Book Reviews

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BOOK REVIEWS

REVIEW ARTICLES


Both in the Preface and the Postscript, Professor Sellin states the major proposition of this historical treatise: namely, that the punishments meted out to criminals were originally punishments inflicted on slaves by their masters; that later on these were extended to crimes committed by lowclass freemen; and that ultimately they were applied to offenders regardless of their social status. Sellin attributes this interpretation to Professor Gustav Radbruch of Germany, and the book reviewed here is a documentation of this thesis. With this work the author establishes himself once again, in addition to his many other accomplishments, as the foremost American historian in criminology, corrections and criminal justice and undoubtedly as the most erudite living criminologist.

The work is a monumental historical monograph in which the author has assembled a tremendous amount of material from antiquity, the middle ages and modern times, throughout the Western world.

The evidence assembled by the author in support of his interpretational model of the development of punishment is convincing, and the reader who takes the time to go through the endless collection of citations from the writings and documents covering some twenty-five centuries can hardly avoid agreeing with Professors Radbruch and Sellin that their proposition has something to it.

In this reviewer's opinion on the basis of the assembled evidence, the perspective on the evolution of criminal punishment which traces its origins to the handling of slaves is quite cogent, meaningful and interesting. It should play an important role in understanding the history of punishments. However, it should be quite obvious that it is not the only prism through which the evolution of punishment can be viewed. There are many factors which were operative in the development of punitive sanctions of criminal law, and the universal practice of applying punitive sanctions to criminals is not related to the institution of slavery alone. Crime and punishment appear also in societies which do not have a history of slavery.

A closer look at the work raises a number of questions. One of these is the concept of slavery as used by the author. The concept is not precisely defined anywhere in the book. While there is, of course, a common trait in the status of people referred to as slaves by Professor Sellin, a wide variety of relationships is nevertheless subsumed under this term. One wonders how much essential similarity there is between the status of a prisoner of war, captured by the victor in the case of the expanding Roman state and made a servant and a chattel, and a peasant in the Russian empire prior to the emancipation of the serfs in 1861, who is perceived as being attached to the land which he tills.

Undoubtedly there is a certain similarity in all of the situations referred to by the author as slavery. Although Professor Sellin has not stated so himself, one might consider this similarity to be a status accorded to certain categories of people within the state who lack the personal freedom enjoyed by other members of the society and who must obey the directions of those who own them or in one capacity or another are in charge of managing them.

Except in his descriptions of the specific historical settings, Professor Sellin operates with this very general concept without further conceptualizing and clarifying the specific social situations which he subsumes under it. Yet some discerning of the type of situations would be profitable. For instance, granted that the status of an unfree person is recognized in the state, there is a difference between the private ownership of slaves and the public utilization of them. There is a difference between the assignment of certain individuals to other members of the society, to obey and work for
them as domestics or workers, and the relationships which are inherent in the economic order of an agricultural economy, where the peasants tilling the land are constrained to stay on that land and work it for the benefit of members of the dominant segment of the population.

Professor Sellin's method is to abstract from all these situations the very general characteristic of the existence of relatively free and relatively less free people in the state, with the former having the legal right or the factual power to direct and use the services of the less free categories of citizens. In the interrelationships between these free and less free members of the society, penal sanctions are usually utilized as one of the methods of social control. Because of the weakness of the subordinate group and the lack of concern for their well-being on the part of the dominant group, these sanctions often become very cruel. As has been pointed out above, the main purpose of Professor Sellin's exploration is to demonstrate that having originated in these interrelationships between the master and slave groups, the punishments are gradually applied to the lower socio-economic strata of the free population and later are generalized to the entire population. This is where Professor Sellin leaves his hypothesis, satisfied that it is supported by the historical evidence which he has assembled.

