

TOWARD A POLITICAL ECONOMY OF CRIME

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In attempting to develop a Marxist theory of crime and criminal law we are handicapped by the fact that Marx did not devote himself very systematically to such a task. There are nonetheless, several places in his analysis of capitalism where Marx did direct his attention to criminality and law.¹ Furthermore, the logic of the Marxian theory makes it possible to extrapolate from the theory to an analysis of crime and criminal law in ways that are extremely useful. Thus, in what follows I will be focusing on the implications of the Marxist paradigm as well as relying heavily on those Marxist writings that directly addressed these issues.

As with the general Marxist theory, the starting point for the understanding of society is the realization that the most fundamental feature of peoples' lives is their relationship to the mode of production. The mode of production consists of both the means of production (the technological processes) and the relationship of different classes to the means of production—whether they own them or work for those who do. Since ultimately, the only source of an economic surplus is that amount of goods which is produced beyond what the worker consumes, then the distinction between those who own and those who work for others is crucial to understanding the control of the surplus in the society.

All of this is of course elementary Marxism and was only briefly summarized here to get us started.

We must then speak of historical periods according to the mode of production which characterizes them. The most fundamental distinction would be between those societies where the means of production are owned privately, and societies where the means of production are not. Obviously there are

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many possible variations on these two ideal types: societies where the means of production are owned by the state (for example the Soviet Union) as contrasted with societies where the means of production are controlled by small groups of workers (for example Yugoslavia), or where the means of production are owned by collective units of workers, farmers, peasants and other strata (China for example). Each of these different modes of production would of course lead to quite different social relations and therefore to different forms of crime and criminal law.

Capitalist societies, where the means of production are in private hands and where there inevitably develops a division between the class that rules (the owners of the means of production) and the class that is ruled (those who work for the ruling class), creates substantial amounts of crime, often of the most violent sort, as a result of the contradictions that are inherent in the structure of social relations that emanate from the capitalist system.

The first contradiction is that the capitalist enterprise depends upon creating in the mass of the workers a desire for the consumption of products produced by the system. These products need not contribute to the well being of the people, nor do they have to represent commodities of any intrinsic value; nonetheless, for the system to expand and be viable, it is essential that the bulk of the population be oriented to consuming what is produced. However, in order to produce the commodities that are the basis for the accumulation of capital and the maintenance of the ruling class, it is also necessary to get people to work at tedious, alienating and unrewarding tasks. One way to achieve this, of course, is to make the accumulation of commodities dependent on work. Moreover, since the system depends as it does on the desire to possess and consume commodities far beyond what is necessary for survival, there must be an added incentive to perform the dull meaningless tasks that are required to keep the productive process expanding. This is accomplished by keeping a proportion of the labor force impoverished or nearly so.² If those who are employed become obstreperous and refuse to perform the tasks required by the productive system, then there is a reserve labor force waiting to take their job. And hanging over the heads of the workers is always the possibility of becoming impoverished should they refuse to do their job.

Thus, at the outset the structure of capitalism creates both the desire to consume and—for a large mass of people—an inability to earn the money necessary to purchase the items they have been taught to want.

A second fundamental contradiction derives from the fact that the division of a society into a ruling class that owns the means of production and a

subservient class that works for wages *inevitably* leads to conflict between the two classes. As those conflicts are manifest in rebellions and riots among the proletariat, the state, acting in the interests of the owners of the means of production will pass laws designed to control, through the application of state sanctioned force, those acts of the proletariat which threaten the interests of the bourgeoisie. In this way, then, acts come to be defined as criminal.

It follows that as capitalism develops and conflicts between social classes continue or become more frequent or more violent (as a result, for example, of increasing proletarianization), more and more acts will be defined as criminal.

The criminal law is thus *not* a reflection of custom (as other theorists have argued), but is a set of rules laid down by the state in the interests of the ruling class, and resulting from the conflicts that inhere in class structured societies; criminal behavior is, then, the inevitable expression of class conflict resulting from the inherently exploitative nature of the economic relations. What makes the behavior of some criminal is the coercive power of the state to enforce the will of the ruling class; criminal behavior results from the struggle between classes whereby those who are the subservient classes individually express their alienation from established social relations. Criminal behavior is a product of the economic and political system, and in a capitalist society has as one of its principal consequences the advancement of technology, use of surplus labor and generally the maintenance of the established relationship between the social classes. Marx says, somewhat facetiously, in response to the functionalism of bourgeois sociologists:

. . . . crime takes a part of the superfluous population off the labor market and thus reduces competition among the laborers—up to a certain point preventing wages from falling below the minimum—the struggle against crime absorbs another part of this population. Thus the criminal comes in as one of those natural “counterweights” which bring about a correct balance and open up a whole perspective of “useful” occupation . . . the criminal . . . produces the whole of the police and of criminal justice, constables, judges, hangmen, juries, etc.; and all these different lines of business, which form equally many categories of the social division of labor, develop different capacities of the human spirit, create new needs and new ways of satisfying them. Torture alone has given rise to the most ingenious mechanical inventions, and employed many honorable craftsmen in the production of its instruments.³

Paradigms, as we are all well aware, do much more than supply us with specific causal explanations. They provide us with a whole set of glasses through which we view the world. Most importantly, they lead us to emphasize certain features of the world and to ignore or at least de-emphasize others.

