

SOME NOTES ON THE STATE OF PLAY IN CRIMINOLOGY

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The Backdrop

It is not possible to make sense of events in contemporary Australian society without being aware of the overriding structural context, the backdrop against which our daily struggles are played out. This imperative is resisted strongly by traditional mainstream criminologists who wish to obscure the connections between crime and economic, social and political forces, thereby continuing their portrayal of crime as a universal, ahistorical, pathological activity, a predominantly individual 'failing' or 'weakness' present in all societies about which little can be done, except 'control'.

Understandably, given the power of the reproduction of bourgeois ideology, the monopoly control of the media, and the 'transmission' functions of mainstream criminologists, popular 'Common-sense' conceptions of crime contain similar notions. Thus even among the dominated, those subject to class/crime control themselves tend to see their predicament purely in individualist, subjective terms, unconnected with broader structural forces.

A central obligation then of a 'radical' criminology is to contest and break down such notions.

Briefly then the backdrop against which we must place recent events is the increasing internationalization of monopoly capital: the rapid growth of multinational corporations organising their activities, capital, and profits on a global scale. With such a development comes the need to protect and legitimate the interests of such capital, both at ideological ("mining - the backbone of the country") economic (mobilizing against nationalistic 'buy back the farm' policies) and political levels (the rapid growth in

private security forces, the restructuring and re-legitimation of intelligence services and the political police).

Within this general tendency in late capitalism we are at present at an international level experiencing one of capitalism's periodic 'recessions' or 'crises', the most severe depression since the 1930's. The effects of the crisis manifest themselves in many and manifold ways: record unemployment rates, particularly amongst the young, high levels of inflation, restructuring of the economy through shifts in capital, mass layoffs (e.g. by Chrysler in South Australia recently), cuts in social welfare spending and services, attacks on the trade union movement (the Zaphir affair, the setting up of the Industrial Relations Bureau, amendments to the Trade Practices Act severely penalising inter-union solidarity: s45D), ideological attacks on any potentially critical sections of the media (Broadband, 'ethnic' radio), increasing incursions on 'civil liberties', to mention but a few.

The Politicization of Crime and 'The Criminal'

One particular expression of the class struggle currently being waged in this restructuring period, this contemporary crisis in the international capitalist system, is the increasing 'importance' of crime. What do we mean when we say crime is becoming more important?

Central to bourgeois strategy in the struggle to ride out the depression, refashioning economic social and political relations to best maximize profits, further capital accumulation and guarantee the conditions of existence necessary to further reproduce, regenerate, regerminate the capital relation, is 'discipline', 'Control', 'subordination to authority'.

The primary sphere in which 'discipline' must be asserted is in the workplace. Without a 'disciplined' workforce international capital will not be attracted to Australia, as Mr. Fraser, Mr. Howard, and now Mr. Wran keep telling us. The increase in unemployment, the mass sackings and expulsion of workers (particularly blacks, migrants, women, and working class youth) from the workforce, the driving down of real wages through so-called 'partial' indexation, the savage budget attacks on the poor, welfare recipients and the social welfare services, and the increasing introduction of new technology replacing and deskilling workers, are all expressions of the struggle to secure international capital investment, guarantee higher rates of profits, and increase

the rate of exploitation (i.e. the extraction of surplus value). And the assertion of capitalist 'discipline' and 'control' are both central to, and expressions of, these struggles.

Of course 'discipline' and 'control' cannot be secured only in the workplace, unconnected with daily social existence outside the factory gates. Thus we get the calls for "restraint," "tightening the belts", "accepting falling living standards in the national interest", "the general public interest": the "we're all in it together-don't rock the boat" pretence that the burden is falling equally on all sections of the population.

In N.S.W building employers attempted to take advantage of the depressed state of the industry by calling for a 25% cut in apprentices wages! It is of course noticeable that the bosses never call for cuts in their salaries or in profit margins. The cynicism behind these calls for "restraint" in the "national interest" can be seen in the record profits being made by the multinational giants such as BHP and Utah,¹ and the dramatic increase in share prices on the stock exchange after the 'horror' budget.² As a recent advertisement for an investment magazine openly declares: "The Federal Budget may be a nightmare to some but for people interested in investment and making money it opens up golden opportunities"³

With the massive unemployment levels,⁴ the marginalization particularly of youth⁵ (one-third of school leavers currently cannot get jobs) crime becomes one solution to the problems of survival. Petty theft and shoplifting are one way of obtaining food, clothing, commodities and money. Street crime, hustling, petty theft, burglary, selling dope, are among the few avenues open to unemployed youth to supplement the dole if they can get it, or substitute for it if they can't. The increased time spent on the street, in public places also leads to greater susceptibility to be arrested on 'social order' offences such as unseemly words (swearing), disorderly behaviour (being boisterous) and resist arrest/assault police, (refusing to be bullied).

But while increasing numbers of marginalized people are resorting to crime to subsist, the overall economic location of crime is not substantially altered. For traditionally-defined 'crime' is essentially redistributive (and in a fairly limited way) rather than productive or generative. Simply put, robbery burglary and theft, although sustaining to an increasing number of people, are of relatively little significance in the overall

production and distribution of commodities and wealth in a late capitalist society. Theft in its various forms, is, as Hirst noted,⁶ parasitic upon production, that is it depends on the prior production of stealable commodities. And of course it is in that productive process where surplus value is expropriated by the owners of capital from the labour power of workers reduced to the status of commodities, of wage slaves, that the fundamental relation of exploitation lies.

Not only is theft parasitic on, dependent on, production, but the theft of commodities for resale, rather than personal use, is also dependent on exchange and distribution, and will thus be affected by changes in these spheres. Thus for example, the current massive downturn in the colour TV industry in Australia because of the high market saturation (65% of Australian households now have colour TV)⁷ also dramatically reduces the number or prospective purchasers of stolen TV sets, and reduces the price, so the proceeds of such thefts are thereby reduced.

