

# Crime or social harm? A dialectical perspective

**Kristian Lasslett**

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**Abstract** This paper proposes to examine some of the core philosophical issues to have arisen out of the recent calls to move “beyond criminology”. It will be claimed that the dismissal of crime as a “fictive event” is premature, as crime does indeed have an “ontological reality”. Nevertheless, it will be asserted that the relation between harm and crime is contingent rather than necessary. Accordingly, this paper will argue that there is merit to the claim that we should unify research on social harm through the creation of a new field, a step which would have the added benefit of constructing an alternative venue for crimes of the powerful scholars who wish to explore the destructive practices of states and corporations unconstrained. This paper, therefore, will also offer a dialectical definition of social harm based upon classical Marxist strains of ontological thought.

## Introduction

Ever since Edwin Sutherland’s groundbreaking research into the crimes of the powerful, criminologists interested in explaining the harmful conduct of states and corporations have suffered a crisis of disciplinary identity. The principle focus of this crisis has been on the category of crime and whether it constitutes an adequate foundation for this research program; or on the other hand, have scholars been forced to do a certain amount of abstractive violence to the category of crime in order to artificially fit such research within the boundaries of criminology. Indeed, Tappan [37] in a celebrated article warns:

A special hazard exists in the employment of the term, ‘white-collar criminal’, in that it invites individual systems of private values to run riot in an area (economic ethics) where gross variation exists among criminologists as well as others. The rebel may enjoy a veritable orgy of delight in damning as criminal almost anyone he pleases ... Vague, omnibus concepts defining crime are a blight upon either a legal system or a system of sociology that strives to be objective (p.99).

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K. Lasslett (✉)  
University of Ulster, Jordanstown, Northern Ireland  
e-mail: kak.lasslett@ulster.ac.uk

Tappan's critique of scholars who impoverish the category of crime has been one which has regularly challenged the foundations of the crimes of the powerful analysis.

The ultimate result is our present critical juncture where scholars interested in the crimes of the powerful have been encouraged to move "beyond criminology", in order to find a conceptual foundation which more adequately captures the character of the practices they are studying [11, 12]. This has forced scholars to *critically* consider what exact aspect of being the category of crime indeed corresponds to. On this front Hillyard and Tombs [11] have forwarded the following argument:

Perhaps the most fundamental criticism of the category of crime is that it has no ontological reality ... In reality there is nothing intrinsic to any particular event or incident which permits it to be defined as a crime. Crimes and criminals are fictive events and characters in the sense that they have to be constructed before they can exist (p.11).

While the point they make is an important one, nevertheless, by employing the term ontology in a *popular* sense Hillyard and Tombs overlook something quite critical, namely that crime *does* indeed have an *ontological* reality.

Accordingly, in this paper I propose to explore the ontological reality of crime, and the limitations this reality places on criminological research generally, and the crimes of the powerful scholarship in particular. It will be argued, that like any distinct qualitative form, acts and actors acquire their characteristics as a result of the larger, historically forged unities they are a part of. The challenge, of course, will be to consider what it is that is peculiar to *socially* developed unities, which create the historical conditions in which diverse practices acquire the characteristic of being criminal.

Following this exposition, I will proceed to distinguish the category of social harm from crime, in order to evaluate the scientific and ethical merits for moving beyond criminology into a field which is devoted to the study of social harm. Social harm will be dialectically viewed as socially constructed flows which disrupt and undermine the structures and processes of organic and inorganic being; in which humans, as natural beings, are entangled.

It will be concluded that social harm and crime are analytically distinct phenomena, which have a *contingent* rather than *necessary* connection. As a result, while crime has a definite reality which criminology is well placed to approximate, nevertheless, a social harm approach provides a liberating disciplinary home for those criminologists whose principle interest is the measurement and analysis of those socially produced flows which undermine the organic properties of human beings and their environment. Given that these destructive social flows are often channelled through states and corporations, it shall also be claimed that a discipline based upon social harm will assist to emancipate crimes of the powerful scholars from the limitations which the category crime necessarily imposes on their research.

### **An ontological defence of criminology**

The classical Marxist philosopher György Lukács [18, 20] observes that *being*—whose laws are the focus of ontology—may be divided into three separate though

unified qualitative stages i.e. the inorganic, the organic and the social; the latter of which is bound to the historical development of humans (see also [2]). While qualitatively distinct, each stage as a particular form of being, shares the characteristic of being *concrete* in nature. Concreteness, in its popular usage, has a meaning that corresponds roughly to ‘immediate empirical reality’. However, in dialectical philosophy concreteness has quite a different meaning. Concreteness here is a category which encapsulates the mediated, interdependent character of all qualitative forms of matter ([16], p.106). Therefore, to say reality is concrete is not to tautologically argue that reality is empirically real, rather such a statement captures the important fact that phenomena never exists *in itself*, independent of other ‘things’, rather it is always part of a larger totality of relations and processes, which inscribe it with definite characteristics. Consequently, Ilyenkov [15] argues:

[A]ny individual object, thing, phenomenon, or fact is given a certain concrete form of its existence by the concrete process in the movement of which it happens to be involved; any individual object owes any concrete form of its existence to the concrete historically established system of things within which it emerged and of which it forms a part, rather than to itself, its own self contained individual nature (p.118).

