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THE DISTINCTION BETWEEN CONFLICT AND RADICAL CRIMINOLOGY

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Radical criminology has been the subject of considerable interest within American criminology in recent years. The term is associated with a number of theorists, including Richard Quinney, Herman Schwendinger, Tony Platt, William Chambliss, and Paul Takagi.[1] But the content of radical criminology is less familiar to nonradical criminologists, due in part to the extent of the divergence of radical criminology from other branches of the field. In particular, some confusion exists concerning the distinction between radical and conflict criminology, where conflict criminology is associated with the works of theorists such as George Vold and Austin Turk, as well as with earlier works of several theorists who later became radical criminologists, such as Quinney's *The Social Reality of Crime* and Chambliss and Seidman's *Law, Order, and Power*.[2] The confusion between these two perspectives is related to the fact that most American radical criminologists considered themselves conflict criminologists about ten years ago. The confusion also results because the two perspectives partially share the same intellectual heritage in the works of Karl Marx, and that Marxism, to which radical

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[1] *See* R. QUINNEY, CLASS, STATE AND CRIME (1977) [hereinafter R. QUINNEY (1977)], and CRITIQUE OF LEGAL ORDER (1974) [hereinafter cited as R. QUINNEY (1974)]; Platt, *Prospects for a Radical Criminology in the United States*, 1 CRIME & SOC. JUST. 2 (1974); Chambliss, *Toward a Political Economy of Crime*, 2 THEORY & SOC. 149 (1975); Schwendinger & Schwendinger, *Defenders of Order or Guardians of Human Rights?*, 5 ISSUES IN CRIMINOLOGY 123 (1970). *See also* B. KRISBERG, CRIME AND PRIVILEGE—TOWARD A NEW CRIMINOLOGY (1975); F. PEARCE, CRIMES OF THE POWERFUL (1976); R. QUINNEY & J. WILDEMAN, THE PROBLEM OF CRIME: A CRITICAL INTRODUCTION TO CRIMINOLOGY (2d ed. 1977); I. TAYLOR, P. WALTON & J. YOUNG, THE NEW CRIMINOLOGY (1973), and CRITICAL CRIMINOLOGY (1975).

[2] R. QUINNEY, THE SOCIAL REALITY OF CRIME (1970); W. CHAMBLISS & R. SEIDMAN, LAW, ORDER, AND POWER (1971). *See also* R. DENISOFF & C. MCCAGHEY, DEVIANCE, CONFLICT AND CRIMINALITY (1973); J. GALLIHER & J. MCCARTNEY, CRIMINOLOGY—POWER, CRIME AND CRIMINAL LAW (1977); S. HILLS, CRIME, POWER AND MORALITY (1971); C. REASONS & R. RICH, THE SOCIOLOGY OF LAW—A CONFLICT PERSPECTIVE (1978); T. SELLIN, CULTURE CONFLICT AND CRIME (1938); A. TURK, CRIMINALITY AND LEGAL ORDER (1969); G. VOLD, THEORETICAL CRIMINOLOGY (1958).

criminology is closely aligned, has long been presented as a part of conflict theory.

However, a clear distinction presently exists between these perspectives within the context of American criminology, so that radical criminology is no longer considered a part of conflict criminology by either radical or conflict criminologists. For example, Paul Takagi has stated that "a 'conflict theorist' remains in the liberal tradition, albeit critical of the functionalist perspective."[3] An article by Austin Turk appeared in a special issue of *Criminology* devoted to "radical criminology" and drew angry responses from the radicals.[4] In that article, Turk dissociated conflict criminology from radical criminology, stating that one of the most "pernicious" misrepresentations of conflict theory is that "such work is synonymous with partisan ideological treatises on behalf of less powerful collections of people against more powerful collections."[5] Such misrepresentation is fairly widespread and has resulted in a number of unwarranted criticisms of conflict theory.[6]

The present paper focuses on the distinction between conflict and radical criminology. It begins with a discussion of the work of Marx and Engels on crime, in order to clarify the relationship of their thought to that of present-day conflict and radical criminologists. It then presents the basic principles that underlie conflict criminology and those that underlie radical criminology. Each principle of radical criminology is then contrasted to the position taken by conflict criminology.

MARX AND ENGELS ON CRIME

Radical criminology has been defined as that criminology which takes a Marxist approach to crime and crime control.[7] But the positions that Karl Marx himself took on the subject are a matter of some controversy. For example, Hirst has argued that:

> Marxism has a quite different view of crime and "deviancy" from that of the radicals; a view that abolishes this field as a coherent object of study. There is no "Marxist theory of deviance," either in existence, or which can be developed within orthodox Marxism. . . . The objects of Marxist theory are specified by its own concepts: the mode of production, the class struggle, the state, ideology, etc. Any attempt to apply Marxism to this

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3 Takagi, Book Review, 67 J. CRIM. L. & C. 256 (1976).

4 Editorial, 11 CRIME & SOC. JUST. 2 (1979).

5 Turk, *Analyzing Official Deviance: For Nonpartisan Conflict Analysis in Criminology*, 16 CRIMINOLOGY 459, 460 (1979). *See also* Turk, *Class, Conflict, and Criminalization*, 10 SOC. FOCUS 209 (1977), in which he distinguishes between Marxian and Weberian criminologists.