The following propositions highlight the most important implications of a Marxian paradigm of crime and criminal law.⁴

A. On the content and operation of criminal law

1. Acts are defined as criminal because it is in the interests of the ruling class to so define them.
2. Members of the ruling class will be able to violate the laws with impunity while members of the subject classes will be punished.
3. As capitalist societies industrialize and the gap between the bourgeoisie and the proletariat widens, penal law will expand in an effort to coerce the proletariat into submission.

B. On the consequences of crime for society

1. Crime reduces surplus labor by creating employment not only for the criminals but for law enforcers, locksmiths, welfare workers, professors of criminology and a horde of people who live off of the fact that crime exists.
2. Crime diverts the lower classes' attention from the exploitation they experience, and directs it toward other members of their own class rather than towards the capitalist class or the economic system.
3. Crime is a reality which exists only as it is created by those in the society whose interests are served by its presence.

C. On the etiology of criminal behavior

1. Criminal and non-criminal behavior stem from people acting rationally in ways that are compatible with their class position. Crime is a reaction to the life conditions of a person's social class.
2. Crime varies from society to society depending on the political and economic structures of society.

3. Socialist societies should have much lower rates of crime because the less intense class struggle should reduce the forces leading to and the functions of crime.

The remainder of this paper will be an attempt to evaluate the degree to which the Marxian perspective on crime and criminal law is consistent with some empirical research findings.

On the Content and Operation of the Criminal Law

The conventional, non-Marxian interpretation of how criminal law comes into being sees the criminal law as a reflection of widely held beliefs which permeate all "healthy consciences" in the society. This view has been clearly articulated by Jerome Hall:

The moral judgements represented in the criminal law can be defended on the basis of their derivation from a long historical experience, through open discussion . . . the process of legislation, viewed broadly to include participation and discussion by the electorate as well as that of the legislature proper, provides additional assurance that the legal valuations are soundly established . . .⁴

The Marxian Theory of Criminal Law

There is little evidence to support the view that the criminal law is a body of rules which reflect strongly held moral dictates of the society.⁶ Occasionally we find a study on the creation of criminal law which traces legal innovations to the "moral indignation" of a particular social class.⁷ It is significant, however, that the circumstances described are quite different from the situation where laws emerge from community consensus. Rather, the research points up the rule by a small minority who occupies a particular class position and shares a viewpoint and a set of social experiences which brings them together as an active and effective force of social change. For example, Joseph Gusfield's astute analysis of the emergence of prohibition in the United States illustrates how these laws were brought about through the political efforts of a downwardly mobile segment of America's middle class. By effort and some good luck this class was able to impose its will on the majority of the population through rather dramatic changes in the law. Suend Ranulf's more general study of *Moral Indignation and Middle Class Psychology* shows similar results, especially when it is remembered that the lower middle class, whose emergence Ranulf sees as the social force behind legal efforts to legislate morality, was a decided *minority* of the population. In no

reasonable way can these inquiries be taken as support for the idea that criminal laws represent *community* sentiments.

By contrast, there is considerable evidence showing the critically important role played by the interests of the ruling class as a major force in the creation of criminal laws. Jerome Hall's analysis of the emergence of the laws of theft and Chambliss' study of vagrancy laws both point up the salience of the economic interests of the ruling class as the fountainhead of legal changes.⁹ A more recent analysis of the legislative process behind the creation of laws attempting to control the distribution of amphetamine drugs has also shown how the owners of the means of production (in this case, the large pharmaceutical companies) are involved in writing and lobbying for laws which affect their profits.¹⁰

The surface appearance of legal innovations often hides the real forces behind legislation. Gabriel Kolko's studies of the creation of laws controlling the meat packing and railroad industries in the United States have shown how the largest corporations in these industries were actively involved in a campaign for federal control of the industries, as this control would mean increased profits for the large manufacturers and industrialists.¹¹

Research on criminal law legislation has also shown the substantial role played by state bureaucracies in the legislative process.¹² In some areas of criminal law it seems that the law enforcement agencies are almost solely responsible for the shape and content of the laws. As a matter of fact, drug laws are best understood as laws passed as a result of efforts of law enforcement agencies which managed to create whatever consensus there is. Other inquiries point up the role of conflicting interests between organized groups of moral entrepreneurs, bureaucrats, and businessmen.¹³

In all of these studies there is substantial support for the Marxian theory. The single most important force behind criminal law creation is doubtless the economic interest and political power of those social classes which either (1) own or control the resources of the society, or (2) occupy positions of authority in the state bureaucracies. It is also the case that conflicts generated by the class structure of a society act as an important force for legal innovation. These conflicts may manifest themselves in an incensed group of moral entrepreneurs (such as Gusfield's lower middle class, or the efforts of groups such as the ACLU, NAACP or Policemen's Benevolent Society) who manage to persuade courts or legislatures to create new laws.¹⁴ Or the conflict may manifest itself in open riots, rebellions or revolutions which force new criminal law legislation.

There is, then, evidence that the Marxian theory with its emphasis on the role of the ruling classes in creating criminal laws and social class conflict and as the moving force behind legal changes is quite compatible with research findings on this subject.

