

THE ANALYSIS OF
CLASS, STATE, AND CRIME

THE ANALYSIS OF CLASS, STATE, AND CRIME:
A CONTRIBUTION TO CRITICAL CRIMINOLOGY

By

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Abstract

Critical criminology has suffered from poor theoretical development. This has resulted not only in confusion with other radical criminologies, but also in distorting the objectives of Marxist inquiry. This thesis examines this confusion via discussions of of class, the state, criminality and the scientific and ideological nature of Marxism. The objective is to demonstrate that a Marxist "critical criminology is both possible and desirable.

In order to avoid confusion with other perspectives, and to avoid an overly deterministic analysis, it is argued that critical criminology must recognise the importance of the distinctions between classes-in-themselves, classes-for-themselves and class fractions. Without a full understanding of these concepts it is possible to see the state as either a simple tool of a dominant elite, or an autonomous entity having a life of its own, rather than something created and controlled by human action. Further as a result of an overly simplistic analysis of the state it is possible to view crime as inevitably "revolutionary" rather than as something which may equally be counter to the interests of the working classes. Thus throughout the discussions of class, state and crime it is emphasised that

much of critical criminology has left out the dialectics of Marxian analysis.

It is the failure to include the dialectic which has led some critics to argue that critical criminology is simply "ideology" or "unscientific." Thus care is taken in the final chapter to specify that Marxism is both ideological and scientific. It is ideological to the extent that it is to act as a political statement of the interests of the working class in the effort at crime control, and it is scientific to the extent that it offers an analysis of the way in which social formations organise their social, political and economic life.

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Chapter 1

Introduction

There is no question that critical criminology has experienced considerable "growing pains." This is clearly reflected in its various theoretical statements which have attempted to link it with the writings of both Marx (1954; 1963; 1967; 1970; 1975; 1976a) and Engels (1942; 1963). From the time Marx and Engels wrote The Communist Manifesto in 1848, to the more recent work of Ian Taylor (1981) and Jock Young (1979), among others (Hall, 1978; Fine, 1979; Quinney, 1977), there have been a large number and variety of Marxian, critical criminologies. At times, these efforts have taken the form of arguments saying that the "ruling class" has such power over the "working class" that only the interests of the ruling class are represented and protected in law. At other times, the argument has been modified to allow that it is not simply a case of the ruling class dictating to all other classes what is to be done. Instead, it has been argued that the very structure of capitalist society prevents any particular class from exercising the kind of monolithic control implied by a "ruling class" model (see: Chambliss, 1979; Young, 1975; Spitzer, 1980; Balbus, 1973; 1978). Agreement, however, among even this latter group of analysts

has not always been possible. Some have argued (Balbus, 1973: 1978: Quinney, 1977) that there is only a "relative autonomy" between the state and the class, while others (Young, 1979: Chambliss, 1979) argue that even this relative autonomy model gives too much power to the class, as the class is still left in a position of totalitarian dominance.

Not all Marxists, furthermore, have agreed that a Marxist, or critical criminology is possible. Critics such as Mugsford (1974), Hirst (1975a; 1975b) and Bankowski, Mungham and Young (1977) have argued that the attempt to make crime an object of study within Marxism renders Marxism just one of many competing explanations of crime. As far as these critics are concerned, Marxism is a "problematic" which specifies its own objects of study--" ...the mode of production, the class struggle, the state, ideology, etc." (Hirst, 1975a, 204). Thus, objects, such as crime, not specified by these concepts, are not proper subjects for Marxist investigation.

Despite these critiques, critical criminology continues to develop. However, it continues to develop unevenly as discrepancies in argument and analysis persist. The objective in the following pages is to document this unevenness, and to offer an explanation which might account for the varying interpretations of Marx and Marxism. Needless to say, the simple task of reviewing what has been said before can be a useful enterprise. Many of the classic works of sociology, and criminology, are essentially attempts

to summarize what has been done. Stocktaking, however, has limited usefulness. It does not allow for the opportunity to build onto that which already exists, or even to replace that which needs to be replaced. Consequently, I view this attempt to reconstruct the critical analysis of crime as a step not only towards clarification, but also theory building. The ultimate task of this thesis is to clarify and elaborate upon the critical explanation of crime, placing this explanation clearly within the theoretical tradition known as Marxism.(1)

Before the process of reconstruction may begin, however, it is necessary to understand that which is in need of reconstruction. In this respect it must be recognized that much of critical criminology, particularly as it developed during the early to mid 1970's, has been confused with other perspectives. Some critical criminologist's work clearly overlaps with Weberian conflict theory and/or with anarchism. The difference here being that conflict theory, based on the work of Max Weber (1946; 1958), argues a variation of bourgeois pluralism(2) in which the basic conflicts in society are seen to arise not from material relations, as in most of Marxism, but primarily from competing values held by various status or interest groups. Similarly, some critical criminologists (Taylor, Walton and Young, 1973; Quinney, 1974; 1977: Sternberg, 1972) have tended to flirt with certain anarchist (Bakunin, 1971a; 1971b; 1971c) assumptions about the "revolutionary" potential

of crime and criminality. Reflecting the anarchist tradition, these theorists have argued that crime is a sign of resistance, or rebelliousness on the part of the criminal. In both cases, as will be documented, there is a clear departure from Marxian analysis, and this departure has a serious impact on the legitimacy of the claim being made by critical criminologists that their analysis is Marxist. The following few pages, therefore, are intended to give some background to the way critical criminology developed. Once this brief history is completed it will be possible to more clearly identify the specific issues and problems to be discussed in subsequent chapters.

Before proceeding further, however, it should be noted that several criteria have been used for selecting material for discussion in the following pages. First of all, many standard and popular textbooks, such as Thio (1978), Reid (1976:1979), Barlow (1980), Quinney (1975), and anthologies, such as, Inciardi (1981), Taylor, Walton and Young (1975), and Greenberg (1980), were examined to ascertain which critical theorists loomed as the most "prominent," and thus most appropriate for discussion. Secondly, the journals most likely to publish works by critical criminologists were examined to uncover others who might be less well known, but able to make some contribution. The two journals which figure most prominently here are Crime and Social Justice and Contemporary Crises, but others such as Social Problems, and Crime and Delinquency were also

examined. Finally, critical reviews of the work done by "radical" criminologists were examined as a means of testing, once again, the prominence of specific theorists and theoretical positions. Out of this examination of the literature came an understanding of the awesome task of sorting the many variations in analyses.

The Emergence

Tracing the development of critical criminology is no easy task. It can, of course, be traced to the work of Marx (1954; 1963; 1967; 1970; 1975; 1976) and Engels (1942; 1963). From there it could be traced to the pioneering work of Bonger (1916), and from there to the work of Rusche and Kirchheimer (1939).(3) But such efforts do not allow an understanding of the special set of circumstances which permitted the seeds planted by Marx and Engels to begin growing in the late 1960's and to bloom in the early 1980's.

In this respect it is important to understand what was happening in the "turbulent 1960's." The 1960's may have been the age of the "hippie" and the "flower child," but it was also an age of protest and disquiet.

The Material and Ideological Roots:

The hippie, the flower child and the protestor, furthermore, were products of their times. It is virtually impossible to present them as the simple products of single causes or factors. They are the products of both material and ideological (non-material) forces. Clearly the relative

affluence of the 1960's provided the opportunity for many people to question many of the value structures then in place. This affluence allowed many such inquisitors to seek alternative means of achieving societal goals, or even the opportunity to redefine or change those goals. Many such inquiries, however, never ventured much beyond established ideological boundaries. In some respects the "hippie" and student movements, as well as the anti-war protests(4) continued within the cherished boundaries of individualism. "Do your own thing" and "make your own kind of music" carried considerable individualist, bourgeois baggage. The primary challenge, therefore, while rooted in the affluence of the age, was to ideological structures. They were attempts to redefine the ideology.

This interplay between material condition and ideology was not confined to these various social movements. Clearly, the response to those movements also reflected some ideological and some material changes. Frequently it seemed, the legitimacy of existing structures were challenged. Some people were horrified at the thought that the war in Vietnam was largely a war for profit,(5) as well as a war of competing ideologies. This horror at the war, and the apparent economic reasons for it, led some to participate in mass demonstrations. Many of these demonstrations resulted in violence, and the application of repressive state force.

Similar events were occurring in Europe where the German student movement (Habermas, 1970), as well as its

counterparts in Britain and France challenged the legitimacy of those societies. Particularly, in 1968, the student movement of France momentarily merged with various other "left" factions to produce the "May-June" uprising, and almost brought the government to its knees.(6) When grouped together for analysis these various movements, including the civil rights movement led by Martin Luther King, Jr., demonstrate the remarkable link between ideology and material condition. Born of affluence and the ideological concern for "rights" and "freedoms" these movements and events gave strong indication that Gramsci's "crisis in hegemony" [1971] was real. Most important for the development of modern critical criminology was the attempt by the State to label the civil protestor as a danger to the social order, as it did in its efforts to smear Martin Luther King (Halperin, et al, 1976) and others.

The state, however, was not alone in labeling these people as a danger to existing social order. Indeed, partly as a response to the state's treatment of these protestors, etc., many people, including some who were formally processed as "criminals," began to view the law breaker as something other than a villain. The law breaker became both victim and visionary.

In its extreme form this trend included efforts to define the criminal as rebel. At the time the analogy held that, since the civil protestor was a revolutionary, and was being repressed by the use of criminal law, the criminal, who

was also "repressed by law," must also be a "revolutionary." This is clearly seen in the work of such commentators as Hobsbawn (1969), Greenberg and Stender (1972), and Stender (1972), but is also evident in the work of Pallas and Barber (1973), Taylor, Walton and Young (1973), Taylor and Walton (1972), and L. Taylor and Walton (1971). Within these various works the street criminal, the social activist, and the self-proclaimed "revolutionary" are lumped together, as in the anarchist tradition of Bakunin (1971a; 1971b), without regard for the very real differences between them. Little consideration, if any, is given to the possibility that all might be counter revolutionary.

The Academic Response:

"Radical criminology," of course, was to take many directions. One of the earlier forms of "radical criminology" was to be found in the work of the labeling theorists. Becker (1967), for example, was among the first to advocate that sociologists, who study deviant behaviour, should "chose sides" with the deviant. In effect, Becker was saying that more effort was needed to explain the deviant as normal than had hitherto taken place. Labeling theory, however, was to be severely criticised. Gouldner (1968) was to say that labeling theory, and Becker in particular, was less than explicit in making the politics of studying deviance clear. Indeed, Gouldner, as well as Smith (1973), sometime later, said that labeling theory actually sided with the powerful. Other critics (Liazos 1972) were to add that

the efforts of labeling theory to "humanize" the deviant were doomed because the deviant was still to be addressed and discussed within the context of courses on "deviant" behaviour.

Unfortunately, much of this early literature consisted of little more than critiques of other perspectives. Not only labeling theory, but functionalism (Horton, 1964; 1966) was to be unfavourably compared to an, as yet, only emergent critical theory of deviance. Even the influential New Criminology (Taylor, Walton and Young, 1973) failed to offer a fully developed Marxist theory of deviance. Like its predecessors, it contained insightful critiques, but did little to specify the "new theory" (Currie, 1974).

What proved to be even more problematic to the development of critical criminology was the emergence of a non-Marxist conflict theory. This proved to be problematic for several reasons. First, many of its advocates claimed to have based their analysis in the work of Marx, but were as yet unwilling to fully embrace Marxism. This is most clearly seen in Quinney's The Social Reality of Crime (1970), (7) but is also evident in later work by Hills (1971) and Krisberg (1975). In such cases, there is frequent reference to Marx and the utility of his analysis, but there is also a clear rejection of Marxism.(8) Instead, a more eclectic approach is used in which bits and pieces of various theoretical traditions are used. To the extent that any one theoretical tradition is dominant within conflict theory, it is to the

extent that it generally reflects the work of Weber (1946; 1947; 1949; 1958), as he is seen (see also: Collins, 1975; Turk, 1977) to offer a more complex view of conflict analysis. Secondly, as critical criminology developed, and some of its advocates abandoned their earlier positions (Chambliss, 1964; 1969: Quinney, 1969; 1970; 1970a) to take on increasingly more explicit Marxian positions (Chambliss, 1974a; 1974b; 1976a; 1976b; 1979: Quinney, 1973; 1974; 1977; 1978b), critics and commentators, as well as the theorists themselves, frequently became lost in the transformation. They were simply unable to distinguish between the various forms of conflict analysis and Marxism. Thus, even recent textbook writers, such as Reid (1976), Barlow (1981) and Rich (1979), summarize them as if no differences are present.

The influence of Weber should not be ignored. Not only, as indicated, did it prove crucial to the development of such prominent figures as Chambliss and Quinney, but it also provided a basis for the critique of existing political, social and economic relations which is fundamentally different from that contained in the work of Marx and Engels. Grounded in the work of Weber, although interpreting Weber as much more of an idealist than his work actually indicates(9), and finding further support in the work of Dahrendorf (1958; 1959; 1968), conflict criminologists argue that societal conflict is primarily rooted in differences between the values held by different segments, or groups, within society. In essence this means that conflict criminologists locate the

primary conflict in processes which Marxists maintain are of secondary importance. While, as will be shown, various Marxists grant different degrees of importance to the realm of ideas, almost all argue the primacy of material relations. Thus the Weberians can generally argue that power in society rests with authorities, and subjects must learn to comply with the demands (i.e., values) of authorities or risk criminalisation (see especially Turk, 1969: 1977). They can do this, because, unlike Marx, but like Weber, they clearly separate status and power from class (Weber, 1946). Accordingly, each is granted its own capacity for influence over legal structures and the criminalisation process. Thereby a merger is effected not only between Weber and Dahrendorf, but new significance is given to the pioneering work of Vold (1958) and his concept of "culture conflict." (10) This results in explanations of conflict which may be radical (compared to functionalist analysis) but which leave the basic structure of the society unchallenged. Indeed, common to Weberian conflict criminology is the assumption that existing social arrangements (capitalist superstructure) are inevitable.

The Europeans, of course, were undergoing similar changes and influences. They too were not unaffected by the events of the 1960's. As in the case of the Americans, their break with "mainstream criminology" was not total during its initial phase. It too tended to flirt with the more "political" interpretations of labeling theory [see for

example, Cohen (1972), Young (1971), Taylor, Walton and Young (1973), and the more phenomenological approach of Phillipson and Roche (1976)] . Perhaps the crucial beginning was the National Deviancy Conference at York University in 1968. Arranged because many British criminologists, had an "...identity problem, and needed a form of sub-cultural support" (Cohen, 1971, 15), the York Group, as Wiles (1966) calls it, was to prove only moderately successful. While it brought "the new generation criminologists" together, the diversity of the group proved fatal. As Wiles comments:

... the York Group substantially failed to modify the old institutions of criminological research; it failed to find any alternative set of arrangements by which new and critical research designs could be applied to formal agencies of social control... (1976b, 14).

That is, although many of its members made it quite clear that they wanted nothing to do with "correctionalism" (Taylor, Walton and Young, 1973), they failed to "modify old institutions" because their roots, and theories themselves, remained firmly imbedded in the old.(11) Indeed, as Downes has said, the efforts to create the new from the old resulted in the new having no "firm theoretical anchorage" (1979, 2). Like their American counterparts, the York Group did not have a firm conception of where it was going, and, for a time, were engaged in various types of "radical" research including what Taylor, Walton and Young (1975) term "expose criminology." They had not yet begun to do the kind of work for which the "Birmingham Group," led by Hall, et al. (1978), were to become noteworthy.

They were unable to establish a new form in their early work for essentially the same reasons as their American counterparts. It must never be ignored that criminologists, as intellectuals, are structurally separated from those about whom they write and study. Intellectuals may study the proletariat, and may be sympathetic to its cause, but they are not the proletariat. Consequently, the efforts of these radical criminologists often reflected concerns of other classes, especially the bourgeoisie (see Currie, 1974). That is why much of orthodox Marxism firmly maintained that a "Marxist" criminology was neither possible nor necessary. They too argued that critical criminology, in both the 1960's and 1970's, was an ideological expression, originating in changes in value structure and not changes in the mode of production.

Methodological Concerns:

A significant factor contributing to much of the early confusion, of course, was the problem of methodology. Not only were the early critical theorists still firmly imbedded within bourgeois structures, they were still largely engaged in bourgeois forms of inquiry. This is reflected in their inadequate understanding of the dialectical method of analysis. Familiar perhaps with only the bourgeois interpretation of Marx, learned in the academic institutions in which they survived, the early critical criminologists viewed the dialectic in extremely simplistic form. It was simply a matter of "labour vs. capital" with little or no

understanding of the complexities involved. Missing from their analyses is the observation that contradictions are also evident in the very nature of capitalist relations. That is, capitalist social relations inevitably imply opposed social relations. Understanding that this opposed relation exists, and that it has the potential to unite those in opposition, is an important analytical observation.

Even more crucially, many of the early efforts were guilty of over indulging in Hegelian analysis. As some of the leading exponents in "radical criminology," as it was called then, had been essentially Weberian analysts, it should not come as a surprise that they became overly concerned with the battles of ideology, that is, rather than locate dialectical struggles within the broader context of both material and non material relations, they largely confined themselves to discussions of ideological battles and ideological causes for social change. Indeed the work of Quinney (1970;1970a) remained firmly imbedded within the tradition of subordinating economic material relations to ideological relations.

I do not wish to imply here that this has been a thorough discussion of the Marxist use of the dialectic. It has not. Rather, I wish to indicate that one of the major stumbling blocks, in the development of critical criminology, has been its failure to provide an adequate understanding of the contradictions apparent in capitalist social relations. This has resulted in failure to understand even the most

basic of Marxian concepts, such as class. It has also led to misinterpretations of the role of the state, the nature of crime, and the objectives in Marxist inquiry. As such the pages which follow are as much a concern over methodology as they are over substantive analysis. The issues and problems discussed emerge out of a failure of the relevant literature to deal with the problem and theory of contradictions.

The Issues to be Addressed

As indicated in the process of developing a critical criminology, several distortions and abuses of Marxian concepts and understandings have occurred. Leading the way in this list of distortions and abuses are the analysis of class and state. Given the centrality of class and state in Marxian analysis, it is extremely important that critical criminology's analysis of them be explored in detail. Such examination is needed not only to distinguish between the distorted and more appropriate conceptualisations, but also because the distorted analyses have led to serious problems in the image and analysis of crime itself. Based upon a suspect analysis of class and state, critical criminologists have frequently overromanticised criminality in a fashion quite incompatible with that contained within even Marx's inconsistent and incomplete analysis of crime.

There are, of course, some Marxists who would argue that the very attempt to develop a Marxian, critical criminology represents a distortion of Marx and Marxism. For

these Marxists, the proper objects of study are "... the mode of production, the class struggle, the state, ideology, etc." (Hirst, 1975a, 205).⁽¹²⁾ Accordingly, crime, as an object of study lies outside the proper sphere of Marxist inquiry. Much more than critiques of other, more conservative critics (Klockars, 1980), this represents a serious challenge to the legitimacy of critical criminology. It represents a challenge from the very tradition in which critical criminology attempts to ground itself. Consequently, some effort, and care, must be taken to respond to this critique. The pages which follow are an attempt to focus, in more detail, on the problems which arise with respect to the analysis of class, state, and crime within critical criminology as they reflect upon the legitimacy of critical criminology's theoretical claims.

Class:

One of the more frustrating problems for critical criminologists is the fact that their analysis of class is frequently misunderstood by critics. For example, Klockars (1979; 1980) in his critique of radical criminology offers that the "... evil of class unites the radical criminologists" (1980, 95). To illustrate he suggests that "... Chambliss is as good a guide to the centrality of class as any of the others" (1980, 95), including Quinney (1970; 1974; 1975; 1977; 1979), Platt (1969; 1973; 1974; 1975), and the Schwendingers (1964; 1970; 1972; 1973; 1974; 1976a; 1976b). He cites Chambliss as saying:

Criminal behaviour is explained by the forces of class interests and class struggles, and most fundamentally by the contradictions inherent in the social relations created by the society's particular modes of production. In capitalist society crime and criminal law are the result of the social relations created by a system which expropriates labour for the benefit of a capitalist class (1976b, 5)

Klockars then asserts that this assumption of the "evil of class" is "an assumption that is intellectually and historically questionable." (1980, 95). As far as he is concerned:

The evidence for the role of class in periods of great cultural production in art, music, literature, and scholarship is overwhelming. Class hierarchy has served as protector and cultivator of artistic and intellectual pursuits, defending them from both the power of the state and the jealousy of the masses. (1980, 19)

For Klockars to boldly assert that the radical criminologists are offering an "intellectually and historically questionable" conception of class is rather ironic, as he has himself committed a serious scholarly error. Not only does he labour under the misconception that radical criminologists blame class for all that is "bad" in society, he also fails to clearly distinguish between the very different models of class offered by the various radical criminologists. Indeed, it is quite evident that Klockars is unable to distinguish between the different conceptions of class contained in Quinney's Social Reality of Crime (1970), Critique of Legal order (1974) and Class, State and Crime (1977). Nor is he able to distinguish the subtleties between

the various models of class contained in Chambliss' work (1964; 1976b; 1979). Both Quinney and Chambliss have used three distinct models of class in their various works. Both had undergone an essentially Weberian period (Quinney, 1969; 1970; 1970a: Chambliss, 1964; 1969; 1971) as well as a deterministic Marxian period (Quinney, 1974: Chambliss, 1976b) followed by essentially structuralist views (Quinney, 1977: Chambliss, 1979). Consequently, Klockars is left with a critique which, at best, allows him to paint the one with the sins of the others.(13)

Such sins are only partially excused by the fact that both Chambliss and Quinney began their careers employing non-Marxist perspectives. It is quite clear that Klockars wishes to avoid all discussion of class as an important variable affecting legal arrangements. Indeed, it would seem that Klockars is of the opinion that class is no longer applicable as a means of understanding contemporary society.

... in modern society class is ideology, not social reality. This does not mean, of course, that there are not owners and non-owners of the means of production. What it does mean is that the empirical social reality of classes of the kind Marx could behold in nineteenth-century England, that Baldwin speaks of in an earlier quotation, and even into the early part of this century Fitzgerald's great Gatsby could strain to imitate, exists in America's past rather than in its present. (Klockars", 1980, 97).

Whatever Klockars thinks he is criticizing here, it is not the Marxist concept of class. The Marxist concept of class is not simply an "empirical social reality," but also a concept assisting our understanding of how people, over time,

experiencing different material conditions, are shaped by, and become aware of, their relations to one another, and "the means of production." To assert that class is not a part of current American reality, while at the same time acknowledging the reality that there are still owners and non-owners of the means of production, further reveals Klockars' inability to understand the Marxist concept of class.

The main problem, however, is not that Klockars is unable to understand the Marxist concept of class, but, rather, that Marxists themselves have not offered a uniform model: That Klockars was unable to identify this unevenness further reveals the weakness of his critique. Within what may be termed mainstream Marxism (i.e., those Marxisms not concerned with the problem of crime, crime causation and criminality), there are a variety of definitions of class. The two which present the most difficulty for the present discussion, in that they have found their way into the critical criminological literature, are those of Lukacs (1971) and Miliband (1969). On the one hand Lukacs presents a forceful argument concerning the centrality of consciousness as a major factor determining class, while on the other hand Miliband presents a forceful argument favouring an instrumental (economic determinist) definition of class. The subjectivism of Lukacs has found expression in the work of Taylor and Walton (1975; with Young, 1973), while the determinism of Miliband has found expression in such

figures as Gordon (1971; 1973), and Pearce (1973; 1976). Adding to the problem is the fact that both traditions may be found in the ever variable work of Quinney.

The problem encountered here is that it is possible to interpret critical criminology, based on selected readings of these authors, or others who offer similar positions, as saying that class is either subjective understanding or objective position. Actually, neither extreme is suitable as both allow for analyses which do not have to deal with the more genuinely Marxist concept of class found in such works as Hall, et al. (1978), Spitzer (1980) and Young (1979). In these works, there is a tendency to view class in less deterministic fashion as an unstable entity linking both subjective and objective components. Thus the concept of class, and of class relations, to be used here, is that class has both an objective and a subjective component. It's objective component is termed class-in-itself and refers to empirically establishable relations to the means of production, such as those who buy the labour power of others, but who contribute no labour power of their own to production (the bourgeoisie), those who buy or control the labour power of others, but who also contribute their own labour power to production (petit bourgeoisie), and those who sell their labour power to others (the proletariat). The subjective component is termed class-for-itself and refers to the awareness any class has of its own objective position and its awareness of its opposed position relative to others

occupying a different relation to the means of production. Class-for-itself also implies a willingness of the class to take action to secure its interests in the face of opposition from other classes. Further, as I shall use class, it is to be understood that the broad categories of bourgeoisie, petit bourgeoisie and proletariat do not exist as homogenous entities. There are important objective and subjective differences among members of the same general class. It is within this context that one is able to speak of the "ruling classes," etc., which implies more than one entity within a broader category.

What I will be doing in Chapter II, therefore, is examining critical criminology's use of class in an attempt to reveal that which is problematic, as well as that which is worth pursuing further. Consistent with the overall objective of the thesis, I will be attempting to do more than summarize what has been said. I will also be attempting to reorient, and redirect critical criminology. The specific direction in which I would like to see it develop will become clearer in that chapter. It is sufficient at this point to say merely that the work of Hall, et al. (1978), Taylor (1981), Young (1975; 1979), Fine (1979), and G. Young (1979) lead the way.

The State:

Once the problem of the class system and of class itself has been examined, attention will be directed towards the analysis of the state. Here as in the examination of

class, there are a number of contradictory conceptions of the state and its role in capitalist society, all of which refer to Marx as providing the groundwork for their analysis. For example, the analysis of the state provided by Miliband (1969) provides a particular referent for Quinney's analysis of the state in Critique of Legal Order (1974) regarding the homogeneity of the ruling and governing classes. That is, Quinney, as well as others (Gordon, 1971; 1973; Pearce, 1973; 1976), has observed, in much the way that Miliband did, that the ruling class and the governing class (state officials) are virtually indistinguishable from one another. On the other hand, there are those who assert that this is a gross oversimplification. The way to go about examination of the state, they say, is to recognize that the state does not act solely in the interest of a single minded governing, or ruling class. The state can and does serve interests apart from the interests of these specific people and groups. The question, as far as this group of theorists is concerned, is "How much independence from the ruling class does the state enjoy?" Is it total independence or merely the "appearance of autonomy?"

As was the case in respect to class, the problem revolves around the ability of the dominant class to control its own life situation through control of the state. Obviously, many who view class in monolithic terms will view the state in a similar fashion. The problem, however, is that even those who have not adopted an instrumental

conception of class can, at times, portray the state in an inconsistent fashion. They can argue that, even though the state is not simply an instrument of repression, it nonetheless serves a repressive role.

Needless to say, the work of Quinney, once again, emerges as a focal point for discussion. Whereas Quinney had argued a very determinist position in Critique of Legal Order, his position in Class, State and Crime (1977) favours a less instrumental position. Here he offers that the state does indeed have independence from the ruling elite. However, as with others, including Balbus (1973; 1978), there is a certain degree of uncertainty over how much independence the state really has, and exactly what these other interests served by the state might be. There is the suggestion that the state, either directly serves the interests of particular ruling class members, or indirectly serves the general interest of the ruling class by preserving an atmosphere in which a ruling class may survive even though particular individuals do not. Quinney's analysis implies a separation of these functions without consideration of how they might be linked. As a result a certain inconsistency reveals itself in his work. This inconsistency can also be found in other critical criminologists' work. The much debated role of the state, therefore, comes no closer to resolution, indeed becomes even more confused, in this literature.

The problems to be examined then are these:

- a) to what extent is the state an instrument of repression?
- b) to what extent, if any, may the state serve a proletarian interest?
- c) to what extent can the state act on its own?
- d) what is the real objective in having an apparently autonomous state?

My task is to offer a means by which the current discrepancies in approach and theory may be approached in order that continued progress towards a more "definitive" solution may proceed with less complication.

Crime:

One of the major difficulties with simplistic deterministic Marxist models of class and the state, is that they frequently imply a very romantic conception of criminality. The portrayal of class and state in strong monolithic terms necessarily implies that the state uses its powers, in virtually all cases, to suppress behaviour deemed damaging, or potentially damaging, to the interests of the dominant class. In other words, crime, which is defined and enforced through actions of the state in its role as suppressor of "contrary opinion," is revolutionary activity as it expresses the dissatisfaction of subordinates.

While there has been some effort to deny that a Marxist position on criminality would accept this clearly anarchist conception of crime, it is also quite clear that this conception of crime is to be found in the work of

Quinney, particularly in Critique of Legal Order, Taylor, Walton and Young (1973), Gordon (1971), Greenberg and Stender (1972) and others. Indeed, Taylor, Walton and Young make it quite clear that part of their intention in writing The New Criminology was "... to sustain what has until now been a polemical assertion, made (in the main) by anarchists and deviants themselves, that much deviance is in itself a political act" (1973, 221).

Clearly not all Marxists are in agreement, as not all adhere to such simplistic notions of class and state. However, it is not clear that the absence of a monolithic conception of class and state results in any less romanticism regarding criminality. This is particularly evident, once again, in Quinney's Class, State and Crime. Here the influence of Quinney's earlier, more Weberian approach, reveals itself in the way he portrays the role of consciousness in the "revolutionary" process. He offers that not only "... is much of the activity of the working class struggle defined as criminal" (1977, 59), but that "with the development of a political consciousness ... some criminally defined actions become a part of the revolutionary process" (1977, 103-5). In this context, it is clear that he wishes to imply that changes in consciousness must precede other types of changes in order for a transformation from capitalist to socialist society to take place. This is a particularly "un-Marxian" assertion, giving "consciousness" a more creative, active role than most other Marxists would

accept. Indeed, Marx made it quite clear in both the Grundrisse (1973) and The German Ideology (with Engels, 1976), and elsewhere (1954), that consciousness was a dependent entity taking form and content within the context of material conditions.

Both of these visions of criminality, therefore, are overly romantic. It is difficult, however, to base an alternative on the work of Marx alone. The fact is that Marx had very little to say about crime and criminality, and what he did say was not always consistent with other aspects of his overall analysis. Certain aspects of his analysis, however, are clear. It is clear that he (Marx and Engels, 1971) had great disdain for the lumpenproletariate, and that he would not accept any potential for this downtrodden class to lead a proletarian revolution. The lumpenproletariate, which included the criminal, was an untrustworthy ally in the class struggle. They were untrustworthy because their condition left them open to becoming the "bribed tool of reactionary intrigue" (Marx and Engels, 1971, 43). That is just as Marx had said that this "dangerous class ... may, here and there, be swept into the movement by a proletarian revolution" (Marx and Engels, 1971, 43), it was more likely that the lumpenproletariate would and could be used to block such a revolution. Thus, those critical criminologists who argue that the criminal is in the "vanguard" of the proletarian revolution, clearly argue a position more in keeping with Bakunin (1971a), than with Marx. It was

Bakunin, not Marx, who suggested that the criminal's acts of individual protest could be transformed into collective, revolutionary action, and that the criminal was a primitive rebel in the vanguard of the revolution.

Marx's disdain for the lumpenproletariate does not mean, however, that Marxism should ignore the issues raised by the presence of "crime" and the systems developed by societies to regulate "criminal" behaviour. Further, it does not mean that the analysis of crime needs to follow simplistic instrumentalist argument. It may be true that Marx (1967, 714-742) provided an analysis of how the law, and the criminalization process, were used by the "ruling class" to create the lumpenproletariate, in part as a means of controlling the proletariat, but this does not mean that only an instrumentalist Marxism is needed to assess crime and criminality. Consistent with my arguments in Chapters II and III, I shall argue that crime is a dialectical entity. It is a dialectical entity in that it may represent either a primitive statement of resistance to established order, or a primitive statement of acceptance of that order. Further, it may do so simultaneously. That is, at one and the same time, crime may signify both acceptance and rejection of certain established patterns of social interaction within any society.

For example, a thief does not necessarily say by his/her actions that the capitalist system of distributing consumer goods, or property generally, should be abolished,

although this may be the case for some thieves. Rather the thief may say that the capitalist ideal of individual ownership of property, and of consumer goods, is a legitimate social arrangement, but that, as a thief, he/she is seeking an alternative method by which to achieve the capitalist ideal: i.e., the thief takes an alternative superstructural route to achieve a infrastructural end. This is not to say that the thief achieves the end. Theft of money does not allow in itself allow the thief to change his/her class position. It simply allows the thief a limited opportunity to acquire property and/or consumer goods without sacrificing the usual exchange price (labour power or property in the form of money, etc.).

It must never be forgotten, as well, that the presence of crime allows the state to maintain an extensive control apparatus which may be used to achieve ends other than the control of "crime," and that definitions of crime offered by the state may serve certain interests better than they serve other interests. Dialectically, it must be recognized that as the most likely victims of "street crime" (Platt, 1978), the proletariat have an interest in developing systems of crime control. Obviously, the systems of crime control developed by the state may be used to oppose the proletariat, but the efforts of the proletariat directed towards organizing itself as a collective entity having a common purpose in confronting a common problem should not be dismissed as reactionary or "counter

revolutionary." Thus crime and crime control are much more complex than a simplistic analysis allows.

Critical Criminology as Marxism:

Anytime that one attempts to "add" to an existing theory, there will be those detractors who will say that the addition is unwarranted. This is particularly true of "Marxist criminology." Many orthodox Marxists shake their heads in disbelief, and amazement, at the attempts to develop "Marxist criminology." They shout, quite loudly, "It can not be done!" Such conceptions of Marxism, however, are themselves open to question. Not only do they misunderstand the intent of critical criminology, they clearly base their own forms of Marxism on questionable readings of Marx. In the case of critics such as Hirst (1975a; 1975b), and Bankowski, Mungham, and Young (1977) in particular, their readings of Marx seem to be based on the idea that Marx didn't really develop his theory of historical materialism(14) until he began work on A Contribution to the Critique of Political Economy (1970). Even though they recognize some "unevenness" even in that work, and others similar to it undertaken at about the same time, they clearly assert that "true" Marxism begins with the development of what is generally termed economic determinism. Other readings of Marx, which accept the overall unity of Marx's work, are dismissed as non-Marxist, or, in extreme cases, "bourgeois revisionism."

Critical criminology clearly has been dismissed in this manner. The irony of the situation is that these critiques of critical criminology have themselves contributed to the development of a more consistent, and clearly Marxist, understanding of crime and criminality. For example, even though Hirst (1975a; 1975b) seemed ready to dismiss the entire study of crime and deviance as an unworthy object of study for Marxism, it is quite clear that even his style of Marxism takes a position on crime, and in so doing has a "theory" of crime.(15) He writes:

All societies outlaw certain categories of acts and punish them. The operation of law or custom, however, much it may be associated in some societies with injustice and oppression, is a necessary condition of existence of any social formation. Whether the social formation has a State or not, whether it is communist or not, it will control and coerce in certain ways the acts of its members. (1975b, 240)

While the specific object of Hirst's critique, in this instance, is the rather romantic notion, contained in Taylor and Walton's (1975) "defence" of critical criminology, that a communist society would be free of crime, it is clear that even his conception of Marxism allows for the investigation of the manner by which all societies "control and coerce in certain ways the acts of its members." As such, despite the critique that crime is an inappropriate object of study, there is clearly the potential for Marxists to study these control and coercion techniques and strategies in an effort to further reveal the true nature of the society that uses them. In this way the object of study becomes

something other than crime and criminality. It becomes an attempt at understanding the nature of social formations, as well as the necessity of social control.

Much of the discussion on the legitimacy of critical criminology's claim to being Marxist is also focused on the issue of whether Marxism is "science" or "ideology." For example, Hirst (1975a; 1975b) argues that much of the early attempts at Marxist criminology are essentially ideological. These early efforts were ideological in that they attempted to give the world of consciousness--the ideological realm--dominance over the economic realm. On the other hand, Taylor and Walton (1975) argue that Hirst has based his notion of Marxism on the erroneous contention that Marxism is only "science," and as Marxist science, it should be concerned only with the systematic investigation of developments within "the mode of production, the class struggle, the state, ideology, etc" which promote or retard the proletarian revolution. In this view science is never ideological.

I shall argue, consistent with the interpretations of Korsch (1963), Colletti (1972) and others, that Marxism is both science and ideology. As such, I shall be arguing a position which suggests that both Hirst and Taylor and Walton misinterpret Marxism. Marxism is science in the sense that it attempts to offer "... an analytical reconstruction of the way in which the mechanism of capitalist production works"

(Colletti, 1972, 376-77), and is ideological to the extent that it involves itself in the class struggle.

Summary

A number of objectives for this thesis have been outlined. The most important of these objectives being the clarification of class, a re-understanding of the state, a re-evaluation of crime and criminality and a more precise statement of the legitimacy of critical criminology's theoretical objective. More specifically, I have outlined certain problems associated with each of these tasks. With respect to class, I have tried to show that certain simplistic conceptions of class lead to a situation in which critical criminologists not only provide fuel for their critics, but also lead to debate with fellow Marxists not content with the easy way out. This in turn leads to a re-examination of the state, as the state is a vital institution for the survival of class society. A clearer understanding of the state in turn leads to a clearer understanding of the necessity of social control, which is vital for an understanding of crime and criminality. If the state is portrayed as inevitably repressive, outlawing or criminalizing all behaviour inconsistent with the interests of the ruling class, then it should not be surprising that criminality be portrayed as evidence of resistance. My intention in Chapter IV therefore, is to show that this is an extremely simplistic, and romantic conception.

The main problem, however, is the question of critical criminology's theoretical objective. Based on selected works it is quite possible to make Marx "say" a number of things. It is possible to read him as an extreme determinist, but it is also possible to read him as less deterministic. My task is to offer an interpretation favouring a less deterministic Marx. Clearly, I will be arguing with the notion that the Marxism of certain critics of critical criminology is the only legitimate reading of Marx. But I shall also be arguing that many advocates of critical criminology have made similar errors in their analysis of the objectives of Marxist inquiry. In reviewing the work of both advocate and critic, I expect to place critical criminology on firmer theoretical ground in the expectation that others may wish to develop it further.

Chapter II

Understanding Class

Obviously, it is imperative that proponents of particular theoretical orientations clearly specify their basic assumptions as well as clearly define important terminology and concepts. Failure to do so inevitably leads to misunderstandings and misinterpretations, thereby giving critics the opportunity to discredit the theory. This situation is certainly evident with respect to critical criminology and its understanding of class. Various critical criminologists have offered differing conceptions of class. Indeed, one in particular, Quinney, has offered different models of class at various points in his career. For example, in Critique of Legal Order (1974) he adopts a very monolithic conception of class, while in Class, State and Crime (1977) he adopts a kind of pluralistic model which occasionally strays to a monolith model. His work, however, is not unique. Other critical criminologists (Gordon, 1971; 1972: Chambliss, 1976b: Hepburn, 1977: Pearce, 1976) have also adopted very monolithic understandings of class relations while still others (Chambliss, 1979: Spitzer, 1980: Balbus, 1973; 1978: Hall, et al., 1978: Young, 1979: Fine, 1979:) adopt structuralist positions similar to

Quinney's pluralistic Marxism. However, even in those instances where there is agreement as to the monolithic or structuralist nature of class, there are significant differences.

