

REALIST CRIMINOLOGY

A FRAMEWORK OF ANALYSIS

Roger Matthews

Abstract

Realist criminology has undergone a number of mutations over the last twenty years. During this period it has developed from 'left realism' which was initially a political response to the conservative-liberal consensus in criminology to critical realism which involves a greater focus on epistemological and methodological issues and in particular aims to link theory, methodology and policy. Given this development and the various contributions to realist criminology it has now become necessary to provide a framework of analysis that can serve as a guide to those aiming to engage in a critical realist analysis. Such a framework stresses the primacy of theory and the centrality of a consideration of class, power, human rights and the state. It also involves an attempt to link structure and agency in a way that moves towards an explanation, which can provide the basis for policy and intervention. In this way, the aim is create a new and coherent paradigm in criminology that is able to overcome the limitations of positivism and idealism.

Keywords: Critical realism / criminological theory / human rights.

Resumen

Realismo de izquierdas: un marco de análisis para la criminología

El realismo de izquierdas ha atravesado múltiples cambios a lo largo de los últimos veinte años. Durante este período ha transitado desde el "realismo de izquierdas", que era inicialmente una respuesta política al consenso liberal-conservador en criminología, a un realismo crítico que pone el foco en asuntos metodológicos y epistemológicos, y tiene un particular interés en vincular la teoría, la metodología y las políticas públicas. Dado este desarrollo y las diversas contribuciones recibidas, se vuelve necesario que la criminología realista adopte un marco de análisis que pueda servir como guía para aquellos que buscan involucrarse en el análisis del realismo crítico. Ese marco enfatiza la primacía de la teoría y la centralidad de las consideraciones de clase, poder, derechos humanos y Estado. También involucra un intento por vincular la estructura y la agencia, de modo tal que se mueva hacia una explicación que pueda proveer una base para las políticas y la intervención. De este modo, el objetivo es crear un paradigma nuevo y coherente en criminología, que sea capaz de superar las limitaciones del positivismo y el idealismo.

Palabras clave: Realismo crítico / teoría criminológica / derechos humanos.

Roger Matthews: Professor. Faculty of Sociology, Social Policy and Social Research, University of Kent. Cornwallis NE, Canterbury, Kent, England CB2 7NF.

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Introduction

The aim of this chapter is to provide an analytic framework that can be used to develop realist criminology. This is not a rigid or fixed guide but rather a set of reference points designed to provide the basis for developing a coherent and useful criminology. That is, it is an attempt to avoid some of the pitfalls that have beset positivist criminology, on one hand, and idealist forms of criminology, on the other (Matthews, 2009; 2010). It also represents an attempt to incorporate the theoretical and methodological insights that are associated with the growing body of critical realist literature (Bhaskar, 1978; Sayer, 2000; Archer *et al.*, 1998).

Some twenty years ago 'left realists' argued for the need to take crime seriously and suggested that much conventional criminology has failed to identify the causes and impact of crime, particularly amongst the most vulnerable sectors of the population. Left realists also stressed the need to link theory to practice and incorporate an analysis of both micro and macro processes as well as focusing on the lived realities of those groups that we wish to study (Young, 1992). Left realism was essentially a political project aimed at providing a left social democratic response to the dominant liberal-conservative consensus within criminology. It provided much needed and important critical alternative to mainstream criminology and developed a range of useful concepts, and most importantly it addressed the question of 'what is to be done?' about 'law and order' (Lea and Young, 1993). The recent contribution by critical realists, however, offers the opportunity to develop left realist analysis further and to place it upon a firmer epistemological and methodological foundation. In this way critical realism provides a basis for developing a more integrated and coherent approach that can more effectively link theory, methodology and policy.

The Primacy of Theory

In responding to what is seen as the deepening crisis in criminology, realism aims to develop an approach that is theory driven while being evidence based. It is practically and politically engaged and takes the concerns of the general public seriously, seeing them neither as dupes nor as irrational. Most importantly, it aims to develop an approach that is critical and stands in opposition to those forms of naïve realism that see 'crime' as unproblematic.

Indeed, one of the most remarkable aspects of the criminological literature is how the notion of 'crime' is dealt with. On one side there are a large

number of criminologists that adopt a predominantly common sense taken-for-granted approach and present crime as an unproblematic given, or simply equate crime with a particular act. On the other hand, there are those who overly problematise crime and argue that is a concept that has no 'ontological reality' and tend to gravitate either towards relativism or rampant idealism claiming that the concept of crime is simply a matter of subjective interpretation, or political manipulation (Hulsman, 1986; Muncie, 1996). In many respects the inability to theorize 'crime' in a meaningful way is indicative of a lack of understanding about the role of social categories and the processes associated with their development and interpretation. Understanding the significance of social categories and the processes of classification is fundamental to all forms of social scientific investigation. As Andrew Sayer has pointed out a key part of social scientific investigation involves the process of abstraction:

Social systems are always complex and messy. Unlike some natural sciences, we cannot isolate out these components and examine them under controlled conditions. We therefore have to rely on abstraction and careful conceptualization, in attempting to abstract the various components or influences in our heads, and only when we have done this and considered how they combine and interact can we expect to return to the concrete, many-sided object and make sense of it. Much rests on the nature of our abstractions, that is, our conceptions of particular one-sided components of the concrete object; if they divide what is in practice indivisible, or if they conflate what are different and separable components, then problems are likely to result. So much depends on the modes of abstraction we use, the way of carving up and defining our objects of study. *Unfortunately the bulk of the methodological literature on social science completely ignores this fundamental issue, as if it were simply a matter of intuition.* (Sayer, 2000, p. 19, emphasis added)

Thus, while critical realism sees the appropriation of social reality as problematic and emphasises the significance of concepts and categories to provide the conceptual grids through what we construct and appropriate reality, naïve realists treat both social reality in general and crime in particular as pre-given and directly accessible. Whereas critical realism sees crime as a complex social construction, naïve realism in its various forms, including administrative criminology, purely descriptive criminologies and 'crime science', tend to take the category of crime for granted and believe that the main aim of criminological investigation is simply to report, count, describe, or map 'crime' and 'victimisation'. Although they may express some concerns about the accuracy and reliability of the available data and acknowledge the gaps between recorded, reported and unreported crime there is little reflexivity or detailed investigation into the meaning of the general category of 'crime' or indeed sub-categories such as violence, robbery or theft.

