomer when it comes to the empirical testings of facts. Scientific knowledge must be shared with one's colleagues, and no information is to be kept secret because it might bring an advantage or because it might be disturbing. Finally, the scientist is supposed to be under the sway of an organized skepticism that accepts no conclusion as final, no fact as forever proven. Every issue can be reopened and re-examined.⁵

These norms may not always be followed by social scientists as they go about their work, but in a rough way they do guide much scientific behavior, including the behavior of sociologists. The settling of legal disputes, however, is cut on a very different pattern. Lawyers are typically involved as partisans with a far from disinterested concern in the outcome of a case. At law, much is made of the weight of authority, and the discrediting of arguments on an *ad hominem* basis is a familiar occurrence. Information may be withheld on the grounds of privileged communication or with the idea that it would distort the reasoning of the triers of fact. There is a strong impulse to settle cases quickly and not to reopen old disputes.

These differences in the intellectual styles of professional work in sociology and in law appear to have greatly increased the difficulty of exchanging ideas between the two fields, and reinforced their separate development. In any event, the fact that criminal law and criminology tended to remain in separate academic compartments over much of the recent past led to a number of unfortunate consequences. First, many aspects of the criminal law's operation, such as arrest procedures, the activities of the grand jury, trials, and the statutory revision of the criminal law, often remained outside the purview of criminologists. Some attention was given to these matters, it is true, but the bulk of the attention of academic criminology was devoted to questions of crime causation and corrections. One need but review textbooks in criminology of ten or twenty years ago to be struck by the short shrift frequently accorded the criminal law and other issues that loom large in the eyes of the legal scholar and that are, in fact, vital to understanding the relationship

³ See H. MANNHEIM, *COMPARATIVE CRIMINOLOGY* (1965).

⁴ See R. QUINNEY, *THE PROBLEM OF CRIME* (1970).

⁵ See R. MERTON, *SOCIAL THEORY AND SOCIAL STRUCTURE* (1949).

between crime and society. Second, the concept of crime was apt to remain singularly crude as the social scientist pursued his goal of building an explanatory schema for criminal behavior. A great variety of acts were frequently lumped together under headings such as "norm violation" and "delinquency," and the careful refinements of legal thought were shoved to one side. Many of the distinctions were quite irrelevant, it is true, from the viewpoint of the social sciences, for they were based on the needs of prosecution, an outmoded concept of man as a hedonistic calculator, and arbitrary, inconsistent categories such as felonies and misdemeanors. But the law at least recognized that "crime" was far from a homogeneous form of behavior, while criminology exhibited a disquieting tendency to speak of crime and the criminal in general. A greater interplay between the two fields might have stimulated efforts to build useful typologies.⁶ Third, the fact that the two fields had so little to do with one another meant that many of the findings emerging from criminology received a less than sympathetic ear from those more closely tied to the criminal law. Serious doubts about the effectiveness of juvenile services, prisons, probation and so on were expressed by criminologists, but their voices seldom seemed to carry beyond the groves of academe.

III.

In the late fifties and early sixties, a distinct change began to make its appearance. Topics that had long received relatively little attention in criminology (such as the day-to-day operations of the police) began to be examined by increasing numbers of sociologists. The crude classifications of earlier years began to give way to the empirical study of relatively specific types of criminal activity. The criminal law, which had been taken as a fixed parameter for so long by so many criminologists, began to be examined with a much more inquiring turn of mind. In short, the rather narrow viewpoint of criminology in the United States began to be enlarged and much of its proper subject matter—long left to others—began to be addressed at a serious and systematic level. The change, however, was not mainly because the criminal law and criminology had somehow found a way to end their long estrangement, although this played some part. Rather, a major reason for

the shift appears to have been rooted in the same social forces that were modifying sociology as an academic discipline. By the beginning of the 1970's, it was evident that a new strain of thought had entered American criminology, challenging many of its basic assumptions.