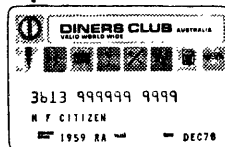
Further examples of this relation could be found in an examination of the spread of credit arrangements (bankcard, credit card, payments by cheque etc.) which will in turn affect the opportunities for and mode of, theft. In short theft itself is historically specific, taking different forms according to different modes of production, distribution and exchange, and different forms of property and property relations.⁸

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Theft can offer a breathing space, a zone of survival and half survival, but it does not and cannot in a society based on an economic system of commodity production, offer a

fundamental challenge to the central reproductive features of that society. It offers marginal alleviation but no alteration in our basic social and economic relations.

It is then, to the ideological sphere that we must look for the postulated increasing importance, and 'politicization' of crime. It is the image, the 'thought', the idea of 'crime, of the 'criminal', the powerful emotional and ideological responses that can be aroused by its invocation, that make the notion of crime increasingly an area of ideological and political struggle.

An indication of the predominantly ideological nature of crime debate is the fact that the invocation of 'crime-waves' by the popular press need bear no necessary relationship to actual levels and fluctuations (increases and decreases) in the crime rate. The mythology of crime 'waves', the conjuring of particular folk devils such as the 'mugger', the 'pusher', the chronic 'dole cheat', is just as likely and often does take place when the actual level of such activities is no higher and in some cases is lower than, previous periods.⁹

In searching for the forces behind these calls to fight the crime 'war' we have then to look not so much to crime itself, and its occurrence, but to the wider array of ideological, political and economic forces in a particular conjuncture. In widening our focus in this way we can observe at least three fairly central strategies: fear, divide and rule, and legitimization.

Fear

Fear is a powerful force. Like other emotions it is often portrayed as primeaval, universal, invariable and ever-present. In fact fear, like other emotional forces, is historically specific, and differs in its forms and objects from society to society, epoch to epoch, mode of production to mode of production. Fear itself is a source of struggle for the objects and content of fear are expressions of the prevailing state of hegemonic tension between contending classes and groups. Whether children are socialized into fearing god, the police, atomic warfare, communism, the boss, the stranger, dad, blacks, goblins, property developers or the CIA obviously has important ideological ramifications. Fear can constitute a binding layer, a suasive cementing force holding together existing social and economic arrangements, reinforcing individualistic and proprietorial modes

of thought and existence.

As Foucault notes,¹⁰ the separation of the 'criminal' from 'the people', the connecting of crime and punishment, the generation of a fear of crime, developed historically as part of the disciplining ideology of mercantilism and early capitalism to secure a class of wage labourers prepared to submit to the rigours of factory work when previously hunting fishing, gaming, gathering and growing rights under feudal relations had sufficed to provide the necessities of life.¹¹

Contemporary bourgeois formulations of the fear of crime stress the unexpected, the outsider, the stranger. The images of the unknown fiend knocking one over the head in the street or climbing in at night to rape and plunder, are powerful. Instances that conform to this conception are widely publicized. And yet the reality is that the overwhelming number of homicides, rapes, serious assaults, are carried out by people we know, predominantly by members of our own families, by our fathers, mothers, brothers, sisters, lovers, friends, relatives, acquaintances and neighbours.

Fear, in its generalised form, is generated, given ideological content and manipulated, through historically particular referents, or objects. To shift the referent, the object, from outsider/stranger to insider/family would highlight the contradictions inherent in family life, the intersection of patriarchy, reproductive politics, socializing functions, and 'moral' education, would illustrate the normalised violence and repression deeply fracturing the privatised nuclear family under capitalist relations. A far cry indeed from the anti-septic and wholesome sanctuary of conviviality image promoted by the Festival of Light, Right to Life and other reactionary back to the family movements.

GROUP G		GROUP E		UPPER HOUSE	
AUSTRALIAN DEMOCRATS		AUSTRALIAN LABOR PARTY		GROUP A	
MCLEAN, P.	57,186	THOMPSON, J.	1,218,259	COMMUNIST PARTY	
WALLET, R.	473	ISAACSEN, D.	1,607	MUNDEY, J.	52,578
MILES, C.	262	UNSWORTH, B.	2,314	MERLITTO, M.	3,460
BOAG, C.	242	FISHER, M.	1,346	DAWSON, D.	4,510
BOLUKE, L.	303	HEALEY, C.	1,819	GROUP B	
BOOM, J.	155	GRUBBIN, D.	628	AUSTRALIAN MARIJUANA PARTY	
KIRBY, J.	217	KALDIS, J.	2,348		
IRWIN, B.	428	KING, N.	1,024		
LARON, G.	71	WATKINS, P.	718		
STILLER, A.	403	DYER, R.	2,598		
INDEPENDENTS		GROUP F			
(standing separately)		LIBERAL-COUNTRY PARTY			
GREEN, R.	2,380	CHADWICK, V.	787,486	LIVESKY, P.	9,986
BRADY, B.	373	SMITH, R.	2,700	BILLINGTON, J.	6,713
ARKELL, F.	2,338	LANG, R.	1,346	GROUP C	
COURTNEY, J.	707	LANGE, L.	913	INDEPENDENTS	
WHITNEY, W.	963	MacDIARMID, F.	787	(standing together)	
HANDS, A.	963	PHILLIPS, P.	836	OLIVERI, F.	9,118
DEZELIN, R.	647	PERCIVAL, G.	619	YOUNG, N.	2,046
		DOBHAM, J.	447		
		DOWNSIDE, D.	1,855		
		MOPPETT, D.			
				GROUP D	
				FAMILY ACTION MOVEMENT	
				BROWN, F.	24,280
				GARVIN, M.	2,063

with and repress opposition to the politics of unemployment and capital accumulation, we can see many concrete expressions of the use of crime as an ideological justification to legitimate consolidation, rationalisation and expansion of the state agencies of repression.

As the criminal law is predominantly a local state concern the main interventions of the Federal Fraser government have been in the spheres of drug and terrorism. Drugs and drugs 'pushers' have become justifications for: a largely symbolic increase in maximum penalties - first to 25 years (November 1977) and now a proposal for life sentences; the development and expansion of a new bureaucracy, the federal narcotics division; an increase in surveillance hardware, helicopters, infra-red flights - scanners, etc.; an expensive Royal Commission to hunt and slander low-level marijuana growers and users while mountains of politically pacifying and debilitating heroin flood the market, particularly in areas of high structural youth unemployment.