It should also not go without notice that the various Marxist interpretations of class are not without precedent in the work of Marx. For example, Zeitlin (1981, 115) observes that Marx, in Capital (1967), was "... inclined to centre attention on two or three great classes," thereby giving the impression that classes were "... homogenous, undifferentiated entities." Consequently, those Marxist theorists employing monolith models could point to Capital to support their position. However, Zeitlin also points out that Marx's position in The Eighteenth Brumaire (1954) and The Poverty of Philosophy (1963), permits recognition of fractions within the class and distinguishes between a class-in-itself and a class-for-itself.⁽¹⁾ In this way Marx acknowledged that neither objective position, nor subjective recognition of that position are sufficient criteria to determine class.⁽²⁾ Consequently, those critical criminologists favouring a more "pluralist" conception of class can point to these works to support their analysis.

These are not, however, the only points of confusion. Clearly, some of critical criminology's critics are unable to distinguish between it and its non-Marxist counterpart, conflict theory. Critics such as Klockars (1980), Toby (1979; 1980), Gibbons and Garabedian (1974), as well as

textbook writers such as Reid (1976; 1979), Rich (1979), Thio (1978), Vago (1981) and Barlow (1981) all seem unable, or unwilling, to recognize the differences between the models of class used by the various forms of radical criminology. As indicated in the Introduction, a "radical" is not synonymous with being a Marxist. It may be true that there was a time in the development of critical criminology when effort was being made to form a common front with other approaches (see Taylor, Walton and Young, 1975: Summer, 1976: Young, 1979: Wiles, 1976b: Cohen, 1971), particularly with labeling theory and non-Marxist conflict theory, but this does not mean that such a common front was achieved or possible given the very real differences between these various approaches. The critics, however, seem particularly unable to distinguish between Weberian conflict theory and Marxian critical theory. Consequently, these critics and reviewers can use the apparent sins of the one to discredit the other. This, of course, makes not only for poor scholarship, but also for further misunderstanding and confusion.

What is needed therefore is some statement of the differences between the conceptions of class used by Marxian and Weberian criminologists, as well as an analysis of the inconsistencies to be found in the various Marxian statements themselves. The following pages are offered as such a statement of clarification. That is, the following pages will demonstrate that much of the confusion concerning how best to understand class and class relations results from

either (1) a tendency of the critics to be unable to distinguish between Marxian and Weberian arguments, or (2) from a failure of either Marxian or Weberian criminologists to make clear their analysis of class. The point I will be making is that those critical criminologists advocating what I have referred to as structuralist Marxism come closer to the position taken by Marx, when his work is taken as a whole, than other critical criminologists who refer only to certain specific works. That is, even though it is possible to interpret Marx as having a monolith conception of class, it is more reasonable to argue that his work, taken as a whole, offers a more complex conception of class which incorporates these apparent monolithic statements in such a way as to clarify that even the ruling class is divided, and encounters situations and conditions over which it has little or no control. For the sake of organizational clarity, the discussion begins with an analysis of the critics' confusion of the two models of class followed by separate discussions of conflict and critical criminology's use of class.(3)

The Confusions with Conflict Theory

It would seem obvious that not all "conflict" theories are the same, and that not all are Marxist theories. The problem is, however, that some reviewers continue to confuse Marxist with non-Marxist conflict theory. One reason for the confusion could be the very use of the word "conflict," as both Marxists and non-Marxists will use this label when referring to their theoretical musings. This

makes it easier for critics to gloss over the differences, and to critique all such theories as if they are the same. Examples where this has been done include the reviews offered by Rich (1979), Reid (1976; 1979), Thio (1978), Vago (1981), Gibbons and Garabedian (1974), DeFleur, et al. (1981) and Klockars (1979: 1980). In some cases (Rich, Thio, Gibbons and Garabedian) there is a tendency to view all radical criminology as essentially pluralistic conflict theory, while in others (Reid, DeFleur, et al., and Klockars) there is a tendency to view all such theories in essentially Marxist terms. Let us deal with the former first.

The Critics' Confusion:

The reviews of radical criminology offered by Rich, Thio, Gibbons and Garabedian, actually pay scant attention to Marxist criminology. Only Gibbons and Garabedian (1974, 57-9) acknowledge any real effort at formulating a "radical" analysis of crime and criminal justice which would be distinguishable from the work undertaken by such conflict theorists as Turk (1969) or Quinney (1970). However, even this is limited to sources outside of what might be considered the "normal" criminological mainstream. They argue that "a body of forcefully stated radical criminological thought can be seen in the pages of the Berkeley Barb and other media sources of that kind..." (p.57). Thus, they ignore much of what was happening in Britain at that time, as well as efforts already undertaken

in North America (Gordon, 1971: Wolfe, 1971: Silver, 1967: Lefcourt, 1971: to name a few).

The result of this confusion can be best portrayed by looking at Rich's overview. According to Rich, the following passage best summarizes all "conflict" theories:

Conflict theory studies of the sociology of criminal law are characterized by a 'conception of the complex interaction between developments in institutional and social structures and the consciousness of people living within such structures, not by a static conception of pathological and/or anomic individuals colliding with a simple and taken-for-granted set of institutional orders' (Taylor Walton and Young, 1973, 266-67). Conflict theorists conceive the criminal as pathological with the stress on the way in which individuals' criminal behaviour and behaviour in general are determined. They perceive a relatively simple relationship between power and interest. This view leads to an approach to crime in which action is simply a product of powerful interests or an unequal society and suggests that one can only be criminal when seen or described as criminal by powerful societal interests or when one is a member of a social minority. Last, conflict oriented sociologists of criminal law do not directly address the more general propositions of conflict sociologists such as Dahrendorf because the requisite links between the more general and the more specific concepts and propositions have not been made.... (1979, 53-4)

There are a number of problems with Rich's summary. First of all he confuses the rather tentative beginnings of critical criminology offered by Taylor, Walton and Young with their critique of non-Marxist conflict theory. The passage cited from The New Criminology (Taylor, Walton, and Young, 1973, 266-67) may accurately describe what it is its authors had intended, at that time, to be a feature of a "new"

approach to studying crime, but Rich's sentence which begins "This view leads . . .," is based on certain criticisms made by Taylor, Walton and Young with respect to problems they detected in the conflict theories of Turk (1969), Quinney (1970; 1970a) and Dahrendorf. The relevant passages from The New Criminology referred to and distorted by Rich are as follows:

Whether they are discussing the genesis of behaviour or the deprivation of labels, the new conflict theorists see a relatively simple relationship between power and interest, and the consciousness of men (as being formed in conjunctures of such interests). For the time being, we shall only comment that such a conception undermines or understresses an alternative view of men as purposive creators and innovators of action. In particular, it leads to an approach to crime in which action is merely and simply a product of powerful interests or unequal society--as opposed to being the product of purposive individual or collective action taken to resolve such inequalities of power and interest. It tends to suggest that one can only be a deviant when one is seen or described as deviant by the powerful interests of the day or when one is in a disadvantaged position in such unequal society. In so doing the conflict approach is in danger of withdrawing integrity and purpose--or idiosyncrasy--from men: and, thus, is close to erecting a view of crime as non-purposive (or pathological) reaction to external circumstance (Taylor, Walton and Young, 1973, 267--emphasis added).

This book has attempted to provide an implicit account of the uneven history of criminology's relationship to the social sciences. Starting with an account of the classical utilitarian approach to the protection of the individual from excessive punishment, and moving through the varieties of biological, psychological and social positivism, we have attempted to provide an immanent critique of various positions from a vantage point which stresses the importance

of the initiative of State, and its entrepreneurial representatives, in defining and sanctioning certain forms of behaviour at certain points in time: and we have suggested that an adequately social theory would need to be free of the biological and psychological assumptions that have been involved in the various attempts to explain the actions of the men who do get defined and sanctioned by the state as deviant and react against those definitions, in different historical circumstances (Taylor, Walton and Young, 1973, 268).

Obviously, Taylor, Walton and Young had intended to separate their position from that of Turk and Quinney, and are taking exception to the very tendency which Rich says dominates all conflict theories including their own. Whereas Rich wants to imply that they, as well as all other "conflict" theorists view criminality as pathological, and a product of simplified power relations, Taylor, Walton and Young wish to offer a conception of society in which action is taken as neither pathological, nor "simply a product of powerful interests or unequal society." Rather, they argue crime is "... purposive individual or collective action taken to resolve such inequalities of power and interest." This important difference in emphasis seems to have escaped Rich's attention.

The implication of this confusion as it relates to the understanding of class is best illustrated with the following passage from Gibbons and Garabedian's overview of "conflict" theory:

The thing that makes all of these arguments and analyses cases of liberal-cynical criminology is that they all tend to assume

the continued viability of American society as we presently know it (1974, 56).

In other words, these critics would have us believe that both Marxist and non-Marxist radical criminologists believe in the inevitability of class society. If they had taken the time to read the Marxist critique more carefully, they would have noticed that Marxists take strong exception to the notion that class society is inevitable. Indeed, this is a central feature of Taylor, Walton and Young's (1975b) critique of Turk (1969).

If Rich, as well as Thio and Gibbons and Garabedian prefer to portray all conflict theory in this fashion, then Reid, DeFleur, et al., and Klockars prefer to portray it in decidedly Marxist terms. Even though both Reid and Klockars will recognize that there is a difference, neither cares to fully analyze the differences, leaving their readers to fill in the gaps for themselves. For example, Reid (1979, 206) offers that the following passage from Quinney's edited text Criminal Justice in America: A Critical Understanding (1974a) is typical of all conflict theories. She cites Quinney as saying that law is:

... a consequence of interests rather than merely ... an instrument that functions outside of interests to resolve conflicts between interests. Law is the tool of the ruling class. Criminal law, in particular is a device made and used by the ruling class to preserve the existing order. In the United States, the state--and its legal system--exists to secure and perpetuate the capitalist interests of the ruling class (Quinney, 1974a, 8).

At this point in his career, Quinney has forcefully renounced (1973) his old conflict orientations, which like Turk (1969) and others (Hills, 1971: Chambliss and Seidman, 1971: Reasons, 1974: Krisberg, 1975), asserted that class is not the only basis of conflict, and that class has both material and non-material origins. (Ironically, as I shall point out later, there are a considerable number of Marxists who take exception to the determinism of Quinney, and who also argue that class is determined by both material and non-material forces or conditions.) Instead, he adopts a strong instrumentalist position emphasizing the virtual monolith nature of class society. Critique of Legal Order (1974) seems to grant to the ruling class the absolute power to do whatever it chooses.

The important point of confusion here is that Reid, as well as DeFleur, et al., and Klockars, imply that all conflict theory takes a somewhat deterministic--i.e., Marxian determinism--view of class when, in fact, this is not the case. As Turk (1977) pointed out, Weberian conflict criminology adopts a conception of class which accepts it as one of many types of interests competing for the favours of the state. In Turk's words:

In specific historical cases, differences in perceptions, beliefs, and aspirations may be found to be at least as casually significant as differential control of the means of production. From the Weberian perspective, control of productive resources may well be the key factor in the social selection of ultimate winners and losers, but ultimate outcomes are not readily identified, much less predicted. Thus within the less

ultimate bounds of particular historical cases and developments, differential control of the means of production is found to be only one form or dimension of social power rather than its only real locus (1977, 215).

While there are certain problems with the way Turk characterizes the Marxist concept of class, his overview of Weberian conflict criminology would certainly apply to the work done by Quinney (1969; 1970; 1970a) Chambliss and Seidman (1971), Kennedy (1974), Hills (1971), Krisberg (1975) and Reasons (1972; 1974a; Goff and Reasons, 1978), as well as many other conflict criminologists. Consequently, the rather sloppy inclusion by both DeFleur, et al., and Klockars (1980, 99-104) of work done by authors such as Quinney (1970a), and Chambliss (1964) during periods when these authors were not clearly Marxists, within discussions of their Marxist work, without carefully explaining the fundamental differences, and Reid's similar error of assuming that both Weberian and Marxian criminologists conceive and utilize class in the same way leaves their knowledgeable readers mystified, and their naive readers cheated out of a fuller understanding of the meaning of class within these quite different traditions.

The Confusion Among Radical Criminologists:

These errors of confusion, however, may be somewhat forgiveable. The fact of the matter is that neither the Weberians nor the Marxists have always made their differences clear. This is particularly true of the North Americans like the Weberian Krisberg (1975) and the Weberians turned Marxists, Quinney and Chambliss, but also true of the

pioneering work of Taylor, Walton and Young (1973). Even the Marxist critics of "the new criminology" have suggested that the epistemological roots of much Marxist criminology remain firmly imbedded in bourgeois theory (see for example: Hirst, 1975a; 1975b; Currie, 1974; Greenberg, 1979). While I will explore this in greater detail in Chapter V, it is necessary at this point to deal with the implications of this confusion with respect to class and class relations. It is for example, difficult to understand Krisberg's analysis.

One of the more frustrating aspects of Krisberg's work is that it does not adopt a clear theoretical orientation. Acknowledging, as he does, that "This book does not represent a full-blown new theory of crime or social control" (1975, 168), it is difficult to say that he has offered more than a tool for "stimulating thought and discussion" (1975, 169). While providing such a tool might be considered useful, it nonetheless has its drawbacks. At various points in his book Krisberg advises that Weberian models may be more useful to study some types of behaviour within criminology, while other types of behaviour may be more appropriately studied using the Marxist approach. For example, he suggests that the Weberian analysis of class, status and power "... may be used to understand several of the anomalies of crime and justice" (p.22). He continues:

Viewed from the perspective of class, status, and power the recent prisoner riots can be interpreted as fundamental challenges to the privilege system imposed upon inmates by correctional systems. Further, prisoners relate the enforcement of privilege within

the penal institution to the structure of privilege outside the walls. Some believe that by breaking the law they symbolize resistance to the oppression of the large privilege system. This resistance, both symbolic and real, uncovers for them the reasons behind their horrid conditions in prisons, the denial of rights to prisoners, and the use of daily force to quell prisoner resistance inside the walls (p.24).

Similarly, to continue with the Weberian character of his analysis, he offers that the analysis of racism within contemporary society provides an excellent opportunity to understand the "privilege system:"

In a race privilege system, the dominant group thinks of itself as superior in terms of racial and ethnic differences. These distinctions can be real or socially constructed. Class systems define superiority in terms of criteria of property, positions of economic power, and expertise in production.... Inequalities are built into stratified societies, even those that do not exhibit sharp distinctions based upon race and ethnicity, such a society is racist in addition to the other characteristics of its stratification (p.27).

The implication of his analysis is that Weber's division of "... privilege into class, status and power" is superior to Marx's attempts "... to reduce all aspects of privilege to economically derived facts" (p.21). This aspect of his analysis is problematic given other situations in which he clearly argues that a Marxian analysis proves the more useful tool for understanding certain kinds of criminal behaviour. For example:

A useful tool in understanding corporate crime, as well as other crimes by the privileged, is the Marxian construct of the surplus-value theory of labor (p.39).

It would seem we are being asked to accept the Weberian analysis of the relations between class, status, and power which grants to each an independence from the other, while at the same time we are told that criminology must move in the Marxian direction suggested by Quinney (1974), and Taylor, Walton and Young (1973).

The future of the New Criminology is both exciting and somewhat frightening. If we are no longer sure of how to reach the desired goal, it is important for us to admit this. But writers of the New Criminology such as Quinney and Taylor, Walton and Young have presented some suggestions. Quinney, for example, urges that the path entails a struggle for a socialist society (Krisberg, 1975, 171).

There is no doubt, however, that Krisberg's advocacy was tempered by some severe reservations.

Their terminology and ideas are still new to us, and it is difficult at present to interpret the paths they envision or even to completely understand their ideal society (p.171).

As noted previously, Krisberg was not alone in confusing Weberian and Marxian analysis. Similar problems are found in the work of both Quinney and Taylor, Walton and Young, as well as Chambliss. In Quinney's case there is within certain parts of his argument, an implication, particularly in Critique of Legal Order (1974), that the ruling class rules by virtue of its superior will, while in the case of Chambliss it is often difficult to distinguish between the Weberian notion of class as one of many competing interests, and the Marxist conception of class as being the primary source of conflict but consisting of various

fractions. For example, Quinney writes in Critique of Legal Order that:

Contrary to the dominant view, the state is created by the class that has the power to enforce its will on the rest of society. The state is thus a political organization created out of force and coercion. The state is established by those who desire to protect their material basis and who have the power (because of material means) to maintain the state (1974, 52).

To which he adds:

Manipulating the minds of the people is capitalism's most subtle means of control. (p.54)

The operation is one of demystification, the removal of the myths--the false consciousness--created by the official reality.... Without critical thought we are bound to the only form of social life we know--that which currently exists. We are unable to choose a better life; our only activity is in further support of the system in which we are enslaved (1974a, 16).

Compare these statements with those offered by Quinney during his Weberian period:

We end up with some realities rather than others for good reason--because someone has something to protect. That protection can be achieved by the perpetuation of a certain view of reality. Realities are, then, the most subtle and insidious of our forms of social control. No weapon is stronger than the control of one's world of reality. It is the control of one's mind (Quinney, 1970, 303).

The conflict-power conception of interest structure implies that public policy results from differential distribution of power and conflict between the segments of society.... Groups that have the power to gain access to the decision-making process are able to translate their interests into public policy. Thus, the interests represented in the formulation and administration of public

policy are those treasured by the dominant segments of the society (Quinney, 1969, 29).

In both cases it would appear that the primary force maintaining the status group is the force of consciousness or mind control. Control over the realm of consciousness allows the dominant group, the ruling class, to maintain its position of authority. Even though, in Critique of Legal Order, he does acknowledge that the ruling class is the dominant group by virtue of its relation to the means of production, there is still the implication in his analysis that it is not the control of the means of production which allows this class to maintain power. Rather, it is the ability of this class to control the minds of subordinates which allows them to perpetuate their privileged positions. As will be seen in the next section, this kind of reasoning is not unlike that presented in the analyses of Turk, and other Weberians. In those arguments, materialist analysis is forsaken in favour of idealist analysis--i.e., rather than viewing material/economic forces as the driving force of history, they are relegated to "co-determinant" status as one of many types of interests.

A similar situation exists with the work of Taylor, Walton and Young (1973). In their pioneering work, The New Criminology, they had sought an alternative to the then prevailing theoretical models used to study crime and deviance. As they saw it, this new alternative would point in the direction of a "... full-blown Marxist theory of deviance" and:

... would be concerned to develop explanations of the ways in which particular historical periods, characterized by particular sets of social relations and means of production, give rise to attempts by the economically and politically powerful to order society in particular ways. It would ask with greater emphasis the question that Howard Becker poses (and does not face), namely who makes the rules and why? A Marxist theory would attempt, that is, to locate the defining agencies, not in some general market structure but quite specifically in their relationship to the overweening structures of material production and the division of labour (1973, 220).

While this pioneering work marked a beginning of a trend towards analysis of structural influences on behaviour it can not, in itself, be declared a successful attempt. As Sumner (1976, 162ff) has so succinctly pointed out, Taylor, Walton and Young are unable to offer a clear definition of crime. On the one hand, they had wanted to develop a theory of crime which would argue that crime is a product of class relations as "... attempts by the economically and politically powerful to order society in particular ways," while on the other hand they offer that:

... most deviant behaviour is a quality of the act, since the way in which we distinguish between behaviour and action is that behaviour is merely physical and action has meaning that is socially given. In the case of the marijuana-smoker, it's obvious that his action is motivated by hedonistic reasons, but there is a fundamental difference between engaging in an universally approved pleasurable act and engaging in a pleasurable act which is regarded by large numbers of people as deviant and, in this case, illegal. The awareness that an action is deviant fundamentally alters the nature of the choices being made (1973, 147).

In effect, this leaves Taylor, Walton and Young arguing with the functionalists that a consensus concerning what is, and what is not, deviant exists, and with the labeling perspective of Becker (1963), and others, that it is the meaning brought to the action by the deviant which allows the act to be transformed into purposive behaviour rather than remaining simply a reaction to stimuli. That is, they argue that a combination of Marxism with labeling theory:

... would enable us to escape from the straightjacket of an economic determinism and the relativism of some subjectivist approaches to a theory of contradiction in a social structure which recognizes in deviance the acts of men in the process of activity making, rather than passively taking, the external world (1973, 221).

As Sumner (1976, 163) argues, the approach is taken to its logical extension by Cohen and Young (1973) who argued that:

The mass media provide a major source of knowledge in a segregated society of what the consensus actually is and what is the nature of the deviation from it. They conjure up for each group, with its limited stock of social knowledge, what 'everyone else' believes (p.342).

It is in this respect that their position becomes confused. It is a position which bears as much similarity to the position taken by Quinney in The Social Reality of Crime (1970) as it does to other Marxists. Recall that, Quinney had also said that "those in positions of power" construct "a reality that we are all to believe in" (1970, 303). As such both Quinney and Taylor, Walton and Young argue that powerful interests have the ability to control the minds of subordinates and that mind control is the primary control

mechanism. This, in turn leaves them saying that class and class relations are best understood as products of competing "minds" rather than competing relations of production.

As for Chambliss, there is a similar confusion as to the role played by classes versus other types of interest groups. Clearly in his now classic article on vagrancy legislation (1964), he adopted a Weberian position, arguing for the importance of "interest groups." In subsequent work with Seidman (1971) he investigates the roles played by bureaucracies in the criminal justice system, showing how they, as an interest group, influence both the creation and enforcement of law. In yet another article (1971), he 'exposes' corruption within a particular community's crime control apparatus showing its linkages to local politics and otherwise "respectable businesses." Throughout these studies class is seen to be, as with Quinney (1969: 1970), and Turk (1969), one of many competing interests. The problem arises during that period when his analysis begins to take on a more Marxist tone without a complete adoption of Marxism. This is particularly noticeable in the introduction to his edited text Criminal Law in Action (1975a). Here he points out that a "conflict model" had gained "... considerable favour among social scientists as political events ... have forced a re-evaluation of traditional consensual views" (1975b, 5). He goes on to say that:

In contrast to consensus theories, the conflict model sees law as being created out of the conflict between social classes and vested interest groups. The Marxian view

that 'in every era the ruling ideas are the ideas of the ruling class' anchors the conflict perspective. More generally, conflict theory sees the creation and enforcement of criminal law as best understood as stemming from the conflicts inherent in the unequal distribution of wealth, a power, and control that characterizes capitalist systems (1975b, 5).

In doing so he singles out four specific forms of conflict theory, the first of which he describes as emphasizing "the role of 'moral entrepreneurs,' the role of particular groups of persons who organize to achieve legal changes which they think are essential for the well being of society" (1975b, 6). Specifically cited as examples of this kind of theorizing are Becker (1963) Gusfield (1963) and Chambliss and Seidman (1971). The second type of conflict theory cited is illustrated by his article "Vice, Corruption, Bureaucracy, and Power" (1971) and is described as "theories that emphasize the importance of bureaucratic interests" (1975b, 6), while the third is "vested interest group" theory, associated with the work of Quinney (1970). The fourth form of conflict theory is said to "emphasize the inherent conflicts between those who rule and those who are ruled, and which see the criminal law as incorporating rules for enforcing the interests and ideologies of the ruling classes" (p.6). As examples of this fourth form of conflict theory he cites an incredibly diverse group including the Marxian analyses of Quinney (1973; 1974), Rusche and Kirchheimer (1939: 1967), and Renner (1957), as well as non-Marxists Chambliss and Seidman (1971).

It may be true that "The Marxian view that 'in every era the ruling ideas are the ideas of the ruling class' anchors the conflict perspective," but as I have been pointing out, it is not true that all conflict theory is Marxist theory. Indeed, Chambliss can be said to have been well aware, prior to the 1975 appearance of this overview of "conflict" theory, that there are very real, and significant, differences between the various forms of conflict theory. This is clearly seen in his "The State, the Law, and the Definition of Behaviour as Criminal and Delinquent" (1974) published the previous year, and subsequently republished (1976a) as "The State and Criminal Law." Here (1974) Chambliss clearly shows the limitations of these non-Marxist perspectives and adopts a more discernable Marxism. His own brand of Marxism, however, is initially quite deterministic, as evidenced in his article "Functional and Conflict Theories of Crime" (1976b). Later (1979) his analysis becomes more structuralist. The point is, in the introduction to Criminal Law in Action, he has glossed over the differences in these various theoretical offerings and made them appear to be (1) based upon a single source (Marx), and (2) arguing a similar position with respect to the analysis of class and interest groups. In so doing he makes it appear as though Marxists are in agreement with non-Marxists that class and interest groups are co-determinants of behaviour and, most importantly, legal change.

It is not hard to document, of course, that this failure to distinguish Marxist from Weberian theory has left critics unable to decipher "conflict" theory. I have already shown several examples of this inability. One example, however, deserves fuller explication. Perhaps nowhere else is the confusion better illustrated than in the critique offered by Klockars (1980). Previously, I noted that he fails to clarify the very significant differences in the theorizing of Quinney and Chambliss at various points in their careers. The most obvious illustration of this is found in his treatment of Chambliss's (1964; 1975c) varying presentations of the origins of vagrancy law. Klockars correctly points out that the analysis has changed from the original (1964) appearance of the article to its revised version (1975c). However, Klockars says that the new version has been altered to remove portions of the original "... which might soften a radical Marxist perspective" (1980, 100). This would seem to imply that the original (1964) was a "soft radical Marxist perspective," and that the revision was characterized by a "harder Marxism." If this is what Klockars is saying, then he has committed a serious analytical error. The extent to which either the original or the revised article may be called Marxist is extremely limited. In fact, it is quite clear that the original article was written from a "status group" perspective similar to that found in the work of Quinney (1970), Hills (1971) and Turk (1970). As for the revised version, it does what

Klockars says Chambliss wanted to avoid. It "softens the radical Marxism" which Klockars says it argues. That is, rather than arguing a "hard Marxism" as suggested by Klockars, Chambliss (1975c) presents a confused analysis in which he alternates between arguing an instrumentalist "ruling class" model similar to that found in the work of Quinney (1974), Gordon (1971), and Hepburn (1977), and the more Weberian model which accepts class as just one of many types of interests and not the primary source of social power within society (Turk, 1969; 1976; 1977). While both the original and revised articles conclude with the statement that "These findings are thus in agreement with Weber's contention that 'status groups' determine the content of law" (1964, 77; 1975c, 15), the revised article also says that "... a new ruling class emerged and the laws were then altered so as to provide some protection to them" (1975c, 15). Putting both of these statements together results in some inconsistency in that status groups are made to appear indistinguishable from class, and classes. This represents partial concessions to two quite opposed theoretical traditions. The precise differences will become clearer in the following sections.

Weberian Conflict Theory on Class

Weberian conflict theorists, like Marxists, pay considerable attention to the importance of economic factors in defining class.(4) That is not to say that they both assign to economic factors the same degree of influence. As

indicated above, they clearly disagree on the importance of class as a source of conflict. Indeed, it would seem from the analyses presented by such Weberians as Turk (1977), and Krisberg (1975), that such additional factors as "status" and "prestige" are at least as important as economic forces.(5) This means, according to Turk, that such additional factors as the "... differences in perceptions, beliefs, and aspirations" (Turk, 1977, 215) are equally as important. Krisberg (1975, 21-22) goes so far as to assert that a consistent Weberian analysis would accept the primacy of "the distinctive cultural element," or the realm of ideas, in producing "the necessary condition for growth of the economic structure." All of which means that those persons or groups possessing high status [defined as "... every typical component of the life fate of men that is determined by a specific, positive or negative, social estimation of honour" by Weber (1946, 186-7)], greater power [defined as "... the chance of a man or a number of men to realize their own will against the resistance of other" by Weber (p.180)], and who happen to be from the more privileged classes will, more frequently than those in lesser positions, have their interests enshrined in societal codes.

Given this preoccupation with the importance of the realm of ideas, generally expressed in the form of interests, with the simultaneous observation that class and power relations allow some interests greater control of life chances, it is not surprising that Weberian criminologists

have concentrated on the importance of status or interest groups, or in Turk's (1969) terms, of differences between authorities and subjects. For example, Turk observes that society is composed of various competing interest groups and that law:

... is formulated and administered by the segments of society that are able to incorporate their interests into the creation and interpretation of public policy. Rather than representing the institutional concerns of all segments of society law secures interests of particular segments. Law supports one point of view at the expense of others.

Thus, the content of the law, including the substantive regulations and the procedural rules, represents the interests of segments of society that have the power to shape public policy. Formulation of law allows some segments of society to protect and perpetuate their own interests. By formulating law, some segments are able to control others to their own advantage (Turk, 1966, 346).

Turk later clarifies that these various segments may be divided into two basic status groups:

The study of criminality becomes the study of relations between the statuses and roles of legal authorities--creators, interpreters and enforcers of right-wrong standards for individuals in the political collectivity--and those of subjects--acceptors or resistors, but not makers of such law creating, interpreting and enforcing decisions (1969, 35).

As Turk sees it, law, in effect, becomes a "weapon in social conflict" (1976) used by authorities to control subjects, and that changes in law reflect the constant need for authorities to learn and relearn their role. They must continually learn and relearn their roles because "...

conflict is an intrinsic feature of social life" (Turk, 1977, 216). As such, there can never be a society free of conflicts between interest groups. This, of course, also means that subjects must be similarly learning, and relearning, what it is that is expected of them as subjects. The extent of their subservience to authorities, however, is not universally agreed upon among the Weberians. While Turk implies that the degree of sophistication and organisation(6) among the subjects would determine their success or failure at having their resistance to authorities legitimated, Quinney argues that authorities are able to control the "minds" of subjects by perpetuating a "... certain view of reality" (1970, 303):

By constructing a reality that we are all to believe in, those in positions of power legitimate their authority. That which is believed to be true, to be the "real" nature of things, is good in itself. It is right because it is, and is not to be questioned or refuted. Believing is accepting. Hence the reality of crime is constructed for all of us by those in power is the reality we tend to accept as our own. By doing so, we grant those in power the authority to carry out the actions that best promote their interests (p.303).

Within this context, criminal law, indeed all law is

... a tool of the dominant class ... maintaining the dominance of that class. Law serves the powerful over the weak; it promotes the war of the powerful against the powerless (Quinney, 1978, 42).

There are obviously some differences in the positions taken by Turk and Quinney. The most notable is that Quinney is much more concerned with analyzing how and why things came

to be as they are, whereas Turk is content with saying that how authorities become authorities is "... irrelevant: it is sufficient that a social structure built on authority relations exists" (1969, 51). Other Weberian analysts (Goff and Reasons, 1978: Kennedy, 1974: Krisberg, 1975: Chambliss, 1964) in contradistinction from Turk, have shown a similar interest in the historical development of authority/subject relations. In that sense they are not only remaining closer to their roots in Weber [see especially: Weber (1958)] (7) but reflect a similar Marxist concern with history. That is not to say, however, that they approach the problem in the same way as Marxists. Whereas Marxists are more likely to attempt an analysis of the historical changes in the mode of production, the Weberians are more likely to attempt analysis of the history of status groups and/or ideas. This can be clearly seen in the work of Chambliss (1964) and Kennedy (1974).

Beginning with his work on the history of vagrancy legislation, there is a consistent tendency in Chambliss' Weberian work to concentrate on "... the importance of 'vested interest groups' in the emergence and/or alteration of laws" (1964, 77). He argues that throughout their development in history, from approximately 1274, when the forerunner to the 1349 vagrancy statute" (p.46) (the first real vagrancy statute) came into being, to the present, that "status groups determine the content of the law" (p.67). This same emphasis is found in his later work such as "Vice,

Corruption, Bureaucracy and Power" (1971), and Law, Order and Power with Seidman (1971). The theme throughout is that persons or groups occupying structurally important roles or statuses attempt to create and enforce law according to their individual or group preferences, or interests. Vagrancy laws were created to ensure certain status groups would have a relatively constant supply of cheap labour, and to control migrant populations as one means of ensuring that cheap labour. Similarly, law enforcement is seen as nearly always favouring certain specific status groups--either the landholders of the fourteenth century, or the "crime cabal of Rainfall West," or the bureaucracies charged with the specific task of enforcing and interpreting law. Lost in this analysis is the emphasis contained in Marx's work (see especially Marx, 1967, 713-41) that the "genesis" of even the early vagrancy legislation owes more to the changes in the mode of production than it does to the need of particular status groups to maintain their statuses and privileged positions.(8)

Status groups, of course, are defined, by Weberians, by both economic and cultural factors. It is as much concerned with social estimations of "honour" as it is with property ownership and distribution. Consequently, as I observed previously in reference to both Krisberg's and Turk's analysis "... differences in perceptions, beliefs, and aspirations" (Turk, 1977, 215), expressed as the ideas of authorities, are vital to the Weberian understanding of

history. Kennedy, perhaps better than most Weberian criminologists, expresses the primary importance of ideas (particularly the idea of individualism) this way:

The emergence of individualism, in transforming all social institutions, transformed the relations of individuals to each other, of each individual to society, and created a new relation between each person and the emergent State (1974, 110).

Viewed in this way, the history of status groups becomes fundamentally a history of the ideas finding expression in, or even creating such groups.

Marxists on Class

Unfortunately, the confusion over what class is does not end with the inability to distinguish between Weberian and Marxist models. There is a great deal of disagreement among the Marxists themselves. Some follow the lead of Marx in Capital (1967), and elsewhere (1960; 1970), and explain class in terms which emphasize the "war" between two antagonistic forces--the bourgeois and the proletariat--while others, taking his lead in The Poverty of Philosophy (1963) and/or The Eighteenth Brumaire (1954) as well as the Paris manuscripts (1971), explain class as a less deterministic, more diverse process of social and economic relations. Indeed, there are some who would have us believe that there are still two Marxisms, one emanating from the "earlier," more phenomenological Marx, the other from the "later," more deterministic Marx. Not everyone has followed

Gramsci's (1971) lead and argued for a basic unity, or integrity between the early and late Marx.

Each of these variations in Marxist thought may be found in the literature written by Marxists about the relation between class and crime. On the one hand we have people like Quinney (1974), Hepburn (1977), Chambliss (1976b) and Gordon (1971; 1973) who argue for a rigid, undifferentiated class structure, while on the other hand we have people like Hall, et al. (1978), Chambliss (1979), Balbus (1973), Young (1979), Fine (1979) and Spitzer (1975; 1980) who offer a less deterministic, diverse image of class. In the process, these various conceptions of class have left the critics even more confused. Indeed, it would seem that some critics are unwilling or unable to differentiate between these two models of class within the Marxist criminological literature, preferring to view all Marxist models as deterministic in the extreme. This is particularly true of Ericson (1975), Klockars (1980), Liska (1981), and Turk (1977), but is also true of others (Reid, 1976; 1979; Barlow, 1980). In order to clarify what has been said, and to also aid in the further development of Marxist critical criminology it is necessary to separate these various models for purposes of discussion into their two most easily recognized groups: The strongly deterministic or instrumentalist models, and the less deterministic, structuralist models.

Instrumentalist Models:

It seems that whenever critics of Marxism wish to attack Marxists the attack is directed at the weakness of Marxist determinism. Despite the fact that not all Marxists are as deterministic as the critics suggest, there is a general tendency among the critics to dismiss Marxist analysis because it is overly deterministic. For example, Ericson (1975) suggests that a major difficulty with "... critical criminology is its view that there is a homogenous elite that somehow pulls the strings by which the rest of us dance" (p.115). To which Turk adds that "For Marxians the causal dynamic of the rise and fall of capitalism, the socialist transition, and the achievement of communism is strictly deterministic" (1977, p.214). As I shall indicate in the next subsection on Structuralist Models, these statements are not true of all Marxist criminologists. It is however, true of at least some of those who have suggested Marxian analysis of crime and deviance. It is particularly true of those models offered by Quinney (1974), Gordon (1971; 1973), Chambliss (1976b), Hepburn (1977), and, in certain respects, Taylor, Walton and Young (1973; 1975), as well as Pearce (1973; 1976). Each of these has given the critics fuel for their critiques. Let us look at some specific examples.

Reflecting Marx's concern with economics and the importance of control of the means of production, monolithic

Marxist criminologists have steadfastly asserted, along with Quinney that:

Although there are other classes, such as professionals, small businessmen, office workers, and cultural workmen--some of these either within or cutting across the two major classes-- it is the division between the ruling class and the subordinate class that establishes the nature of political, economic and social life in the capitalist society (Quinney, 1974a, 53).

From such a vantage point it is argued that the ruling class has such powerful control that it can virtually dictate through its various agents, including the state and the media, what everyone else thinks, or at least should think! Through the state, the ruling class determines both legality and illegality thereby establishing greater control over those who are powerless to ward off the intrusion of the state. Or, to put it another way, the ruling class can discredit behaviours seen to be inconsistent with its interests, while at the same time legitimate, through state action, its own behaviours and actions. For example, Pearce (1973), in reviewing the establishment of "anti-trust laws" in the United States says that far from viewing the development of such legislation as an unwarranted interference, many big businesses actually welcomed these laws, and took an active part in their creation. For an explanation as to why they would become involved in such apparently self-incriminating activity, he turns (1973, 21) to Gordon (1971) who offers that:

... the State may be pressured either nominally or effectively to prosecute the wealthy if their criminal practices become so egregiously offensive that their victims may move to overthrow the system itself. In those cases, the State may punish individual members of the class in order to protect the interests of the entire class. Latent opposition to the practices of the corporations may be forestalled, to pick several examples, by token public efforts to enact and enforce anti-trust, truth-in-lending, anti-pollution, industrial safety and auto safety legislation. As James Ridgeway has most clearly shown in the case of pollution, however, the gap between the enactment of the statutes and their effective enforcement seems quite cavernous (1975, 43).*

The point is that both Pearce (1973; 1976) and Gordon (1971; 1973) argue a kind of ruling class conspiracy model in which the ruling class is given the ability and will to enter into agreements with itself, as a single entity, to create and enforce only those laws which are clearly in its interest. Even legislation (anti-trust laws, etc.) which one would assume would be vigorously resisted by the ruling class are produced by this conspiracy in the effort to convince the subordinate class that the law is fair and equally applicable to all. Indeed, Hepburn adds that all law is essentially intended to benefit the ruling class.

Whether the capitalist State directs its laws against the powerless or the powerful, 'the purpose of the capitalist legal system is to protect and strengthen capitalism' (Quinney, 1974, 25). Therefore, laws which appear inimical to a public interest or segment of the capitalist elite may be seen as a symbolic means of internal self-regulation or as vehicles designed to protect the greater interests of the elite by

*Please note all direct citations from Gordon (1971) are made from the reprinted (1975) version.

restricting those individual members whose reckless, public and harmful activities may alienate a large section of the powerless. Such laws serve to protect the dominant interests of the ruling elite while contributing to a false image of pluralism and providing the symbolic appearance that the elite are also constrained by law ... As a symbolic law, it is incapable of enforcement, has a weak or non-existent sanction, or is not meant to be enforced (1977, 85).

If conflict exists among the ruling class, therefore, it exists only between the class as a whole and a few stray mavericks, and of course, those in subordinate positions have little hope to "reform" either the state or the law.

