

A Spectre Is Haunting Law and Society: Revisiting Radical Criminology at UC Berkeley

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The task has been to study the historical relationship between criminal law and economics, the history of class struggle, and to utilize these interrelationships to analyze the present prison system.

– Georg Rusche, *Labor Market and Penal Sanction*

Introduction

IN FALL 2012 JONATHAN SIMON, PROFESSOR AT UC BERKELEY, AND TONY PLATT, visiting professor at San Jose State University, initiated a remarkable experiment in pedagogy and scholarly collaboration. Building off discussions and disagreements between them, they designed a course that would revisit the political context and scholarly analysis of the radical wing of UC Berkeley's School of Criminology in the period prior to its closing in 1976 (Platt 2010; Simon 2010). Titled "From Community Control to Mass Incarceration: Legacies of 1970s Criminology," the course investigated the growth of mass incarceration from the vantage point of those who studied and criticized the nascent political architecture of such a system while it was developing into a force with stunning depth and magnitude.

The course attracted students and auditors from other departments, together with scholars and professors from other institutions and long-time activists, political thinkers, and guest lecturers such as professors Ericka Huggins and Angela Y. Davis. A proxy class also developed amongst New York-based anti-imprisonment activists to read through the syllabus and think about the course themes. In sum, the course material spoke to the urgent issues of our contemporary moment and brought forth a corresponding response from excited participants.

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The approximately 30 students—many in their twenties, born and raised under neoliberalism—came to the class craving to understand how and why policing and imprisonment had become so enmeshed in their social world. They wanted to make sense of the extraordinary mobilizations of governmental violence during their lifetimes and of the the role of policing and imprisonment in the broader political and economic conjuncture. They wanted to address “crime and punishment neither as disconnected from the whole of the social structure, nor as severed objects of intellectual inquiry,” as Dario Melossi (a frequent attendee in class) wrote of Marx (1980, 71). And further, many of them wanted their knowledge to go beyond the classroom and to “serve the mass of humanity” (Platt, 1991, 228).

A number of students were part of social movements such as the Occupy movement, Justice for Alan Blueford (a Black high-school student shot in the back and killed by Oakland police), and organizations like Critical Resistance, National Lawyers Guild, and Creative Interventions. Others, however, were more drawn to the liberal tendencies within the study of criminology and law, and believed there was little amiss in the current study of law and society that the radical perspective needed to rectify. In this sense, the composition of the classroom was an ideal space to engage in debate about liberal and radical perspectives and their significance for contemporary analysis.

Platt, as loyal readers of *Social Justice* will know, played a key role in building a radical vision for criminology during his time on faculty at UC Berkeley from 1968 to 1976, until he was denied tenure as part of the repression that brought down the Criminology School (Geis 1995). During the heyday of the School, the courses taught by the radical criminologists were quite influential and popular: in the Fall of 1972, when Barry Krisberg, Paul Takagi, and Tony Platt taught an introductory course, over 900 students enrolled across the two quarters (Krisberg et al. 1974, 64). Consistent with their commitment to *praxis*, Platt and colleagues were part of social struggles opposing the enclosure of People’s Park, against police access to helicopters and other surveillance equipment, and for community control of the police (Geis 1995, 284–85). In turn, students were quick to realize the political reason behind the closing of the School of Criminology, and vehemently protested against it; student body president Richard Gallegos declared: “The real reason [for the School’s closing] is that this school, unlike most criminology schools around the country, is interested not merely in police training but is interested in the sociological aspects of crime, and that is unacceptable to the administration” (Trombley 1974, 29). As Platt (2010) put it years later, “Radical criminology at Berkeley was part of and responded to a much larger left movement that exposed the injustices of criminal justice, took on the inadequacies and cowardice of liberalism, created debates about the ideology of criminology, humanized the incarcerated population, and educated millions about the ties between imperialism, militarism, racism, and criminal justice.” In this sense, the closing of the School of Criminology was part of an expansive assault on the social justice movements of the time, a crackdown on

their institutions and their intellectual reservoirs. According to this reading, liberal criminology did not “win out” because it had the better arguments and more astute research, but because radical criminology was crushed; the balance of political forces was against it (CSJ Editors 1976, 2).¹

