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CRIMINOLOGY

THE CONCEPT OF THE POLITICAL CRIMINAL

STEPHEN SCHAFER*

THE INDESTRUCTIBLE CRIME-TYPE

The political crime is perhaps the oldest of all crime-types. It is virtually impossible to find a history of any society which does not record political criminals. They have always existed, they exist now, and they will exist in the future, in spite of the historical experience that the ideal behind the political crime is often destroyed the moment it becomes reality. Although political crime is the oldest and most recurring criminal phenomenon of history, it has been largely ignored by criminologists. It has been considered merely a criminological satellite, a strange body of law violations revolving around the concept of ordinary crimes.

This neglect of political crimes by criminologists and other social scientists is all the more surprising because the available data are quite extensive and there are no peculiar difficulties in attempting to analyze them. If we view only contemporary twentieth-century history, the most profound changes we find are political. The rise and fall of empires, charismatic leaders, races, classes and social systems have been the dominant features of these changes, and almost without exception these changes involved political crimes. It may be that the overly behavioral approach of contemporary criminology has been more interested in the expressions and results of conduct than in the conduct itself. Furthermore, any analysis of political criminals might be facilitated by a finding that most of them seem to exhibit common elements. Political criminals may generally be termed methodological kleptomaniacs who steal style from one another. Acknowledged by writers in the past as the passionate offenders, the political criminals of our time are simply technologically modern criminals wearing the cloak of old age.

As the problem of political crime becomes more topical, it is difficult to feel anything except disquietude at experiencing so many revolutions, upheavals, and violet social movements. Yet this disquiet stems not from resistance to a better future, but rather from the confusion engendered by the variegated and contradictory proposals for new political structures. While political crimes have often been the most powerful forces shaping human societies, we are living in an age in which the abuses of political criminality come more naturally to us than its uses. Gustave Le Bon's vision of the leader manipulating the crowd was quite prophetic of the twentieth century. The popular use of the term "restructuring" has become mixed up with the idea of revolutionary alterations in society, and is far removed from the true concern for structuring. In our time, the complaint that politics is being criminalized might be coupled with the experience that criminality is being politicized. Thus, the real problem of the concept of the political criminal is the invasion of pseudo-political criminals into the arena where beneficial social changes are forcibly attempted through violations of the law.

THE RELATIVITY OF POLITICAL CRIMES

In the broadest sense, it may be argued that all crimes are political crimes inasmuch as all prohibitions with penal sanctions represent the defense of a given value system or morality, in which the prevailing social power believes. In the Soviet system, for example, crime is a "social danger"—meaning the harm, risk, or peril to which the political and economic institutions, as the representatives of the prevailing ideology, are exposed. Taking this *ad absurdum*, even a bank robbery, a shoplifting, or a rape is a political crime. After all, making them criminal offenses protects the interests and rights of the law-making power, which regards them as right and worthy of safeguarding with the threat of penal consequences.[1] Yet it is customary to distinguish between political and ordinary crimes, because their actual content and

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[1] A similar stand was taken in M. PARMELEE, CRIMINOLOGY 92 (1918). *See also* T. SELLIN, CULTURE CONFLICT AND CRIME (1938) ("culture conflict" theory). The Soviet concept of "social danger" strongly leans toward such an understanding.

context are different and distinctly recognizable, despite the similarities in their structures.

For both ordinary and political crime it can be said that "law is formal expression of the value system of the prevailing social power," [2] that man-committed crime is dependent upon the man-made law,[3] and that as long as the existing social power prevails, its moral system is "right" and must not be attacked beyond certain limits. However, the role of this value system or morality is far more apparent in political crimes than it is in ordinary crimes. Since by definition the "conservatives" tend to conserve the prevailing social-political power structure with its values and morality, the "radicals" are usually the political criminals. The political stance of ordinary criminals is generally unrecognizable and irrelevant. Havelock Ellis suggested that the word "criminal" in the expression "political criminal" is a euphemism to express the suppression of a small minority by the majority[4]. And while Hugo Grotius cited Tertullian for the proposition that every man is from his birth a soldier with a mission to combat criminals guilty of treason, Louis Proal, a judge of the Court of Appeals at Aix, cited the anarchist Valliant, who proposed that the citizen has the same rights when acting in self-defense against the tyrant or against an enemy.[5] The real questions are who the "radicals" and "anarchists" are, who the "conservatives" are, and which of them and in what circumstances are "political criminals." Such questions inevitably lead to the problem of the relativity of law and crime, and thus, to the riddle of relativity in the concept of political crime, a characteristic that is only occasionally conspicuous in ordinary crimes. Ultimately, these questions guide us to the understanding of man as a multidimensional being, whose consciousness, morality, and freedom can be approached from different points of view, none of which can claim to be the only legitimate one.[6]

