STATE

POWER

CRIME

Edited by

ROY COLEMAN   JOE SIM   STEVE TOMBS   DAVID WHYTE

Preface by Stuart Hall

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PREFACE

State, Power, Crime is a challenging, wide-ranging and thought-provoking collection of essays. They set crime and the criminal justice system in the context of politics and the state, wider social relations and structures of power and inequality. In so doing, they prove once again – if evidence were needed – that the critical criminological project is alive and well and capable of raising serious theoretical issues and producing profound insights, not simply into crime and the response to it, but into what Foucault called writing 'the history of the present'.

The volume is also, in part, a celebration of the publication, 30 years ago, of *Policing the Crisis: Mugging, the State and Law and Order* by a collective of writers and researchers (none of them, as it happened, professional criminologists!) associated with the Centre for Contemporary Cultural Studies at the University of Birmingham. The analysis offered in *Policing* was influenced by the body of new critical work in crime and deviance that emerged in the 1960s. It also drew extensively on the formative work in cultural studies that was developing at the Centre. The authors of *State, Power, Crime* are scrupulously generous – almost, at times, too generous? – in acknowledging where and how they have found the questions opened up by *Policing the Crisis* productive for their own thinking and research. As one of the original *Policing* group, I would like to express our gratitude for this act of recognition and solidarity across the years, which the new volume represents.

Policing the Crisis took six years to research and write and in the beginning we knew very little about the criminological field in which we were intervening and had no already-finished theoretical approach to apply. But we were propelled in new directions by events in the so-called 'real world' and trying to effect a paradigm-shift – or what David Scott calls opening a new 'problem space', from that of a conventional criminological approach – to explain them. By 'problem space' Scott means 'the ensemble of questions and answers around which a horizon of identifiable stakes … hangs'. A paradigm shift is thus the result of treating a historical moment or conjuncture as *also* an epistemological space, and changing what seem to be 'the questions worth asking and the answers worth having' about any problem. Our method was to redefine the object of inquiry. This meant re-constituting a particular crime and the societal response to it – long prison sentences handed down for a so-called 'mugging', committed by three young men of mixed race background against an elderly man on a piece of waste ground in Birmingham in 1972 – as a social phenomenon, a 'social fact', rather than an isolated criminological event.

Why had British society – the police, the law, the media, political leaders, spokespersons, public opinion – reacted to that event in such an extreme way at this precise

historical juncture? Why did such a wide-ranging 'moral panic' develop around the 'mugging' label? How did rising urban crime become the signifier of a crisis of the whole social order? What social contradictions were driving this so-called 'crisis'? How were the themes of race, crime, youth and the working class condensed in it and why had they come to serve as its ideological conductors? How did this response function as a mechanism for constructing an authoritarian consensus in the state, an increasing reliance on the law to govern and 'police' society, provoking the build-up towards a law and order' society? What role did the state play in its construction? What fears and anxieties was this shift mobilizing?

Policing was the outcome of a process of collaborative research, analysis and theorizing, a 'work in progress', an unfinished project; and, despite the inordinate length of time it took to produce, this process was far from complete when it ended. It urgently required to be further expanded and developed. That was 30 years ago, and its questions and formulations may appear somewhat naive from the perspective of the present. But that is because of the extensive work which has gone into consolidating and sophisticating the paradigm in the intervening years. Though *State, Power, Crime* was produced in very different circumstances from *Policing the Crisis*, it is clear that its authors have shared many concerns and approaches over the years. They have also been engaged in discussion and debate, a sustained conversation, which gives their work a rare unity of perspective across their different areas of expertise.

The expansion and development that *Policing* anticipated takes many forms in the new volume. *State, Power, Crime* pursues many similar topics and themes. It carries the narrative forwards. It develops and expands the argument. It offers new conceptualizations as well as critically engaging with, challenging and putting into question aspects of the earlier work.

The first line of development concerns extending the story – the narrative history – embedded in *Policing* forwards into the following decades. Every essay in the new volume builds its own historical account, deploying this to identify key events which signify critical turning points, new developments and trends, even the opening of a different conjuncture, over the succeeding 30 years. Narratives of this kind are never innocent. They establish a certain way of understanding the relationship between past, present and future; more especially, of understanding how the significant relations between the elements of a social formation 'hang together' and how that articulation is re-configured across time. The 'story' offered in these essays is no simple chronological march, one event after another. It is a *conjunctural* history. It provides an interpretive reading of how these connections can be made and, more importantly, when significant shifts occur. It is not best understood as an account of the unstoppable forward-march of some trans-historical coercive drive lodged in the state-form itself – an approach quite foreign to the demand for historical specificity and the attention to conjunctural shifts which a Gramscian perspective requires. Such developments are never the result of a simple contradiction unrolling evenly across time throughout the whole social formation, but rather, as Louis Althusser once put it, 'an accumulation of circumstances and currents' which, though different in origins, sources and the contradictions which drive them, at certain moments 'fuse into a ruptural unity'.

Policing the Crisis was framed by the 'crisis' of the post-war settlement, the break up of the Keynesian welfare state and the period of social democratic reforms, and signalled the coming apart at the seams of the accommodations which, for a period, stabilized the political landscape and the balance of social forces in post-war British society. The book charts the way the break-up of this 'settlement' produced a progressively deepening social crisis. It explores how that crisis not only shaped the developments of crime and the criminal justice system in the period, but influenced the changing character of legal regulation and the wider control culture and their role in 'policing' – reacting to and attempting to manage and contain – the crisis. Its period of active research was therefore defined by that crisis and dealt in depth with the events of the 1960s–1970s, ending in the mid-1970s. That was before the rise of what came to be know as 'Thatcherism' and the new conjuncture shaped by neo-liberalism, anti-statism and globalization: though the latter was indeed anticipated and cannot have come as a surprise to anyone who had read *Policing* carefully, since it is one of the few genuinely predictive studies in the social sciences (which are not all that strong on accurate prediction). For example, the essay 'The great moving right show', which I published in 1978, correctly anticipated the outcome of the 1979 election, and in terms of general analysis, both this and the later work on Thatcherism were made possible by, and unashamedly stood on the shoulders of, *Policing the Crisis*.