Terms like 'violence' and 'robbery' are generic categories that cover a wide variety of actions that involve different offender-victim relations in different contexts. Thus an initial task of investigation is to disaggregate these terms. Thus in relation to robbery for example there is a need to distinguish between commercial and street robbery, while the notion of street robbery itself needs to be broken down into its constituent parts - mugging, theft from the person and snatch thefts (Matthews, 2001; Young, 1988). This process is critical to understanding the causal processes involved which in turn will have more or less direct implications for analysis and the formulation of policy. Paradoxically we find criminologists conflate commercial robbery and street robbery, with the result that in cases where the rate of one is decreasing and the other is increasing researchers mistakenly conclude that the level of robbery is stable (Felson and Poulsen, 2003; Wright and Decker, 1997). In cases where loose and sloppy abstractions are used they are unable to bear the explanatory weight that is placed upon them. They remain what Marx called 'chaotic conceptions'. No amount of methodological manipulation can compensate for such conceptual deficiencies. To paraphrase Margaret Archer (1995) the road to criminological hell is paved with poor conceptualisations.

We see similar conceptual issues arising in relation to the study of 'race' by criminologists. In America, one of the most ethnically diverse countries in the world the bulk of criminological investigation divides the population into 'blacks' and 'whites' with little mention of 'Hispanics' (see for example Tonry, 1995; Wacquant, 2009). This form of 'monochromatic' criminology is often reduced to a 'black' and 'white' opposition, which reinforces rather than elucidates racial divisions and ideologies. In the UK, which is a multi-racial country, most criminological studies tend to break the population down into 'black', 'white' and 'Asian'. These categories, besides being too vague and too broad to conduct any meaningful analysis of race and crime control, are not even consistent since, 'black' and 'white' refer to skin colour while 'Asian' refers to a geographical location.

As a substitute for theorising the process of crime control criminologists have a strong disposition towards employing either/or dichotomies, resulting in what has been referred to as 'schizoid criminology' (Zedner, 2002). Thus we are presented with 'criminologies of the self' and 'criminologies of the other' (Garland, 2001), the transition from 'old' to 'new penology' (Feeley and Simon, 1992) as well as general claims that we are moving from 'inclusive' (welfare) to 'exclusive' (penal) forms of regulation (Wacquant, 2009). Unfortunately, the empirical reality to which these dualisms refer are often more complex and nuanced than these suggested oppositions allow. Indeed, while these stark oppositions may appear at first sight as a potentially useful way of making distinctions, all too often they serve to detract from the pursuit of a detailed examination of the processes involved and reduce complex social

reality to simple dichotomies. Thus, instead of increasing the value of the explanation they mostly act as a constraint, limiting the scope and depth of the analytic field and in some cases actively distorting the scope of inquiry. Moreover, one of the key features of 'liquid modernity' is that the firm divisions that characterised the Fordist era are increasingly giving way to more fluid social and cultural forms, including forms of transgression, that are making the language of strict binaries less and less appropriate (Young, 2003).

Thus critical realists give priority to conceptualisation and the process of abstraction since how we conceive our objects of study tends to set the fate for subsequent research. In selecting a theory we need to consider the extent to which it is able to explain things and sheds new light on particular problems. Thus, in the final analysis theory is to be judged on the basis of its explanatory power. Social theory has to be useful and useable (Archer, 1995).

Thus while theory development and good conceptualisation is important for realist criminology there is little interest in theoreticism. All too often 'theorists' become increasingly distant from the problematics and issues that they attempt to theorize and as they studiously 'refine' their concepts there is a danger that they become lost in their own conceptual schemas.

The Significance of Social Class

The whole of the criminal justice system, its personnel, its institutions, and its practices are deeply embedded in and reflect prevailing class relations. Most significantly imprisonment, the central mode of punishment in most western societies is a punishment reserved almost exclusively for the lower classes. The uniformed police, on the other hand, are drawn mainly from the respectable working class while lawyers and judges are overwhelmingly selected from the ranks of the middle and upper classes. These class divisions have an international significance and have remained the basis of the criminal justice system, with a few minor exceptions in different countries, for the last two centuries.

Strangely, however, there has been a tendency in recent years for criminologists to ignore or play down the significance of class and instead to focus on other 'variables' such as race, gender. However, while the subjective experience of class is always mediated by gender and ethnicity social class remains the best predictor of those sentenced to imprisonment, as well as the composition of the main criminal justice agencies and institutions. The proportion of women and ethnic minorities in prison, for example, who are middle or upper class, is no more or less, than these drawn from 'white' middle class groups in western societies. Thus, the whole of the criminal justice system is highly structured along class lines, while one's class location will condition one's experience of crime and victimisation. In cases in which criminologists do acknowledge the significance of social class they tend to do so in terms

of income differentiation or education status, or alternatively prefer to talk about the 'poor' or the so called 'underclass'.

There have been a number of attempts to demonstrate the 'myth of social class.' These studies aim to show that middle and upper class groups are equally involved in various forms of deviant or anti-social behaviour. This type of research, however, misses the point. It is not that the middle and upper classes engage in anti-social behaviour but that their actions have a different social significance than that of the lower classes and involve a different victim-offender relation, while the impact of these transgressions will have a different significance in different communities (Braithwaite, 1981; Dunaway et al., 2000). The problem of crime is not reducible to *acts* but is a process of action and reaction involving specific social groups and the interaction between them, their relative social and geographical proximity, and the type of threat that they generate. Thus the same actions engaged in by different social groups and classes can be interpreted very differently by others. Concepts of 'dangerousness', 'degeneracy' and above all 'criminality', for example, and widely reserved to describe certain activities of the lower classes (Pratt, 1998). These discourses and associated images and perceptions are deeply embedded in the social psyche.