It is, however, regrettable that Professor Sellin confines himself to this specific and limited aspect of the topic. The vast historical evidence which he has assembled would appear to lend itself to richer generalizations than the one to which Professor Sellin has chosen to limit himself. Without questioning the cogency of the narrow proposition advanced by Professor Sellin, one is tempted to venture some broader generalization. The historical sequence of events which Sellin finds within most of the societies which he has studied seems to support a model of historical evolution which, reduced to the simplest terms, can be described as follows. The process begins with the presence of a dominant and a subordinate group, the latter being assigned a clear-cut inferior social, economic and political status, which Professor Sellin labels as slavery. Among other things, the dominant group develops a system of harsh punitive sanctions as a means of social control. Gradually the subordinate groups gain in power and often become numerically too large to be kept in the subservient position. As the result of uprisings and reforms, they are gradually granted a more attractive social status and emerge as free members of the society, although perhaps still in a lower socio-economic status. Two parallel phenomena seem to take place rather regularly. A new lowest class appears to take the place of the previously lowest unfree population. On the other hand, there are always some members of the originally dominant group who, as the result of personal failures, are allowed in some respects functionally to drop down to the status of the lower groups. In this process the more painful and degrading sanctions spread to the now free strata of the population. Impressionistically, one might say that the punishments follow the social group as it rises in social status. The above-sketched historical process often progresses to even greater democratization of society, with the previous class differences gradually and partially disappearing and the punitive sanctions being applied even more generally as the result.

In its final stages, the above model of the evolution of societies seems to offer a bifurcation. In some cases the humanitarian impulse, which often accompanies the final democratization of the society, leads to the humanization of punitive sanctions. Some would choose to interpret this as self-protection: when the upper classes begin to be exposed to punitive sanctions, these become less cruel. The other pattern seems to be that in the last stages of their development, societies begin to crumble. One can hypothesize whether this happens as the result of external factors such as the arrival of a different population, as the Germanic tribes invading the Roman Empire, or as the result of internal processes, as interpreted by Spengler in his Untergang des Abendlandes. In the latter case, as desperate efforts to hold a nation together are made, cruel punitive methods of social control in the form of severe punishments reappear.

The above is an example of an interpretational model which is ripe for formulation on the basis of the historical evidence collected by Professor Sellin. For some reason the author did not take any steps in this direction in the present work.

In that connection, the theory of Professor Eugen Ehrlich comes to mind; namely, that the coercive order of the state is primarily directed against those who are outside the pale
of society and those who have been cast out: "strangers and outcasts."

If we consider not individual cases, but the great bulk of the daily work done by the criminal courts, we shall see that criminal law is directed almost exclusively against those whom descent, economic distress, neglected education or moral degradation has excluded from the human associations. It is only in the case of these outcasts that the widest association, which includes even them, i.e., the state, steps in with its power to punish. The state as an organ of society protects society against those that are outside the pale of society.¹

The basic premises of Ehrlich's Sociology of Law are quite compatible with the hypothesis which Professor Sellin undertakes to prove.

Another context within which the book should be considered is its relationship to radical criminoology. Written in 1976, it happened to appear at a time when radical criminoology was strongly voicing its claims also in the Western democracies, outside of the boundaries of the socialist countries. The treatment which the author accords the topic, relating punitive sanctions to social stratification within the society, can be interpreted as either providing very strong and easily usable evidence for the radical criminoologists in supporting their theory or as actually constituting direct documentation of many of the claims of radical criminoology. Some of the passages in the book, for example the opening paragraphs of Chapter XI, "Convict Lease System," with their emphasis on the master class and the penal servitude which made "public slaves of black and poor and friendless white convicts," would certainly please the so-called radical criminoologist. A similar impression is left by the closing paragraph of the book, which speaks of the penal system of the Middle Ages, "which oppressed the lower classes and favored the dominant upper classes, who then later shaped the law and administered justice." To be sure, the author does not make any explicit commitment to any school of criminological thought, and his careful limitation of his topic (to the use of punishments previously applied to slaves and later having more general application within the society) does not commit him to any etiological theory of criminal conduct except by im-

duced to philosophize how little has been added to the basic theory of punishment in the course of almost 2500 years since the analysis was made by the famous Sophist.

Another such historically significant tidbit is contained in Professor Sellin's same reference to Beccaria's treatise. It concerns Beccaria's views on the death penalty, a punishment which, once again, is the burning issue of today, not only in the United States but also in many other countries. The popular view is that Beccaria, who on the one hand is credited with the humanization of criminal law and on the other is considered as the founder or main spokesman of the strict classical school of criminal law, opposed the death penalty. While this is correct, quotes given by Professor Sellin make it clear that Beccaria opposed the death penalty because he felt that it was ineffective and that therefore punishment "worse than death" should be used instead. Beccaria considered "lifelong penal slavery" to be much more effective punishment. Beccaria's description of the lifelong state of a beast of burden, which he apparently recommended, certainly contradicts the prevailing popular image of his views on punishments. This comment, of course, is not an invitation to forget Beccaria's crusade for the general reduction of punitive sanctions to the absolute minimum of suffering, just sufficient to effectuate special and general prevention functions in terms of the "felicific calculus" later popularized by Jeremy Bentham.