Many of the same social constituencies are followed through in the new volume; but always as a way of marking critical developments, changes of historical contexts and shifts on the modalities of control. And some identify new subjects. For example, Ballinger and Bibbings open new terrain with their discussion of the 'gendering' of crime, sexuality and the social conditions of rule. They are focused on the rise to visibility of the category of sexual offences and the wave of new legislation around rape, domestic violence, abuse within and outside marriage and harassment. Ballinger poses profound questions about the complex gendering of hegemony and how this shifts the analysis. Bibbings privileges sexuality and the state's continuing reinforcement of an heterosexual norm. These authors add a whole new dimension and new constituencies, which were – inexplicably from the perspective of today – missing from *Policing.*

Burnett tracks the race theme that was central to *Policing* – but now in the context of the rise of, and the assault on, multiculturalism; how 'community cohesion' became in the 1990s the leading edge of that attack; why the debate about cultural identity and a vision of 'belongingness' built around citizenship, provided the focus for a new moral panic around 'immigration'. He also poses questions about the effect of the shift into neo-liberalism. He seems convinced that changes in institutional forms of the state do not fundamentally undermine its coercive character. Similarly, Coleman follows through the policing of the working classes, and youth – but now in the context of 'the urban crisis' and the strategies of 'urban regeneration' that have accompanied the 'entrepreneurialization' of the state.

Jamieson and Yates offer an insightful and carefully considered 'survey' of developments in 'the highly politicized arena of youth crime and youth justice' since the 1970s. They identify the soft-and-tough 'bifurcation' approach of the Thatcher era and the

deepening of a punitive regime, especially with respect to childhood and anti-social behaviour, marked by the notorious 1998 Crime and Disorder Act and New Labour's deployment of the 'community' discourse to ground and popularize its moralizing logic.

Jones and Novak also look at shifts in regulating the poor, the underclass, unemployed youth and other stigmatized minorities through the welfare state and social policies in the so-called neo-liberal state. They, too, discuss the new modes of regulation, which include such strategies as community policing, parenting orders, curfews, tagging, Asbos and the deployment under New Labour of the all-encompassing category of 'anti-social behaviour'. They add that a return to the emphasis on 'the undeserving poor' seems to take us back to the Poor Law. Is this, then, a further example of, or different from, the 'authoritarian drift' discussed in *Policing*?

On the theme that used to be defined as 'crimes of the powerful', Tombs and Whyte's chapter is part of a major adjustment of emphasis. They identify the unprecedented rise of corporate power and wealth in the period of privatization, globalization and deregulation; and the way the corporations have acquired a social role and moral authority through such devices as 'corporate responsibility' and 'community development'. Are the global multinational corporations beyond state regulation? Are they both inside and outside the state? Is this an example of the state's 'relative autonomy' in the era of anti-statism? Both Green and Ward and Gill also locate new legal and societal responses in the context of contemporary global issues. These include what they call 'crimes of obedience': how individuals are 'legitimately' [*sic*] constrained to commit illegalities by states – of war, state-legitimated violence, security threats and terrorism. The new strategies here involve a massive expansion of intelligence and surveillance, the use of torture, control and exclusion orders, incarceration without charge or trial and other counter-terrorism measures that are given a sort of 'legal legitimacy' in the context of globalization and 'the war on terror'. These seem to be new forms of the exercise of state power through the enforcement of complicit action without legal sanction, for which the term 'Guantanamo' has come to serve as a general metaphor. Many are ambiguously positioned 'both within and beyond' the law; the state harnessing new forms of political bio-power which subject bodies who are held for long periods in legal limbo in the inbetween state of 'bare life' about which Giorgio Agamben has recently so eloquently written.

Then there are chapters that bring new theorizations or a new literature to bear on old questions. Mason offers a critique of the theorization of the media and the role of primary and secondary definers offered by *Policing*. He draws on discourse analysis and the political economy of communications, especially the latter, which returns to a more orthodox neo-Marxist political-economy approach to the sphere of ideology and the media; making use, in particular, of Schlesinger's critical examination of the original approach. Mason does not state where he thinks the balance of the argument finally lies. Walklate introduces the new discourse of the victim and considers how it is related to the New Labour struggle to win consent, with its insistence on adding 'responsibilities' to 'rights', and the general promotion of ideas about the individuation of responsibility (or what they call 'responsibilization'). Pantazis and Pemberton attempt to apply the language of 'needs' and 'harm' to the era of privatization.

Hancock raises another version of the neo-liberalism question that recurs here in many chapters, about the operation of the so-called 'exceptional state' (to which Hillyard also gives extensive treatment – see below) and how far we have advanced towards it. Can neo-liberalism and anti-statism go hand in hand with the more pervasive penetration of society by the state; and is this an example of Foucault's 'governance at a distance'? In another version of the same problem, Pantazis and Pemberton ask whether in general we are witnessing in the more recent era of the so-called 'reform agenda' a deepening of the criminalization of social problems or more humane forms of the capitalist state – or both at the same time? Walters, too, wants to know what the consequences of neo-liberalism have been for criminological thinking in general and Home Office research in particular.