Jeffrey Reiman, in his classic publication *The Rich Get Rich and The Poor Get Prison* (2004) argues that the criminal justice system conspicuously fails to eliminate crime and instead creates an identifiable group of 'criminals' whose incarceration serves both an ideological as well as a repressive function. The ideological function, he maintains is to reassure 'respectable' society that they are being protected while reinforcing the notion that anti-social behaviour is mainly an activity engaged in by the poor, thereby diverting attention away from the activities of the rich and the powerful. At every stage of the process Reiman argues that the criminal justice system targets the poor while weeding out the rich. From framing laws, to the use of police discretion, to the quality of legal representation and the decision-making of the judiciary, the activities of the poor and powerless are more systematically and intensely regulated. The repressive function of the prison, he maintains is achieved through the segregation of a selected group of offenders, which serves as a constant reminder to the working class of the potential consequences of non-conformity.

As Michel Foucault (1977; 2009) has explained 'crime' has historically been constructed as a conflict between the lower or 'criminal classes', as they were once called, and the respectable working class. The respectable working class, particularly its most vulnerable sections, sought protection from the economically marginalised group and it is no accident that the respectable working class have a vested interest in supporting the laws on property and theft (Thompson, 1975; Ignatieff, 1981), or that the modern uniformed police are primarily located in working districts in order to perform the dual roles

of protection and of surveillance (Silver, 1967). At the same time the threat of prosecution and imprisonment has served as a reminder to the working class, particularly in periods of economic crisis, that the real cost of crime is the possibility of the exclusion from the legitimate labour force and the likelihood of propelling both themselves and their family into long-term destitution (Rusche and Kirchheimer, 2003).

Left realists have also drawn attention to the class dynamics of crime and punishment, suggesting that crime is mainly *intra*-class rather than *inter*-class. Crime, it has been argued is socially and geographically concentrated and tends to compound other social problems. It is also socially and politically divisive and falls most heavily on the vulnerable and accessible (Lea and Young, 1993).

At the other end of the spectrum the question arises regarding a realist response to white collar and corporate crime. It is often argued that white collar and corporate crime cause greater social harm than street crime and therefore, should be treated more harshly and be given more attention. However, it has become increasingly evident since Edwin Sutherland (1949) first asked the question of whether white collar crime is in fact 'crime' that the criminal justice system has not historically been set up to deal with these transgressions and that there are major obstacles that arise in terms of mobilizing the criminal law to deal with them. A large percentage of white collar offences are organisational crimes, perpetrated by persons acting on behalf of their organisation. There are therefore issues regarding individual and collective responsibility, while corporations some argue cannot be punished because they lack *mens rea*. The question also arises of whether corporations should be punished for the wrongdoing of particular employees.

It is not that there is a lack of public interest in prosecuting 'suite' crime or that the working class does not suffer disproportionately from these offences. The problem is that the criminal law was established as an individualised system of justice (Norrie, 1993). Problems of mobilising evidence, attracting witness and the ability of white collar and corporate offenders to organise well paid and effective legal representation can create prohibitive costs in pursuing prosecutions. Thus, the response in most cases is selective enforcement, combined with attempts to place pressure on offenders to either compensate victims or change future practices.

As John Braithwaite (1982, 1989) has argued the public is more likely to get effective protection from 'extra-legal muscle-flexing' and shaming by regulators who are able to persuade companies to change their ways. This is not to suggest that the punishment of the powerful could not be extended and it is the case that white collar criminals are probably more easy to deter than 'common criminals' because their crimes are more calculating and because they have more to lose through criminal sanctioning. At the same time

the power of white collar criminals in controlling production processes will often make it seem in the public interest to administer less than the deserved punishment. (Levi, 2002).

While it is the case that class consciousness and collective action on the basis of strong subjective class identities has declined in recent years, class remains a leading moral signifier in everyday life (Sayer, 2000; 2005). Class position continues to shape people's sense of identity, their interests, life opportunities as well as their views on justice (Haylett, 2001). Class remains a relation of domination and subordination, although as Bourdieu (1977; 1987) points out the location of different classes in social space is determined not only by their access to economic capital, but also by their appropriation of cultural and social capital.

The Limits of Social Constructionism

The critical and radical criminologists of the 1970's were deeply influenced by Berger and Luckmann's seminal text *The Social Construction of Reality* (1967). In this book Berger and Luckmann set out to challenge the views of positivists, empiricists and naive realists who believe that the world presents itself to us in a pre-given, unproblematic form and underlines the interpretative and interactive nature of social life, as well as the importance of socially constructed categories which provide the conceptual grids through which we appropriate and make sense of reality. These concepts, they remind us are historically and culturally specific. For example, the concepts of 'childhood' and 'youth' have different meanings in different parts of the world and have changed considerably over time (Burr, 2003).

However, we enter a social world that is already constructed and is mediated by a shared language, and this world assumes an objectivity, which becomes the reality to which we have to respond. In opposition to naïve realism social constructionists point to the importance of the role of social actors in defining their experience (Houston, 2001).

Berger and Luckmann's work has had a profound influence in criminology, as in social science in general, and critical criminologists have widely adopted the mantra that 'crime is a socially constructed phenomena.' Consequently, many constructionists have suggested that 'crime' is an arbitrary construct with no ontological reality and that we should talk instead about 'problematic situations' (Hulsman, 1986). However, there is an important distinction between 'crimes' and 'problematic situations'. For an act to become a crime several conditions must apply. First, it has to be blameworthy and potentially interpreted as illegal. This presupposes the existence of the criminal law. Second, it needs legitimate and recognised actors (usually victims) to define the act as a possible crime and report it to the authorities. Third, there

needs to be a normative structure in place to support the definition of the type of act committed by relevant actors as being blameworthy and potentially a crime. Fourth, there needs to be some recognition within the criminal justice system that the claims of the victim, and the perceived blameworthiness of the offender are appropriate. In cases in which stages three and four are missing 'problematic situations' will not become 'crimes', although some form of transgression or victimisation has taken place (Pires and Acosta, 1994). However, just as we make judgements about 'problematic situations' so too we can make ethical assessments about different forms of 'crime'.

