

Just Promises: Tracing the Possible in Criminology

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Gazing across the heterogeneous discourses claiming the rubric of criminology, a casual observer will likely be struck by pervasive discussions aimed at solving the 'crime problem'. Alongside the blaring choruses of technical experts one finds the hushed muses of sceptics and critics. They worry that all the noise is shoring up the very 'reality' that criminologists profess to eradicate (e.g. Christie 1993). Without firm attachments to realist notions of 'crime,' the technically-driven choir would have to sing the lines of a very different melody. What follows contemplates a way of thinking about how we might compose such melodies in those undefined spaces beyond the limits of 'present reality.' It draws inspiration from an allegiance to critical searches for the possible; not from an obsession with describing, in evermore detail, the fugitive 'realities' of 'crime'. So, as its title suggests, this undertaking is not about drafting (exclusive) limits around what can be classed as real, but with developing genres of critique that forever gesture towards possible alternatives.

But why seek to develop critical genres that trace the possible? There are at least three good reasons. First, critical voices are today muted (at least, relative to debates in 1970s criminology) partially because critics have not focussed on that which distinguishes radical from correctionalist discourses in criminology - namely, critique. Herein lies a strong case for reassessing critique and its overall plight within the knowledge-producing orders facing critics nowadays. Even if one were to allege that these orders are not yet 'postmodern,' few would disagree that they are no longer beholden to a grammar of certainty, universality and a univocal reason characteristic of modern epistemological arenas (Lyotard 1984; Bauman 1987, 1992; Smart 1993; Lemert 1997). So long as critics fail to engage, and contest, the uncertain epistemological ethos within which their claims to knowledge are made, they are fated to speak in muted, even frustrated, tones. They will remain on the margins of a chorus that trumpets its capacity to tweak efficiencies out of given criminal justice systems. Seeking to increase the volume of critical voices may well be possible only to the extent that the 'realities' of technical discourses are less prominent. The tragedy of the situation is that so many people - victims, offenders, practitioners and scholars alike - have been imprisoned by technical promises that have yet to redress harmful social comportment. The exclusions that sustain such promises abdicate responsibility to notions of justice that lie dormant beyond, and are silenced by, the limits of what is (see Taylor & Taylor 1973)

Secondly, with some irony, Barak rightly notes that the word 'critical' no longer has a specific meaning within 'critical criminology':

While the term 'critical' is a useful label for describing the interests of those who work under this rubric, I don't believe that its current usage has any specific meaning beyond the generic convenience of providing organisation and social-identity for its adherents (1994/1995: 3).

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The distinguishing feature of radical criminology has thus lost its terms of reference, allowing critical discourses to drift ever closer to administrative discourses focussed on solving the crime problem. Consequently, some insist that critical criminology is now facing a state of 'crisis' (Van Swaaningen & Taylor 1994; Van Swaaningen 1997). Whether or not this is so, radical thinking in criminology has been abridged by failing to analyse the plight of critique in current knowledge-producing arenas (Pavlich 1999).

Thirdly, Lyotard's (1984: 37ff) critique of postmodern knowledge production charts the fall of speculative and emancipatory metanarratives. In an ethos riddled with uncertainty, metanarratives claiming universality appear increasingly difficult to sustain. In political arenas where heterogeneous stakes are claimed by diverse identity formations (e.g. gender, sexuality, race, ethnicity, culture), calls for universal emancipation seem all but incredible. Is there, for instance, a single condition that speaks to all these different oppressions any more than a universal response to overcome them all? Baldly asserting capitalist exploitation and revolution as respective responses to these two issues resounds a hollow echo within the dystopias that have emerged through the collapse of communism (Walton 1998). At the same time though, the incredulity towards universal emancipation has, observes Lyotard (1984), allowed 'performativity criteria' in technical discourses to assume a paramount legitimating role. Under postmodern conditions, that is, knowledge is legitimated by appealing to the manner in which claims can improve the technical efficiency of given systems. Here, radical critique challenging founding rationales of systems is marginalised, or even disallowed – hence the murmurs of critical thinking. Realist criminology, in its 'left' or 'right' guises, helps to entrench this uncritical (and therefore dangerous) ethos so long as it justifies its knowledge by claiming to improve the efficiencies of criminal justice systems (see Pavlich 1999). No doubt, therefore, the rise of pragmatic left realism has come at the (real?) cost of eclipsing radical critiques which refuse the exclusionary limits of historically professed 'realities'. Again, this indicates the promise of challenging quests for the 'real' in criminology.