What distinguishes social being is that the historically forged relations and corresponding ideal structure which gives it *concreteness*, have been authored by *humans* through collectively modifying their metabolic exchange with nature and each other. This developing material structure, and corresponding social culture, provides an “established system” through which humans engage in consciously directed “life-activity”, a form of practical existence that fundamentally distinguishes humans from other animals [15, 20, 22, 24]. By engaging in specific forms of consciously directed “life-activity”, which are always linked to a particular development in the “ensemble of social relations” that frame life, human beings and the objective phenomena they create and utilise, are inscribed with certain historical characteristics ([28], p.660). Thus, in the *Grundrisse* Marx [23] asserts:

Society does not consist of individuals, but expresses the sum of interrelations, the relations within which these individuals stand ... To be a slave, to be a citizen are social characteristics, relations between human beings A and B. Human being A, as such, is not a slave. He is a slave in and through society (p.265).

Similarly, Marx [24] notes that there is nothing inherent in the mule (a machine for spinning cotton) which would makes it a form of constant capital, however, under certain historical conditions (capitalist relations of production) the mule obtains this concrete characteristic. Therefore, it may be said that while Hillyard and Tombs are quite correct to assert that there is nothing “intrinsic” in an act which makes it criminal, nevertheless, acts can certainly acquire this characteristic as a result of the social complex in which they are situated, and may thus be said to have an ontological reality.

However, for an individual to become a slave they must be absorbed into a specific exploitative social process, which in turn presupposes the development of certain class relations; it must be asked then, what is the social process that inscribes

acts and actors with the quality of being criminal? To this it may be answered that an act and actor obtain the characteristic of being criminal when a certain social audience, “(1) accepts a certain rule as a standard of behaviour, (2) interprets the act, or similar acts of which it is aware, as violating the rule, and (3) is disposed to apply significant sanctions—that is, significant from the point of view of the actor—to such violations” ([39], p.86). The next question then which demands answering is, what are the essential *concrete* presuppositions which make this particular form of social exchange possible? To answer this question, we must reflect for a moment on the character of *social practice*.

According to Mikhailov, as a result of a long process of social evolution underpinned by labour, human beings have forged a common cultural life, objectified in complex social media (concepts, norms, tools etc), which in conjunction with other key developments has facilitated both consciously directed life-activity, and a social mode of inheritance [31]. For the individual who actualises their human potential *in* society, this active conscious world creates reflective space between the actor as a subject and the outside world as an object; a relation, of course, which is always mediated by the historical development of social knowledge. As a result of this peculiar form of concrete existence, individual human beings are put into the unique position, ontologically speaking, where they are able to *creatively* interrogate the world which exists outside them, using their knowledge of its processes to posit certain ideal goals into material reality. This teleological process inscribes human activity with a measure of *choice*, and the actor with a degree of *freedom* and *agency*. As Lukács [20] observes:

If primitive man selects one stone out of a heap of stones as seemingly suitable for his purposes, and lets the others lie, it is clear that a choice or alternative is involved here. And an alternative, moreover, precisely in the sense that the stone, as an inherently existing object of inorganic nature, was in no way preformed to become an instrument for this positing. Of course, neither does grass grow to be eaten by cattle, or cattle to provide food for predators. But in both of these cases, the respective animals and their food are linked biologically and their behaviour accordingly determined with biological necessity. The consciousness that emerges in their cases is thus unambiguously a determined one ... The stone selected as an instrument, however, is chosen by an act of consciousness that is no longer biological in character (pp.31–32).

The latter choice of course is tempered by a certain development of the productive forces, which delineates for the producer a range of possible ways to manipulate the causal processes of nature. Therefore, Lukács “primitive” producer—as a result of having actualised their subjectivity in a society at a certain stage of development—chooses from a *historically specific* range of practical alternatives, when attempting to turn those “potentialities slumbering within nature” into actual use-values that can satisfy their historically developed needs ([24], p.283). Similarly, the industrial capitalist also faces a historically specific range of options that arise out of the relations of capitalism, which they will have to choose from in order to realise their historically constructed goal of valorising capital in the form of profit. As both instances demonstrate, human consciousness, by being absorbed into the concrete processes of social being, has become an instrument through which individuals can

appropriate a certain social culture, and engage creatively in historical practices with a fluctuating degree of agency and freedom.

However, the concrete structures of social being not only generate the conditions for agency and freedom (which are always historically relative qualities), they also foster in varying degrees concrete divisions between human beings, which in turn produce historical subjectivities of an extraordinary variety. Of course, we also witness internal divisions within other organic beings. However, these divisions, based on function and sex are “biologically rooted”. On the other hand, in the case of human beings these criss-crossing divisions are fluid, socially generated boundaries which are linked to the “ensemble of social relations” that frame life, which of course change, sometimes abruptly, as concrete humans alter the social foundations passed to them by previous generations ([20], p.2). Therefore, it may be said that when humans are absorbed into the processes generated by the concrete structures of social being, heterogeneous historical subjectivities develop whose identity, values, interests and *choices* vary according to their socio-historical position. This heterogeneity may tend towards complementarity (albeit one that features forms of exploitation and oppression), on the other hand there always exists a range of practices open to concrete actors, whose initiation will offend the interests and sensibilities of other coexisting subjectivities.

For example, Marx [23] in his celebrated analysis of pre-capitalist social formations observes that as the mode of production of antiquity historically developed, it gave rise to the formation of money as the general store of wealth. This higher social development in turn made possible practices whose central focus was the accumulation of wealth in this general form. Marx [23] observes that these social practices fostered new subjective drives:

Money is therefore not only *an* object, but is *the* object of greed ... Greed as such, as a particular form of the drive, i.e. as distinct from the craving for a particular kind of wealth, e.g. for clothes, weapons, jewels, women, wine etc., is possible only when general wealth as such, has become individualized in a particular thing i.e. as soon as money is posited in its third quality [as a general store of wealth—K.L.] ... Monetary greed, or mania for wealth ... is itself the community, and can tolerate none other standing above it (pp.222–223).