Thus, up to a point we can go along with social constructionism and recognise the need to understand and problematise key concepts like 'crime'. However, in the more extreme versions constructionists seem to suggest that social control is exercised to degree that is independent of the individual act or the harm caused. In short, it is suggested that the majority of those targeted do not deserve it and that social control is largely random, unnecessary and in some cases counterproductive (Goode, 1994). Thus at a certain point there is a tendency to descend into relativism and to suggest that social categories like 'crime' are arbitrary or fictional and are discursively revisable and that social processes and institutions can be dissolved by collective wishful thinking. This approach has potentially serious personal and political consequences:

For we simply cannot construct the world any old way we choose and if we persistently attempt to do so we are ultimately more likely to come to the attention of psychiatric services than to gain academic approval. However, realising that our world is socially constructed need not force us to adopt a promiscuous and unbridled relativism. Social constructions are all around us and include such diverse features as racism, marriages and marriage guidance, government policies, governments themselves, child abuse, crime, disease, psychology including social constructionist psychology, buildings, people and cities (to name but a few). *None of these things are any the less real for being socially constructed*, although the dominance of the processes of construction, as compared to other influences, may vary from one to the other. (Cromby and Nightingale, 1999, p. 9)

The failure to adequately conceptualise the nature of crime and to identify an appropriate definition has led some social constructionists to conclude that there is little point in engaging with practical or political matters, such as law reform or crime reduction. From a critical realist perspective therefore there are some serious limitations to the social constructionist approach, mainly in the form of an a-structuralism and an inability to offer an explanation of how structural forces constrain human development and ultimately how these structures might be transformed. Thus realists can accept a weak form of social constructionism which emphasises the socially constructed nature

of knowledge and institutions, but rejects the strong form that suggests that we cannot successfully identify real objects which exist independently of the researcher. For critical realists the social world is relatively inaccessible precisely because it is not reducible to our construction of it. Concepts like 'class' and 'crime' have a materiality and objectivity and are not readily revisable by changing definitions and subjective conceptions.

The Structure and Agency Debate

The relation between structure and agency remains a central, but as yet largely unresolved issue in social science. It is, however, an issue to which critical realists have paid significant attention (Archer, 1995; Sayer, 2000). The sociological debate over structure and agency has been dominated by individualists and relativists, on one hand, who have argued for the primacy or determinism of individual actions, while the collectivists have focused on the way social structures and constraints 'shape' individual actions, on the other. An alternative position is a form of dualism, which either collapses one into the other or alternatively presents them as 'both sides of the same coin'. The later position is presented by Anthony Giddens (1979) in his widely referenced account of 'structuration theory' which attempts to address the vexed question of the relation between structure and agency. For Giddens structure and agency are seen as inseparable and as being mutually constituted. In doing so, Giddens aims to present the agent as someone knowledgeable, enjoying some autonomy from the social and structural constraints that confront them. That is, he wants to avoid social reductionism. Thus the concept of 'role' is rejected in favour of the notion of 'positioning', which is produced through 'social practices' and consequently contains the potential for transformation at any moment. At the same time 'institutions' are held to be nothing more than regularised practices, involving fluid processes of becoming and are thus never something concrete. Thus, according to Giddens the 'integration of the social system is something that is constantly reproduced through the actions of agents' (Giddens, 1979, p. 79): that is, through their social practices. In this account no state of the system can vary independently from that of agency and agency and structure must always co-vary, because they are inseparable.

In contrast Giddens 'integrationalist' account critical realists have argued that structure and agency should not be conflated and that structure can be pre-existent and casually influential. The idealist claim that structures only exist in the heads of social actors is firmly rejected by realists. We see, for example, in the case of law and the panoply of institutions that it generates and operates through that this occurs prior to the enactment of a criminal act and that without the legal prohibition and associated institutions being in place an act could not become a 'crime' as such. Thus rules, norms and laws not only regulate and respond but also are constitutive. Thus in football, for

example, if there were no rules there would be no 'football' - only people kicking a ball around (Pires and Acosta, 1994). Thus it is correct to claim that the law 'creates' crime but is not constitutive of the blameworthy act itself.

For the realist the task is to at once separate out structure and agency while simultaneously showing their connections and their interplay. The essence of the realist approach is an examination of the temporal relationship between structure and agency emphasising that structures necessarily pre-date the actions which lead to its reproduction and transformation and that these structures also post-date the action sequences that have given rise to it. Structures, it is argued, have 'emergent' and 'causal' properties, which implies a stratified world, which have properties that are not reducible to those of individuals (Sayer, 2000).

The important point that realists make is that both structure and agency are analytically separable, but because of the time element involved they are also factually distinguishable. Thus according to Margaret Archer (1995) to explain what happens in society it is necessary to differentiate the properties of structure from that of people.

In brief, it is necessary to separate structure and agency (a) to identify the emergent structure(s), (b) to differentiate between their causal powers and the intervening influence of people due to their quite different causal powers as human beings, and, (c) to explain any outcome at all, which in an open system always entails an interplay between the two. In short, separability is indispensable to realism. (Archer, 1995, p. 70)

Roy Bhaskar (1979) questions the interplay between social structures and human agents and calls for the employment of mediating concepts to explain how structures actually impinge upon agency, and how agents in react back to reproduce or transform structure. At the same time, it is noted that social structuring as a process is not always predictable. This is not to suggest that all things social are a matter of contingency. Society is ordered and the task is to understand how it is ordered and how structures change shape (Porpora, 1998). Moreover, it is recognised that people are capable of resisting or circumventing structural tendencies and that all structural influences are mediated by people shaping the situations in which they find themselves.