What follows takes up this challenge by exploring genres of critique that refuse to claim knowledge either on the basis of universal emancipation or technical efficiency. Such genres can be recovered from a particular spirit of radical criminology (especially in the 1970s) and its search for possible alternatives by pointing to paradoxes and contradictions of established ways of doing things. Echoing Derrida (1994), I shall want to describe this venture not as an 'ontology' but as a 'hautology': the spectres of erstwhile critical genres that lie between the critical and the correctional, in a spirit of regenerating critique in criminology.

Censuring Judgment

'Criticism' and 'critique' hold traces of the Greek *krinein* which deferred to words like judge, discern, divide and separate (OED 1989: 28-30). Criticism grew in three spheres of activity; namely, judicial decision making, medical diagnoses of 'crisis' stages for a given illness (i.e. a critical condition), and (Hellenistic) philology around literary texts (Connerton 1980: 16). During the Renaissance, criticism encompassed the narrower activity of studying texts to ensure their purity: "Its activity consisted in a return to an original condition, and in a determination to reconstruct the authenticity of a source" (Connerton 1980: 17). In the process, truth through revelation is replaced by truth through critique. Here critics assume a judgmental, imperious role whose chief activity involves establishing criteria through independent methods (usually reason) that yield apodictic, ahistorical principles (Con Davis & Schleifer 1991: 3-5). It also entails reading specific texts or contexts to judge these

against the established criteria (Koselleck 1988). The (Kantian?) critic thus appears as legislating expert who uses grounded, criteria-based critical judgments to guide socio-political contexts ever closer to becoming rational, and thus supposedly more peaceful, orders (Bauman 1992, 1987).

Traces of judgmental genres of critique are evident in several radical criminology texts. However, to state an important caveat, whilst a genre may be reflected by various perspectives, no one approach embraces a single genre of critique entirely. On the contrary, most radical approaches embrace several genres simultaneously. The genre of judgment is especially evident in those approaches that establish some or other canon regarding how society ought to look, and then judge existing states of affairs against such criteria in order to prescribe what is to be done. For example, critical judgment is implicit in labelling approaches which hold to liberal democratic notions of individual freedom as an inalienable right, and proceed to expose how processes of labelling individuals as deviant intrude upon such rights (e.g. Becker 1966). Similarly, the 'new left' approaches to Frankfurt School critical theory very often lapse into judgments of existing "one dimensional" capitalist societies on the basis of criteria that are established through reason (see Tierney 1996; Pearson 1975). No doubt too, traces of this genre are palpable in certain Marxist formulations; especially radical humanists whose critiques involve comparisons between founded notions (criteria) of humanity and their absence in given contexts (e.g. Quinney 1973). A well developed formulation of this genre is also recoverable from anarchist and peacemaking criminology (see Pepinsky & Quinney 1991). Perhaps one might also allude to left realist formulations that seek a criminology for the working class, judging perceived failures of current criminal justice systems against notions of 'socialist' visions of crime control (e.g. Lea & Young 1984). It is also reflected by those feminists who C. Smart (1992) depicts as 'forming an unholy alliance' with realist criminology, and who Naffine sees as committed to 'standpoint feminist' realism (1997: 60-67).

Notwithstanding the gains of such critiques, judgments based on universal criteria defer to a posture that runs against the uncertainties of our ethos (see Bauman 1997). For example, on what basis is one to declare a certain and universally valid vision of humanity, or socialist reality? The uncertainty which renders such a question problematic does not foreclose on aspiring to something beyond what is, of leaning towards say 'justice'. It is just that there is no certain guarantee that our aspirations will not run awry; the dangers of say injustice, oppression, violence, inequality, etc, are omnisciently inescapable, and yet all too often eclipsed when we declare particular aspirations as necessary, real, inevitably superior (progressive) or certain. As well, to the extent that judgmental genres of critique proffer exclusive criteria, critics are obliged to accept these. At stake here is a disturbing exclusion which entails no less than 'blackmail': the reader either accepts the criteria, or risks not being amongst the critical. Barthes (1987: 33) captures the spirit of this concern nicely:

So long as criticism had the traditional function of judging, it could not but be conformist, that is to say in conformity with the interests of the judges. However, the true 'criticism' of institutions and languages does not consist in judging them, but in *perceiving*, in *separating*, in *dividing*. To be subversive, the critic does not judge, it is enough that he [*sic*] talks of language instead of using it.

Although I have reservations about pushing the degree to which we can talk of language without using it too far, Barthes does usefully point to the exclusion involved in requiring conformity to the judge's interests.