These developments tie in closely with the other major Federal intervention in the crime area - the promotion of 'the terrorist'. The Hilton bombing came just at the time when ASIO and state special branches were coming under increasing political attack as ASIO complicity in the November 11th 1975 coup, and their subservience to US security interests became clearer and clearer. Both South Australian¹⁵ (following the Salisbury affair) and NSW¹⁶ (through the Privacy Committee) special branches were openly revealed to conceive their task to be surveillance and suppression of anyone to the left of the Liberal party (in South Australia even some Liberal students who did not go "all the way with LBJ" during the Vietnam war).¹⁷ They were revealed as having engaged in a catalogue of flagrant illegalities, surveillance, invasions of privacy, and character assassinations. Furthermore Salisbury's unrepentant statements made it crystal clear that special branch loyalties lay not to their own governments or the Australian people but to the western security agency network, CIA, FBI, Interpol, Boss etc.

Like the Zinoviev letters, the Reichstag fire, Petrov affair, the Hilton bombing, in all probability either actually carried out, or certainly supported (and bungled - the garbage-truck not being foreseen) by elements within the security network, enabled the re-legitimation and expansion of ASIO, constituted a decisive counter

to the attacks on the political police, enabled a declaration of emergency and the mobilization of the army in NSW state territory on demand from the new resanitized Governor General, and set the scene for a superbly conducted public relations coup in the importation of visiting 'expert', Sir Robert Mark, former head of the London Metropolitan police, to compile a lightning report recommending, surprise, surprise, a new Federal police force and specialist antiterrorist squads, recommendations that Fraser wasted no time in committing the government to implement.¹⁸

The current rather transparent and unconvincing attempt to verbal the Ananda Marga with the Hilton bombing should be evaluated against this background. The graffiti sprouting throughout Sydney: "Fraser is the Hilton bomber" and "ASIO and Special branch are the Hilton bombers" seem much closer to the mark. Just who benefited from the Hilton bombing is all too clear.¹⁹

At a state level the patterns of legitimation are similar. In NSW Liberal opposition leader Peter Coleman, ex-editor of CIA funded Quadrant magazine and close confidant of ASIO and state political police is frantically promoting crime as a political issue against the Wran government, promising expansion and support to the police, and saying he will consider reopening Katingal for the 'terrorists' he will no doubt create or conjure up with a little help from his friends.²⁰ The Wran government has recently backed further repression and savagery in the state's prison system after the screw-provoked riot in the Central Industrial Prison at Long Bay on August 21st,²¹ and is currently either ordering or at least condoning the use of undercover agent provocateurs, preventative arrest, suspension of the right to march, attacks and bashings of gay demonstrators by police and vigilantes from the Right to Life and Festival of Light, interminable delays in obtaining bail, the setting of exorbitant bail, the condoning off of courts so that court hearings become secret and non-public. The police in NSW are currently either beyond political control or premier Wran is effectively adopting precisely the same position as Queensland's extremist minority premier, Bjelke Petersen.

In Victoria we have finally seen the release of the

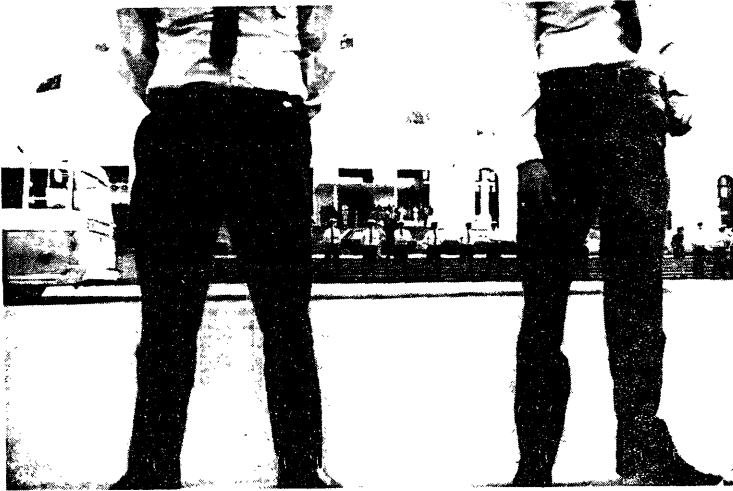
hitherto suppressed Beach report, following the legal charade prosecutions of 33 policemen for assaults, perjury, frame-ups and corruption. Not one conviction was recorded against these thugs! They have since turned their venom on their accusers, requesting the Victorian state government to prosecute people who gave evidence against them, for perjury. One wonders if they will also call for the charging of all police witnesses after not guilty verdicts are entered against non-police accused. Many of the people who gave evidence have been harassed and intimidated. Joey Hamilton who was serving eight years imprisonment after a clear frame-up unmasked at the Beach inquiry, (his conviction was quashed) has been charged three times subsequently on trumped up charges, and found not guilty each time. After the most recent attempt to intimidate him on August 1st, his front door and porch were blown up!²² Law and order?

The corruption-ridden Victorian Liberal government floundering after the massive kick back Lands and housing commission scandal moved to knock the embarrassing Beach Report on the head by appointing a mock committee to reconsider Beach's proposals. The committee, headed by QC J.G. Norris consisted of a Supreme Court judge, the former Chief Commissioner of Police and the permanent heads of the Law Department and Chief Secretary's Department in Victoria. What price natural justice? The Norris Report (surprise, surprise) rejects almost all of the Beach proposals, claiming they are unnecessary based on a misunderstanding of the law, undesirable or impractical.²³

In Queensland on 4th September 1977 premier Joh Bjelke-Petersen (his National Party holds 39 of the 82 parliamentary seats (48% with 27% of the vote) announced "The day of the political street march is over. Anybody who holds a street march, spontaneous or otherwise, will know they are acting illegally. Don't bother to apply for a permit. You won't get one". Ten days later an amendment to the Queensland Traffic Act which regulates amongst other things the system of permits for marches, was pushed through state parliament, removing right of appeal to the courts, and putting power of refusal directly in the hands of the Police Commissioner (effectively the same position as that existing in NSW under s43 of the Summary Offences

Act 1970).