Jonathan Simon arrived at UC Berkeley as an undergraduate in the late 1970s, just after the closing of the School of Criminology and with social struggles declining in strength (though he too spent a fair share of time protesting). He did his graduate work in the shadow of the School of Criminology, in the Jurisprudence and Social Policy department, which (as predicted by Platt and Greg Shank in 1976) would emerge “politically sanitized” from the remaining faculty who survived (and in some cases encouraged) the purges (CSJ Editors 1976, 3).² Though in many ways supportive of the position of the radical wing, Simon’s teachers were some of the key players in the ideological split between liberals and radicals. As Simon (2010) put it, he “studied with [Jerome] Skolnick, as well as Shelly Messinger and Caleb Foote ([and] other prime ‘liberals’ from the Criminology School)”; for him, “liberal criminology has remained a more robust and enduring position.” Nevertheless, Simon’s pedagogical practice affirmed the necessity of dialogue, disagreement, and collaboration between liberal and radical perspectives.

Though this rough sketch plays on the differences in political temperament between Platt and Simon, the goal of the course was to explore both differences and connections between the two analyses, rather than engage in hackneyed debate. Two points of departure emerged as key to understand the differences between liberal and radical analyses of the penal question. The first regards the judgment about what David Montgomery (1992, 153–75) termed the “New Deal formula” for managing struggles between capital and labor during the postwar, Keynesian era.³ For Simon, social democratic liberalism had an excellent blueprint and was “the best thing that capitalism produced.”⁴ For Platt, by contrast, the Keynesian era was the context for a series of structural reforms that emerged out of popular movements and changed the power relations in society, but which were unable to address structural problems of national or global inequality.

A second, and related, point of debate revolved around whether one should look with optimism or pessimism at the changes underway in the criminal legal system. Simon, for example, was buoyed by the US Supreme Court’s 2011 *Plata-Coleman* decision—a consistent touchstone throughout the semester. For Simon, the ruling (which held that California prisons violate the Eight Amendment against cruel and unusual punishment) gives us reason to believe that the era of mass incarceration is waning. He was heartened by Justice Kennedy’s statement in the decision that “a prison that deprives prisoners of basic sustenance, including adequate medical care, is incompatible with the concept of human dignity and has no place in civilized society” (Simon 2014). For Simon, *Plata-Coleman*’s “humanitarian vision of prisons ... may prove vital to the ongoing effort to reconstruct the public understanding of prisons” (ibid.). In contrast, Platt (though strengthened by Gramsci’s maxim

“pessimism of the intellect, optimism of the will”) was dubious about the significance of the Court’s decision for more comprehensive political transformations. Such legal interventions, he warned, could lead to an expansion of the county jail system (like the one currently being proposed in Los Angeles County by Sheriff Lee Baca) to respond to the changes in California penal policy demanding a reduction in the number of people locked in prison. The radical view, which stresses the necessity of a broader analysis of the relation between punishment and the reproduction of oppression and inequality, cautions against putting faith in reforms that are decoupled from large-scale, vibrant grassroots social movements, especially during an era in which inequality is at its deepest in decades. This perspective emphasizes a dialectical analysis of reform struggles, which are (as Rosa Luxemburg suggested) “indissolubly tied” with more far-reaching social transformations (Luxemburg 2004, 129). If the reforms are managerial or compelled by elites seeking to reduce their relative tax burden, and do not empower marginalized people and those struggling for social justice, then optimism is unjustified.