This is to be expected, since reform is no more than the existing society's way of adjusting the system so that it will survive according to its own terms (Quinney, 1974, 132).

The mavericks and the subordinates, therefore, are always forced to abide by the wishes, whims, and interests of the dominant class. Indeed, Quinney (1974, 137) cites Wolfe (1971) as support for the contention that: The "ideal capitalist society" would be one in which opposing interests would be unaware of their opposed position having fully identified with the interests of capital:

The most perfectly repressive (though not violently so) capitalist system, in other words, would not be a police state, but the complete opposite, one in which there were no police, because there was nothing to police, everyone having accepted the legitimacy of that society and all its daily consequences (1971, 200).

It would seem therefore, that virtually no law, no social practice or behaviour, will receive

sanctification--i.e., become generally accepted as legitimate--without ruling class approval and that this approval will come only if the ruling class profits from, or creates it! There are, of course, a number of instances where "the ruling class" has been able to exercise its power over the state and achieve either sanctification or delegitimation. Some of these examples are provided by Pearce, Quinney, and others. The problem which arises from this research is whether or not it is accurate to assert, as these social critics do, that all law is created and framed in the sole interest of the ruling class. It is one thing to demonstrate that particular pieces of legislation, or that particular behaviour patterns are approved, tolerated, or disapproved by this class, but it is quite another to generalize from these cases to all cases. Pearce (1973; 1976) may be able to show how big business took an increasingly active role in the development of anti trust law, and how "ruling class" sponsorship of the underworld (in the form of outright co-operation with the drug trade in Southeast Asia, as well as U.S. Congressional approval of certain "anti-communist" union tactics on the New York docks), including its ability to "eliminate" gangsters like Al Capone when ruling class interests were threatened, but it is not at all clear all laws, and all behaviour, must be sanctified by the ruling class.

The fact of the matter is, that careful scrutiny of legislative efforts (Chambliss, 1979: Snider, 1980: Taylor,

1981: Hall et al., 1978: Cuneo, 1977), indicates that interests other than those of the ruling class can receive sanctification, thereby indicating that capitalist society is not a monolithic structure, and that the ruling class is not as powerful as instrumentalists have argued. The instrumentalist conception of class would have us believe that subordinate classes are virtually without power, when in fact they are merely less powerful than super-ordinate classes. To be sure, the ruling class has a greater ability to influence and shape capitalist society than the proletariat, but that does not mean that the proletariat is without power. Indeed as indicated by Marx (1967, 239,292) the Factory Acts, and similar legislation, did not result from capitalist concern for the health of workers. Rather capital was forced to make concessions in order to maintain dominance. As G. Young (1979, 156) says, Marx argued "... that the decisive reason for bourgeois acquiescence in the passage and partial enforcement of the Factory Acts was bourgeois fear at the working class, which was becoming ever more organized and threatening." (9)

Further Marx (1967, 269-70) also shows how competition between different capitalist fractions also produced legislative changes which benefitted the working classes. (10) Specifically, he had said that "Free competition brings out the inherent laws of capitalist production, in the shape of external coercive laws having power over every individual capitalist." (Marx 1967, 270)

Examples cited by Marx include the efforts of pottery manufacturers in Staffordshire in 1863 who lobbied for legal changes which would force them to reduce their use of child labour as a means of reducing competition among themselves. Also cited by Marx were the efforts of manufacturers in Blackburn, to similarly reduce competition. He notes (p.220) that the larger manufacturers sought a reduction in production for a short fixed period as a means of reducing competition with smaller manufacturers whose profitability depended on maintaining current production. On the other hand, the smaller manufacturers offered financial support to working-class agitators in their struggle to secure the nine-hour day. Presumably, the smaller manufacturers saw themselves as being able to remain competitive via a permanent reduced work day, as opposed to a temporary reduction in production.

The failure of the instrumentalists to recognize this compounds the serious flaws in their analysis. The portrayal of class society in monolithic terms conceals that even the ruling class, or more accurately, the capitalist class, are faced with the prospect of situations not entirely to their own liking, and encountering oppositions not only from opposed classes, but also from other fractions of their own class. That is, not only have the proletariat provided organized interests and opposition, but at various times, with varying degrees of "success" and "failure," capitalist has fought capital. Even Pearce and Quinney acknowledge that

the short term and long term interests of capital may be in conflict, and that, on occasion, the interests of individual capitalist class members may be in opposition to the interest of the class as a whole. This, however, is not an exhaustive limit to the extent and type of varying interests among the capitalist class. The important point, at this stage of my argument, is that the capitalist class itself is not of one mind and body, and that it must take into consideration that there are opposing forces over which little control may be exercised in either the short or long term.

Before discussing in greater detail these comments on the nature of internal class conflict and the necessity of recognizing that even the ruling class encounter conditions over which they have little or no control, a final observation regarding the implications of instrumentalist conceptions of class is required. It would seem ironic that a theoretical position which claims to be the antithesis of bourgeois theory has, as an essential part of its own presupposition, a clear trace of bourgeois "social contract" theory. This trace of social contract is evident in the way these theorists justify the "right" of subordinates to resist or rebel against the bourgeois state. As in the Lockean tradition of the social contract, the participants are given a virtual "inalienable" right to alter the terms of the contract if those in positions of authority abuse their position. Given that instrumental Marxism views capitalist society as ruled by a monolithic, conspiring class who abuse

and trample upon the "rights" of their subordinates, it is to be expected that these subordinates take action (in form of criminal actions, as well as other forms of social protest--which themselves may be labeled "criminal") to right the wrong. As Young says of this instrumentalist conception of the social contract, these Marxists argue that if the social order is unjust:

Then the only reasonable course of action is for individuals or groups to detach themselves from commitment to such a body politic" (1979,13).

It is not difficult to find statements to lend credibility to this critique. For example, Taylor, Walton and Young (1973) as well as Quinney, Gordon, Hepburn and others (Scull, 1977: Schwendinger and Schwendinger, 1976) have all argued that the way to transform capitalist society is to transform existing forms of non-conforming behaviour (crime and deviance) into "revolutionary" behaviour. While I will deal more specifically with the problem of analyzing criminality as potential revolutionary behaviour in Chapter IV, it is necessary here to understand that the tendency to view criminal behaviour as revolutionary behaviour is the direct result of viewing class society in monolithic terms. Within such a framework, the possibility that non-conforming behaviour might in fact dialectically also represent a statement of support for other values and relations within capitalist society can not be considered. Indeed, the concept of contradiction within Marxist theory seems to lose importance, taking on a very narrow definition which can only

deal with the contradiction between owner and non-owner, rather than being capable of understanding that capitalist relations may bear contradictions in themselves. For example, capitalist society is predicated upon the right to acquire property for self-interest. But even Merton (1937: 1958) recognized this does not mean that everyone has equal access to the means for acquiring property, and that, therefore, in order to satisfy the expectation that property be acquired, it is necessary for some to "innovate" by taking alternate means to acquire property, wealth, etc. In this way the "legitimate" rules regarding the method of property acquisition are broken, but the basic value and expectation that acquisition for personal use take place is supported.

However, while Merton's functionalism allows for a means of demonstrating certain inequalities and inconsistencies between institutionalized goals and means of achieving them, it is quite clear that his analysis does not allow for a challenge to these goals and means. The Marxist theory of contradiction is not so narrowly confined to expressions of disunity between goals and means, but extends to include recognition that, in dialectical fashion, capitalist relations themselves can become "obstacles to bourgeois aims" (Schwendinger and Schwendinger, 1977, 7). As Spitzer (1975) explains, they can provide not only the basis for opposition especially when they are most blatantly repressive, but also the authority to organize (labour unions, etc.). It may be true, that these organizational

capacities are limited under the law, but it is also true that even limited capacity to organize can have, and has had, an effect on the capacity of the bourgeois classes to control subordinate classes. The main point, however, is the fact that bourgeois relations themselves give rise to the undercurrents of protest as well as a legitimated basis from which to organize protest and seek "reforms."

Structuralist Marxism:

If the failure of instrumentalism is the tendency to oversimplify class structure, structuralists have not offered a consistent analysis of the complexity of class society. At issue is not only the ability of the dominant class to control its own life condition, especially in the face of organized resistance which sometimes uses bourgeois rules to advantage, but also the problem of how to recognize that, even though internally divided, the bourgeois class interest generally prevails. For some, such as Balbus (1973; 1978) and Quinney (1977) it means a reintroduction of, or disguised, instrumentalism, while for others (Chambliss; 1979: Spitzer, 1980: Hall, et al., 1978: and others) it would appear to mean the acceptance of a different kind of Marxism in which the various classes and their fractions are given disproportionate amounts of economic power from which to wage battle. Let us consider each of these orientations in turn.

As indicated, some structuralist arguments involve a reintroduction of instrumentalist logic and argument. While

they clearly do not wish to offer such arguments, it is quite clear that certain aspects of their arguments are inconsistent. In particular, there is a tendency to imply (1) that the dominant interest is determined by the will of "ruling elite" itself without regard to the condition in which it finds itself, and (2) that class fractions, while important in terms of understanding that differences exist even among members of the same general class, are unimportant for the analysis of contradiction. These problems are clearly discernable in Quinney's Class, State, and Crime (1977). Here he offers, once again, a confusing analysis which alternately suggests that class is either a "fluid" or a "static" entity. For example, he cites the following passage from E. P. Thompson's The Making of the English Working Class as informing him of the fluidity of class:

Like any other relationship, it is a fluency which evades analysis if we attempt to stop it dead at any given moment and anatomize its structure. The finest meshed sociological net can not give us a pure specimen of class, any more than it can give us one of deference or of love. The relationship must always be embodied in real people in a real context. Moreover, we cannot have two distinct classes each with an independent being, and then bring them into relationship with each other. We cannot have love without lovers, nor deference without squires and labourers. And class happens when some men, as a result of common experiences (inherited or shared), feel and articulate the identity of their interests as between themselves, and as against other men whose interests are different from (and usually opposed to) theirs. The class experience is largely determined by the productive relations into which men are born--or enter involuntarily (Thompson, 1963, p.9).

One of the problems in the analysis which follows this citation, is that Quinney proceeds as he did in Critique of Legal Order. He proceeds as if the capitalist interests not only takes precedence over all other interests but that other interests totally lack influence. Drawing attention to the observation that just 1.5 per cent of the total population of the United States owns and controls "... the major units of the economy" (1977, 74), he argues that through direct coercion and less direct "mind control" techniques, capital is able to translate its will into social reality for all classes. In a statement reminiscent, once again, of his earlier, more Weberian period, exemplified in The Social Reality of Crime (1970), he argues that:

... the coercive force of the state is but one means of maintaining the social and economic order. A more subtle reproductive mechanism of capitalist society is the perpetuation of the capitalist conception of reality, a non-violent but equally repressive means of domination.... Those who rule in capitalist society--with the assistance of the state--not only accumulate capital at the expense of those who work, but impose their ideology as well. Oppression and exploitation are legitimized by the expropriation of consciousness; since labour is expropriated, consciousness must also be expropriated (1977, 46-7 - emphasis added).

I do not wish to imply that Quinney is unaware that classes within capitalist society are composed of numerous "sub-classes" or fractions, as he quite specifically details various "secondary classes" (1977, 64-77). Rather, I simply wish to draw attention to a certain unevenness in his presentation, an unevenness that detracts from his attempts

to argue that class is a "fluid" process. This unevenness takes the form of making consciousness the vital control mechanism used by capital (p.84) to control subordinates. While it should never be ignored that consciousness is an important element of class relations, and the interests of capital generally receive better protection than subordinate class interests, it should not be ignored that class consciousness has a material base, and that other classes have some power.(11) That is, with respect to consciousness, it is derived from ongoing changes in both the material base of society, as well as the ideological structures accompanying that material base. Quinney's "failure," therefore, is his inability to recognize the extent to which consciousness is a dependent entity. Similarly, with respect to the dominance of capital he does not fully appreciate that subordinate classes and fractions sometimes succeed in forcing at least cosmetic changes to legal and other structures, and that these subordinates gain valuable experience in the struggle to force these changes.(12) This same inconsistency is found in the work of Balbus (1973).

Despite his denial of heavy handed monolithic control, it would appear that Balbus is also unwilling, or unable, to grant to the subordinate classes the ability to take action in their own interests. It would seem, even though monolithic control is denied, that the very denial of it assures preservation of "the system," and in the process

renders the activities of subordinate classes, to make changes, virtually useless. Balbus writes:

... the answer to the question whether the law is independent of the will of social actors in no way disposes of the question whether the law is autonomous from the capitalist system of which these actors are the agents. Even more, the formulation that to the degree that the law does not respond directly to the demands of powerful social actors it is autonomous, in the sense that it functions and develops according to its own internal dynamics omits the possibility that the law is not autonomous, but rather articulates with and must be explained by, the systematic requirements of capitalism precisely because it does not respond directly to the demands of these actors. In other words, it is one thing to argue that the legal order is autonomous from the preferences of actors outside this order, but quite another to argue that it is autonomous from the capitalist system (unless one were to commit the "voluntarist" error of equating the preferences of actors with those activities that must be performed if the system in which they function is to survive). Indeed, I will try to demonstrate that it is precisely because the law is autonomous in the first sense that it is not autonomous in the second, or, to put it another way that the relatively autonomy of the legal form from the will of social actors entails at the same time an essential identity or homology between the legal form and the very "cell" of capitalist society, the commodity form (1978, 74-5).

As Young (1979, 24), quite rightly points out, this virtually means that Balbus, and by implication Quinney as well, ignores the class struggle, as even gains in legislation, which have been brought about through that struggle, are seen to be essentially cosmetic alterations which mask "the true" situation, thereby legitimating existing relations. In other words, because Balbus seems intent on showing how law becomes

"relatively autonomous" by being made free of direct control thus serving a system interest, it would appear that both he and Quinney give a degree of autonomy to this system interest that is not warranted. Such an argument, after all, assumes that people are unable to affect the institutions they encounter (and create!). This is clearly not the case. Even though the system is powerful, it is not autonomous of human action and can be strengthened, maintained, and changed by human action. It would seem more appropriate, therefore, to argue not for the relative autonomy of particular institutions, but for an understanding of how human action is both shaped by, and creates these institutions, as well as "the system." This would allow us to understand that class relations are more complex than Balbus would have us believe, that human action is explainable in terms which pay more attention to (1) the ability of subordinate classes to have impact on the institutions of society, and (2) the inescapable fact that the institutions of society, included among the material conditions of society, prevent any class from shaping and reshaping relations as they choose (Marx 1954: Marx and Engels, 1976). Given the analysis offered by Balbus it is difficult to imagine how the system could change. To be consistent within a Marxist analysis the possibility of change, particularly as brought about by the action of subordinates, must always be left open.(13)

Even though there are examples of structuralists reintroducing instrumentalism, albeit in altered form, others

(Young, 1979: Fine, 1979: Hall, et al., 1978: Melossi, 1979: Chambliss, 1979: Spitzer, 1980) offer structural arguments which allow for a more dynamic approach. Here we begin to see class and class relations in a more processual form, recognizing that even though the basic dichotomy between capital and labour persists, changes, in what might be termed the "style" of capitalism and capitalist relations, are also a constant. We can, for example, demonstrate, as a number of analysts have done (Marchak, 1979: Braverman, 1975), that modern capitalism has evolved, or is in the process of evolving into a monopoly capital system. Further we can point to certain Marxist arguments which offer that systems such as that found in the Soviet Union, which claim to be "communist," are, in fact, state capitalist systems (see: Cliff, 1974: Harmon, 1970: Nicolaus, 1974: Bettelheim, 1976). Other kinds of capitalist organization may also evolve from these. Exactly what they might be is difficult to determine. The important point, is that even though the basic relation (capital vs. labour) may persist, changes in the organization and institutions of the system may occur.

Having said this, it must also be recognized, as the Schwendingers (1977) as well as Hall, et al. (1978), point out, that the various institutions of capitalist society, whether it be monopoly or state capital, or whatever, do not act independently of each other, and that some degree of symbiosis exists. Unlike instrumentalist arguments, however,

this does not mean that a unified "ruling elite" sits at the top and virtually dictates what happens below. Nor does it mean that the system functions without aid of human action, as implied in parts of Balbus' argument. Rather it means that the capitalist system, its various institutions, and subsystems, operate so as to appear independent of human action, as groups with varying degrees of influence and power attempt, in the face of opposition from not only each other but the system itself, to order society according to their own visions.(14) That is, each historical moment, or "epoch," must be seen as a product of a historical process in which prior moments leave their residue partly in the form of ideology, partly in the form of the institutions created to suit prior needs, and partly in the form of economic relations themselves, including the technologies. Consequently each new moment in the process is restrained and restricted by these residues, but is not powerless to change them. Or as Marx and Engels clearly stated it:

... each stage contains a material result, a sum of productive forces, a historically created relation to nature and of individuals to one another, which is handed down to each generation from its predecessor; a mass of productive forces, capital funds and circumstances, which on the one hand is indeed modified by the new generation, but on the other also prescribes for it its conditions of life and gives it a definite development, a special character. It shows that circumstances make men, as much as men make circumstances (1976, 54).

Or, as Marx stated it in The Eighteenth Brumaire:

"Objectively" classes (in themselves) are determined by their empirically establishable relations to the means of production. As Figure 1 shows, there are a number of empirically observable positions within the class structure itself. The problem of how to group these within the

Insert Figure 1 about here

three broad categories of bourgeoisie, petty-bourgeoise and proletariat is, however, more difficult. Objectively each has a different relation to the means of production, but there are those within the structure whose position appears to be contradictory in itself. For example, managers, foremen, and supervisors are usually employed to do specific jobs by others. But unlike other "employees," who have no "management," duties, they are specifically charged with such duties. This clearly puts their objective structural position in contradiction to other proletarian workers. Consequently, some analysts (Wright, 1978),

Insert Figure 2 about here

Men make their own history, but they do not make it just as they please; they do not make it under circumstances chosen by themselves, but under circumstances directly encountered, given and transmitted from the past. The tradition of all the dead generations weighs like a nightmare on the brain of the living (1954, 10).

Within this context, and unlike instrumentalist arguments, there is a clear awareness that if the material conditions necessary for change are not present, then it does not matter how "revolutionary" consciousness may be, change in the direction desired is not likely to occur.

And if these material elements of a complete revolution are not present --namely, on the one hand the existing productive forces, on the other the formation of a revolutionary mass, which revolts not only against separate conditions of the existing society, but against the existing "production of life" itself, the "total activity" on which it was based--then it is absolutely immaterial for practical development whether the idea of this revolution has been expressed a hundred times already, as the history of communism proves (Marx, 1976, 54).

At the basis of my argument, therefore, as well as the arguments presented by the more advanced Marxist "criminologists," is an understanding of not only the objective condition, but also an understanding of how people become aware of, and act upon their awareness of the objective condition. That is, the basis of the conception of class I am using is a distinction between, and an understanding of, the relation between a "class-in-itself" and a "class-for-itself." This distinction and relation are crucial for a further understanding of class society.

Figure 1

The Class Structure of Capitalist Societies

Class	Fractions	Role in Capitalism
The Capitalist Class	National International Regional Monopoly "State" Family Manufacturing Resource Finance	This class owns/controls through investment the productive forces of society; it controls the labour of others
The Petite Bourgeoisie	Professionals (Lawyers, Doctors Intellectuals, etc.) Small "shop" owners Managers Self-employed	Controls its own labour process, but may also control the labour of others; may also own its means of production (even though it depends on its own labour power
The Proletariate	Supervisors Foremen Teachers Nurses Technicians Skilled trades Unskilled labour Reserve labour	This class sells its labour power, although some are also given supervision responsibilities

as shown in Figure 2, discuss these and similar classes (small employers, supervisors, foremen etc.) as minor classes occupying transitional positions between the major classes--bourgeoisie, petite-bourgeoisie and proletariat.

The significance of this distinction is that it allows us to observe that even though broad categories--proletariate, petti bourgeois, and bourgeois (capitalist)--may be used to describe the general situation, it is possible to obscure important differences between the class and its fractions. That is, while each of the various fractions may occupy the same general position (with respect to the selling or buying of labour power), it is also possible that their individual and collective interests may differ. For example, individuals and groups among the "working class" may decide that it is in their (short term) interests to cross picket lines during a strike situation, thus pitting themselves against their fellows. What this means, of course, is that we should not assume that just because people may be termed "working class," that all of them will share the same interests. As Taylor (1981) argues:

... unexplicated references to the "interests of the working people" are no substitute for recognizing that the working class is now fractured into a variety of different specific interest groups and class fragments (1981, 205).

Figure 2
Wright's Major and Minor Classes

Major Classes

Bourgeoisie

Petite Bourgeoisie

Proletariate

Minor Classes

a) Managers, Supervisors
Foremen

b) Small employers

c) Semi-autonomous
wage earners

Similarly, we may observe different fractions with opposed interests among the bourgeois class. For example, Clement (1975) makes distinctions between an indigenous, comprador, and a parasite elite. The former are those who occupy the uppermost level within a particular locale, or nation state, and who may also operate on an international basis through multinational corporate structures, while a comprador elite functions as essentially the "overseers" of branch plant operations of multinational structures. This comprador elite may be native to the nation hosting the branch plant operation, or may be imported from outside the host nation. As for the parasite elite, they are "the heads of multinational corporations outside the host country" (p.36). Within this context there may indeed be times when the indigenous elite are opposed to the interests of the comprador and parasite elites. They may wish, for example, to "protect" their market position from intrusion by the parasite elite by erecting trade barriers (or at least by attempting to have trade barriers erected), while their competition, the parasite elite, may attempt to have such barriers removed or prevented by pressuring the sympathetic comprador elite. In any event, each occupies a different objective position. The extent to which they may articulate and act upon these various objective differences reflects the extent to which they have become aware of, and are willing to act upon their differences--i.e., it depends on the extent to which they have become a class-for-themselves.

Obviously, not all Marxists agree with this distinction between a class-for-itself and a class-in-itself. Poulantzas (1975), for example, takes strong exception to it, arguing that it grants people too much power to make their own history (p.60). He goes on to say that the distinction made by Marx in The Poverty of Philosophy (1973) between a class-for-itself and a class-in-itself is evidence of certain "Hegelian reminiscences" (Poulantzas, 1975, 76), granting too much power to the realm of ideas and consciousness in generating social change and social movements. In his preface to the reprinted edition of History and Class Consciousness (1971), even Lukacs says that he had granted too much authority to consciousness in explicating the distinctions between, and importance of, classes-for-themselves and classes-in-themselves. Without commenting on the reasons for this change in position by Lukacs, it would appear that attempts to deny the importance of subjective awareness are based on the assumption that consciousness is a dependent entity. Obviously, no matter what reading of Marx one chooses, it should not be denied that Marx did indeed place consciousness in a dependent position relative to economic influences. However, it is also true that he quite clearly stated that "circumstances make men, as much as men make circumstance." How is this apparent contradiction to be resolved?

Clearly, Poulantzas, and others like him, would argue that the reading of Marx that I am offering is based on a

failure to purge all of the Hegelian influences out of Marx's work. Such a reading, however, seems extremely deterministic and mechanical, requiring not only that whole sections of Marx be rewritten, but that we reject, out of hand, any hint of Hegelian residue left in Marx's own work. There are, of course, many Marxists who object to this extremism. There are those, like Korsch (1963), who argue that the Hegelian influence on Marx should not be so cavalierly dismissed. For Korsch, the subjective and objective are constitutive parts of the dialectic shaping human history:

As a matter of fact, the 'objective' description of the historical process as a development of the productive forces and the 'subjective' description of history as a class struggle are two independent forms of Marxian thought, equally original and not derived one from the other, which are worked out in an objective and simultaneously subjective materialist theory for the use of the investigator and which, at the same time, are meant to be applied by the proletarian class in its practical struggle. In either case, they are to be applied singly or together, according to the conditions of each given position, as an instrument for the most precise solution of the task at hand (Korsch, 1963, 228-9).

This interpretation of Marx is similarly found in the work of other Marxists (Lukacs, 1971: Gramsci, 1971: Tucker, 1978: XXVI) who agree that a re-evaluation of the Hegelian influence on Marx is necessary. Accordingly, it is important to recognize the contribution to human history made by both material and non-material forces. With these Marxists, infrastructure and superstructure may be analysed separately if the situation warrants such treatment, but they

may also be analysed together. As such, there is a clear attempt to understand how the subjective and objective are connected, and how one may be analysed through the other without resorting to vulgar materialism. From this vantage point, as well as my own, the kind of analysis presented in Poulantzas's work ignores the class struggle in much the same way that Balbus ignored this struggle. Purging the Hegelian influence does not allow for a thorough understanding of historical processes, including the transformation of consciousness, and the understanding of how contradictions in class society are focused in the real life world of living people.

Of course, it is possible to take this understanding too far. It is possible to forget that, even though "real people are squarely in the middle of the contradictions" (Chambliss, 1979, 25), these people are not able to restructure according to their conscious desires. Even Lukacs, in the preface of the reprinted edition of History and Class Consciousness (1971), recognized that the argument might have been pushed beyond its proper limits in his book. Whatever the reason for this change of "mind" by Lukacs, it must be acknowledged that, indeed, it is possible to grant to the realm of consciousness--i.e., ideas--more influence over infrastructure than it really has. Within the work of Marxist criminologists, this tendency to take the argument too far is clearly shown in Quinney's Class, State and Crime (1977), as well as Taylor, Walton and Young's The New

Criminology (1973). In both of these accounts the self-creating consciousness becomes central to the development of a "genuine revolutionary potential." It becomes, in fact, the major arena of the class struggle.

In connection with this point, it would seem appropriate here to reintroduce some discussion of non-Marxist conflict theory. Recall that I had pointed out, during my earlier discussion of Turk's (1977) analysis of Weberian conflict criminology, that Turk wanted to introduce into the analysis of class, status, and power, a discussion of subjective understanding. Within Turk's terms this meant an understanding of "... differences in perceptions, beliefs, and aspirations" (1977, 215) as potentially equally casual with the mode of production. Given Quinney's orientation in Class, State and Crime it would seem that Quinney is in partial, if not total, agreement. During my prior discussion I had observed that it was ironic that some Marxists would be in agreement with Turk that subjective understandings play an important role in the historical process. Unlike Turk, and Quinney, as well as Taylor, Walton and Young (1973), a consistent Marxist approach, clearly places this subjective understanding in a secondary role. Real people shape and restructure their social-economic world, but they are not able to do so according to their wills alone, and their consciousness itself is, and must always be considered to be, a product of material conditions. These real people are as

much caught in the historical moment as they are producers of it.

This point is made quite clear in Marx's Eighteenth Brumaire, where he argues that consciousness is not to be considered the product of the single inventive mind, but rather the product of collective energies emanating from material life:

Upon the different forms of property, upon the social conditions of existence, rises an entire superstructure of distinct and peculiarly formed sentiments, illusions, modes of thought and views of life. The entire class created and forms them out of its material foundations and out of the corresponding social relations (1954, 37).

Within this context the individual "may imagine that they form the real motives and starting point" (p.37), but the reality of the situation is something quite different from such imaginings.

I shall, of course enter into a more detailed discussion of ideology and consciousness in Chapter V. This excursion into the subject matter of Chapter V, has been offered here simply to keep the understanding of class and class relations clear. It can not be denied that structural factors influence consciousness, but it must also be remembered, that real people, acting within the limits imposed by these structural/material factors create/influence social formation.

Specific illustrations of Marxist "criminologists" using this kind of analysis of class and class relations may be found in the work of Chambliss (1979), Spitzer (1975;

1979; 1980), Fine (1979), Picciotto (1979), Hall, et al. (1978), and Young (1979) among others. In these efforts we are given a more complete understanding of the role played by real people involved in the class struggle. We also get to catch a glimpse of what it means to view class as process. Indeed, as Piccotto says, it is necessary to understand not only the form, meaning the structures themselves, but also the content:

... Marx emphasizes that while the elucidation of the social content of these forms is necessary in order to understand them, a revolutionary perspective requires a method that can grasp the historical and the therefore transitory character of both form and content (1979, 169).

With reference to the earlier discussion of Quinney's failure to acknowledge the full implications of Thompson's observations, "The class experience is largely determined by the productive relations into which men are born--or enter involuntarily" (1963, 9). As such the concept of class becomes clearer. It involves an awareness that people, at birth, are thrust into relations and conditions not of their own making, as well as an understanding of the way these conditions shape and govern human action so as to be the primary force shaping human consciousness and action, but also being open to manipulation by human action. To view history otherwise is to view human action either in distinctly deterministic terms, as if the relations in which people find themselves were shaped either by inanimate objects, or, as the idealist does, in terms of the force of

ideas. Each of these latter cases oversimplifies an extremely complex set of relations containing many contradictions.

The concept of contradiction, then, has been distorted in much of the literature attempting to develop a Marxist understanding of crime. Clearly the instrumentalists, as well as those structuralists who allow a disguised instrumentalism to creep into their analysis, take the concept of contradiction to have only a infrastructural meaning--labour vs. capital, or more accurately from such a perspective, proletariat vs. capitalist. A more complete understanding of contradiction allows us to observe both infrastructural (labour vs. capital) and superstructural forms of contradiction. We can also observe, as Spitzer (1975) has done, that there is a considerable degree of overlap between the two, in that certain superstructural institutions, for example the education system, can provide antagonistic (to the interests of capital) forces the opportunity to acquire the skills and training needed to organize themselves into forceful entities. Spitzer (p.643) also argues that the production of "surplus population" presents both benefit and harm to capital. On the one hand, a relatively constant supply of "... a mass of human material" means that there is a virtually constant supply of labour "ready for exploitation" (Marx 1967, 632), while on the other hand, this same surplus-population demands complex, and costly control mechanisms. From a cost viewpoint, it

means that revenue is directed "... away from capital investment toward control and support operations ..."
 (Spitzer 1975, 643). Spitzer even argues that the efforts of capital to control this population via heavy handed state initiated control measures, provides this group with at least a potential "... basis for political organization (p.643)...." That is, when, and if, this group were to become more aware of its condition as a group with interests opposed to those of capital, it could pose a threat to capital. Thus Spitzer argues that:

To the extent that the relative surplus-population confronts the capitalist class as a threat to the social relations of production it reflects an important contradiction in modern capitalist societies: a surplus-population is a necessary product of and condition for the accumulation of wealth on a capitalist basis, but it also creates a form of social expense which must be neutralized or controlled if production relations and conditions for increased accumulation are to remain unimpaired (1975, 643).

Later in Chapter IV, I will offer a more detailed analysis of certain implications in recognizing the potential for surplus populations to organize themselves against capital. At that time I will argue that this potential is frequently overstated.

The general point to be made here is that contradictions are to be found at all levels of organization within capitalist societies. Thus to concentrate at only the level of superstructure, or only the level of infrastructure is to ignore many areas of potentially fruitful investigation. By

remaining open to this complexity in contradiction we are able to observe, as some of the more advanced critical criminologists do, (Young, 1979: Fine, 1979: Melossi, 1979: Chambliss, 1979: Spitzer, 1980: the Schwendingers, 1977), how the complex set of relations required by capital produce contradictions which have the potential to undermine capital. Previously, I made reference to Spitzer's (1975) analysis, of this problem, Young, however, provides a more complete understanding:

On the level of the sphere of circulation the worker freely sells his labour, he obtains the market equivalent for it, he is not cheated by the industrial capitalist. But if we leave 'the noisy sphere' of human rights and enter 'the hidden sphere of production,' we find a different story; instead of freedom we have coercion and necessity; instead of formal equality, substantive inequality; instead of equivalence, exploitation--the extraction of surplus value. Yet, of course, the adult male worker has a qualitatively greater freedom than, for example, under feudalism, or in a fascist state with the direction of labour, or--mostly oppositely in this context--than those of his contemporaries who are excluded or marginalized from the labour market (for example, the unemployed, women, old people, adolescents, racial minorities). The market economy creates, indeed needs, real freedom, rationality and individualism, at least in certain sections of the populations (1979, 23).

Contradiction, then is the very heart of the capitalist system.

It is not to be ignored that the capitalist system itself emerged out of certain contradictions inherent in the old feudal order of Western Europe. Within that context the emerging capitalist system fought a long, and sometimes

bloody battle against the feudalistic aristocratic order. According to Marx the capitalist succeeded, at least in part, because capital was able to present itself as the class whose interests best represented the interests of all in society at that time. That is, the forces of capital were able to succeed in their struggle against the aristocratic order by being able to present itself as the one group who had more than its own interest at heart. Or as Marx put it, no class, or fraction of a class may achieve its moment of "general supremacy" unless

... it can arouse in itself and in the masses, a moment of enthusiasm in which it associates and mingles with society at large, identifies itself with it, and is felt and recognized as the general representative of this society. Its aims and interests must genuinely be the aims and interests of society itself, of which it becomes in reality the social head and heart. It is only in the name of general interests that a particular class can claim general supremacy (Marx, 1978b, 62).

He goes on to say that it is also necessary that "... another class must concentrate in itself all the evils of society, a particular class must embody and represent a general obstacle and limitation" (1978b, 63).

Thus, in order to move from a capitalist society to a new formation more favourably disposed to a proletarian interest, the proletariat must do what the bourgeoisie did in its struggle against feudalism. It must be in a position to represent itself as "the general representative." But it will be unable to do so as long as it remains disjointed and disorganized, and attempts only to secure its own interest.

A disjointed, disorganized and self-seeking class displays only "... its own narrowness" (Marx, 1978b, 63) rather than a revolutionary or emancipatory practice.

All this, however, remains speculative. It has not yet happened. At best Marx was able to demonstrate that the bourgeoisie were able to present themselves as a class which could be the general representative. It has yet to be demonstrated that the proletariat has been or will be able to similarly represent itself. What is clear, however, is that Marx was saying that if the proletarian revolution were to be successfully waged it would have to begin acting collectively rather than as isolated self-seeking groups. Isolated self-seeking groups, have a tendency to pit themselves against others from the same general class. That is, some members of a particular class, in an effort to secure their own position may support or actively promote arrangements which are not conducive to either other members of their class, or to their class as a whole. Thus certain capitalists, as Kolko (1970) has shown, have fought other capitalists. In this case larger capitalist fought smaller capitalist for the purpose of reducing competition in the meat packing industry. The larger firms were successful in their lobby of government to have standards for the slaughter of cattle, and meat processing generally, set at such a level that the smaller producer would be unable to meet the extra costs involved. Thus capital fought capital to create the Meat Inspection Act of 1906.

Similarly, labour has often fought labour. Cuneo (1979) notes that certain organized labour unions had supported the passage of the 1941 Unemployment Insurance Act in Canada, even though it did not fully meet the needs of other members of the working class. Agricultural workers, other seasonal workers employed for fewer weeks than specified for eligibility under the act, and domestic labourers to name only a few, were excluded from benefits. Organized labour seemed more concerned with aiding a process whereby its memberships could receive income protection during periods of layoffs, etc. Other workers were left to scramble on their own.

These examples, of course, do not exhaust the total possible examples. At best they are illustrative of how different interests may be represented in law. Later in Chapter III, I will examine Cuneo's analysis in more detail. I will also examine other pieces of legislation which may also be said to represent efforts to meet some rather than all interests. The general point to be made, once again, is that, according to Marx, the proletariat will not be able to represent itself as "the general representative" until such time as it is able to set aside its own internal battles, and until such time as the capitalist class is characterized as a general obstacle to societal goals and aspirations.

A final observation is required. Some critics [(Downes, 1979: Klockars (1979; 1980)], have offered that Marxist criminologists have been ignoring what goes on

"behind the iron curtain." It is suggested, by these critics, that the failure to look at the repression which takes place in so-called "communist" countries is evidence of the false hope for a crime free society held out by the Marxists. It seems Marxists are accused of saying that a classless society would be crime free. Obviously there are Marxists who would appear, at least, to be guilty of this error, and they shall be discussed in Chapter IV in some detail. Of importance here, is the observation that a classless society is necessarily a conflict free society. This is not the case. Some forms of conflict will prevail even in a society which has genuinely rid itself of a class system. The fact that the critics point to the Soviet Union and properly point out that it has crime, however, does not provide sufficient evidence that a) a classless society would be conflict ridden, or b) that the Marxist criminologists provide a utopian dream of conflict free society. As I indicated previously, there is some disagreement as to the exact nature of Soviet society. Some (Harmon, 1970: Cliff, 1974: Nicolaus, 1974: Bettelheim, 1976) have argued that the USSR is actually a capitalist--i.e., state capitalist--society. As for some future society being able to rid itself of all conflict, this would seem, to me, to be an absurd statement to make. All that Marxist analysis really implies, or argues, is that the class nature of conflict would cease, and, consequently, the class based

conceptions of crime and deviance now in existence would also cease.

Conclusion

The argument I have tried to develop here is that conflict criminology, and in particular Marxist, or critical criminology, has been poorly developed and frequently misunderstood. Some Marxists have tended to oversimplify class and class relations, frequently implying an analysis similar to that of non-Marxist conflict theory. From my comparison of instrumental and structuralist arguments, it is evident that not all Marxists have the same conception of class, and that this has resulted in confusion.

Instrumentalist arguments have tended to leave the impression that crude economic power dominates, that a unified ruling elite sits at the top of the class structure and dictates what everyone else is to do and think. As I tried to show, this sometimes leaves them arguing with those they critique, the non-Marxists, that the consciousness of the ruling class determines both social and economic relations. This is clearly inconsistent with structuralist arguments, and with Marxism.

Structuralist arguments, however, have similarly shown signs of poor construction. At times, as in the case of Quinney (1977) and Balbus (1973; 1978), they have allowed for a reintroduction of instrumentalism. In Quinney's case there is the implication that consciousness is the key control variable, and that, consequently, all that need

happen for a "revolution" to take place is a change in consciousness among the proletariat. As for Balbus, the analysis is tainted by the failure to understand that even the subordinate classes have power, and that they have used, and can continue to use, this power to their advantage. Indeed, Balbus has failed to understand that it is the contradictory nature of capitalist relations themselves which gives these subordinate classes their power.

As such, what I have argued here is that a Marxist understanding of class begins with recognition of both classes-in-themselves and classes-for-themselves, thereby giving it both an objective and a subjective component. This dual character of class is needed in order to begin to understand how some members of the same class-in-itself may find themselves fighting against each other. That is, some capitalists may struggle against not only labour but also other capitalists, and, similarly, some working class fractions may struggle not only against capital but also against other working class fractions.

The result of all this inter- and intra-class struggle is a society which only occasionally may be said to be dominated by a single class fraction. When it does so, it does so only momentarily as it immediately sets in motion the contradictions which may lead to its own demise. The extent to which any class, or fraction of a class, is able to maintain hegemony is limited to its ability to make its interests appear to represent a universal interest. But even

then the very nature of a division of society by class means that the potential exists for another class to identify itself as a class with interests opposed to other classes. Thus this constant feature of class societies results in their constant state of change and potential antagonism.