Such considerations led Havelock Ellis to suggest that the word "crime" in the term "political criminal" is "an abuse of language." Ellis contended that just as the concept of heresy is necessary to ensure the supremacy of a Church, the concept of the political criminal is necessary to ensure the supremacy of a government. The political criminal of our time may be the hero, martyr, or saint of another age.[7] A monarch, for example, is the incarnate personification of conservatism, yet, as Parmelee pointed out, Charles the First in England and Louis the Sixteenth in France were beheaded as political criminals. And, although "there is perhaps nothing in human culture more archaic than religion," the clergy were proscribed as criminals during the French Revolution.[8] The Hungarian Revolution offers a modern example of abrupt and rapid changes in the norm-making power structure. At the time of the revolution in 1956, criminals turned into heroes and then back into criminals, while law-abiding citizens changed to criminals and then back to conformists—all within eight days.

In defense of Macaulay, Chesterton wrote:

> All reputations, except those of the utterly imbecile, dwindle and rise again; capable men are praised twice, first for the wrong reasons and then, after a cycle of obloquy, for the right.

His remarks describe not only the careers of some authors and scholars, but also the careers of some political criminals. The changing concept of political crime and its moral base, however, cannot secure asylum for all those who take a law-breaking stand against the prevailing power and its value system. History gives its approval only in the future and only for exceptional political criminals. While the guilt of the political criminal is usually established by the courts of justice at the time of the act, he is frequently acquitted only by the writers of history centuries later. To be elevated to sainthood takes time.

However, the centuries required to see a candidate successfully through to sainthood often exhausts the time and money of the sponsors, while the political criminal's generation oftentimes witnessing only an abortive proposal of social change, can see him only as a guilty man. Before the cosmetic of political history labels his defeat as unjust, he is unavoidably subject to the Austinian "command of the sovereign," [9] since all laws are

[2] S. SCHAFER, THEORIES IN CRIMINOLOGY: PAST AND PRESENT PHILOSOPHIES OF THE CRIME PROBLEM 17 (1969).

[3] *Id.* at 14.

[4] H. ELLIS, THE CRIMINAL 2 (5th ed. no date).

[5] L. PROAL, POLITICAL CRIME 50–51 (1898) (originally published as LA CRIMINALITÉ BOLITIQUE (1895)). To regard the state as criminal and the members of the society as victims is, philosophically, a highly controversial contention that leads to the problem of the natural law and to the assumption that there exists only a single morality.

[6] *See* SCHAFER, *supra* note 2, at 11. *See generally* P. BOWES, CONSCIOUSNESS AND FREEDOM (1971).

[7] ELLIS, *supra* note 4, at 1–2.

[8] PARMELEE, *supra* note 1, at 461.

[9] J. AUSTIN. LECTURES ON JURISPRUDENCE OF THE PHILOSOPHY OF POSITIVE LAW (1861).

formulated on the unspoken assumption that they represent the "right" value-system, even though they may not appear so to all members of society.[10] All aspiring political criminals must learn that laws are "just" insofar as they are defined by the ruling social power and so long as the existing social power prevails. The social power, not the political criminal, dictates what is "right" and "wrong," and in the form of commands raises the law to the level of "truth."