6 G. VOLD, THEORETICAL CRIMINOLOGY 315-22 (2d ed. T. Bernard 1979) [hereinafter cited as G. VOLD II].

7 Garofalo, *Radical Criminology and Criminal Justice: Points of Divergence and Contact*, 10 CRIME & SOC. JUST. 17, 18 (1978).

> pre-given field of sociology is therefore a more or less "revisionist" activity in respect of Marxism; it must modify and distort Marxist concepts to suit its own pre-Marxist purpose.[8]

Marx's theory was a theory of history, not a theory of human behavior.[9] He maintained that the ideas and institutions of society, such as the ideologies, values, and the legal and political structures, must be understood in terms of the economic base of that society, and he attempted to expose the processes by which those ideas and institutions changed over time.[10] He did not, however, argue that man's behavior was motivated primarily by economic factors.[11]

Marx dealt with the problem of crime only briefly and incidentally in his work, and Cain and Hunt state that "there is no ready-made 'Marxist theory of crime' to be found in the texts . . . despite the fact that the majority of the extracts advance some 'explanation' of the phenomenon of crime."[12] Hirst argues that there are three distinct Marxist positions on law and crime, which are directly related to three general theoretical positions in three different periods.[13] The earliest period involved a "Kantian-liberal critique of law," in which Marx argued:

> Laws are as little repressive measures directed against freedom as the law of gravity is a repressive measure directed against movement. . . . Laws are rather positive, bright and general norms in which freedom has attained to an existence that is impersonal, theoretical and independent of the arbitrariness of individuals. A people's statute book is its Bible of freedom . . . .[14]

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[8] Hirst, *Marx and Engels on Law, Crime and Morality*, in I. TAYLOR, P. WALTON & J. YOUNG, CRITICAL CRIMINOLOGY 204 (1975). *See also* Denisoff & McQuarie, *Crime Control in Capitalist Society: A Reply to Quinney*, 10 ISSUES IN CRIMINOLOGY 109 (1975), which argues that Marx devoted two entire books to refuting a philosophical position identical to Quinney's.

[9] A. BALINKY, MARX'S ECONOMICS: ORIGIN AND DEVELOPMENT 8 (1970). Balinky summarizes Marx's theory in the following points:

> (1) There are, in fact, social-historical laws which govern the universe; (2) such laws operate, in the final analysis, independent of human will or desire; (3) on the contrary, man's value system and the behavior pattern based on them are set by these laws; (4) relying on the method of positive science, man can discover what these laws are and how they operate and thereby comprehend the process by which society evolves to where and what it is; (5) with the same key man can unlock the door of the future and see, if only in contour form, the direction in which society will evolve and to what final end; (6) Communism, not Socialism, will be the terminal social order; (7) social improvement (which, for Marx, is synonymous with change) is inevitable not because of the fact or extent of human suffering but as a function of the laws themselves.

[10] M. CORNFORTH, HISTORICAL MATERIALISM (2d ed. 1962); A. SWINGEWOOD, MARX AND MODERN SOCIAL THEORY (1975); Williams, *Base and Superstructure in Marxist Cultural Theory*, 82 NEW LEFT REV. 3 (1973).

[11] A. BALINKY, *supra* note 9, at 40.

[12] M. CAIN & A. HUNT, MARX AND ENGELS ON LAW 149 (1979).

[13] Hirst, *supra* note 8, at 205.

[14] Marx, *The Proceedings of the Sixth Rhenish Parliament* (1842), in KARL MARX—EARLY TEXTS (D. McLellan ed. 1971), *quoted in* Hirst, *supra* note 8, at 206.

The second position relates to the Feuerbachian period, in which Marx reduced all social phenomena, including the law, to the essential contradiction between labor as a self-realizing human activity and its alienation in private property.[15] The third position, generally considered the "orthodox Marxist" one, is found in the Historical Materialist phase, and focused on the demoralization of the parasitic *lumpenproletariat*.[16] Marx argued that productive labor was essential to human nature, but that capitalist society depended on a large pool of chronically unemployed and underemployed people offering their services on the labor market. Because they were not productive, these people were demoralized and subject to vice and crime. Marx described them as a parasitic class, living off of the labor of the working class through theft, extortion, and beggary, or by providing demoralizing services such as prostitution and gambling. Engels developed this formulation more extensively.[17]

Cain and Hunt point out that the third "orthodox Marxist" position is quite consistent with sociological positivism.[18] Marx asserted the social character of crime against the emphasis on individual responsibility found in classical criminology. For example, Marx approvingly quoted from Quetelet in a discussion of the death penalty to demonstrate that social conditions, rather than individuals, cause crime.[19] In addition, his views, like those of positivist criminologists in general, were based on a "natural" definition of crime:

> Throughout their writings both Marx and Engels take crime to be a self-evident social phenomenon. It is assumed that there are certain forms of behaviour and action which are instrinsically 'criminal,' which violate an unstated but nevertheless real set of criteria. This unproblematic conception of crime Marx and Engels shared with the majority of nineteenth, and indeed twentieth, century writers on crime and criminality.[20]

But in another set of passages, the "natural" definition of crime is abandoned. These passages include what Cain and Hunt call Marx's "primitive rebellion" thesis, where crime is described as the struggle of the isolated individual against the prevailing conditions,[21] and the passages where Engels pointed out the class bias involved in the

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15 K. MARX, THE ECONOMIC AND PHILOSOPHICAL MANUSCRIPTS OF 1844 (M. Milligan trans.), *cited in* Hirst, *supra* note 8, at 215.