There seem to be many common threads and preoccupations here from which certain key questions arise. Does the relation between state, crime and power remain roughly the same in the moment of the disintegration of the Keynesian, reformist welfare state and the emergence of the anti-statist, neo-liberal, deregulated state under Thatcherism and New Labour? Is the advance towards the 'exceptional' state with which *Policing* concludes maintained across these two different conjunctures? How do we theorize the articulation between the state, crime and power in the era of free markets, anti-statist neo-liberalism, de-regulation, the 'reform' agenda and globalization? Broadly speaking, do the trends and tendencies identified in the first conjuncture persist, without significant difference, into the second? And more conceptually how much difference *do* conjunctural shifts make and how much does historical specificity matter? These are clearly issues which lie at the heart of the way the general theoretical framework of the second book reflects on the problematic of the first.

This is pre-eminently the terrain of the two over-arching review chapters in *State, Power, Crime*: 'The "Exceptional" State' by Paddy Hillyard and the panoramic Introduction to the volume by Coleman, Sim, Tombs and Whyte. Hillyard has, of course, done vital work in charting the critical role played by the Northern Ireland crisis across the whole period in 'pioneering' the movement towards an 'exceptional' state. He accurately picks up on an uncertainty in *Policing* about committing itself as to when precisely the 'drift' towards a law and order society became an 'exceptional state' and whether the latter has arrived and is now the 'normal' state of affairs.

This is a masterfully organized chapter too detailed to summarize here. Hillyard uses the three-part schema in *Policing* – drifting towards the resort to the law to govern society; the expansion of informal social controls; the movement towards the violence threshold and the deployment of new technologies of surveillance (like CCTV, data collection and intercepts in response to terrorism and Northern Ireland) – to organize his paper and to integrate a wealth of subsequent research. This is filled out in considerable detail. The main thrust of the argument is that the trends in this direction have intensified over the past three decades and that the advance to an exceptional state has been sustained.

Coleman et al. address the key conceptual issues in a thoughtfully formulated, sophisticated and wide-ranging chapter. *Policing the Crisis* was shaped by the disintegration of the welfare state; the period since has been framed by the rise of the

neo-liberal state. Are an interventionist state and the anti-statist, 'deregulation' state, two sides of the same coin or are they in some more complicated way articulated together? Is rolling back the state related to rolling out new institutional forms and arrangements, new technologies of governance and new forms of policy 'delivery' – the centrepiece of state policies and actions under New Labour in recent decades? Has globalization really undermined the role of the nation state and its capacity to intervene and regulate? Do these add up to a genuine pluralization of state power and a new form of the state, or are many of them simply favourable ways of representing the state's coercive drive – what the authors call 'liberal speak' (there was a lot of it about in what elsewhere I called New Labour's 'double-shuffle').

The authors insist that the state is a contradictory site. An emphasis on the negative and coercive aspects of state power, and the use of oppositions like public/private and coercion/consent, when staged as mutually exclusive binaries, is not, they say, helpful. However, the overall tendency of the review points towards the view that new state institutions and initiatives are always underpinned by the state's coercive capacities and that state violence remains integral to its operations.

The essays in this volume do offer irrefutable evidence of an exponential expansion, a widening of the scope and a deepening of, or penetration into, society of the state. There has been an extraordinary proliferation of the modes and sites in which these many different forms of state interventionism have been exercised. Whether this represents a continuation of the tendencies towards an 'exceptional state' evident since the 1970s or a shift of conjuncture (what Gramsci called 'a relation of forces in continuous motion and shift of equilibrium') remains an open question.

Of course, the question of the *neo-liberal* state cannot be judged from the coercive end of the spectrum alone, critical though that evidence is. If you track the argument from the perspective of the state alone, which is by definition a coercive formation, there may be a danger of exaggerating the coercive aspects at the expense of others. What Gramsci called the dual perspective – 'the dialectic between force and consent, authority and hegemony, violence and civilization' – is always in play, even when the balance tilts or lurches 'exceptionally' towards one or other end of the scale. The construction of consent is neither a powerless nor a benign process. Rather, the force/consent dialectic marks the distinction between two kinds of power – between a reliance on coercive dimensions, and a form of 'hegemonic power' which, of course, always has its coercive aspects. The latter has real effects, and the state is massively involved in it: for example, in restructuring institutions around the market forces principle, giving capital access to every aspect of public and social life, saturating society from end to end with a 'free market' common sense which is visible today in every department of society, and educating society to meet the needs of that 'new type of civilization and citizen' [*sic*] required by capitalist globalization.

Moreover, any question of the neo-liberal state must include the liberalization of the economy and economic life, which has been the centre of the shift towards neo-liberalism. Paradoxically, what is called 'light regulation' has been one of the preferred modes of regulation in the economic area, in letting market forces have an unfettered freedom to operate: just 'light touch' enough to keep markets open, free and in good

working order; to oblige them to be competitive for the sake of the free market system as a whole; opening up the free movement and operation of capital, domestically and globally, its freedom to exploit labour differentials and resources everywhere, to invest anywhere, to bank off-shore, to keep operations off-account, and to increase the value of its assets through the unlimited expansion of risk and debt. The state here maintains weak regulatory systems, seductive low taxation regimes, 'rolling back' any impediments to the corporate rich to make money, increase share value and profitability; and incidentally facilitating the rise of the richest global super-class the world has even seen.

We have in fact seen two versions of this kind of neo-liberalism. Under Thatcherism, the emphasis was on economic liberalization and privatization of public assets and the dismantling of the mixed economy: with the more coercive side deployed to undermine and break the collective defences and constraints on market forces (for example, the criminalization of opposition in the miner's strike). Its leading edge was 'privatization'. In broad principle, New Labour (Blair and Brown) have been converted to and loyally followed through this economic liberalization approach. But it focused its attention on *the management of society* – a more regulatory social regime altogether. This has included the 'entrepreneurialization' of public life, the public sector, public services, government and social institutions and expanding the regulation of civil society and of social and individual behaviour. It has replaced 'privatization' with the broader process of 'marketization' – fatally blurring the distinction between public and private, and allowing private interests to warren and hollow out public institutions from the inside; erecting markets as the only measure of efficiency and value and destroying the very idea of 'the public'. Marketization involves the obligation on all social institutions to comply with the obligation to re-model themselves on the private market, adopt market disciplines and ways of calculating value.