Cicero told the story of a captured pirate who defended himself before Alexander the Great by saying that he did exactly what the great conqueror had done, but that he was to be punished as a pirate rather than a conqueror simply because he operated with one small boat instead of a large armada.[11] The case of the pirate, however, is deceptively simple. The question of who or what has the power to declare what is right is an ancient problem that has been studied by jurists as well as by sociologists. Perhaps one of the reasons for the long-standing inability to find an answer is that lawyers are too close to the problem and sociologists too distant from it, and both seem reluctant to meet in the domain of legal philosophy or in what is called the sociology of law. Indeed, there is much more involved in the idea of law than sheer obedience. Usually, a rich and complex interplay between individuals, groups, and conflicting values takes place before a law is created. Yet ultimately, to use Herbert Hart's term, a penal statute declaring certain conduct criminal "may appear to be the gunman situation writ large."[12] John Austin's claim that the law is the command of the sovereign may well be a terrifying truth which offers little shelter for those who abandon the real world for the comfort of illusions.[13]

The greatest obstacle to understanding this tenet is our reluctance to accept the fact that what we consider right does not necessarily represent the only correct view. We tend to think there is a single immutable truth and conclude, therefore, that there is only one possible system of justice. The claim that the social system and its law are moral or ethical rests upon the dubious hypothesis that there is only one normal, ethical code. The political criminal gets involved in law-breaking by professing that his is the only just or right set of values. But the cruel fact is that the social-political power has sole authority to define values. It conclusively defines the rightness or wrongness of the modes of human conduct. Whatever is defined by this social power as right or wrong must be accepted by those who are required to obey, as long as that power prevails. The relativity of the concept of the political criminal rests with this relativity of the social power.

[10] SCHAFER, *supra* note 2, at 89.
[11] 3 CICERO, DE REPUBLICA 12.
[12] H.L.A. HART, THE CONCEPT OF LAW 6–7 (1961).
[13] SCHAFER, *supra* note 2, at 11.

THE PLACE OF THE POLITICAL CRIME AMONG THE CLASSES OF CRIMES

The relative nature of the political crime is one of the major reasons for the rather hesitant and divergent approaches to the concept of the political criminal and his placement among criminal types. Even in the field of interjurisdictional cooperation, where the problem of how to exempt political criminals from extradition often arises, international treaties cautiously avoid the political criminal concept in most cases. Wherever "political crime" is defined in agreements between sovereign powers, it is generally couched in objective references to treason, conspiracy, mutiny and felonies commited against heads of states. Many analysts of the issue of extradition see in the concept of political crime a kind of supra-legal category which can be defined only as the analogue of the interests of any given political power, and is therefore beyond the descriptive ability of the law. Carrara, for instance, has simply labeled it "indefinable."[14] Others who have attempted to define political crimes, either objectively or subjectively, have supplied the literature on international extradition with hundreds of definitions, most of which were directed at serving interjurisdictional purposes.[15]

Outside the sphere of international criminal law, particularly in sociological criminology, only a few scattered scholars have regarded the political crim-

[14] F. CARRA, PROGRAMMA ¶¶3916–39 (6th ed. 1886).
[15] Objectivized definitions have been attempted by: Bluntschli, Brusa, Carmignani, Crivellari, DeVigne, Fabreguettes, Finger, Fiore, Garraud, Gerland, Grivaz, Haus, Hélie, Holtzendorff, Homberger, Kleinschrod, Köhler, von Liszt, Löwenfeld, Martens, Martitz, Mecacci, Meyer-Allfeld, Mittermaier, Mohl, Ortolan, Prins, Pravo-Kluit, Renault, Rossi, Schiattarella, Schirach, Teichman, Trasimeni and André Weiss.
Subjectivized or motivational type descriptions have been attempted by:
von Bar, Billot, Dalloz, Deloume, Glaser, Georgi, Helie, Lammasch and Soldan.
See G. RÁCZ, A. POLITIKAI BÜNTETTESEK MENEDÉKJOGÁNAK KRITIKÁJA 25 (1932); U. Conti, *Sul Delitto Bolitico*, 100 RIVISTA PENALE 8.