Key Themes and Texts

Countering the historical “victory” of liberal criminology, one of the objectives of the class (and of this issue of the journal) was to look back at some foundational pieces of the radical criminology literature and interrogate their relevance to the present. I suggest that four key contributions of radical criminology should be of great interest to students, scholars, and activists today. Radical criminologists played a central role in: (1) analyzing the use and proliferation of policing and imprisonment within a critical theory of the state and the political-economic conjuncture; (2) confronting and challenging governmental definitions of crime in favor of a more scientific and critical perspective; (3) confronting and challenging socially dominant definitions of violence to include state violence—and centrally, warfare; and (4) understanding scholarship in relationship to activist commitments and social movements, and eschewing pretenses of scholarly neutrality.

George Rusche’s 1933 research prospectus, “Labor Market and Penal Sanction: Thoughts on Sociology and Criminal Justice,” laid the foundation for the first point outlined above. Here, Rusche insists that policing and imprisonment must be analyzed within the context of society as a whole, and that criminology must go beyond the study of individual deviance. In particular, Rusche’s work provoked important questions into the relationship between punishment and the extraction of surplus value from the working class (broadly understood). Under conditions of worker scarcity, capital can use policing and imprisonment as sources of forced labor; or, in cases of worker surplus, policing and imprisonment can be called upon to uphold social order and discipline a potentially unruly “reserve army of starving” workers (Rusche 1980, 12). Radical criminologists connected this framework to the changes in working-class composition after the 1960s, when the automation of production and other political-economic changes made clear that

even in times of war and economic growth, there would not be enough jobs for all who needed them—especially Black workers. In this vein, the 1972 Prison Action Conference’s statement of principles explained the societal demand for a “class of perennially unemployed people who will docilely compete for scarce jobs... [with] authoritarian education, backed up by police power and reformatories [deployed for] punishing resistance and creativity” (Prison Action Conference 1975, 35). With organizations like the Black Panther Party for Self-Defense taking up Frantz Fanon’s call to organize the lumpenproletariat, it makes sense that Rusche’s attention to the punishment of those rendered surplus labor would be an important intellectual touchstone for radical criminologists and activists of the period. In our current moment, when these contradictions have deepened, revisiting Rusche and how the radical criminologists made use of his work is essential.

A second hallmark of the radical criminology scholarship was the demand for serious scholarly and scientific inquiry into what is meant by “crime.” Drawing on and critiquing the work of some sociologists, Herman and Julia Schwendinger argued that “legal definitions [of crime] do not meet the standards of scientific inquiry” due to the elision of political power and the lack of a theory of the state (1970, 124–33). On the one hand, governmental definitions of crime fail to include a broad range of injustices and social harms: “Are imperialistic war, racism, sexism, and poverty crimes?” (ibid., 148–49). On the other hand, such definitions are too narrowly focused and prevent a full understanding of the broader social forces that engender crime. Rape, for example, has been the object of much critical analysis in the radical literature, which has suggested that the “socio-economic and ideological system that spawns these sexist crimes” (Schwendinger and Schwendinger 1974, 25) must be analyzed along with the “changing nature of women’s position in the workforce and in the family” (Klein and Kress 1976, 34).

In addition to challenging the ideological assumptions of mainstream criminology, radical criminology also advanced some important methodological innovations in the fields of crime analysis and crime statistics. For example, Paul Takagi’s work challenged the way that the killing of police officers on the job was being discussed in the media. By contextualizing the escalation of police deaths within the extreme increase in the number of police officers during the period, Takagi (1974, 27–28) showed that the overall rate of deaths had not increased, and that the media frenzy needed to be accounted for in other ways. Stuart Hall and the coauthors of *Policing the Crisis* (1978, 9–10) also questioned the ideological deployment of crime statistics for political ends and the methodological inadequacy of utilizing reported crime as a representation of crime occurrences—let alone as a representation of social harm in society. The aforementioned discussions of sexual violence reveal similar phenomena and suggest that to understand the magnitude of crime and harm it is necessary to develop innovative research methods that go beyond the legal category of “crime.”