For the historian of criminal justice, corrections and criminology, quite aside from the main theme of the book, Professor Sellin's description of the punitive systems developed in Europe toward the end of the Middle Ages and continuing through the 18th century is of signal importance. His analysis of galley slavery, public works, houses of correction and the bagne for the first time clarifies for the American reader the picture of rather complicated and overlapping developments in the handling of the criminal offender during this period. Professor Sellin has dealt with some of these topics in his earlier writing, but in this work, chapters III through VIII give a remarkably complete and documented history of that epoch. No doubt this account will serve as a permanent reference on the subject.

Not so serendipitous is the very interesting analysis of the resurgence of the convict lease system in the South after the end of the Civil War and abolition of slavery. Sellin's interpretation of the convict lease system as involuntary servitude in punishment for crime to substitute for the recently abolished slavery is a challenging contribution to the study of the history of prison labor. In general, chapters X, XI and XII, in which Professor Sellin analyzes penal servitude and slavery in the United States under the headings "The Antebellum South," "The Convict Lease System" and "Chain Gangs and Prison Farms," offer to the student of punishment a number of fresh and penetrating insights into the history of criminal justice in this country in the 19th century. The thought presents itself that these developments were taking place at the same time that the National Congress on Penitentiary and Reformatory Discipline in Cincinnati in 1870 was formulating its famous Declaration of Principles, which for a century served as a landmark for prison reform and the development of corrections. A quote from Professor Sellin's Preface to the book is rightly in place here: "In short, the demands of the labor market shaped the penal system and determined its transformation over the years, more or less unaffected by theories of punishment in vogue." The present reviewer, though, would be willing to give greater credit to the power of ideas and ideologies.

Professor Sellin is a sociologist-criminologist, and his early studies, *Culture Conflict and Crime*, established him as a nationally known etiologist of criminal behavior. His long association with the International Penal and Penitentiary Commission and later with the United Nations Social Defense Section and the Congresses on the Prevention of Crime and Treatment of Offenders brought him into close contact with the issues of punishment and corrections. His lifelong interest in capital punishment further enhanced his understanding and his authority as an expert in matters of punitive sanctions. This monograph is another interesting, original and challenging contribution to the understanding of crime control.

Peter P. Lejins
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This work provides support to those advocating harsher punishment for criminals and abandonment of treatment. The authors assert not only that existing sociological and psychological theories have failed to provide effective intervention strategies, but also that the theories are inaccurate explanations for criminal behavior. Their thesis is that criminals choose specific thinking patterns which inevitably lead to crime.

This conclusion is based on a fifteen year clinical study in which the authors spent hundreds of hours interviewing each of 240 persons (all but three were men) hospitalized for criminal behavior and mental illness. Some 300,000 pages of clinical notes have been distilled into three volumes, of which this is the first. The product is a massive body of description and generalizations based on the subjective evaluation of the responses of a convenience sample of institution inmates. It is an impressive display, but it is not a logically convincing argument. The sample is not representative of any population of subgroup of criminal offenders, nor are the findings presented in a way that permits independent evaluation of the conclusions. Nonetheless, the authors repeatedly use the phrase “the criminal mind,” suggesting their findings are generalizable to all offenders.

The strength of the book is in its detailed description of thinking patterns. The argument breaks down when description becomes analysis. In explaining how the criminal chooses to adopt criminal thinking, the authors write “[T]he criminal child rejects the socializing influences and makes doing the forbidden a way of life . . . .” (p. 287) This notion that an individual has the capacity to reject primary socialization contradicts much of our understanding of the origins of self. The authors do not explain how every criminal acquires the allegedly ubiquitous fifty-two criminal thinking patterns.

The proposed program for changing the criminal is the antithesis of Rational Emotive Therapy. Yochelson & Samenow tell their patients that they [the patients] are criminals, bad people, and that anything less than a total “conversion” to responsible thinking will result in continued criminal behavior. “The program emphasizes that that self-disgust be maintained and that fear serve as a cornerstone and guide to responsible living.” (p. 50) They cite as their measure of success twelve men who have become totally responsible after participating in the program.

Whether the treatment program works and whether there are thinking patterns common to all criminals are still open questions, but it seems likely that this book will be used to justify harsher punishment before those questions are answered.