inal as worthy of interest. Even these scholars have seemed to confine themselves to the analysis of violence and other behavior patterns which accompany political crimes. The reports of the National Commission on the Causes and Prevention of Violence, for example, devoted several thousand pages to the many facets of violence in America, but despite the fact that most of these discussions emphasized that violent crimes were of a political character, the general problems of political crimes and the concept of the political criminal were nowhere considered. Although political crime as a crime-type is alluded to in most of the contemporary textbooks of criminology, it is only treated obliquely. Even in the few treatises which deal with the subject more extensively, the discussion is confined to outwardly observable behavioral expressions. In this vein, Marshall B. Clinard and Richard Quinney refer only to the actual "violations which occur in the course of the attempt to protest, express beliefs about, or alter in some way the existing social structure." Nevertheless, they do broaden their view somewhat by including police brutality and other activities of public officeholders within the concept of political crime, intimating that those in power can commit political crimes.[16] Similarly, among the classical authors, Louis Proal has postulated a broadened view of political crimes. Included in his definition are criminal offenses which are committed in the course of political activities, such as theft from public funds, corrupting police officers, or misuse of power by officials.[17] Although these expanded views may appear to deny the relativity of political crimes, they do seem to extend the concept to what may be termed pseudo-political criminal acts.

Franklin H. Giddings, who introduced the English translation of Proal's book, took a different approach in defining the political criminal. Although Giddings did not exclude offenses committed by governments and politicians for political advantage, he emphasized the fact that only the "powerless" can commit genuine political crimes. He refers primarily to crimes against governments, such as treason, insurrection, and rebellion, but he defines the concept of the political criminal according to crimes, not classes of criminals.[18]

[16] M. CLINARD & R. QUINNEY. CRIMINAL BEHAVIOR SYSTEMS: A TYPOLOGY 177–87 (1967). Their selected bibliography extends only to the last thirty years and includes only American references. *See id.* at 187–89.

[17] *See generally* PROAL.

[18] Giddings, *Introduction* to *id.* at v–xiv.

Cesare Lombroso was among the first to pay attention not only to the criminal act, but also to the criminal man. His typology dealt more with political crimes than with political criminals. He listed the political criminals as a subgroup in the class of "criminals by passion" and contended that whatever is true of the passionate criminal may be said of the political criminal.[19] Lombroso suggested that criminals by passion are characterized by a high degree of affectivity, so that in unusual and strained circumstances, they develop a passion that leads to violent crimes. While not all criminals by passion are political criminals, all political criminals are criminals by passion.

Lombroso believed in the passion of political criminals so strongly that he charged the passionless political criminals with insanity. Referring to passionless political criminals as persons who "need the hospital more than the scaffold," Lombroso actually proposed their deportation. His fancy, as with Ferri's notion of "social danger," has become a reality in our time. The Soviet system, although perhaps not within the Lombrosian import, established mental clinics for political prisoners "who moralize too much" or have "reformist ideas." [20]

Lombroso's contention, however, is not in accord with other concepts of the political criminal. Havelock Ellis, for one, clearly distinguished political criminals from criminals with passion.[21] Although Maurice Parmelee suggested that "insanity of different sorts and other forms of mental morbidity are more or less prevalent among these criminals," he found only slight differences between the pathological and emotional types, observing that "rational" political criminals are "by far the least numerous." [22] Willem Bonger severely criticized Lombroso's stand, suggesting that "it is full of mistakes and superficial observations." [23] Nevertheless, it should be recognized that Lombroso hinted at the function of emotions, a dimension which had been neglected by many philosophers. And perhaps the theme of the political crime is emphasized through the role of emotions,

[19] C. LOMBROSO, CRIME, ITS CAUSES AND REMEDIES 412–14 (1918); R. LASCHI, LE CRIME POLITIQUE ET LES RÉVOLUTIONS (1892) (originally published as IL DELITTO POLITICO E LE RIVOLUZIONI IN RAPPORTO AL DIRITTO, ALL ANTROPOLOGIA CRIMINALE ED ALLA SCIENZA DI GOVERNO.

[20] *Mental Clinics for Political Prisoners*, The Manchester Guardian Weekly, April 3, 1971 at 5.

[21] ELLIS, *supra* note 4, at 2.

[22] PARMELEE, *supra* note 1, at 462–46.

[23] W.A. BONGER, CRIMINALITY AND ECONOMIC CONDITIONS 648 (1916).

both as an action-motivating power and as an expression of the language of values and morality.