Some of the aspects of the structure-agency debate have recently surfaced in criminology in relation to the issue of desistance. In their pioneering work on desistance Robert Sampson and John Laub (1993) claim to address the structure-agency debate but in effect presented an account, which focused mainly on structured changes, particularly the role of employment and marriage, and the ways in which people adapt to these roles and constraints. Offenders engage in desistance, they suggest, because they find that once involved in these structures that they find criminality less alluring, usu-

ally without even realising it. But as Barry Vaughan (2007) has argued, drawing on critical realist literature, Sampson and Laub do not explain the moral and emotional elements of this process or how agents originally submitted to these 'turning points'. Neither do they explain why these individuals sustain these commitments, or why they believe that these commitments are incompatible with their ongoing criminality.

There is a considerable amount of research which indicates that structural changes such as getting married or taking up employment has little impact on offending behaviour (Farrall and Bowling, 1999). There is, therefore, a need as Archer (1995) has argued to examine the internal process and narratives of change and the willingness of agents to consider different options. It is also important consider the significance of wider social networks of people who provide emotional and material support other than the desister.

Shadd Maruna (2000) in his account of desistance, although not dismissing the role of social bonds and attachments, presents a 'phenomenological' approach, which focuses instead on individual decision making and the subjective experience of 'making good'. While providing some useful insights into the process of 'going straight' Maruna's account by focusing almost exclusively on agency fails to squarely address the relation between structure and agency and consequently fails to identify how personal decision making is routinely structured and constrained. Maruna and his colleagues are, however, aware of the difficulties of addressing the structure-agency issue, as are Laub and Sampson (LeBel *et al.*, 2008; Laub and Sampson, 2001). While Laub and Sampson claim that there is currently 'no way to disentangle the role of subjective vs. objective change as the cause of desistance' Maruna and his colleagues ask the question 'which came first' and conclude that subjective changes may precede life-changing structural events and that individuals 'can act as agents of their own change'. They do however, call for more research to try to disentangle the sequencing of subjective and situational factors.

Thus it is evident that amongst some of the leading commentators on the issue of desistance that the relationship between agency and structure remains unresolved, with different parties emphasising either subjective or structural factors, while largely ignoring the role of the other, while other researchers advocate an integrationalist approach based on the work of Giddens that collapses both sides of the process (Farrall and Bowling, 1999). It is suggested that a realist approach which calls for a deeper understanding of the interplay between agency and structure, an appreciation of the mediations in play, how structural constraints are resisted and circumvented, and to identify the causal powers of structures, needs developing in order to overcome the one-sided approaches that are prevalent in much of the criminological literature.

Working In and Against the State

One of the main distinguishing features between realist criminology and much mainstream criminology is its relation to the state. Thus while liberals tend to be either anti-statist or at least minimal statist the more conservative strands in criminology accept state actions uncritically and assume that the state works in the common interest. Thus liberals are mainly opposed to different forms of state intervention and feel that one of the main tasks of criminology is to point to the apparent failures and limitations of state policies and practices, conservatives remain largely silent on the legitimacy and impact of state actions (Held, 1989). Consequently, the principle criminal justice agencies and institutions such as the police and prisons are either seen as perennial failures or are accepted as a necessary, if expensive, element of social control. Where change is suggested, liberals tend to argue for a curtailment of police powers and a reduction in the scale of imprisonment, while conservatives argue for the extension of police powers and the development of more cost-effective forms of punishment.

A critical distinction between liberal and realist approaches to crime control is that while both are critical of the operation of certain agencies and policies, realists are also interested in engaging with state agencies and contributing to policy and practice, in order to reduce forms of victimisation. This may involve extending the range of state agencies or intensifying state intervention. Feminist criminologists have shown the way in working with and against the state to change policies on rape, domestic violence and sex trafficking (Horvath and Brown, 2009). Feminists have been instrumental in challenging rape myths, notions of 'consent', police practices and the attrition rate in rape cases. At the same time they have been involved in legislative reform, including outlawing rape in marriage, as well as instigating educational and support initiatives. In relation to domestic violence research conducted in the 1990s by feminists and realists disaggregated the forms of domestic violence while outlining its scale and impact (DeKeseredy, 2000; Mooney, 2000). Feminist researchers and activists have been heavily involved in framing new legislation on both sides of the Atlantic and have also been effective in transforming domestic violence from a 'private' or 'domestic' issue into a public issue, which needs to be taken seriously. Feminists have also engaged in debates regarding the appropriate punishments for perpetrators and in the development of better protective strategies for victims, including the provision of hostels and safe houses (Buzawa and Buzawa, 2003). While there is clearly still much to be done in relation to both of these issues, particularly in terms of the implementation of existing legislation, the significance of the normative and legal changes that have taken place over the past thirty years or so should not be underestimated.

We have seen similar progressive developments in relation to the regulation of sex trafficking. While there are liberal and libertarian scholars who claim that sex trafficking is a myth or an example of a moral panic, and argue that the women concerned are in fact migrant labourers who freely choose to travel abroad in search for work and a better quality of life (Agustin, 2005; Weitzer, 2007), there is convincing research that shows that a considerable number of women and children become involved in the sex trade each year through either coercion or deception. (Raymond and Hughes, 2001; Kelly, 2005; Easton and Matthews, 2011). There are, of course, considerable difficulties in gathering accurate data on sex trafficking but the available research which is often based on personal testimonies and prosecutions has begun to identify different types of traffickers and the strategies and routes that they use. Within the European Union there has been considerable activity directed towards the identification and prosecution of perpetrators, while at the same time feminists have argued for more humane ways to treat victims (Goodey, 2003). Feminist organisations like the Coalition Against Trafficking in Women conduct research and work with official bodies in order to prevent trafficking, protect victims and to improve communication and collaboration between different state and non-governmental organisations.

For realists the challenge is to move beyond merely criticising aspects of state policies in contemporary society and to engage constructively in the development of progressive and positive policies. In short, there is a need to engage both analytically and politically with state policies and practices and to work both *in* and *against* the state. This may involve a whole range of activities ranging from the framing and processing of legislation, participating in official committees, working with specific state agencies in order to develop new policies and practices as well as criticising and changing existing policy approaches.