16 K. MARX & F. ENGELS, MANIFESTO OF THE COMMUNIST PARTY (1848), *cited in* Hirst, *supra* note 8, at 215.

17 *See generally* F. ENGELS, THE CONDITION OF THE WORKING CLASS IN ENGLAND IN 1844; *Preface*, THE PEASANT WAR IN GERMANY (1874).

18 M. CAIN & A. HUNT, *supra* note 12, at 150.

19 Marx, *Capital Punishment*, in ARTICLES ON BRITAIN at 150-53 (1853), *quoted in* M. CAIN & A. HUNT, *supra* note 12, at 195.

20 *Id.* at 149. For the relationship of positivist criminology to "natural" definitions of crime, *see* G. VOLD II, *supra* note 6, at 10-11, 382-83.

21 K. MARX & F. ENGELS, THE GERMAN IDEOLOGY 365-67 (1965).

processes of the enactment and the enforcement of laws.[22] Both sets of passages point to the law as a form of class oppression rather than as a legitimate response to intrinsically criminal behavior. The definition of crime used here might be called a "labelling" definition—that is, crime is whatever the agencies of the criminal justice system define as crime, whether or not these actions are thought to be intrinsically criminal.[23]

THE BASIC PRINCIPLES OF CONFLICT AND RADICAL CRIMINOLOGY

No general statement seems to be commonly agreed among conflict or radical criminologists to represent the postulates of their viewpoints, and disagreements among the various theorists are as common in those branches of criminology as in any other branch. Nevertheless, some basic themes run through their writings, on which observers generally agree. The following is an effort to summarize those themes into a specific number of points to represent the core principles of the two respective viewpoints.

The principles of conflict criminology are considerably more general than those of radical criminology. The following statement of these principles has been borrowed in large part from Chambliss and Seidman's analysis of the relationship of values to the enactment of laws, and was influenced by Vold's theory of group conflict and by Quinney's theory of the social reality of crime.[24]

1) One's "web of life" or the conditions of one's life affect one's values and interests.

2) Complex societies are composed of groups with widely different life conditions.

3) Therefore, complex societies are composed of groups with disparate and conflicting sets of values and interests.

4) The behavior of individuals is generally consistent with their values and interests.

5) Because values and interests tend to remain stable over time, groups tend to develop relatively stable behavior patterns that differ in varying degrees from the behavior patterns of other groups.

6) The enactment of laws is the result of a conflict and compromise process in which different groups attempt to promote their own values and interests.

7) Individual laws usually represent a combination of the values and interests of many groups, rather than the specific values and inter-

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22 F. ENGELS, *supra* note 17, at 567-90.

23 *See* G. VOLD II, *supra* note 6, at 13, 382, 384.

24 W. CHAMBLISS & R. SEIDMAN, *supra* note 2, at 473-74; R. QUINNEY, *supra* note 2, at 15-23; G. VOLD II, *supra* note 6, at 13, 382, 384.

ests of any one particular group. Nevertheless, the higher a group's political and economic position, the more the law in general tends to represent the values and interests of that group.

8) Therefore, in general, the higher a group's political and economic position, the less likely it is that the behavior patterns characteristic of the group (behaviors consistent with their values and interests) will violate the law, and vice versa.

9) In general, the higher the political and economic position of an individual, the more difficult it is for official law enforcement agencies to process him when his behavior violates the law. This may be because the types of violations are more subtle and complex, or because the individual has greater resources to conceal the violation, to legally defend himself against official action, or to exert influence extralegally on the law enforcement process.

10) As bureaucrats, law enforcement agencies will generally process easier rather than more difficult cases.

11) Therefore, in general, law enforcement agencies will process individuals from lower rather than higher political and economic groups.

12) Because of the processes of law enactment and enforcement described above, the official crime rates of groups will tend to be inversely proportional to their political and economic position, independent of any other factors (such as social or biological ones) that might also influence the distribution of crime rates.

As formulated here, conflict criminology is a probability statement explaining the distribution of crime rates among various groups in society. The explanation of criminal behavior is not its primary purpose. These two modes of explanation can be distinguished by considering cases where there is an obvious difference between changes in official crime rates and changes in the incidence of the criminal behaviors. For example, convictions for white collar offenses are increasing, although the incidence of those behaviors may actually be decreasing, while convictions for homosexuality are decreasing as the incidence of those behaviors may be increasing. One must offer one type of explanation for the criminal behavior itself, and another type for the official crime rates. The second type would focus on changing patterns of values and interests among groups with varying degrees of political influence on the enactment and enforcement of laws. The explanation for official crime rates is equally meaningful in situations where the official crime rates and the rates of criminal behavior do not diverge.