Unlike Lombroso, Raffaele Garofalo seemed hesitant to include political crimes in his "natural crime" concept:

> How are we to contend that conspiracy or rebellion aagainst a lawful government is not a true crime? Can there be anything more dangerous to the particular society?[24]

However, Garofalo raised the question of the sympathy which political offenders often receive from even their bitterest enemies and suggested that political crimes do not "violate the altruistic sentiments." [25] A somewhat similar stand was taken by Enrico Ferri. While he was arguing with Napoleone Colajanni, who advocated political crime as an independent category,[26] Ferri contended that the political offenders are not criminals, but are "honest and normal men misguided by their political ideas." [27] He called them "evolutive" or "politico-social" criminals, who tend "in a more or less illusory way to hasten the future phases of politico-social life." [28] In the same vein, Maxwell contrasted the "retrograde" criminals with those wo are "antèrograde" offenders, defining "antèrograde" offenders as those who find social evolution too slow.[29]

Maurice Parmelee viewed the concept of the political criminal as a confrontation between the government and those who are against its polity "in interest of the public." [30] Havelock Ellis, however, called them victims of an "attempt by a more or less despotic government to preserve its own stability." [31] And even Willem Bonger contended that the political criminal acts "for the benefit of society," for "the opporessed classes, and consequently [for] all humanity." Faithful to his general approach to the crime problem, Bonger maintained that the political criminal was a "homo nobilis" who reflected economic conditions.[32]

[24] R. GAROFALO, CRIMINOLOGY 37 (1914).
[25] *Id.* at 37, 217.
[26] 1 N. COLAJANNI, SOCIOLOGIA CRIMINALE 352 (1889).
[27] E. FERRI, CRIMINAL SOCIOLOGY 163 (1917).
[28] *Id.* at 335.
[29] J. MAXWELL, LE CONCEPT SOCIAL DU CRIME 52 (1914).
[30] PARMELEE, *supra* note 1, at 454.
[31] ELLIS, *supra* note 4, at 1.
[32] BONGER, *supra* note 23, at 648–55.

THE "CONVICTIONAL" CRIMINAL AND HIS DILEMMA

As an attempt to reconcile and correct the different conceptions of the political criminal, considering mainly those which call attention to his passion and strong feelings for society, the term "convictional" criminal is here proposed[33] to underscore the fact that morality and value systems are pluralistic ideas and that the political criminal is "convinced" about the truth and justification of his own altruistic beliefs. This element of "conviction" speaks to the settled belief in the conscience of the political criminal which makes him feel that he has a rendezvous with destiny. Conviction serves as a distinguishing factor in discriminating political criminals from ordinary offenders, as well as from the pseudo-convictional criminals who do not really differ from ordinary criminals. The political criminal may be "convinced," for example, that it is not "lawful to kill in order to secure the triumph of a cause," [34] but he will proceed to disregard the law nonetheless.

In contrast with the convictional criminal, the conventional offender almost always acts to fulfill his ego or his personal interest, and his acts often lack an overarching significance.[35] Although the occasional criminal may steal a loaf of bread when hungry, shoplift a golden ring if overcome by desire, or kill another out of jealousy, it is *his* hunger, *his* desire, or *his* quality of emotion against his rival which drives him to act. He must be stimulated by personal need, wish, or agitation of mind. When the professional criminal burglarizes a bank, he acts for *his* personal gain. When the drug addict forges a medical prescription, he does so to satisfy *his* personal attachment to narcotics. Indeed, when one who is mentally sick is guided to homicide through ill-conceived delusions, those delusions are symptomatic of *his* mental illness.

The convictional criminal, on the other hand, has an altruistic-communal motivation rather than an egoistic drive. It is not altruistic, however, in the sense that his regard for the personal interests of specified individuals is the basis of his action. Homicide as a revenge for another person

[33] This was first proposed in Schafer, *Juvenile Delinquents in "Convictional Crime"* 1 INT'L ANNALS OF CRIMINOLOGY 45–51 (1963).
[34] PROAL, *supra* note 5, at 50.
[35] *See* S. SCHAFER & R. KNUDTEN, JUVENILE DELINQUENCY: AN INTRODUCTION 165–68 (1970).