Given that the social formations of antiquity were based upon the subordination of particular forms of wealth production to citizenship ([23], p.487), Marx argues that practices whose highest aim was the accumulation of wealth in its general form (tolerating “none other standing above it”), served to directly undermine the operating conditions of these communities ([23], p.223). Accordingly, the higher development of the money form, and the subjective drives it promoted, were chastised by the ancients who castigated the “lust for gold” as “the source of all evil” ([23], p.222).

What Marx identifies in this particular instance is an example of a more general ontological feature of social existence (one that he would explore in its various other manifestations), that being, socially developed relations between humans, evolve in ways that create the potential for historically developed subjects to *elect* structurally generated choices that confront the sensibilities of other historical subjects. This can create two very different forms of response. First, aggrieved subjects may unite in a

revolutionary struggle to alter the structural foundations which make possible the practices that offend their social interests. Alternatively, aggrieved subjects may be disposed to enforce a *social* limit on the offensive practice, by reifying this limit hegemonically in custom or law, the contravention of which will excite a form of social sanction [30]. It is the latter form of struggle, which may potentially give certain practices the quality of being criminal.

Of course, the struggle waged by social agents to have their definition of a practice as deviant prioritised in custom or law, is conditioned by the uneven distribution of power between social groups. Consequently, how this struggle plays out historically is complex, mediated as it is by many diverse economic, political, cultural and ideological determinations. An illuminating instance of such a struggle may be observed in Marx's [24] examination of the English Factory Acts. Marx [24] argues that these Factory Acts, which limited the practices capital could employ to increase the rate of exploitation of labour, were an objective outcome of a struggle between bourgeois politicians responsible for the political reproduction of the nation-state, workers interested in the reproduction of their labour power, and of course industrial capitalists who were keen to maximise their profits. According to Marx the former two parties found a common cause to limit the practices of the latter (albeit for very different reasons), due to its potential to undermine the life of workers, and thus the working mass available for exploitation in England (see [24], pp.389–411; [38], pp.110–117). This temporal identity of the differentiated interests possessed by bourgeois politicians and English workers, allowed the latter group to have their definition of extreme exploitation as deviant prioritised in law; this in turn provoked new struggles around regulation and enforcement.

If we may now draw the ontological strands outlined thus far together into one succinct image of crime's reality, it may be observed that the developing "ensemble of social relations" and corresponding social culture, which frames human life, creates *diverse* conscious subjects who are faced with a *range of alternatives* that are contingent on how the individual is absorbed into the *historically developed* social structure. The *choices* these concrete subjects make when expressing their agency, may promote relative harmony between diverse social groups, for example, when a worker, faced with a narrow and unpleasant range of choices, decides to submit to the control of capital. On the other hand, there is also always the *potential* for historical subjects of a definite type, to elect practices which produce social *conflict*. For instance, workers may decide to use their collective control over labour-power to deny capital access to the means of its valorisation i.e. by striking. In such situations, aggrieved parties can use their political leverage, which always varies between groups, to have *their definition* of the offensive act as deviant, posited in *custom* or *law*. Once the definition of an act as deviant has become *hegemonic* in this way, the conditions are created in which a social audience may confront a 'deviant' actor and apply a significant social sanction; a process which is always subject to struggle, oppression and resistance.

One consequence which follows from framing criminality in this way, is that there would appear to be no reason why practices which are damaging to human life and well being, need *necessarily* attract the social quality of being criminal. For instance, in our contemporary global economic system, which is politically administered through a system of nation-states, there is a tendency for national governments to employ

their geopolitical power—which is always unevenly distributed—to obtain strategic advantages, which at its most extreme is expressed in armed conflict [1, 4, 8, 10]. However, with the world's class divided population, bound into national blocs under the intellectual and political leadership of the national bourgeoisie, the most violent expression of economic and geopolitical competition i.e. war, has escaped being defined as deviant in a hegemonic form at either a national or an international level (although there are rules which define how wars should be conducted). Military capacity and war making rather, are seen as essential and legitimate parts of modern day statecraft. To use another example, in the Highlands of Papua New Guinea, prior to colonial penetration, there existed an agricultural mode of production, which centred on the exploitation of female household labour [5]. Corresponding to this material structure was a socially developed culture, which revered masculinity. In this concrete context, women that resisted male authority, offended the interests and sensibilities of the male elite, whose control over female labour created the space to focus upon warfare and village defence. This male elite, therefore, utilised their considerable political leverage to make hegemonic their definition of female resistance as deviant. As a result, resisting male authority acquired the concrete characteristic of being criminal, demanding the imposition of social sanctions, which included in certain instances “rape by all males of a lineage” ([5], pp.21–22). Socially cultivated harms like rape and domestic violence were consequently legitimate, while resistance to this historical form of patriarchy was criminal.

By framing crime dialectically, we are able to clearly decouple crime and harm, so that any correspondence they may have is understood as being *contingent* rather than *necessary*. This contingent relationship between crime and harm has been clearly recognised in recent critiques of criminology. As Hillyard and Tombs [12] rightly observe, “the vast majority of events which are defined as crimes are very minor and would not ... score particularly highly on a scale of personal hardship” (p.11). By accepting then that crime is a relation that comes into being as a result of social contradiction and struggle, rather than due to anything inherently related to the act's immoral or harmful character, the non-correspondence between crime and harm no longer seems problematic. This conclusion, in turn, avoids inviting a questionable response which can be witnessed in the criminological literature, wherein certain authors have attempted to artificially break this non-correspondence by formulating a new normative foundation for crime, which would see it capture a greater range of egregious harms.