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Emerging technology has historically presented us with a variety of new social, professional and legal problems. The technology of electronic data processing is no exception. The sociologist now has a new class of white collar criminal to study and understand. The tool of this new criminal is the computer, used in a variety of ingenious illegal and questionable ways. To protect against this crime, managers of computer installations must develop adequate controls to insure the security of their equipment and guard against property damage, theft of data and intentional misuse. Lawyers and the courts are also presently in search of adequate statutes to insure the protection of innocent parties against the unauthorized use of computer hardware and software. The general public, too, requires assurances that computer-based information relating to citizens is adequately protected from abuse.

Computer Abuse and Criminal Law is one source document which can be used in the study of this new field. This text is best described not as a book or monograph, but as an article with a lengthy appendix. The body of the text describes types of computer abuse and relevant criminal law.

The material describing computer abuse is particularly difficult to read because the author fails to assist the interested reader with a proper organization of material. The author skips from one subject to another without warning, sometimes introducing material with little or no relevance. Paragraphs and whole sections lack clear focus and integration into a single
theme. There are also no summaries to compensate for this style of presentation. The serious reader would do well to look elsewhere for a clear description of events which can compromise the integrity of computing systems.

Sections on criminal law are better organized and presented. A lengthy discussion of search and seizure in criminal cases involving computer abuse is well-documented. The admissibility of computer evidence in state and federal courts is also well-treated. An extensive bibliography follows these sections on the law. If the reader is left with only a fuzzy understanding of what the law says about this class of crimes, the author is not to blame. The real problem of how to treat the many aspects of computer-related crime has not yet been clarified in our state and federal courts. Students of the law interested in a more comprehensive view of this topic should supplement their reading with the findings of the American Bar Association's task force on computer crime. The Rutgers Journal of Computers and the Law also provides an excellent source for further study.

The appendix occupies 45% of the text and is of marginal value. It contains a variety of news releases and articles from popular periodicals. As careful researchers attest, such sources are frequently replete with faulty and misleading information and therefore are seldom useful to the serious student of criminology and criminal law.

In search of an understanding of the problems and issues involved in this new field of crime, no single source of information will be found adequate. For that reason, Computer Abuse and Criminal Law deserves examination in spite of its shortcomings.

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Here are two volumes, one an attempt at a personal synthesis of psychiatric research in general, the other a report of long term research on parolee and flat term felons. In my view, both fail to achieve their goals, but for different reasons.

Roy Grinker, with a distinguished career as practicing psychiatrist, researcher and writer, proposes to develop for his readers an "integrated theory," concretely exemplified in one chapter on schizophrenia and embracing biological, psychological and social cultural levels. His ordering concept is the systems approach, "a conglomerate science composed of a variable number of parts." (p. 177) Unfortunately, his focus on "the system by which the human person maintains his integrity" (idem) does not enhance the integrity of this volume, in which swatches of passages or highly compressed summaries of disparate materials, really "systematized," are intertwined with a text that moves too fast for at least the present reader to digest.

Though a reviewer may not justly complain about an author's choice of emphasis, it must be said that Mr. Grinker's apparent claim to present an up-to-date picture of the state of contemporary psychiatric research shows a peculiarly limited view of what is happening in the present. There is no evidence in his far-flung quotations that a feminist revolution has penetrated both psychotherapy and research on human behavior. Chapters which purport to show the place of cultural dimension, such as an opening discussion on magic and one on social and cultural techniques applied to psychiatry, are either naive (he adopts a Comtean stage theory to locate magic and simply has not kept up with the literature which sees magic more and more as a cosmology on a par with science in its context) or incomplete (he talks about transcultural phenomena and "social turbulence," but, in a highly abbreviated discussion, has no place for the repercussions of military and technological policies and trends on people's life chances, personal stress and behavior).

Samuel Gruze has evidently sought to avoid the familiar animadversions against psychiatry's poor sampling methods. Since 1959 he and his colleagues have been applying psychiatric concepts and criteria—interviews were conducted by trained psychiatrists or advanced residents—to male (223) and female (66) felons consecutively handled with the cooperation of the Missouri Board of Probation and Parole and other agencies which furnished supplementary documentary data, varying in detail from case to
case. Predictably, he and his collaborators find that psychoses and neuroses form only the smallest proportion of diagnoses for these men and women who have committed conventional, major crime. Instead, "sociopathy," alcoholism and drug addiction are said to be the psychiatric problems which account for most of the study population's behavior. Since, however, it is notorious that these three categories of criminals have resisted rehabilitation, Gruze is led to emphasize the finding that "the risk of reconviction of a felony was 60 percent in men under age forty who were also flat-timers compared to 6 percent in men forty or older who were also parolees—a tenfold difference." (p. 137) It follows that "imprisonment until middle age, at least for recidivist criminals, should result in a major reduction in recidivism after discharge from prison." (p. 137)