Since then thousands of Queensland citizens including a Federal Senator have been assaulted and arrested by police for attempting to exercise their freedom of speech and expression in a street march. On October 22nd 418 people were arrested in a demonstration against the mining and export of uranium. Section of the magistracy have shown themselves prepared to act as an arm of Bjelke's police state and convict irrespective of the evidence offered.



Trade Unions in Queensland have come under increasing attack. A Toowoomba union organiser, Ted Zaphir, was convicted on a criminal charge of "causing detriment" to an employer, for merely acting on the basic principles of trade union organisation, "the first time such a charge has been laid in Australian history."^{23a} Five other union organisers are under investigation facing similar charges according to the Queensland Solidarity Group. Unions such as the Seaman's union have been under continued attack for their attempt to restrict the plunder of Australian profits and resources by US multinationals like Utah. While increasing profits are extracted and expatriated to the USA each year the level of royalties levied by the Queensland government is minimal and Australian and Queensland taxpayers money is increasingly being used to

provide the infrastructure (road, rail, power) required by the multinational operations.

The racist Aboriginal and Torres Strait Islanders Acts remain in force, apartheid is official. Recently the Queensland government has moved to seize control of the Aboriginal reserves at Mornington Island and Arakun to ensure that there will be no hindrance to the mining of bauxite and other minerals present on the reserves.

In Western Australia the Court/Lang Hancock government have used the police to intervene directly in labor disputes and, as has recently been revealed, have been using public money to finance a strike-breaking organisation, Assistance and Security Corporation, during the flourmillers dispute in November 1977.^{23b} The manager of the scab labor organisation told the Australian (12.6.78) that the company had a hand in strike breaking on 6 separate occasions in the last 9 months, including the live sheep dispute.

It would be easy to elaborate in considerable detail in the many struggles, the examples of the use of 'crime' to legitimate and serve as justification for the existence, operation and increasingly the extension of state repressive forces securing class rule: those given have been few, amidst the many, and are biased to events in NSW.²⁴ But not to gobble up too much space, let us move from the discussion of discipline, fear, divide and rule, and legitimation as strategies in the ideological and political struggle over crime, to a consideration of the level of assistance to be obtained from radical criminology in understanding and contesting such strategies.

The State of Criminology

What can radical criminology offer us by way of understanding and analysis assisting the formation of strategy and tactics in the struggles that lie ahead? The tentative answer unfortunately is, not a great deal. In elaborating on that answer we must look to the relationship between radical criminology and traditional mainstream criminology.

Mainstream criminology developed in part as one particular instance in the network of 'normalising' and 'disciplining' 'discourses' securing the social and

ideological relations necessary to a market, commodity-producing, wage slave society. Since its early development it has been so closely tied to the control and disciplinary concerns of the state that the 'discourse', the body of 'knowledge' developed, has been largely untouched by critical thought, has retained a quite remarkable isolation from wider political social and economic theory. So much so that its texts resemble technical control manuals, its theoretical assumptions lie largely undisturbed and unexamined, its practitioners among the narrowest, most intellectually bankrupt crew ever to parade under a 'disciplinary' banner. Mainstream criminologists have essentially been academic cops.



Contemporary Australian Examples

In the contemporary Australian context three very recent publications, reflecting the spectrum of mainstream criminological thought, exemplify, even to the most cursory examination, this intellectual bankruptcy and 'correctionalism'.

The first is a new book from the Australian Institute of Criminology : Crime and Justice in Australia, edited by David Biles. ²⁵ The narrow definition of criminology offered involves the near ritual exclusion of the "causes of crime" because "they contribute nothing to the solution to the practical problems of crime and justice which are found in the modern world". This is the standard justification for complete identification with the status quo, the refusal (and the intellectual inability) to call into question existing social and economic arrangements or even to debate the growing radical criminology that does, the narrow pragmatism and desire to serve the

social/class control apparatuses common to many criminologists currently peddling the career-building-crime-control-advisor criminology, for example recent 'expert' visitor to Australian following the Hilton bombing, James Q. Wilson.^{25a}

Biles himself in a chapter entitled Prisons and Prisoners which aims to "examine briefly what imprisonment means to the prisoner and outline the main feature of the seven prison systems in the country" manages to fulfil his aim without reference to prisoners grievances, the simmering discontent, the brutal bashings and routine floggings that have in recent years reduced some of Australia's prisons to battlegrounds, and sections to burnt out shells, carefully documented for example in the Royal Commission into NSW prisons Report, and available years previously in other documents available to Biles.^{25b} The whole chapter reads like a departmental handout, sickeningly sycophantic and grovelling, the most critical and emotion-charged word in a 20 page treatment describing what a conservative Supreme Court Judge called "brutal and inhumane" a "calculated regime of terror" is "tedium". Most of the book is an exercise in banality.²⁶ Another reviewer said more politely "It will be a helpful book for those who wish to enter the police force or become prison officers, but it will not aid those students who are looking for a critical analysis of the present system of criminal justice."²⁷

The second example is the latest issue (June 1978) of the official journal of mainstream criminology in Australia, The Australian and New Zealand Journal of Criminology, which again exemplifies the apologetics for and legitimization of state repression. One article discusses 'Aborigines in Crimes Statistics', seeking an explanation for the huge over-representation of Aborigines in both criminal statistics and penal institutions (e.g. in a recent survey of Western Australian juvenile institutions Aborigines comprised 38.9% of the juvenile inmates as against their 2% overall population in the state). The article is organised around the "culture of poverty" concept and nowhere is there mention of, or reference to, racism, surely central to any such discussion. Similarly in an article entitled Extradition and the Terrorist, ex-cop Milte chooses to refer to the "wave of terrorist violence