In conflict criminology, criminal behavior is "explained" through an implicit assumption, stated explicitly here, that the behavior of indi-

viduals is generally consistent with their values and interests. To the extent that the behavior of individuals is inconsistent with values and interests, the conflict explanation of crime rates is erroneous. One can argue, however, that all behaviors are consistent by hypothesizing retrospectively about the values and interests behind any particular behavior. For example, one might explain the behaviors of a Richard Speck or a Charles Manson in terms of their values and interests, but this may push the theory too far.[25]

There are a number of similarities between conflict criminology and Sutherland's differential association theory.[26] Sutherland's was a theory of "normative conflict"—the conflict of values—whereas conflict criminology includes conflict of both values and interests, and sometimes downplays the role of values by maintaining that they in some sense reflect the interests of the individual. That position derives generally from Marx's argument that economic relations influence the development of beliefs. In addition, both conflict theory and differential association theory argue that criminal behaviors originate in exactly the same processes as noncriminal behaviors, so that criminal behaviors are said to be "normal." Finally, in his later work, Sutherland used differential association theory to explain the behavior of white collar criminals, but that work can also can be interpreted as a conflict explanation of the low crime rates among white collar groups, despite the high incidence of what he characterized as criminal behaviors.[27]

The basic difference between conflict criminology and what might be called mainstream criminology lies in their differing views of the function of law. Gibbons and Garabedian describe mainstream criminology as "liberal-cynical," in which a basic assumption that the causes of crime "are exceedingly pervasive and intimately bound up with the core institutions of modern society" is combined with a pessimistic attitude toward the ability of the criminal justice system to deal effectively with the crime problem.[28] Michalowski states that liberal criminology is based on a pluralist model of social organization, which he summarizes as follows:

1) Society is composed of diverse social groups.
2) There exists among these groups differing, and sometimes conflicting definitions of right and wrong.
3) There is collective agreement on the mechanisms for dispute settlement.

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25 *See* G. VOLD II, *supra* note 6, at 296-97, 303.

26 E. SUTHERLAND & D. CRESSEY, CRIMINOLOGY 80-82 (10th ed. 1978).

27 E. SUTHERLAND, WHITE COLLAR CRIME (1949).

28 Gibbons & Garabedian, *Conservative, Liberal and Radical Criminology: Some Trends and Observations*, in THE CRIMINOLOGIST: CRIME AND THE CRIMINAL 51, 52, 53 (C. Reasons ed. 1974).

4) The legal system is value-neutral.

5) The legal system is concerned with the best interests of society.[29]

Thus, liberal criminology begins with the same assumption of conflict among groups as does conflict criminology. In contrast to this is "conservative" criminology, which assumes that law represents a consensus among all the people, and that "those who violate the law represent a unique subgroup."[30] Liberal criminology does not assume a consensus, arguing only that the law is a value-neutral forum for the resolution of conflicts. It makes this assumption despite its general pessimism about the effectiveness of law. Because the law is value-neutral, the reasons for the present distribution of crime rates must be found in general social or biological conditions outside the legal process. In contrast, conflict criminology argues that the law enactment and enforcement process is part of the conflict among groups in society, so that the reasons for the present distribution of crime rates are to be found primarily within that process. Specifically, it goes beyond the liberal-cynical attitude that characterizes the criminal justice system as ineffective, and argues that the structure of the system necessarily produces the present distribution of crime rates, even if those who function within that system do not intend that result and are unaware that they are producing the result.

Radical criminology begins with the same assumptions on the existence of conflicts as does conflict and liberal criminology, but then moves off in a distinctly Marxist direction. The following statement of the basic principles of radical criminology has been compiled from a variety of sources:

1) No consensus exists in society on the basic values and interests of individuals, and on the contrary, society is characterized by conflict on these issues.

2) Society in general is divided into classes whose members have similar values and interests, the principal classes being those who own the means of production (the ruling class) and those who are employed in production (the working class). The principal conflict in society is between the ruling class and the working class.[31]

3) Crimes are defined as socially harmful actions that violate basic human rights.[32] That includes both "street" crimes in which the lower class preys on itself and on others,[33] and ruling class crimes in

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29 Michalowski, *Perspective and Paradigm: Structuring Criminological Thought* in THEORY IN CRIMINOLOGY 24-25 (R. Meier ed. 1977).

30 *Id.* at 23. *See also* Gibbons & Garabedian, *supra* note 28, at 52.

31 R. QUINNEY (1977), *supra* note 1.

32 Schwendinger & Schwendinger, *supra* note 1, at 149; R. QUINNEY & J. WILDEMAN, *supra* note 1, at 8.

33 Dod, Platt, Schwendinger, Shank & Takagi, *Editorial: The Politics of Street Crime*, 5

which the lower class is victimized through unemployment, pollution, and exploitation.[34] Because the law is a tool of the ruling class in its conflict with the working class, the socially harmful actions of the ruling class are generally not defined as crimes by the official criminal justice system.