or stealing food to feed the family are not convictional crimes, though they were committed for another's sake. The convictional criminal's altruism is a nonpersonal *communal* experience, aiming at some sort of social change. That experience may be directed at changing the social total, a segment of it, or just a single social issue related to the community's governmental, social, moral or religious ideals. His altruism is communal not only because it may come into conflict with the prevailing power structure, but also because his violation of the law is intended to legitimate social ideas through crime, and his deviance contemplates social progress. The legendary hero who robbed the rich to give to the poor, the suffragette who agitated for the women's vote to force changes in the law, the members of the Resistance who injured others to hamper the invader, and the counterrevolutionary who killed to crush an opposing ideology all represented altruistic-communal ideas and ideals. They committed crimes because they were convinced of the justice of their beliefs and because crime appeared to them to be the best available means to express their unselfish concerns for their social groups.

Magnified by his conviction, the convictional criminal's ideal looms large, overshadowing his crime. This conviction does not stem from his passion, however, for he is not "passionate" unless "passion" can be identified with emotions in general.[36] While the convictional criminal does not discount the implications of crime and punishment, this is not because some passionate outburst would cloud his consideration. He holds his altruistic-communal belief *frigido pacatoque animo*, with a "cool and peaceful mind." This is why he is able to "convince" himself. If his conviction appears colored with emotion, this can be attributed to the fact that no moral decision-making is possible without some sort of emotional involvement, and also to an inner dilemma which he must resolve before turning to crime.

A genuine convictional criminal cannot escape this dilemma. He inevitably faces an internal clash between two antagonistic beliefs which represent a nearly insoluble and tragic contradiction between moral and social demands. One belief is his loyalty to the general principles of law and order and his condemnation of ordinary selfish crime. The other is his conviction of the justice of his cause and his assumption that only crime can promote it. Although he struggles to reconcile these two contradictory responsibilities and feels tormented by the conflict between them, the convictional criminal commits his crime out of a sense of convinced obligation. Because of the power of his conviction, he cannot refrain from violating the law, even at the sacrifice of his life, his freedom, and his loyalty to the rule of law. Although the legendary hero, may have disapproved of robbery, he committed the act frequently in favor of the poor. Though the Resistance member may have condemned violence, his conviction in his cause overshadowed any sense of repugnance to engaging in violent crimes to expel the invader from the fatherland. The counterrevolutionary knew that homicide was a capital crime, yet he killed for the good of his nation.

[36] "Passion" was the term used by older writers when referring to emotions in general, but it is now reserved for violent emotional outbreaks. *See* J. DREVER, A DICTIONARY OF PSYCHOLOGY 199 (1952).

THE INSTRUMENTALITY OF THE CONVICTIONAL CRIME

The power of his ideal causes the convictional criminal to commit crime. Since he views crime as disobedience to the laws of his society and as an evil deed against law and order, however, his internal conflict does not result from fear of penal consequences. Although he may show signs of anxiety and agitation, they are not directly associated with the crime itself. Crime is not his main purpose but only an act that intervenes between his convictional decision and the achievement of his ultimate idea. It is merely a fool which may lead to similar crimes and eventually to the success of his cause. Consequently, his violation of the law is not a self-contained behavior, but is an "instrumental crime" for ideological purposes. The legendary hero's goal was not robbery but aid to the poor. Nevertheless, the commission of a crime puts a temporary end to the convictional criminal's anxiety. Although he may not yet have realized his goal, he sees his crime as a necessary step toward it. His tragic dilemma is resolved for the time being and his psychic balance is restored through the force of the conviction that led him to commit the criminal act. His intellectual response to his own crime therefore proceeds in a specific direction.

Since the ordinary criminal undergoes relatively minimal internal struggle before committing his

crime, his anxiety is confined mainly to careful planning, maintenance of security, and successful criminal action. The convictional criminal, on the other hand, is often less concerned with the actual mechanics of his crime. Although his excitement may be greater, he seeks a difficult goal that goes well beyond the crime itself. While the conventional criminal is often restless after the crime has been committed, because of pangs of conscience, fear of arrest, and other upsetting conditions, the convictional criminal's conscience is satisfied and his previously upset balance is restored.