Some have spoken of a "radical criminology," but the term is misleading since it suggests a particular ideological underpinning that probably does not exist. I think "critical criminology" is a somewhat better term, at least for the purposes of this discussion, keeping in mind that all such summary phrases can obscure as well as illuminate.

The themes involved in this new orientation can be roughly summarized as follows:

First, there is a profound skepticism accorded any individualistic theory of crime causation. It is not merely biological theories and psychological theories of personality maladjustment that have been abandoned. Sociological theories, dependent on notions of the individual's "defects" due to inadequate socialization or peer group pressures, are also viewed with a wary eye. The problem has become not one of identifying the objectively determined characteristics that separate the criminal and non-criminal, but of why some persons and not others are stigmatized with the label of "criminal" in a social process. "If preconceptions are to be avoided," writes Austin Turk, "a criminal is most accurately defined as any individual who is identified as such. . . ." ⁷ The roots of this idea in labeling theory are clear enough.⁸ A number of writers in criminology today, however, have pushed the idea within a hairline of the claim that the only important reality is the act of labeling—and not because labeling ignores who is a criminal and who is not, but because we are all criminals.

Second, what I have called "critical criminology" is marked by a profound shift in the interpretation of motives behind the actions of the agencies that deal with crime. Many writers, of course, had long been pointing out that the "criminal-processing system" was often harsh and unfair, and, more specifically, that the poor and members of minority groups suffered from an acute disadvantage. Few criminologists, however, were willing to go so far as to claim that the system was inherently unjust. Rather, the usual argument was that our legal agencies were frequently defective due to lack of

⁷ A. TURK, *CRIMINALITY AND THE LEGAL ORDER* 18 (1969).

⁸ See E. SCHUR, *LABELING DEVIANT BEHAVIOR* (1971).

⁶ Extended efforts to construct typologies of crime are fairly recent. See CLINARD AND QUINNEY, *CRIMINAL BEHAVIOR SYSTEMS: A TYPOLOGY* (1973).

funds, unenlightened policies, and individual stupidity, prejudice and corruption. Now, however, among a large number of writers, the imputation of motives is of a different order: The operation of legal agencies is commonly interpreted as 1) the self-conscious use of the law to maintain the status quo for those who hold the power in society; or 2) activity aimed at maintaining organization self-interests, with "careerism" as both the carrot and the stick. If the system is unjust, then, we are not to look for relatively minor structural defects or random individual faults. Rather, the criminal law and its enforcement are largely instruments deliberately designed for the control of one social class by another.⁹

Third, the rightfulness of the criminal law had been questioned infrequently in the work of American criminologists, even if they were willing to admit that its application sometimes left something to be desired. The insanity plea, the definition of juvenile delinquency, the death sentence, the prohibition of gambling—these areas and a few others were open to vigorous critical scrutiny. By and large, however, the great bulk of the criminal law was taken as expressing a widely shared set of values. In any event, the question of "rightfulness" was not a suitable topic for the social sciences. In the last decade or so, however, there was a growing number of criminologists who found that assumption unrealistic. We could no longer accept the idea presented by Michael and Adler some forty years ago, said Richard Quinney, that "most of the people in any community would probably agree that most of the behavior which is proscribed by their criminal law is socially undesirable."¹⁰ According to the emerging "critical criminology," the criminal law should not be viewed as the collective moral judgments of society promulgated by a government that was defined as legitimate by almost all people. Instead, our society was best seen as a *Gebeitsverband*, a territorial group living under a regime imposed by a ruling

few in the manner of a conquered province.¹¹ The argument was not that murder, rape and robbery had suddenly become respectable but that popular attitudes toward the sanctity of property, the sanctity of the physical person, and the rather puritanical morality embedded in the law were far less uniform than American criminology had been willing to admit.

Fourth, American criminologists had long been skeptical of the accuracy of official crime statistics which they nonetheless accepted, reluctantly, as a major source of data for their field. The Uniform Crime Reports of the Federal Bureau of Investigation were, after all, "the only game in town," as far as national figures on criminal behavior were concerned. If the use of other official statistics derived from cities, states and particular legal agencies were almost always coupled with disclaimers, still, they were used.