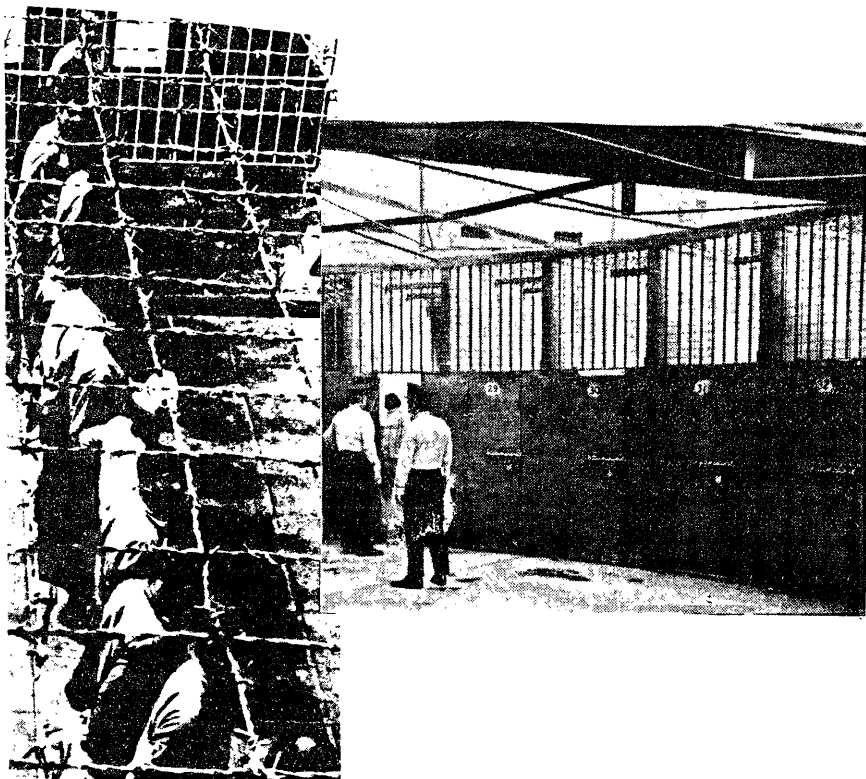
in West Germany" without mentioning the massive state repression, widespread attacks on civil liberties, purges of state employees, attacks on liberal and left lawyers, the increasing prominence of ex-Nazis in powerful positions, execution without trial of alleged 'terrorists', and many other well documented manifestations of the slide of the West German corporate state into an increasingly totalitarian and exceptional form.²⁸

Next comes 'The Politically Motivated Demonstration: Implications for Law Enforcement' by Andrew A Campbell in which we discover that "politically motivated demonstrations ...are not genuine expressions of the "will of the people", but are primarily the political expression and tool of militant self-appointed extremist minorities" (p.95). Thus the hundreds of thousands of people throughout Australia who have demonstrated for example, against the Vietnam war, or against the mining of uranium, are reduced to either dupes or "subversive extremists". Again the writer is careful to avoid any reference to what is actually going on in Australian society. How it is possible to write an article on demonstrations in contemporary Australia without even alluding to the fact that in Queensland demonstrations are illegal (and in NSW seemingly on their way to becoming so) and that since September 1977 several thousand Queensland citizens from all walks of life, including Members of Parliament, have been physically attacked, beaten and arrested by police for attempting to express their political opinions and exercise freedom of expression, is beyond comprehension.

Anyone who has ever taken part in a demonstration could have told Mr. Campbell (do people who write such stuff ever read a newspaper - or watch the TV news) that the direction, mood and outcome of demonstrations depend primarily on the actions and reactions of the "law enforcement agencies" Campbell is concerned to legitimate and bolster. Preparing the way for the increasing repression of legitimate dissent, the strengthening and rationalisation of intelligence and surveillance apparatuses, and the expansion of the technology of political control taking place currently in Australia and elsewhere, people like Campbell, and the editors, of a journal that would print such totalitarian apologetics,

are as responsible for the bashing and brutalisation of people attempting to exercise "freedom of expression" as the police who carry them out. Their hands are on the batons, their fingers are on the trigger, blood spatters their boots. One day they will be called on to account.

Finally, as if the reader is not already glutted with the surfeit of state repression the last article is a justification for "Solitary Confinement as a Rehabilitative Technique."²⁹ Sensory deprivation it seems "has beneficial effects on a range of perceptual and cognitive functions." "Solitary confinement as a rehabilitative technique has many things to commend it." "It is not torture. It is on the contrary a promising and humane tool". An army manual would be lighter reading than this collection of criminological masterpieces. It is rounded off we should add, with a book review section organised by David Biles containing 5 reviews of which (yes, you guessed) 2 are of recent publications by Biles.



In the third and most sophisticated example (which will receive a full critique not possible here in a future article) Professors Gordon Hawkins and Brown, in essays in the Tay and Kamenka edited counter-attack on recent challenges to bourgeois legal relations theory and practice: *Law and Society : The Crisis in Legal Ideals*³⁰ offer stunted and deficient critiques of radical developments in criminology and penology. This is not to say that radical developments are not open to fairly serious objections and criticisms, as will be briefly outlined in a moment. The level of their criticism however, can be gauged by the fact that Hawkins, like Biles, manages to avoid any reference to Australian events, developments and (expanding) literature, and moreover even omits entirely the major works of the positions he claims to be examining: Rusche and Kirchheimer's seminal *Punishment and Social Structure* (first published in 1939) and Thomas Mathiesen's *The Politics of Abolition*.³¹ Compare such evasions with Marx's exhortation to always contest the best bourgeois ideology has to offer, and you see one of the reasons why Marxist scholarship and discourse, despite open repression of its practitioners, is increasingly contesting and establishing clear ascendancy in many areas.³²

Radical Criminology

Radical criminology, as stated above, was born out of the reaction to the bankruptcy and correctionalism of official mainstream criminology and its origins, emergence and development were thus circumscribed in part by the theoretical limitations common to any form of bourgeois ideology, let alone so uncritical and pragmatic a form as criminology. Significantly, what have arguably been the three most outstanding recent criminological works have not been written by 'criminologists': Albions Fatal Tree and Whigs and Hunters³³ (social historians) *Discipline and Punishment*³⁴ (philosopher) and *Policing the Crisis*³⁵ (marxist cultural studies collective).

