

Karl Marx and the Death Penalty

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Abstract This study is a Marxist analysis of capital punishment or the death penalty. The only detailed treatment of the subject by Marx appeared in an article published in the New York *Daily Tribune*, February 18, 1853, and that treatment was only a sketch. Thus, the following study is an attempt to suggest what a reading of Marx may contribute to an understanding of capital punishment. I conclude that abolition of the death penalty does not need a Marxist justification, but a Marxist justification adds to the many arguments for that course of action.

Introduction

It is remarkable that Karl Marx, who wrote so little about crime and punishment, has had such an extraordinary influence on the subjects. His work has inspired a voluminous literature of Marxist (or radical or critical) criminology. Still, that Marxist criminological literature is conspicuous for its relative dearth of capital-punishment analysis. The purpose of this study is to suggest what a reading of Marx may contribute to an understanding of capital punishment.

Marx on the Death Penalty

Marx's most detailed thoughts on capital punishment appeared in an article published in the New York *Daily Tribune*, February 18, 1853 (Marx 1853). He constructed the article in the following way. First, he provided examples of cases that showed that the death penalty had a counter-deterrent or brutalizing effect; that is, that executions cause murders. He also presented data showing that murders and suicides "follow closely the execution of

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criminals.” Marx was not the first to observe this counter-deterrent effect, but he was one of the earliest to write about it. Dr. Benjamin Rush, for example, the putative founder of the American death penalty abolitionist movement, noted in the late eighteenth century that capital punishment might increase crime (Filler 1967, p. 106; Gorecki 1983, p. 85).

As for the deterrent effect of punishment, Marx noted that “since Cain the world has been neither intimidated or [sic] ameliorated by punishment.” Again, Marx was not the first to question the deterrent effect of capital punishment, but he was an early skeptic. His views have subsequently been validated. According to U.S. Supreme Court Justice John Paul Stevens in his recent opinion in *Baze v. Rees* (553 U.S. ___, 2008): “Despite 30 years of empirical research in the area, there remains no reliable statistical evidence that capital punishment in fact deters potential offenders.” In 1989, following a comprehensive review of death penalty research by a panel of distinguished scholars, the American Society of Criminology passed a resolution condemning capital punishment and calling for its abolition. Among the reasons for the Society’s position was the absence of “consistent evidence of crime deterrence through execution” (Petersilia 1990, p. 1). A recent survey of 67 current and past presidents of the top three criminology professional organizations—the American Society of Criminology, the Academy of Criminal Justice Sciences, and the Law and Society Association—found that about 80% of them believe that the death penalty is no greater a deterrent to homicide than long imprisonment” (Radelet and Akers 1996). This latter observation focuses on capital punishment’s marginal deterrent effect; that is, whether capital punishment has a greater deterrent effect than non-capital punishments such as life imprisonment without opportunity for parole. There is no evidence that capital punishment has a marginal deterrent effect.

Second, Marx criticized both Kant and Hegel’s German idealism regarding their beliefs about free will and self-determination. Marx’s ontology was different. In *The German Ideology*, Marx wrote, “It is clear ... that individuals certainly make *one another*, physically and mentally, but do not make themselves” (Marx and Engels 1976, pp. 55–56, emphasis in original). In the article, Marx also cited favorably the work of the positivist and “moral statistician” Adolphe Quetelet, who showed the regularity of both the amount and type of crime in a “modern bourgeois society” (referring to France and the United States in the early nineteenth century). It was Quetelet, incidentally, that observed early on that a key factor in violent crime was “relative poverty,” where there is great inequality between poverty and wealth in the same area. According to Quetelet, relative poverty incited people through jealousy to commit violent crimes. This was especially true, surmised Quetelet, where changing economic conditions caused the impoverishment of some people while others retained their wealth (Taylor et al. 1974, pp. 37–38; Vold and Bernard 1986, pp. 131–132). Quetelet’s formulation is consistent with Marxist analysis; furthermore, the idea that “relative poverty” or “relative deprivation” is a cause of crime has been adopted by current critical or Marxist criminologists (see, for example, Young 1997, p. 30).