There is, however, a growing consensus amongst criminologists that the nature and direction of the state is changing, although there is little agreement about the exact nature of this change. There are two opinions currently circulating in criminology concerning these changes. On one hand, there are radical liberals like Loic Wacquant (2009) and Jonathan Simon (2007) who claim that the state is becoming increasingly punitive, while others argue that more subtle and less punitive forms of state regulation are emerging that aim to 'shape' and 'responsibilise' subjects through a number of diverse strategies (Rose, 1999; Deleuze, 1995; Pykett, 2012). On the other hand, there is a related debate in which one camp claims that the powers of the national state is being reduced as a result of globalisation, while others claim that state powers are being extended through the development of new forms of 'networked governance' which involves de-

centralised management, contracting out services and devolved budgets. (Crawford, 2006; Garland, 1996). Realists, like other criminologists need to make sense of these changes since they clearly have implications for the regulation of crime control and will affect policy formation and interventionist strategies. While there is a danger of exaggerating the extent of these changes and taking attention away from the continued anchoring role of the state, the reality would seem to be as Adam Crawford (2006) has suggested that some areas of state intervention are being withdrawn, in other areas it is redrawn, while in other areas it is being extended.

Power

Any critical criminology must operate with a conception and an appreciation of power. Every facet of 'law ad order' is infused with power differentials ranging from those who engage in violence, to parents abusing children, to the judges who pass sentence on offenders. In the vast majority of confrontations between offender and victims, whether it is normal crime, corporate crime or state crime there is invariably a power differential in play. Thus power operates at every level ranging from the interpersonal to the structural. (See Box, 1983).

The problem of analysing power is that it manifests itself in multiple forms ranging from the brutal and repressive to the more subtle, manipulative and ideological. Power appears to be everywhere and nowhere. At one moment tangible and overt at another subtle and invisible. Thus social theorists have found it necessary to distinguish between potential and actual power.

In his review of power Steven Lukes (2005) dismisses behaviouristic conceptions that attempt to identify power in relation to the immediate individual decision-making as well as pluralistic conceptions of power, which claim that competing interests tend to balance each other out. Instead, Lukes offers a radical account of power that involves some consideration of the ability of certain parties to exercise control over the political agenda and are identifiable by the range of issues that they can control, or the different contexts in which they can achieve this outcome. Lukes suggest that the notions power commonly employed by social scientists are unsatisfactory in a number of respects.

First, there is what Lukes refers to as the 'exercise fallacy', which is limited to an examination over the actual exercise of power. Second, he is critical of those forms of analysis that equate the exercise of power with domination, rather than seeing power as also productive. Third, he rejects those approaches that depict the exercise of power as essentially negative, repressive or constraining. Fourth, he sees those accounts, which only focus on 'power over others' as inadequate arguing in line with Michel Foucault that power is *relational*. (Foubion, 1994)

Foucault's conception of power, although going through a number of mutations over the years, challenges some of the traditional accounts of power while developing a more elaborate and nuanced conception of power than was previously available. Foucault's main argument is that power is not simply repressive but productive and positive. Thus Foucault suggests in *Discipline and Punish* (1977) that his study of the punitive mechanisms does not concentrate "on their 'repressive' effects alone, on their 'punishment' aspects alone, but situate them in a whole series of their possible positive effects, even if these seen marginal at first sight" (Foucault, 1977, p. 23). More specifically, he argues, power produces 'subjects' forging their character and 'normalising' them.

This form of power that applies itself to everyday life categorises the individual, marks him by his own individuality, attaches him to his own identity, imposes a law of truth on him that he must recognise and others have to recognise in him. It is a form of power that makes individuals subjects. There are two meanings of the word "subject": subject to someone else by control and dependence, and tied to his own identity by conscience and self-knowledge. Both meanings suggest a form of power that subjugates and makes subject to. (Foucault, 2002, p. 331)

Through the exercise of an array of disciplinary mechanisms, involving the organisation of time and space, Foucault argues that power can be exercised through architectural design as well as direct interpersonal relations. Thus, power itself can become manifested in prison design such as the panopticon or in practices such as the treadmill, which operate independently of any individual will. Foucault is interested in the different ways that power manifests itself how it becomes objectified, internalised and ultimately how it affects the attitudes, actions, shapes bodies, and structures discourses. In 'Discipline and Punish', Foucault conceptualises power very broadly in terms of changing productive relations and how the shift from sovereign power to disciplinary power not only determines the nature of punishments but becomes embodied in the creation and operation of the modern prison and associated disciplinary practices.

In the history of Sexuality and later writings Foucault modifies his 'analytics' of power, as he call it. In response to the various criticisms of the conception of power which Foucault presents in *Discipline and Punish* as being too unidirectional the whole project of *The History of Sexuality* (1979) involves the elaboration of a modified theory of power and in particular the processes of subjectification.

Thus rather than seeing power primarily in terms of law or an expression of state control, Foucault comes to see power as a multiplicity of forces involving ceaseless struggles and confrontations. Thus the exercise of power is always unstable and power is in a sense always 'in play'. In this way, Fou-

cault also tries to develop a conception of power that moves beyond the coercion/consent dichotomy, that either sees power as an expression of violence or force, on one hand, or as an effect of ideology, on the other. Neither does he want present power as a capitalism or patriarchy; but rather as a force emanating from below and involving different lines of force and new knowledges whose outcomes are never certain and whose effects maybe different than those expected.