Thus, Gruze's elaborate study ends up as one more instance of the current fashionable pessimism about criminological issues ("nothingworksism"). In my opinion, he has not succeeded in his attempt to meet the well-known objections to the psychiatric approach. He has not compared this population to a parallel civilian population; he has not been as critical as he might about the catchall, "sociopathic" (see the recent critique by Vaillant); he fails to see that criminal behavior is peculiarly definitional and cannot as such be analyzed as though it were radically different from non-criminal (e.g., the victim's) behavior; he only notices a possible socio-historical element affecting his study in the case of the high narcotic drug percentage among female felons. Finally, Gruze appears to take too seriously psychiatric diagnoses, almost as though they were essences and not, as Seymour Halleck has suggested, as hypotheses applied to each case with the greatest humility.

The place of psychiatry in the social sciences generally will not be resolved by repeating conventional thinking over a long term, but only through interdisciplinary penetration and the kind of integrated theory which Grinker claimed to have achieved and Gruze needed.

Seymour Fiddle

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Taylor, Walton and Young make some remarkable criticisms of the "new deviancy theorists" or "radical" criminologists, in effect self-criticism, in "Critical Criminology in Britain: Review and Prospects," their own contribution to this collection of writings:

These formal agreements amongst deviancy theorists were based more upon antipathies to orthodox criminological formulations than they were upon any clear alternative formulations... In retrospect, the alternative positions appear to be little more than inversions on orthodox... perspectives, and cannot be seen to have transcended the fundamental features of orthodox criminology. (p. 8, emphasis added)

What allows Taylor, Walton and Young to join their critics in noting the absence of a genuine alternative theory in the "new" criminology and in finding their past contributions "to be little more than inversions," is their turn to Marxist theory to provide a backbone for "socialist" or "working-class" criminology.

This book has two foci. First, it contains writings by American radical criminologists, successfully presenting a representative sampling of their work. Because these are works by Tony Platt, Herman and Julia Schwendinger, William J. Chambliss, and Richard Quinney that have been previously published or are otherwise familiar, they can be safely ignored for purposes of a brief review. Second, the reader contains a sampling of recent and presumably unfamiliar developments in English radical criminology, including works by Jock Young, Paul Q. Hirst, Geoff Pearson, Ian Taylor and Paul Walton. With the exception of Pearson's essay, "Misfit Sociology and the Politics of Socialization," the English essays focus on the problems of integrating Marxist theory and radical criminology. This review will examine the English writings.

As Paul Q. Hirst makes sufficiently evident in his critical essay, "Marx and Engels on Law, Crime and Morality," orthodox Marxism is relatively hostile to any attempt to use Marx to legitimate a defense of the "authenticity" or "politicality" of the deviant experience. Though Marx and Engels did not devote extensive study to the problem of crime, their attitude appears to have been relatively conservative on the issue, and can be briefly summarized as follows:

(1) Marx appears to have felt, as Hirst amply demonstrates, that exploitation (i.e., the ex-
traction of surplus value) is not theft, nor is the capitalist in any way criminal, despite Taylor, Walton and Young's attempt to use Marx to demonstrate the "criminal nature of bourgeois society." (p. 237)

(2) Marx and Engels had nothing but contempt for the so-called "criminal classes," and this contempt, rather than representing "no more than the prejudices of two Victorian gentlemen" (p. 215) was structurally related to their theory. Hirst quotes Marx and Engels thus:

The "dangerous class," the social scum, the passively rotting mass thrown off by the lowest layers of the old society, may, here and there, be swept into the movement by a proletarian revolution, its conditions of life, however, prepare it far more for the part of a bribed tool of reactionary intrigue. (p. 215)

(3) For Marx and Engels, "the 'criminal career' and the 'delinquent solution,' however much enforced by the harsh necessities of capitalism, are not in effect forms of political rebellion against the existing order but a more or less reactionary accommodation to them." (p. 218)