The problem with these statistics, as criminologists were quick to point out, was that they could lead to either overestimation or an underestimation of the total amount of crime in any given year, but no one could be sure which was the case. Furthermore, the components of the total crime rate might be in error, and some of the components might be too high while others were too low. The data were based on thousands of local police jurisdictions throughout the country, and even the FBI refused to vouch for their accuracy.

It was clear that a part of the difficulty was the fact that the police had a stake in the amount of crime recorded in official records: if the crime rate went down, the police could win public acclaim for their efficiency in dealing with the crime problem; if the crime rate went up, the police could demand greater financial and political support as they fought their battle with the underworld. This issue, however, was apt to be treated in a rather desultory fashion, in terms of developing a theory about the relationship between crime and society, or simply noted as one more difficulty placed in the path of securing precise data for the construction of a theory of crime causation. The essential task was to find ways to get "better" data, either by seeing to it that official statistics became more accurate, or by finding alternative ways to gather information about the true incidence of criminal behavior, such as self-reporting methods or sociological surveys using the reports

⁹ See, e.g., J. DOUGLAS, *CRIME AND JUSTICE IN AMERICAN SOCIETY* xviii (J. Douglas ed. 1971):

If there were no groups trying to control the activities of other groups, and capable of exercising sufficient power to try to enforce their wills upon those other groups through the legislative processes, there would be no laws making some activities 'crimes' and there could, consequently, be no 'criminals' . . .

[C]riminal laws are specifically enacted by the middle and upper classes to place the poorer classes under the more direct control of the police. . . .

¹⁰ R. QUINNEY, *THE PROBLEM OF CRIME* 29 (1970).

¹¹ See M. WEBER, *THE THEORY OF SOCIAL AND ECONOMIC ORGANIZATION* 337 (T. Parsons ed. 1947).

of victims to uncover the amount of crime. Since the sixties, however, another view of the matter has become increasingly popular in criminological thought. Rather than dismissing the interest of law enforcement agencies in crime statistics as an unfortunate source of error, the collection and dissemination of information about the incidence of crime has become, for many, an important theoretical variable in its own right. The crime rate, writes Peter Manning, is "simply a construction of police activities," and the actual amount of crime is unknown and probably unknowable.¹² Whether there is more or less "actual" criminality, notes Richard Quinney, is not the issue. "The crucial question is why societies and their agencies report, manufacture, or produce the volume of crime that they do."¹³

The legitimacy of the rules embedded in the criminal law could no longer be taken for granted, then, and neither could the credibility of the government that reported on their violation. The most fruitful line of inquiry with regard to the causes of inaccuracy is not chance error or simple bias. Instead, we must look for a systematic distortion that is part of the machinery for social control.¹⁴

IV.

"Critical criminology" cannot, I think, be viewed as merely a matter of emphasis, with its major themes no more than bits and pieces of the conventional wisdom of the field. The set of ideas do form a coherent whole that is sufficiently different from much of American criminology of the period immediately before and after World War II to warrant the label "new." At the heart of this orientation lies the perspective of a stratified society in which the operation of the criminal law is a means of controlling the poor (and members of minority groups) by those in power who use the legal apparatus to 1) impose their particular morality and standards of good behavior on the entire

society; 2) protect their property and physical safety from the depredations of the have-nots, even though the cost may be high in terms of the legal rights of those it perceives as a threat; and 3) extend the definition of illegal or criminal behavior to encompass those who might threaten the status quo. The middle classes or the lower-middle classes are drawn into this pattern of domination either because 1) they are led to believe they too have a stake in maintaining the status quo; or 2) they are made a part of agencies of social control and the rewards of organizational careers provide inducements for keeping the poor in their place.