The Consequences of Crime and Criminal Law

A. Moral Boundaries or Class Conflict?

One of the few attempts to systematically investigate the consequences that crime has for society at large is Kai Erikson's imaginative study of deviance among the Puritan settlement in New England.¹⁵ Erikson sets out to investigate the hypothesis that

... crime (and by extension other forms of deviation) may actually perform a needed service to society by drawing people together in a common posture of anger and indignation. The deviant individual violates rules of conduct which the rest of the community holds in high respect; and when these people come together to express their outrage over the offense and to bear witness against the offender, they develop a tighter bond of solidarity than existed earlier.¹⁶

Erikson's conclusion from his study of deviance among the Puritans is that several "crime waves" were in effect created by the community in order to help establish the moral boundaries of the settlement. Yet his conclusion is hardly supported by the data he presents. During the relatively short period of some sixty-odd years, this small community had three major crime waves: the Antinomian controversy of 1636, the Quaker prosecutions of the late 1650's, and the witchcraft hysteria of 1692.¹⁷ This suggests, at the very least, that each crime wave failed as a source of community consensus and cohesion; otherwise so small a group of people would certainly not have needed so many serious crime waves in so short a period of time.

More importantly, Erikson's description of the Puritan settlement and of these three "crime waves" makes it very clear that they were not precipitated by crises of morality in the community, but by power struggles between those who ruled and those who were ruled. As Erikson points out:

... the use of the Bible as a source of law was [a problem in that] many thoughtful people in the colony soon became apprehensive because so many discretionary powers were held by the leading clique... - "the people" themselves (which in this instance really means the enfranchised

stockholders) were anxious to obtain an official code of law; and so a constitutional battle opened which had a deep impact on the political life of the Bay. On one side stood the people, soon to be represented in the General Court by elected Deputies, who felt that the Bible would supply a clearer and safer guide to law if the elders would declare at the outset how they intended to interpret its more ambiguous passages. On the other side stood the ruling cadre of the community, the ministers and magistrates, who felt that the whole enterprise would be jeopardized if they were no longer able to interpret the Word as they saw fit.¹⁸

Thus the lines were drawn between what Erikson calls "The Ruling Cadre" and "The People." When Anne Hutchinson, a particularly sharp-witted and articulate woman, began gathering large numbers of the people to her house where she rendered interpretations of the bible and the ruling cadre at odds with the rulers' interests, she was labelled a deviant—an "antinomian." She and her followers who "thought they were engaged in a local argument about church affairs," found themselves banished as criminals, disarmed as potential revolutionaries, or asked to recant crimes they had never known they were committing.¹⁹

Only twenty years later, the Quakers entered Massachusetts Bay. Once again the ruling class hegemony was threatened. By October of 1658, there were perhaps two dozen Quakers traveling around the countryside and a hundred or more local converts.

The constables and courts responded in the time-honored fashion of the law as an arm of the ruling class. Laws were passed making the preaching of Quakerism severely punishable, and constables broke up meetings.²⁰ Two of their members were publicly executed, and local constables conducted household raids, public floggings and confiscated property.²¹

In 1670, the ruling class was again threatened: this time by a costly war with the Indians, a power struggle between factions of the ruling class, and the English Crown's attempt to restructure or perhaps even revoke the colony's charter. In addition, there were increasing numbers of disputes between landowners.

Into this sea of conflicts threatening the ruling class, came the witchcraft mania, which was conveniently adopted and encouraged by the courts and the constables under the guidance of the "ruling cadre."

In all three instances, deviance was indeed created for the consequences it had. But it was not created *by the community* in order to establish "moral

boundaries;" rather, it was created by the ruling class in order to protect and perpetuate its position of control.

The Etiology of Criminal Behavior

It is obviously fruitless to join the debate over whether or not contemporary theories of criminal etiology are adequate to the task. The advocates of "family background," "differential association," "cultural deprivation," opportunity theory," and a host of other "theories" have debated the relative merits of their explanations *ad infinitum* (one might even say *ad nauseam*). I should like, however, to present a summary of data from a study of crime and criminal law which compares selected aspects of these phenomena in Nigeria and the United States. In so doing I hope to shed some light on the Marxian paradigm without pretending to resolve all the issues.

My data come from research in Seattle, Washington, and Ibadan, Nigeria. The research methods employed were mainly those of a participant observer. In Seattle the research spanned almost ten years (1962–1972), and in Ibadan the research took place during 1967–1968. In both cities the data were gathered through extensive interviewing of informants from all sides of criminal law—criminals, professional thieves, racketeers, prostitutes, government officials, police officers, businessmen and members of various social class levels in the community. Needless to say, the sampling was what sociologists have come to call (with more than a slight bit of irony) "convenience samples." Any other sampling procedure is simply impossible in the almost impenetrable world of crime and law enforcement into which we embarked.

Nigeria and America both inherited British common law at the time of their independence. Independence came somewhat later for Nigeria than for America, but the legal systems inherited are very similar. As a result, both countries share much the same foundation in statutes and common law principles. While differences exist, they are not, for our purposes, of great significance.

In both Nigeria and the United States, it is a crime punishable by imprisonment and fine for any public official to accept a bribe, to solicit a bribe or to give special favors to a citizen for monetary considerations. It is also against the law in both countries to run gambling establishments, to engage in or solicit for prostitutes, to sell liquor that has not been inspected and stamped by a duly appointed agency of the government, to run a taxi service without a

license, etc. And, of course, both nations share the more obvious restrictions on murder, theft, robbery, rape and the standard array of criminal offenses. In both countries there is a striking similarity in the types of laws that do *not* and those that do get enforced.²²

Crime and Law Enforcement in Nigeria

In both Nigeria and the United States, many laws can be, and are, systematically violated with impunity by those who control the political or economic resources of the society. Particularly relevant are those laws that restrict such things as bribery, racketeering (especially gambling), prostitution, drug distribution and selling, usury and the whole range of criminal offenses committed by businessmen in the course of their businesses (white collar crimes).