(4) Finally, given the key role that the structured use of labor-power to create surplus value (profit) plays for Marx in defining the political cutting edge of his theory (by focusing on the contradictions in capitalism centered around the proletariat), theft, since it is non-surplus-value generating, is wasteful, unnecessary activity. Though Taylor, Walton and Young may find in the thief a "primitive rebel" (a la E. J. Hobsbawm), Hirst shows that for Marx, the thief "is ... neither a productive nor an unproductive laborer, nor is he a capitalist, rather he is strictly parasitic on the labor and wealth of society....Theft...always merely redistributes the existing material production or wealth and adds nothing to the stock of material production." (p. 224)

Hirst's article and a reply by Taylor, Walton and Young were originally published in *Economy and Society*. What is interesting about the reply is Taylor, Walton and Young's complete lack of response to the substance of the position outlined above. Rather, they attack (and quite justifiably) the inclusion in Hirst's article of a

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needless defense of Louis Althusser's periodization of Marx into a "young idealist" Marx and an "older scientific" Marx. However, given Marx's "conservatism" on issues of crime, it is obvious that Taylor, Walton and Young's attempt to turn their "radical criminology" (or, as they call it elsewhere, "sceptical deviancy") theory into a "Marxist" or "working-class" criminology will require considerable self-criticism or back-tracking on their part.

Paul Q. Hirst may or may not be correct in arguing that Marxism and radical criminology are strange, if not incompatible, bedfellows. Either way, most of the conceptual difficulties encountered by Taylor, Walton and Young in their contributions to this reader appear to stem from the attempt to synthesize Marx's relatively orthodox criminological position with one that is "little more than inversions on orthodox . . . perspectives." (p. 8) Some of these difficulties include:

(1) Taylor, Walton and Young's reduction of the epistemological basis of positivist criminology to "pure objectivity" and that of labelling theory to "pure subjectivity," Taylor, Walton and Young, having miscreated this conceptual antinomy by their simplistic reductionism, compound their difficulties by their peculiar use of the concept of "praxis" to "dialectically transcend" it. "Praxis" is used as both the criterion for valid knowledge and as the description of genuinely "political" work in criminology. However, as a criterion for valid knowledge, "praxis" is defined as critical thought whereas, in describing political criminology, it is presented as a way of behaving, "of changing the social whilst investigating it." (p. 24) Taylor, Walton and Young thus reproduce the dichotomy they believe they have transcended.

(2) An attempt to rationalize and reject their supposedly past romanticization of the political and moral authenticity of deviants, by seeing it rooted in a sense of "powerlessness as to the possibility of affecting the national culture, the politics of social democracy, or indeed, the politics of the orthodox Left itself . . . an identification by powerless intellectuals with deviants who appeared more successful in controlling events...." (p. 18) Their problem here is that they never abandon their romanticization of the deviant, calling for "socialist diversity" (supposedly different from "non-socialist" diversity, or authenticity of various de-
viant subjective perspectives), as one of their radical demands. Further, they spend much of their essay attacking the criminal justice policies of Britain's Labor Party as well as dismissing, a priori, any contact with the British Communist Party (which has served for many of England's most renowned intellectuals), thus guaranteeing their continued political isolation.

(3) Taylor, Walton and Young see a “materialist” criminology as primarily focusing on “the antagonisms which result . . . from the lack of correspondence between the development of material production and to the development of social and legal relations.” (p. 54) They call for a Marxist sociology of law, a “science of legislation,” but their focus completely ignores the real problem of crime in the streets and the way in which the working class is penalized by such crime.

(4) Jock Young claims that crime can be determined, the criminal “as much a thing without volition as water.” (p. 78) However, he also claims that crime can be volitional, “an individualized and primitive form of [class] consciousness . . . .” (p. 78) This is an example of the uneasy fit of “radical” criminology and Marxism. Even if the above two were not incompatible, Young judiciously avoids presenting any standards that would allow us to differentiate between them, and provides us with no examples of either.

(5) A final irony should be noted. Insofar as Young places himself in a Marxist tradition, he shifts from the radical focus of elaborating the conflict-mediating role of the criminal justice system to attempting to explain the consensual support of the working class for orthodox criminological notions and reforms. The absence of conflict, the reality of consensus is discovered and becomes the new problem. As a Marxist, Young now discovers he must abandon, or at least temporarily table, radical notions of the conflict between the powers that be and the deviant to explain the lack of class conflict in the criminal justice system.