The coercive aspects of this arrangement are hidden—at least in part—by labeling those who challenge the system as "deviants" or "criminals" when such labels carry connotations of social pathology, psychiatric illness and so on. If these interpretative schemes are insufficient to arouse widespread distaste for the rule-breaker as "bad" or "tainted," official statistics can serve to create a sense of a more direct and personal danger in the form of a crime wave that will convince many people (including many of the people in the lower classes) that draconian measures are justified.

The poor, according to this viewpoint, may or may not break the legal rules more often than others, although they will certainly be arrested more often and treated more harshly in order to prevent more extensive nonconformity. In a sense, they are expendable in the interest of general deterrence. In any event, they are probably driven in the direction of illegal behavior, even if they do not actually engage in it, because 1) the rules imposed on them from above have little relationship to the normative prescriptions of their own subculture; 2) the material frustrations of the lower classes in a consumer society where the fruits of affluence are publicized for all, but available only to some, prove almost unbearable; and 3) there is generated among the lower classes a deep hostility to a social order in which they are not allowed to participate and had little hand in the making.

The perspective sketched in above would seem to fit well with a radical view of American society, or at least with an ideological position on the left side of the political spectrum. While this might possibly account for the attention the perspective has received from some writers in the field of criminology (and some students with a very jaun-

¹² Manning, *The Police: Mandate, Strategies, and Appearances*, in *CRIME AND JUSTICE IN AMERICAN SOCIETY* 169 (J. Douglas ed. 1971).

¹³ R. QUINNEY, *supra* note 4, at 122.

¹⁴ See Biderman and Reiss, Jr., *On Exploring the 'Dark Figure' of Crime*, 374 *ANNALS* 15 (1967):

Any set of crime statistics, including those of the survey, involves some evaluative, institutional processing of people's reports. Concepts, definitions, quantitative models, and theories must be adjusted to the fact that the data are not some objectively observable universe of 'criminal acts,' but rather those events defined, captured and processed as such by some institutional mechanism.

diced view of the capitalist-industrial social order), I would very much doubt that critical criminology can be neatly linked to any special political position.¹⁶

At the same time, it does not appear that this new viewpoint in criminology simply grew out of the existing ideas in the field in some sort of automatic process where pure logic breeds uncontaminated by the concerns and passions of the times. Nor does it appear that a flood of new data burst upon the field, requiring a new theoretical synthesis. Instead, as I have suggested at the beginning of this article, it seems likely that the emergence of critical criminology is a part of the intellectual ferment taking place in sociology in general, and both have much of their source in the socio-historical forces at work in the 1960's.

Among the many elements that have been involved, there are at least three social-historical changes that appear to have played a major role. First, the impact of the Vietnam war on American society has yet to be thoroughly analyzed and assessed, but it is clear that it has had an influential part in the rise of a widespread cynicism concerning the institutions of government, the motives of those in power, and the credibility of official pronouncements. The authority of the state has been called into question, including the authority of the state made manifest in the law as its instrument. The good intentions—indeed, the good sense—of those running the apparatus of the state have, for many, become suspect. The truth of official statements, whether it be body counts or crime counts, is no longer easily accepted among many segments of the population. The notion of a Social Contract as the basis of government may have been long recognized as a fiction in American life, but it was also widely accepted as a metaphor expressing a belief in government by consent. In the 1960's, there were many people (including many in the social sciences) who felt that the metaphor was coming apart. Government was far more apt to be seen as manipulation and coercion,

¹⁶ In the current intellectual climate, there are a great many pressures to identify particular scientific ideas with particular ideological positions. Ideas and ideology, however, still exhibit a peculiar independence despite strident claims that they must go together; and if some criminologists believe that the viewpoint of critical criminology is something that must be considered, there is no iron necessity that ties them to either a liberal or a conservative stance. For an illuminating examination of the issue in another field, see Herrnstein, *On Challenging an Orthodoxy*, 55 COMMENTARY 52 (1973).

and the legal rules could be more easily interpreted, at least by some, as part of a social order imposed by a ruling elite. "Property is theft," said Proudhon in 1840. In the 1960's, his curt saying had taken on a new bite.