In Nigeria the acceptance of bribes by government officials is blatantly public and virtually universal. When the vice president of a large research organization that was just getting established in Nigeria visited the head of Nigerian Customs, he was told by the Customs Director that "at the outset it is important that we both understand that the customs office is corrupt from the top to the bottom." Incoming American professors were usually asked by members of the faculty at the University if they would be willing to exchange their American dollars on the black market at a better exchange rate than banks would offer. In at least one instance the Nigerian professor making this request was doing so for the military governor of the state within which the university was located. Should the incoming American fail to meet a colleague who would wish to make an illegal transfer of funds, he would in all likelihood be approached by any number of other citizens in high places. For example, the vice president of the leading bank near the university would often approach American professors and ask if they would like to exchange their money through him personally, and thereby receive a better exchange rate than was possible if they dealt directly through the bank.

At the time of my study, tithes of this sort were paid at every level. Businessmen desiring to establish businesses found their way blocked interminably by bureaucratic red tape until the proper amount of "dash" had been given to someone with the power to effect the result desired. Citizens riding buses were asked for cigarettes and small change by army soldiers who manned check points. The soldiers, in turn, had to pay a daily or weekly tithe to superior officers in order to be kept at this preferential assignment. At the border one could bring French wine, cigarettes and many other prohibited commodities into Nigeria, so long as prior arrangements had been made with the customs officers either in Lagos (the capital of the country) or at the check point itself. The prior arrangements included payment of a bribe.

As a result of bribes and payoffs, there flourished a large and highly profitable trade in a wide variety of vices. Prostitution was open and rampant in all of the large cities of Nigeria—it was especially well developed in those cities where commerce and industry brought large numbers of foreigners. Gambling establishments, located mainly in large European style hotels, and managed incidentally by Italian visitors, catered to the moneyed set with a variety of games of chance competitive with Monte Carlo or Las Vegas. There was a large illicit liquor trade (mostly a home-brewed gin-like drink), as well as a smaller but nevertheless profitable trade in drugs that received political and legal protection through payoffs to high level officials.

In at least Ibadan and Lagos, gangs of professional thieves operated with impunity. These gangs of thieves were well organized and included the use of beggars and young children as cover for theft activities. The links to the police were sufficient to guarantee that suspects would be treated leniently—usually allowed to go with no charges being brought. In one instance an entire community within the city of Ibadan was threatened by thieves with total destruction. The events leading up to this are revealing. The community, which I shall call Lando, had been victimized by a gang of thieves who broke into homes and stole valuable goods. The elders of Lando hired four men to guard the community. When thieves came one evening the hired guards caught and killed three of them. The next day the Oba of the community was called on by two men from another part of the city. These men expressed grave concern that some of their compatriots had been killed in Lando. The Oba informed them that if any other thieves came to Lando they would be dealt with similarly. The thieves' representatives advised the Oba that if such a thing happened the thieves would burn the community to the ground. When the Oba said he would call the police, it was pointed out to him that the chief of police was the brother-in-law of one of the thieves. Ultimately an agreement was reached whereby the thieves agreed to stop stealing in Lando in return for the Oba's promise that the thieves could sell their stolen property in Lando on market day.

Ibadan is a very cosmopolitan city which lies in the Yoruba section of western Nigeria. Although dominated by the Yoruba, there are nonetheless a large number of Hausa, Ibo and other ethnic groups in the city. The Hausa who are strongly Muslim (while the Yoruba are roughly 50% Christian) occupy a ghetto within Ibadan which is almost exclusively Hausa. Despite the fact that the Hausa are an immigrant group where one might expect the crime rate to be high, there are very few Hausa arrested for crime. (See Table 1.) This is particularly impressive since there is general belief that the Hausa are responsible for some of the more efficient and effective groups of profes-

sional thieves in the area. The explanation for this apparently lies in the fact that the Hausa have a strong leadership which intervenes with payoffs and cash to government and police officials whenever a member of their community is in any difficulty.

TABLE 1

Arrest Rate for 1,000 Population,
Ibadan, Nigeria 1967

<i>Immigrant Areas</i>	<i>Indigenous Area</i>	<i>Hausa Area</i>
1.41	.61	.54

Payment of bribes to the police is usually possible whenever an arrest is likely. An incoming American who illegally photographed an airport was allowed to go (without even destroying his film), upon payment of \$15.00 to the arresting officer. Six dollars was sufficient for the wife of an American professor to avoid arrest for reckless driving. A young son of a wealthy merchant was arrested on numerous occasions for being drunk, driving without a license, stealing and getting into fights. On every occasion the police returned him to the custody of his parents without charges being filed when the father paid the arresting officer (or the policeman on the desk) thirty to forty-five dollars.

Such practices were not atypical, but were instead the usual procedure. It was said, and research bears this out, that one with money could pay to be excused from any type or amount of crime.

Who, then, did get arrested? In general, those who lacked either the money or the political influence to "fix" a criminal charge. The most common youth arrest was for "street trading"—that is, selling items on the street. The second most frequent offense was "being away from home" or "sleeping out without protection." Among adults, "suspiciousness," public indecency, intoxication and having no visible means of support were the most common offenses. Although robbery, theft and burglary were common offenses (in a sample of 300 residents of Ibadan, 12.7% reported having been the victim of burglary), arrests for these offenses were much less frequent.