Such exclusion is made all the more consequential when one considers – as Benhabib (1986: 33) points out in her excellent discussion of Marx's critique of judgmental criticism – that this genre,

privileges an Archimedean standpoint, be it freedom or reason, and proceeds to show the unfreedom or unreasonableness of the world when measured against this ideal paradigm. By privileging this Archimedean point, criticism becomes dogmatism: it leaves its own standpoint unexplained, or it assumes the validity of its standpoint prior to engaging in the task of criticism.

Against exclusionary judgment that does not adequately question the foundations of its critical auspices, I shall want to develop a different genre of critique that is evident in (at least) two other versions of radical criminology. Before turning to these two genres in the next section, it may be useful to declare the spirit of critique that drives the search. Like Foucault,

I can't help but dream about a kind of criticism that would try not to judge but to bring an oeuvre, a book, a sentence, an idea to life; it would light fires, watch the grass grow, listen to the wind, and catch the sea foam in the breeze and scatter it. It would multiply not judgements but signs of existence; it would summon them, drag them from their sleep. Perhaps it would invent them sometimes – all the better (1994: 323).

Problematization and Immanence

Apart from judgment, there are several other genres of critique within the ambit of critical criminology. Two influential genres – which I shall call problematization and immanence – are particularly pertinent to a spirit of critique that seeks to 'multiply' and 'invent' signs of existence. Let us turn first to problematization. Radical deviancy approaches were genealogically related to American interactionism and labelling theory, but found the most developed expression through the National Deviancy Conference (NDC) in Britain. Much has been written on this, and one need not elaborate upon the details here (see Box 1971; Carson & Wiles 1971; Taylor 1971; Taylor & Taylor 1973; Rock & McIntosh 1974; Cohen 1988). A child of the counter culture, and attracted to phenomenological concerns with the subjective dimensions of social practice, this approach challenged mainstream functionalism and positivism in sociology, as well as correctionalism in criminology (Taylor 1971: 23-4). It targeted conventional images of deviance by 'bracketing' the very foundations of correctionalist precepts (e.g. Phillipson & Roche 1974: 156). In developing an alternative phenomenological account, it *included* previously excluded voices; namely, the deviants' subjective meanings which lead them to disregard, challenge, or break the dominant culture's normative arrangements (Matza 1969, Cohen 1971: 19-20). This genre of critique sceptically reviews taken-for-granted limits of academic knowledge about deviance to develop alternative ways of interpreting subjective meanings articulated to the word 'deviance'. (Cohen 1993). This is the work of the critic as intellectual radical whose purpose is to show that, "...an alternative society, based on values currently considered deviant, is possible" (Taylor & Taylor 1973: 10)

Whilst the term 'deconstruction' has recently been associated with radical deviancy theory approaches, it is important to bear in mind that this is done *ex post facto* and with some reservation (e.g. Cohen 1993; Walton 1998). Nevertheless, significant lessons derive from recognising the overtures towards deconstructive thinking in early radical deviancy theory, and I shall return to this in the next section. For now though, let us note that the problematising genre of critique does not defer to exclusionary judgment, but entails a reflexive distancing in which,

...the subject gives himself [sic] the right to question the truth or its affects on power and question power on its discourses of truth...Critique will be the art of voluntary insubordination, that of reflected intractability. Critique would essentially ensure the desubjugation of the subject in the context of what we would call, in a word, the politics of truth (Foucault 1997: 32).

That is, critique can be taken to involve discursive procedures by which subjects embrace a “voluntarily insubordination” of, and “desubjugate” themselves from, a given power-knowledge formation. It is through a particular kind of ‘reflection’, or ‘analytical procedure,’ that critics develop an “intractability” *vis a vie* a given present. Critics are not likely to remove themselves from the historical horizons that have constituted their genres of critique. Yet attempts to retract from given patterns of subjection, through deconstructive quests that *recover the contingent* from given ‘reality’, implies an activity unlike other types of discourse. This is especially so because of the noted attempts of critics to project themselves into the promises of new and alternative futures.