Of course, adding an economic dimension does not resolve the question of the neo-liberal state either. These issues are too complicated to be answered fully here. What is important is that *State, Power, Crime* poses this question of the nature of the neo-liberal state sharply and clearly. It adds a wealth of evidence which must be taken into account in answering it and provides a range of conceptual formulations which point towards a resolution. In this way, though it differs from *Policing the Crisis* in mode, form of analysis and conjuncture, it shares the aspiration not to be trapped in the empiricist shallows but to test the deeper waters where the questions are worth asking. I salute its courage.

Stuart Hall

INTRODUCTION: STATE, POWER, CRIME

Roy Coleman, Joe Sim, Steve Tombs and David Whyte

Bolstered by the new wave of theoretical innovation and methodological scepticism that had tentatively begun in 1968 with the formation of the radical National Deviancy Conference (NDC), a number of seminal texts were published during the 1970s which developed the critical themes and perspectives initially identified by those participating in the NDC.[1] These texts contested not only the mystifying, algorithmic quantification of positivist criminology, and the reductive emphasis on the individualization of criminal behaviour that flowed from this methodological position, but also implicitly confronted the conjoined, cosy and intertwined relationship which many in the discipline had developed with micro and macro structures of power and domination, including the state and its institutions (Walters, this volume). This relationship was based on the rhetoric of benevolent, progressive reform, which generated a criminology of 'compliance and complicity'[2] while simultaneously excluding significant areas of social and political life that had a direct bearing on the nature of, and response to, criminal and deviant behaviour. Profoundly important political and cultural processes, including the question of the state, did not feature on the radar of conventional criminological endeavour, nor the nebulous, administrative pluralism which underpinned it. However, for critical criminologists, state power, and the interests the state served in a grossly unequal social world, became increasingly important as critical criminology moved from the amorphous conceptualization of social control underpinning labelling theory's often idealized glamorization of transgressive male criminality to a more materialist, Marxist-based interpretation of power, and, by extension, the processes of criminalization and control emanating from the state and its institutions.

By the mid to late 1970s, the work of Pearce (1976), collections by Taylor et al. (1973, 1975) and, in the latter, notably the contributions by Quinney (1975) and Schwendinger and Schwendinger (1975), all drawing upon some forms of Marxism, combined to place the state as an analytical entity on the agenda of critical criminology. Again this work was a direct and oppositional challenge to the dominant criminological discourse of the time. As Frank Pearce noted:

> Within sociology, and particularly within criminology, the serious study of the state and its agents and of the activities of the ruling class is virtually non-existent. … [N]evertheless most of what has been written has been administratively oriented or

meritocratic in its inspiration. On the other hand, endless surveys and reports have been compiled on crime, racial disturbances, working class militancy, drug 'abuse' etc. (Pearce, 1976: 158)

However, it was not until the publication of *Policing the Crisis* (*PtC*) (Hall et al., 1978) – in 1978, the same year as Poulantzas' *State, Power, Socialism*, itself a key moment in the fervent of social science literature on 'the state' – that the complexity of the state's material and ideological interventions in maintaining, and indeed enhancing, a capitalist social order increasingly dominated by the political economy of neo-liberalism, was laid bare for critical criminological analysis.

This chapter is concerned with exploring these themes, and in doing so provides a context for the contributions that follow. It focuses on three main areas. First, it is concerned with *Policing the Crisis* itself, and the conceptualization of state power that underpinned the book's analysis. Thus, it analyses the influence of the book in relation to the debates around state power within critical criminology as they have developed since its publication in 1978; this influence is, of course, further identified in its scope, variety, and trajectories by the contributors to this collection. Second, it is also concerned with exploring the conceptualization of state power as a matter of contemporary criminological concern, and in particular its invisibility within a range of criminological work – work that is itself based on both mystifying what the state does (and does not do) and caricaturing the work of those who wish to retain a critical focus on its role in reproducing the social divisions and defending the globalized capitalist social order of the early twenty-first century, however contingent and contradictory that process might be (Gill, this volume). Finally, we consider the question of the state with respect to its place as a contradictory site where the individual actions and collective activities of state servants are open to contestation from a range of individuals and groups, both within and without the power networks of its material and ideological institutions.

Policing the Crisis and the State

Policing the Crisis was published during the dying days of James Callaghan's Labour government and before the electoral birth, in May 1979, of Margaret Thatcher's first Conservative government. Politically, the book both reflected, and reflected upon, the sense of apocalyptic panic gripping the nation in general, and fractional blocs of the ruling class in particular. This panic, Hall et al. argued, was linked by a cultural and political umbilical cord to the organic crisis of a capitalist Britain experiencing a pervasive, intensifying sense of loss and defeat, of imperialist retreat and demoralization, and of economic, political and moral decline. More generally, *Policing the Crisis* signalled what was to become a social, political and economic torrent of international proportions in the rolling out of a neo-liberal experiment across much of the globe – an experiment which took its most vicious and virulent forms in centres of Anglophone criminology, namely the UK, North America, Australia and New Zealand.

Central to the book's analysis was the moral panic around mugging and the role of black youth in this most 'un-English' of crimes. Never intended as a book about 'why or how muggers, as individuals, mug' (Hall et al., 1978: 327), Hall et al.'s neo-Marxist analysis of this crime was located within the emergence of a state form that was coercive, authoritarian and brutal. The nascent social and political clampdown generated by this authoritarian state form was hegemonically cemented in the consciousness of the wider population through mediated 'truths' about mugging generated by a competitive mass media (see Mason, this volume). At the same time, according to Hall et al., the post-war social democratic state was shedding its skin of welfare–oriented, consensual social inclusion (however idealized that might have been) in favour of a militarized, coercive social authoritarianism as a response to the moral and political threats, posed by the social detritus generated by capitalist social arrangements that were in crisis.