Parallel to its discussion of contested definitions of crime, radical criminology also expanded the dominant definition of violence by including state violence. Revealing the important conversations happening within the School of Criminology, Jerome Skolnick's analysis in *The Politics of Protest* foregrounded how "violence is politically defined ... [and] official violence is frequently overlooked" (1969, 5–7). Critical discussions about violence were the hallmark of a period, the mid-late 1960s, punctuated by urban uprisings in response to police brutality and racist oppression—a period in which (as Platt put it) the Vietnam War provided an education in the violence of U.S. foreign policy. These urban uprisings pointed to the inadequacy of governmental responses to the social welfare demands of the civil rights movement and the social violence that underpinned such neglect. The Watts uprising (which erupted five days after President Lyndon B. Johnson had signed the Voting Rights Act into law) arose in the context of a community with a poverty rate of 42 percent and who had seen their wages fall by 7.5 percent in the five years preceding the rebellion (Kurashige 2010, 269). The Kerner Commission highlighted this noting that "police practices, unemployment and underemployment, and inadequate housing" were the chief grievances in the 23 cities they studied (Kerner 1968, 7). These conditions rested upon discriminatory provisioning of social welfare benefits, a Federal Reserve policy to prevent full employment,⁵ and the political intransigence of Jim Crow voting blocs (Dickens 1995; Katznelson 2005).

The last theme that echoed throughout the semester was the importance of mutual interactions between social movements and radical criminology. This is exemplified by the engagement in particular struggles of the School of Criminology professors; at the same time, however, Platt and his colleagues were not merely a "propaganda wing of the movement." Scholarly research itself emerged as a collaborative endeavor, as exemplified by the production of *The Iron Fist and the Velvet Glove* (an essential work that should be reread and studied by scholars and activists today). Platt (1999, 105) explained the context for these collaborations while reflecting on the 25th anniversary of the decision to close the School of Criminology:

There was no separation of theory and practice in the era following the Free Speech Movement, when academia itself was a site of struggle over access, affirmative action, and the canon.... [We] participated in legislative efforts to reform prisons, in the Byzantine inner workings of the prisoner movement, in feminist struggles to get rape and battery taken seriously as crimes, and in local initiatives to bring the police under "community control." We were also a regular presence at criminology and sociology conferences—organizing caucuses, recruiting activists, and making life miserable for the old guard of "agency determined," government-sponsored

researchers and technocrats whose settled world was disrupted by the New Left.

For Platt, teaching radical criminology proved frustrating during the 1980s, in the absence of the energy, vision, and possibility to provide political solutions to the problems being dissected in the classroom (2004, 159). The key themes of radical criminology, in this sense, were not abstract ideas, but rather an analysis of historical relations rooted in the daily experiences of the period; when radical criminologists like Paul Takagi analyzed police killings of Black men as a feature of a “garrison state,” for example, their study was rooted in the governmentally facilitated killings of Black Panther Party members like Bobby Hutton in Oakland, John Huggins and Bunchy Carter in Los Angeles, and Fred Hampton and Mark Clark in Chicago (Takagi 1974, 29). By highlighting the mutual dependence between social movements and scholarship, the course posed important ethical questions about the responsibilities of scholars studying the carceral state toward those suffering, and surviving, its worst effects.

Conclusion: Legacies of Radical Criminology

In the end, the course enlivened and brought to the classroom dialogues that are too rare. Students from the class, like the practitioners of radical criminology, have done their best to connect the lessons learned in the classroom to contemporary social movement struggles. Over the last few months, they could be seen in community meetings about the effects of California’s prison realignment plan, protesting Oakland’s contracting with the controversial former police chief William Bratton, and marching with hundreds of people against the overcrowding of the Central California Women’s Facility.