Turning now to the second genre of critique – immanence – it is possible to locate further procedure for radical formulations. Immanent critique, in its various forms, also rejects the ‘prescriptivism’ of judgmental genres. Against foundationalist criticism premised upon independent criteria, the immanent genres of critique found in both Hegel and Marx do not appeal to external, apodictic points of reference (see Con Davis & Schleiffer 1991). Rather, this genre entails examining the internal dynamics of a text or context to draw out internal contradictions, discrepancies and aporias. The ‘negative critique’ of dialectical thinking is possible only by virtue of a given history, and so cannot claim to be based on ahistorical criteria (Benhabib 1986). Through the exposition of contradictions it is possible to work towards an integration that dialectically embraces and yet overcomes these. Such a vision is directed at historically produced ‘objects’, and places its own activity of discerning contradictions in light of a given stage of history; any postulated synthesis – be it normative or utopian – emerging from critique is only possible by virtue of a given moment in a society’s history. Marx clearly rejects the idealist moments of Hegelian thinking, but he embraces immanent forms of critique in his ‘ruthless’ analyses of specific ‘realities’. He works with the immanent precepts that targeted texts (e.g. political economy) or contexts (e.g. capitalist commodity production) embrace, highlighting the contractions and aporias within to point out alternative (materialist) possibilities. Such a genre exacts a confrontation between historical conceptions of the ‘real’ and the ‘possible’, and locates the critic, criticised objects and dialectical practices firmly within history. Any projected norms, or indeed utopias, are considered immanent within, rather than independent of, an historically-located reality (see Benhabib 1986: 35).

The legacy of Marxist-Hegelian visions of critique within radical criminology is considerable. Most influentially though, it is evident in the textual critiques presented by Taylor, Walton & Young’s *The New Criminology*, or the contextual praxis-orientated concerns of their later *Critical Criminology*. In the former, Taylor, Walton & Young critically evaluate existing theories in the sociology of deviance (criminology) to indicate contradictions between key concepts and categories. As they later put it, “...we attempted to elaborate the elements of what we call an ‘immanent critique’ of existing theories of crime, deviance and social control” (1975: 20). Through this critique, they seek to destabilise presented realities in order to allude to an alternative possibility – a fully social theory of deviance (1973: 270). Their immanent critique challenges dominant narratives claiming to represent ‘reality’ because, if successful, these narratives ascribe to a given context the appearance of absoluteness, making it difficult to resist the *status quo* and to contemplate how things might be otherwise. With a slightly different inflection, and an

emphasis on praxis, they later argue that critique ought to be placed squarely within wider political efforts to transform society. But they continue to insist that critical criminology "...must neither simply describe or prescribe (in the passive liberal sense); it must engage in theory and research as *praxis*" (1975: 24). So, critique ought not only to engage in problematising theoretical categories, or describe social existence; it should also develop narratives that assist in bringing about the socialist transformations that its critiques imply (1975: 24). Here the knowledge and practices immanent in a given social formation are used as a point of departure for developing transformative practices which lean towards an alternative condition (e.g. Fitzgerald 1977).

In general then, the point of immanent critique is to indicate contradictions within and between knowledge and practices in order to enunciate, or trace, the possible. The immanent critic excavates such contradictions to declare historically possible negatives and so reveal the contingency of what is. In the process, s/he opens the way for alternative possibilities to be developed as moments in history. The precepts of early critical criminology have been elaborated in diverse ways, all of which focus on the criminogenic tendencies that lie within capitalist societies and their oppressive legacies of racism, colonialism, sexism, homophobia, etc. (e.g. Scraton & Chadwick 1991). The overall purpose of such immanent genres, however, remains constant: to formulate an historically-situated analysis committed to achieving the social patterns rendered possible by its immanent critiques of prior knowledge and/or social being.

Tracing the Possible: Just Promises?

So, problematising and immanent genres of critique rely on practices that challenge the limits of taken-for-granted existence at a given moment in history. They do so to expose contingent processes that produce the real, and to gesture towards possibilities beyond the enclosures of the present. These genres differ from judgmental critical practices in several ways; centrally, however, they acknowledge a responsibility, not to the precepts of the 'real', but to an undefined 'otherness', an alterity that is the domain of possibility. To this extent, at least, one might defer to an interpretation of Derrida's (1994, 1997) recent turn towards the 'political' to understand the (previously-noted) deconstructionist impetus in radical deviancy and immanent genres of critique. No doubt, the responsibility to otherness speaks to a spirit of inclusion which could be recovered from Taylor, Walton & Young's attempt to envisage an 'alternative' society "in which the facts of human diversity, whether personal, organic or social, are not subject to the power to criminalize" (1973: 282).