The struggle which results (i.e., the class struggle) produces a society which is characterized not only by conflict, but by control strategies and basic principles which, in turn, also embody contradictions. Principles such as access to education, equal protection under the law, freedom of association, etc., which had been won by the bourgeoisie in its struggle against the aristocracy have allowed working class people, when they recognize that these do not exist for them, the opportunity to organize and to identify themselves as having a common interest. To the extent, however, that the working class limits itself to the extension of bourgeois rights and privileges it can not be expected that they will transform bourgeois society. Not until the working class is able to identify its own principles--its own interests--will it be able to set aside bourgeois relations and ideology.

Chapter III:

The Analysis of the State

One of the more crucial problems to be addressed within Marxism is the function of the state. The fact that Marxists have various interpretations of what Marx had to say about the state, however, clearly complicates the matter as it implies that Marx's analysis of the state was either unclear or varied according to which project he was working on at the time. There are Marxists, for example, who favour a deterministic vision of the state (O'Connor, 1973: Miliband, 1969), while others offer that Marx variously portrayed the state as either "an agency of class domination"--interpreted in deterministic fashion--or as an "administrative supervisor" (Giddens, 1975, 51). Further, some Marxists argue that Marx said the state was "relatively autonomous" (Poulantzas, 1973) from specific class, or class fraction, interests. The bottom line is that all of these interpretations may be found in the work of critical criminologists. The point I shall argue is that Marx presents a clearly coherent, single view of the state(1) but that this unity in Marx's position is blurred by some cavalier arguments found in critical criminology.

Here, as in the analysis of class, differences between instrumentalist and structuralist argument are important. Once again we find some Marxists (instrumentalists) saying that the dominant class is so powerful that it can dictate to the state what is to be done. Such a vision of the state translates as an attempt to make the state a mere puppet unable to have an interest or capability of its own or separate from the dominant class (Quinney, 1974: Pearce, 1973; 1976: Chambliss, 1976b). Opposed to this are the various structuralist arguments. Some structuralists (for example: Quinney, 1977) argue that the state serves its own interest of self-preservation, while also serving the interest of the preservation of capital. Others, however, argue that by maintaining itself as an "autonomous entity," the state is in a good position to ultimately serve only the interest of preserving capital (Balbus, 1973; 1978). Finally, and this is the point I shall be arguing, there are structuralist (Young, 1979: Chambliss, 1979) arguments which favour an interpretation of the state as a dialectical force able to serve the interests of both capital and labour, although unequally. The discussion begins with a presentation of instrumentalist argument on the state.

Instrumentalist Models

It would seem in reading the various instrumentalists theories of the state that the problem of "who rules" the state is self-evident. As I shall explain and document

below, instrumentalists view the state as an institution whose primary function is repression, existing only to legitimate the position of the dominant class. Further, instrumentalists argue that in capitalist society only the interests of capitalists will be represented and taken into consideration in the state, and that, therefore, all actions of the state, whether explicitly repressive or not, are repressive. From this vantage point, it is argued that only capitalists, or persons very sympathetic to capitalism will be entrusted with positions of influence and power within the state apparatus and, therefore, only capitalists' interests are protected and secured by the state.

To provide documentation of these assumptions these theorists have entered into analyses which attempt to show the connection between the biographies of the people who populate the state, and state actions. The object of such analyses is to provide evidence that even though the state is thought, in popular ideology, to be an independent institution, it is really a direct tool of the dominant "ruling, or elite" class who can do with it whatever they choose, so long as it is consistent with prevailing ideology, and the "masses" don't catch on to the trick being played on them. The methodological problem involved, therefore, is both to document the biographical connection, as well as demonstrate that the actions of the state elite, and its bureaucracies, do in fact favour the interests of the

dominant class in each and every case, whether explicitly or not.

One of the better known works employing such a perspective is Quinney's Critique of Legal Order (1974), but others, including Gordon (1971: 1973), Chambliss (1975; 1976b), Hepburn (1977) and Pearce (1973: 1976) have offered similar arguments. Although analysts differ on some points, they are substantially the same. They attempt to show that the state and law are necessarily repressive. With Quinney (1974) and Pearce (1973: 1976) the specific problem is to document the intimate connections between the private, corporate structure and the state elite, and to then explain the actions of the state in terms which emphasize the inevitability that state actions directly benefit the corporate elite. But with others, as in Hepburn's case, the object is to show that whether or not the specific actions of the state are explicitly repressive or not, they are, nonetheless, repressive. Perhaps the best way to begin our critique, then, is to examine in some detail Quinney's analysis showing some of the reference material he uses to support his case, as well as some additional materials with a similar orientation.

As previously indicated, Quinney's conception of class in Critique of Legal Order is best described as monolithic. In making his argument he is clearly arguing against the notion of the state as a "neutral arbitrator" of

events and circumstances. Citing Engels (1948) as his authority he says that:

... the state, rather than appearing as a third party in the conflict between classes, arose to protect and promote the interests of the dominant class, the class that owns and controls the means of production. The state continues as a device for holding down the exploited class, the class that labors, for the benefit of the ruling class (Quinney, 1974, 98).

This interpretation of Engels' The Origin of the Family, Private Property and the State would appear to be an extremely literal interpretation of the following passage cited by Quinney. Commenting on the transformation of pre-capitalist formations into capitalist structures, Engels (1948, 107) observes that a state was needed to give legitimacy to the developing capitalist system. At a time when the old order was rapidly changing this "new" economic system, based on capital as opposed to land, needed:

... an institution that would not only safeguard the newly-acquired property of private individuals against the communistic traditions of the gentile order, would not only sanctify private property, formerly held in such light esteem, and pronounce this sanctification the highest purpose of human society, but would also stamp the gradually developing new forms of acquiring property, and consequently, of accelerating increase in wealth, with the seal of general public recognition; an institution that would perpetuate, not only the newly-rising class division of society, but also the right of the possessing class to exploit the non-possessing classes and the rule of the former over the latter.

And this institution arrived. The state was invented (Engels, 1948, 107).

The passage as cited by Quinney (1974, 98) is taken from an earlier edition of Engels classic work, and reads as follows:

... an institution which not only secured the newly acquired riches of the individuals against the communistic traditions of the gentile order, which not only sanctified the private property formerly so little valued, and declared this sanctification to be the highest purpose of all human society; but an institution which set the seal of general social recognition on each new method of acquiring property and thus amassing wealth at continually increasing speed; and institution which perpetuated, not only this growing cleavage of society into classes, but also the right of the possessing class to exploit the non-possessing, and the rule of the former over the latter.

And this institution came. The state was invented (Engels, 1942,97).

Taken on its own, it is perhaps, possible to interpret this passage in the manner suggested by Quinney. However, when taken into consideration with the rest of Engel's book, and with Marx's own comments on the state, particularly in The Eighteenth Brumaire (1954) and The German Ideology (1976), it is doubtful that this represents an accurate interpretation of the position taken by either Marx or Engels, that the state:

... is a product of society at a certain state of development: it is the admission that this society has become entangled in an insoluble contradiction with itself, that it has split into irreconcilable antagonisms which it is powerful to dispel. But in order that these antagonisms, classes with conflicting economic interests, might not consume themselves and society in fruitless struggle, it becomes necessary to have a power seemingly standing above society that would alleviate the conflict, and keep it within the bounds of "order," and this power,

arisen out of society, but placing itself above it, and alienating itself more and more from it, is the state (Engels, 1948, 166).

The disagreement between Quinney and Engels is obvious.

Based on Quinney's interpretation, Engels would appear to be saying that the state was not only a conscious, deliberate creation of the capitalist class, but that it was created conspiratorially for the express purpose of repressing subordinates. Quinney's argument here borders, dangerously, on a "might makes right" kind of argument. The kind of argument for which Marx (1976, 1978a, 1978bb) had so little patience.

Undeterred by either Marx's or Engels' arguments to the contrary, and uninfluenced by Marx's warnings not to imbue "men" with more power to alter their circumstances than they possess as the agents of social change, Quinney proceeds even further by attempting to document the direct link between the state elite and the capitalist elite. He argues that:

The congressmen who draft and enact crime control policies are of a single mind regarding the need for crime control in preservation of the capitalist system. Contrary to liberal political theory, political leaders are in agreement on the truly fundamental issues (1974, 100).

His argument here is supported by reference to Miliband's (1969) analysis of the state and ruling class. It is Miliband who appears to have drawn Quinney's attention to the fact that:

... in terms of social origin, education and class situation, the men who have manned all command positions in the state system have largely, and in many cases overwhelmingly, been drawn from the professional middle classes (Miliband, 1969, 61).

In effect this means that, capitalist governments have;

... mostly been composed of men who beyond all their political, religious, cultural and other differences, and diversities, have at least had in common a basic and usually explicit belief in validity and virtues of the capitalist system, though this was not what they would necessarily call it; and those among them who have not been particularly concerned with that system, much in the way that they were not aware of the air they breathed, have at least shared with their more ideologically-aware colleagues or competitors a quite basic and unswerving hostility to any socialist alternative to that system (p.64-5).

What is being said here in these passages is that, not only does the state recruit members from the ruling class itself, but that membership in the state--i.e., the capitalist state--is predicated upon the clear, acknowledged belief that the system "works." It might be in need of some reforms, some "tinkering," to make it better, but it is workable/perfectible. The loyalty of state agents is clearly demonstrated, according to instrumentalist logic, in reference to Pearce's (1973) analysis of anti-trust legislation, and those given responsibility for enforcing such legislation. Pearce notes that the first chairman of the U.S. Federal Trade Commission:

... made it abundantly clear in 1916 how he conceived his role: 'When I was offered the place, I told the President that all I knew was business, that I knew nothing about the new laws, nor the old ones and that I would

apply the force that I might have in the interest of business.' The previous year he had made concrete his intentions. 'We are making an enquiry into the coal industry today with the hope that we can recommend to Congress some legislation that would allow them to combine and fix prices' (Pearce, 1973, 25).

Obviously, both Pearce and Quinney see the people who populate the state as having essentially the same interests as the dominant class itself.(2) Similar arguments are presented by Gordon (1971: 1973), Barnett (1979), Michalowski and Bohlander (1976), and others (Hepburn, 1977: Chambliss, 1974b; 1976b). The general intent of this literature is to demonstrate that the ruling class structures the state and law to its choosing.

What is being confused here is an extremely important distinction between the ideological function of the institution, and the beliefs and practices of particular people belonging to that institution (the state). For instrumentalists to imply that recruitment by the state from the ruling class (or at least those with sympathies similar to or supportive of the ruling class) is the cause of the state's sympathetic response favouring this class is a serious analytical error. It confuses historical process with individual motivations. What must be recognized is that it is not necessarily true that the interests of the capitalist "elite" itself are necessarily the same as the interests of the state. As Simon and Eitzen argue, this is often reflected in the view that "... within business's

ideology government regulation is often viewed as meddling" (1982, 27).

Instrumentalists are not satisfied, however, with simply documenting that the state "elite" are recruited either directly from the economic "elite," or from those groups with sympathetic orientations. They also attempt to document that the various investigative commissions and inquiries initiated at the request of the state to find the "cause" of crime are undertaken by people of similar backgrounds: Commissions of inquiry such as The Kerner Commission and President Johnson's Crime Commission are two specific examples cited by Quinney. For Quinney these inquiries are not undertaken, as in the case of the President's Commission, to discover the real "cause" of crime, but, rather, for the purpose of lending credibility to existant dominant views (the views of the ruling class). To ensure that result, the commission would have to be staffed by the "right" people. Only then could it be assured that the public interest would be made to seem to be identical with the interest of the "ruling class."

What becomes clear in an analysis of the President's Crime Commission is that its members consisted of a select group of persons who represented the dominant class interests. Such a Crime Commission could do nothing more than accept the official definition of the crime problem, a definition that construed crime to be a threat to the existing system, a phenomenon that must be controlled in order to assure domestic order. To conceive of the problem in other terms would have violated the class interest of the Commission members. Yet, we all were expected to believe that the public interest

was being served by this Commission. The "public interest" was actually the interest of the dominant economic class (1974, 60-1).

He goes on to say:

Any diversity in the Commission is found only in the standard external characteristics. The commission had blacks, as well as whites, women as well as men, a civil rights worker as well as businessmen. But the similarity of the members and their common frame of reference are the striking characteristics. Of the nineteen members, fifteen were lawyers, and one of the non-lawyers was in the legal establishment as the Chief of Police of San Francisco. Even the non-lawyers had personal careers that were clearly within the legal framework. Moreover, most of the lawyers on the commission had been or presently were members of large corporate law firms. In other words the existing legal framework at the time. A law and order mentality assured a Commission report that would propose solutions which would secure the dominant order (1974, 65-6).

That the commission included such notables as Leon Jaworski (who was to become even more prominent during the Watergate 'affair'), the president of Yale University (Kingman Brewster, Jr.), Whitney Moore Young, Jr. (Executive Director, National Urban League) and Otis Chandler (publisher, Los Angeles Times), all with intimate ties--legal, state and/or business--to the "dominant economic class," however, is not the problem. That such people would have a "law and order mentality" is similarly not the problem. Neither is it the problem that the members of such commissions would see their tasks as simply that of lending credibility to the status quo or the "conclusions" of the commission. The question is one of being able to distinguish between the actions undertaken by people as individuals

acting within their own biographies, and the actions of the class involved in the on-going processes of class, class relations and economic/social change. To isolate study on the biographies of individual actors and to then conclude that these actors can only act in accordance with these biographies not only states the obvious, it also misdirects study. What is needed is an understanding of how biographies, and individual motivations (or more accurately class motivations) are created, and how persons (individuals, groups, class fractions, etc.) occupying common relations to the means of production become aware of their own and others relations and the attempt to shape the world according to their knowledge of, and position in it. Within that context the function of the state becomes clearer. The state must be capable of responding to a variety of interests, and not just one dominant interest. Even though it is populated by persons with similar biographies, and even though its actions may favour one class over a single minded, unified ruling class, the state must be capable of responding to a variety of interests and not just one dominant interest if it is to maintain credibility, and to serve its essential legitimating role. As such, the purpose and ideological function of the state is not just to repress the "people," but to act as a problem solver for disputes between extant classes, as well as rival fractions of the same class. It is this role of the state which instrumentalists so cavalierly dismiss.

If it is clear within instrumentalist argument that the state acts solely in the interest of a unified dominant class, it is equally clear that law, particularly criminal law, embodies the interests ("ideas") of that class:

It is through the legal system, then, that the state explicitly and forcefully protects the interests of the capitalist ruling class. Crime control becomes the coercive means of checking threats to the existing economic arrangements (Quinney, 1974, 99).

Even those laws which might appear to be irrelevant to "elite" interests (such as prostitution, drug use, homosexuality, abortion, etc.) are said, by instrumentalists, to be used by the elite to lend credibility to certain pluralistic claims. Ideologically laws prohibiting or restricting these activities aid in the process of creating a false image of pluralism, thus hiding the real nature of class society. Hepburn makes the argument this way:

Irrelevant laws, then, merely demonstrate the fact that not all criminal laws are directly related to the interests of the capitalist society which asserts itself whenever threatened to oppress those who would change the existing social and domestic order.... the mere existence of such irrelevant laws, together with the documentation of pluralistic interests attempting to assert themselves through criminal law, provides a false consciousness of pluralism in capitalist society.... The presence of such laws, signifying the success of pluralist causes, furthermore serves the best interests of the elite by camouflaging the existence of a unified and powerful elite thus providing a protective shield for the actual work of the elite (1977, 83-4).

Essentially, then, the argument made by instrumentalists is that these so called "irrelevant laws" lend credibility to

the pluralist notion that even the "elite" are constrained by certain laws, and that some laws (at least) are in the interest of everyone.

Once again we are returned to the notion, adopted from Miliband (1969), Domhoff (1967), and Kolko (1962; 1969), of an elite which is so powerful and clever that it can control direct threats to its position by either outlawing, as it chooses, certain behaviour patterns in obvious conflict with its own interests, or by creating or allowing to be created, laws prohibiting certain other behaviours seen to have no direct bearing on economic arrangements. The analysis assumes, that "elite" interests are identical with class and state interests, or that at least, as Quinney says, the differences which may occur are "superficial."

Obviously, this analysis is not universally accepted among Marxists. For example, Poulantzas has said in critique of Miliband:

... the direct participation of members of the capitalist class in the state apparatus and in the government, even where it exists, is not the important side of the matter. The relation between the bourgeois class and the state is an objective relation. This means that if the function of the state in a determinate social formation and the interests of the dominant class in this formation coincide, it is by reason of the system itself: the direct participation of members of the ruling class in the state apparatus is not the cause but the effect, and moreover a chance and contingent one, of this objective coincidence (1972, 245).

He goes on to say:

... the capitalist state best serves the interests of the capitalist class only when the members of this class do not participate directly in the state apparatus, that is to say when the ruling class is not the politically governing class (p.245).

Poulantzas, however, would appear to have misinterpreted Miliband on the necessity of elite participation directly in the affairs of the state. From the passages cited previously (Miliband, 1969, 61, 64-5), it would appear that Miliband, like the instrumentalists discussed here, would acknowledge that direct elite participation is not always needed, that surrogates may serve the interests of this elite as well, if not better.(3)

Further, Poulantzas may be criticized himself for having an overly mechanistic analysis. In reading his critique of Miliband, it seems clear that he disregards, or renders insignificant, the "motivations" of the state elite itself. That is, he concentrates his analysis on the "objective" relations to such an extent that he ignores all other relations. As I argued in Chapter II, even though the objective relation is the primary means by which class is defined, class also "... happens when some men, as a result of common experiences ... feel and articulate the identity of their interests as between themselves, and as against other men whose interests are different from (and usually opposed to) theirs" (Thompson, 1963, 9-10). Taking this into account it is possible to recognize that the motivations of the state "elite" are significant for the analysis of state actions. However, it is obvious that instrumentalists have gone too

far in saying that the crucial element for analysis is the "motivation" factor. If a consistent and defensible argument is to be offered, it must be based on the proposition that the "ruling class" will attempt to shape society as it so chooses, but that this attempt is always bracketed within the context that it must inevitably take place within the constraints of the material condition as this ruling class finds it, and that this material condition presents them with situations and circumstances over which they have limited influence, but over which they may see themselves as having a greater influence. As such, the activities of the state are partially determined by the objective relation, but they are also the products of real people acting within the limits imposed by those objective relations.

To summarize simplistic analysis, such as that presented by the instrumentalists, ignores or oversimplifies many important factors. Some of the factors ignored include:

1. The fact that the state in order to perform its essential legitimating role within bourgeois society must do more than appear to be acting without bias or favour; it must take into consideration the interests of subordinate classes;
2. The fact that the state functions and operates in such a way as to give its actions meanings which go beyond the simple sum of the beliefs,

attitudes and predispositions of those who hold power and/or office within it (but that these beliefs, attitudes and predispositions are significant in understanding the attempt to order and structure society in a particular fashion);

3. The fact that the state, as a historical product of ongoing class relations, has a degree of independence from those who hold office or power within either itself or society at any particular point in history;

These, and other arguments will be examined more closely in the following section on "Structuralist Models of the State." Within these models, there is the opportunity to grasp, in a more concrete way than with instrumentalist models, the dialectical function of the state. However, even some structuralist arguments have "misfired," as in the cases of Chambliss (1976a), Quinney (1977) and Balbus (1973; 1978).

Structuralist Models of the State

Much debate and controversy surrounds the notion of the "relative autonomy of the state." At issue is the extent to which the state might be able to serve interests other than those of the members of the dominant class. As I tried to show in the previous section, it is simplistic, and naive, to think that the state is a puppet which moves whenever, and only if, its strings are pulled by an all powerful ruling elite. Such an analysis implies something which Marx clearly argued against. It implies that men/people can have, or now

have, total control over their life situations including the institutions they create. Throughout The German Ideology, The Eighteenth Brumaire (1954), the Economic and Philosophic Manuscripts of 1844 (1971), and his Contribution to the Critique of Political Economy (1970), as well as Capital (1967), Marx tries to make clear that the individual is independent, and frequently repeats that while "men make history," they do not make it as they choose, that man's institutions can appear to take on a "life of their own," making it difficult for individual or class to shape the world as desired. The state, as one such institution (or more accurately as one complex set of institutions), must be understood not simply as the product of human action, but also as a force shaping and directing human action.

Consequently, another issue to be dealt with is the problem of determining exactly what these other interests served by the state are. It is not uncommon, for example, for structuralists to argue that the state serves a system interest, or that it serves its own separate interest. The argument I will be offering, with reference and support from a number of sources, is that the state within capitalist societies serves a dialectical function, that it serves to protect the interests of maintaining the capitalist division of labour, while at the same time providing the basis and means by which opposed interests may use it for their advantage.(4) course, this will necessitate stating in clear terms what I find to be problematic in other

structuralist arguments, some of which have been widely discussed and are well known. Popularity, however, is not a satisfactory method of judgement. It often masks the real issues and problems.

One major source of difficulty in understanding structuralists models of the state, is the fact that some structuralists, notably, once again, Chambliss and Quinney, began their careers as non-Marxists, switched to instrumentalist Marxism, and only recently switched to structuralism. One result of this shift in their analysis, has been that the period of transition from Weberian to structuralist theorist is marked by an unresolved intermixture of Weber and Marx such that the theory produced remains confused and misleading. Let us examine both more carefully.

In "The State and Criminal Law" (1976a), Chambliss is attempting to not only purge his prior theoretical orientations, but to also develop an alternative model to the "value consensus" and "ruling class" models of capitalist society.(5) In his estimation:

The value consensus model which suggests that community consensus is the moving force behind the definition of behaviour as criminal and delinquent finds little support in the systematic study of the development of criminal law. The ruling class model falls short as an adequate explanation to the extent that it posits a monolithic ruling class which sits in jurisdiction over a passive mass of people and passes laws reflecting only the interests of those who rule (1976a, 100-1).

If these models are inadequate, what is the alternative? The alternative proposed by Chambliss begins with the observation that, yes, there may be examples of whole nations (South Africa and Rhodesia are two examples he cites), or particular instances, where the ruling class directly influences law creation by controlling the state, but that:

Such extreme examples ... can hardly be said to provide adequate evidence ... for the view that criminal law is a mere reflection of the interests of a few (p.66).

Noting that other groups also have power which can not always be ignored and that "... public opinion (especially as this is organised around moral entrepreneurs)" (p.101) similarly can not be ignored when creating law, Chambliss thus concludes that both the consensus and the ruling class models contain some kernels of truth, but that on their own they are inadequate, that something else must be added. This something else being:

... the important role played by the bureaucracies, vested interest groups, and even individuals acting virtually alone (p.101).

Consequently his analysis takes on some of the characteristics of his earlier work (1964; 1969; with Seidman, 1971) best described as "interest group theory," but also lays the groundwork for his later (1979) adjustments to structuralist analysis. Retained from the earlier Weberian perspective is the notion that society is composed of numerous competing interests, each trying to shape law and

public opinion to accommodate its particular interests and conception of society. For example:

An alternative model compatible with the data is best described as a conflict theory of legal change. The starting point for this theory is the recognition that modern, industrialized society is composed of numerous social classes and interest groups who compete for the favours of the state (1976a, 101).

However, he does not clearly identify that these numerous social classes and interest groups have different interests both as a result of their relation to the means of production, as well as their status in the Weberian sense. As a result the impression is created that the simple division between those in authority positions or having authority status, such as particular government officials, bureaucracies, civil libertarians, labour unions, moral entrepreneurs and big business associations, and those lacking such status is the only important differentiating factor to be examined. Consequently the analysis differs in no essential manner from that offered by Turk (1969), Hills (1971), Krisberg (1975) and other Weberians.

The fact that he does not clearly establish that these various interests are manifestations of the ongoing process of class relations, and internal class differences, has important consequences for his analysis of the state. On the one hand he can argue that:

So long as class conflicts are latent, those who sit at the top of the political and economic structure of the society can manipulate the criminal laws to suit their own purpose (p.101).

On the other hand he can argue that:

... when class conflict breaks into open rebellion, as it does in such societies, then the state must enact legislation and the courts reinterpret laws in ways that are perceived as solutions to conflict. During times of manifest class conflict legislatures and courts will simultaneously create criminal laws that provide greater control over those groups who are engaged in acts disruptive to the status quo and laws which appear to alleviate the conditions which are seen as giving rise to the social conflict (p.101).

What Chambliss is left with, is a model of the state which says that during periods of "latent class" rule the "ruling class" model works best, while in periods of "open class conflict" the "consensus model" works best. The problems with this kind of analysis should be obvious. For one thing, it assumes that during periods of "latent class conflict," presumably meaning during periods when the subordinate classes are not clamoring for change, that intra-class fractional disputes will be non existent. It would also seem that he ignores that the state, even during periods of "latent class conflict," may serve interests other than those of the capitalist class, that even in such periods the state dialectically serves certain interests opposed to capitalist relations.

As for his comments on the state during periods of crisis, it would seem that similar problems arise. Again, he virtually ignores the dialectical function of the state. During such crisis periods, the state can "... enact legislation, and the courts reinterpret laws in ways that are

perceived as solutions to conflict." However, it must be remembered that the state does so in the face of organized resistance. As such, the efforts of the state to remake the social order must take into consideration not just the interests of the capitalist class, or even its own interests, but also the interests of those who resist (Taylor, 1981: Mahon, 1980: Poulantzas, 1973, 191: Cuneo, 1980). This, in effect, means that the state may find it necessary to remake the social world, but it does not remake that world according to a single interest. Even though the interests of capital, or its agents, may weigh more than other interests, they are not the only interests which are considered. We can, for example, demonstrate, as Taylor (1981) does, that the period of crises which have plagued Britain since the Second World War, have been variously "resolved" by the incorporation by the state, of interests, which have not always been sympathetic to Britain's capitalist class. Taylor writes:

To call for a democratisation of the state is not to surrender to the right-wing individualism or to economic interests who see chances of gain in the privatisation of some forms of state activity (for example, in health care or even in child care). Indeed, given the current sorry situation of the National Health Service and local authority nursery and child care provision, a renewed commitment is obviously necessary to the defence of the state as the only institution that can ensure proper health care for all and the only institution that can provide child care on behalf of working fathers and working mothers, single parents and others on low incomes ... The state is also the only apparatus that is capable of organizing income redistribution in a capitalist society, as well as being the only centralized apparatus that can collect

taxation and provide services (like energy) for the population as a whole.... It is indeed the only institution that can universalise the availability of health, education and welfare. Finally, the state is, of course, the only apparatus through which the economic future of the mass of the people can be underwritten (1981, 206).

In saying this, of course, it should be understood that the objective is not simply to transform the state into a proletarian ally. It should be very clear that the state is an untrustworthy ally of the proletariat (Levitt, 1978). Rather, the objective is for the proletariat to gain practical experience in not only the management of their own affairs, but in political organization. Consequently, it would seem that Chambliss has, at this stage in his career, ignored an important part of the analysis.

His conception of the relation between class and the state clearly ignores the major dynamic of the state in class society. While there is obviously some truth to the observation that, if left unchallenged, the "ruling class" will attempt to shape the world to its pleasure, it is also true that neither the class nor the state can be said to act without constraint as both are enmeshed in irresolvable contradictions(6) within capitalist society. To preserve capitalist society the state must maintain an image of itself as "honest broker," the impartial referee in some gigantic sporting match. Sometimes, however, it must act in such a way as to clearly discredit and suppress the ideologies, and actions of not only rival classes, but competing fractions of the same class (including the ruling class). It must,

therefore, attempt to balance its legitimating role with its repressive role, such that its repressive role becomes obvious only during periods of "open rebellion." As such during periods of latent conflict the state may have to "repress" not only the working classes, but may also find itself in the position of having to "repress" rival ruling class fractions, as these fractions may be said, within terms of the dominant ideology, to be (more than any other class or fraction) attempting to secure their own interest at the expense, rather than for the benefit of all classes. In other words, whether in "latent" or "open" conflict situations, contradictions prevail.

Of course, one of the major constraints affecting the functioning of the state is the law. Naively, the law does embody a set of rules created and changed within the state, but that does not mean that the state, and the real people who populate the state, can change the law at will to suit their particular pleasures and whims. The laws themselves often prohibit such "might makes right" attempts to change it. More is needed to change the law than the simple desire to change it. Chambliss (1976a), of course, does not even begin to analyse how the law itself inhibits and shapes the actions of the state, creating the impression, therefore, that the law, as a totally dependent entity, has no influence over either the state, or society as a whole.

As indicated Chambliss is not alone in failing to give an adequate account of the sense in which the state and

law may be said to be "autonomous." Once again Quinney's analysis, this time in Class, State and Crime (1977), presents some difficulties. Recognizing that the state no longer serves only a superstructural function, Quinney says

... the state itself is becoming a material force, a part of the substructure, at least a "middle structure" (p.80).

A central function for the modern state, he argues, is to aid in the infrastructural process of accumulation. That is, added to the normal function of superstructural control (via the police, courts, etc.) is the "new" function of aiding capital in the process of accumulation. He is arguing that the state is in "transition," that it is becoming, more than it has in the past, a "capitalist state and not merely a state in capitalist society" (p.80). The state, he argues is taking on more of the role previously reserved for "private capital," as private capital is no longer able to perform its role without state intervention. Curiously, he fails to even consider that the state in existing, self-proclaimed "communist systems," may also have usurped this accumulation role from private capital, and thereby may have already transformed to a capitalist state (See: Cliff, 1974: Harmon, 1970: Nicolous, 1974: Bettelheim, 1976).

Quinney does make clear, of course, that within explicitly capitalist systems the state performs this new function within a context of working with the other sectors of capitalist society.

The expenditures of the state sector usually do not directly produce surplus value, however, mainly by creating (as through education) the conditions for private accumulation. The monopoly sector, on the other hand, as the prime accumulating sector of the economy, generates technical advances and the expansion of capital. The competitive sector grows with the development of the monopoly sector, employing those who would otherwise be relegated to a surplus population because of economic development (p.82).

What we are being asked to accept here are essentially the arguments offered by Offe (1972; and Ronge, 1975), O'Connor (1973) and Gold, Lo and Wright (1975)--at least as they are interpreted by Quinney. The reference by Quinney to the work of O'Connor is puzzling in that O'Connor's analysis generally tends towards an instrumentalist position,(7) quite unlike the others cited. This may simply be indicative of the general unevenness in Quinney's work. This unevenness aside, for the moment, the point Quinney is trying to make seems valid. He quite correctly indicates that the state interest and the interests of individual capitalists need not coincide, although these interests may be similar and may be interdependent. It may even be, as has been suggested, that modern capitalist society is transforming itself not into a "police state," but into a state capitalist system in which the state, rather than acting as an aid in the accumulation process becomes the primary agent or force in accumulation. This, of course, is a problematic forecast, open to much debate and criticism.(8)

What is problematic, in Quinney's analysis is not, therefore, that he can argue that the state is becoming more active in the accumulation of capital, but the extent to which he implies, or grants, autonomy to the state. From his pronouncements it would seem that the state is able to act in some situations, at least, with almost complete independence. For example, consider these statements:

... the state is more than a mere instrument of the capitalist class, it is a social reality itself (p.80).

The capitalist state of advanced capitalist society while still related to the underlying political economy, is developing a greater amount of autonomy. Rather than being a simple instrument for specific capitalists, it is becoming a complex apparatus with its own direction and its own contradictions (p.81).

As capitalism develops, the advanced state becomes a force in itself, an apparatus in the class struggle (p.83).

From such statements, it would seem that Quinney is arguing that the state already is, or is about to become independent from human action and influence. There is a kind of reification in his work not too dissimilar from that found in the work of Pashukanis (1980) and Balbus (1973: 1978). For example, Balbus in The Dialectics of Legal Repression (1973) argues that:

A peculiarity of the administration of justice in the liberal state is thus that the law is both a party to, and an arbiter of, the conflict between the state and the accused.... Formal legal rationality thus radically constrains the ability of political elites in the liberal state to wield the administration of justice as an effective instrument of political repression (p.10).

What he is arguing here, of course, is a blend of Weber's notion of "formal legal rationality" and the more Marxian notion of "Contradiction." That is, on the one hand Balbus argues that "formal rationality" in the law functions to prevent heavy handed, openly repressive dominant class rule, but on the other hand he argues that the need to continue the subordination of rival classes demands that the state repress through "formal legal rationality" the demands of the working class. As Balbus puts it:

The dilemma for the political elite ... is precisely that such departures from formal rationality in the administration of justice are dictated by their substantive policies of repression. Although the law is indifferent to the ideological and class characteristics of dissident nonelites, an elite bent on survival cannot well afford to ignore these substantive considerations. An inherent tension exists, in other words, between the substantive goals of repression and the dictates of formal rationality: on the one hand these dictates make it difficult for the state to implement its immediate interest in disposing of its opponents, and on the other a sustained policy of repression directed at particular individuals or groups is likely to jeopardize its long-run interest in maintaining formal rationality. Although "repression by formal rationality" is the legitimate mode of repression in the liberal state, it is a mode of repression beset by internal contradictions which render it difficult indeed to employ (p.11).

While I would not quarrel with the idea that the need for repression coupled with the need to appear legitimate poses severe problems for the modern state--its "crisis of hegemony"--the formulation of "formal legal rationality" in The Dialectics of Legal Repression and elsewhere (Balbus, 1978) poses some problems. We are asked to accept that the

law, is "indifferent to the ideological and class characteristics of dissident nonelites." Such a formulation of the problem not only assumes nonelites to be virtually powerless, an extremely problematic question in itself, it also gives primacy to the realm of values rather than political/economic relations in shaping both ideological and economic structures.

Essentially, therefore, Balbus has retained the Marxian method of dialectical argument (as did Weber), but has left behind the Marxist analysis. Within such a framework it is possible to argue that the legal system:

... is not easily wielded on the behalf of the substantive goals of any particular set of political elites. This follows from the fact ... that the state must confine itself to the facts of a given case and to the effort to assimilate these particular facts under a general, formal rubric; the other side of a radically circumscribed judicial discretion is an administration of justice highly resistant to substantive political pressures (Balbus, 1973, 9-10).

Or, as he says later:

... the legal form, like the commodity form, necessarily functions independently of, or autonomously from, the power or will of the subjects who originally set it in motion, but do not know, or have forgotten, that they have done so. And, as in the case of the commodity form, the 'deification' of the universal equivalent rests on the obfuscation of the 'origins' produced by the abstraction of the legal form.... Commodity fetishism and legal fetishism are thus two inseparably related aspects of an inverted 'topsy-turvey' existence under a capitalist mode of production in which humans are first reduced to abstractions, and then dominated by their own creations (Balbus, 1978, 84-5).

We are left with an analysis which says that the law functions dialectically because it is independent of "substantive interests." Such an analysis clearly ignores that human products only appear to be alien to human action as a result of historical process. At no one point in that process can it be said that "substantive interests" have total control over the human condition. Law as a product of human labour, necessitated by the contradictions inherent in any system based upon conflict, is not simply the product of the people currently charged with its administration and/or change. It is also the product of previous human efforts to confront the contradictions they encountered in their life situations. As such it may be independent of direct substantive control by particular interests at any one time, but it is not alien to human action.

The analysis of law functioning virtually in the same manner as a commodity, of course, does not originate with Balbus. We can, for example, find discussion of the law and commodity form in the work of the Soviet legal theorist Pashukanis (1980). Indeed it would appear as though Balbus's efforts differ in no significant way from those of Pashukanis. In both cases there is a tendency to view "bourgeois law" as inevitably denying subordinates the ability to influence it, denying them a capacity to use the law for their own advantage within the capitalist system. Pashukanis may correctly assert that the state and law must "wither away" in order for subordinates (the proletariat) to

attain freedom from capitalist relations, but he denies them the opportunity to gain political experience through struggles with the state. Young (1979) says in criticism of Balbus, this amounts to "turning one's back on the law" (p.25), thus leaving

... one in a position where one would deny oneself its protection, where we would be in danger of making the blunder of conflating bourgeois democracy with facism, and would, as Edward Thompson has so forcefully argued, allow us scarcely any purchase on the political controversies of our time (p.25).

Thus it would appear as though Balbus and Pashukanis, as well as Quinney, are saying that the state and law serve to obscure the relations between producer and produced, so as to make it difficult, if not impossible, for the producer to know that it is the producer, making it appear as though "product is producer." It would seem from their analysis, that the state serves ultimately only one master--i.e., that the state responds to only one interest. All three note that the ultimate purpose and function for the state, even though Quinney asserts that it does serve its own interest in the process, is the preservation of the capitalist system:

... the state serves the whole order of capitalism (Quinney, 1977, 83).

Stated otherwise, the autonomy of the Law from the preferences of even the most powerful social actors (the members of the capitalist class) is not an obstacle to, but rather a prerequisite for the capacity of the Law, to contribute to the reproduction of the overall conditions that make capitalism possible, and thus its capacity to serve the interests of capital as a class (Balbus, 1978, 86).

As such, the analysis ignores that in dialectical fashion the institutions and agents of class rule serve to maintain class society, or at least capital, while at the same time providing protection for the rights of subordinate classes. As Greenberg says in his review of Quinney's Class, State and Crime, "... there is little recognition of the concessions capitalist states have had to make to subordinate classes; (Greenberg, 1979, 110)...." As indicated previously, the interests of subordinate classes (See: Taylor, 1981: Young, 1979: Picciotto, 1979: Mahon, 1980; Cuneo, 1977) may receive some measure of recognition. This does not mean that these subordinates will be able to seek their interests and implement them with the same degree of effectiveness that capital will achieve its interests. Rather, it means that the state cannot disregard the interests of subordinates when framing law, and that the law and legal structure itself must take these interests into account.

Specific examples of the state having to take the interests of the subordinate classes into account are not hard to find. The legal recognition of unions, various unemployment insurance plans, workers' compensation, occupational health legislation as well as various labour codes all represent the attempt to not only secure the interests of capital, but to secure these interests in the face of a concerted effort by the "working classes" to secure their own interests in the face of the determined effort of capital to secure its interests. Thus it would seem useful

at this point to examine a specific law reform measure which was aimed at satisfying the contradictory objectives of the state, capital and labour. This will be done via an overview of Cuneo's (1980) analysis of Canada's Unemployment Insurance Act of 1941.

Documenting his analysis via reference to such sources as The Labour Gazette, The Debates of the House of Commons and such archival sources as the papers of W. L. MacKenzie King, Cuneo clearly specifies the various interests of the three main antagonists--state, capital and labour. Specifically, he notes that the state had an interest in maintaining political control via control of surplus population, as well as an interest in accumulating capital for state use. It is to be noted that the First World War created a serious domestic problem. How could an economy, which had been marked by high unemployment and low productivity prior to the war, absorb so many workers who found employment in temporary wartime occupations? The government began by delaying demobilization of the armed forces and creating retraining and education programs for workers whose skills would have to be reshaped to fit a civilian labour market and by creating a number of employment offices across Canada. These employment offices were specifically designed to aid the process of finding alternative employment for repatriated soldiers. It must be remembered that the government was fearful that returning soldiers would present serious discipline problems if they

were not, in the words of one government committee established to investigate the problem ". . . intelligently occupied, interested and amused during the period of demobilization" (as cited in Cuneo, 1980, 134). The government clearly wished, in the words of yet another government committee, to produce a ". . . tranquilizing feature in the industrial life of the Dominion and in calming unrest among the returned men themselves" (as cited in Cuneo, 1980, 134). Clearly the government was well aware of the potential threat to political authority presented by a large surplus of labour.