Second, the growth of a counter-culture in the United States in the last decade admittedly remains within the realm of those ideas that are far from precise. Yet, there seems no question that a shift in values and ideas did take place and that the use of drugs—particularly marijuana—was a major theme. The arguments about drugs have been repeated so often, the facts and theories elaborated upon in such familiar detail, that discussion of the subject has taken on the appearance of a litany. Nonetheless, for present purposes, it is important to point out that millions of people engaged in behavior they regarded as harmless, but that was defined by society as a crime—not a minor or relatively harmless breach of the law, according to the authorities, but a serious, dangerous offense. Whatever may have been the consequences in terms of popular attitudes toward the law and law-enforcement agencies, another reaction was let loose, namely, a long skeptical look at traditional ideas about the nature of the criminal and the causes of criminal behavior.

In addition, as a consumer-oriented middle class wedded to establishment values emerged as a favorite whipping boy in the analysis of what was wrong with American life, evidence of white-collar crime took on a new prominence.¹⁶ Far from being a form of behavior largely confined to those at the bottom of the social heap, crime was everywhere. "If you are a typical American citizen," says Erik Olin Wright, "chances are that in your life you have committed some crime for which you could have been sent to jail or prison."¹⁷ If this were true, and if the people caught up and punished by the system of criminal justice were so largely drawn from the lower classes, then the machinery of the criminal law must be far from fair or impartial. If you were labeled a criminal, something more than criminal behavior must be involved.

¹⁶ It should be pointed out, to underline the idea that these ideas were not the sole property of a particular ideological position, that attacks on the middle class style of life often came from the Right as well as the Left, with much discussion of the perils of a lower middle class moving into affluence.

¹⁷ E. WRIGHT, *THE POLITICS OF PUNISHMENT* 3 (1973).

Third, the rise of political protest in the 1960's took on a variety of forms, ranging from heated discussions to bloody confrontations in the streets. It became clear that even the most dispassionate of observers would have to agree that in a number of instances the police power of the state had been used illegally to suppress political dissent. Some accounts, such as those dealing with the deliberate elimination of the Black Panther leadership, might be shown to have been slipshod in their facts; other accounts might be hopelessly confusing when it came to pinning down precisely the illegality of police actions. Enough evidence remained, however, to show that the police had been used in many instances beyond the limits of the law to silence political opposition. In addition, there were a large number of cases (more murky, perhaps, in terms of being able to disentangle the facts) in which it was believed that the law had acted legally to apprehend and punish a law breaker, but in which the law's actions were due to the individual's social and political beliefs rather than to his criminal behavior. The criminal law, in short, was seen by many as becoming more than a device for controlling run-of-the-mill criminality. It was becoming an arm of Leviathan, not as a matter of abstract theory, but as something directly experienced or immediately observed.¹⁸

It was the intellectual climate produced by these and similar social-historical events, I would argue, that played a major part in the rise of critical criminology, as much as any forces at work within the field of traditional criminology itself. The new perspective is touched by ideology, but not determined by it; incorporates points made before, but builds something different; and offers a new interpretation or point of view rather than a vast quantity of new data. All of this, of course, leaves untouched the issue of the potential contribution of this perspective to the study of crime and society.

V.

Is critical criminology valid? The question is really an unanswerable one, I believe, because what we are confronted with is not so much a body of precise, systematic theoretical propositions as a viewpoint, a perspective, or an orientation—terms that I have deliberately used throughout the discussion. A theory states the relationships among a number of variables that are well defined;

a viewpoint, on the other hand, urges us to look in one direction rather than another, points to promising lines of inquiry, singles out one interpretation from a set of possible interpretations dealing with the same set of facts. In this sense, the viewpoint of critical criminology as it stands today probably cannot be said to be true or false. Rather, it is a bet on what empirical research and theoretical development in the field will reveal in the future. In many ways, I think the bet is not a bad one.