At the time of writing *Policing the Crisis*, Stuart Hall made explicit his reading of Poulantzas' *State, Power, Socialism* (1978b) and his agreement with the central arguments of that book, notably those around the emergence of what Poulantzas was evocatively and presciently to call 'authoritarian statism' (see Hillyard, this volume). This, Poulantzas famously defined as:

> … intensified state control over every sphere of socio-economic life *combined with* radical decline of the institutions of political democracy and with draconian and multiform curtailment of so-called 'formal' liberties, whose reality is being discovered now that they are going overboard. (Poulantzas, 1978b: 203–4, emphasis in the original)

In practice, authoritarian statism meant relentlessly mobilizing around the criminalization and control of those groups – the welfare dependent, the economically deprived, the politically depraved (those whom Thatcher was subsequently to label the 'enemy within') and the socially and psychologically dislocated – whose corrosive presence was increasingly regarded as problematic for the maintenance of a deeply divided social order and the untrammelled working of the free market.

Hall recognized 'many similarities between [Poulantzas'] characterization and those I had been struggling to formulate in *Policing the Crisis*, "Drifting into a Law-and-Order Society", and so on' (Hall, 1988: 151–2). However, he has also maintained that there were two weaknesses or omissions in Poulantzas' initial conceptual framework built around authoritarian statism. First, Poulantzas failed to analyse how popular consent could be 'constructed by a historical bloc seeking hegemony'. In mobilizing deeply embedded psychic emotions of insecurity and discontent for its own political ends, this bloc could 'neutralize the opposing forces, disaggregate the opposition and really incorporate some strategic elements of popular opinion into its own hegemonic project' (ibid.: 152). Allied to this was a second weakness, which concerned the new right's pursuit of an 'anti-statist strategy', defined as:

> … not one which refuses to operate through the state; it is one which conceives a more limited state role, and which advances through the attempt, ideologically, to *represent itself* as anti-statist, for the purposes of populist mobilisation … (ibid., emphasis in the original)

This dialectic – connecting a strong, interventionist, law and order state on one hand to a rolled-back, non-interventionist state form on the other – influenced the analysis of state power and crime developed by some of the emerging generation of critical criminologists. *Policing the Crisis* was one of a number of possible impetuses for 'critical criminology', a heterogeneous collection of 'radical agendas' seeking to 'challenge the status quo, modernist modes of social control, the claims of science and other disciplinary knowledges, the dominance of patriarchy and the underlying moral order of Anglophone culture' (Carrington and Hogg, 2002: 3). More specifically, the model of analysis Hall et al. developed for understanding the dynamics of state power has influenced a range of work published over the last three decades, within which it is possible to identify two distinct strands.

First, different authors have focused on the ongoing intensification in the authoritarian interventions of a numerically expansionist, surveillance-oriented, highly militarized and nakedly aggressive state form. This coercion is apparent not only in the policing and punishment of narrowly defined, legally circum-scribed criminal behaviour, but also with respect to the control of public order and the criminalization of popular and political dissent (Scraton, 1987; Gamble, 1988; Hillyard and Percy-Smith, 1988; Barton et al., 2007a; Hillyard, this volume). In turn, this authoritarianism, and the often violent and retributive discourses on which it is based, has been legitimated and sustained by a mass media which has remained central to the creation of moral panics around crime and incivilities, particularly among the young (see Jamieson and Yates, this volume). Moreover, these same media, in the last three decades, have become increasingly more con-cerned, indeed obsessed, with the licentious trivia associated with the cult of modern personalities, rather than with identifying the structural and motivational complexities surrounding a range of contemporary social issues, including crime (Bauman, 2002; Mathiesen, 1997; Mason, this volume; Hillyard, this volume). And while the state may have undergone some important reconfigurations, particu-larly with the emergence of more privatized forms of social control, as well as 'changing from provider to purchaser of public services' during the Thatcher/Major and Blair/Brown eras, nonetheless,

> it continues to maintain a coercive core and central role in the shaping and defining of social problems and the social and legal response to such problems. … The deliv-ery of some aspects of state power may have changed but its orchestration remains relatively unchanged. (Barton et al., 2007b: 208; see also Coleman, this volume)

A second, albeit indirect, legacy of *Policing the Crisis*, via its references to the at times (apparently) contradictory relationship between state, law and capital, has been the space the book potentially opened up for developing the idea of an 'anti-statist strategy', subsequently developed via Hall (1988), and its usefulness, or otherwise, for analysing crimes of the powerful in general and corporate crime in particular (see Tombs and Whyte, this volume). Thus, in the Thatcher/Major era, the activities of the powerless were the focus for 'the retributive interventionism of the strong

state … [while] for other, more powerful groups, the eighteen years of Conservative rule meant that their activities remained relatively invisible, comparatively unregulated and effectively decriminalized' (Sim, 2000: 324). This process continued under the Blair/Brown governments. The regulation (never the *policing*) of the powerful in the last three decades has, *in general*, followed an 'anti-statist' strategy with respect to the rolling back of those state agencies responsible for the regulation of their activities – even if this anti-statism has been highly selective, and in some contexts more important in its representation than reality (see Tombs and Whyte, this volume). For the Thatcherite bloc in the Conservative Party, this strategy was loudly proclaimed through the populist and political discourse of 'freeing the market' and, by extension, risk-generating, buccaneering entrepreneurship, from the stifling strangulation generated by bureaucratic red tape in a society over-burdened by state intervention (Gamble, 1988). For Blair, then Brown, the sustained (if partly rhetorical) attack on 'red tape' has been legitimated as a necessary response to the new 'realities' of globalization. Therefore, in the thirty years since *Policing the Crisis* first appeared, the state's capacity, and indeed motivation, for intervening into and responding to the activities, criminal and otherwise, of the powerful – individuals, organizations, institutions and states themselves – which can have an enormously detrimental impact on the lives of individuals, communities and the wider society, has been and remains markedly different from the interventions of its increasing number of servants into the lives of those without power, and the inevitable process of criminalization that flows from these interventions.