4) Conventional criminologists accept the definitions of crime provided by the law, and so assume a technocratic role in the social control of the working class. They do this through "correctionalism," which attempts to reconcile the working class to the structure imposed by the ruling class, and through "reformism," which attempts to improve the operation of the criminal justice system and increase its effectiveness in controlling the working class.[35]

5) Radical criminologists reject the definitions of crime provided by the law and study all socially harmful behaviors that violate basic human rights. They argue that contradictions in the capitalist economic system are the underlying causes of these behaviors.[36]

6) The crime problem can be solved only by the overthrow of the capitalist economic system and the establishment of a socialist state. Once capitalism is overthrown, the law in its present form will eventually become unnecessary, as the conflicts between classes will have been resolved.[37]

7) The principal task of radical criminology is to promote the overthrow of the capitalist economic system, and thus radicals must guard against the danger of "cooptation," that is, having specific points of radical criminology accepted by mainstream criminology and placed in a context that does not promote the overthrow of capitalism.[38]

CONFLICT THEORY CONTRASTED WITH RADICAL CRIMINOLOGY

To contrast the content of radical and conflict criminology, the positions taken by conflict criminology are presented for each of the seven basic principles of radical criminology.

1) Both conflict and liberal criminologists accept the contention that society is characterized by conflict among groups with only conservative criminologists maintaining that society is characterized by consensus. But all groups, including the radicals, would agree there are greater degrees of "consensus" about the criminality of some types of

CRIME & SOC. JUST. 1-4 (1976); Platt, *'Street' Crime—A View from the Left*, 9 CRIME AND SOC. JUST. 26 (1978).

34 R. QUINNEY & J. WILDEMAN, *supra* note 1, at 12-14.

35 Garofalo, *supra* note 7, at 18-19.

36 R. QUINNEY & J. WILDEMAN, *supra* note 1, at 12.

37 R. QUINNEY (1977), *supra* note 1, at 64.

38 Garofalo, *supra* note 7, at 23-24.

actions than about others. Consider the example of street crime. Radicals generally do not interpret street crime in terms of revolutionary challenges to the establishment (based on Marx's "primitive rebellion" thesis), but in terms of the orthodox Marxist position as the depraved preying of the *lumpenproletariat* on the working class.[39] These acts are against the interests of the working class, and are apparently also against the interests of the ruling class, for they are criminalized by the official law enforcement agencies. Thus, a "consensus" evidently exists between the working class and the ruling class on the question of street crime. That consensus is consistent with the "natural" definition of crime found in orthodox Marxism, where these actions are viewed as intrinsically criminal.

Conflict criminology takes a different approach since it is based on a "labelling" definition of crime: crime is whatever the agencies of the criminal justice system officially define as crime. While conflict criminology does not view any action as intrinsically criminal, it also does not imply any approval of criminalized actions, as Marx did in his "primitive rebellion" thesis. It argues instead that the presence of law is itself evidence of some degree of conflict, because the behavior of individuals is said to be consistent with their values and interests. If there were complete consensus on a particular act, no one would have ever performed that act, and no law would have been passed against it. The enactment and enforcement of laws is seen as the response of some individuals and groups when their values and interests have been challenged by the actions of other individuals and groups who are less politically powerful. That statement is comparable to Sutherland's sociological definition of crime although Sutherland limited his definition to the conflict of values:

> [C]rime can be seen to involve four elements: (1) a value which is appreciated by a group or a part of a group which is politically powerful; (2) isolation of a normative conflict in another part of this group so that its members do not appreciate the value or appreciate it less highly and consequently tend to endanger it; (3) political declaration that behavior endangering the value is henceforth to be a crime; and (4) pugnacious resort to coercion decently applied by those who appreciate the value to those who disregard the value.[40]

The presence of a law is thus taken to indicate conflict with at least one group or segment of society, whether or not the remaining groups have a high degree of consensus among themselves on the desirability of criminalizing the behavior. In the present example, street criminals are

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[39] Dod, Platt, Schwendinger, Shank & Takagi, *supra* note 33, at 2; Platt, *supra* note 33, at 32.

[40] E. SUTHERLAND & D. CRESSEY, *supra* note 26, at 12.

the group or segment that is in conflict with the rest of society. Their behaviors, which are consistent with their values and interests, are criminalized by more powerful groups or segments in society who are defending their own values and interests. That statement is not meant to convey any approval of the actions of street criminals, or to imply that somehow the distribution of power should be changed to legalize street crime. It is meant only as a theoretical description of an empirical situation.[41]

Street crime exemplifies a situation where the vast majority of groups or segments in the society are united in their desire to criminalize the behaviors of a small and politically powerless group. In this case a broad and general consensus arguably exists as to the desirability of the law. But conflict criminologists would also argue that the existence of such a broad and general consensus does not in itself determine whether those behaviors are criminalized. The criminalization of behaviors results solely from the distribution of political power in society. Street criminals in our society constitute a small and politically powerless segment of the population, but societies are conceivable in which they comprise a small but politically dominant group. The presence of a broad and widespread consensus against their behaviors would not result in the criminalization of that dominant group. Certainly, this precise situation has occurred in many brutal tyrannies.