Utilizing the research questions posed by early radical criminology to address the present conjuncture compels us to stretch historic terms and theorizations to see what is the same and what is different from prior eras—which categories and analytic techniques are still useful and which are not. Marx argued that “the general movements of wages are exclusively regulated by the expansion and contraction of the industrial reserve army” (Marx 1990, 790). If, as Rusche hypothesized, imprisonment is one response to this group of people, further historical inquiry into mass incarceration as a central component in the wage relations of people who are not imprisoned is urgently needed today. Analyzing these trends and events together can help elucidate how policing and imprisonment help to discipline a great magnitude of waged and unwaged workers alike; the reach and power of the criminal legal system goes far beyond the formal operation of police, courts, jails, and prisons. For activists, students, and scholars trying to understand what the rise of mass imprisonment means for working-class composition and cohesion, it is essential to stretch the vantage point of social struggle to include the kitchen and the prison, the shop floor and the community.

The research of radical criminology scholars helps contemporary analysts see, above all, that such a situation arises not from the banalities of crime rates or the supposed deviance of the criminalized, but from deliberate political choices. During the pivotal five-year period in the construction of the neoliberal order, between 1971 and 1975, federal, state, and local governments choose to spend an unprecedented amount of money (61.8 billion dollars) on criminal justice expenditures, rather than invest the \$92.5 billion that civil rights activists estimated was needed to eradicate poverty and create a health care system for all (A. Philip Randolph Institute 1966; Armbrust 1978, 35). Since such proposals were put forward, funding and infrastructure for the criminal legal system has increased exponentially, while social service spending has been slashed and privatized. The radical criminology literature can help clarify how the law-and-order regime grew alongside a system of neoliberal punitive governance and what types of efforts it might take to alleviate and overcome such circumstances.

NOTES

1. Platt (and others) explored some of the conditions that allowed for their demise: “The tendency of the movement to ‘bow to spontaneity’ in the absence of a stable left organization capable of uniting various struggles seriously undermined the possibility of victory. Consequently, the movement to save the School of Criminology was no match for the administration’s repressive, hegemonic and tactical superiority” (CSJ Editors 1976, 2).

2. As they foresaw: “While the students and progressive faculty were fighting to save the School of Criminology, Jerome Skolnick, Bernard Diamond, Sheldon Messinger, and a coterie of academic imperialists from the law, sociology, and business departments were quietly planning a new School of Criminology (to be called, for appearance’s sake, something like ‘Department of Law and Society’). The new program, which will probably emerge on the Berkeley campus after a year of respectable mourning, will duplicate most of the former School’s curriculum, but will be politically sanitized” (CSJ Editors, 1976, 3).

3. Interestingly, the diverging assessment of the New Deal reflected the debate between Jefferson Cowie and Nick Salvatore on the one hand, and Nancy MacLean and David Montgomery on the other, in the journal of *International Labor and Working Class History* (Cowie and Salvatore 2008; MacLean 2008).

4. All quotations, unless otherwise cited, come from the author’s notes from the course.

5. In the wake of the expiration of the United Auto Workers’ “treaty of Detroit” contract of 1950–1955, and anticipating the steel workers’ struggle, the policy-making group of the Federal Reserve (the Federal Open Markets Committee) took actions to crush working-class militancy by raising interest rates to restrict firms from settling generous contracts with workers (which could have enabled a wage-price inflationary spiral). They initially experimented with such actions by sustaining the 1957–1958 recession. Rather than seeing the recession as an economic problem, the FOMC greeted it with open arms for it pushed unemployment high enough to effectively put organized labor on its heels. Unemployment spiked to a postwar high of 6.8 percent in 1958 and was higher at points throughout the year. Such rates would not be seen again until the economic crisis of the 1970s. Creating tight monetary policy and causing sustained structural unemployment (especially for Black workers, for whom unemployment hit 15 percent) would become one of the Federal Reserve’s chief policy tools to check inflationary pressure from workers over the subsequent decades (Bureau of Labor Statistics 2013; Dickens 1995; Federal Open Markets Committee 1956).

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APPENDIX: COURSE READINGS

(Note: Readings in bold are included in this issue of *Social Justice*)

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