None of this is to deny that the non-regulation of the powerful, for example around health and safety at work, is a process that long predates the advent of neo-liberalism,

> and can be traced to the moment at which the criminal courts saw the punishment of the wealthy or the ruling class as somehow beyond their remit. The process of law reform and the process of law implementation remains guided by a logic of social ordering – of mediating over conflict in a way that will not disturb the status quo. (Tombs and Whyte, 2007: 123)

However, the important point to note here relates to *how* the state form that has developed in the last three decades has further reinforced and intensified this process of differential law and its enforcement so that, with respect to the activities of the powerful:

> Under neo-liberal conditions, in other words, punitive enforcement becomes less feasible, and co-operative or compliance-oriented approaches become much more likely. And it is here we can see – again – a coherence with policy, since the current and recent British governments are, for all their deregulatory rhetoric, probably less interested in the removal of law *per se* (which, as Thatcher found, in the 1980s, invited political confrontation), but much more interested in changing the terms of that enforcement, towards greater compliance-type techniques which imply less actual impact upon business. (ibid.: 164–5)

Thus, while a reconfigured law and order agenda has been central to the generation of successive moral panics around the behaviour of the powerless, the failure to mitigate the harms generated by relatively powerful social actors such as corporations can be characterized as an exercise in the creation of *un*-panics (Davis, C., 2000) with respect to the lack of state concern over their depredations, certainly when compared with the desperate concern constantly articulated about the behaviour of the powerless in the mass media, state documents and ministerial and other statements made by politicians. Further, the (actual or claimed) rolling back of the state should be understood alongside its rolling out in creative and novel institutional forms. For criminology, this means that increased regulation and social control should be conceptualized in its dialectical relationship to the increase in the freedom to act with the simultaneous and creative *re*-regulation of specific individuals and targeted groups (Tombs and Whyte, this volume). These are not separate spheres of criminology, criminal justice or state activity, but inextricably linked elements of a dynamic process with respect to the risks these groups may pose to the social order, however socially constructed the idea of risk might be.

Criminology and State Power: Myopia and Invisibility

Given these academic legacies, we now turn to the question of state power and its relationship to criminology in general and consider the discipline's response to the intensification and consolidation of state power that Hall and his colleagues identified in the late 1970s. As we noted above, *Policing the Crisis*, and Stuart Hall's subsequent analysis of Thatcherism, provided some key theoretical, methodological and empirical pointers towards understanding and analysing the contours, direction and impact of the law and order state as it developed from the late 1970s under successive Conservative and Labour (New or otherwise) governments. This work was responding to the clearly demarcated authoritarianism that lay at the heart of the criminal justice and state welfare policies as they developed during this time (see Hillyard, this volume; Jones and Novak, this volume). However, neither the neo-Marxist model of state power outlined by Hall et al. (nor variants of it) has been taken up or developed by criminologists, critical or otherwise. There are four reasons for, and elements of, this academic marginalization that we want to highlight here.

Critical Fragmentation

The first issue concerns the fragmentation of the critical paradigm which began as early as 1975 but which was intensified and consolidated in the 1980s. Even as many of those associated with the NDC and the emerging critical paradigm during the 1970s and 1980s provided searing critiques of crime, criminology and state power – for example, in terms of the rule of law, the capital/labour relation, gender, race and racialization – the solidification of a law and order discourse to which *Policing the Crisis* pointed, and to which criminology was quickly to submit (Hillyard, Sim et al., 2004;

Walters, this volume), led many key critical scholars of this period rapidly to abandon the terrain of crime and criminology. While the nuances of these developments cannot be discussed here (but see Hillyard, Sim et al., 2004; Hillyard, Pantazis et al., 2004; Tombs and Whyte, 2003a/b), suffice to say that the period from the very early 1980s saw a reinforcement of criminology's historical commitment to work on the basis of definitions of what constitutes crime produced by the state. Of course, that criminology has been largely non-reflexive on this issue and has, on the whole, accepted the notion of crime, is no mere quirk or due to a shortage of criminological endeavour but is more a consequence of the rules of formation of the discipline itself; as Carol Smart was to observe some years later, 'the thing that criminology cannot do is to deconstruct crime' (Smart, 1990: 77).

Others who had been working with neo-Marxist concepts reacted to 'The Great Moving Right Show' (Hall, 1988: 39), by themselves establishing, and then admonishing, what they saw as the straw men of the idealist left and urging criminologists (as well as centre-left politicians) to take crime seriously. In 'left realist' criminology, the state was characterized as one autonomous element in a much-cited, but theoretically empty 'square of crime'. There is no little irony in the fact that left realism's failure to take the state seriously occurred just at the moment that its nature and effects were being most significantly analysed by neo-Marxist criminology (Sim et al., 1987). Taking crime seriously was then easily incorporated into the great ideological beacon of New Labour's modernizing march towards government: 'tough on crime, tough on the causes of crime'. The Blair and Brown governments then commenced to mobilize around a desperately populist, highly punitive (for the powerless) law and order and social welfare strategy which was no less toxic in its implications than policies pursued under the previous Thatcher/Major regimes (Sim, 2009).