Since every breach of secrecy may jeopardize his success, the conventional criminal places great importance upon security. Planning, preparation, and the location of his hiding place are kept confidential. He does his best to maintain security among his accomplices and, to an extent, even among his victims. Any form of publicity presents a danger to the ordinary criminal. In contrast, the convictional criminal, with his altruistic ideology, not only places less emphasis upon secrecy but frequently welcomes publicity. He hides and disguises his activities only to promote his communal goals. Dramatic publicity of the crime is therefore almost a necessity for the convictional criminal because it maximizes the public's understanding of his actions. Jesus, by claiming to be the Christ, the King of the Jews, was automatically committing treason against Rome, but his doing so attracted millions of followers generation after generation. Tales of the robberies of the legendary hero and the dramatic stories of Resistance members' deeds served to direct attention to the plight of the poor or to recruit new fighters and excite the general populace to join the uprising.

Publicity about convictional crimes almost inevitably leads to further crimes. As the convictional criminal disseminates his ideals to more members of his society, the number of convictional crimes tends to increase. His crime may serve as an example to would-be followers. Since the convictional crime may even be supported by public opinion, punishment of of the offender may fail to deter later convictional crimes. Moreover, martyrdom may serve only to interest others in the given ideal and to recruit members for other convictional violations of the law. The acts of the legendary hero stimulated and encouraged others to overcome their inhibitions and join him in robbing the rich. As the counterrevolutionaries' fight for freedom touched the consciences of fellow citizens, they joined in the rebellion.

The Pseudo-Convictional Criminal

Not all who commit crimes to promote the triumph of an altruistic-communal cause, however, are genuine convictional criminals. Not all contemplate the justice of the ideal that leads to a conviction nor are all tormented by the tragic dilemma of loyalties which is a necessary condition for becoming a true political criminal. "The activist is tempted by opportunism, the urge to adjust his arguments to meet every change in political fortune," and "the scientist faces the danger of losing touch with common political concerns." [37] The large proportion of "pseudo-convictional" criminals and their skill in hiding their criminal opportunism pose the greatest problems in singling out the genuinely "convinced" criminal who deviate only for the idea of social change or an altruistic-communal issue. Devising an objective method to detect the genuine political criminal by examining the functional role of his "conviction" could bring us closer to a uniform concept of the political criminal.

Many pseudo-convictional criminals simply use the convictional ideal as an excuse for their own selfish criminal acts. Moved by love of adventure, psychopathic deviation, justification for avoiding constructive work or hope of gain, the pseudo-convictional offenders may join forces with the true convictional criminal and produce the criminality and "immorality of political maxims." [38] Friends of the legendary hero joined him because of their thirst for adventure. Some followers of the Resistance saw merely the opportunity to satisfy their criminal inclinations. Some participants in counterrevolutionary activities sought only future or immediate personal gain. These were not genuine convictional criminals serving an ideal but individuals after selfish, individualistic goals which they sought to achieve through crime.

Any aggressive idealistic movement is likely to have both convictional and pseudo-convictional participants. While the convictional political criminal has a moral base, the pseudo-convictional offender corrupts an otherwise honorable dispute over the pluralistic nature of values. The pseudo-convictional political criminal is dominated by his personal goals. He uses convictional ideals as an excuse to steal, rob, or murder or to incite others to do so. Unlike the young Robespierre, who re-

[37] *The Laws Behind Disorder*. The Times Literary Supp., March 19, 1971 at 309.
[38] Proal, *supra* note 5, at 1–23.

signed a judgeship rather than inflict the death penalty, the pseudo-convictional "politician" aspires to the chair of a judge even at the price of inflicting capital punishment. Thus, he appears at a respectability-level even lower than that of a pick-pocket or a bankrobber: the latter, at least, honestly admit their egoistic aims. Also, the pseudo-convictional offender is more dangerous than any other criminal type because he victimizes the collectivity. He is even more dangerous than the true political criminal because he makes himself a public figure and proposes a profound transformation of society without making known his real goals.

While we always hope to isolate and eliminate the pseudo-political criminal, he endures among us, and his increasingly forceful activity often overshadows the ideals of the genuine convictional criminal. As a result, faith in his ideals may falter and the concept of the genuine convictional criminal may give rise to its only alternative: the concept of the pseudo-political criminal.