Third, Marx argued that “punishment is nothing but a means of society to defend itself against the infraction of its vital conditions, whatever may be their character.” He then quipped, taking a poke at capitalism, “is there not a necessity for deeply reflecting upon an alteration of the system that breeds these crimes, instead of glorifying the hangman who executes a lot of criminals to make room only for the supply of new ones?” Marx maintained that one would be hard pressed to find a use for capital punishment in a society “glorying in its civilization.” In that respect, he shared the viewpoint, attributed to both Fyodor Dostoevsky and Winston Churchill, that: “The mood and temper of the public with

regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country.”

Marx believed that capitalism produces an amount and type of crime that it punishes. One of the roles of the state is to determine guilt and administer punishment. Capital punishment is the state’s ultimate sanction and means of coercion and is generally reserved for the most heinous crimes, as defined by the state, but not necessarily the most serious harms. Marx apparently expected heinous crime in capitalist societies and the death penalty as a means by which the capitalist state would deal with it.

Death-Eligible Crime

Following Friedrich Engels’ description of the causes of crime in *The Condition of the Working Class in England* (1968, pp. 145–146), Marxist criminologists have argued that “senseless” and heinous violent crime—the type of crime most likely to be death-eligible—is a product of the demoralizing and brutalizing conditions under which many people are forced to live in a capitalist society. As criminologists Taylor, Walton, and Young explain, “It is not that man behaves as an animal because of his ‘nature’ [under capitalism]: it is that he is not fundamentally allowed by virtue of the social arrangements of production to do otherwise” (1975, p. 23). Recent estimates provide support for this contention. Nationwide, about 40% of all capital indictments are for felony murder, i.e., a murder committed during the commission of another felony such as armed robbery (Walker 2006), and many other death-eligible murders are the result of “collateral damage” in the illicit drug trade.

Not long ago, criminologist Elliott Currie specified seven elements of “market societies” or “capitalist societies” that he believed, in combination, are likely to breed serious violent crime. They are:

- (1) “the progressive destruction of livelihood” (the absence of steady well-paying work);
- (2) “the growth of extremes of economic inequality and material deprivation”;
- (3) “the withdrawal of public services and supports, especially for families and children”;
- (4) “the erosion of informal and communal networks of mutual support, supervision, and care”;
- (5) “the spread of a materialistic, neglectful, and ‘hard’ culture” (the exaltation of “often brutal individual competition and consumption over the values of community, contribution, and productive work”);
- (6) “the unregulated marketing of the technology of violence” (the absence of public regulation of firearms); and, not least
- (7) “the weakening of social and political alternatives” (which inhibits people most “at risk” from defining their problems in collective terms and envisioning a collective response) (Currie 1997a; also see Currie 1997b).

Although one may agree with the Marxist analysis that capitalist societies breed serious violent crime, it does not necessarily follow that capitalist societies must respond to serious violent crime with capital punishment, as history clearly demonstrates. Nor is it to suggest that state-socialist societies should be free of serious violent crime, as history also attests. Rather, for Marxist criminologists, compared to capitalist societies, state-socialist societies should have a different amount and type of serious violent crime because of the less intense class struggle in state-socialist societies (see Chambliss 1976, p. 9). State-socialist

societies, especially in their early transitional years, are likely to experience some residual “bourgeois crime” and capital punishment. History also demonstrates the use of capital punishment by new leaders of state-socialist societies to rid themselves of their political enemies. However, once state-socialist societies are more entrenched, they often abolish capital punishment, at least for short periods of time. For example, the Second Congress of Soviets abolished the death penalty in November 1917, only to reinstate it by 1922; even Stalin repealed the death penalty in 1947, but reinstated it in 1950 for political crimes (Caffentzis 2000).