The most famous example of this tendency can be found in a number of celebrated works authored by the Schwendingers [35, 36] during the nineteen seventies. Operating under the assumption that there *should* indeed be a necessary connection between crime and harm, the Schwendingers critique legalistic definitions of crime on the basis that they take a criteria heavily determined by the uneven social landscape of class struggle, as a basis for scientific practice. Therefore, given the bourgeoisie's enhanced ability to turn its morality into law, legalistic definitions of crime fail to capture diverse instances of serious harm perpetrated or condoned by the ruling class. In order to resolve this tension the Schwendingers propose a new normative basis for determining criminality, one founded upon a particular interpretation of human rights. On the basis of this new normative foundation the Schwendingers [35] argue “individuals who deny these rights to others are criminal” (p.137). Crime so defined,

according to the Schwendingers [35], frees criminology to consider some of the most egregious harms in our contemporary society such as the:

[H]undreds of thousands of Indo-Chinese persons ... denied their right to live; millions of black people ... subjected to inhuman conditions which, on the average, deny them ten years of life; the majority of the human beings of this planet ... subjected because of their sex; and an even greater number throughout the world ... deprived of the commodities and services which are theirs by right (p.137).

However, by operating under the ontological assumption that crime and harm should correspond the Schwendingers are not entirely free of the ruling class mystifications they so strongly oppose. While it may indeed be the claim of bourgeois politicians and intellectuals that criminality and harm have a *necessary connection*, our role as critical scientists is to hold these one-sided, class based claims up to scrutiny; something which in many instances the Schwendingers do extremely well. However, in this particular case by accepting the essentialist assumption that harm forms the ultimate ontological basis for criminality, and then developing a new normative foundation for defining crime that would now see it capture a greater range of social harms, the Schwendingers are *inadvertently* perpetuating the ontological myth that crime and harm are inherently linked, a myth that will continue to be manipulated by class actors to legitimise the repressive content of the criminal justice system.

Therefore, by defining criminality as an ontological characteristic acts acquire as a result of a mediated relation that forms between concrete human beings under certain historical conditions, as I have attempted to do in this paper, we are able to offer an alternative definition of crime that both overcomes the reified character of the legalistic approaches, which the Schwendingers rightly rebuke, while also avoiding the essentialist assumption that crime and harm *should* somehow have an inner connection. However, to this it must be added that the ontological definition of crime presented here, also circumvents the problematic path taken by certain Marxists who characterise crime as an ideological construction of the ruling class.

For example, according to Hirst [13, 14] and O'Malley [33], crime is an "ideological and political category", which they claim can not constitute "a Marxist concept" ([33], pp.70–71; see also [13], p.204). Indeed both Hirst and O'Malley argue that "'crime' is defined by State law and detected and punished by the State repressive apparatus" ([13], p.220), therefore, "were crime to constitute a concept within Marxism, we would face the ridiculous prospect of having the subject matter of Marxist analysis being determined by state administrative pragmatism" ([33], p.77). Consequently Hirst [14], with whom O'Malley agrees, concludes that:

Marxism is not a 'theory of society' which can be applied to any range of phenomena within 'society' ... Historical Materialism is first and foremost a scientific general theory of modes of production. It cannot, therefore, be a theory the 'only object' of which is a specific form of political practice in a specific social formation (p.241).

Both as a Marxist and a criminologist I would suggest there are two fundamental problems with this position.



First, to the extent that Hirst and O'Malley accept definitions which construct criminality as a quality acts obtain as a result of "state administrative pragmatism", an acceptance which seems to fuel their characterisation of crime as an politico-ideological category, they would seem to be ignoring the advice of Marx [26] who observes, "all science would be superfluous if the form of appearance of things directly coincided with their essence" (p.956; see also [29], p.197). Indeed were we to evaluate social reality from the perspective of immediate contemplation, all human activity would *appear* a result of pragmatism; the worker sells their labour for the best price in order to buy food; the capitalist cuts corners on safety to increase profit; and states criminalise certain activities to secure order. The point of science, however, is to penetrate past the "immediately given facticity" ([19] p.14), to discover the historical conditions under which these particular actions become possible and desirable [27]. This critical pursuit is one that criminology is well positioned to pursue, when it comes to explaining the historical nature of those exchange which establish certain acts and actors as criminal in character.

A second criticism which can be made of Hirst and O'Malley's position is that it pushes an oddly fundamentalist view of Marxism's theoretical apparatus. The concepts Marxists employ, such as mode of production, class, value, hegemony, imperialism etc, are all in various ways definitions of the relationships and processes which unify human beings into concrete systems of a certain historical type. Of course, some relationships and processes have ontological priority over others, a fact which attributes special significance to certain corresponding categories (e.g. relations of production). However, this does not prevent Marxists from continuing to define processes that remain poorly understood, criminality of course being one such example. Indeed, the dialectical method does not as Hirst and O'Malley imply, demand that we explain the social whole through a set of elite concepts divulged by the classical founders of the Marxist tradition. Rather knowledge is a historical and an accumulative process, where each new generation builds and expands on the definitions of reality constructed by its predecessors, which as a result creates more sophisticated understandings of concrete existence in its fluid motion. Though, of course, the process of analysis is guided, at least within the Marxist tradition, by a dialectical ontology and a corresponding epistemology and method, which assist the scientist to abstract and prioritise essential relations and processes in a way that facilitates the comprehension of reality as a dynamic whole. From this perspective, analysing crime as a historical process does not appear problematic providing it is done in a methodologically rigorous way. Indeed given the weak, fetishised mainstream explanations of crime, criminality and criminal justice, this scientific project is much warranted. Critical criminologists would appear to be in an excellent position to undertake this important intellectual task.