2) Radical criminologists have been criticized for their reliance on the concept of class as the ultimate explanation of crime.[42] In this age of common stock ownership, there is no longer a direct relationship between class and the ownership of the means of production, nor, in this age of professional management, is there a direct relationship between ownership and control of the means of production. Although some form of loose class system exists in America today, class arguably is no longer the clearly defined phenomenon that it was in the time of Karl Marx. Radical criminologists must go to considerable lengths to relate this confusing picture of class structure, ownership, and control of the means of production to the contemporary crime problem.[43]

In contrast to radical criminology, conflict theory has no necessary relationship to the concept of class or to the ownership and control of the means of production. In societies such as Marx's England, where class was a strong and clearly defined phenomenon, conflict between classes would be considered an important aspect of the explanation of crime. But in diverse, pluralistic societies, such as contemporary

41 *See* A. TURK, *supra* note 2.

42 Klockars, *The Contemporary Crises of Marxist Criminology*, 16 CRIMINOLOGY 477, 480-86 (1979).

43 *See, e.g.*, R. QUINNEY (1977), *supra* note 1.

America, conflict generally must be analyzed in terms of segments or groups other than class. To the extent that class retains some importance in contemporary explanations of crime, the concept would not necessarily be defined in terms of the ownership or control of the means of production.

3) Radical criminologists maintain that law is a tool of the ruling class in its struggle with the working class. While Marx maintained that view in his "primitive rebellion" thesis, he did not necessarily do so elsewhere in his writings. In *Capital*, for example, Marx described the fight for the enactment and enforcement of laws to shorten the length of the working day as part of the struggle between the ruling and the working class.[44] That struggle took place in the Parliament and in the bureaucracy, indicating that elements of those institutions actually represented working class interests. This perspective differs from that of the radical criminologists, who tend to characterize any action of the legislature or bureaucracy as ultimately in the interests of the ruling class. For example, Quinney interprets civil liberties as ultimately benefiting the ruling class rather than the working class.[45] Klockars points out that such reinterpretation is a "heads I win, tails you lose" situation, and that once such an assumption of evil is adopted, "*nothing* I can do will refute the assumption of my evilness . . . [and] *anything* I do [is] evidence for its confirmation."[46]

The position of radical criminologists here is less related to the search for objective truth than to the quest for the overthrow of the capitalist system. The position of conflict theory is consistent with the position of Marx above, as it views the processes of enactment and enforcement of laws as a struggle between different groups or segments of society, each attempting to represent their own values and interests. In the struggle for the shorter working day that Marx described, these groups clearly were those who owned the means of production and those who were employed in the production. Conflict criminologists would not use the term "ruling class" to describe the owners of the means of production, although in nineteenth-century England they had a good deal of political power. They did not, however, have total power, as the term "ruling class" would imply; this was shown by their need to struggle to promote their own interests, as well as by the compromises they were forced to make. Conflict criminology maintains only that in all societies, communist, socialist, democratic, or fascist, the law represents the values

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44 1 K. MARX, CAPITAL ch. 10 (1867). Marx states in section 7 that "The creation of a normal working day is, therefore, the product of a protracted civil war, more or less dissembled, between the capitalist class and the working class."

45 R. QUINNEY (1974), *supra* note 1, at 145.

46 Klockars, *supra* note 42, at 493 (emphasis in original).

and interests of those groups who are able to muster a majority of power. In societies in which power is widely distributed, law appears as an intricate set of compromises between power groups, and might be called consensus. In societies in which power is narrowly distributed, law represents the values and interests of a small group who might legitimately be called a ruling class. Such a ruling class, however, would not necessarily act only to advance their own greed, for both their values and their perception of long-term self-interest might include the concept of "the greatest good for the greatest number."

4) The contention that mainstream criminology assumes a technocratic role in the repression of the working class simply is rejected by mainstream criminologists, who argue that law is value-neutral. Conflict criminologists, on the other hand, would argue that in all societies, "conventional" criminology (criminology which is approved by the established power groups) will tend to function as a tool of those groups in their attempt to control out-of-power groups. This will be true regardless of the composition of the groups, be they upstanding American citizens and street criminals, Communist Party officials and Soviet dissidents, or blacks and whites in South Africa. This is not a very remarkable statement, as it would be quite surprising if any group approved and supported efforts that they thought would result in substantial harm to their own values and interests.

5) The argument over the definition of crime has an extensive history in criminology. For example, Sutherland defined various white collar activities as criminal, despite the fact that those activities violated only civil law and in some cases violated no law at all.[47] Sutherland was responding to a genuine problem in criminology—that those activities seemed clearly to be socially harmful, but they were not criminalized because those who perpetrated them had substantial amounts of political power. Radicals respond to the same phenomenon, and argue that criminologists should study all "socially harmful behaviors that violate basic human rights." In other words, what is defined as crime by the criminologist will differ, to a greater or lesser degree, from what is defined as crime by the legal mechanism. The problem is that "natural" definitions of crime are imprecise and rely on the value-judgment of the criminologist to distinguish between criminal and noncriminal behavior.[48]

Conflict criminology avoids this problem by defining crime strictly in terms of the official criminalizing functions of the law enforcement agencies, so that it has no set relationship to the concept of social harm.