The above criticisms merely touch the surface of the problems Taylor, Walton and Young and other radical criminologists face in confronting Marx. This is not to say that the Marxist tradition cannot provide the basis for a powerful critical theory in criminology, nor that by focusing on a “science of legislation,” Taylor, Walton and Young are not groping toward a Marxist theory of the State, which will be central as Marxists analyze the criminal justice system. However, Taylor, Walton and Young still lack a developed “theory,” much less a “Marxist theory,” and they will not create one by ignoring the contempt for criminals Marx shows in his later writings.

Critical Criminology affords us a glance at the past, present and future of radical criminology and is probably the most successful and representative reader of its kind. Its problems are due not to the selection of articles, but to the somewhat underdeveloped state of radical criminological theory.

BARRY MIKE

University of Pennsylvania


Anyone interested in the recent Canadian history of capital punishment before it was abolished in 1976 will find this book informative. Chiefly by using public opinion reports and parliamentary votes, the author, a political scientist, undertakes to present a sociological study that “will bridge the traditional distinctions among sociology, political science and jurisprudence.” Within the strict confines of his bold project consisting of two-hundred odd pages and ninety-six tables, excluding the ones located in the appendixes, the author’s effort is laudable. However, this study of the complex questions involved with the death penalty is flawed by theoretical, methodological and editorial looseness. Some comments about the latter first.

At the outset the reader is confused as to the exact time period to be covered by the book. For example, in the Preface the author notes that the book presents evidence on public opinion and legislative behavior concerning capital punishment for 1967 and 1973. At the beginning of Chapter One, however, the reader learns the book is occupied with the period between 1965 and 1972. Actually, it is chiefly concerned with 1967–1973, a conclusion one would not
have to seek had the book been scrutinized by its editors with a keen concern for clarity and consistency. Additionally, the editors should have asked Chandler to use words that accurately describe his endeavors. For example, early in the book Chandler has been allowed to say he wants to “expose” important theoretical generalities, when in fact he wants to “explore” such generalities; in this case, Durkheim’s work on repressive law. A little later Chandler states that compliance with law follows to the extent the laws codify the beliefs and values of people. Two pages later this is followed by the statement that everyone accommodates to the rules of the law no matter how much his ideology conflicts with his faith in law.

In the same section of the book summarizing the 1966-1967 Canadian Parliament debates on capital punishment, the author says the choices of positions proffered were remarkably clear and transcended particular points in time. Yet in the next sentence he reports that major themes can be “imposed” on the arguments. If the choices are of great clarity, then they are not “imposed”; rather, they are easily identified. When presenting the evidence about the 1966-1967 debates, Chandler states that the retentionists tended to express retributive morality, while the abolitionists took the more pragmatic arguments. In his next sentence, however, the author asserts that both sides included as many pragmatic and moral arguments as could be mustered, a statement suggesting a contradiction of the previous statement. Examples of such nuances are frequent throughout the book. Some of the most even and clear writing is found in the sections presenting descriptive information; for example, the chronological history of capital punishment in Canada.

In his discussion of the uses of the capital punishment law between 1946 and the 1966-1967 debates, Chandler argues that no reliable studies have indicated the underprivileged were overrepresented in executions. Support for this conclusion is referenced in Table Two of Appendix I. Unfortunately, this table, which could be one of the most important items in the book, simply cannot support the author’s statement. Examination of this table reveals very little if anything about the underprivileged unless one assumes being underprivileged is coterminous with ethnicity. Not even this dubious assumption is of much assistance in addressing the question of representativeness in executions, since the table reports the final dispositions of the convicted murderers by ethnicity without any indication of the distribution of ethnicity in Canada for the years 1946 to 1967, which leaves the question of representativeness unanswered.

Public opinion on the abolition or retention of capital punishment is central to the author’s work. Unfortunately, however, he misconstrues the trends. At one point, for example, he notes there was a general decline in the percentage of those wanting the death penalty until 1971, when a reverse trend was reported. By examining the table which Chandler uses as support for this observation, the reader will see the downward trend existed from 1943 (73% pro) until 1966 (53% pro), not 1971. In 1970 the proportion of those pro-death penalty was 70%; however, this was down the next year to 63%, which was consistent with the overall trend of less and less pro support. The fact that the 1971 pro figure was 63%, ten points higher than for 1966, is explained by a well-publicized kidnapping which occurred in 1970, producing a temporary increase in pro-death penalty sentiment, rather than indicating a general reversed trend. Unfortunately for the reader, this point is not made until ten pages after the statement and figures reporting a reversed trend.