It was in this context that the government of Canada first began discussion of an unemployment insurance program in 1919. The initial venture into unemployment insurance was to aid those labourers who were out of work during the later part of 1919 and 1920, but was extended through to 1921. Again the government made clear that it was doing so in order to ". . . remove the spectre of fear which now haunts the wage earner and make him a more contented and better citizen (as cited in Cuneo, 1980, 135).

This period of high unemployment, until 1921, was followed by a period of relatively high employment, and thus little perceived threat arising from unstable labour markets. The 1930's, however, were to mark a new period of high unemployment and renewed strife in the labour force. Again the government moved to "tranquilize" the threat. Not only did it initiate labour camps in which single unemployed

workers could find work (see Brown, (1978) for an analysis of these camps which suggests that they were, in effect, forced labour camps), but it also provided large sums of money to provincial and municipal governments to fund various public works programs. Further, it provided subsidies, through the Unemployment and Farm Relief Act of 1931, for the production and distribution of farm products. In various forms and updates this act was to remain in force until 1935. It was at this time that the Government of Canada moved to create the Employment and Insurance Act of 1935.

This new act, however, was to meet with considerable opposition from provincial governments, and was declared ultra vires as it infringed upon the right of the provinces under the British North America Act to legislate in matters of civil rights. Thus between 1936 and 1940, when MacKenzie King finally persuaded the various provincial premiers to end their opposition to a federally operated unemployment insurance scheme, little was done by the federal government to ease the unemployment problem. By 1940, of course, Canada was engaged in yet another war, and yet another wartime economy. It thus faced many of the same potential threats to political stability as was faced by the government during and after the First World War. The federal government, however, was not to be saddled with opposition from other provincial governments. This time the opposition would come from capital, as the government now proposed to fund its new programs in part by contributions from the government,

one-fifth, in part from labour, two-fifths, and in part from capital, two-fifths.

It is this funding scheme which revealed the government's interest in capital accumulation. The government fully intended to use the money contributed by all three sources for ". . . investment both in government securities and in industry" (W. L. MacKenzie King, as cited in Cuneo, 1980, 137), as a means of aiding the wartime economy. This could be done, in part, because during the war unemployment could be expected to be low and thus little could be expected to be paid from the fund to unemployed workers. Indeed, Cuneo notes that, by the end of World War II, the investment of the fund in Canada Savings Bonds alone stood at approximately \$300 million while only approximately \$19 million dollars had been paid from the fund to unemployed workers. Thus, it can be said that the government was able to plan for the eventual high unemployment rate expected after the war, as well as fund wartime operations via creation of the unemployment insurance fund.

The state however, had yet a third interest in creating the Unemployment Insurance Act of 1941. It had an interest in maintaining differential wages, and thus, as a consequence, an interest in maintaining differential standards of living even among the working class. Under the terms of the act workers would contribute according to their incomes, and would receive benefits according to their

incomes. In the end, Cuneo suggests that the income policy established by this act had four major results.

- 1) It ensured that those workers employed in less well paid occupations would continue to be relatively less affluent. Indeed, they were worse off when compared to workers in higher paid occupations than when they were employed.
- 2) It left workers unable to improve their position as they now had to pay higher taxes and higher consumer prices to fund the program via higher taxation levels placed on employers.
- 3) It regulated the flow of labour by forcing labourers to continue searching for work during the period in which they were receiving benefits, and by paying them less than they would receive if working.
- 4) It divided the working class internally by maintaining income differentiation between not only employed but also unemployed workers. More affluent workers remained opposed to less affluent workers as they received more under the program. Indeed, there were large segments of workers who were left out of the program entirely (more will be said of them later).

Thus, the unemployment insurance program launched by the federal government aided its control over the working class

while providing additional capital, at least during its initial years of operation, to fund other programs.

With regard to the interests of capital, it is to be noted that capital initially opposed the act. As Cuneo documents, capitalist organizations, such as the Canadian Manufacturers Association, were opposed because they saw the act as an infringement upon their exclusive right to accumulate capital. They were concerned not only with the fact that they would have to contribute to the fund, but also with the additional record keeping and staffing problems needed to implement the program. Further, they were concerned that workers would demand higher wages to help offset the portion being paid by workers into the fund from existing wages, as well as the inevitable higher consumer prices. Finally, capital resisted because they saw themselves as being in a less competitive position resulting from higher labour costs, including the contributions they were to make to the program.

In opposition to the government, capitalists organizations made a number of alternative proposals. These were:

- 1) A variety of "private" plans, including better long range planning of individual company production schedules, private unemployment insurance, and loans by employers to employees temporarily out of work;

- 2) A "public-private" plan which would minimize contributions by employers and increase contributions from the state;
- 3) A plan to allow individual industries to "opt out," especially those with relatively stable employment records such as the banks;
- 4) A plan to allow those industries with stable employment to pay reduced contributions to the fund;
- 5) A plan to delay implementation until after the war.

These proposals were rejected by government on the grounds that they infringed upon the government's ability to accumulate capital for its needs. Thus, state and capital fought over the "right" to accumulate capital.

Finally, with regard to labour's interest in the 1941 act, it is clear that large labour groups, particularly the larger unionised workers, supported the act and even made some effort to have the number of eligible workers expanded beyond the government's limits. In general labour supported the act because it gave some state support for the concept of a guaranteed minimum wage for all workers. Most importantly, however, just as some capitalists fought both the state and other capitalists by seeking an opting out formula, it is clear that some labour groups fought against the interest of other labour groups. The Trades and Labour Congress (TLC), the All-Canadian Congress of Labour (ACCL) and the Congress

of Industrial Organization (CIO) supported the act largely because they had been pushing for such a scheme, and because it would aid their workers who were generally subject to short term layoffs, as opposed to longer term unemployment for other workers. This is important as it is to be noted that other workers subject to longer term or more frequently unemployment were excluded from the act. Even though these organisations sought wider coverage, and exemption of low paid employees from compulsory contributions (but remain eligible for benefits), they did support the act which excluded workers in these industries:

. . . agriculture, horticulture and forestry; fishing; lumbering and logging; hunting and trapping; transportation by water, air and stevedoring; domestic service; hospital or charitable institutions; professional nurses; teacher; armed forces; public service of Dominion and provincial governments; agents paid by commissions, fees, profits or other employment; moonlighting; unpaid family employment; jobs paid in kind; and sports. (terms of the 1941 act as cited by Cuneo, 1980, 147)

As Cuneo notes, large labour thereby found itself in a position in which it upheld the "principle that unemployment insurance should protect workers in the advanced sectors of capitalist industry rather than in declining trades and industries" (1980, 147). Thus labour was divided.

The end result of Cuneo's analysis is an example of the way in which the state may move to create legislation which is resisted by capital. In this case, the state was able to forge an alliance with some of the more powerful labour organisations to thwart efforts by capital to either

block the legislation entirely or to operate private, capital sponsored programs which would require labour to effectively finance its own unemployment. Clearly labour did not get all that it wanted in the legislation. Equally clear is the fact that the struggle over unemployment insurance financing did not end with the creation of the 1941 act. Numerous changes have been made to the act variously affecting the state, capital and labour. For example, through its efforts labour has been able to gradually extend the legislation to include a wider range of workers, including those in teaching, transportation, government service, some (not all) agricultural workers, forestry workers, lumbering and logging and hospital workers. It has not been successful, however, in having most domestic workers included, or in ending the scheme whereby those in lower paid occupations actually end up paying a higher rate of insurance, for fewer benefits (See Marchak, 1981,40).

Similarly, capital has been successful in changing the legislation to allow certain large employers to make reduced contributions wherever their particular industry has sufficiently stable employment records or is sufficiently large as to allow such a reduction. These changes, particularly the latter, have reduced the state's ability to use the unemployment insurance fund to accumulate capital for its other expenditures--indeed there have been occasions when the state has had to make larger contributions to the fund to make up for temporary shortfalls during periods of unusually

high unemployment. But even if it has to pay more the state still receives the benefit of reducing unrest among the unemployed. In recent years, the Government of Canada has also embarked on a number of "make work," and subsidy programs to further reduce this threat by "creating" jobs--as it did during the depression years of the 1930's--which make up for the loss of jobs in the private sector. Thus, it must not be ignored that a piece of legislation may be changed after it has been initially formulated. And thus law reform is an ongoing process as opposed to an immediate step.

This ongoing process is important for two reasons. First it signifies that what has been gained may be lost, or added too in the future. Secondly, and most important for the present discussion, it means that, once a particular goal has been achieved, continued effort is needed to either maintain or expand upon the achievement. Once again, it is to be noted that the achievement is not measured simply by the actual gains (or losses) in changing the law. Achievement is also measured by the extent to which the different labour factions, or other interests, are able to be united in common purpose. The fact that the larger, more powerful labour unions were able to first secure their own interests, even if at the expense of other workers, should not overshadow the fact that labour has been able to expand the program via a more unified, collective posture in struggling with the state. This is reflected, in part, by the acceptance within the union movement of certain

"professional unions" such as nurses and teachers, including university professors. Of course, much remains to be accomplished in terms of fully unifying the various labour fractions, and it should not be expected that the struggle to expand the unemployment insurance program, on its own, will provide sufficient reason for full unification of the proletariat. Such effort, along with other efforts to struggle with the state, may, however, form part of the total struggle. As Chambliss puts it:

The forces that are important to understand then, are not the interstices of legal institutions (judges' reasoning, prosecutors' discretion) but the social forces of power, conflict, contradictions, and dilemmas which create the 'necessity' for legal institutions to respond, for law to change (1979, 24).

In this statement Chambliss adopts a more sophisticated structuralist argument than that discussed previously (1976a). The shift is made even clearer in the following passage:

The more general point is that the creation of law reflects a dialectical process through which people struggle and in so doing create the world in which they live. The history of law in capitalist countries indicates that in the long span of time, the capitalists fare considerably better in the struggle for having their interests and views represented in the law than do the working classes; but the shape and content of the law is nonetheless a reflection of the struggle and not simply a mirror image of the short-run interests and ideologies of the 'ruling-class' or of 'the people' (p.24).

Within this context, it is not essential to view the state as always needing to use the heavy club to bring about the submission of the working classes. The state must also

"educate" the worker: That is, the state must convince the worker that the state really does take his/her interest into account. Borrowing heavily on the work of Gramsci (1971), Hall, et al. observe that:

The 'autonomy' of the liberal capitalist state thus gives universal form to the domination by a succession of ruling-class alliances. That 'universalisation' of the state to the 'general interest' is underpinned by its base in popular representation and popular consent. The capitalist state is the first, historically, to root itself in universal suffrage. Gradually, through a prolonged political struggle, the emergent working classes won a position in 'political society,' and were by the early twentieth century incorporated formally into it (1978, 206).

Indeed, they go on to state that were it not for the fact that the state took the working class interest into account the state would lose its essential legitimating role as it would no longer be able to present itself or be presented as an impartial judge of disputes.

This gradual, uneven, often bitterly resisted drawing of all the political classes within the formal framework of the state, at one and the same time, widened its representative base (and thus its legitimacy), and forced it to appear increasingly 'autonomous' of any one particular class interest. A fundamental recomposition of the form of the capitalist state followed. Hereafter, the state could only provide the 'theatre' for the organization of hegemony, by working through consent. Its work as an 'organizer of consent' thus becomes more critical--as well as more delicate, more problematic. Only by winning consent can the state exact both obligation and obedience (p.206).

The issue being addressed here is the issue of the necessity for the working class to seize political power.

Quite apart from the debate over whether or not "Eurocommunism," as it is currently advocated, is or is not a viable plan of action, it is nonetheless important to remember that Marx and Engels both realized that the working class had to seize power in order to transform capitalist society into socialist society. Not only in The Manifesto (Marx and Engels, 1971), but elsewhere (Marx, 1978a: Engels, 1948) they try to indicate that, even though working class participation in the institutions of capitalist society will frequently result in the legitimation of that society, it is also true that the working class gains political maturity in the process. Indeed, Marx is quite clear in stating that before any transformation can take place, it will be necessary for the seeds of the new society to have been planted in the old order. One of those seeds is the participation of the working class in the institutions of capitalist society. As Marx himself stated it:

Someday the worker must seize political power in order to build up the new organization of labor; he must overthrow the old politics which sustain the old institutions, if he is not to lose heaven on earth.... But we have not asserted that the ways to achieve that goal are everywhere the same. You know that the institutions, mores, and traditions of various countries must be taken into consideration, and we do not deny that there are countries ... where the workers can attain their goal by peaceful means (1978a, 523).

The consequences of these observations--that working class interests must be taken into account when framing law--should be obvious. There will be times when the law

will "... impose its legal authority on sections of capital itself" (Hall, et al., 1978, 207). It must, in other words brand not only the actions of the working class which might threaten the property relations of capital, but also the actions of other Capitalist fractions whose actions can also be made to appear inconsistent with a more general interest. Certain capitalist actions, therefore, can be, indeed, have been, treated as "illegal." These actions become illegal partly because of the forceful presentation of the working class interest and partly because the actions of even the capitalist must appear to be consistent with a general interest. Where the general interest and the interest of capital do not coincide the probability of legal sanction being imposed against the "wrongdoer" increases. The point is that the law (and hence the courts themselves) appears to be independent. The courts, may in fact, actually anger those who hold power in the state (Hunt, 1976).

Despite this appearance, however, Hall, et al., argue that the state and law perform a particular role favouring a particular set of interests. They offer that the law:

... performs--not necessarily in a concealed, but often in a perfectly open and 'legitimate' way--in the long-term service of capital. The inscription within its legal forms of the key relations of capital--private property, the contract--is no well-kept secret. If the law demarcates illegal forms of appropriation, it makes the legal forms public and visible--the norm--and sanctions them positively. It protects life and limb. But it also preserves public order; and under this rubric, it frequently secures, in moments of open class confrontation, just that stability and

cohesion without which the steady reproduction of capital and the unfolding of capitalist relations would be a far more hazardous and unpredictable affair. It preserves society against its enemies, within and without. It raises existing social relations--for example those stemming from the social and sexual division of labour--to the level of universal norms (p.208).

The state, then, as Chambliss tried to argue in "The State in Capitalist Society" (1976a), serves a status quo function. It protects, aids and develops whatever interests are dominant as "the general," or "hegemonic interest." Of course, "this interest" is created and sustained within a certain kind of context: The general conflict between capital and labour. Hall, et al., as well as other structuralists, argue that the achievement of "hegemony" is possible in capitalist society through the manipulation of "public opinion." But unlike instrumentalist notions structuralists argue, the "ruling-class" alliance is able to manipulate "public opinion" precisely because there is consent. That this consent is virtually imposed should not be forgotten. However, it is imposed by virtue of the nature and type of material relations found in the society.

The state, then, is not just a mechanism of overt repression, but neither is it an independent entity. Through the production of consent--the production of hegemony--the state serves to maintain the status quo or at least,--the division of labour--during periods of "crisis," to redefine the status quo. In doing so it will in some instances "infringe" upon the working class, in other instances it will

"infringe" upon the capitalist class, or fractions thereof, all for the preservation of an illusory general interest, this reified general interest ultimately serving the interests of capital within capitalist society. A word of caution, however, is necessary. The concept of the state being advocated here is a concept which recognizes that people:

... are squarely in the middle of these contradictions as the struggle to resolve the contradictions by fighting against existing law (laws supporting colonialism, wage discrimination or racism, for example) while others are creating new laws. In the process, ideological justifications develop, shift, and change; these ideologies, in turn, become a force of their own influencing the development of legal institutions as it reflects the interplay between material conditions and ideology (Chambliss, 1979, 25).

Only by recognizing that real people are "squarely in the middle" acting in such a way as to at least try to shape the world as they would like to have it, and realizing that the world can never be reshaped simply by the desire to change it can we recognize that the state is not a power in itself, or simply the tool of a powerful class. Such descriptions of the state are misleading. The state is something best seen as bound to the historical development of contradictions in human economic/political/social life.

While it is clear that I have been arguing that the state may be forced to take into consideration the interests of subordinate classes, it is also true that the state does not give favours away. Consequently, the primary objection

to the instrumentalist view of the state is that it says that the state can never consider the forceful demands made upon it by subordinates, while structuralists argue that the state may be forced to give recognition at least in part to maintain its legitimacy. I do not wish to argue with the fact that in giving recognition to subordinate interests, the state does give greater protection and recognition to the interests of capital. Rather, I simply wish to point out, as did Taylor (1981, 81), and Young (1979), that there is a danger in "turning one's back" to the state. To do so implies that social change in the direction sought occurs without an attempt to make it happen. While it is true that human effort at changing things is mediated through historical circumstance and material condition, it is also true that these historical and material conditions may be affected by human action. This, after all, is the essence of what is meant by the dialectic between "values" and the "material" world.

Conclusion

I began this overview of critical criminological thinking on the state by saying that Marx himself had not offered in one convenient text a systematic analysis of the state, but that he had, nonetheless, left behind a clear analysis of the state. The fact that Marxists have tended to interpret Marx in a variety of ways, however, tends to confuse many of the important issues. Consequently, what I

have tried to do in these pages is offer an analysis of some of these various interpretations showing how some of them, particularly the instrumental analyses of Quinney, Pearce, and Gordon, among others, have misunderstood what it is that Marx had to say about the state. In effect I have been arguing that a theory of the state consistent with what Marx had to say about the state should recognize that the state is not only created within a certain context, but is an entity which may also serve, in a limited way, the interests of subordinate classes.

That is, the analysis I have been presenting rejects the simple black vs. white view of the instrumentalists in which the state at all times serves only one interest--the interest of preserving the capitalist class in its position of power and influence. Such a view with its emphasis on monolithic control of not only the economy, but the consciousness of subordinates may be appealing for those who wish to point their fingers at specific people or groups and blame them as individuals for all that is "wrong" with capitalist society, but it hardly constitutes an adequate explanation. From a structuralist viewpoint this type of theory amounts to little more than a "might makes right" kind of argument. Such arguments are unable to give an adequate explanation of instances where the powerful have their "rights" restricted by the state.

Further, I have argued that certain structuralist arguments have resulted in a blend of Marx with Weber such

that it is difficult to determine exactly what is being said about the political economic process. It would seem that these arguments frequently imply or grant real independence to the state and/or law, making it appear as though people had no control over either. In this instance I have tried to demystify the argument, to show that even though the institutions of human society take on the appearance of autonomy they are in fact human products over which real people have power. Of course, the power possessed is restricted and can only be exercised within certain limits. People are as much the product of their circumstances as they are producers of those circumstances. Indeed, it would follow from Marx's analysis that people may attempt to shape the world to their desires, but that their desires and their ability to act are restricted (produced) by the historical condition in which they find themselves.

The State therefore, is a complex set of institutions, created through historical process and need. It arose within a particular set of circumstances to resolve a particular set of contradictions (see Engels, 1948). In order to resolve those contradictions it had to remain aloof from the particular demands of a particular class or fraction. As a problem solver its solutions had to appear to be in the best interests of all: i.e., there had to be some consent as to what would constitute the most desirable set of political, economic and social relations. The state, of course, came to play a major role in the creation of that

consent. Because it has been able to accommodate certain demands from the working class, and other "less powerful" interests, the working class has seen in it the opportunity to have at least some of their interests protected from the savagery of "disreputable" capitalists. That the working class has not seen fit, at this point in history, to do more than soften some of the superstructural contradictions of capitalism is testimony only to the fact that this class remains as a class-in-itself. It occupies a specific relation to the means of production, but it has not yet unified itself to the point where it can collectively articulate its opposed interest. It is not yet (and may never become) a class-for-itself. The implication of this for an analysis of the state, is that within capitalist society the state becomes an entity capable of accommodating opposed interests without destroying the capital labour distinction.

Chapter IV

Images of Crime and Criminology:

Flirting with Anarchism

Perhaps the most interesting critique of critical criminology is that it "... makes common cause with cynical thieves or murderers" (Hirst, 1975b, p.240). Despite denials by some Marxist criminologists, there is clearly a point at which some instrumentalists, as well as some structuralists have overromanticised crime, criminality and criminals. Partly as a consequence of the tendency to oversimplify the process by which definitions of behaviour and people as criminal are derived and enforced, and partly as a consequence of endowing individuals with the capacity to create consciousness as they choose, there has been a tendency within critical analyses to portray the criminal as a "primitive revolutionary" whose actions are undertaken to protest capitalist social order. The result is a conception of crime and criminality which resembles, in many ways, a crude anarchism of the type usually associated with Bakunin more than it does the analysis of Marx.

However, as I shall indicate there are other advocates of critical criminology to whom the criticism does not apply. Indeed, most structuralists argue against such simplistic "cause-effect" relations between repression and

criminality. Instead they attempt to argue that crime and criminality, as products of class relations need not represent the presence of a revolutionary vanguard, that crime and criminality may also be indicative of acceptance of prevailing social order. They argue that even those people who break the law, and law violation itself, may defend and help preserve the very arrangements which simplistic arguments assume are threatened by their existence. From my vantage point, crime, criminality and criminals need be no more interested or desirous of abolishing capitalism than the wealthiest capitalist.

The analysis which follows is an attempt to clarify these critiques and trends, in an effort to demonstrate the efficacy of a Marxist understanding of crime and criminality. In effect, I shall be arguing that the flirtation with anarchism found in the work of instrumentalist Marxism, as well as some structuralist arguments (Quinney, 1977: Sternberg, 1972), results in a distorted analysis consistent with neither Marx nor, eventually, the anarchism of Bakunin, and that the analysis of the lumpenproletariat offered is similarly inconsistent as it is given a vanguard status, inconsistent with Marx's analysis, without a clear understanding of what it is in the anarchist tradition of Bakunin which gives it such a status. Within much of instrumentalist Marxist criminology, the lumpemproletariate, is given the status of revolutionary "vanguard" simply because it breaks the law. Even Bakunin, as we shall see,

came to resist such simplistic analysis. My main concern, however, is to demonstrate that the Marxist flirtation with anarchism leaves out the vitality of Marx's analysis.

Bakunin's Position

Bakunin's position on crime and criminality varied considerably during his lifetime. On the one hand, in Statism and Anarchy, (1971a) he depicts the lumpenproletariate, "the criminal masses," as potentially the most revolutionary class, and on the other (1971b) offers that so long as it exists as fragmented, isolated individuals, seeking individual solutions to collective problems, little may be expected of it in terms of "leading the revolution." Knowledge and awareness of the anarchist position has, of course, been distorted by many years of debate between not only anarchists and Marxists, but anarchists and everyone else.⁽¹⁾ But a careful analysis of Bakunin's work, despite its many inconsistencies, reveals a certain consistency in his thought regarding the role of the lumpenproletariat as a historical force, and a comparison of Bakunin and Marxist criminology reveals that Bakunin may have been closer to Marx in his analysis than some Marxists (particularly the instrumentalists). For example, while some Marxists (see: Spitzer, 1975: Freedman, 1973: Offe, 1973: Platt, 1978) have taken the view, consistent with Marx, that the lumpenproletariat by virtue of its lack of commitment to any social system makes it an untrustworthy ally in the class struggle, others (for example Quinney, 1974: Greenberg and

Stender, 1972: Sternberg, 1973: Pallas and Barber, 1973) argue with Bakunin, that its lack of commitment to capitalist society allows it to become a sort of vanguard, ready to destroy all that surrounds it in order to create a new society.

The problem is, however, that even Bakunin realized that this "dangerous class" could not be left to flail away at the structure of capitalism via individualistic means. It had to be channelled into accepting collective action as the best route to a resolution of conflict. That is not to deny that he endowed them with the quality of providing the initial spark which would ignite the proletariat to action. Rather, it is to suggest that even Bakunin was aware that collective response would have more effect than individual response. As such, in Bakunin's notion of a "spontaneous revolution," the criminal "masses," as representatives of the most downtrodden class in society would be the first to take up arms against capital, but once the spark had been ignited the organized proletariat would have to assume leadership.

A popular insurrection, by its very nature is instinctive, chaotic, and destructive, and always entails great personal sacrifice and an enormous loss of public and private property. The masses are always ready to sacrifice themselves; and this is what turns them into a brutal and savage horde, capable of performing heroic and apparently impossible exploits, and since they possess little or nothing, they are not demoralized by the responsibilities of property ownership. And in moments of crisis, for the sake of defence or victory, they will not hesitate to burn down their own houses and neighbourhoods, and property being no deterrent, since it belongs to their

oppressors, they develop a passion for destruction. This negative passion, it is true, is far from being sufficient to attain the heights of the revolutionary cause; but without it, revolution would be impossible. Revolution requires extensive widespread destruction, a fecund and renovating destruction, since in this way and only this way are new worlds born.... (1971a, 334).

That Bakunin recognized the necessity of organization can not be denied. His virtual life long battles with Marx, particularly related to control over the First International, were battles over organization. He saw Marx as providing a straight jacketed organization, ruled by an elite group of intellectuals, led by Marx himself, while he wanted to provide an organization organized from the "... bottom up" (1971a, 328).

No theory, no ready-made system, no book that has ever been written will save the world. I cleave to no system (Bakunin as quoted in Carr, 1961, 175).

What he was arguing against was not organization, but a style of organization in which imperatives are directed from the top to the bottom, as well as notions about how to organize for a revolution--It is an argument which even the contemporary anarchists Bookchin (1973: 1979) and Benello (1974) (2) seem to favour. Because he saw the necessity for "bottom up" organization, and because he advocated that revolution would come spontaneously, he saw in virtually every uprising of his day a chance to finally overthrow the capitalist order. In effect, each uprising became the "spontaneous" revolution. The fact that these uprisings usually failed, many disastrously, left him feeling "... too

old, too sick, and ... too disillusioned to participate this work" (1971c, 354), and bears testimony to Marx's observations that revolutions succeed only when both the material condition and the will to revolt coincide. It is a lesson Bakunin (1971c) grudgingly conceded.

Of particular importance to a comparison between certain critical arguments and the anarchism of Bakunin, however, is the notion of spontaneous revolution itself. Contained within it is an explicit acceptance that any law breaking behaviour is potentially revolutionary: It is this potential which the instrumentalists attempt to elevate to the status of vanguardism. Time and time again Bakunin proclaims that law and government are the natural enemies of "the masses," a term which he uses to refer to both the lumpenproletariat and the proletariat. Within this framework criminality constitutes a state of primitive resistance or rebellion and this latent revolutionary zeal could be harnessed to become a collective rebellion. But he was never able to find a practical method by which to channel "the negative passion" into genuinely revolutionary action.

Repression has become a new science ... and to breach this well-nigh impregnable fortress we have only the disorganized masses. But how to organize them, when they do not even care enough about their own fate to know or put into effect the only measure that can save them? There remains propaganda; though doubtlessly of some value, it can

have very little effect* and if there were no other means of emancipation, humanity would rot ten times over before it could be saved (1971c, 355).

But if Bakunin clearly argues that "... the social organization is always and everywhere the only cause of crimes committed by men" (1971b, 150) he also clearly argues that the ruling class is also a prisoner of the very conditions which they create:

All the revolutionaries, the oppressed, the sufferers, victims of the existing social organization, whose hearts are naturally filled with hatred and a desire for vengeance, should bear in mind that the kings, the oppressors, exploiters of all kinds, are as guilty as the criminals who have emerged from the masses; like them they are evildoers who are not guilty since they, too, are involuntary products of the present social order ... since power resides less in men themselves than in the circumstances created for men ... by the organization of material goods.... (1971b, 150-51).

As such he argues with Marx that "circumstances make men just as much as men make circumstances" (with Engels, 1976).

To summarize Bakunin on crime and criminality, he argues:

- a) that crime is a product of social organization;
- b) that even the capitalist class must live and act within the confines of the material condition in which it lives;

*At this point in the text the translator/editor Dolgoff, puts in brackets the phrase "in the present circumstances," which seems to alter the meaning of the passage. Therefore, I have taken it out so as to show the similarity between Marx and Bakunin (in his later years) on the issue of the necessity for both material and ideological change to make a "successful" revolution.

- c) That crime and criminality are evidence that within the system are dissatisfied with the condition and are willing to take action to agrieve the wrongs they feel as individuals;
- d) that crime and criminality may be indicative of collective wrongs, but so long as the criminal seeks to use his/her "negative passion" in isolation from others in the same position, then crime and criminality cannot be expected to rise above an instinctive, individual rebellion against the social order; and finally
- e) that organized, collective action is needed to seize the opportunity provided by the outbreak of a spontaneous revolution to turn it into a genuine revolution.

The basis of his entire argument, as it relates to the present discussion, is that crime and criminality are a product of repression and are indicative of a primitive revolutionary consciousness among "the masses." As such, his argument is similar to certain critical arguments (to be specified) that crime and criminality are revolutionary in themselves. What is missing from many of these arguments is Bakunin's steadfast belief that the primitive revolutionary could not be relied upon to provide more than the initial spark, once conditions were present, to start the revolution.

The Marxist Flirtation with Anarchism

That some critical criminologists have attempted to incorporate elements of anarchist tradition in their work is undeniable. Indeed, Taylor, Walton and Young explicitly state that at least one of their objectives in writing the New Criminology was "... to sustain what has until now been a polemical assertion, made (in the main) by anarchists and deviants themselves, that much deviance is in itself a political act" (1973, 221). The exact meaning Taylor, Walton and Young, and others, give to crime as a "political act," of course, varies. For some the act itself constitutes a political statement, while for others it must be accompanied by a conscious intent to "rebel." The end result, in both cases, is that criminality, whether spontaneous, planned, or accidental becomes rebelliousness or resistance.

This tendency to flirt with the anarchist notion of "primitive rebellion" through criminality, however, is not limited to contemporary instrumentalists. Marx's chief collaborator and colleague, Engels, in his The Condition of the working Class in England (1845), had offered a very similar analysis.(3) For example:

The earliest, crudest, and least fruitful form of rebellion was that of crime. The working-man lived in poverty and want, and saw that others were better off than he. It was not clear to his mind why he, who did more for the society than the rich idler, should be the one to suffer under these conditions. Want conquered his inherited respect for the sacredness of property, and he stole (p.250).

However, unlike many contemporary instrumentalists he went on to caution:

The workers soon realized that crime did not help matters. The criminal could protest against the existing order of society only singly, as one individual; the whole might of society was brought to bear upon each criminal, and crushed him with its immense superiority (p.250-51).

Nonetheless, Engels still argued that it was "the most primitive form of protest" which the working class approved "in silence" (p.251).

This would appear to be not unlike the analysis which I have shown to be adopted by Bakunin (1971b). There is a recognition of the "primitiveness" of the rebellion, with a simultaneous acknowledgement that so long as crime remained an isolated, individual act, the working class could not, and would not, look to it for deliverance from capitalist relations. However, among contemporary instrumentalists (Quinney, 1974: Greenberg and Stender, 1972: Pallas and Barber 1973), it would seem these "primitive rebels" still constitute the "vanguard" of the hoped for revolution. This clearly separates them from both Engels and Bakunin in his "Program of the International Brotherhood" (1971b), thus leaving them with Bakunin in Statism and Anarchy (1971a).(4)

Along with this tendency to flirt with anarchism, of course, is the tendency to, as Taylor, Walton and Young (1973, 221) did, link the activities and motives of the deviants themselves with their assumed revolutionary potential. For example, in his recent overview of the

overromanticization of criminality Greenberg observes that the tendency to view the criminal as a "vanguard":

... was obviously grounded in reality, but at the same time it was easily distorted by wishful thinking (1981, 413).

Specifically, Greenberg notes the tendency of "radicals" (including the indecisive theorizing of Krisberg (1975), who I have referred to as essentially a Weberian conflict theorist in Chapter II) to view prisoners like Angela Davis, George Jackson, Eldridge Cleaver and others, as politically active and conscious of their rebelliousness. In critique, Greenberg suggests that there are in, actuality, few inmates of prisons who display such political awareness, that there is, in fact "... wide variation in levels of political consciousness" (1981, 413), among prisoners. He goes on to note a rather ironic situation:

Fay Stender, a California attorney active in prisoner's rights litigation could write in 1972: 'I certainly feel that, person for person, prisoners are better human beings than you find in any random group of people. They are more loving. They have more concern for each other. They have more creative human potential' (p.13). In 1979 she narrowly survived an assassination attempt apparently perpetrated by a small group of ex-prisoners (1981, 413).

What is puzzling, given this romantic conception of criminality as (at least potential) rebelliousness, is that some instrumentalists, notably Taylor and Walton (1975) deny that they would champion these "villains." If as they argue with Young in The New Criminology, criminality is "... action taken to resolve antagonisms" (1973, 236) inherent in the

structure of society, and if, as they also argue, criminality is "rational," how can they then say that they are not championing criminals? Why argue for the authenticity and rationality, as well as the politicality of criminality, and then strip that act of support? That is surely what they have done in retreating to the notion that they simply want to discover a way to abolish the power to criminalize.

If Taylor and Walton are reluctant to proceed with the logical outgrowth of their own analysis, Quinney and others are not. In both his instrumental Critique of Legal Order and his structuralist Class, State and Crime he openly argues that crime and criminality are not only indicative of repression, but that some within society are engaged in open conflict (warfare?) with the system. The analysis differs slightly in Critique of Legal Order from that presented in Class, State and Crime but the ultimate argument is the same. Whereas the formulation in Critique is simplistic and monolithic, it is more complex and fragmented in the later work. For example in Critique of Legal Order he writes:

The new enemy today for the state is the "criminal." Replacing the red menace (internal communism), as the threat to domestic security is crime. Not only the conventional attacks on private property (robbery and burglary), or the crimes against person (murder, and assault), but behaviour that has not always been regarded as a threat to domestic order is now being handled as crime--civil disobedience, the verbal expression of political dissent, demonstrations and organised protest of various forms (1974, 118).

There are two interrelated problems with this analysis. First, it assumes that these "new" threats to domestic order have not been treated as threats in the past. This is obviously not true as "civil disobedience, the verbal expression of political dissent, demonstrations and organized protest of various forms" have a long history of being treated as crime. It would be difficult indeed to find any social system which has not regarded these behaviours as problematic in some fashion or other. If history teaches us anything, it is that those who have disagreed with established doctrine, and who have openly stated their opposition have been treated as "heretics," "rogues," "villains," and criminals. The fact that these forms of behaviour are treated within class societies as crime is not, therefore, new or surprising. Without implying an overly deterministic model of the relation between crime and class, it should be obvious that any attempts made within class society to "undermine" the legitimacy of the political, economic and social institutions of that society will be dealt with through the legitimated institutions of social control-- including not only the criminal justice system (Lea, 1979: Takagi, 1975: Haring, 1980: Spitzer, 1979b: Greenberg and Humphrys, 1980) but also the social welfare system (Fox-Piven and Cloward, 1971: Ryan, 1971: Adams, 1970; Adams, et al., 1972), and to some extent psychiatric institutions (Spieglman, 1978: Mitchell, 1974: Miller, 1973). The fact that these "crimes of civil disorder" are

lumped together within capitalist systems with other more conventional "crimes" only serves to confuse the issue, and therein lies the second problematic aspect to Quinney's analysis. He too, confuses these non-conventional "crimes" with conventional "street crimes." He clearly treats them as equivalent, thereby giving political importance within the class struggle to not only explicitly related "civil disorder," but to "cynical thieves and murderers."

In this context Quinney is arguing with Bakunin (1971a) against Marx. Both Quinney and Bakunin accept that any act which violates state law or which is handled by the state as crime is necessarily a threat to civil order and the state. They are in the awkward position of agreeing with the official ideology. This in itself is an embarrassing situation. The real problem, however, is not that their analysis differs in no significant way from official ideological explanations, but that they both endow criminality with revolutionary consciousness. Whereas Marx and Engels (1971) had been distrustful and fearful of the "criminal" class, having in effect a somewhat conventional view of crime and criminality (see: Hirst, 1975a: Taylor, Walton and Young, 1973, p.209-206), Bakunin and Quinney present crime and the criminal as laudable. For them criminality represents the presence of a population, created by economic forces and political process, willing to take risks to destroy existing social arrangements. They pay little attention to Marx's warning that the

lumpenproletariat may engage in destructive acts without regard to the collective struggle(5) and that their allegiance would shift in the direction of personal gain. Recall as well that contrary to Marx, Bakunin (1971a) had argued that this class is more likely to engage the capitalist class in battle than the working class, whom Bakunin refers to as "bourgeois," and more likely to defend the capitalist system owing to their greater participation in it. While Quinney seems reluctant to go that far, he nonetheless lumps together, with Bakunin, everyone who breaks the law and those who engage in collective class struggles.

If there is a point at which Quinney's analysis in Critique of Legal Order departs from Bakunin's it is in Bakunin's subsequent (1971b) realization that the "criminal masses" must organize in order to make their protests effective. As noted previously, Bakunin (1971b; 1971c) became increasingly aware during his lifetime that a disorganized mass composed of isolated and frustrated individuals could not help but fail. Such protests could only succeed when they were channelled into collective actions. While Quinney does not deny that collective action is needed, he nonetheless fails to distinguish acts of individual protest or greed from actions undertaken by individuals or groups in aid of the collective condition: Even some of the contemporary anarchists (Ehrlich, et al., 1979) address themselves to the need for collective action and the difference between "conventional crime" and

place in the late 1960's and early 1970's, were needed to begin to develop a "class-for-itself" among the American proletariat. From his vantage point these show trials allowed for a focus on the issues of how criminal law, and the courts, could be, and were being used for political purposes by the dominant classes. While Sternberg acknowledges that these attacks would have limited potential, he also quite clearly specifies that:

... this limited type of attack on the administration of criminal justice has a better chance of success at present than the more total and dynamic attempts at revolt currently taking place in many prisons.... The projected strategies on the part of large numbers of accused persons would ultimately disrupt the functioning of the bureaucratic structure of the courts, and yet they could more or less operate within that structure as they sow the seeds of its destruction. No 'revolutionary' changes are being projected; but Marx himself always urged support for any change, even within the bourgeois capitalist system, which led to some alleviation of the workers' oppression and some enlargement of their democratic right. Some undeniable amount of significant class consciousness had developed among oppressed persons in the past few years. Perhaps concerted action against the old plea-copping system is a response commensurate to this degree of heightened consciousness (Sternberg, 1974, 294).*

While I would agree that the working class must use whatever advantage it has available to it through the legal structures of the state, as I argued in Chapter III, this particular analysis offered by Sternberg falls short for the simple reason that it fails to limit his analysis to the purely political trial. Instead he extends

*Reference here, and future citations from Sternberg's essay are to the reprinted version.

"political crime." Thereby, Quinney contributes to the notion that law breaking and lawlessness, no matter how individualist or consistent with capitalist enterprise (i.e., superstructural conflicts) is sufficient to constitute revolutionary status. In this respect it could be argued, once again, that Bakunin's analysis, even in its crudest form, offers a superior understanding of how criminality might aid the cause which Quinney advocates.

If Quinney's argument in Critique of Legal Order is overly simplistic and undimensional, his argument in Class, State and Crime is more complex. Here he recognizes that much criminality is "counter-revolutionary (as) much, if not most, crime continues to victimize those who are already oppressed by capitalism and does little more than reproduce the existing order" (p.103), a view shared by other critical criminologists (see Platt, 1978). However, Quinney goes on to argue that:

With the development of political consciousness, however, some criminally defined actions become a part of the revolutionary process. And in some cases crime itself, upon self-reflection and collective reflection, may lead to a political and revolutionary consciousness (1977, 103-4).