Given then that we now possess a concrete definition of crime, which overcomes a number of problems evident in certain radical critiques, it may be asked, can the study of the crimes of the powerful be considered a legitimate criminological sub-discipline without doing abstractive violence to the category of crime? To answer this question in the affirmative a twofold criteria must be met. First, the focal phenomena must consist of practices that contravene accepted, historically

developed rules, and thus risk being subject to a significant reaction and sanction from social audiences. Secondly, the theoretical lens of this scholarship would need to focus on the peculiar social dimensions which criminality gives to the practices concerned.

On this first basis criminologists have persuasively argued that both states and corporations have had the legitimate range of alternatives available to them limited as a result of legal and customary norms [6, 7, 38, 40]. Where states and corporations have contravened these limits, social audiences have been compelled to apply significant sanctions. As a result, it would seem legitimate for criminologists to approximate the historical determinations that set these limits, and the new social dimensions these historical limits give to the deviant practices of states and corporations, both in terms of how the deviant social practice is undertaken, and the consequential struggles that occur over detection and punishment. Indeed a useful example of the new social dimensions criminality can give to the practices of capital is provided by the criminology-critic O'Malley [33], who observes:

It can be recognized that capital which operates in prohibited fields must organize production and circulation of commodities in a fashion which differentiates it from capital working in the legitimate sector. In particular capital in this illegal sector must create its own agencies to effect political conditions for the reproduction of capital, conditions which are provided by the state for capital in the legitimate sector of production (p.80).

Similarly, in my own research on state violence I have noted that the deviant character of particular political practices, shapes both the methods which the state employs to administer these deviant activities (e.g. state managers utilise legitimate linkages with foreign states and private military companies to obscure deviant activity), and the public relations strategies that government officials deploy in order to formally 'spin' the state's conduct to domestic and international audiences; all of which are processes that require theoretical attention.

Therefore, given that crime is a concrete social process that exists, which imbues certain practices with new social dimensions, there is good *scientific* justification for the study of state and corporate crime in particular, and crime generally. Of course in making this claim, I acknowledge that by contributing to criminology as a discipline, critical criminologists risk further reifying the criminal justice system. However, this is not a problem unique to criminology, rather it is a general dilemma that can be witnessed in all social scientific practices. Fields such as economics and psychology as much as criminology, feature schools which produce explanations that legitimise and obscure forms of exploitation and oppression. Surely, therefore, it is preferable to try and critique these schools, rather than abandon these particular sciences to the orthodoxy.

However, while criminology may indeed be a legitimate scientific field whose focus can be conceptualised in a rigorous way, this does not negate the need to move beyond criminology if we are to fully scrutinise socially generated harms. Therefore, in the following section I will offer a dialectical definition of social harm, rooted in classical Marxist ontology. This definition will enable us to more clearly distinguish crime from social harm. Once this has been achieved I will enumerate a number of

justifications for developing a specialised field which scrutinises socially produced harms.

### **Defining social harm**

In the first section of this paper, it was noted that all phenomena exists within a distinct “system of things” which prescribe it with historical characteristics and a definite mode of existence ([15], p.118). Humans, as we observed, are no exception. Indeed the basic need to eat and drink starkly reveals that we are absorbed in an active relationship with the external world [27]. However, as was also noted, this active relation between ‘man’ and nature, and ‘man’ and ‘man’, is increasingly social in character. In other words, the character of these relations may be attributed to socially forged alterations made by conscious actors, which have accumulated historically, thereby creating diverse, changing social formations. Nevertheless, what is essential to highlight for our current purpose is that human civilisation is framed by historically generated relations which structure the lawful processes in which humans are absorbed. Human existence, like all existence, is concrete in character. As a result Harvey [9] argues:

Dialectical thinking emphasizes the understanding of processes, flows, fluxes, and relations over the analysis of elements, things, structures, and organized systems ... There is a deep ontological principle involved here, for dialecticians in effect hold that elements, things, structures, and systems do not exist outside of or prior to the processes, flows, and relations that create, sustain, or undermine them. For example, in our contemporary world, flows of capital (goods, and money) and of people give rise to, sustain, or undermine places such as factories, neighbourhoods, and cities understood as things (p.49; see also [17], p.184)

If we may apply this deep ontological principle to social harm, it may be said that just as factories, neighbourhoods and cities are reified moments generated by the processes, flows and relations of global capitalism, so too are the millions killed in war, the hundreds of thousands killed and maimed in the workplace, and the fading ozone layer. Furthermore, to continue the analogy, if it may be said that geography attempts to understand how, for example, factories, neighbourhoods, and cities arise out of the processes, flows, and relations of capitalism, *a discipline based on social harm would aim to approximate with greater clarity how these processes, flows and relations also produce particular forms of harm* (of course, historical studies on social harm would extend this same principle to other modes of production besides capitalism).