One theme that Foucault takes up in the *History of Sexuality* is the operation of the family in which the sexuality of children and adolescence was first problematised. This theme has been taken up by Jacques Donzelot (1979) in his incisive analysis of the development of the modern family. Donzelot describes how the family became responsible for the sexual and physical health of their children. Following Foucault, Donzelot does not see the modern family primarily as a site of repression, coercion or ideological manipulation but rather the product of a number of lines of force involving the promotion of hygiene, changing gender roles, the deployment of medicine, all of which allow for the development of new modes of socialisation. Thus, rather than seeing the functioning of the modern family as a state of repression or patriarchal authority Donzelot sees it as offering women and children the possibility of increased autonomy. Once constructed the family came increasingly under state control, involving the creation of new professional body of social workers at the end of the nineteenth century who were able to provide a strategic link between the child, the family, the school and the community. In addition, a number of newly formed regulatory bodies emerged in this period involving the juvenile court, boarding schools and the like which created a network of social guardians, adjudicators and experts who came to colonise the family.

Foucault conception of power, however, is not without its critics. J. G. Merquior (1985), for example, argues that the conception of power presented in 'Discipline and Punish' presents power as comprehensive and monolithic, 'a machine in which everyone is caught', and that this has led to a reading of Foucault that conceives of power as omnipresent and all embracing. This conception is reinforced by Foucault's avoidance of human agency, and ultimately what seems to be a denial of the possibility of any political potential for the human subject. Andrew Sayer (2011) has argued Foucault does not distinguish between malign and benign forms of power and consequently it is difficult to distinguish the operation of democracy from that of dictatorship. It is also suggested that Foucault presents a dystopian view of the world without offering any specific critique of social arrangements, and consequently provides no basis for critique.

Feminists too have taken issue with Foucault's conception of power, arguing that Foucault never specifically examines the subordination of women

or the sources of their subjectification. Nancy Fraser (1981) argues that Foucault lacks a normative framework and has thereby removed the possibility of providing a basis for developing an emancipatory politics. Other feminists have argued that Foucault presents a gender-neutral and ultimately gender-blind theory of subjection and does not provide an account, for example, of how prison regimes differ in their treatment of male and female prisoners and how this relates to dominant conceptions of masculinity and femininity (O'Brien, 1982). Lois McNay (1992) argues that despite Foucault's assertion that power is diffuse, heterogeneous and productive, his historical analysis tends to depict powers as centralised and monolithic. These criticisms notwithstanding Foucault has seriously challenged, if not dislodged some of the conventional conceptions of power and engendered a rethinking of the nature of power amongst a broad range of social scientists, including criminologists.

Defending Human Rights

One of the recurring themes in criminology over the past fifty years or so is what the proper form of inquiry is and what are the appropriated parameters of this sub-discipline. A major contribution to this debate was offered by Herman and Julia Schwendinger (1975) in the mid 1970s by asking the questions of whether we are, or should be, defenders of order or guardians of human rights.

In a similar vein there are a number of contemporary critical and radical criminologists who argue that the traditional focus of criminology is too narrow and that we should concern ourselves with a wider range of social harms (Hillyard *et al.*, 2004). Critical realists are not precious about disciplinary boundaries, and do recognise the validity of those social scientists who want to reduce suffering, abuse, exploitation and oppression in its various forms.

Moreover, as Amartya Sen (2004) has suggested there is something deeply attractive in the idea that every person anywhere in the world, irrespective of citizenship or territorial legislation has some basic rights, which others should respect. However, a number of issues arise in moving from this idealised vision into reality. There are issues about competing rights, the threshold of rights (with implications of which rights should be taken seriously), the enforcement of rights, the relation between rights and duties, as well as cultural variations in the identification of rights. Thus while there may be a broad level of agreement about certain 'basic' rights or so called 'natural' rights such as the freedom of movement and expression, some critics are sceptical of 'second generation rights' involving economic and social rights or welfare rights, which have mostly been added relatively recently to earlier enunciations of human rights. Rights to medical care, for example, should not be included, it is argued, since they are dependent on the availability of

specific social institutions that may not exist. Thus there is a feasibility issue since it may not be possible to realise certain rights for all.

However, as Zygmunt Bauman (2011) has argued that in a more globalised, individualised and 'liquid' world characterised by greater fluidity and uncertainty the notion of basic human rights lays the foundation, at the very least, for mutual tolerance. It might be argued by critics that the pursuit of individual rights might undermine communities. However, it is the case that the pursuit of freedom of religion, expression and association serve not only to protect specific individuals but can provide protection for directly and indirectly all groups in society. At the same time it is recognised that individual rights may be overridden or at least be restricted in scope, for the sake of the community. Moreover:

Although the notion of "human rights" was created for the benefit of individuals (concerning the right of every individual to be seen as separate and distinct from others, without the threat of punishment or banishment from society, or human company in general), it is obvious that the fight for "human rights" can only be undertaken with others, since only a joint effort can secure its benefits... To become a "right", a difference must be common to a sizable group or category of individuals, rich in bargaining power; it must also be sufficiently glaring not to be ignored, to be taken seriously; the right to difference must become a stake in the joint manipulation of demands. (Bauman, 2011, p. 90)

To whatever extent contemporary international political life can be seen to have a sense of justice, its language is the language of human rights. Human rights provide a standard of evaluation for the policies and practices of a range of economic and political institutions (Beitz, 2001). Human rights discourse identifies the conditions that societies and institutions should meet if we are to consider them to be legitimate. Moreover, human rights are based on essentially moral and ethical concerns which become translated into political imperatives, and one function of human rights in international politics is to justify external intervention in a society aimed at changing some aspect of its internal life. Thus there is often an element of paternalism which may involve the infringement of some people's liberties in order to protect human rights of others.

Intervention: Beyond 'What Works'

Realism is oriented towards a modernist problematic. That is, it stands in opposition to those forms of relativism and impossibilism that claim that effecting social change through the application of knowledge and understanding makes no real difference or that 'nothing works'. It is also opposed to the forms of idealism that claim that piecemeal social change is irrelevant and

that only a major transformation of the social structure is worthwhile. For realists even small gains are gains, and it is recognised that piecemeal reforms often lead to further reform.