Anyone who has lived or traveled in foreign countries will not be surprised by these findings. What is usually not recognized, however, is that these same kinds of things characterize crime and criminal law enforcement in the United States (and possibly every other nation) as well.

Crime and Law Enforcement in Seattle

Seattle, like Ibadan, is a city of 1,000,000 people with its own police, government, and set of laws inherited from Great Britain. In Seattle, as in Ibadan, any type of vice can be found. It is only necessary to travel away from the middle and upper class suburbs that ring the city, and venture into the never-never land of skidrow derelicts, the Black ghetto or a few other pockets of rundown hotels, cafes and cabarets that are sprinkled along freeways and by the docks. Here there is prostitution, gambling, usury, drugs, pornography, bootleg liquor, bookmaking and pinball machines.

The most profitable of these are gambling and usury. Gambling ranges from bookmaking (at practically every street corner in the center of the city), to open poker games, bingo parlors, off-track betting, casinos, roulette and dice games (concentrated in a few locations and also floating out into the suburban country clubs and fraternal organizations), and innumerable two and five dollar stud-poker games scattered liberally throughout the city.

The most conspicuous card games take place from about ten in the morning (it varies slightly from one "fun house" to the next) until midnight. But there are a number of other twenty-four hour games that run constantly. In the more public games the limit ranges from one to five dollars for each bet; in the more select games that run twenty-four hours a day there is a "pot limit" or "no limit" rule. These games are reported to have betting as high as twenty and thirty thousand dollars. I have seen a bet made and called for a thousand dollars in one of these games. During this game, which was the highest stakes game I witnessed in the six years of the study, the police lieutenant in charge of the vice squad was called in to supervise the game—not, need I add, to break up the game or make any arrests, only to insure against violence.

Prostitution covers the usual range of ethnic groups, age, shape and size of female. It is also found in houses with madams as in New Orleans, on the street through pimps, or in suburban apartment buildings and hotels. Prices range from five dollars for a short time with a street walker to two hundred dollars for a night with a lady who has her own apartment (which she usually shares with her boyfriend who is discreetly gone during business operations).

High interest loans are easy to arrange through stores that advertise "your signature is worth \$5,000." It is really worth considerably more; it may, in fact, be worth your life. The interest rates vary from twenty per cent for three months to as high as one hundred per cent for varying periods. Repayment is demanded not through the courts, but through the help of

“The Gaspipe Gant” who call on recalcitrant debtors and use physical force to bring about payment. The “interest only” repayment is the most popular alternative practiced by borrowers, and is preferred by the loan sharks as well. The longer repayment can be prolonged, the more advantageous it is to the loan agents.

Pinball machines are readily available throughout the city, and most of them pay off in cash. The gambling, prostitution, drug distribution, pornography, and usury (high interest loans) which flourish in the lower class center of the city do so with the compliance, encouragement and cooperation of the major political and law enforcement officials in the city. There is, in fact, a symbiotic relationship between the law enforcement-political organizations of the city and a group of *local* (as distinct from national) men who control the distribution of vices.

The payoffs and briberies in Seattle are complex. The simpler and more straightforward are those made by each gambling establishment. A restaurant or cabaret with cardroom attached had to pay around \$200 each month to the police and \$200 to the “syndicate.” In reality these were two branches of the same group of men, but the payoffs were made separately. Anyone who refused these payments was harassed by fire inspectors, health inspectors, licensing difficulties and even physical violence from enforcers who worked for the crime cabal in the city. Similarly, places with pinball machines, pornography, bookmaking or prostitution had to pay regularly to the “Bagman” who collected a fee for the police.

Payoffs to policemen were also required of two truck operators, cabaret owners and other businesses where police cooperation was necessary. Two truck drivers carried with them a matchbox with \$3.00 in it and when asked for a light by the policeman who had called them to the scene of an accident, they gave him the matchbox with the \$3.00 inside. Cabaret owners paid according to how large their business was. The police could extract payoffs because the laws were so worded as to make it virtually impossible to own a profitable cabaret without violating the law. For example, it was illegal to have an entertainer closer than 25 feet to the nearest customer. A cabaret, to comply with this ordinance, would have had to have a night club the size of a large ballroom, at which point the atmosphere would have been so sterile as to drive customers away, not to mention that such large spaces are exceedingly expensive in the downtown section of the city. Thus, the police could, if they chose to, close down a cabaret on a moment’s notice. Payoffs were a necessary investment to assure that the police would not so choose.

The trade in licenses was notoriously corrupt. It was generally agreed by my informants that to get a tow truck license one had to pay a bribe of \$10,000; a card room license was \$25,000; taxi cab licenses were unavailable, as were licenses for distributing pinball machines or juke boxes. These licenses had all been issued to members of the syndicate that controlled the rackets, and no outsiders were permitted in.

There were innumerable instances of payoffs to politicians and government officials for real estate deals, businesses and stock transactions. In each case the participants were a combination of local businessmen, racketeers, local politicians and government officials.

Interestingly, there is also a minority ghetto within Seattle where one might expect to find a high crime rate. In Seattle this is the Japanese American section of the city.