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[47] E. SUTHERLAND, *supra* note 27.

[48] *See, e.g.*, Tappan, *Who is the Criminal?*, 12 AM. SOC. REV. 96, 97 (1947).

Conflict criminology itself takes no position on whether any specific action, whether officially criminalized or not, is socially harmful or is a violation of basic human rights. It considers only whether the action is criminalized by the official agencies of social control, and analyzes the power relationships that underlie that criminalization. It neither asserts nor denies that many criminalized actions are socially harmful, or that many socially harmful actions are not criminalized. It argues only that the distribution of criminalized actions is an inverse function of the distribution of political power.

Conflict criminology is sometimes found unpalatable because of this position. Crime is often seen in a moral or value-laden context, rather than merely as the output of a bureaucratic system. If one agrees with the prevailing moral and political climate, conflict criminology may be offensive because it argues that that climate is solely the result of power distributions rather than a reflection of some intrinsically moral, natural order of things.[49] If one disagrees with the prevailing moral and political climate, conflict criminology exposes the power distributions underlying that climate, and one may tend to shift to the radical theoretical position as a method of seeking and justifying political change. Conflict theory satisfies neither party because it is value-neutral. The conflict theorist can still seek change through the political process, but in so doing he would enter the conflict and compromise process in which individuals and groups promote their own values and interests. The conflict theorist would recognize that he was promoting his own values. These values perhaps had been shaped by his study of the conflict process, but they are his values nevertheless. He would also attempt to be open about the relationship of his promotion of a particular set of values to his own personal interests, even if those interests are subtle, such as advancement of his academic career or desire for public recognition.

6) The notion that the overthrow of the capitalist economic system would result in a solution to the crime problem has been criticized as utopian, since in those societies where capitalism has been overthrown, crime has not been eliminated. In addition, any reduction of crime in these societies appears to be more a function of severely repressive enforcement practices than of the reduction of conflict.[50] Conflict criminology, on the other hand, views conflict as a necessary adjunct to all societies from which no society can be free. Crime appears with the institution of law, and results from the conflict of values and interests between different groups or segments of society that the law resolves in favor of the group or segment better able to muster a preponderance of

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49 *See* S. SCHAFER, THE POLITICAL CRIMINAL 36-37 (1974).

50 Klockars, *supra* note 42, at 499-500.

political power. The groups or segments whose values or interests are opposed by the law will have a tendency to break the law. High crime groups are those whose values and interests are most often opposed by the law, while low crime groups are those groups whose values and interests are most often favored by the law.

While radical criminology includes implications about the ideal, utopian society, conflict criminology includes no such implications. Rather, the nature of the best society would depend on how one views the realtionship between values, interests, and the criminal law. To the extent one believes that a particular set of values and interests should be embodied in the criminal law, the best society would have as high-crime-rate groups those whose behaviors challenge the values and interests. Conversely, low-crime-rate groups would be those whose behaviors do not. Because many criminologists agree with the values and interests embodied in the laws of their societies, they approve of those societies and the distribution of their crime rates.

From a relativistic point of view, however, in the best society, power would be distributed relatively evenly among all groups. In such a society, crime would exist, but it would be relatively evenly distributed among all the groups. That would follow from the legal resolution of conflicts of values and interests, where each group would win some and lose some, as contrasted to the present situation in which high power groups win most, and low power groups lose most. Thus, the tendency to break the law would be relatively evenly distributed throughout society, and the distribution of crime rates would follow. Such a tendency is already evidenced in our own society by the increasing rates of white collar crime. These increases reflect the increased power of consumer and "grass roots" groups, resulting in the enactment and enforcement of stricter laws against behaviors characteristic of groups that traditionally have had greater power. They do not reflect changes in the behavior of white collar groups. If there were further redistribution of power, one could also expect lower crime rates for traditionally high-crime groups as they achieve the ability to pursue their values and interests through legal rather than illegal means. The redistribution of crime rates, then, would be both a function of increased crime rates for traditionally low-crime-rate groups, and decreased crime rates for traditionally high-crime-rate groups.

7) The danger of "cooptation" that radical criminologists fear stems from the view that their primary purpose is political and action-oriented, rather than empirical and scientific. If their primary purpose were the search for empirically testable theories explaining social phenomena, then they would not fear the assimilation of their findings into other branches of the field. Mainstream criminologists, as well as con-

flict theorists, see the fear of cooptation as antithetical to the concept of science. They recognize the validity of some of the radicals' statements, but argue that there is no necessary relationship between valid statements and political actions.