The New Pluralism

Second, and related, the state has been made even less visible in the past thirty years. The state has been gradually airbrushed out of critical analysis largely because most criminology has continued to take official discourses on 'crime' and 'law and order' – and the solution to those problems – at face value (see Walters, this volume). Thus, new ways to describe institutional concentrations of power and resources which elide states and state power – 'partnerships', 'joined-up government', 'modernization', 'rebalancing', 'flexibility', 'community cohesion' and so forth – have been accepted and internalized relatively uncritically by academic criminology. In particular, there has been a failure to subject such terms to critical scrutiny or to question the extent to which they correspond to a form of 'new liberal speak' (Bourdieu and Wacquant, 2001).

Arguably, the 'success' of this new liberal speak of 'partnerships', 'joined-up government' and so on has been to mystify and obscure the processes of power (in ideological and material terms) that shape social orders and reflect persistent (and deepening) patterns of inequality (Burnett, this volume; Coleman, this volume). In this respect the channels of primary definition ensconced in state discourses have attempted to place limitations on the sociological imagination to which

many academics have aligned themselves. Within these discourses, 'the state' (if the term is deployed at all) is depicted as a series of governmental and quasi-governmental institutions among multiple sites of power. Recent studies, for example, have argued that: state power has become pluralized into variegated orders (Shearing and Stenning, 2003); states have less recourse to coercion and repressive measures (Barry et al., 1996); states lack coherence in terms of ideological referents (Miller and Rose, 1990), and indeed ideology has disappeared altogether in some work; states and powerful corporations are themselves just as likely to be subject to surveillance and regulation as the 'powerless' (Haggerty and Ericson, 2006); and states have been superseded by a range of risk managers (Feeley and Simon, 1992).

Others *have* retained the concept of the state as an analytical and empirical object of inquiry, for example in relation to regulation, policing and security (Crawford, 2006; Loader and Walker, 2006). And this work raises a number of important questions, not least of which relate to how the state in its 'diverse forms' is becoming 'more frenetic, volatile, contradictory, and politicised' in its 'regulation of behaviour' (Crawford, 2006: 471). Yet while not without insight, there remains a general tendency across this heterogeneous work to reduce state power to the organizational form that delivers policy. Crime control partnerships between public authorities and civil society groups are thus characterized as the conduits of new forms of power under the auspices of 'responsibilization' or 'governance'. This focus leads to a theoretical and political position in which these institutional arrangements are conceptualized as merely reflecting new technologies of government – the 'how' of government and governance. Indeed, it is this focus that underpins claims regarding new epoch-defining shifts in social structure (such as 'networked governance', 'neo-feudalism' or the 'death of the social', Crawford, 2003; Rose, 1996), within which the state is constructed as a static set of institutions which are bit players in new networked arrangements.

The new forms of delivering criminal justice policy, local community safety agendas and so on are seen as a challenge to the state and state power precisely because they are seen as *external* to the state. A key conceptual mistake that is being made here is a narrow understanding of what the state is. As Gramsci noted, what is normally represented as the 'state' – the 'safeguarding of public order and of respect for the laws' (or 'state as policeman') – negates the centrality of 'private forces' in the historical development of states. Thus, he argued, the 'state as policeman' approach is a 'limiting hypothesis' (1971: 261). He counterposed the 'state as policeman' with the 'ethical' or 'interventionist' state. The visible and repressive role of the state is only a part of its core function: 'the law is the repressive and negative aspect of the entire positive, civilizing activity undertaken by the state' (Gramsci, 1971: 247). Where its substantive concern is the criminal justice system, criminology tends to adopt a limiting hypothesis of the 'negative' aspects of state power, restricted to the visible mechanisms of law and public order maintenance; those mechanisms that Poulantzas called the 'public kernel' of army, police, prisons and courts (1978b: 36). No wonder, then, when new forms of 'positive' policy delivery emerge (partnerships, coalitions with the private sector, and so on), they appear before some criminologists as a revelation. No wonder that they appear to alter seismically the foundations of the state itself. For because

they are not contained within the negative aspect of state power, they appear to pluralist criminology as novel forms of power, rather than new forms of positive, civilizing activity that the state has always engaged in (on this point, see also Hall et al., 1978: 211).

There should be nothing surprising in this. We should expect criminologists who are concerned with state power to study the 'negative' aspect of state power – the key institutions of policing, criminalization and incarceration, the production of political discourse around law and order in government, and so on. But in order to develop a more useful theoretical understanding of state power, a unidimensional approach that remains bounded by the *institutional ensemble* of the state should be problematized and subjected to critical scrutiny.

New pluralist commentators, then, tend to interpret the shifts in the forms taken by the delivery of policy as constituting a new form of 'state' rather than understanding them as merely new modes of delivery – thus reinforcing fragmentation of the state form itself and aspects of the social realm it seeks to govern. As Jessop (1990: 269–70) reminds us:

> The state as such has no power – it is merely an institutional ensemble; it has only a set of institutional capacities and liabilities which mediate that power; the power of the state is the power of the forces acting in and through the state.

Yet, as Jessop goes on to point out, the precise institutional arrangements and boundaries that characterize the state – such boundaries 'are usually in doubt' (Jessop, 1990: 342) – and the social forces organized through these arrangements, should therefore not be left unproblematized as a background blur without structural underpinnings. The state is not a 'thing' but a *process* that, in its shifting boundaries and ensembles, provides the arena for the organization of social forces, continually recodifying as well as drawing upon 'public' and 'private' interests. Moreover, the 'dispersed state' form of analysis distracts attention away from points of convergence across this form – and recalls Miliband's (1969) concern to map the correspondence of interests across and through the state. At the same time, it is important to point to contradictions and tensions, and explore ideological coincidences that bind interests and provide states with a measure of coherence and unity (however fragile).