In other words, he seems to be saying that all that is needed to change criminality from "counterrevolutionary" activity to "revolutionary" activity, is a change in consciousness on the part of the criminal. Sternberg (1972) however, goes further, saying that the "radical-criminal trials" of groups like the Chicago Seven, etc., which took

the analysis, as does Quinney, to include the "street" criminal.

I expect a movement in the United States, originating in the radical-criminal trials of 1969-71, particularly the Panther Trials, in which the habit of black, poor, and other oppressed groups, attending en masse and monitoring the arraignments, detention, and trials of people from their own class, will seep down from these spectacular trials to thousands of everyday cases (1974, 292).

Consequently, like Quinney, he implies that the "everyday cases" of crime are directly comparable to the "crimes" committed by those being tried in the political trial. Such a nice, tight fit doesn't necessarily happen.(6)

Further it is difficult to agree with Quinney and Sternberg that intent to commit a revolutionary act makes it revolutionary. For example, it is arguable whether or not acts of political "terrorism," and "assassination" or even Sternberg's show trials serve, in all cases, a revolutionary function. It may be argued that these intentional conscious acts of rebellion, including the "show trials," may be used by oppressive authority to justify not only their own existence but the use of extreme, as well as "normal" control measures. We have witnessed enough of these incidents in recent years as well as the more distant past, to know that these kinds of tactics on the part of "revolutionaries" can be used against them to discredit not only their leaderships but also the very kind of society they want to create. Incidents, such as the invocation of the War Measures Act in October 1970, supposedly to thwart an "apprehended

insurrection," can tell us that even if no real threat existed, "revolutionary groups," such as the FLQ in Quebec, can be suppressed by utilizing the most repressive control apparatus of the state. In many cases, such as the suppression of The Red Brigades in Italy, the Bader-Meinhoff group in Germany, the Red Army of Japan, "Freedom Fighters" in El Salvador, Nicaragua, and Solidarity in Poland, as well as the FLQ in Canada, the denial of "civil liberties" as a method of controlling civil disorder may be portrayed within official ideological explanation as "distasteful," etc., but will nonetheless be upheld as necessary to rid the society of unwanted criminals who can be portrayed as thieves, killers and "terrorists" having only a destructive, negative intent. We must also not forget that one of the weapons used in the attempt to control and suppress "protest" movements the world over is criminal law. It is not uncommon to have such "activists" charged under various criminal codes in an attempt to discredit them and their movements. This is true even though many of these movements and people, such as Martin Luther King Jr., present no threat to the infrastructure of capitalism. Instead, their threat may be purely superstructural. They may challenge the institution of racism revealing how racist ideals are inconsistent with other "higher" values of capitalist society--particularly the notion of "equality," but they may leave the infrastructure unchallenged.

Viewed in this way officially defined criminality may just as likely be "protest" and not revolution. That does not mean it is not political, but that its political nature is quite different from the way Quinney and Sternberg, as well as other romantics attempt to describe it. It is not necessary to argue that criminality is evidence of a kind of primitive rebelliousness on the part of the criminal, or that it is a product of repression, in order to argue that it may be political. Similarly, it is not the consciousness or intent of the criminal which makes his/her actions "revolutionary." The process and nature of criminality are more complex than such simple descriptions allow. For Quinney to argue therefore, that "... much of the activity of the working class struggle is defined as criminal" (1977, p.59), and to offer that "... with the development of political consciousness ... some criminally defined actions become a part of the revolutionary process," (p.103-5) is a severe distortion of the context within which both crime and the class struggle occur.(7)

However, that is not to suggest that it is impossible for some who come in contact with the criminal justice system to become politicised as a result. There may well be some officially labeled criminals--including both the common street criminal, as well as the "protest" criminal--who become aware of the political nature of law and law enforcement. However, as Platt indicates:

... we must be careful to distinguish organized criminality from 'street' crime and the 'lumpen' from the superexploited sectors of working class. Most 'street' crime is not organized and not very profitable. Most theft, for example, is committed by individuals, and each incidence of 'street' theft amounts to much less than \$100. Moreover, there is typically no direct economic advantage associated with crimes of personal violence--rape, homicide, assault, etc. (1978, 33).

Consequently, to confuse all crime with the class struggle is to:

... both remove the criminal from the structural sources of his crime and confuse isolated acts of rebellion, 'striking out,' and 'putchism' with purposive collective work. Without denying that under certain conditions crime may contain the germ of a revolutionary consciousness, we must also be aware of the ways in which it creates barriers to attaining any real consciousness of reaction against the working-class's collective plight (Spitzer, 1980, p.180).

It is mistaken, therefore, to describe crime as simply either protest or revolution. It is both.

Crime must be understood dialectically as both a protest against and an expression of the conditions of oppression.... we need to appreciate the ways in which 'crime' and 'criminals' sustain, reproduce, and directly promote the very conditions of oppression and exploitation to which they are assumed to represent a 'revolutionary' response (Spitzer, 1980, p.179-80).

If the argument I have been making, and if the argument Spitzer and Platt as well as others (Hall, et al., 1978: Young, 1979: Fine, 1979: Schwendinger and Schwendinger, 1977) are making is to be accepted, it must be recognized that not only does "much crime continue to victimize those who are already oppressed by capitalism"

(Quinney, 1977, p.103), but that the simple intent of the criminal to resist the oppressiveness of her/his life situation need not constitute an act of rebellion. Indeed, "political criminals" may often discover that their actions have the opposite effect to the one they sought, that is, rather than represent the "spark" for the hoped for proletarian revolution, their "political crimes"--such as kidnapping government and industry officials, and bombing military or other government establishments--result in not only increased state sponsored repression, but also alienation from other sectors of the proletariat.

In a very personal account of his experiences with the June 2nd Movement in Europe, Michael "Bommi" Baumann (1981) explains that he left "the movement" because he no longer felt that he and others like him were in touch with those they were trying to help. They had lost contact with the day-to-day lives of the proletariat. This loss of contact resulted from the necessity of constantly having to be on guard against the possibility that their friends and associates may be "spies," and the further consequence of isolating themselves into their own small groups. Having lost this contact, it becomes easier for the state to label them terrorists, and it becomes easier for working people to mistrust and dislike them. It may even result in demands by working class people for greater state control.

Working class people may demand not only greater protection from the crimes of "terrorism," but also, as Taylor (1981) points out from ordinary "street crime."

... working-class support for the police has appeared to increase the move that the traditional social controls of working-class community have been dislocated by post-war social and economic changes. Sections of the white working-class populations living in particular parts of London, in particular, have in recent years come to demand the kind of reactive fire-brigade policing that is provided by the Special Patrol Group, in the sense of having constantly appealed for police action against what they (the white population) see to be a threat to "their" community, in the form of mugging and even simply in the form of rowdy street parties.... In more recent years there has been threatening evidence of working-class support for a strong police presence on public transportation and on football match days. (Taylor 1981, 151)

The failure to recognize that crime and criminality represent not just a threat to political authority, but also a threat to the working class, leads to the conclusion that crime is simply a response to repression, and as such constitutes resistance to capitalist society. This conclusion leaves us unable to disagree with certain crude anarchist arguments that criminality in itself constitutes revolution. But even Bakunin came to cast doubt on such a simplistic argument. As noted previously, Bakunin (1971b) came to believe that something other than criminal activity would be needed to unify "the masses." remain disorganized. It is a lesson the romantics fail to adequately consider. As such the romanticization of criminality and the revolutionary potential of the criminal is mistaken. A more consistent

analysis would recognize criminality as evidence of conflict--at either the infrastructural or superstructural level--and that conflict will persist even in non-capitalist societies.

This of course, raises some extremely important issues regarding the necessity of social control in any society. From certain romantic statements it would seem that a society based on the principles suggested by Marx would be "crime free." For example, Taylor, Walton and Young argued that one of the objectives in transforming society into a class free structure, would be to "abolish the power to criminalise" (1973, 282). Yet, at the same time they said:

Crime is ever and always that behaviour seen to be problematic within the framework of social arrangements: For crime to be abolished, then those social arrangements themselves must also be subject to fundamental social change (1973, 282).

They do not, however, address themselves to the problem of how this future society will deal with "that behaviour seen to be problematic." They seem to be saying that there will be no need to control or coerce, that there would be no "crime." In effect they have sidestepped the issue Hirst raised in an earlier critique of Marxist criminology, that:

All societies outlaw certain categories of acts and punish them. The operation of law or custom, however much it may be associated in some societies with injustice and oppression, is a necessary condition of existence of any social formation. Whether the social formation has a state or not, whether communist or not, it will control and coerce in certain ways the acts of its members (1975b, 240).

The thrust of Hirsts' critique is that Marxist criminologists (at that point in the development of critical criminology) confuse the inevitability of repressive control strategies within capitalist societies with the process of "deviance" creation in all societies. That Hirst's critique has some validity to it can not be denied. Not only Taylor, Walton and Young, but, subsequently, Quinney (1974) and Hepburn (1977) can be seen to offer a model of crime creation which emphasizes that, if it were not for capitalist structures, crime would not be a problem. For example, Quinney argues that:

The modern era of repression has been realized in the rationalization of crime control. The legal order itself, as a rationalized form of regulation continues to demand the latest techniques of control.... American society today is well on the way to, or has already reached, what may well be called the 'police state.' What we are experiencing is the 'Americanisation of 1984,' a police state brought to you with the aid of science and modern techniques of control (1974,119).

To which Hepburn adds:

By both design and function, the criminal laws are an oppressive tool, working to obscure the inequality and exploitation inherent in a capitalist society (1977, 87).

The object of the analysis in both cases is to show that crime, criminality, and deviance are to be found only in systems characterised by oppression and repressive control techniques. Little thought seems to have been directed towards explaining crime in non-capitalist systems.

The fact that these romantic visions have not examined self-proclaimed socialist systems, has of course, led non-Marxist critics to argue that their perspectives have a greater utility, as they address themselves to wider concerns and issues than do Marxist criminologists. For example, although they adopt quite different perspectives on crime and deviance Klockars (1980), Downes (1978), and Turk (1977) all argue that their perspectives are less dogmatic, and hence more open, meaning they can analyse a wider variety of social structures and their relation to the process of deviance creation than Marxists. Arguing against what he calls Marxism's "class as bad" or "evil" model, Klockars argues that "the Marxist dogma of class" has left Marxists unable to explain deviance and crime in existing socialist systems such as the Soviet Union and Cuba. It is his argument that Marxist criminologists have ignored deviance within these societies because Marxists view class as the only definer of crime and deviance. To the extent that this applies to instrumentalist Marxists the critique would seem to have some validity. However, recent developments within critical criminology are paving the way for a more critical examination of the legal and economic structures of existing "socialist" systems. It is also true, as Greenberg (1981, 22-25) points out, the issue of crime in self-proclaimed socialist systems is not ignored entirely by critical criminologists:

There is ... no doubt that crime and criminal justice institutions are found in societies that are considered socialist. Central and East European criminologists have made crime in their own societies a central focus of their research, and Western criminologists, both Marxist and non-Marxists can fairly be accused of neglecting political repression and the abuse of power in socialist countries, others have taken a note of them (e.g., Schwendinger and Schwendinger, 1970) (Greenberg, 1981, 23).

Specifically cited as Central and East European criminologists examining crime in their own backyards are Buchholz, et al., (1974), Dzekebaev (1974), Godony (1974a; 1974b), Jasinski (1978), Vermes (1978), and Redo (1980), while Connor (1972), Juviler (1976), Brady (1977), Wilson and Greenblatt (1977), Solomon (1978), Volgyes (1978), Salas (1979) and Greenberg (1980) are cited as Western criminologists examining "socialist" countries use of criminal justice systems. Finally, those cited as Marxists "neglecting" criminal justice in socialist countries include Quinney (1977), and Balkgan, Berger, and Schmidt (1980). He even notes that these later two actually praise criminal justice practice in "socialist" countries. For example:

With the transition to socialism, popular justice may become institutionalized into the society and the state. Already in such socialist countries as China and Cuba, popular justice institutions have been created and supported by the state. These institutions protect and solidify the working class against internal and external class enemies, as well as against elitist bureaucratic tendencies in the state apparatus (Quinney, 1977, 163).

The Chinese constitution does guarantee, at least in principle, the right to freedom of speech, association, demonstration, and the

freedom to strike.... Citizens' freedom in their own homes is inviolable, and no citizen can be arrested before a complete investigation is made and the evidence considered sufficient by the Chinese court. Any arrest must be made in public, during the daytime, and in front of witnesses. In addition, there are special legal agencies designed to deal with government and party officials who have violated the law (Balkan, Berger and Schmidt as quoted in Greenberg, 1981, 30).

What is also problematic in Klockars' critique, as well as these Marxist overviews is the assumption that self-proclaimed socialist or communist systems are what they claim to be. This is a rather naive assumption requiring proof. As even Klockars admits, there is sufficient evidence indicative of a well entrenched ruling elite in these self-proclaimed communist or socialist systems to seriously question the legitimacy of their claim to being socialist. For example, the events surrounding the creation of Solidarity in Poland may be indicative that a consciousness is developing among the factory workers, etc., that they are aware their interests, and their relation to the means of production, are not necessarily the same as their political/economic leaderships. If this is the case, then it can be said that a class consciousness is developing in Poland despite official ideology of classlessness (see Singer, 1981).

Similarly, Turk, from his "non-partisan" model, argues that Weberian analysis is more "open" and accepting of the idea that criminality is not simply a product of class society, that:

... social life (is) much much more problematic, and order (is) always tenuous. Vertical as well as horizontal differentiation of occupational and other social groupings is considered inevitable, as groups with varying resources try to secure and improve their positions. The impelling force is generated by the combination of group identification with insecurity in the face of the contingencies posed by nature and by the existence of at least potential competitors (1977, 213).

For Turk, Marxists are seen to be determinists in the extreme. As I have shown with the work of Quinney (1974), Taylor, Walton and Young (1973), Hepburn (1977) and others there is some validity to that claim. However, it is also true that structuralists take a position similar in many ways to Turk's in that they too take into account "vertical as well as horizontal differentiation." The difference between Weberian criminology and structuralist criminology is that Weberian criminology advocates the inevitability of both "vertical and horizontal differentiation" while structuralists, such as Young (1979), Hall, et al., (1978), Fine (1979), Chambliss (1979) and Spitzer (1980), etc., argue that vertical--i.e., class or infrastructural--differentiation may be eliminated. Furthermore, as I indicated in Chapter II, these more advanced forms of critical criminology are not as deterministic as Turk implies of all Marxists. They recognise that non-economic forces do play a significant role in the determination of law and criminality, but they go on to argue that these non-economic forces are themselves shaped

and determined by the ongoing process of material/economic relations, including changes in the structure, composition and number of fractions of the same class. As such, they argue that to the extent that fractions of classes exist conflict at the superstructural level will persist.

It is, therefore, the failure to recognise, or adequately explain the existence of these fractions which distinguishes the cruder formulations offered by Quinney (1974), Hepburn (1977), Taylor, Walton and Young (1973) and others from a more advanced critical analysis. In effect these cruder arguments do not advance much beyond the labeling perspectives of Becker (1963), Lemert (1958) and Schur (1966) nor the Weberianism of Krisberg (1975). The only difference being that the interests behind the label are more explicitly, though inadequately dealt with or examined. Part of the problem, of course, is that this crude Marxism has a very simplistic notion of interests and the relation between interests and control strategies. Not only does it assume a unified class interest, devoid of significant intra class fractional disputes, it also assumes that this unified interest is translated instantly into a coherent control strategy. Thus, the impression is created that crime control would only be a problem within capitalist formations, thereby, ignoring the real issue of how criminals are created within any society.

Even though the romantic critical theorists acknowledge that each social formation reflects, as well as

creates the material condition of its existence, they ignore or set aside this observation when analysing the fundamental nature of control and its relation to criminal definitions. It would seem self evident that each social formation will attempt, in the process of encouraging behaviour and activity consistent with general societal objectives and principles (or at least those of the dominant class or fraction), to control inconsistent behaviour. As structuralists argue this means that deviant behaviour is created at either the infrastructural or superstructural level. At the infrastructural level conflicts are produced whenever inequitable access to material resources and the means of production exists. Under capitalist divisions of labour the controllers and non-owners of the means of production and surplus value receive inequitable rewards and benefits. It also means that the constant demand for more efficient labour, and less costly production techniques (technology), leaves those who do not own or control either the means of production, or the value produced, in an extremely vulnerable position. Forced to sell their labour power, workers discover, over time, that the specific skills and numbers of workers needed vary. This means that the market variability in the demand for labour virtually assures that a relatively constant supply of relatively low skilled or semi skilled (including many formerly highly skilled labourers) are either forced out of the labour market altogether, or are forced to acquire new skills, or to sell their labour power for a

fraction of its former value. Many, are, in fact, forced to seek alternate means of survival and in this way a "surplus population"--the lumpenproletariate--is created and sustained over time.(8)

It is interesting to note here that particular studies of conviction rates (Carter and Clelland, 1979), and of imprisonment (Greenberg, 1977;1980: Jankovic, 1977) indicate not only greater conviction rates, but also higher incarceration rates for the working class. Further, Greenberg (1977) and Jankovic (1977) report the rate of imprisonment increases during periods of high unemployment within capitalist nations such as Canada and the United States. This becomes important when it is remembered that the state has initiated programs such as unemployment insurance (Cuneo, 1980) and various other "social welfare" programs [Brown, 1978: Fox-Piven and Cloward, 1971] to relieve the threat that unemployment would lead to political unrest. That is, rather than relying exclusively on imprisonment to regulate unemployed workers, the state has also used other programs. As such, the argument is not that imprisonment alone is used to control the working class, but that imprisonment, and other social welfare programs are used jointly to help reduce the threat of unemployment. When unemployment becomes too high, and measures are not taken to reduce the threat, the fear of the working-class threat increases among the bourgeoisie (see also Marx, 1967).

The basic antagonism is not between extant classes. Rather, the problem is that the superstructural institutions of capitalism frequently produce unintended negative conditions. Recognizing that capitalism is not a static entity, and that the style and type of capitalism changes over time, Spitzer states:

Problem populations are also generated through contradictions which develop in the system of class rule. The institutions which make up the superstructure of capitalist society originate and are maintained to guarantee the interests of the capitalist class. Yet these institutions necessarily reproduce, rather than resolve, the contradictions of the capitalist order. In a dialectical fashion, arrangements which arise in order to buttress capitalism are transformed into their opposite--structures for the cultivation of internal threats (1975, 644).

To illustrate his case Spitzer refers to the educational system of the United States which is seen as a means of sustaining bourgeois interests while providing credibility to notions of equality. The less powerful are educated because within the ongoing development of corporate capitalism increasingly more "advanced" skills are needed. However, in providing the less powerful with the educations needed to advance their skill levels the educational system also provides them with the skills needed to organize against existing arrangements. Spitzer thereby suggests that early schooling for the working class can lead them to become familiar with the oppressive nature of the capitalist system at an earlier age, and thereby provide them with not only an

alienating experience early in life, but also with a potential reason to resist.

Without arguing against the notion that deviance may be "caused" at either the infrastructural level, or the superstructural level, and that there is some overlap between the two, Spitzer, unfortunately does not, by his own admission (1976) clearly distinguish or clarify the various fractional components of the capitalist system. There is even the impression in his work that he is arguing that rather than the various fractions of the capitalist class (the monopoly sector, the state, the finance sector, etc.) competing amongst each other, that they compete (as a unified class) only against the proletariat. To gloss over this important aspect of capitalist relations is a serious error.

Within the context of intra class competition each fraction attempts to influence and control the institutions of society, including and especially the state, in order to gain economic, political or social advantage. The determining factor regulating whether or not they are processed or treated as criminals would be the extent to which the type or style of capitalism they represent could be made to seem, or would appear to be, inconsistent with prevailing or dominant ideology. That is, at an ideological/superstructural level it would appear that the behaviour (style of capitalism) engaged in by this problematic fraction represented not only a threat to other capitalists but also, and perhaps more importantly, to the

whole order of capitalism. In such circumstances there might be a "feeling" that this particular fraction, if left unchecked, would discredit the whole order of capitalism, or it might be that they would appear to represent an insignificant, or powerless group (or individuals) who may be sacrificed in the interest of the long term survival of capitalism.

The criminalization of fractions of the capitalist class, via statutes such as the Sherman Anti Trust Laws (Koko, 1963; Pearce, 1973;1976), Canada's Anti Combines legislation (Goff and Reasons, 1978: Snider, 1980), and the U.S. Corrupt Practices Act (McCloy, Pearson and Mathews, 1978), has been well documented. The fact that the documentation has been accompanied in some cases with explanations that certain fractions of the capitalist class attempt to create or rewrite the statutes to suit their own interests does not destroy the argument that specific capitalists, and at times entire fractions of the capitalist class have been legally pronounced as criminals. As Pearce (1973) and Kolko (1963) explains with reference to the Meat Inspection Act of 1906 (U.S.), the larger meat packers lobbied for passage of a law which would allow them not only easier access to foreign markets via government sponsored "inspection" of all packaged meat, but also would allow them to reduce competition between larger, monopoly capital interests and smaller "independent" capitalists. Even Canada's Anti Combines legislation shows a tendency for

greater enforcement against smaller capitalists enterprises, then it does against larger monopoly interests (Goff and Reasons, 1978).

However, as I cautioned previously, superstructural problems need not be confined to capitalist systems. Even within socialist systems superstructural problems may pose complicated problems of control vs. non-control. It is precisely the lack of attention paid to this fact which allowed Klockars, Downes and Turk to offer their critiques of Marxist criminology. While it is tempting to dismiss Klockars' critique that Marxist criminologists have avoided looking at self-proclaimed socialist systems because "... doing so would discredit their false promise of a relatively crime free society" (1980, 111), as just so much poor ideology, the fact of the matter is the situation is not that simple. Even though, as indicated previously, the critique may actually be true for instrumentalists like Taylor, Walton and Young, as well as Quinney (1974), Hepburn, and others, it is not true of all critical criminologists. Even the romantic views of China and Cuba offered by Quinney and Balkan, Berger and Schmidt indicate some form of social control is used in these "socialist" countries.

For example, it has been well documented (Greenberg, 1977; Jankovic, 1977) that within capitalist societies imprisonment rates increase during periods of high unemployment. However, Greenberg (1980) notes in reference to Polish imprisonment rates that they rise and fall not

according to unemployment, but for essentially political reasons. Polish authorities, it seems, reduce their prison populations on certain politically important occasions. For example, on the occasions of the 20th (1964), 25th (1969) and 30th (1974) anniversaries of the Polish state, the authorities drastically reduced the size of the prison population by proclaiming amnesties for many inmates. On other occasions, such as in 1956, authorities reduced the prison population as a gesture of goodwill, and as a means of reducing criticism for its handling of mass demonstrations against particular policies of the state. In 1955, following a period of protest, the prison population grew to the rate of 172.5 per 100,000 population, but was reduced via amnesties, in 1956 to 72 per 100,000 (Greenberg, 1980, 197). The rise and fall in prison populations is not attributable to the rise and fall in the conventional crime rates, but, rather is attributable to "political unrest" or "stability." It is also to be noted that Greenberg notes that crimes such as interpersonal violence and theft are "appreciably smaller" after the Second World War, than they were prior to the war. He attributes this to "differences in economic, social and political organization" (1980, 203). Specifically, after the war Poland was more clearly a "socialist society" not a capitalist society. Thus the social conditions leading to the type of crime found in capitalist societies were not as pronounced, and therefore the type of crime differs. While

the type of crime differs, the need for control does not disappear.

The fact that Klockars' critique is clouded by ideological lapses undermines the real thrust of his critique. All that need to have been said was that specific Marxist criminologists have left relatively unexamined the processes by which crime control is exercised in existing attempts at a communist society, and that this inattention reveals a basic inadequacy in their theory of criminality. The fact remains that these specific attempts create the distinct impression that the simple abolition of the power to criminalize (as in Taylor, Walton and Young) or the capitalist state (as in Quinney and Hepburn) would end repression. They ignore the reality that repression is not limited to formations such as the modern industrialized capitalist societies. Other control systems, such as custom, or those in evidence within existing self-proclaimed communist societies, may also be repressive.

Conclusion

In discussing the similarity of certain arguments with the argument presented by Bakunin, I tried to show that their arguments have overromanticized criminality to the point where even Bakunin, the person most commonly accused of overromanticizing crime and criminals, would have reservations. What I have tried to do is show that, while anarchists, in the Bakunist tradition, might argue with Quinney, etc., that criminality is a sign of resistance, they

also recognize that something other than a willingness to rebel is needed if changes are to occur in the desired direction. Further, while structuralists might agree with the anarchists that a change in both ideological relations and material conditions are needed before significant alterations in the infrastructure may be effected, they disagree with the romantic notion of the criminal as revolutionary simply because he/she engages in crime. Viewed in this way criminality may be an indication of conflict but not necessarily class conflict.

It should also be understood that the position I have taken here is at odds with the position taken by Marx. There is little doubt that Marx's own view of crime and the criminal was something less than complimentary. The problem, however, is not that Marx viewed the criminal disdainfully. Rather, the problem is that when Marx's analysis of the process by which human action and behaviour is shaped and constructed on a more general level, is taken into consideration it can be shown that Marx's few statements on crime present an inconsistent analysis. As such, what I have attempted here is an indication of the manner by which this inconsistency may be remedied and crime and criminality may be analysed within the critical tradition. Of course, the kind and style of Marxism I have adopted here will be somewhat controversial. The fact that there are many different Marxisms, however, should not mean that they should all attempt to set aside their differences and produce a

single Marxism. Such a step would clearly be non-productive: It would assume that a single knowledge form was not only possible but desirable. It would also assume that conflict would not be possible within a society based on Marxist principles as it would assume that there would be only one correct way, one "true Marxism."

To summarize what I have been saying here about criminality, structuralist, critical criminology:

- a) suggests that the primitive statements of dissatisfaction (crime or problematic behaviour) made by the "criminal" need not constitute acts of "rebellion," that they may also be statements of support or acceptance of prevailing social arrangements, and may, in fact, contribute to the persistence and continuance of the very condition being protested; and
- b) holds out for investigation not just officially labeled criminality, but any act, behaviour pattern or condition which may be indicative of conflict inherent in either the superstructure or infrastructure.

Chapter V

Critical Criminology as Marxism

Critical criminology still struggles for acceptance as a Marxist enterprise. If Marxism were simply a matter of accepting "economic determinism" perhaps this struggle for legitimacy would not have developed. Most critical criminologists, after all, clearly have accepted the primacy of economic relations in shaping socio-political life. Economic determinism, however, is not an accurate criteria by which to determine the "Marxism" of a particular argument or theoretical construction. As I have shown throughout, crude determinism fails to make clear many of the processes and relations which Marx himself tried to set out in his voluminous offerings. For example, as I indicated in Chapters II and III, instrumentalists have tended to distort and misrepresent Marx on class and the state. Their analyses certainly appear, in a number of instances, inconsistent with what Marx had to say.

It would be a mistake, however, to believe that only a dogmatic adherence to what Marx said produces a genuine "Marxist" analysis. Not only would this lend credibility to the bourgeois critique of Marxism as "religion"--treating Marx's work as a "bible"--it would also seem to imply that

Marx presented a completely consistent "definitive" study of capitalist relations not only for his own time, but for all time. It would assume, as well, that Marx's own work was totally consistent, and absolute truth. Such a conception of Marxism and Marx's role in the development of Marxism serves no useful purpose. Marx was inconsistent, and many of his most important concepts, such as class, did not receive consistent treatment by him. His analysis of the capitalist system, while more complete, is similarly not without inconsistencies, and an argument could be presented to the effect that he failed to fully appreciate or anticipate the full extent of capitalist flexibility.(1)

The inconsistencies in Marx's work, however, are not the problem under investigation here. The problem to be dealt with here is the concern over the legitimacy of critical criminology's theoretical objective. There are still many Marxists who would unequivocally state that a "Marxist" criminology is "unscientific." By "unscientific" the critics generally mean that "Marxist" criminology not only improperly makes "crime" an object of study, but that it relies too heavily upon certain Hegelian influences. These critics argue that this Hegelianism must be purged. Equally obvious is the fact that many critical criminologists disagree with their critics. Contrary to their critics, they have continued to argue for a Hegelian influence. However, it is clear that some have gone too far. They have given Hegelianism a far more crucial role than it deserves. Thus,

the following pages are directed at showing that the debate over critical criminology as either "science" or "ideology" is misplaced. I shall argue that critical criminology is both "science" and "ideology."

As a means of reviewing the complex issues involved I have made the debate between Hirst (1975a; 1975b) and Taylor, Walton and Young (Taylor and Walton, 1975: Taylor, Walton and Young, 1973; 1975a) the focal point for discussion. The historical significance of this debate cannot be understated. The debate itself, appearing originally in Theory and Society in 1972, would appear to have taken place during the preparatory period for Taylor, Walton and Young's influential The New Criminology (1973). Indeed, reference is made to it in The New Criminology. But the debate is important not because it was followed almost immediately by The New Criminology, but because it provided both an orthodox Marxist's critique of what was, at that point, an infant trend (see Chapter I), and a major contribution to the development of that trend. It also provides an opportunity to review the nature of Marxism as a scientific or ideological (or both) enterprise. It is these two issues (the contribution of the critics to the development of critical criminology and the concern over the "scientific" nature of critical criminology) which are dealt with in this chapter. In fact his critique, as well as that of Bankowski, Mungham and Young (1977), and others (Currie, 1974: Sumner, 1976) may be interpreted as a contribution to

the development of the tendency being refuted. What was achieved, although unintentionally, was a means by which a more sophisticated Marxist argument could, and would be developed. By pointing out many of the problems with the then emergent trend, these critics provided those interested in developing a critical criminology with an excellent conception of not only the mistakes and inconsistencies already in evidence, but a similarly problematic conception of Marxism to be avoided.(2)

The Critics Contribution

According to the critics (Hirst, 1975a; 1975b: Bankowski, Mungham and Young (1977), critical criminologists lack a thorough knowledge of Marx and Marxism. This results, they argue, in a Marxism which:

... reflects far more the epistemological concerns of the established social sciences, the debates about the validity of Marx's so called 'predictions' in relation to the changes in social structure since Marx's day, and the ideological opposition of the professional anti communists (Hirst, 1975a, 203).

From Hirst's vantage point, it would seem that, because critical criminologists are too concerned with the specific problematic of crime, they must ignore or give less importance to the more genuine Marxist concern for analysis of "... the mode of production, the class struggle, the state, ideology, etc." (1975a, 205)(3)

If that was the situation Hirst originally saw as problematic, then Taylor and Walton (1975) and Taylor, Walton

and Young (1973) were to give ample evidence that the problem was neither imaginary nor easily resolved. Taylor, Walton and Young's The New Criminology is clearly confused in its conception of Marxism, and, as Currie (1974) concurs in his review, it did not depart in any significant way from the various "old criminologies" which were being rejected. Even Sumner (1976) agrees, saying that Taylor, Walton and Young's conception of deviance in The New Criminology is little more than a mix of functionalism and labeling theory. Whereas Taylor, Walton and Young claim to have set out to explain "... why certain theories, despite their manifest inability to come to terms with their subject matter survive" (1973, 31), they succeeded in providing simply a "shallow derivative" (Currie, 1974, 109) of conventional or the "old" criminology.

Thus, they argue that biological positivism has great appeal:

because 'it removes any suggestion that crime may be the result of social inequities' (T, W & Y, 1973, 40). But this is really pretty obvious, and has been said by most liberal social theorists since the turn of the century. The real issue, I think, is why does bio-determinism emerge and flourish in some periods, and decline in other as a preferred explanation for crime? ... The theories are treated, on the whole, as isolated mental constructs rather than as ideologies rooted in the material conditions of life in advance capitalist societies (Currie, 1974, 109-10).

In other words, Taylor, Walton and Young accomplish what they said was undesirable in that they did not "remove" themselves "from that comfortable school of thought which believes that

theories compete with each other in some scholarly limbo (1973, 31)...."

Consequently, Hirst's 1972 warning was to prove prophetic. But it should not be interpreted, however, as applying to only the work of Taylor, Walton and Young. The works of Quinney (1974; 1974a; 1979a; 1977) and, to a similar degree those of Chambliss (1976b), as well as Balbus (1973, 1978) contain some traces of what Hirst has termed "bourgeois" theory(4) Indeed, it would seem that a large part of the literature produced under the general rubric of "radical criminology," at least up to the point at which Hirst delivered his critique, was in fact influenced more strongly by the work of Weber than Marx (see Chapter I and Chapter II). For example, the work of Turk (1969), the "early" Quinney (1970), Hills (1971), Chambliss (1964; 1969; with Seidman, 1971) and, subsequently, Krisberg (1975) are all primarily Weberian models of "radical criminology." They all adopt a conflict model, but Hirst is quite right in saying that much of "radical criminology" differs in no essential way from "established social sciences." It differs only in its adoption of a conflict model. However, not even Hirst, was able to detect the very real differences between Weberian conflict criminology, and the infant Marxian, critical criminology.

This confusion of purposes was to survive Hirst's critique. It was to reach the point where by 1977 Bankowski, Mungham and Young (1977) were to ask the rather pointed

question: Is the object of a "radical criminology" to produce a "radical criminologist" or a "radical criminology?"(5) From Quinney's work of that period (1974; 1974a; 1977) it would seem that the answer to this question is to develop a radical criminology in order to develop a radical criminologist. Take, for example, the following statements from several of his offerings on the matter:

The liberating force of radical criticism is the movement from relaxation to the development of a new consciousness and an active life in which we transcend the established existence. A critical philosophy is a form of life.

Thinking in itself is the beginning of a critical philosophy (1974, 11).

A critical theory is one that is radically critical. It is a theory that goes to the roots of our lives, to the foundations and the fundamentals, to the essentials of consciousness. In the rooting out of presuppositions we are able to assess every actual and possible experience. The operation is one of demystification, the removal of the myths--the false consciousness--created by the official reality. The true meanings of current reality is thereby understood.

Without critical thought we are bound to the only form of social life we know--that which currently exists. We are unable to choose a better life.... (1974a, 16).

The task of a Marxist criminology is to develop a political consciousness among all people who are oppressed by the capitalist system (1977, 104-5).

There is, however, a certain degree of circularity, and hence confusion in Quinney's argument. First of all he says that "Thinking in itself is the beginning of a critical philosophy," and then adds that "The operation is one of

demystification, the removal of myths--the false consciousness--created by the official reality." Given that he also says that "The task of a Marxist criminology is to develop a political consciousness," this would seem to imply that the beginnings of radical criminology is found in "thinking," and that this "thinking" will produce a "critical philosophy," or "Marxist criminology" which would then become useful to develop a "political consciousness among all people who are oppressed by the capitalist system"--i.e., thought begets a theory which begets consciousness. In a more recent statement he makes his meaning even clearer. He says that:

Correct criminology can be pursued only in the course of developing the appropriate (socialist) class consciousness (1978a, 284).

Quite clearly he has not left behind his earlier, more Weberian(6) analysis with respect to the importance of consciousness. Despite his assertion that as, "Marxist criminologists," "Our understanding of the world, our knowledge and our theory, is materially connected to our location in the class structure" (1978b, 284) he is clearly left with an analysis which gives consciousness the primary defining role in terms of understanding how social change takes place.

Our class position under late capitalism is determined by our subjective life in the class struggle. It becomes a matter of class consciousness. And we have a choice: whether to aid in further legitimizing the capitalist system (operating as the petty bourgeoisie) or to engage in the class struggle for socialism with the working class. We are cultural workers, and the politics we choose and the class

consciousness that we develop make all the difference (Quinney, 1978b, 284).

This heavy reliance upon the need to develop a "radical consciousness," signifies that Hirst's critique, that "the radical intelligentsia" was giving consciousness a more influential role in the historical development of social systems than it deserves (Hirst, 1975b, 240), was well founded.

More recent developments in critical criminology, however, have been more successful in developing the kind of Marxian analysis of crime denied by left critics. For example, Hall, et al., (1978) argue that they have tried to "... replace ... conventional crime interpretation" with "a more historical and structural view" (p.185).

There are we argue, clear historical and structural forces at work in this period, shaping, so to speak from the outside, the immediate transactions on the ground between 'muggers' potential muggers, their victims and their apprehenders. In many comparable studies, these larger and wider forces are merely noted and cited; their direct and indirect bearing on the phenomenon analysed is, however, left vague and abstract--part of the background. In our case, we believe that these so-called 'background issues' are, indeed, exactly the critical forces which produce 'mugging' in the specific form in which it appears.... It is to this shaping context, therefore, that we turn; attempting to make precise, without simplification or reduction, the other contradictory connections between specific events of a criminal-and-control kind, and the historical conjuncture in which they appear.... we feel the need of a vantage-point which is able to consider the longer-term, larger role which the legal institutions play, through the control of crime, in the maintenance of the stability and cohesion of the whole social formation from which, under certain

conditions, acts defined as infractions of the law develop (p.185-6).

This is precisely the kind of argument which Hirst (1975a; 1975b) said could not be developed. It makes clear that "crime," per se, is not the object of analysis, that the object of analysis is an understanding of the "historical and structural forces shaping the longer-term, larger role which legal institutions play in maintaining" hegemony. The argument which I have been making is that "crime" and "deviance" are, as Sumner pointed out, "ideological formations" (1976, 166) having definition during specific historical moments under specific historical conditions. Indeed, as Sumner also points out, this would also seem to be Hirst's conception of deviance.

The key to the problem is this; If Hirst was arguing, as he clearly was, that deviance was an unfit topic for Marxism, then he must hold to a clear concept of deviance. To say that deviance is alien matter for Marxist science is to know what deviance is; Hirst's critique involves a Marxist concept of deviance. That simple dialectical point is the key to the comprehension of the Marxist concept of deviance. Hirst's critique is underpinned by a Marxist theoretical framework that carries a concept of deviance. This concept is that deviance is a type of ideological formation....

Marxian analysis would seem to conceptualise deviance as a fragment of ideology, an ideological censure.... (Sumner, 1976, 166).

Thus the critics had themselves provided, via their criticism, a Marxist analysis of crime. As indicated in Chapter IV, this development has continued to the point where crime is now seen dialectically as originating in both

infrastructural (i.e., material) and superstructural (i.e., ideological/political) conflicts.

Ideology or Science

Regardless of the critics contribution to the development of a Marxist analysis of crime, it is clear that their critiques were, and are, based upon a very different understanding of Marxism. In making statements to the effect that Marxism is scientific only if it accepts "the mode of production, the class struggle, the state and ideology, etc.," as its only object of study, Hirst seems to be saying that Marxism is the superior science capable of subsuming all "ideological" knowledge forms or "sciences" within its explanation. In doing so, he clearly separates science from ideology saying that which is ideological is not science. In this regard, he asserts, as do Bankowski, Mungham and Young (1977), that Taylor and Walton, and by implication all critical criminologists, "relativise knowledge." He does not agree that Taylor and Walton (1975) succeeded in producing, as they claimed, a consistent Marxism and points to the following passages to confirm his analysis:

... many radical deviancy theorists, Marxists or otherwise, are attempting to ... move criminology away from a focus on the 'criminality' of the poor, the pathologizing of 'deviant' behaviour into categories derived from biology, psychology or positivistic sociology, and to abolish the distinction between the study of human deviation and the study of the functioning of states, and ruling-class ideologies as a whole (Taylor, and Walton, 1975, 234).