Species-Beings and Capital Punishment

For Marx, state socialism is only a transitional stage to communism, as capitalism is a transitional stage to socialism. Marx’s vision was that in the higher stages of a stateless-communist society (Marx’s “withering away of the state”), there would be no need for capital punishment (a tool of the state) because oppositional classes and “bourgeois criminality” would disappear and human beings would be “species-beings.” Marx assumed that human beings were inherently good (à la Rousseau) and that society corrupted them. Even if human beings were simply a product of their experiences (à la Locke), a corrupt society would still corrupt many of them.

An interesting question is: what is it about “species-being” that makes capital punishment superfluous? Marx appropriated the concept of “species-being” from German philosopher Ludwig Feuerbach, who, in *The Essence of Christianity*, wrote that what distinguishes human beings from animals is not consciousness per se but rather a particular kind of consciousness. This “human consciousness” is not just consciousness of the individual as an individual, but also the consciousness of an individual as a member of the human species whose “human essence” is the same as that of other human beings (Bottomore 1963, p. 13, n. 2). Marx added to Feuerbach’s original formulation the belief that human beings are only living and acting authentically, i.e., in accordance with their nature, when they are deliberately living and acting as “species-beings” or “social beings” (Bottomore 1963, p. 13, n. 2). In his essay, “On the Jewish Question,” Marx wrote that in capitalist societies human beings are far from “species-beings.” In capitalist societies, human beings are egoistic, separated from the community, withdrawn into themselves, wholly preoccupied with their private interest, and act in accordance with their private caprice (Bottomore 1963, p. 26). The only bond between human beings in capitalist societies is natural necessity, need and private interest, the preservation of their property, and their egoistic selves (Bottomore 1963, p. 26). In the *Economic and Philosophical Manuscripts*, Marx wrote about alienated labor (in capitalist societies). It is here that Marx explains that alienated labor alienates nature from human beings; alienates human beings from themselves, from their own active functions, their life activities; and, in so doing, alienates human beings from each other, their species (Bottomore 1963, p. 127). For Marx, alienated labor is characterized by work that:

- (1) “is *external* to the worker, that it is not part of his nature; and that consequently, he does not fulfil [sic] himself in his work but denies himself, has a feeling of misery rather than well-being, does not develop freely his mental and physical energies but is physically exhausted and mentally debased”;
- (2) “his work is not voluntary but imposed, *forced labour*. It is not the satisfaction of a need, but only a *means* for satisfying other needs. Its alien character is clearly shown

by the fact that as soon as there is no physical or other compulsion it is avoided like the plague”;

- (3) “the external character of work for the worker is shown by the fact it is not his own work but work for someone else, that in work he does not belong to himself but to another person” (Bottomore 1963, pp. 124–125, emphases in original).

Marx concludes that human beings (workers) in capitalist societies feel freely active only in their animal functions—eating, drinking and procreating, or at most in their dwellings and in personal adornment—while in their human functions, they are reduced to animals (Bottomore 1963, p. 125). Under such conditions, serious violent crime is not surprising.

Communism and Capital Punishment

For Marx, “*communism* is the *positive* abolition of *private property*” and, for the purposes of this analysis, “of *human self-alienation* It is, therefore, the return of man himself as a *social*, i.e., really human, being, a complete and conscious return which assimilates all the wealth of previous development” (Bottomore 1963, p. 155, emphasis in original). Communism, writes Marx, “is the *definitive* resolution of the antagonism between man and nature, and between man and man. It is the true solution of the conflict between existence and essence, between objectification and self-affirmation, between freedom and necessity, between individual and species” (Bottomore 1963, p. 155, emphasis in original). In a communist society, according to Marx, “competition as we know it has given way to cooperation as we have still to learn about it” (Ollman 1976, p. 106).

A communist society would have no need for capital punishment and no state to administer it. Capital punishment would also be counterproductive in the transition from a state-socialist society to a communist society because, during the transition, capital offenders would play an important, constructive and educational role (see Gordon 1976, p. 210). During the transition, capital offenders “would be treated in the ways that many families deal with those family members who betray the family trust” (Gordon 1976, p. 210). Society would admit its collective failure and, with the help of the offender, seek ways to reform the total community (see Gordon 1976, p. 210).