Taylor Walton and Young, in the first major critical text³⁶ attacked official mainstream criminology for its 'correctionalism' (following and extending Matza

its positivism (via a fairly limited critique of the biological variant of positivism only) its determinism and its denial of authenticity and political significance to criminal actors and actions (illustrated via grass smokers and the black-panthers). Working from within a radical or critical criminological framework they largely accepted crime as a valid object of marxist enquiry, stressing the political and oppositional nature of crime and deviance.

Starting from a more orthodox marxist position (arguably since renounced ³⁷) largely outside radical criminology Hirst ³⁸ attacked Taylor Walton and Young for over-romanticizing crime, arguing that marxists can not just wander off and examine pre-given objects defined by bourgeois social science but must apply fundamental marxist categories: mode of production, primitive and capital accululation, the state, ideology etc. Quoting directly from Marx and Engels Hirst wrote off criminals and deviants as lumpen, essentially outside and parastic on the central dynamic of capitalist social formations - the productive process - and thus as being of little importance in the class struggle generated in the fundamental antagonisms at the heart of capitalist commodity production, except in their possible reactionary use by the bourgeoisie as scabs, police-spies and informants. There is no such thing, said Hirst, as a marxist criminology.

The Taylor Walton and Young reply ⁴⁰ was inconclusive and there was a relative lull, save for the consistent and more politically directed and linked work of the Union of Radical Criminologists in the US around the journal Crime and Social Justice. (See Advertisement this issue). However over the last year with the circulation of the Warwick Social history circle studies: Albion's Fatal Tree, and Whigs and Hunters, the release of the English translation of Foucault's Discipline and Punishment : The Birth of the Prison, and most recently the release of Birmingham Centre for Culture Studies collective work: Policing the Crisis, there has been a surge out of the theoretical impasse characterizing the Critical Criminology ⁴¹ debate. Policing the Crisis in particular, offers an advanced, sophisticated and highly impressive analysis of a particular form or expression of crime, mugging by black youth in Britain, in the context of a political economy of post-war Britain, the social production of news; the location

of black youth on the British labour market, the changing nature of the British state and a highly developed and richly illustrated theory of ideology.

Official mainstream criminology in Australia largely ignored the dramatic upheaval in western society and social thought in the late 1960s, the curtains were drawn on *The Coming Crisis*, on the final demolition of the value free myth, in the hope that if shut out for long enough this growing tumult might evaporate or just wander away. It was easier to sail blindly on, refusing to acknowledge (and even to read?) the hovering storm clouds which rained troubling and difficult questions, and required reflection and reappraisal.

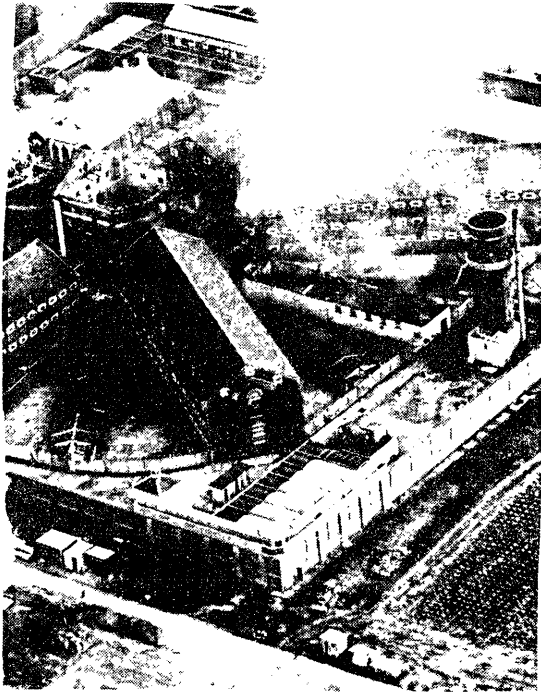
Indeed the Hawkins essay mentioned above is one of the first acknowledgements of the existence of Taylor Walton and Young's *The New Criminology*, by a major Australian mainstream criminologist. To those who have been setting Sutherland and Cressy as the basic text for umpteens years, teaching a mixture of forensic pathology and classical criminology to police and magistrates, new ideas and critical developments constitute rather an inconvenience, upset the established order of life and threaten well worn and little-changing sets of lecture notes and course outlines.

The stance adopted in relation to wider social theory and to British, American and European criminological debate was carried over in the response to the admittedly less developed local Australian radical criminology represented in this journal, which has similarly been largely ignored. In Biles' *Crime and Justice* we rate not even a footnote. Such deliberate evasion, such ostrichism, severely retards the level of criminological work in Australia.

There is not space here to engage in an appraisal of the level and impact of radical criminology in Australia. Perhaps we could say in passing that at the higher theoretical level the advances have not been great. As the forthcoming *Critique of Law Collective* publication: *Critique of Law, A Marxist Analysis*, and other recent work, show, greater theoretical advances have been made outside the specific field of criminology in initiating a general challenge to local bourgeois legal ideology, and, importantly, its reproduction.

On the other hand Australian radical criminology's

theoretical weaknesses must be weighted against its direct, interventionist political character, and in particular its close historical connection with the prison movement. The abstract and remote character of some of the overseas developments has been largely avoided and in NSW at least the increasing politicization, solidarity and militancy of NSW prisoners has been aided by the positions of open identification with and espousal of their struggles adopted by the handful of academic radical criminologists working in and with the Prisoners Action Group and the ACJ.



The central task of radical movements, their theory and practice, is not just to generate 'understanding', but to intervene and to generate change. From whatever philosophy, stream or tendency they claim to work all radicals must at least accept Marx's thesis that the point indeed is not to describe the world but to change it.