The Marxism which we believe ... to be at the base of one developing tendency in deviancy theory, is a Marxism which would be concerned to take on, and reveal, the ideological nature of social science, and in that battle, to win people to the struggle against oppression in its various guises (Taylor and Walton, 1975, 234).

Hirst's specific comments on these passages are:

This, it must be noted, is not a call for the scientific critique of ideological positions. It appears that all social science is ideological and that the new position the authors call for is nothing but a politically different, although epistemologically equivalent, ideology which is counter posed to that prevailing in the established social sciences. Deviancy theory ceases to exist by transforming itself openly into an ideology with political objectives (Hirst, 1975b, 240).

From Hirst's vantage point, as well as that of Bankowski, Mungham and Young, the implication of Taylor and Walton's work, as well as that of all other attempts at "Marxist" criminology, is that Marxism is ideology as much as any bourgeois knowledge form. Both Hirst and Bankowski, Mungham and Young want to argue that Marxism is non-ideological! For these critics, the work of Taylor, Walton and Young, etc., is riddled with statements indicating that not only is Marxism ideology, but that consequently, Marxism is "non-scientific" as it would be unable to move beyond the world of conscious awareness:

Knowledge becomes the world outlook of a class, a group or an individual, and beyond this world-outlook there is nothing. This position reduces all knowledge to the consciousness and experience of a subject, be it a class, a group or an individual, and the subjects self-consciousness is a knowledge

constituted from its own position in the world (Hirst, 1975b, 241).

Hirst is attempting to draw attention to the rather heavy reliance upon subjectivism within Taylor and Walton's essay. Indeed, in The New Criminology, this merger of subjectivism with Marxism is made an explicit part of Taylor, Walton and Young's thesis. The merger is even heralded by Gouldner in his preface to The New Criminology:

The work before us strives toward a theoretical perspective that can ... rescue the liberative dimension in both Marxism and Meadianism.... (1973, xiv).

Unfortunately, Gouldner's optimism appears misplaced. While Taylor, Walton and Young made a contribution to merging "the liberative dimension in both Marxism and Meadianism" (i.e., Hegelianism), their analysis went too far towards "Meadianism" and too far away from Marxism. Their analysis, placing such a heavy reliance upon consciousness as a fundamental "causal" force in constructing social relations implies too great a role for the individual. They make it appear as though the individual can have an unmediated direct influence on social/political/economic relations. Such a position ignores the dependent position of both the individual and consciousness.

Perhaps, therefore, it would have been better had Taylor, Walton and Young, in writing The New Criminology, taken Hirst's (1975) critique more seriously. The fact that they did not do this, and the fact that they similarly failed in their introduction to Critical Criminology 1975) (7)

indicates that perhaps they did not understand his critique. Indeed Hirst's critique is given new credibility by Taylor, Walton and Young's assertion that:

For all the current attempts to construct a new philosophy of universal truth we would argue that no set of knowledge (including that proved by Marxism) can claim to be valid eternally, and that the way in which we arrive at our position, and the way that others arrive at theirs, must be assessed in terms of contemporary and historical perspectives (1975a, 60).

Again, it would appear from this statement that both Hirst and Bankowski, Mungham and Young are correct. It would appear that Taylor, Walton and Young relativised knowledge, arguing that all knowledge is ideological and that Marxism is, therefore, little more than a politically correct (expedient?) ideology. This would also seem to apply to Quinney, who, as noted previously, quite openly states that a "correct criminology can be pursued only in the cause of developing the appropriate class consciousness" (1978b, 284), and that the primary purpose of a Marxist criminology "is to develop a political consciousness among all people who are oppressed by the capitalist system" (1977, 104-5).

The implication of both Quinney's, and Taylor, Walton and Young's analysis seems clear. They appear to be doing little more than offering that their conceptions of Marxism are separated from other ideologies simply by the fact that their's is politically "correct." As Bankowski, Mungham and Young comment:

in The Poverty of Philosophy to support their position. For example:

The same men who establish their social relations in conformity with their material productivity, produce also principles, ideas and categories, in conformity with their social relations.

Thus these ideas, these categories, are as little eternal as the relations they express (1963, 109-10).

Thus, for both Sprinzak and Sumner, as well as Taylor, Walton and Young, Marxism must not only be viewed as an ideological form, but also an ideological form with a specific intent--the transformation of society, via the provision of "relevant knowledge," towards a non-exploitive classless society. If this is what Taylor, Walton and Young are saying, and it would certainly appear as though this is what they are saying, then Taylor, Walton and Young's critique of Hirst reveals yet another inconsistency in their argument.

It is their critique that Hirst's Marxism

... flows out of the interplay of revolutionary theory and concrete 'practical' activity. This conception of Marxism ... embodying a theory whose only object is the proletarian revolution.... (Taylor and Walton, 1975, 234).

Hirst (1975b), of course, is quick to deny the critique, but, putting his denial aside for the moment, it would seem that an argument which maintains that purposes are the primary method by which to distinguish between theoretical approaches, and which similarly offers that the purpose is to demonstrate that deviance represents "acts of men in the process of actively making, rather than passively

Taylor, Walton and Young thus slip into a vicious circularity in which the definition of their 'basic' concepts are dependent on intentional arguments only. Purposes cannot be defined outside of ontology, but ontology itself has no existence except in terms of purposes (1977, 44).

Once again Taylor, Walton and Young have provided ample fuel for their critics, as evidence by the following:

What is a Materialist approach? And in what manner is it radical? The answers to these questions are inter-connected, for they both turn upon purposes informing the way in which we examine society. Our purposes in examining society are quite explicit: since in both this essay and in The New Criminology we have argued for a criminology which is normatively committed to the abolition of inequalities in wealth and power. And we have strongly argued also that any theoretical position which is not minimally committed to such a view will fall into correctionalism (i.e., individual rehabilitation or tangential social reform (1975a, 44--emphasis in original)).

Clearly, Taylor, Walton and Young envisage a critical criminology as one which is separated from other "ideologies" by virtue of its 'purist' intent.

It is to be noted, of course, that Taylor, Walton and Young, as well as Quinney, were not alone in portraying Marxism in this fashion. Images of Marxism as an ideological form changing with changes in the political, economic and social relations can also be found in the work of Sprinzak (1975) and Sumner (1979). Indeed, Sprinzak even more explicitly argues that Marxism as a scientific/ideological form must "... provide historically relevant knowledge" (1975, 411). They even point to certain of Marx's comments

taking the external world" (Taylor, Walton and Young, 1973, 221), as well as to bring an end to oppression is being somewhat inconsistent in its critique that another perspective also makes this "purpose" a fundamental concern. Taylor, Walton and Young appear to want it both ways. They want to criticize Hirst for making this the object of his analysis, while at the same time making it the object of their own analysis. As they put it:

The purposes for doing 'radical deviancy theory' (or critical criminology) have now clarified to the point where the radical deviancy theorist can no longer remain content with demystifying traditional correctionally-oriented criminology (Taylor, Walton and Young, 1975a, 6).

The rather clear implication of this statement, as well as their apparent conception of ideology and the purposes of Marxism, is that "radical deviancy theorests" must now do ideology. (8)

Hirst, as well as Bankowski, Mungham and Young, objects to such a notion of Marxism saying that not only does he not make "revolution" the sole intent of analysis, but that for him, at least,

Historical Materialism is first and foremost a scientific general theory of modes of production. It can not, therefore, be a theory the only object of which is a specific form of political practice in a specific social formation (Hirst, 1975b, 241).

The objects for investigation, say Hirst, are "... the objects specified by its (Historical Materialism's) concepts and that Marxism is not a "theory of society" which can be

applied to any given range of phenomenon within society" (1975b, 241).

Hirst's notion of "scientific" however, presents several problems and perhaps is even more problematic. As Taylor and Walton argued, his notion of "science" is such that it:

... forgets that, in the analysis of social life, whilst the material basis can be clearly delineated scientifically, the way in which men see the world ... is a problem of consciousness, and is not amenable to study with the perspectives of natural sciences (1975, 234).

This is obviously a serious critique, and one which strikes at the heart of the issues involved.

The clue to unraveling this debate lies in the interpretation of the following passage from Marx's "Preface" to A Contribution to the Critique of Political Economy:

In the social production of their existence, men inevitably enter into definite relations which are independent of their will, namely relations of production appropriate to a given stage in the development of their material forces of production. The totality of these relations of production constitutes the economic structure of society, and the real foundation, on which arises a legal and political superstructure and to which correspond definite forms of social consciousness. The mode of production of material life conditions the general process of social, political and intellectual life. It is not the consciousness of men that determines their consciousness. At a certain stage of development, the material productive forces of society come into conflict with the existing relations of production or--this merely expresses the same thing in legal terms--with the property relations within the framework of which they have operated hitherto.... In studying such transformation it is always necessary to distinguish between

the material transformation of the economic conditions of production, which can be determined with the precision of natural science, and the legal, political, religious, artistic or philosophic--in short, ideological forms in which men become conscious of this conflict and fight it out (1970, 20-1).

According to Hirst and other orthodox Marxists (Lichtman, 1975: Poulantzas, 1968) this passage must be read as saying that knowledge can not be determined via self-reflection, while Taylor and Walton [as well as Quinney (1977: 1978a)] attempting to ground their analysis in the work of Gramsci (1976) and Lukacs (1971) take a different view. They interpret the passage as meaning that people can become not only conscious of their situation, but that people are active creators of consciousness and knowledge about the world. For them, consciousness is self-reflective and does produce knowledge about the world which can not be obtained via natural science methodology. As stated by Hirst, orthodox Marxists view this as "an amazing misreading of the 1859 Preface" (1975b, 241).

It is a misreading precisely because it fails to read (the) unevenness, because it does not read symptomatically, because it does not read the text in the problematic (1975b, 243).

For Hirst this means that Taylor and Walton, and other Hegelian Marxists, read Marx in a Cartesian fashion giving the world of superstructure its method of analysis and making this method different from the method for analyzing the infrastructure. The implication being that for Taylor and Walton superstructure is rendered "unto Spirit"

(consciousness), while infrastructure is rendered "unto matter" (science). While Hirst does not deny a certain "unevenness" in this passage which may lead to the kind of "two Marxisms" interpretation taken by Taylor and Walton, he nonetheless clearly states that Taylor and Walton have gone too far in separating "spirit" and "matter," that their interpretation lacks credibility when other of Marx's (1960: 1967) works are taken into consideration. Indeed, Hirst's position regarding the undesirability of reading Marx as Taylor and Walton have done would seem to be supported by a more extended citation from the "Preface."

... just as one does not judge an individual by what he thinks about himself, so one can not judge such a period of transformation by its consciousness, but on the contrary, this consciousness must be explained from the contradictions of material life, from the conflict existing between the social forces of production and the relations of production (1970, 21).

Taking this into consideration, it would seem evident that even if individuals become conscious of the contradictions, their awareness is a consequence of the contradictions themselves becoming more evident, manifesting themselves in consciousness. Ultimately, people can act only within the limits imposed by the material condition in which they live out their lives.

Mankind thus inevitably sets itself only such tasks as it is able to solve, since closer examination will always show that the problem itself arises only when the material conditions for its solution are already present, or at least in the course of formation (Marx, 1970, 21).

It would appear from this that Taylor and Walton are indeed misreading both Marx and Hirst, as it would seem quite evident that Marx clearly subordinated the "ideological," or superstructure--including consciousness--to infrastructure. However, it would also appear evident that Hirst, as well as Bankowski, Mungham and Young, have been somewhat selective in their use and reading of Marx. They have similarly attempted to explain away what Hirst refers to as Marx's "unevenness." That is, Hirst's attempts to demarcate three stages in Marx's career--a Kantian period from 1840 to 1842, a Feuerbachian period covering 1842 and part of 1845, and a Historical Materialist period from 1845 to 1882--are a clear attempt to make Historical Materialism--a term never used by Marx--an extreme deterministic position. There seems to be only a grudging acknowledgement that Marx allowed, as I have argued, the realm of "ideology," or even the idealists' realm of "values," any effect on economic activity, and even then this acknowledgement is dismissed as betraying an "unevenness." As such, Hirst states that there is a clear disjunction between the "early" Marx and the Historical Materialist Marx. Hirst's position would seem to have some credibility only if The Economic and Philosophic Manuscripts of 1844 (1971) and the Thesis on Feuerbach (1976a) are read as meaning that ideas are the primary forces shaping the world. For example:

The materialist doctrine concerning the changing of circumstances and upbringing forgets that circumstances are changed by men and that the educator himself must be educated. This doctrine must, therefore, divide society into two parts, one of which is superior to society.

The coincidence of the changing of circumstances and of human activity or self-change can be conceived and rationally understood only as revolutionary practice (1976a, 4).

While this would seem to imply that Marx did indeed have a less "determinist" position at that time, the disjunction between the early and late Marx, noted by Hirst, and others may be more apparent than real. Similarly, the approach implied by Taylor, Walton and Young suffers from a tendency to dicotomise Marxism in an inappropriate manner. A careful reading of Marx would seem to indicate a certain consistency between the "early" and "latter" Marx. In this respect a return to the disputed passage from the "Preface" may be useful in demonstrating the consistency. Of particular interest is the following passage:

In studying such transformation it is always necessary to distinguish between the material transformation of the economic conditions of production, which can be determined with the precision of natural science, and the legal, political, religious, artistic or philosophic--in short, ideological forms in which men become conscious of this conflict and fight it out (Marx, 1970, 21).

For Hirst there is an "unevenness" between the lines which emphasise that the "material transformation of the economic conditions of natural science," and the lines which "distinguish" the "ideological forms in which men fight it out." This unevenness Hirst admits leads to "certain tendencies toward relativism and factorialism in the relation of structure and superstructure" (1975a, 231: 1975b, 242). These same tendencies, he says, are also found in The German

Ideology. But, as previously indicated, Hirst, also insists that these weaknesses should not detract from the obvious, that "... superstructure can not be reduced to the consciousness and experience of subjects" (1975b, 242). He is of course, correct in this observation. Superstructure is more than the consciousness of subjects, and it is clearly shaped and developed within the context and limits of the infrastructure.

Hirst errs in his insistence in arguing that superstructure is virtually unimportant and totally dependent. He seems to have misunderstood, or has himself "misread" the "Preface" with respect to the role of superstructure. But, so, too, have Taylor and Walton! Whereas Hirst prefers to dismiss the apparent disjunction as the product of "the unevenness which characterises all scientific work" (1975b, 243), and Taylor and Walton seem to do as Hirst claims they do, dividing the world into "Spirit" and "Matter," it would seem to make more sense to reject both interpretations as irreconcilable extremes. A more reasonable approach to take would be the one I have been arguing, that Marx was saying, that, even though "consciousness" is dependent, and even though people do not shape the world as they like, "consciousness" and people nonetheless are active forces! As Taylor, Walton and Young tried, but failed, to show, people are not completely passive, they do play a role in shaping their own life circumstances. As I have tried to show, Marx said, in many

places men do not make history as they please," they do not make it under circumstances chosen by themselves, but under circumstances directly encountered, given and transmitted from the past" (1954, 10). But it should be remembered that Marx and Engels also said that "circumstances make men as much as men make circumstances" (1976, 54). In this last line they(9) have deviated from the phrasing in The Thesis on Feuerbach ["... The materialist doctrine ... forgets that circumstances are changed by men...." (Marx, 1976b, 4)], but the intent is clearly to show that there is a level at which it can be argued that people, acting within imposed limits, attempt to shape and create their social/political/economic relations. Indeed it would seem from Marx's viewpoint that people who attempt to reorder society according to "communist principles" are in fact engaging in revolutionary practice. For example:

... in reality and for the practical materialist, i.e., the communist, it is a question of revolutionising the existing world, of practically coming to grips with and changing the things found in existence (Marx and Engels, 1976, 38).

But the question remains: Is Marxism "science" or "ideology?" From Hirst's statements on this problem it would seem that he, as well as Bankowski, Mungham and Young, and Lichtman (1975) separate Marxism from "ideology." It is also clear that they are not alone in doing so, as others, Tucker (1972) and Poulantzas (1975), have made similar statements. For example:

By 'science' (Wissenschaft), Marx simply means thinking that has real life as its object. Science is knowledge of the world as it is, or the clear, direct, unobstructed view of reality. And this is the materialist view, the one that focuses upon the practical development process as the primary datum. Scientific thinking, insofar as man or history is the object, means materialist thinking, i.e., Marxism, and what makes it scientific is nothing at all but the fact that it is true.... It is only with the attainment of genuine materialism (Marx), which sees not consciousness of any kind but "real life" as the prime datum, that human thought ceases for the first time in history to be infected with ideology. The transition from idealism to materialism is the transcendence of philosophy and all ideology in the 'representation of practical activity,' with this, real positive science begins (Tucker, 1972, 180-81).

Similarly Poulantzas (1975) states:

As opposed to science, ideology has the precise function of hiding the real contradictions and of reconstituting on an imaginary level a relatively coherent discourse which serves as the horizon of agent's experience.... (p.207).

The dominant ideology, by assuring the practical insertion of agents in the social structure, aims at the maintenance (the cohesion) of this structure, and this means above all class domination and exploitation (p.209).

There would seem to be agreement here that ideology involves a masking of the "real" relations, and that science is involved with the unmasking of these relations.

One point of divergence with this view comes, as indicated previously, when its exponents imply or argue that Marxism, as a science represents the achievement, or the possible achievement of absolute truth. This peculiar adoption of bourgeois ideology undermines much of what Marx

had to say with respect to the way in which Marxism would be used to aid in the process of changing from a class to a classless society. If there is a point of agreement among the various Marxists discussed (Taylor, Walton, Young, Sprinzak, Sumner, Hirst, Bankowski, Mungham, Young, Poulantzas, etc.), it is at the point where they all imply or argue that Marxism must lead the way to the new social order. Such an assessment of Marxism overromanticises the capacity of Marxism to alter social conditions. Marx had been quite clear in The Poverty of Philosophy that, so long as the "communists" and "socialists," and by implication the Marxists, confined themselves to the task of finding a new system by which to build what he termed a "regenerative science" (1963, 125), their efforts would remain utopian and thus unconnected to the real struggle faced by the proletariat. Indeed, as the following passage makes clear, Marx argued that the proletariat, not the theoreticians of the proletariat, would liberate themselves:

Just as the economists are the scientific representatives of the bourgeois class, so the Socialists and the Communists are the theoreticians of the proletarian class. So long as the proletariat is not yet sufficiently developed to constitute itself as a class, and consequently so long as the struggle itself of the proletariat with the bourgeoisie has not yet assumed a political character, and the productive forces are not yet sufficiently developed in the bosom of the bourgeoisie itself to enable us to catch a glimpse of the material conditions necessary for the emancipation of the proletariat and for the formation of a new society, these theoreticians are merely utopians who, to meet the wants of the oppressed classes, improvise systems and go

in search of a regenerating science. But in the measure that history moves forward, and with it the struggle of the proletariat assumes clearer outlines, they no longer need to seek science in their minds; they have only to take note of what is happening before their eyes and to become its mouthpiece. So long as they look for science and merely make systems, so long as they are at the beginning of the struggle, they see in poverty nothing but poverty, without seeing in it the revolutionary, subversive side, which will overthrow the old society. From this moment, science, which is a product of the historical movement, has associated itself consciously with it, has ceased to be doctrinaire and has become revolutionary (Marx, 1963, 125-6).

In this context Marxism becomes "revolutionary" when it looks beyond the quarrels of "system building," and of defining its "scientific purpose," to the task of becoming a means of expressing the concerns of the proletariat. So long as Marxism is confined to squabbles over how best to interpret Marx, or how best to define itself as science or ideology, it can not lay claim to being revolutionary in the sense explained by Marx.

Finally, to come to a clear conclusion regarding the nature of Marxism as both "science" and "ideology" (see Colletti, 1972), it is useful to recall Korsch's comments:

As a matter of fact, the 'objective' description of the historical process as a development of the productive forces and the 'subjective' description of history as a class struggle are two independent forms of Marxian thought, equally original and not derived one from the other, which are worked out in an objective and simultaneously subjective materialist theory for the use of the investigator and which, at the same time, are meant to be applied by the proletarian class in its practical struggle. In either case, they are to be applied singly or together, according to the conditions of each

given position, as an instrument for the most precise solution of the task at hand (Korsch, 1963, 228-9).

Thus Marxism is not concerned solely with the "objective," nor solely with the "subjective." Further as Colletti argues Marxism is not content with simply understanding how societies are transformed. It is concerned as both "Science" and "revolutionary ideology" with practical effort to transform class society into classless society.

. . . as well as being a science, Marxism is revolutionary ideology. It is the analysis of reality from the viewpoint of the working class. This in turn means that the working class cannot constitute itself as a class without taking possession of the scientific analysis of capital. Without this it disintegrates into a myriad of 'categories.' The working class (dreamers awake!) is not a given factor, it is not a product of nature. It is a destination point: the production of historical action, that is, not only of material conditions, but also of political consciousness. In short, the class becomes a class when, going beyond economic spontaneism, it develops the consciousness of being the protagonist of a revolution which emancipates not only the workers but the whole of society (Colletti, 1972, 377).

The meaning of Korsch's and Colletti's comments should be clear. Marxism can not be limited in either the way implied by Taylor and Walton or argued by Hirst. Nor can it be a "revolutionary" force if it does not express the concerns of the proletariat, as opposed to the concerns of the "Marxist." Given, as Quinney (1978a) argues, that many "Marxists," especially critical criminologists, occupy essentially non proletarian positions--i.e., are petit bourgeois--this may not be an easy step. But as Marx (1963,

125-6) clearly argued, "Marxism" would become a "revolutionary" force only after it sets aside "system building" in favour of a "subversive science" which "has associated itself consciously with" the struggle of the proletariat. Thus, for critical criminology to take on this "revolutionary" character it must more clearly identify with the working class interest in crime and crime control. As Taylor indicates:

A vast amount of work needs to be done on the reconstruction of orthodox socialist policy. But the required features of any reconstructed social democracy are clear: the fragmented working class will only be mobilized when it sees an economic and social strategy which transparently (and therefore democratically) fulfills its immediate, pressing social needs (which do include . . . the reduction of predatory crime in the immediate environment (1982, 13)).

Only time will tell if Marxism, and critical criminology will be able to achieve this goal.

In the meantime, as I have argued throughout, "dialectically" oriented critical criminologists are not content with waiting for the "system" to collapse of its own accord via its internal contradictions. Rather they are more frequently advocating being involved in the day to day struggles of working class people in the effort to control and define crime. However, it should not be ignored that the involvement of the academic critical criminologists had its origins in the demand from outside the academic world for an explanation of crime which was more consistent with the experience of the working classes, as opposed to ideological

statements supportive of the status quo (see Gouldner, 1968: Chambliss, 1976b; and Chapter I of this thesis). In other words the fact that critical criminology developed from an external demand speaks well for its method of origin, but poor for its subsequent development.

Conclusion

In this Chapter I have shown how the Marxist critics of critical criminology have aided its development. Through their criticism the critics have demonstrated not only that Marxism had an implicit analysis of social control, and hence crime, they also provided a forum for discussion of, and improvement in theoretical construction within critical criminology. Through their efforts a more precise statement of the objectives and nature of the Marxist investigation of crime has been made possible. In this context it is offered that critical criminologists, indeed Marxists in general, become more acutely aware that Marxism is both science and ideology, and that it has both an analytical and a political role.

Most importantly, I have argued that so long as Marxists, in general, and Marxist criminologists in particular, envisage themselves as providing analyses which lead to a proletarian revolution, in the sense of being the vanguard of such an event, they fool no one but themselves. If such a revolution is to come about, it will be the result of proletarian effort. In such context it is the role of the critical criminologist to continue the process of unmasking

the true nature of capitalist society, but their efforts can not, should not be considered as "leading the way to a better life." Indeed, Marx himself had been quite specific in saying that the work of people like the Marxist criminologists can only become a "revolutionary act" when and if it takes on the character of providing an outlet for the concerns of the proletariat as opposed to an outlet for the search for a regenerative "science."

Conclusion

Conclusion

It should be obvious that critical criminology has undergone significant change from its early years. The efforts of the 1960's and 1970's were less well developed theoretically. Statements were often made, concerning the repressive character of law, which were neither theoretically nor empirically sound. Frequently this resulted in (1) overly romantic images of the criminal and/or (2) extremely simplistic analysis of "ruling class" domination. As indicated, this left the doors and windows wide open for the critics, both left and right, to condemn critical criminology. The criticism, however, proved useful in the development of critical criminology. It forced the critical theorists to provide more accurate, precise statements, thus permitting the distinction between Marxist and non-Marxist to become increasingly clearer.

The following pages are therefore intended as both a review of the accomplishments of this thesis, and a statement of direction for future research and development. This review/conclusion is needed to tie together some of the loose threads of the discussion to this point. That is, it relates

the study of crime, class and the state more precisely to Marxism.

The Concept of Class

The discussion of class began with illustrating the the confusion related to different definitions of class. Initially, neither the Marxists nor other conflict theorists offered definitions of class which would allow their readers a clear understanding of their analysis. It often seemed as though the non-Marxist conflict theorists were walking a chalk line sometimes invoking Marxian analysis, and sometimes denouncing it. The most obvious figure of note here was Richard Quinney. But, as time wore on, the rifts became clearer. Both non-Marixst and Marxist began to understand the very real differences between Marxist and Weberian analysis. It was and is a difference which could not be denied.

But, as indicated, the problem was not simply one of distinguishing between Weberian and Marxist analysis. It was also a problem of attempting to understand exactly what the Marxian analysis of class really was. Often the Marxists offered strikingly different conceptions of class. The differences were so striking as to imply that it would be impossible to bring all of them together. The fact that during the mid 1970's many Marxists also denied a Hegelian influence to Marx's conception of class was to also serve as a divisionary and delaying influence in the development of a

precise understanding of the relation between class and crime. Let us look at the problems in more detail.

In separating Weberian from Marxian uses of class, I tried to show how conflict theorists have tended to portray class society as an inevitable structure. Obviously Marxists would take strong exception to such an analysis. From a Marxist viewpoint, class society may or may not continue indefinitely. That is not to deny that there are not some Marxists who imply, or who openly state that class society will come to an end, rather, it is to suggest that, in keeping with the kind of Marxist argument I have been presenting, class society may or may not be drawn to a conclusion. It is by no means a certainty that class society is inevitable, or that it will inevitably crumble.

Further, in separating Weberian or "conflict" criminology's use of class from critical criminology's use of class, I drew attention to the fact that conflict theorists deny that class is the "key determinant," that class is seen by them as just one of many forces directing, shaping and ordering social/political/economic life. I have also drawn attention to certain inconsistencies in the Weberian use of class. In particular I have shown that some Weberians have argued that "the distinctive cultural element" (Krisberg, 1975, 21), or the realm of values, dominates the economic element, while others, such as Turk (1969; 1977a; 1977b) have tried to argue that class is just one of many influences, that other influences, such as the cultural element, may be

equally as important. However, even though there is this variation in Weberian analysis, it is quite clear that they would not subordinate, in the way Marxists do, the cultural element to the economic element. Indeed, it would seem from the way that Weberians present their arguments that they generally tend to subordinate economic activity to cultural activity even when they argue for co-determination. As such, it could be argued that many contemporary Weberians are as guilty of misrepresenting Weber's analysis as Marxists are of misrepresenting Marx's arguments.

Notwithstanding the problems of the inability of critics and, occasionally, critical theorists to clearly separate Weberian from Marxian argument, there is also the problem of critical criminologists being unable to agree among themselves on what class is, and how class relations function. From my discussions in Chapter II, it is apparent that some critical criminologists have adopted quite monolithic, or instrumentalist conceptions of class society and class relations. From their vantage point capitalist society is dominated by a very powerful (all powerful?) ruling elite who dictate to its various agents, including the state and its subunits (the police and the courts) what is expected, and these requests are instantly transformed into social action. It is also apparent from my discussions that there are Marxists, whom I have generally referred to as structuralists, who deny such a simple system exists within the context of advanced capitalist societies. While

structuralists agree that society may be divided between two quite general classes (the bourgeoisie and the proletariat), with an intermediary class between (the petitbourgeoisie), they are not as quick to offer that the bourgeoisie acts with one mind and one body. From a structuralist viewpoint, the dominant class may be the bourgeoisie, but that class is by no means unified. It is riddled with fractional interests and disputes which prevent this class from achieving the kind of unity assumed by the instrumentalists.

Furthermore, structuralists, are not so naive as to assert, as do the instrumentalists, that it is only the objective position of the various classes, and their subunits--fractions--which determines the nature and style of conflict between them. Structuralists are generally, although not universally, arguing that certain non-material forces are important factors affecting the style and type of conflict between classes as well as between fractions of the same class. In Chapter II, I attempted to demarcate these various class and fractional interests with respect to not only their objective position, but also their awareness of their own and others opposed interests in relation to the division of labour and the means of production. That is, within the context of the kind of argument I have been presenting, class is understood to consist of two quite distinct elements. First of all class is distinguished by its objective component, its relation to the means of production--a class-in-itself. Secondly, it is distinguished

by a subjective component, the awareness people have of their own and others opposed interests in the division of labour--a class-for-itself. In the latter case, there is also some recognition of the need to act upon that awareness in such a manner as to assert the hegemonic interest of that class.

Of course, there are certain similarities between structuralist Marxist arguments, and certain Weberian arguments regarding the influence of the subjective component. Both positions, in contradistinction from instrumentalist Marxism, argue that the subjective component can not be ignored. However, structuralist's argument differs from Weberian argument in two quite fundamental ways. First of all, structuralists are by no means willing to concede that the subjective component is as important as the material component. From a structuralist standpoint, the subjective component--"the distinctive cultural element"--is a dependent entity. That is not to say that they deny it is important. Clearly, such is not the case. Rather, structuralists argue that the subjective component is of secondary importance--i.e., secondary but important. It is able to have an effect on the material, but its effect is always mediated within conditions specified by the material, including the legacy of previous, or prior, culture. Secondly, and this bears repeating, structuralists deny that class relations as exemplified in capitalist society are inevitable. From a Weberian standpoint class society is inevitable because of conflicting value positions. Taking

their cue from Hegel as mediated by Weber, conflict theorists argue that because values have a life of their own, independent from human action, that society is caught in a virtually endless battle between competing values. As noted, structuralists are not at all willing to concede that (1) class society is inevitable, or that (2) the dialectic emanates from the non-material realm. From a structuralist viewpoint the dialectic is understood as contradiction between the material and non-material (as well as between capital and labour).

Finally, to speak of class, is to speak of an ongoing process in which people are shaped by, as well as create, their material and social world. That is not to say that it is not possible to demarcate classes within society, rather, it is to suggest that the simple step of classification of groups at the precise moment they are captured by empirical analyses represent all that is class, is to misunderstand the constant change and flow of class relations and class itself. It is quite clear that particular classes, and particular fractions of classes have ascended or descended from power, influence and existence. Some have come and gone, while others remain, some in better, some in worse position than previously. In any event, it is quite clear that the composition, size and general makeup of particular classes have changed over time. From a Marxist viewpoint, certainly the viewpoint I have taken, it is important to understand not simply who or what constitutes a particular class at a

particular moment, but also the origins and future prospects of that class. To isolate the now from the past and the ongoing gives only part of the picture, thus allowing for only part of the analysis.

The concept of class I have been arguing, with support from structuralist arguments, therefore, is one which recognizes in the distinction between a class-in-itself and a class-for-itself a certain fluency which other concepts of class ignore. It also recognizes that attempts to argue a rigid, monolithic structure to class relations frequently falls short of the mark. Such simplistic arguments are unable to explain how, and why class society has had to take into consideration, however unequally, the interests of subordinate classes. This is particularly important when, as Coletti (1972), and others (Taylor, 1981), point out the working classes are far from unified. Lacking cohesiveness the working classes not only compete with capital but also among themselves. As Cuneo (1980) pointed out with respect to the support given by labour to the 1941 Unemployment Insurance Act, certain sections of the working classes have fought against each other in the attempt to promote legislative changes. Further, as Platt (1978) points out, the divisions among the working classes is also revealed through observations such as the discovery that the working class frequently criminally victimise each other. Indeed Platt argues that ". . . 'street' crime is primarily an

intra-class and intra-racial phenomenon (p.29)." He explains:

White women are most likely to be raped by white men; young black men are most likely to be robbed by other young black men; and working class families are most likely to have their houses vandalised or ripped off by strangers living only a few blocks away (Platt, 1978, 29).

The meaning should be clear. The fragmentation of the working classes results in situations in which the working class criminal virtually accepts a bourgeois concept of individualism, as opposed to collectivism, as he/she victimises other members of his/her own class. That is, despite belonging to the same objective class, the working class criminal views other members of the working class as potential victims, not as potential allies. Rather than move toward action aimed at eliminating or reducing the effect of the condition giving rise to the apparent need to commit crime, the criminal may, in a self-interested fashion, victimise other members of the class. Similarly, the corporate offender likewise may set his/her/"its" interest against the interest of his/her/its class.

In other words the complexity of class society can not be reduced to simple dicotomous relations. The various internal divisions among all classes can not be ignored. They have consequences which result in differential capacities to influence social, political, economic and legal institutions. Less powerful members of the capitalist class, have had, as Marx (1967) and others (Snider, 1980) have pointed out, their interests infringed upon by more powerful

interests. On occasion, as Cuneo (1980) and Taylor (1981) indicate, this has meant that certain sections of the working class have been able to take advantage of the capitalist internal differences to obtain some (admittedly) small concessions. They do not, and have not achieved dominance, nor even equality, but they do receive concessions and the potential for more future collective action in their struggle against the state and capital.

The State

Of primary concern in the discussion of the state was the distinction between instrumentalists and structuralist models of the state. In this context I contrasted the notion that the state was the "Yes man," willing to do whatever was necessary to protect the interests of the capitalist classsss whenever necessary, with the analysis of the state as a dialectical entity. Within the instrumentalist conception of the state, the primary function of the state is to secure the interests of capital, and it does this by either the direct application of force and coercion, or through the indirect method of permitting reforms which only appear to protect the interests of subordinates. Specifically, from an instrumentalist position, all reforms of the social/political/economic system mediated by the state are intended to give at best only apparent consideration for the interests of classes other than the capitalist class. This is possible because the state is not only populated by members of the capitalist class, or at least by people with

extremely similar sympathies or inclinations, it is also a creation of that class, and instrumentalists are unwilling to acknowledge that a creation of that class would act in such a way as to threaten the existence or welfare of the class. That is, because the state is created by the ruling class to act as a go-between, who will legitimate the interests of that class, the state is unable to depart from the directives of that class.

Structuralists take strong exception to this naive analysis. Beginning with the observation made in Chapter II with respect to the analysis of class, structuralist argue that it is impossible for any one class, or fraction of a class, to achieve total control of the state in advanced capitalist societies. Further, structuralists argue that the state was not a conspiratorial creation of the capitalist class, that the state owes its existence to a long historical process of development involving the transformation of society from feudal to capitalist enterprise. Consequently, the state need not always protect the individual members of the capitalist class. On occasion the interests of particular capitalists, as well as the class itself, may be sacrificed. Essentially, therefore, the modern state serves a dialectical function. On the one hand it does serve to protect the interests of those forces which gave it birth--the interests of capital--while on the other hand it also serves the interests of those in subordinate positions. It must be remembered that during that process which gave

birth to the modern state, it was important that the emerging state be seen not only as an impartial referee, but also that it give sanctification to certain notions of universal rights and freedoms. Consequently, even though other classes may possess less economic power, etc., they are not powerless, and they are not without some measure of protection afforded by the extensions of the rights and freedoms achieved by the capitalist class in its struggle with the old aristocratic order. Being an impartial referee, if only in appearance, means more than simply giving token representation to the interests of subordinates. Clearly the achievement of the "right" to unionize, the "right" to strike, and the employment of "equality before the law," however unequitable, provide some measure of protection from the more ruthless fractions of the capitalist class, and from the excesses of tyrannical rule.

Dialectically, therefore, the state may become not only a tool used by the capitalist class to secure its interests, but it may also become a means for securing the interests of subordinate classes. The state must do so because in order to achieve hegemony it must obtain the consent of the subordinate classes, and this consent could only be obtained by giving more than token recognition of the aims and aspirations of these classes. This, of course, presents certain problems for those who operate the state, as they must occasionally sanctify relations which are opposed to certain capitalist interests. In such cases it could be

argued that the state secures the long term interest of capital by giving recognition to only the immediate demands of labour, but this analysis would once again fail to recognize the dialectical potential of the state. Even the "immediate," or short term acquisition serves a long term function. While not impossible it is difficult for the state to regress and take away that which has been won. That is not to say that the state can not and has not taken away "rights" which it has granted to labour. Clearly as Klare (1982) has shown it can do so through court action: i.e., having the courts place limits on the right to strike, erect picket lines, etc., thereby reducing the effectiveness and generality of such "rights." It may also do so via simply changing the law, or by passing "special legislation" to deal with certain "emergency situations." In Canada the Federal Government recently moved in name of "restraint" to roll back wage increases recently granted via the collective bargaining process. At the same time it "temporarily" suspended the "right" to collective bargaining for federal government unions. However, the working class struggle is not limited to securing "rights" under the law. It is concerned with elimination of class struggle. To that end, the efforts of the state to record "rights," as well as the efforts of the working class in struggling with and against the state may contribute to an increased awareness of its collective condition and thereby take collective action against both the state and capital. That is, the actions of the state,

dialectically, both aid and retard the working class. To the extent that state actions may precipitate or result in increased working class opposition through collective resistance, it may aid the process of developing stronger cohesion and unity among the working class. But at the same time it may aid the interests of either capital, or itself (the state) by placing some severe limits on the "concessions" granted to labour. Granting unemployment insurance may have allowed labour some security from the devastation of unemployment with no income, but it also allowed the state to accumulate capital, while securing for capital a less volatile labour force.

With respect to crime, the state, as in the struggle against "street crime," may appear to function as a source of protection for all classes against the threat of assault, robbery, murder etc., but does little to control death and injury "on the job." Thus, as Reasons, et al. (1981, 26), indicate, there are approximately "28 times" as many "work place assaults"--injuries sustained on the job as a result of either the employer's failure to comply with safety laws, or the employer's failure to maintain safe work environments. Thus, more than one-half of the injuries sustained on the job may be the consequence of either a failure to enforce law, or a failure, by the state, to step in and regulate safety. At present two Canadian provinces (Nova Scotia and Prince Edward Island) do not permit workers the right to refuse unsafe working conditions. But even when provinces do allow workers

to refuse unsafe work, without fear of losing their jobs, we still find cases where employers receive comparatively light treatment. For example, Reasons, et al. argue:

. . . if our spouse poisons us and we subsequently die then we have been murdered by our spouse who is liable to prosecution for murder. However, if our company causes us to be exposed to toxic substances and we subsequently die from this exposure, the company is not criminally liable for our deaths and will at the most be cited for violations of health and safety regulations. For example, it has been revealed that asbestos companies continued to expose workers to that substance in spite of the fact that they had had evidence concerning its fatal effects for some thirty years. Such conscious, premeditated, and rational behaviour undoubtedly led to thousands of deaths and disabilities. Nonetheless, asbestos companies are only liable to civil lawsuits (1981, 6).