An examination of the state's role in 'leadership, in direction, education and tutelage' (Hall et al., 1978: 202) questions the naïve and reductive understanding of a strict binary divide between the 'public' and 'private' realms, whereby the former is constituted by state apparatuses and the latter by institutions of civil society. In reality, both arenas are constituted and reconstituted in struggles around the state form. It is precisely here where an alliance of forces congeals and displays relative unity and, in borrowing Gramsci's terms, 'poses itself as an organism in continuous movement, capable of absorbing the entire society, assimilating it to its own cultural and economic level' (1971: 260).

Rather than focusing on the relative size of the 'public' or 'private' sectors, the key issue here is how these categories come to have political meaning and powerful

institutional effects in structuring the economy and facilitating strategies of capital accumulation. Questions that can be asked include: how the contingent balance of forces between public and private acts as to, for example, redefine notions of 'sovereignty' over a given space (see Coleman, this volume) and how state projects intersect with inequalities concerning social class, 'race', gender (see Ballinger, this volume), sexuality (see Bibbings, this volume) or age (see Jamieson and Yates, this volume). Thinking of the state form as a process and a site of strategy (in defining and promoting, for example, illusory communities as a means of shaping hegemonic compromise with subordinate populations), we can undermine both the tendencies to analyse the state as a neutral arbiter or to render the state absent, and instead analyse 'the relation between state structures and the strategies which different [and asymmetrically constituted] forces adopt towards it' (Jessop, 1990: 260).

The relationship between public and private in capitalist societies is therefore organized around a complex balance of forces, rather than being organized around separate and antagonistic elements of a society that stand in external relationship to each other. It is this symbiosis – and the way that it acts to secure the domination of a minority ruling class – that concepts of 'state' should seek to capture above all. Indeed, it was his understanding of the complex ways in which 'diverse tendencies' of the state secure hegemonic domination for the ruling class that led Gramsci to the formulation that state = political society + civil society, and which was crucial to the analysis developed by Hall et al. in *Policing the Crisis*.

Globalization as 'Reality'

A third issue, and a further manifestation of an over-simplified understanding of the state which is dominant across criminology, is perhaps best captured in terms of an acceptance of 'the "ideology of globalization"' (Poulantzas, 1975: 49). If globalization is a relatively recent phenomenon, it is one that has still not been subjected to any serious critical analysis within criminology. Thus, just as nation-state power has been ceded horizontally (to the private sector) and downwards (to the local state), as the new pluralists would have it, so too has it shifted upwards, to the new dominant actors of the global economy, be these supranational institutions or transnational corporations (Braithwaite, 2000). Those assumptions have led to a range of calls to abandon our concern with the nation state as a site of power. For Sheptycki, this means we should 'no longer study the nation state system, but rather look at the transnational-state-system' (2000: 7); for Findlay, this means we should work towards a global system of crime control based around some kind of 'global ethic' (1999: 220).

Thus much contemporary criminology invokes globalization as a structuring context for, or as a factor in, a whole series of contemporary substantive issues – whether this is the nascent forms of, increasing need for, and clear problems in genuinely achieving transnational policing, the 'rise' of new or exacerbated crime threats, such as terrorism, the trafficking of drugs, people or arms, cyber-crime and money-laundering, not least through transnational organized crime, the prevalence of new risks, insecurities and mentalities – and, of course, a seemingly undeniable, yet unquestioned, loss of

state authority, usually in association with a series of claims regarding 'governance' (Braithwaite, 2000). The discourse of globalization, too, attains the status of new liberal speak precisely because it forces state power and state authority into the background of the political landscape. This has particular implications for arguments to control corporate crimes and harms produced by capitalist accumulation. Notions of 'globalization' are invoked by governments as they seek to attract or retain private capital through various forms of de- and re-regulation or impose massive cutbacks in the social wage, and more generally reproduce the 'political construction of helplessness' (Weiss, 1997: 15). Thus, state interventions to protect consumers and workers are constructed as counter-productive in the sense that they repel prospective investors, or force existing businesses to relocate elsewhere (Tombs and Whyte, 1998). From its very outset, the first Blair administration was marked by his famous pledge to 'accept globalization and work with it' (cited in Holden, 1999: 531). This very same phrase might also be used to describe academic criminology. In other words, by accepting 'globalization' at face value, criminology also assumes that there has been a diminution in the capacity of states to act in the face of global market forces.

What is missing in criminology is any critical interrogation of the contested nature of globalization itself or any consideration of what different understandings of globalization might mean for different nation states (see Pantazis and Pemberton, this volume), nor, crucially, any attempt to understand globalization as political economy. Yet, beyond criminology, if only perhaps relatively recently as a critical intellectual reaction to globalization 'orthodoxy' (Hay, 1999), there *has* been a recognition that nation states have not only been the 'principal agents of globalization', but remain 'the guarantors of the political and material conditions necessary for global capital accumulation' (Barrow, 2005: 125; see also Lee and Yeoh, 2004: 2296). Thus the state is neither peculiarly constrained (Somerville; 2004; Weiss, 2005), nor is the logic of deregulation a necessity (Mosley, 2005) in the international political economy. Indeed, as Panitch reminds us, this much had been noted by Poulantzas, in 1975 in his book *Classes in Contemporary Capitalism*:

> Far from losing importance, the host state actually becomes responsible for taking charge of the complex relations of international capital to the domestic bourgeoisie, in the context of class struggles and political and ideological forms which remain distinctively national. (Panitch, 2000: 8–9)

It is precisely these relations between state and structural power that have been severed in most recent criminological theorizing – and thus there has also been a jettisoning of the affinity between state projects and the differentials in power, access to recourses and claims to social justice found in the wider social formation at any given time. Thus, we should focus attention on what the state *is*, what it *does*, but *also* the ways in which images of the state orient subjects 'to the state and the kind of order it is engaged in producing', and how such imagery figures in a 'legitimization of domination' often through 'the generation of the figure of the enemy' (Neocleous, 2003: 5; see also chapters by Hillyard, Burnett and Gill, this volume).