But How? It is in attempting to answer this question in relation to historically specific societies and concrete struggles that radicals come face to face with the problems of political organisation, of the relationship between theory and practice, of the location of the particular struggle in the wider context, of the class composition of the movement, of the nature of alliances, of the relationship between different sections of the movement and so on. The problems and questions posed by Gill Boehringer in his article Alternative Criminology and the Prisoners Movement: Partnership or Rip-Off in the first issue of the ACJ are serious difficult and continuing. But they are problems we cannot, and must not, avoid, if we are to strengthen and build the progressive forces capable in the contemporary crisis of resisting and rolling back the bourgeois class offensive on all its many fronts and in all its many guises.

FOOTNOTES

1. See eg. S.M.H. Feb. 11 1978 "\$158m profit to Utah" (15.9% increase) S.M.H. Aug. 19 1978 "\$90m Utah profit" (16.4% half-yearly increase). S.M.H. July 22 1978 B.H.P. 62.3% lift in net profit for the full 1977-78 year (\$84 million) B.H.P. in fact disguise their real profit levels through a dubious 'fixed asset valuation adjustment'. As the S.M.H. states: "On a historical accounting basis BHP's net profit for the year was \$210.9 million" (2½ x that stated)
2. See stock exchange trading reports, most papers Aug 11 and 12. 1978.
3. McCabe McMiles Newsletter. National Times week ending September 2 p.23.
4. August registered unemployed (CES) 388,616. For various reasons many people actually unemployed do not register.

5. See eg S.M.H. May 22, "Liverpool 53% of total unemployed under 21". The ratio of applicants to job vacancies was 46:1". S.M.H. May 23. "32% of job seekers in 15 to 19 age group". "16.5% rate of unemployment among teenagers".
6. Paul Hirst. Marx and Engels on law, crime and morality in Taylor Walton and Young (Eds) Critical Criminology. Routledge and Kegan Paul 1975.
7. See eg. S.M.H. July 1 1978 "Colour T.V.:The Price of the Boom".
8. See M. McIntosh. "Changes in the Organisation of Thieving" in Stan Cohen (ed) Images of Deviance. Penguin 1971, p.98.
9. See generally Stan Cohen Folk Devils and Moral Panics. Paladin 1973. Windshuttle. Granny vs the Hooligans. ACJ Vol 2 No. 1 and 2 p.13. Hall et al. Policing the Crisis MacMillan 1978 Chpt. 1 esp. pp.9-18.
10. Michael Foucault. Discipline and Punish:The Birth of the Prison. Allen Lane 1978.
11. See Dario Melossi The Penal Question in Capital Crime and Social Justice. No. 5 Spring/Summer 1976 p.26. K. Marx Capital Vol 1. Chpts. 26-28.
12. See N.S.W. Bureau of Crime Statistics T. Vinson. The Social Attributes of a High Crime Area. For U.S. data see Tony Platt Street Crime - A View from the Left. Crime and Social Justice 9. Spring-summer 1978. For recent Australian comment on unemployment and crime see papers from Sydney Institute of Criminology Seminar July 19. 1978. Unemployment and Crime, especially papers by Woods and Braithwaite
14. See Gareth Stedman Jones. Outcast London. A study in the Relationship between Classes in Victorian Society Oxford Univ. Press 1971
15. See White Report on South Australian Special Branch 1977
16. See NSW Privacy Committee Report on the N.S.W. Special

Branch 1978.

17. Ibid pp.53-54

18. See Gil Boehringer "Security" Against Whom? Legal Service Bulletin Vol. 3 No. 4 Aug. 1978 p.134.

19. See "Bombing the Sydney Hilton" in Critique of Law-A Marxist Analysis (forthcoming). Also D. Brown "Policing the Crisis" Slime Tharunka Foundation Day issue p.12.

20. See Coleman's speech to 1978 N.S.W. Police Federation Conference. Since this was written the Liberals have unleashed their notorious Drugs and Crime election advertisements.

21. See Jail News Vol. 1 Nos. 7,8,9. Also Jewson and C.I.P. prisoners statements this issue.

22. See Jail News Vol. 1 No. 5 p.1

23. See Reform (Publication of Australian Law Reform Commission) No.11 July p. 44-46.

23a. Queensland Dossier. Queensland Solidarity Group October 1977 p.2.

23b. See The Australian 12/6/78. Tribune W.A. Government pays for Scabs. Wed Sept. 20.

24. Clear examples of the actual and potential criminalisation of dissent can be found in legislation surrounding uranium mining. See K. O'Connor 'The Uranium Bills' (1978) Vol. 3 No. 3. Legal Service Bulletin 124 also "How Clause 13 makes Australia a Police State. Greg Woods. Nation Review 8-14 June 1978 p.10.

25. David Biles. Crime and Justice in Australia and Australian Institute of Criminology Sun Books 1978.

25a. See D. Brown "Crime and the Visiting Expert" (1978) Vol. 3 No. 3 Legal Service Bulletin 102.

25b. See (eg) Bathurst Battering Document published by 10

Sydney lawyers. Many documents published by PAG eg. Mr. Maddison
its just not good enough. 1973. The Bathurst Bashings and the
Perversion of Justice in N.S.W. Green and Mullin 1974 D. Brown
Reform: A Critique in Chappell and Wilson (eds) The Australian
Criminal Justice System 2nd Ed. Butterworths. All previous
issues of ACJ. See especially Staples in Vol. 1 Nos. 1 and 2
and Vol. 1 No. 4 Prisoners Action Groups Statement to
Australian Institute of Criminology Seminar Canberra May 1976.
See also A.I.C. newspaper cutting index for pages of references
to prison unres, and disturbances in Australia in recent years.

26. Except perhaps the chapter by Newton. In case it is thought
we never have a kind word to say of work emanating from the
Australian Institute of Criminology it is worth noting Andrew
Hopkins Crime Law and Business: The Sociological Sources of
Australian Monopoly Law. A.I.C. 1978 a work well in advance
of anything else written by anyone associated with the A.I.C.

27. S. Ross Australian Book Review July 1978.

28. See Mankoff and Jacobs. The Return of the Suppressed:
McCarthyism in West Germany Contemporary Crises. Vol. 1 No. 4
October 1977 Claudia von Braunmuhl. The attack on civil
rights in West Germany Radical Philosophy No. 19. Spring 1978
p.2.