Indeed, one major company processing asbestos--Johns Manville--in order to avoid even civil lawsuits, reorganized its corporate structure to allow those sections of the company involved with asbestos mining and processing to go bankrupt citing impending law suits and the awards likely to be paid to injured workers, including the widows and families of dead workers, as its chief debt. The point here, once again, is that the roles provided by the state give the appearance of protection from conventionally defined murder, but offer scant or no protection from a far more dangerous threat. "We are eighteen times as likely to be victims of the work place as of murder outside of the work place" (Reasons, et al. 1981, 5), but the law does not define work-place death as murder: This remains even though the

employer may deliberately refuse to obey even existing law knowing it could/would result in death.

Thus contrary to instrumentalist notions of the state, structuralists recognize the necessity of the state taking on a more complex role. It must not be ignored that, even though existing health and safety laws (murder law?) are inadequate, they resulted from the forceful representations made by labour to the state. The state grants such legislative changes in part to appease labour, but fundamentally, as a means of maintaining its image as honest broker between capital and labour. It thus serves, in part, its own survival interests. But it also serves capital by draughting changes demanded by labour in such a way as to give only minimal restriction. Again, occupational health and safety law does not always aid the worker. Frequently, this legislation does not require the employer to warn employees of the hazardous nature of the materials (chemicals, etc.) the employee must handle on the job. Therefore the state, unequally, serves the interests of labour, capital and itself.

Images of Crime and Criminality

In Chapter IV, I drew attention to the observation that a monolith conception of class society and of the state results in a somewhat romantic conception of crime. I also drew attention to the fact that many critical criminologists, have tended to flirt with certain Bakunian arguments with respect to the revolutionary potential of crime and

criminality. In part this represents a carryover from the formative years of critical criminology when efforts were being made to incorporate not only the critiques offered by such "criminals" as George Jackson and Eldridge Cleaver, but also the efforts of the anarchists, as well as Engels (1963), into a unified theoretical stance. That such efforts failed to recognize certain processes that later critical theorists were to focus upon can not be denied. However, it must be remembered that these efforts were initiated also as a response to the very condition of society at the time. There is no denying that the Western democracies in both Europe and America were undergoing some trauma. Indeed, for a few fleeting moments in May and June of 1968 it seemed as though one of the major capitalist societies of Western Europe--France--was about to crumble under the weight of an apparently spontaneous uprising. At the same time, the United States was experiencing various forms of civil and anti-war protests. Under such conditions the state, in putting such protests to rest, was forced to be repressive. Furthermore these various events had hit a rather sensitive nerve in academe. Whatever the cause, it certainly appeared to many academics that the old explanations of crime and criminality were less than adequate. The criminal was no longer the under educated, and inarticulate poor, but the highly educated, organized and vocal middle class reformer. Old explanations of crime were no longer appropriate as it could no longer be demonstrated that a consensus on major

social, political and economic relations existed. The repressive actions and policies of governments were being questioned, and academia, in the form of the early radical perspectives on crime, began a struggle for a new explanation.

That some of these new explanations overromanticised crime can not be denied. They were overly romantic because they left behind, once again, the dialectics so essential to a Marxist analysis. Dialectically, crime may be both a form of protest and a form of acceptance. As a form of protest it may draw attention to certain inequities, while as a form of acceptance it may suggest that there are certain relations (the acquisition of private property) which are cherished and supported even if somewhat illegitimately. Dialectically, the "criminal revolutionary" may use various illegal tactics to aid "the cause," but it is not always clear that the cause is aided. It may also be true that the actions of the revolutionary provide an excuse for the application of clearly repressive state tactics, as the revolutionary's actions may be interpreted ideologically as "criminal terrorism" as opposed to "freedom fighting." Thus, to make pronouncements to the effect that all crime is inherently "revolutionary" is to grossly oversimplify the context within which crime takes place.

It must not be ignored that crime may be the result of not only conflict between capital and labour, but also among capitalists or among workers. Even though "corporate

crime" laws may be enforced with less precision than other criminal laws, they nevertheless place restrictions on some capitalists who may become criminalized when the law is enforced. Furthermore, the type of violent crime known as "street crime" is generally perpetrated by members of the working class upon other members of the working class. Thus to argue that the proletarian movement must embrace all crime and all criminals as part of the movement is to argue that people, including both the corporate offender and the street criminal, who may have shown their antagonism to the struggle should become part of it.

This does not mean that all corporate offenders, and all street criminals are necessarily opposed to the proletarian struggle. Rather, it means that specific cases must be assessed to determine the types of interests represented. A capitalist fraction which supports certain demands made by labour (i.e., the "right" to minimum wage, or maximum work day) may support such efforts as a means of obtaining some advantage over another capitalist fraction. It may even allow this other fraction to become criminalized if it breaks such laws. On the other hand, those fractions of labour who fought for the legal "right" to form unions, often fought not only the interests of certain capitalist fractions, but also the state and other labour fractions, who saw the opportunity to secure paid work while unionized, and unionizing labourers refused to work. Thus attempts to

unionize were often accompanied by the criminalisation of labourers.

Finally, with respect to certain acts committed in the name of "the revolution" it must be recognized that they are not likely to provoke or initiate a revolution unless all conditions necessary for a revolution are present. While police actions in the street may have precipitated reaction from onlookers, whose actions in turn precipitated actions by others, as in the "riots" of the late 1960's (see Balbus, 1973), these actions did not produce a revolution. Indeed Balbus (1973), argues that the state was able to turn the situation around to suit the interests of capital, and the state, by branding the "rioters," and not the police (who may have violated the law) as criminals. Even the actions of such "revolutionaries" as Baumann (1981) came to a re-examination of violence (aimed at the state and selected capitalists) as a means of provoking the revolution. It seemed evident to Baumann that such revolutionaries often became separated from the working class, thus fighting their own battles not the struggles of the working class. Even to the extent that their actions take on a collective character, it is limited to a relatively small isolated collective, whose life condition of being in a state of constant anxiety over the threat of arrest, prosecution etc., does not allow it intimate connection with the working class. Once prosecuted it is also possible to discredit their actions as simply criminal, or the actions of a "foreign power," etc.,

thereby further isolating them from the movement they claim to support through their actions. Even the attempt to turn their trials into "show trials" is filled with possible drawbacks (see Chapter III).

Thus crime is much too complex to be simply presented as "revolutionary." The existence of crime may represent nothing more than conflict, and even the actions of these violating the law need not be interpreted as meaning they have a clear understanding of the conflicts and how to resolve them. Indeed, their actions may further complicate the situation resulting in more, not less, state control. It may even result in the working class, or its various fractions, demanding more, not less, state control.

These considerations notwithstanding it should not be assumed that all crime is anti-revolutionary. There may well be merit in refusing to abide by the conditions termed "legal" under the law. Certainly, advances have been made when collective action was taken against institutionalized racism in the deep south of the United States, as well as similar conditions in other nations. In these cases abiding by existing legal statutes might have reduced the risk of criminalisation, but might not have resulted in the type of advances achieved by collective, and sometimes individual, actions. These collective actions, or the actions of the martyr which inspire collective action, can not be dismissed. They have played an important role in many social movements. It is erroneous, however, to assume that all such actions, or

self-appointed martyrs, produce the intended result, or have the potential to produce such results. Much more attention must be directed towards understanding the nature of the social condition giving rise to the action, and to the potential for that condition to be resolved by the type of action being contemplated. A collective action aimed at forcing the state to grant concessions may be sufficient for temporary solidification but may not result in a long-term unification. At best, it may lead to a condition which allows the working class the opportunity to observe the dialectical nature of the state, as well as discover that through continued collective action it may be able to assume more and more control over its life situation. This is, once again, an important reason for the working classes to begin taking on not only the state but capital. This first step is not the end result. It is only one of many "first steps."

Critical Criminology as Marxism

The Marxists critics of critical criminology have argued that it has failed to adequately ground itself in the writings and interpretations of Marx, and that a Marxist theory of crime is a contradiction in terms. Contrary to their intent these critiques, however, have contributed to the development of critical criminology. They have aided this development by pointing to the fact that Marxism did indeed have at least an implicit theory of deviance. Consequently, while the critiques of critical criminology offered by Hirst and Bankowski, Mungham and Young were

accurate in their portrayal of certain attempts at developing critical criminology, they can not be said to be accurate with respect to the more recent developments in critical criminology. Furthermore, it is also clear that these critiques are themselves based on a somewhat controversial reading of Marx and Marxism.

The fact remains that these Marxists object to the introduction into Marxism of certain Hegelian influences. Efforts are made to deny that the conscious realm has an effect on the material realm. As I argued in Chapter V, such efforts are based on a very narrow interpretation of Marx's work. Such an interpretation of Marx not only divides Marx's work into "pre-Marxist" and "Marxist" materials, but also limits discussion of the dialectic. Indeed, it would seem from such a narrow reading of Marx that the non-material world, and the arena of superstructure, are totally passive recepticals of whatever is dictated by the material world and infrastructure. The argument I have developed acknowledges that it is possible to extend the Hegelian influence too far in Marxism, but that it can not be ignored. It must never be forgotten that "real people are squarely in the middle of the contradictions." Even though these real people are unable to shape and reshape the material world to their liking, they nonetheless attempt to do so, and, over time, changes are made. That these changes are limited by the material condition of the society in which these people live, merely testifies to the fact that efforts to extend the Hegelian

influence too far are unwarranted, while attempts to deny the Hegelian influence close off a fruitful line of inquiry.

Implications for Future Study

The implications of my analysis, once again, are significant for the continued development of critical criminology. By placing critical criminology upon more secure footing, I have opened the way for more detailed analyses of specific problems and issues. Certainly, it would appear that a more detailed and historical analysis of the role of so called "revolutionary movements" within capitalist societies, particularly those of the Western democracies, but also those which appear to be blooming in such places as Poland, would seem to be in order. It would also appear that a more thorough analysis of the common street criminal, including the activities of "prisoner's rights" movements, and the problem of personal injury crime, is demanded by a re-conception of critical criminology as employing a dialectical analysis.

I do not wish to imply, in making these statements, that critical criminology should confine itself simply to the explanation of particular types of behaviour. Such a limitation would seem unnecessary and overly restrictive. It would seem to imply that critical criminology would begin to do what its critics, especially the Marxist critics, said it had been doing all along--that it would make crime the object of study. It must never be forgotten in future efforts to apply this model of critical criminology to specific examples

that the objects remain the same as in any Marxist analysis. The objective is to unravel general social, political and economic processes, and to come to an understanding of how these processes produce and are affected by human behaviour.

Critical criminologists who might like to bring an end to the existing social order should not labour, however, under the illusion that they are in the vanguard of "the revolution." Their zest for change must be tempered by the reality of the situation. The proletarian revolution will occur when and if the material and other conditions necessary for it are present. That is not to suggest that they should be content to sit and wait, rather, it is to suggest that effort can continue towards demasking bourgeois relations with the realization that new forms of social relations must be developed from experience and not from "system building."

Conclusion

To bring a discussion such as this to a "conclusion" is virtually an impossibility. Clearly much work remains to be done. Not only are more studies of particular "crimes" needed, there is also a need for continued development of the theoretical basis of critical criminology. The two tasks--specific studies and continued theoretical development--in fact, must proceed together. At best, I have provided an interim model which can be used, and perfected, in the course of future study. In effect my discussion has been an attempt to prod other Marxists into making clearer theoretical statements. They can not simply make reference

to Marx and leave it at that. Marx may have left a large volume of material, but it is not the case that he has left us the definitive study of all human behaviour. If nothing else, the attempts to clarify a critical criminology indicate that Marx left many aspects of his analysis incomplete and in need of further study. Hopefully, Marxists will recognize that there are other aspects of Marx's work that are in need of similar updating and completion.

Footnotes

Chapter I

1. There have been a number of definitions of Marxism offered by a variety of scholars. One definition (Greenberg, 1981, 499) offers simply that Marxism is "A theoretical framework for analyzing social relations based on the writings of Marx and Engels." This definition, however, is insufficient as it explains very little, and is in fact tautological. Other definitions are concerned with Marxism as a "science" based upon the premise of economic determinism. Still other definitions portray Marxism as simply an "ideology" advocating revolution. A more reasoned definition is found in the work of Colletti [1972] who argues that Marxism is both science and ideology. It is a science in that it seeks the ". . . discovery of objective causal relationships. It discovers and analyses the laws which make the system work, describes the contradictions which undermine it from within and signal its destiny (p.369). It is ideology in that "It is the analysis of reality from the viewpoint of the working class" (p.377). In this thesis, this is the conception of Marxism to be used.

2. "Bourgeois pluralism" takes many forms. Within functionalism it takes the form of arguing that there are a plurality of interests found in modern societies, and that these various interests attempt to reach agreement on basic and important issues affecting that society. This does not mean that functionalist pluralism argues that this attempt at reaching an agreement (consensus) is always successful. Rather, it is said that the efforts resulting from the attempt represent "... an attempt to satisfy, to reconcile, to harmonize, to adjust these overlapping and often conflicting claims and demands ... so as to give effect to the greatest total of interests or to the interests that weigh most in our civilization, with the least sacrifice of the scheme of interests as a whole" (Pound, 1943, 39). However, while the functionalist version of pluralism as found in the work of Pound, Parsons (1962), and Merton (1957), may be said to have gained widespread exposure, it is by no means the only form. Weberian analysis also tends towards pluralist argument. This is evident in the various Weberian inspired conflict criminology attempts to explain the social system as comprised of various status, or interest groups (see for example, Hills, 1971; Quinney, 1969; Turk, 1966). The difference between functionalist and Weberian pluralism is that functionalists insist that there is an attempt to reach consensus, while Weberians following in the footsteps of Weber and Dahrendorf (1958; 1959; 1968) argue that each particular interest group attempts to seek

dominance over those affairs and issues which directly affect it. Further, there is an implicit assumption within functionalist pluralism that all interests have equal power in their attempts to reach consensus, but Weberians argue that no such equality exists. Weberians argue that some groups have more power than others, and that they use this power to gain as much advantage for themselves as possible.

3. see also Rusche (1977). This more recent publication is a translation of the proposed study undertaken by Rusche which was to appear later as a joint publication with Kirchheimer (1939).

4. It is difficult to separate many of the social protest movements of the 1960's into separate units. In many respects they supported and depended on each other. This "unity of purpose" is perhaps best symbolised in the "Chicago Conspiracy Trial" in which various social activists were put on trial for inciting a riot during the Democratic Party's nomination convention in 1968. Danelski (1975), for example, indicates that "The Chicago Eight" were representative of a wide variety of political protest groups including anti-war, and civil rights protestors.

5. Wars, of course, do represent an opportunity for those who manufacture weapons to make profit. Reflecting some of the concerns of the time, Melman (1970) refers to the war effort in Vietnam as "Pentagon Capitalism." Paul Goodman (1968) also captures the spirit of the "anti-profits" protests saying that the large corporations of the United States had been "... imposing your technology, seducing native elites mostly corrupted by Western education, arming them, indeed often using them as a dumping ground for obsolete weapons.... your aim must be, while maintaining leadership, to allow very little technical gap, in order to do business" (p.426), or to make profits.

6. For one account of the events of May-June 1968 see Cohn-Bendit and Cohn-Bendit (1968) [See also Fisera (1978)].

7. As Friedrichs (1980) points out, Quinney's analysis actually undergoes a series of flip flops which demonstrate a general tendency towards theoretical confusion. Quinney's initial publications reflected a kind of dualism. On the one hand there were "mainstream"--i.e., positivistic--works (1964a: with DeFleur, 1966: with Clinard, 1967), while on the other hand there were works reflective of a more humanistic approach (1964b: 1964c: 1965a: 1965b). It is not until 1969 that Quinney publishes work which might be said to adopt a "conflict perspective," notably Crime and Justice in Society (1969). Other conflict analyses (1970: 1970a) followed. Thereafter he alters his analysis becoming increasingly more Marxian (1973: 1974:

1977). He even revises earlier works (1975: 1979a: with Clinard, 1973) to take into consideration his new found orientation. More recently, he has become involved in uniting the moralism of Marxism with the moralism of Christianity (1980: 1982).

8. This will be discussed in more detail in Chapter II. At this point it is important to note that Krisberg (1975) offers that Marxian analysis may be more useful in analysing "corporate crime" (p.39), while Weberian analysis is more useful in describing and understanding other types of crime.

9. This is particularly true of Krisberg (1975) who argues that the "distinctive cultural element" gives substance to economic arrangements.

10. Vold's original book (1958) has recently been revised by Bernard (Vold, 1980). The aim of the argument for "culture conflict" was to argue that cultural factors were important influences determining the vulnerability of some minority cultures to criminal processing. Later conflict theorists (Turk, 1969) argue that these minority cultures are made vulnerable to criminalisation because their cultural practices and beliefs are opposed to those cultural groups in authority positions.

11. Critiques offered by Currie (1974) of Taylor, Walton, and Young's The New Criminology (1973), and Greenberg (1979) of Quinney's somewhat later Class, State and Crime (1977) bear this out.

12. The critique by Hirst (1975a; 1975b) really represents a theoretical tradition led by Althusser (1969) which rejects any reading of Marx other than its own. It is a tradition which treats crime as epiphenomenal--i.e., insignificant--and not deserving of attention.

13. Later in Chapter II, I will show that Klockars is not the only critic to have this problem. It is also found in the work of Rich (1979) and other textbook writers (Barlow, 1981: Gibbons and Jones, 1975).

14. It is to be noted that Marx never used the term "historical materialism." This term originates in the work of later commentators.

15. Indeed, the work of Balbus (1973: 1978) clearly represents an attempt to use the very tradition from which Hirst offers his critique. How odd it is that the same theoretical position can be used to both deny and develop a "new" strain.

Chapter II

1. Class fractions are the various internal divisions of a particular class. These divisions are primarily determined by objective position relative to the means of production, but may also be determined by the subjective understandings people have of their own and others positions. A class-in-itself is determined by its objective position relative to the means of production, while a class-for-itself comes into existence when those people occupying the same objective position become aware of their collective position, including an awareness of their opposed interest compared to the interests of others, and act to either secure their own position or render the condition which places them and their opponents in opposition null and void.

2. In saying this I am, of course, suggesting, as Thompson (1963) has done, that it is inappropriate to consider class as a static entity, as it is clear that class structures have been altered over time as changes occur not only in the way people come to understand their positions in the structure, but also as changes occur in the productive forces and means of production. To focus upon and isolate one particular group at a particular moment in history may allow us to understand that moment, but it does not allow us the opportunity to link that moment to its past or to understand the direction of its future.

3. That this discussion is needed at all would seem to be a severe condemnation of the critics as it is quite clear that Turk (1977) and others (Collins, 1975) have tried to demarcate the basic differences between Marxian and Weberian analysis. That these earlier attempts, especially that of Turk, viewed Marxian analysis in overly deterministic fashion does not destroy the fact that attempts to demarcate and explicate the differences have been made, and that these attempts have not been noted by the critics.

4. The economic basis for the Weberian concept of class was made very clear by Weber in the following passage: "We may speak of a 'class' when (1) a number of people have in common a specific causal component of their life chances, in so far as (2) this component is represented exclusively by economic interests in the possession of goods and opportunities for income, and (3) is represented under the conditions of the commodity or labor markets" (1946, 181). This would seem to compare quite favourably with the objective definition of class within the Marxist tradition--i.e., it compares well with the notion of class-in-itself as this is understood by Marxists.

5. There is, however, some disagreement among the Weberians. In reading Krisberg's account it would seem that

Weberian analysis accepts that the realm of ideas dominates the economic sphere as he quite clearly says that the "distinctive cultural element" provides "the necessary condition for the growth of the economic structure" (1975, 21-2). Other Weberians (Quinney, 1970: Hills, 1971: Chambliss and Seidman, 1971: Chambliss, 1964; 1969: Kennedy, 1974) may have placed heavy emphasis on the importance of considering ideas, but they generally follow Turk's lead and stress that "... the sources of conflict" are found in "cultural as well as social structures" (1977, 215), implying a co-determinant analysis. As will be shown later, there are some very similar comparisons to be made between this latter interpretation of Weberian analysis, and the structuralist Marxist position.

6. As Turk analysed the situation relatively unsophisticated, but organised subject groups would have great difficulty in resisting the authorities in those instances where differences between subject and authority occur. A sophisticated subject, of course, is one who is aware of authority expectations, as well as the abilities of authorities to enforce those expectations. Thus sophisticated subjects who engage in activities which may be condemned by authorities will be less likely to encounter difficulties (legal processing) if they are able to either manipulate authorities (via bribes and similar tactics), or engage in those activities which, although condemned, are less likely to be rigidly policed. Subjects not able to accomplish this, but who may be well organized (through both formal and informal structures), are more likely to be treated as criminal.

7. It must be remembered, of course, that Weber's study of the relation between the developments of protestantism and capitalism (1958) is one of the major historical studies in sociology. To deny, therefore, the necessity of historical analysis would seem to do a disservice to the very tradition Turk attempts to use to ground his own work.

8. Marx also makes it quite clear that it is not necessary for the capitalist to always rely on the heavy hand of the state to keep the labouring classes from demanding a change in structure. In his own words, "The organization of the capitalist process of production, once fully developed breaks down all resistance. The constant generation of a relative surplus-population keeps the law of supply and demand of labour, and therefore keeps wages, in a rut that corresponds with the wants of capital. The dull compulsion of economic relations completes the subjection of the labourer to the capitalist. Direct force, outside economic conditions is of course still used but only exceptionally" (Marx, 1967, 737).

9. Marx's specific comments are contained in the following passage:

The workpeople had hitherto offered a passive, although inflexible and unremitting resistance. They now protested in Lancashire and Yorkshire in threatening meetings. The pretended Ten Hours' Act, was thus simple humbug, parliamentary cheating, had never existed! The Factory Inspectors urgently warned the Government that the antagonism of classes had arrived at an incredible tension. The Masters themselves murmured: "On account of the contradictory decisions of the magistrates, a condition of things altogether abnormal and anarchial obtains. One law holds in Yorkshire, another in Lancashire; one law in one parish of Lancashire, another in its immediate neighbourhood. The manufacturer in large towns could evade the law, the manufacturer in country districts could not find the people necessary for the relay system still less for the shifting of hands from one factory to another.' ' . . . under these circumstances a compromise between masters and men was affected that received the seal of Parliament in the additional Factory Act of August 5, 1850' (Marx, 1967, 292).

10. It is also evident that the working class is itself divided, and may be left in a situation in which its efforts to make changes in the structure of capitalist society are limited to essentially superstructural "reforms." Unlike the instrumentalists, however, many structuralists (Young, 1979: Taylor, 1981: Carson, 1982) advocate that it is necessary for the working class to at least attempt to make these changes, otherwise they would be in a far more vulnerable position. They would be at the complete mercy of the capitalist.

11. Marx had consistently argued that the power of the proletariat rested in collective, rather than individual action. Thus in his "Inaugural Address" to the Working Men's International Association in 1864 he said this:

It was not the wisdom of the ruling classes, but the heroic resistance to their criminal folly by the working classes of England that saved the West of Europe from plunging headlong into an infamous crusade for the perpetuation and propagation of slavery on the other side of the Atlantic (1978, p.519).

12. Marx was quite clear that the working class had to engage in concrete struggle with the "ruling" class in order to gain sufficient experience and knowledge to achieve the long range goal of abolishing class society. For example, in a letter written in 1871 to F. Bolte, he writes:

. . . The political movement of the working class has as its ultimate object, of course, the conquest of political power for this class and this naturally requires a previous organization of the working class developed to a certain point and arising precisely from its economic struggles.

On the other hand, however, every movement in which the working class comes out as a class against the ruling classes and tries to coerce them by pressure from without is a political movement [Marx, as cited in Cain and Hunt (1979, 240)].

Marx went on in this passage, to say that efforts of the working class to achieve specific law reforms such as the eight hour day, constituted "a political movement." He concludes the passage saying "While these movements presuppose a certain degree of previous organization, they are in turn equally a means of developing this organization."

13. To deny the possibility of change as a result of direct action, would not only seem contrary to the pleas of Marx and Engels in The Manifesto (1971) that the workers of the world should unite, it would also seem to imply a kind of economic determinism similar to that found in crude instrumentalist arguments which Balbus claims to reject.

14. Once again I refer the reader to Marx's comment that within "the inherent laws of capitalist production" there exists "external coercive laws having power over every individual capitalist" (Marx, 1967, 270). Later, in Chapter III, I will document certain examples of situations in which capitalist has fought capitalist, and where capitalist in fighting capitalist has sought the aid of the working class by granting it certain "concessions."

Chapter III

1. In a recent analysis of the relation between law and the state Levitt (1978) shows quite clearly that Marx's analysis of the state had remained consistent from 1842 onward. According to Levitt, Marx saw the state as an "excrecence of society" (p.18) only appearing to be independent of class interests. Later I will attempt to deal more concretely with the various statements indicating that the state appears to be but is not independent of class interests. All that need be observed here is that, contrary to some observations [particularly that of Giddens (1975)], Marx does leave a consistent view of the state as a "... general institution of antagonistic, i.e., class society" (Levitt, 1978, 18) which only appears to be separate from "civil society."

2. It should be noted here that both Pearce and Quinney support their arguments with reference to the work of Kolko (1962). Indeed, even the quotations attributed to the first chairman of the U. S. Federal Trade Commission are taken from Kolko's "Triumph of Conservatism" (1970).

3. In his reply to Poulantzas' critique of him, Miliband (1972) makes it quite clear that there may indeed be instances where the state elite and the economic "system" are caught in a dialectical relation. However, there is still no clear statement from Miliband in this rejoinder as to exactly what this dialectical relation is. Instead, he repeats (1972, 259) what he had said in The State in Capitalist Society: "... the state in these class societies is primarily and inevitably the guardian and protector of the economic interests which are dominant in them" (1969, 265).

4. As I will explain later, I do not wish to imply here that the state gives privileges, power, etc., to the subordinate classes. It is quite clear that Marx never saw the state as an agency which gives away the rights and privileges of the bourgeoisie. Rather, I simply wish to point out as Young (1979) has done, as well as Taylor (1981) and Carson (1982), that the state may be forced, in the task of preserving its legitimacy, to take more seriously, than the "ruling class" might wish, the interests of labour and to give some measure of legal protection to these interests.

5. The value consensus model, of course, is the functionalist model as found in the tradition of Durkheim (1964; 1965; 1966), Parsons (1937; 1951) and Merton (1957), while the ruling class model would include his own work (Chambliss, 1976b). Of particular interest is the fact that he reinterprets his early work on vagrancy legislation (1964), as well as his work on Seattle (1971), and with Seidman (1971), all of which had employed a Weberian conflict

orientation. In this new article, Chambliss clearly rejects all of these models for failing to grasp the complexity of modern capitalist relations. Later I will deal in more detail with his new found structuralism.

6. The contradictions being addressed here are those emanating from the division of labour between capital and labour, but also may refer to contradictions among the various fractions of capital itself. It is the role of the state within capitalist society to attempt to mediate these disputes by appearing to remain aloof from--i.e., independent--the demands of any particular class or fraction. In so doing it is not only serving the long term interests of capital, it is also prolonging, or attempting to prolong the basic dicotomy between capital and labour.

7. O'Connor's instrumentalism is revealed in the way he analyses the "regulatory" function of the state. In this connection he says that "These functions require effective central executive control over the federal budget and administrative machinery. The exception is the interest groups economic needs, to which the legislative branch and many executive agencies are highly responsive" (1973, 70).

8. I have referred a number of times to the work of Cliff (1974), Harmon (1970), and Nicolaus (1974), as well as Bettelheim (1976), all of which tried to argue that the Soviet Union is now a capitalist state. The basis of their collective argument is quite clearly that the state in the Soviet Union has already begun to perform this accumulation role. The question which can not yet be answered, as it involves a knowledge of future events before they occur, is whether or not the performance of the Soviet State as primary agent for accumulation is a necessary step towards an abolition of state power and authority. While the Soviet legal scholar Pashukanis (1980) was quite clear that the Soviet state would eventually "whither away," it is not so clear that it is doing so at the current time. Indeed, if recent developments in Poland are any indication, it would seem that the Soviet state is solidifying, or attempting to solidify its existence.

Chapter IV

1. One of the more common misconceptions of anarchism is that it means "chaos." In actual fact it refers in the work of Bakunin, and others, Benello (1979), Bookchin (1973:1979) and Cohn-Bendit (1968), to an absence of government. Thus it does not mean "disorder," but rather refers to a system founded on order maintained by forces other than the state.

2. Both Bookchin (1973: 1979) and Benello (1979), of course, follow in the footsteps of Bakunin in criticising Marxists for being overly authoritarian, and generally unaware of the kind of "bureaucratic and coercive" nightmare existing in the Soviet Union. In this respect, the anarchists are as guilty as Downes (1979) and Klockars (1980) in being unaware of the critiques of Soviet "Marxism" being produced by Marxists outside of the Soviet Union. One of the more recent critiques of the Soviet Union is contained in an account of the conditions giving rise to suppression of Solidarity in Poland (Singer, 1981). Others, including those previously cited (Harmon, 1970: Cliff, 1974: Bettelheim, 1976), generally concur that the conditions existing in the Soviet Union are far from what is envisaged in the work of Marx and Engels. Since the anarchist critique of Marxism is linked to Bakunin's "prediction" that a Marxist society would follow the pattern of suppression found in Russia, anarchists have generally used the Soviet Union as a shining example of what is wrong with Marxism. However, this ignores the fact that the Soviet Union has not yet abandoned all aspects of capitalism, and takes for granted the Stalinist claim that "Socialism in one country" is indeed a possibility.

3. In a more contemporary example, one which proved highly influential during the early 1970's, Hobsbawn (1969) argues that "... social bandits ... are peasant outlaws whom the lord and state regard as criminals, but who remain within peasant society, and are considered by their people as heroes, as champions, avengers, fighters for justice, perhaps even leaders of liberation" (p.13).

4. That is, along with Bakunin in the "Program of the International Brotherhood" Engels argues that isolated acts of rebellion can not become revolutionary in themselves, while Quinney and others argue with Bakunin in Statism and Anarchy that acts of crime are in all cases revolutionary because they signify that certain behaviours common to the working class are suppressed and the working class continues to engage in those acts despite the consequences.

5. Marx and Engels give their clearest warning regarding the unreliability of criminals in the following passage from The Manifesto: "The 'dangerous class,' the

social scum, that passively rotting mass thrown off by the lowest layers of 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" (1971, 43).

6. It doesn't happen because, as I shall go on to explain, there are circumstances which may make the intent to commit such an act less important than the outcome of the act. More importantly, however, it must be remembered that much "street crime" is not directed against the bourgeois classes, but against other members of the working class. As the Crime and Social Justice Collective (1976) puts it, "Street crimes, defined as mugging, forcible rape, brutal attacks of the elderly and women in the community, and other similarly oppressive acts, are primarily an intraclass phenomenon. In other words, the victims of these acts are mostly poor and working class people" (p.3). It is hardly a blow for a proletarian revolution when the act victimises those who would apparently be freed by such a revolution. Indeed, as Taylor (1981) indicates (p.180 ff) some groups, such as women, may actually call for greater state control and policing thereby giving the state a legitimated base for extending its repressive role.

7. The context being referred to here, of course, is the development of the political economy. Later, in Chapter V, I will attempt to show that, while the role of consciousness is important in developing political economy, it is nonetheless subordinate. As such, for Quinney to argue that consciousness be given a central, or causal role, when it is really dependent upon developments in material relations, distorts analysis.

8. I refer the reader once again to Marx's Capital (1967, 713-64)) in which he considers "... the forcible creation of a class of outlawed proletarians, the bloody discipline that turned them into wage-labourers, the disgraceful action of the State which employed the police to accelerate the accumulation of capital by increasing the degree of exploitation of labour," and, in the process, the question of "... whence came the capitalists originally" (p.742). It is here that Marx attempts to show how the development of capitalism was aided by the creation of this surplus population.

Chapter V

1. One area in which Marx is said to have failed to anticipate or appreciate the flexibility of the capitalist system concerns the notion of "the happy worker." The implication of research attempting to document that workers are satisfied with their jobs (Quinn, 1974: Spray, et al., 1978) is that Marx was "wrong" when he said that workers are alienated by capitalist organization and practice. It also means that Marx failed to recognize that capitalism could provide sufficient "rewards" for labour such that labour would be less inclined towards seeking elimination of the "system." However, many analysts, including Rinehart (1975) and Braverman (1974), have shown that much of the work documenting the "happy worker" is based on the false assumption that the only factor important to worker alienation is their state of consciousness. To ask a worker if he/she is "happy," is to ignore that alienation is a multifaceted concept. When Marxists speak of alienation they consider "estrangement" from the products of labour [meaning workers do not have control of "the product--the purpose for which it is created, how it is disposed of, its content, quality, and quantity" (Rinehart, 1975, 13)], the labour process (how, when, where, why and with what the product is made), and from other people, including both the capitalist from the labourer, and the labourer from other labourers as relations between and among these people become characterised by competition (for profits, wages and jobs) and antagonism. To concentrate solely on the estrangement from self, and to interpret this later concept by asking questions about "happiness" also means that labour is content, and should be content, performing the purely instrumental function of providing him/herself with an income needed to acquire various consumer goods and services. It therefore ignores that, for Marxists, work is more than an instrumental task. It is an "... endeavour which embodies and personifies life ... a source of personal and social gratification" (Rinehart, 1975, 15).

2. The particular viewpoint to which I am responding here, of course, is that of Althusserian (Althusser, 1969; 1971) structuralism as it found expression in the work of Hirst (1975a; 1975b). As a number of critics have said (Bennett, 1979; Sumner, 1979), and as I have pointed out with respect to the introduction of this viewpoint within critical criminological literature via the work of Balbus (1973; 1978), this type of Marxism reintroduces instrumentalist logic and argument.

3. Taylor and Walton (1975) in their response to Hirst (1975a), argue that this compilation of objects for study comprises a "... less than exhaustive list of concepts utilized by Marx at various points in his work" (Taylor and

Walton, 1975, 234). It is doubtful, however, if Hirst had intended this to be an "exhaustive list." It would seem more appropriate to argue that Hirst offered this list as illustrative of the objects he considered more appropriate for Marxist inquiry. It is clear that Hirst regards crime as an inappropriate object of study. However, it is also clear that he misunderstands the objectives in critical criminology. The objective is not the study of crime per se, but, rather, the study of those same objects Hirst says are the proper objects of study. Further, for critics such as Hirst (1975a; 1975b), Bankowski, Mungham and Young (1977) and Mugsford (1974) to exclude crime from this list of objects ignores that, while Marx did not offer a systematic study of crime, he did offer some comment, and that these comments, because they are inconsistent need to be clarified as they have important consequences for the understanding of those very objects which these critics say are the only proper objects of study. This, of course, is the objective in this thesis: To demonstrate that a thorough understanding of crime within capitalist society depends upon a thorough analysis of how and why class society is made possible.

4. In this context Hirst says that the "Marxism" of Marxist criminology "... reflects far more the epistemological concerns of the established social sciences, the debates about the validity of Marx's so-called 'predictions' in relation to the changes in social structure since Marx's day, and the ideological opposition to Marxism of the professional anti-communists, than it does the positions of Marx, Engels and the orthodox Marxists" (1975a, 203). As I have tried to demonstrate in Chapter I with respect to the analysis of class, and as I have tried to show through discussions of consciousness, there is indeed some validity to Hirst's critique, as these concepts and understandings (of class and consciousness) have frequently been confused with the Weberian and Hegelian traditions. Further, I also noted in passing that the professional anti-communists, such as Klockars (1980), have grossly misunderstood the Marxist concept of class, and have offered a concept which is at least as dogmatic as the one which they claim exists in Marxist theory.

5. The fact of the matter is this question posed by Bankowski, Mungham and Young (1977) is the wrong question. The objective is neither to produce a "radical criminology" nor a "radical criminologist." The object, which I shall make clear later, is to "provide historically relevant knowledge" (Sprinzak, 1975, 411). In that context, the answer to the question posed by Quinney also makes some fundamental errors as his answer (1977: 1978) implies that it is necessary to produce a "radical criminology" in order to produce a "radical criminologist who may then aid in the process of altering the consciousness of the criminal elements of capitalist society. This would seem to make the

intellectual a leader of the proletarian revolution. A role which would not be compatible with Marx's analysis of the petty-bourgeoisie (Marx and Engels, 1971; 1976).

6. The tendency for Quinney to continue to argue that it is necessary to alter consciousness before the material condition may be changed is the connection to the Weberian (and also Hegelian) tradition, as it makes the realm of ideas, rather than material conditions, the prime mover of history.

7. It is of interest to note that Taylor, Walton and Young in their "Editors' Introduction" (1975c) to Critical Criminology (1975) once again repeat the critique offered by Taylor and Walton (1975) originally in 1972, that Hirst (1975a) and Althusserian Marxism generally is too quick to dismiss "... any reading (of Marx) other than its own" (Taylor, Walton and Young, 1975c, 4). Once again they indicate that Althusserian Marxism is too dogmatic in its dismissal of the Hegelian influence on Marx as too much "metaphysical speculation" (p.4). Consequently, once again they reassert that Marxism must take the Hegelian influence more seriously in order to avoid the pitfalls of the kind of extremism found in Althusserian Marxism. As I shall go on to argue, however, it is not at all clear that Taylor, Walton and Young have been successful in their efforts. They may still be said to have gone to an extreme in allowing the realm of consciousness too great an influence.

8. In an address given to the Department of Sociology at The University of Calgary, September, 1980, Taylor indicated that he and several (unspecified) other critical criminologists were interested in "doing ideological work." His apparent meaning, however, differs from that found in earlier efforts with Walton and Young. The position adopted by Taylor, Walton and Young (1973; 1975a; 1975b) seemed to imply that knowledge was indeed relative to the particular world views held by particular groups at particular moments, while the new position seems to imply that knowledge is transitory because its material base is transitory. Consequently the extreme relativist position is avoided while at the same time the implications of "absolute knowledge" contained in the Althusserian account are also avoided. What follows is an attempt to demonstrate this thesis.

9. There are, of course, two versions of the Thesis on Feuerbach. One version was prepared by Marx himself (1976b) and the other was edited by Engels (1976c). Of interest to the present discussion is the first line of section 3 of both versions. In the Marx version the line reads: "The materialist doctrine concerning the changing of circumstances and upbringing forgets that circumstances are changed by men and that the educator must himself be

educated" (Marx, 1976b). The Engels version reads: "The materialist doctrine that men are products of circumstances and upbringing, and that, therefore, changed men are products of other circumstances and changed upbringing, forgets that it is men who change circumstances and that the educator must himself be educated" (Marx, 1976c, 7).

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