Criminology, it should be noted, has a long history of pessimism, impossibilism and dystopian images of the future. Issuing repeated warnings of the dangers of 'social control' and particularly by dwelling on the insecurities of late modernity, criminologists tend to present a negative interpretation of social change. In emphasising the growing concerns with insecurity there is a tendency to downplay the ways in which social reforms have improved the quality of life for certain groups, reduced victimisation and increased personal freedoms (Ericson, 2007; Simon, 2007). The disproportionate focus of attention on the increasing controls and restrictions may explain why there is so little written on the most remarkable development within criminology in living memory - the crime drop (Blumstein and Wallman, 2000; Karmen, 2000).

There is, however, a more general problem of liberal pessimism that runs through criminology and goes beyond the claims that 'nothing works.' In some versions of this pessimism it is claimed that not only does nothing work but also that interventions often makes things worse. Consequently, some liberal pessimists claim that instead of trying to do more good that we should do less harm. In contrast, the realist project is closely tied to conceptions of emancipation and believes that there is no point in social science if it does not at least offer the possibility of some kind of social improvement and this may involve challenging and changing various (mis)conceptions or material conditions or both (Bhaskar, 2002). The issues of crime and punishment are enormously contentious and therefore critique and debate should be central to the subject. The act of engaging in debate and critique presupposes change and the possibility of social improvement.

As a result of their interest with practical issues and fostering social change, realists are often accused of pragmatism. This is a serious mischaracterisation and demonstrates a fundamental misunderstanding of the realist project (Pavlich, 1999). Although realists are interested in 'what works' they are more concerned with why and how things work. Understanding how and why things work, critical realists argue, involves identifying the casual mechanisms that foster change. Thus a claim of critical realism is that it is not something inherent in particular programmes that makes them work but the propensities and the capacities of the agents or objects that such programmes are directed towards that allow them to work. Thus whether the rehabilitation programmes, for example, work as intended will depend on whether the subjects go along with the programmes and chose to use the resources as intended (Pawson and Tilley, 1997). Thus realists aim to look beneath the surface

of what works with the objective of identifying the generative mechanism in play. It is this unique conception of causal processes and how they work that distinguishes critical realism from pragmatism, empiricism and positivism.

It is also the case that generative mechanisms may operate differently in different contexts. If gunpowder is not properly compacted or if the atmosphere is too damp its capacity to explode may be prevented. Thus for critical realists there is a need to examine how interventions may trigger certain mechanisms, which in turn may be activated according to the characteristics and circumstances of subjects, and that this, in turn, will be conditioned by the contexts in which implementation takes place.

Critical realists also have a distinctive view of the nature and meaning of interventions (Pawson, 2006). Interventions are not just practices but theories or hypotheses that postulate the possibility of bringing about improved outcomes. Consequently, interventions are potentially fallible, particularly since they deal with complex social realities, as well as deal with different groups of subjects and may be implemented differently in different contexts. Therefore, all of these elements must be considered when addressing the question of 'what works' in order to find out what works for whom under what circumstances. Thus, there are a number of different ways in which programmes may be said to work.

Between the 1970s and 1990s we have moved from a 'nothing works' to a 'what works' agenda. This has involved a shift from pessimism to pragmatism: the pessimism was initially a product of the form of meta-analysis such as that adopted by Robert Martinson (1974) while much of the current 'what works' agenda is based largely upon a-theoretical approaches associated with administrative criminology. While this approach has a formal commitment to the development of evidence-based policy there are issues about how this evidence is gathered as well as relation between evidence and politics. It has been suggested that we are witnessing new forms of political management of criminological research as well as the use and interpretation of findings (Hope, 2004). Criminological research, it has been argued, has increasingly become a tool of legitimation to uphold governmental truth claims. If this is the case, then the argument for the development of a critical and engaged criminology becomes even stronger.

Although realists are committed to the development of evidence-based policy it is recognised that it is not possible in open and complex social systems to provide definitive 'solutions' to policy issues. Social interventions are complex and are rarely implemented in the same way twice. Evidential truths are therefore always partial, provisional and conditional. It is not so much a question of presenting definitive evidence but of developing *explanations* and for justifying taking one course of action rather than another. As opposed to

the notion that policies can be simply 'read off' from the data or that finding certain 'facts' are likely, in themselves, to change the direction of policy making, realists argue that the art of gathering and synthesising data is to make sense of the processes involved (Pawson, 2006).

Thus, engaging in intervention is always subject to political pressures. Therefore, a realist approach is itinerative and processional, based on developing explanations rather than the decisive accumulation of data. Engaging in effective intervention therefore requires considerable skill and imagination, an ability converse with policy makers and practitioners, the majority of whom are not 'agents of social control', but often problem solving individuals who are often looking for direction and guidance. The monumental failure of criminology has been that it has systematically failed to provide this service, particularly on the most pressing problems of crime control.

Conclusion

In this paper the aim has been to outline a framework of analysis for guiding realist investigation. It emphasises the primacy of theory and the central role that conceptions of class and the state have in examining the criminal justice process. This involves according a limited role to social constructionism and a simultaneous recognition of the material and historical reality of the social forms that exist independently of human consciousness. There is also a growing interest in human rights in a period of 'liquid modernity' in which state power is becoming increasingly important in securing and legitimising an increasingly international but fragmented social world. Working 'in and against' the state becomes a central focus of intervention and effecting positive changes, while intervention is more than a question of implementing 'solutions' but involves an attempt to develop explanations and to evaluate the relative strengths and weaknesses of different options.

It is in the context of a rapidly changing Postfordist world that Realist criminology offers an effective alternative to both mainstream criminology and the available versions of critical and radical criminology. Fully developed, it offers the possibility of a paradigm shift within criminology. It has firm roots in social philosophy and adopts an open-door policy on evidence. It aims to provide credible explanations rather than believe that facts speak for themselves. It is theory driven, critical, and maintains that social science has an emancipatory potential. It is flexible in terms of disciplinary boundaries and aims to draw on whatever sources help to address the issues at hand. Finally, it has a clear commitment to policy development while recognising that this involves engaging with politicians, policy-makers, and practitioners at a number of different levels, often over a considerable period of time.

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