Though it must be asked, how do we know that the flows of a particular social structure have actually coagulated materially into forms that are *harmful*? Pemberton [34] offers the following solution: “[A]n individual is harmed through the non-fulfilment of their needs” (p.37). In order to clarify what acts “non-fulfilment” of “needs” would capture, Pemberton advocates the use of a normative framework developed by Doyal and Gough. To illustrate its utility Pemberton [34] observes, for example, that “the extreme deprivation of food, shelter, sanitation, healthcare,

education, and so on, clearly represents the non-fulfilment of Doyal and Gough's basic needs of survival/health and autonomy/learning" (p.37).

While Pemberton's approach is an innovative response to a difficult problem, it nevertheless suffers from a fatal error, namely it confuses harm with injustice. That is, norms, such as those contained in Doyal and Gough's framework, are ideal forms, which are based upon a certain ethical conception of 'man'. These ideal forms attempt to delineate the civilised conditions for social development. Systems and practices which undermine these civilised conditions obtain the character of being *unjust*. Therefore, while a normative framework will enable the identification of *unjust* social conditions, which will usually feature instances of socially generated harm, nevertheless, there is no *necessary* connection between harm and injustice, indeed society may feature many injustices that are not actually harmful (e.g. the suppression of the artistic potential of the "the broad mass" ([28], p.443)). Harm, therefore, is an aspect of being that is ontologically prior to norms, indeed harms are things which norms will often seek to limit, but the two are not identical. Thus, to define harm we must make the transition from ethics to ontology, which is prior to ethics in philosophical terms.

On this front, it will be recalled that "the structure of being" has "three great underlying forms, the inorganic, the organic, and the social" ([18], p.22). Lukács [18] argues that, "these three forms are distinguished from one another by qualitative leaps" (p.22), thus "the activity of man as a natural being gives rise, on the basis of inorganic and organic being, and proceeding from them, to a specifically new, more complicated and complex level of being, i.e., social being" ([20], p.21). However, in making this leap from organic to social being 'man' does not leave 'his' organic existence behind. Indeed as Marx [22] explains:

Man is directly a *natural* being. As a natural being and as a living natural being he is on the one hand furnished with *natural powers of life*—he is an *active* natural being. These forces exist in him as tendencies and abilities—as impulses. On the other hand, as a natural, corporal, sensuous, objective being he is a suffering, conditioned and limited creature, like animals and plants (pp.144–145).

Ontologically speaking then, 'man' is a natural being, yet unlike other instances of nature, 'man' reproduces the organic properties of 'his' body through socially generated practices (e.g. material production, medical science etc). The concrete structures of social being, therefore, have become an essential precondition for preserving man's organic life.

With this abbreviated ontological framework in mind, it may be said that *social harms arise when socially generated processes undermine the organic reproduction of 'man', or the organic/inorganic reproduction of man's environment*. This may occur either directly (e.g. by exposing humans to toxic chemicals), or indirectly (e.g. through denying human beings access to existing social forces, such as medicines, which could assist preserve the organic properties of their body). This definition clearly recognises a fundamental contradiction of social development, that being, it simultaneously produces forces that both preserve *and* undermine the organic/inorganic world—forces that are unevenly distributed across space, time and class.

Conceptualising *harm* in this way would appear to have three key advantages. First by delinking harm from norms, we avoid the complications that would arise from organising a discipline around certain ethical criteria. One can only imagine the contemporary Tappanian critiques such a foundation would provoke. Indeed, social harm scholars would be accused of calling anything harmful that does not conform to their ‘socialistic’ outlook. Secondly, by employing a dialectical conception of being, which takes the unified character of man’s organic and social nature as the basis for distinguishing harm, a robust standard is set that limits our analysis to the most serious forms of harmful social practice. This seems rather important, given that one of the fundamental reasons which has been espoused for abandoning criminology, was that its boundaries often lead to a scientific focus on harms that do not “score particularly highly on a scale of personal hardship” ([12], p.11). However, that said, the definition proposed in this paper, if thought about laterally, would capture a wide variety of harms including, for example, genocide, torture, terrorism, famine, ecocide, destructive dietary patterns, denial of medicines, dispossession of wealth etc; indeed all these acts in their own way undermine the processes and flows of the organic and/or inorganic world. Finally, and perhaps most importantly, I have avoided defining harm abstractly. Rather, I have rooted my definition of harm in the three entwined structures of being. This triangular ontological totality, which human life presupposes, becomes the concrete standard by which social harm may be identified.

Now that the core components of social harm have been defined it may be said that *the category, social harm, captures moments where the relations, processes and flows of social being either disrupt or fail to preserve the structures of organic and inorganic being*. It should be added, that for scholars interested in the social harms produced by states and corporations, it is essential that these organisational forms are conceptualised as organs which channel the flows generated by the relations of capitalism. By viewing states and corporations in this way, we can specifically theorise the social harms they author, without fetishising their organisational forms.

### **A scientific and ethical case for social harm**

Having dialectically conceptualised crime and social harm, we can now examine from an informed perspective, the merits of moving beyond criminology. Arguably the most compelling justification for making this transition stems from the *limits* which the category crime, once critically defined, places on our scientific lens. As we observed in the first section of this paper, crime and social harm are phenomena which bare only a contingent relationship. Scientific inquiry into crime, therefore, involves analytically plotting the concrete conditions under which subjectivities of diverse types come into opposition, and attempt to limit each other’s conscious practice through making their offence hegemonic in custom or law; and of course, the ensuing struggle this engenders in terms of criminalisation, detection, punishment and resistance. While such complex processes will often feature instances of social harm, potentially of an enormously destructive character, criminology’s disciplinary focus is nevertheless predominantly on the fluxing struggles that centre around the relation between social audiences and deviant

actors. As a result, unless we wish to wilfully do abstractive violence to the category of crime, criminological inquiry does not permit us to *fully* examine how the relations, processes and flows of social being deplete the organic and inorganic world. Plotting analytically the character of this latter dynamic, therefore, would seem better suited to a scientific practice whose sole devotion was social harm.