It is widely believed that the Japanese-Americans have a very low propensity to crime. This is usually attributed to the family centered orientation of the Japanese-American community. There is some evidence, however, that this perspective is largely a self-fulfilling prophecy.²³ Table 2 shows a comparison between the self-reported delinquency and arrest rates of Japanese-American youth for a selected year. The data suffers, of course, from problems inherent in such comparisons, but nonetheless, the point cannot be gainsaid that the actual crime rate among Japanese-American youth is considerably higher than the conventional view would suggest.

TABLE 2

Comparison of Arrests (for 1963) and Self-Reported Delinquency Involvement by Racial Groups^a

Radical Group	Per Cent Arrested	Per Cent Self-reporting High Delinquency Involvement ^b
White	11	53
Negro	36	52
Japanese	2	36

^a Based on data from Richard H. Nagasawa, *Delinquency and Non-Delinquency. A Study of Status Problems and Perceived Opportunity*, unpublished M.A. thesis, University of Washington, 1965, p. 35.

^b A self-reported delinquency scale was developed and the respondents were divided, so that 50 per cent of the sample was categorized as having high, and 50 per cent as having low delinquent involvement.

Thus we see that in both the Hausa area of Ibadan and the Japanese-American section of Seattle there is reason to suspect a reasonably high crime rate, but official statistics show an exceptionally low one. When discussing Hausa crime earlier, I attributed this fact to the payoffs made by Hausa leaders to the police and other government officials.

Somewhat the same sort of system prevails in Seattle as well, especially with regard to the rackets. Whereas prostitutes, pornography shops, gambling establishments, cabaret operators and tow truck operators must pay off individually to the police and the syndicate, the Japanese-American community did so *as a community*. The tithe was collected by a local businessman, and was paid to the police and the syndicate in a group sum. Individual prostitutes and vice racketeers might at times have to do special favors for a policeman or political figure, but by and large the payoffs were made collectively rather than individually.

This collective payoff was in large measure attributable to a common characteristic present in both the Hausa and the Japanese-American communities, namely, the heterogeneous social class nature of the community. Typically, wealthy or middle-class members of the lower class white slum or the Black ghetto moved out of these areas as rapidly as their incomes permitted. So too with Yoruba, Ibo or other ethnic groups in Ibadan. But many, though certainly not all, upper and middle-class Hausa in Ibadan, and Japanese-Americans in Seattle retained their residence in their respective communities. As a result, the enforcement of any law became more problematic for law enforcement agencies. Arrests made of any youth or adult always carried with it the possibility that the suspect would have a politically influential parent or friend. There was also the possibility that a payoff of some sort (including political patronage) would override the policeman's efforts. Since there was also the necessity to hide from the middle- and upper-class the extent to which the police closed their eyes to the rackets, it was then convenient to avoid having many police in the Hausa and Japanese-American community. The myth of these areas as "no crime" sections of the city was thus very convenient. By contrast, since only those members of the middle- and upper-class who were seeking vice would come to the skidrow area, or the Black ghetto, then the presence of the police was not problematic, and in fact helped to assure the "respectable" citizen that he could partake of his purient interests without fear of being the victim of robbery or violence.

As in Nigeria, all of this corruption, bribery and blatant violation of the law was taking place, while arrests were being made and people sent to jail or prison for other offenses. In Seattle over 70% of all arrests during the time of

the study were for public drunkenness.²⁴ It was literally the case that the police were arresting drunks on one side of a building while on the other side a vast array of other offenses were being committed with police support and management.

What then are we to conclude from these data about the etiology of criminal behavior? For a start, the data show that criminal behavior by *any reasonable* definition is *not* concentrated in the lower classes. Thus, to the extent that a theory of the causes of criminal behavior depends on the assumption that there is a higher rate of criminality in the lower classes, to that extent, the theory is suspect. These data on Seattle and Ibadan link members of the ruling class, legal and political officials and racketeers in joint ventures which involve them actively and passively in criminal activities as part of their way of life.

This conclusion, ironically, is identical with Edwin Sutherland's only he came to this view from his study of corporation ("white collar") crime. However, he then went on to propose an explanation for criminality which was essentially socio-psychological: Sutherland asked why some *individuals* became involved in criminal behavior while others did not. My contention is that this question is meaningless. Everyone commits crime. And many, many people whether they are poor, rich or middling are involved in a way of life that is criminal; and furthermore, no one, not even the professional thief or racketeer or corrupt politician commits *crime all the time*. To be sure, it may be politically useful to say that people become criminal through association with "criminal behavior patterns," and thereby remove the tendency to look at criminals as pathological. But such a view has little scientific value, since it asks the wrong questions. It asks for a psychological cause of what is by its very nature a socio-political event. Criminality is simply *not* something that people have or don't have; crime is not something some people do and others don't. Crime is a matter of who can pin the label on whom, and underlying this socio-political process is the structure of social relations determined by the political economy. It is to Sutherland's credit that he recognized this when, in 1924, he noted that:

An understanding of the nature of Criminal law is necessary in order to secure an understanding of the nature of crime. A complete explanation of the origin and enforcement of laws would be, also, an explanation of the violation of laws.²⁵

But Sutherland failed, unfortunately, to pursue the implications of his remarks. He chose instead to confront the prevailing functionalist perspective

on crime with a less class-biased but nonetheless inevitably psychological explanation.