29. Peter Suedfeld. p.106.

30. Tay and Kamenka (Eds) Law and Society: The Crisis in Legal
Ideals. Edward (Aust) 1978. For a critical review see
S. Ross Australian Book Review (forthcoming)

31. Rusche and Kirchheimer. Punishment and Social Structure.
Columbia Univ Press 1939. Thomas Mathiesen. The Politics of
Abolition. Martin Robertson Law in Society Series - 1974.

32. E.g. history, political economy, cultural studies. Hence
the recent attacks, red baiting and victimizations of marxist
teachers. See e.g. Institute for the Study of Conflict Special
Report. 'The Attack on Higher Education' by Prof. J. Gould.
For comment on the Gould Report see Council for Academic Freedom
and Democracy 'The Attack on Higher Education - Where does it
come from?'. Also Radical Philosophy No. 19. In relation to
criminology see (eg) see Schauffler. Criminology at Berkley

Resisting Academic Repression. Crime and Social Justice No. 1
p.58. Schauffler and Hannigan. Part II C & S.J. No. 2 p.42.
Editorial C & S.J. No. 6 1976 p.1.

33. Hay Linebaugh Thompson and Winslow Albions Fatal Tree
Crime and Society in 18th Century England. Penguin 1977
E.P. Thompson Whigs and Hunters The Origin of the Black
Act. Penguin 1977

34. Ibid

35. Ibid

36. Taylor Walton & Young The New Criminology. Routledge
and Kegan Paul 1973.

37. See Hindess and Hirst Mode of Production and Social
Formation: An Auto-critique. 1977.

38. Hirst in Critical Criminology *ibid*.

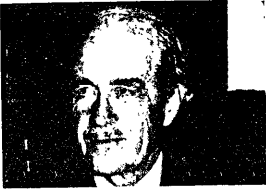
40. Taylor and Walton Radical Deviancy Theory and Marxism: a
reply to Paul Q. Hirst's Marx and Engels on law, crime and
morality in Taylor Walton & Young (Eds). Critical Criminology.

41. See also Colin Sumner:Marxism and Deviancy Theory in
Wiles (Ed) The Sociology of Crime and Delinquency. Vol 2.
The New Criminologies. Martin Robertson 1976. p.159.

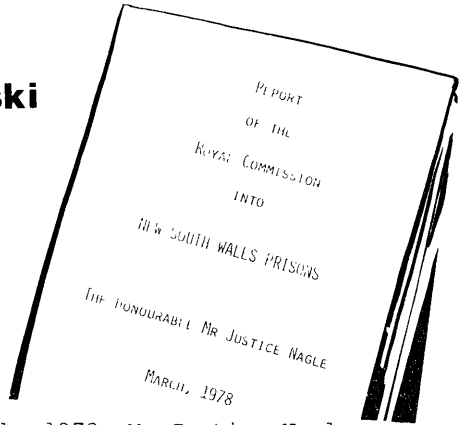


ROYAL COMMISSION REPORT

george zdenkowski



Mr Justice Nagle



On the 31st March, 1978, Mr Justice Nagle delivered his lengthy report on the prison system in the State of New South Wales. These brief comments do not purport to be a summary of that document. The report could be analysed in many ways. Certainly it castigates the brutality, duplicity and incompetence characterising the Department of Corrective Services. It painstakingly documents the evidence of the routine floggings by prison officers so that the cries of detractors from this allegation have been finally laid to rest - perhaps some comfort to the prisoners, ex-prisoners, lawyers and others who have consistently striven to expose this conduct to public scrutiny. However, in abandoning any pretence at inquiring into crime and its causes the Commissioner ignored a specific mandate in his terms of reference and effectively voted resoundingly for the status quo. The statement of aims and objectives for the Department, set out by Mr Justice Nagle, is a rehash of traditional theories whose vague formulation would warm the heart of the former Commissioner for Corrective Services, Walter McGeechan.

In an equally cavalier fashion the abolition argument presented by the Prisoners' Action Group, a group largely comprised of ex-prisoners committed to prison reform, was completely dismissed. The failure to even attempt an analysis of their arguments or to undertake the logically related task of examining crime and its causes (as required by the terms of reference) inevitably taints the whole report.

The report carefully documents the systematic and unprovoked illegal assaults on prisoners at Bathurst by prison officers in October, 1970 and the illegal bashings of prisoners which took place in the aftermath of the February, 1974 riot. These assaults were eventually admitted by the prison officers during the proceedings of the Royal Commission. The report finds that the Commissioner of Corrective Services was aware of the illegal assaults, did nothing to prevent a recurrence of them, attempted to cover them up and lied about the failure to institute appropriate inquiries.

The Commission found that, over a period of 33 years, since the opening of the "intractable" section at Grafton gaol, prison officers inflicted "brutal, savage, and sometimes sadistic physical violence" on the prisoners sent there. Moreover, this was not a series of isolated acts spread over a period but rather an institutionalised regime of horror condoned throughout this time by prison officers and the Department. As in the case of the Bathurst incidents, no recommendations are made as to action against officers at Grafton. Again, this is supposed to be a matter for the "appropriate authorities". Yet despite the Commission's acceptance of the catalogue of horror at Grafton it reaches the rather naive conclusion that it is considered "inherently unlikely that a regime which has now been revealed in all its horror and brutality, and which has been almost universally condemned would be likely to re-emerge". This conclusion is only possible by marginalising the Grafton experience as a gross aberration and not the logical extreme result of a prison system based on increasingly severe degrees of coercion and repression as control mechanisms within the prison system.

The Katingal special security unit within Long Bay gaol in Sydney, described in the report as "an electronic zoo", is a windowless concrete tomb. Its birth and its recent demise are equally undignified. In the words of Mr Justice Nagle: "It is clear that the cost of Katingal is too high in human terms. It was illconceived in the first place, was surrounded by secrecy and defensiveness at a time when public discussion should have been encouraged". The Royal Commission recommended that it be