However, this conclusion does not entirely negate the possibility that criminological research into social harm could still take place, though such research would be limited to those forms of social harm that are *also* criminal in character. In these instances, criminologists may legitimately scrutinise both the historical conditions that produced these destructive forms of social exchange, and the determinations which informed their social censure. Furthermore, criminologists may also usefully consider the new social dimensions which criminalisation gives to these harmful practices, and the struggles that this in turn generates. Nevertheless, in order to *fully* explain how and why the relations, processes and flows of social being, undermine the processes and flows of the organic and inorganic world, we can not allow the scope of our inquiry to be limited to those practices where crime and social harm *happen* to coalesce. Therefore, we must ultimately move beyond the boundaries which crime necessarily places on our scientific lens, and introduce a new disciplinary practice that is acutely directed towards understanding this important ontological dynamic.

A second important scientific justification for moving beyond criminology, and one that may in the first instance appear contradictory, is that it would actually *oppose* the tendency of social science disciplines to fracture into micro-fields, which narrowly focus on highly specific social phenomena. In this respect, Lukács [17, 21] claims that the social sciences mirror the movement in capitalist production towards the specialisation and rationalisation of tasks. He warns that a problematic consequence of this movement, is that the scientific vantage point of totality tends to be abandoned, and instead scientists focus on developing specialised laws which explain their discrete phenomena in abstraction from the complex of relations and processes that frame social life. Consequently, “objects are torn from the complex of their true determinants and placed in artificial isolation” ([17], p.163). It was for this reason that Marx [22] chastised the development of psychology as a specialised discipline. Indeed, Marx [22] argued that a science of human psychology which explains man’s conscious world in abstraction from ‘his’ material mode of production, “remains a closed book, [and] cannot become a genuine, comprehensive and *real* science” (p.102).

At first glance, moving beyond criminology would simply appear to be a continuation of this tendency towards specialisation and rationalisation that so fundamentally diminishes the ability of the social sciences to consider phenomena from the vantage point of the social whole. However, on closer inspection it must be conceded that the scientific approximation of social harm is actually *already* a victim of this fragmenting tendency, being treated as it is discretely by a number of different disciplines, who each study forms of social harm in theoretical isolation. This tends to promote the illusory appearance that distinct social harms like state terror, ecocide, famine and corporate fraud, have as much in common as “lawyer’s fees, beetroot and music” ([26], p.953). The movement beyond criminology into a discipline based on social harm, would allow us to negate this trend by fostering

studies which examine the way heterogeneous harms manifest out of the various spatio-temporal antagonisms generated by global capitalism in its uneven and combined development.

Complimenting these scientific justifications are important ethical justifications. While there are a number of philosophical angles from which an ethical case for social harm could be made, the ethical framework of Aristotle and Marx would seem compelling and useful for our current purpose. According to Callinicos [3], both Aristotle and Marx avoid rights based and utilitarian ethics, through forging an approach which judges a society on the basis of its ability to actualise man's intellectual, artistic, emotional etc potential in the most full and well rounded way possible under the prevailing historical conditions (pp.31-4; see also [18], pp.151–152). Clearly, for Marx, capitalism is an example of a historically developed social structure that curtails the ability of the vast multitude to fully immerse themselves in the accumulated social forces of 'mankind'. Thus, for example, in *The German Ideology* Marx and Engels [28] lament that under capitalism "the exclusive concentration of artistic talent in particular individuals", occurs because of the "suppression" of this same talent "in the broad mass" (p.443). Whilst in a similar ethical tone, Marx [25] in *The Poverty of Philosophy* argues that "[i]n principle, a porter differs less from a philosopher than a mastiff from a greyhound. It is the division of labour which has set a gulf between them" (p.120). Within this ethical paradigm surely workplace deaths, toxic pollution, war, poor nutrition, inadequate housing, uneven medical access etc, must all be seen as socially produced harms which like the organisation of production under capitalism, severely curtail the ability of human beings to realise their full potential. Therefore, understanding the origins of social harm, and the conditions under which it can be best ameliorated, fits comfortably within an ethical program which aims to develop a society that best promotes man's self-actualisation.

However, while there may be sound scientific and ethical justifications for moving beyond criminology, there have, nevertheless, been justifications articulated in the literature that are more problematic. These justifications are of what we might call a tactical nature. Their guiding premise being that a move beyond criminology will facilitate the development of more humane strategies for minimising serious forms of social harm, thereby avoiding the negative ramifications that come from working within a discipline that is mired in the problematic social landscape of criminal justice. Pemberton [34], for instance, proposes that the study of social harm could move from criminology to the discipline of "social policy" which "is allied to the remnants of the 'social state'" (p.32). According to Pemberton [34] a disciplinary shift to social policy would provide social scientists with more appropriate tools for tackling social harm. He argues, "the relationship between the discipline [of social policy] and welfare systems enable the social harm perspective to engage within arguably more productive interventions than criminology. Whilst the interventions offered by the criminal justice system are premised on punishment, the welfare state primarily serves to provide redress for socio-economic harms, such as unemployment" ([34], p.32). This substantively tactical justification for the move beyond criminology would appear to suffer from two principle problems.