The argument that criminal acts, that is, acts which are a violation of criminal law, are more often committed by members of the lower classes is not tenable. Criminal acts are widely distributed throughout the social classes in capitalist societies. The rich, the ruling, the poor, the powerless and the working classes *all* engage in criminal activities on a regular basis. It is in the enforcement of the law that the lower classes are subject to the effects of ruling class domination over the legal system, and which results in the appearance of a concentration of criminal acts among the lower classes in the official records. In actual practice, however, class differences in rates of criminal activity are probably negligible. What difference there is would be a difference in the type of criminal act, not in the prevalence of criminality.

The argument that the control of the state by the ruling class would lead to a lower propensity for crime among the ruling classes fails to recognize two fundamental facts. First is the fact that many acts committed by lower classes and which it is in the interests of the ruling class to control (e.g., crimes of violence, bribery of public officials, and crimes of personal choice, such as drug use, alcoholism, driving while intoxicated, homosexuality, etc.) are just as likely—or at least very likely—to be as widespread among the upper classes as the lower classes. Thus, it is crucial that the ruling class be able to control the discretion of the law enforcement agencies in ways that provide them with immunity. For example, having a legal system encumbered with procedural rules which only the wealthy can afford to implement and which, if implemented, nearly guarantees immunity from prosecution, not to mention more direct control through bribes, coercion and the use of political influence.

The Marxian paradigm must also account for the fact that the law will also reflect conflict between members of the ruling class (or between members of the ruling class and the upper class “power elites” who manage the bureaucracies). So, for example, laws restricting the formation of trusts, misrepresentation in advertising, the necessity for obtaining licenses to engage in business practices are all laws which generally serve to reduce competition among the ruling classes and to concentrate capital in a few hands. However, the laws also apply universally, and therefore apply to the ruling class as well. Thus, when they break these laws they are committing criminal acts. Again, the enforcement practices obviate the effectiveness of the laws, and guarantee that the ruling class will rarely feel the sting of the laws, but their violation remains a fact with which we must reckon.

It can also be concluded from this comparative study of Ibadan and Seattle that law enforcement systems are *not* organized to *reduce crime* or to enforce the public morality. They are organized rather to *manage* crime by cooperating with the most criminal groups and enforcing laws against those whose crimes are minimal. In this way, by cooperating with criminal groups, law enforcement essentially produces more crime than would otherwise be the case. Crime is also produced by law enforcement practices through selecting and encouraging the perpetuation of criminal careers by promising profit and security to those criminals who engage in organized criminal activities from which the political, legal and business communities profit.

Thus, the data from this study generally support the Marxian assertion that criminal acts which serve the interests of the ruling class will go unsanctioned while those that do not will be punished. The data also support the hypothesis that criminal activity is a direct reflection of class position. Thus, the criminality of the lawyers, prosecuting attorneys, politicians, judges and policemen is uniquely suited to their own class position in the society. It grows out of the opportunities and strains that inhere in those positions just as surely as the drinking of the skidrow derelict, the violence of the ghetto resident, the drug use of the middle class adolescent and the white collar crimes of corporation executives reflect different socializing experiences. That each type of criminality stems from social-psychological conditioning is to say nothing unique about crime and criminality, but only to posit what would have to be a general theory of human psychology—something which places the task beyond the scope of criminology and which has also been notoriously unsuccessful.

The postulates in the paradigm that deal with expected differences between capitalist and socialist societies have not been tested by the data presented, because our data come from two capitalist societies. Crime statistics which might permit a comparison are so unreliable as to be useless to the task. A comparison between East and West Germany would be most enlightening in this regard, as would a comparison between Yugoslavia and Italy, Cuba and Trinidad, or China and India. I have the impression that such a series of comparisons would strongly support the Marxist hypothesis of crime rates being highest in capitalist societies.

Summary and Conclusion.

As Gouldner and Fredrichs have recently pointed out, social science generally, and sociology in particular is in the throes of a "paradigm revolution."²⁶ Predictably, criminology is both a reflection of and a force behind this revolution.

The emerging paradigm in criminology is one which emphasizes social conflict—particularly conflicts of social class interests and values. The paradigm which is being replaced is one where the primary emphasis was on consensus, and within which “deviance” or “crime” was viewed as an aberration shared by some minority. This group had failed to be properly socialized or adequately integrated into society or, more generally, had suffered from “social disorganization.”

The shift in paradigm means more than simply a shift from explaining the same facts with new causal models. It means that we stretch our conceptual framework and look to different facets of social experience. Specifically, instead of resorting inevitably to the “normative system,” to “culture” or to socio-psychological experiences of individuals, we look instead to the social relations created by the political and economic structure. Rather than treating “society” as a full-blown reality (reifying it into an entity with its own life), we seek to understand the present as a reflection of the economic and political history that has created the social relations which dominate the moment we have selected to study.

The shift means that crime becomes a rational response of some social classes to the realities of their lives. The state becomes an instrument of the ruling class enforcing laws here but not there, according to the realities of political power and economic conditions.

There is much to be gained from this re-focusing of criminological and sociological inquiry. However, if the paradigmatic revolution is to be more than a mere fad, we must be able to show that the new paradigm is in fact superior to its predecessor. In this paper I have tried to develop the theoretical implications of a Marxian model of crime and criminal law, and to assess the merits of this paradigm by looking at some empirical data. The general conclusion is that the Marxian paradigm provides a long neglected but fruitful approach to the study of crime and criminal law.