Currie believes that, at present, the most promising lever of change and, at the same time, the most effective means to significantly reduce serious violent crime, is “full employment at socially meaningful work at good wages, and with reasonable hours” (Currie 1997a, p. 168). Such a policy would require “substantially expanding employment in the public and nonprofit sectors of the economy, and developing policies for work-sharing and reduction of work time” (Currie 1997a, p. 168). It is important to emphasize, as Currie does, that full employment, etc., as a means to reduce serious violent crime is a reform for the present (during the capitalist transition to socialism) and probably during state-socialism as well. However, as I have argued elsewhere (Bohm 1984), it is not the long-term solution; communism is.

Critique

If Marx expected capital punishment in capitalist societies, which it appears he did, he was wrong. Nearly all advanced capitalist societies, with the notable exceptions of the United States and Japan, have abandoned capital punishment, as have most state-socialist

societies. Some prominent political and economic conservatives, such as George Will, William F. Buckley, Jr., Pat Robertson, and Milton Friedman, have questioned the death penalty because of what they perceive as the enormous waste of capital it consumes and the havoc it wrecks on the administration of justice, among other reasons.

Critics of Marx can point to the use of capital punishment in so-called socialist or communist nations, such as the former Soviet Union, China, North Korea, and Cuba. However, none of those nations were or are truly socialist or communist, at least as Marx had originally conceived the terms. It is unfair to look to the totalitarian nations that were or are socialist or communist in name only for guidance in dealing with the crime and punishment problems of capitalist societies.

Today, it probably makes little sense to speak of capitalist and socialist societies anyway, because no pure societies of either type exist (they probably never did.). All countries now manifest elements of both capitalism and socialism. In the United States, for example, Social Security, Medicare, Medicaid, and other social programs, such as public education, public libraries, public parks, and public highways, provided by federal, state, and local governments are clearly socialistic. Even so-called corporate welfare, such as the many subsidies and tax loopholes for corporations, is socialistic. At the beginning of the twenty-first century, all countries have “mixed” economies, with elements of both capitalism and socialism. Thus, it may make more sense to refer to capitalist-dominated societies and socialist-dominated societies.

What may be occurring in the world at present is the transition of advanced state-capitalist-dominated societies, such as the United States and Great Britain, to state-socialist-dominated societies, and the transition of what are erroneously called state-socialist societies, such as Russia and China, to the early stages of capitalism. The capitalist-to-socialist transition was predicted by Marx, but Marx never dreamed that societies would try to skip necessary stages of development, as was done in all supposedly state-socialist or “state-communist” societies. The adoption of the free enterprise system (capitalism) by former supposedly state-socialist or state-communist societies is simply the result of a long overdue recognition by such societies that capitalism is a necessary transitional stage, as Marx originally had argued.

Critics of Marx also contend that his communist vision is utopian. However, in *The German Ideology*, Marx (and Engels) argued that communism is neither “a ‘state of affairs’ which is to be established” or “an ‘ideal’ to which reality [will] have to adjust itself,” but rather “the ‘real’ movement which abolishes the present state of things” (Marx and Engels 1976, pp. 56–57). The reason communism is not utopian for Marx is because the factors, in the absence of which communism is impossible, exist as potential within the conditions now in existence. However, while “communist factors” may indeed exist as potential within the conditions now in existence, Marx’s apparent belief that the potential will inevitably be realized betrays his own idealism.

Conclusion

Abolition of the death penalty does not need a Marxist justification, but a Marxist justification adds to the many arguments for that course of action. It is noteworthy in that regard that one of the most politically conservative institutions in society—the Roman Catholic Church—is one with the politically radical ideology of Marxism in opposing capital punishment. If Marxists and the Pope can find common ground on the issue of capital

punishment, then it seems inevitable that those in the middle of the two political extremes eventually will also see the wisdom of abolishing the death penalty.

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