The primary purpose of conflict criminology is objective, nonpartisan analysis of the law enactment and enforcement process.[51] Radical criminology, however, maintains that no criminology, including conflict theory, can be both objective and nonpartisan. All such criminology is said to ultimately serve the interests of the ruling class. The only objective criminology is said to be radical criminology, which explicitly sides with the working class against the interests of the ruling class. No middle ground exists between these two positions. As Quinney says: "To think critically and radically today is to be revolutionary. To do otherwise is to side with the oppression of the capitalist state."[52]

Radical criminologists seem confused over whether all science is inherently value-laden, or whether conventional criminology has simply been used by the establishment for political purposes. Some radicals imply that all science is inherently value-laden, and then use this statement to justify taking explicitly value-laden positions in their work.[53] In addition, some radicals deny that their work is positivistic.[54] Marx, however, regarded himself as a positivistic scientist who was describing the objective processes of history, aside from any question of political values. He also believed that man could promote those processes through conscious action, but he generally separated his role as a "coffee house conspirator" from his role as a social theorist.[55] Certainly, *Capital* is more than a polemical or value-laden tract—it is quite objective, regardless of whether one considers it right or wrong. Radical criminologists carry over this idea of "objective" science in their focus on the "objective" conditions of society and the "objective" interests of the various classes. But if they are doing "objective" social theorizing, then there would seem to be no reason to fear that these ideas will be subverted into a context that promotes the maintenance of capitalism.[56] The radicals' problem is that they do not maintain the separation between their roles as revolutionaries and their roles as social theorists.

The conflict theory position on this point is that all science can be

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51 Turk, *supra* note 5, at 460-64.

52 R. QUINNEY (1974), *supra* note 1, at 16.

53 *See, e.g.*, Editorial, *supra* note 4, at 3, which argues that the criticism that radical criminology is not value-free and nonpartisan "is hardly taken seriously today by sophisticated philosophers of science."

54 *See* R. QUINNEY & J. WILDEMAN, *supra* note 1, at 10.

55 Akers, *Theory and Ideology in Marxist Criminology*, 16 CRIMINOLOGY 527, 540 (1979).

56 *See, e.g.*, Young, *Workingclass Criminology*, in I. TAYLOR, P. WALTON & J. YOUNG, *supra* note 1.

used by power groups to promote their own values and interests, and that, by and large, mainstream criminology has been so used by the establishment in America. This can be done by determining the choice of research problems that will be addressed (through control of funds earmarked for research in criminology) and by controlling the interpretation of the results through information dispersal.[57] However, this is true in all societies, including communist and socialist ones. Conflict theory also holds that empirically established patterns or relationships that emerge as a result of scientific investigation are not in themselves "value-laden." These are "objective" or "true" within the meaning of these terms in contemporary philosophy of science.[58] Conflict theory, like mainstream criminology, holds that the purpose of science is the establishment of empirically verifiable or falsifiable facts and the explanation of those facts through theory. But like radical criminology, it is aware that such facts and theory are often used by power groups in the struggle for the control of the law enactment and enforcement processes.

The distinction between conflict and radical criminology as described in the present paper parallels a distinction long recognized in sociology between two branches of the conflict tradition. In 1960, Martindale described that as the distinction between "conflict ideologies," which included Marxian socialism, and "sociological conflict theories," which included the works of Bagehot, Glumplowicz, Ratzenhofer, Sumner, Small, Oppenheimer, and George Vold, whom Martindale called "perhaps the foremost conflict theorist in present-day North America."[59] Martindale argued that conflict ideologies were "sets of ideas vindicating particular social positions and spurring particular action programs" while sociological conflict theory, "though some of its propositions coincide with those appearing in the ideologies, is scientific, resting its hypotheses on the scientific standards of the discipline."[60] More recently, Wallace and Wolf have described a similar distinction in the sociological conflict tradition:

> The first group of theorists believes the social scientist to have a moral obligation to engage in a critique of society. It refuses to separate fact from value. Theorists in this group also generally believe that in principle a society could exist in which there were no longer grounds for social conflict. Therefore these theorists are frequently considered Utopian writers. The second group, by contrast, considers conflict to be an inevitable and permanent aspect of social life; and it also rejects the idea that social sci-

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57 R. QUINNEY (1974), *supra* note 1, at 17-50 documents this point.

58 P. BERGER & T. LUCKMANN, THE SOCIAL CONSTRUCTION OF REALITY (1966); T. KUHN, THE STRUCTURE OF SCIENTIFIC REVOLUTIONS (2d ed. 1970); K. POPPER, THE LOGIC OF SCIENTIFIC DISCOVERY (1959).

59 D. MARTINDALE, THE NATURE AND TYPES OF SOCIOLOGICAL THEORY 200 (1960).

60 *Id.* at 176.

> ence's conclusions are necessarily value-laden. Instead, its proponents are interested in establishing a social science with the same canon of objectivity as informs the natural sciences.[61]

Modern Marxists, the Frankfort School theorists, and C. Wright Mills are said to be in the first group of theorists, while Ralf Dahrendorf, Lewis Coser, and Randall Collins are said to be in the second group. These two branches of the sociological conflict tradition form the bases of conflict and radical theorizing in criminology. The failure to adequately distinguish between these two types of criminological theory has meant that a significant area of scientific sociological theorizing has been largely ignored when it might be fruitfully applied to the problem of crime.

[61] R. WALLACE & A. WOLF, CONTEMPORARY SOCIOLOGICAL THEORY 77 (1980).