The quest for inclusion could start with the etymology of criminology: the *logos* of the Greek *krima* (judgment, decision), or the Latin *crimen* (verdict, accusation) (see Negrier-Dormont 1994). Is this not a discourse about the *logic of the judgment or accusation*? Why the amnesia around the ways criminology has reconstructed its purpose as describing, and identifying the causes of, a professed ontological 'reality' of offending? If this etymology offers a reason for radical criminology to examine rather than use judgment (or accusation), it also suggests looking beyond the limits of power-knowledge relations implicated in calculations of justice that seek to 'criminalise diversity', or render difference (otherness?) deviant. No doubt, this signals another way of attaching critique to differently conceived criminological discourses, and implies the need for a prior sense of critique. No doubt, what follows will disappoint those in search of programmes specifying how to develop radical critiques in criminology; instead, it speaks very briefly to a spirit of critique that might be generated in the search for an inclusive radicalism not founded upon judgment or accusation. Let us conclude, then, with three prefatory remarks that will gesture towards: possible practises of (deconstructive) critique; the critic's role; and, the promise of justice that calls for such critiques.

First, this genre of critique is likely to involve processes of desubjectification, and insubordination, to reflect upon and deconstruct the limits that uphold the reality of 'crime'. Both problematising and immanent genres of critique mobilise procedures that aim to recover the contingency of a given reality, of a specific present, and embrace the continuous possibility of alternation. The aim is to narrate the present in such a way as to show what is could be otherwise. Echoing a "gesture of fidelity" to a "spirit of Marxism", such deconstructive critiques:

cannot operate without justifying the principle of a radical and interminable, infinite (both theoretical and practical, as one used to say) critique. This critique belongs to the movement of an experience open to the absolute future of what is coming, that is to say, a necessarily indeterminate, abstract, desert-like experience that is confided, exposed, given up to its waiting for the other and for the event (Derrida 1994: 90).

Critique thus involves continuous struggles through which the presently possible is confronted to reach towards its contingency, and to open it to the absence(s) which renders it possible (Pavlich 1999). The important practices here are dissociation, openness, hospitality and inclusion rather than gathering, closing, hostility or exclusivity (see Derrida 1997). In all these practices, there is an attempt to trace the possible from amidst the confines of a given formation. 'Tracing the possible' could thus become a signature for a critique that worries about the exclusions required to sustain 'crime' as an ontological reality (see Lacey 1995, Young 1996). The aim is to open the limits of any 'reality' to otherness beyond any 'reality.' This spirit of critique could open criminology to voices of those excluded in the past, and to those that have yet to come. Such a focus on dissociation, on opening up to contingent possibility, stands contrary to the impetus to gather, or stamp out rigid limits:

Once you grant some privilege to gathering and not to dissociating, then you leave no room for the other, for the radical otherness of the other, for the radical singularity of the other...separation, dissociation is not an obstacle to society, to community, but the condition ... of any unity as such (Derrida 1997: 14-15)

Secondly, the genre of critique implies a 'self-effacing' critic. S/he is turned deconstructively toward the limits of an ethos not as expert scientist, as moral entrepreneur, or as independent judge. Rather the critic assumes the posture of de-subjected sleuth who traces the possible out of the realities before him/her. The task requires considerable imagination, and an ability to enlist ready-to-hand historical tools for the insubordination of that which is. For example, the tool of framing contradictions is not used to silence one voice in the hope of accentuating another; the point is to allude to the contingency of the present and to commence the very difficult task of linking phrases in such a way as to trace out the shadowy outlines of promises past, or those yet to come. This is a contemplation of not being thus, and its gaze is akin to staring into the abyss that is death. The radical criminologist could embrace this 'gift' of death, in the sense of pursuing the just promises of not existing thus; for example, of not accepting the exclusions, violence, brutality and injustice of living within the limits of what Christie (1993) speaks of as the "crime control industry."

Finally (as if talk of death were not sufficiently final), what might be the purpose of the genre of critique at hand? One response is to suggest, as does Derrida, that,

A deconstructive thinking...has always pointed out the irreducibility of affirmation and therefore of the promise, as well as the undeconstructability of a certain idea of justice (1994: 90)

There it is, or rather is not. Justice. But certainly not justice if by that one means something that can be stated in terms of 'this is justice' or 's/he is just' (see Derrida 1992; Pavlich 1996). That is, such a justice does not imply a condition whose essence, limits, can be specified – the idea of justice entails the promise of permanently opening limits towards a future that is eagerly anticipated. Justice as a call to life, as a call to being other than this. Justice calls again and again, and its promise beckons the weary, the dispossessed, the oppressed, the silent. And then we are left to say, again and again, that the purpose of critique is to reach beyond what is. There it is anew – all we have are just promises. *Pacta sunt servanda* (promises must be kept).

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