When explaining the relationship between public opinion, education and the death penalty in 1965, Chandler concludes there was no difference by education for those who would retain the death penalty. However, the table cited, number 5, shows a considerable difference: for those favoring retention, there is a 19.4% difference between graduates of technical schools and those having some university education. This confusion between statement and printed figures remains when later the author notes there is a difference; the reader does not know which conclusion to believe.

Such examples of confusion ill prepare the reader to later accept in Chapter Four, on the basis of the most opaque reasoning, the statements that the vote of a Member of Parliament actually can be taken as representing the sentiments of members of a constituency. Chandler, it seems, assumes political representativeness can substitute for representativeness based on
sampling. This position is of little persuasiveness, as are some of the theoretical interpretations central to the book.

Chandler’s reliance on Durkheim’s work makes it necessary first to correct the author’s claim that Durkheim’s generalizations on punishment appear in an untranslated article. The article, “Two Laws of Penal Evolution,” first brought to the attention of American sociology in T. Parsons (1937) The Structure of Social Action, chapter X, had been translated twice before Chandler’s claim: first in the University of Cincinnati Law Review at 32 (1969), and in Economy and Society at 2 (1973). More important than this oversight is Chandler’s interpretation of Durkheim’s position.

Durkheim argued in The Division of Labor that in societies characterized by mechanical solidarity punishment would be repressive, while in societies with organic solidarity it would be restitutive. This is his position in its most simple and unelaborated form. In the “Two Laws of Penal Evolution,” Durkheim’s most thorough examination of penal evolution, it is apparent Durkheim departed significantly from his original position, a divergence unrecognized and hence not addressed by Chandler. One change, noted in “the law of quantitative variations,” modified the importance of sentiment, as it first appeared in The Division of Labor, by introducing punitive intensity and political absolutism as important explanatory concepts. In Chandler’s analysis, societal development or complexity is presented as if no change had occurred in Durkheim’s thinking on punishment.

A second change, found in “the law of qualitative variations,” is the assertion that deprivations of liberty tend increasingly to become the normal type of repression. However, this is not so much associated with societal complexity per se, as Chandler would have us believe, as it is with an increase in altruism; that is, the desire to make one suffer has declined since the time of the city-state, when the distinctions between subject and master were great. This change has had the general effect of reducing the sense of social distance between people, and it is less likely that severe punishments, such as capital punishment, will be inflicted on one’s equal. Exceptions to this trend, according to Durkheim, are found when “religious crimes” are committed; that is, crimes against “traditions” such as the state, gods or ancestors. An act which is, in Durkheim’s terms, “simply blameworthy when it involves one’s equal, becomes impious when it involves someone who is one’s superior.”

One important implication of Durkheim’s reformulation is that questions of whether one is “for” or “against” capital punishment, even when such factors as age, education, ethnicity and religion are included, miss the mark. More light would be shed on the complex questions surrounding capital punishment if questions of “for” or “against” were asked for specific offenses where the social distance or relationship between victim and offender was specified. Then it would be more likely the reformulated Durkheimian explanation, based in part on sentiment, could be successfully used in research. Evidence recently reported in an anthropological study by H. P. Lundsgaarde, titled Murder in Space City: A Cultural Analysis of Houston Homicide Patterns (1977), Oxford University Press, suggests Durkheim’s theorizing on social distance and punishment has promise. Lundsgaarde found that the most severe punishments for homicide were given to those who killed people they did not know, thus suggesting that the severest repressive sanctions result in cases of murder when the social distance between victim and offender most closely approximates the social distance in the crimes Durkheim labelled “religious.”

What we have in Chandler’s book is documentation of the various positions recorded in Canada on capital punishment before it was abolished. As a collection of such documentation, it is a valuable source for future comparative analysis, but its generality does little to help us understand the changes recorded, nor does it provide an empirical test of either Durkheim’s original or elaborated work on punishment.

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The polygraph techniques and theory described in these pages are based upon the authors' collective professional experience in testing over 100,000 persons in actual case situations. Every aspect of the polygraph and its application is thoroughly examined. The contents include a detailed outline of the procedure for pretest interviewing, preparation and administration of test questions, and instrument adjustment. All of the subtle indicators that must be considered during a polygraph examination and after it, when formulating a critical evaluation, are discussed and clearly illustrated with case history data from the authors' files. Careful application of the techniques described here will inevitably result in a more favorable status for the polygraph than currently exists.

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