However, before examining what some of the contributions of critical criminology might be, let us look briefly at its more obvious defects. In the first place, criminologists writing from this perspective have a tendency to uncover the latent functions of the criminal law and its operation and then convert these latent functions into manifest ones—unfortunately, all too easily.¹⁹ That is to say, the administration of the criminal law frequently works to the disadvantage of the poor, members of minority groups and the uneducated. It is then assumed, often with little concrete evidence, that this, in fact, is the intended and recognized goal of those administering the criminal law. The task of sociological analysis, however, requires a good deal more than this rather superficial imputation of motive which is apt to degenerate into glib cynicism.

In the second place, a number of writers who are exploring the ideas we have presented under the heading of "critical criminology" often use a model of social stratification that is either overly simplified or ambiguous. We are frequently presented with the poor on the one hand, and the Establishment or those in power on the other, with a vaguely defined middle class being portrayed sometimes as another victim of injustice and sometimes as a co-opted agent of those on the top of the socioeconomic scale. In reality, however, there is probably a great deal of variation in different socioeconomic groups in attitudes toward the criminal law and its administration (such as lower class support of the police and upper class use of drugs); and, if this is true, the idea that the criminal law is predominantly something imposed from above has need to be substantially modified.

In the third place, we may all indeed be crimi-

¹⁹ I am here following the usage provided by Robert Merton, who defines manifest functions as the objective consequences of social action intended and recognized by the actors involved, whereas latent functions are consequences that are neither intended nor recognized. See R. MERTON, *supra* note 5, at ch. 1.

¹⁸ See T. BECKER, *POLITICAL TRIALS* (1971).

nals, in the sense that most adults have committed an act at one time or another that would be called a crime by the criminal law. This does not mean, however, that we are all murderers, rapists, robbers, burglars and auto thieves. Persistent criminals or criminals considered serious may be singled out for the law's attention without reducing a criminal conviction to a mere label that has no connection with an objective reality. Labeling theory in sociology has never quite come to grips with the relationship between the dynamics of the labeling process and the realities of the behavior being categorized; its tendency toward solipsism had been noted by others.²⁰ If critical criminology is to make a significant contribution to a sociology of crime, it will need to avoid the error of believing that because the legal stigma of crimes does not match the occurrence of crime-in-general in the population, the stigma is necessarily based on irrelevant factors such as income and race. Certain patterns of criminal behavior may still have much to do with the matter.

While recognizing these strictures, I think it can be argued that "critical criminology" holds out the promise of having a profound impact on our thinking about crime and society. It forces an inquiry into precisely how the normative content of the criminal law is internalized in different segments of society, and how norm-holding is actually related to behavior. It makes us examine

how the legal apparatus designed for the control of crime takes on a life of its own, and begins to pursue objectives that may have little to do with modifying the crime rate. It directs needed attention to the relationship between the political order and nonconformity, thus revitalizing one of sociology's most profound themes, the relationship between the individual and the state. And it impels us, once again, to analyze equality before the law as a basic element of a democratic society. As T. H. Marshall has pointed out, much of the history of the last 250 years or so in Western societies can be seen as an attempt to achieve citizenship for all, which he defines as a kind of basic human equality associated with the concept of full membership in a community.²¹ The concept of legal equality emerged in the eighteenth century, the concept of political equality in the nineteenth, and the concept of social equality in the twentieth. But none of the gains can be taken for granted, for they can be lost as well as won. In the administration of the criminal law in our society today, there is ample evidence that our ideals of equality before the law are being compromised by the facts of income and race in an industrial, highly bureaucratized social order. If a "critical criminology" can help us solve that issue, while still confronting the need to control crime, it will contribute a great deal.

²¹ T. H. MARSHALL, *CITIZENSHIP AND SOCIAL CLASS* (1950).

²⁰ See, e.g., E. SCHUR, *supra* note 8.