Notes

- 1 In the United States the proportion of the population living in poverty is between 15 and 30% of the labor force.
- 2 Primary source materials for Marx's analysis of crime and criminal law are: *Capital*, v. 1, pp: 231–298, 450–503, 556–557, 574, 674–678, 718–725, 734–741; *The Cologne Communist Trial*, London: Lawrence and Wishart; *The German Ideology (1845–6)*, London: Lawrence and Wishart 1965, pp: 342–379; *Theories of Surplus*

- Value*, v. 1, pp: 375–376; “The State and the Law,” in T. B. Bottomore and Maxmillien Rubel (eds.), *Karl Marx: Selected Writings in Sociology and Social Philosophy*, New York: McGraw-Hill, 1965, pp: 215–231.
- 3 *Ibid.*, *Theories of Surplus Value*, pp. 375–376.
 - 4 For an excellent statement of differences in “order and conflict” theories, see John Horton, “Order and Conflict Approaches to the Study of Social Problems,” *American Journal of Sociology*, May 1966; see also Gerhard Lenski, *Power and Privilege*, New York: McGraw-Hill, 1966; William J. Chambliss, *Sociological Readings in the Conflict Perspective*, Reading, Mass: Addison-Wesley, 1973.
 - 5 Jerome Hall, *General Principles of Criminal Law*, Indianapolis: Bobbs-Merrill, 1947, pp: 356–357.
 - 6 For a more through analysis of this issue, see William J. Chambliss “The State, The Law and The Definition of Behavior as Criminal or Delinquent,” in Daniel Glaser (ed.), *Handbook of Criminology*, Chicago: Rand McNally, 1974, Ch. 1, pp. 7–43.
 - 7 Svend Ranulf, *The Jealousy of the Gods*, Vols. 1 & 2, London: Williams and Northgate, 1932; and *Moral Indignation and Middle Class Psychology*, Copenhagen: Levin & Monkagord, 1938; Joseph Gusfield, *Symbolic Crusade: Status Politics and the American Temperance Movement*, Urbana: University of Illinois Press, 1963.
 - 8 *Ibid.*; see also Andrew Sinclair, *Era of Excess: A Social History of the Prohibition Movement*, New York: Harper & Row, 1964.
 - 9 Jerome Hall, *Theft, Law and Society*, Indianapolis: Bobbs-Merill and Co., 1952; William J. Chambliss, “A Sociological Analysis of the Law of Vagrancy,” *Social Problems*, Summer 1964, pp. 67–77.
 - 10 James M. Graham, “Profits at all Costs: Amphetamine Profits on Capitol Hill,” *Transaction*, January 1972, pp. 14–23.
 - 11 Gabriel Kolko, *Railroads and Regulations*, Princeton: Princeton University Press, 1965; and *The Triumph of Conservatism*, New York; The Free Press of Glencoe, 1963.
 - 12 Alfred R. Lindesmith, *The Addict and the Law*, Bloomington: Indiana University Press, 1965; Edwin M. Lemert, *Social Action and Legal Change: Revolution Within the Juvenile Court*, Chicago: Aldine, 1964; Troy Duster, *The Legislation of Morality: Law, Drugs and Moral Judgement*, New York: The Free Press, 1970.
 - 13 Pamela A. Roby, “Politics and Criminal Law: Revision of the New York State Penal Law on Prostitution,” *Social Problems*, Summer, 1969, pp. 83–109.
 - 14 William J. Chambliss and Robert B. Seidman, *Law, Order and Power*, Reading, Mass.: Addison-Wesley, 1971.
 - 15 Kai T. Erikson, *Wayward Puritans: A Study in the Sociology of Deviance*, New York: John Wiley and Co., 1966.
 - 16 *Ibid*, p. 4.
 - 17 *Ibid*, p. 67.
 - 18 *Ibid*, p. 59.
 - 19 *Ibid*, p. 71.
 - 20 *Ibid*, p. 118.
 - 21 *Ibid*, p. 121–122.
 - 22 Throughout the paper we rely on data from Ibadan and Seattle as a basis for discussing the patterns in both countries. This lead may disturb some, and if so, then the study may be considered as directly referring only to the two cities—with only a possible application more generally. From a variety of research studies and my own impressions, I am convinced that what is true of Ibadan and Seattle is only true of Nigeria and the United States, but whether or not this is the case should not affect the overall conclusions of this inquiry.
 - 23 Richard H. Nagasawa, *Delinquency and Non-Delinquency: A Study of Status Problems and Perceived Opportunity*, Unpublished M. A. thesis, Seattle: University of Washington, 1965. See also William J. Chambliss and Richard H. Nagasawa, “On

the Validity of Official Statistics," *Journal of Research in Crime and Delinquency*, January, 1969, pp. 71–77.

- 24 James Q. Spradley, *You Owe Yourself a Drunk*, Boston: Little Brown and Co., 1970, p. 128.
- 25 Edwin H. Sutherland, *Criminology*, Philadelphia: J. P. Lippincott, 1924, p. 11.
- 26 Alvin W. Gouldner, *The Coming Crisis in Western Sociology*, New York: Basic Books, 1970; Robert W. Frederichs, *A Sociology of Sociology*, New York: The Free Press, 1970. For a more general discussion of paradigm revolution in science, see Thomas S. Kuhn, *The Structure of Scientific Revolutions* (2nd edition), Chicago: University of Chicago Press, 1970. ■