First, and most fundamentally, it seems to tacitly accept that the *scientific* study of social harm could function within the logic of contemporary bourgeois

political relations. However, were the study of social harm to work within a discipline allied to the welfare state, there is a considerable *risk* that our choice of scientific method would be curtailed. As Lukács ([17]; see also [19, 32]) points out in his seminal essay *Reification and the Consciousness of the Proletariat*, the economic and political practices of capitalism can only absorb superficial modes of science that accept and fetishise the immediate appearance of reality, thereby producing rational ‘laws’ which predict and measure the apparent movement of men, things and structures and their “easily perceivable surface relationships” ([19], p.19) (hence the rampant growth of vulgar empiricism in the social sciences). Such rationalised laws, predictions and measurements allow political and economic agents to make informed responses to the immediate phenomenal contingencies produced by the deeper relations, processes and flows of capitalism, without ever making the latter submit to rational control; a step which would obviously undermine the essentially anarchic character of contemporary capitalism. Consequently, scientific practices which propose to move past the reified appearances of capitalism, in order to recast contemporary forms of social being (e.g. commodities, money, markets, capital, capitalists, workers, nation-states) as momentary manifestations of historically temporal relations and processes, undermine existing economic and political practices which hinge on maintaining the mystification that social metabolism is both beyond organised social control, and yet is at the same time inherently rational (i.e. predictable/lawful), fair and natural. Thus the very scientific definitions of reality that deepen our comprehension of contemporary social conjunctures (i.e. ones that demystify reified surface appearances), overtly offend the modes of thought and interest that underpin contemporary policy making circles. Consequently, making a move to a discipline founded upon the logic of the latter would appear problematic, at least in its present formulation. Hence, just as it is disastrous for criminological scholarship to function within the logic of the bourgeois criminal justice system (s), a tendency which critical criminology opposes, moving beyond criminology into a field that functions within the logic of the ‘social state’ would appear to *risk* reproducing the same superficial scientific style that may be witnessed in conventional criminological scholarship, albeit perhaps in a different, more palatable context.

A second danger which is inherent in Pemberton’s tactical justification for moving beyond criminology, is that it would appear to subordinate scientific practice to the immediate tactical demands of social struggle i.e. in this case we are invited to move beyond criminology in order to more effectively implement policies which could humanely limit social harm. The dangerous consequences of allowing such a tendency to continue unabated have been highlighted by Lukács [18] when reflecting on the history of socialism in the twentieth century:

I would ... like to stress at this point that the great break between Lenin and Stalin consisted precisely in that in Stalin’s philosophy—if I may call it that—the temporary tactical decision of practical politics plays the primary role, so that the general theory sinks into a being a trimming, a superstructure, an embellishment, which no longer has any influence on the tactical decision (p.153; see also [21], p.215).



In contrast, Lukács [18] argues that Lenin's political agenda was guided by a theory of world capitalism, and thus the tactics he advocated for the proletariat class struggle were built upon a *concrete* scientific appreciation of the possibilities inherent in the historical moment (remembering, that a concrete study may reveal opportunities and possibilities that would be overlooked by empiricists).

Clearly in citing this example I do not wish to imply Pemberton, or anyone else for that matter, are crypto-Stalinists. Rather, I am using Lukács' well healed political lesson as an analogy to highlight the dangers of allowing scientific development to be fashioned around immediate tactical needs. Social practice of any sort, whether it be economic, political or scientific must be guided by the most developed theoretical appreciation of reality available under the existing historical conditions. Surely then the move beyond criminology must be justified on the basis that the critical application of mature social theories has revealed an empirical disjuncture between crime and social harm, which warrants their scientific division into separate particular sciences. Justifying this transition on the basis of harm amelioration makes theory an "embellishment" used to justify a tactical demand, whilst those tactical demands in turn are informed by an unmediated appreciation of reality (i.e. one that has not been mediated through mature forms of social consciousness, methodically applied). Consequently, it may be said that in the case of social harm we have sound scientific and ethical justifications for moving beyond criminology, the more immediate tactical need to alleviate particular social harms should be guided by the theoretical development of this new scientific practice, not vice versa.

## Conclusion

Clearly, more work remains to be done in order to define social harm concretely, nevertheless, the general disciplinary transition discussed in this paper would seem a positive one. By decoupling social harm and crime, the conditions are created not simply for the development of a new unified field based on the study of social harm, but also for the reconstitution of a criminology that is free from the problematic assumption that crime and harm are necessarily connected.

For the reasons that I have already articulated, situating this new field in the existing disciplinary strand of social policy seems problematic, thus it would appear preferable that we initiate an entirely new disciplinary strand entitled social harm studies. For scholars interested in the crimes of the powerful, this development offers a liberating corridor for scientific development. Indeed, there is little doubt that criminological studies of states and corporations are curtailed to an extent by the disciplinary confines that the category crime necessarily imposes. Social harm studies would allow criminologists to circumvent this problem. However, making this disciplinary move to social harm studies by no means undermines the continuation of critical research into criminology generally, or the crimes of the powerful specifically. Indeed both scientific practices, providing they are conceptualised concretely, can improve our understanding of processes that play a significant role in social reproduction.

Finally, the initiation of social harm studies should not be seen as yet another example of the fragmenting tendency that is evident in the contemporary social

sciences. Rather, this movement is unifying. Indeed it provides a mechanism for joining together disparate scholarly studies on social harm that are spread across various fields (e.g. criminology, terrorism studies, international relations, development studies, security studies, health sciences, social policy etc), a process which has the potential to improve our understanding of why social development in its current historical form, affects unevenly the processes and flows of the organic and inorganic world.

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