State and Corporate Crime: An Introduction

Editors

This issue of Social Justice reflects the interests of scholars and activists in analyzing the legacy of the Reagan era, especially with respect to state repression. It also reflects an emphasis on themes that will be increasingly important in the coming decade, such as corporate liability for despoiling the environment and for the deaths of large numbers of people due to product defects and industrial accidents. The articles included in the “Varieties of State and Corporate Crime” are pertinent to global problems that are now being played out in local arenas: from the current sentencing of the Iran-contra scandal defendants to the debate over the abuse of state power in the U.S. and the promotion of a “legal state” in the USSR and Eastern Europe — especially since China declared martial law, forcefully suppressed the democracy movement at Tiananmen Square, and greatly expanded its surveillance and policing powers — as well as to the controversy surrounding the EXXON-Valdez environmental catastrophe. A few themes in particular are worth highlighting.

State Crimes

In “Northwards without North: Bush, Counterterrorism, and the Continuation of Secret Power,” Peter Dale Scott examines the structures and personnel that made the Iran-contra era of flagrant abuses of covert power possible. The author disagrees with certain commentators who put forward the notion that in recent years the U.S. has been governed by a secret “junta” within the administration. One reason for this is that the primary meaning of the term “junta” is a group joined for the public exercise of power. For Scott, during the latter part of the Reagan administration, there certainly was a group operating secretly, and at cross purposes with other officials in the same administration, but such a structure much more akin to a cabal. According to Scott, the institutional legacy of this period is the secret counterterrorism apparatus that in 1985–1986 was assembled under the auspices of then Vice President Bush. It became the vehicle for Oliver North’s extraordinary influence within the government.

Considering the worldwide decline in the number of private terrorist incidents, Scott argues that there is reason to review the counterterrorism appara-


tus mounted by the Reagan administration against terrorists, especially since
the key coordinator in the National Security Council (NSC) was Colonel
Oliver North. The 1987 congressional investigation of Colonel North’s activi-
ties revealed in passing how North and his counterterrorism associates in other
agencies abused the secret institutions of this counterterrorism apparatus to
bypass responsible Cabinet members and further the controversial Iran arms
sales.

Not all of these abuses ended with the Iran-contra disclosures and the de-
parture of Oliver North, however. The abuse of counterterrorism powers con-
tinued unabated with the harassment of domestic critics of the administration’s
policies, which it labeled as “terrorists.” Regrettably, the Iran-Contra Select
Committees refused to pursue evidence of it. Scott traces the role of North’s
Office to Combat Terrorism and the related interagency Operations Sub-
Group — both of which were instituted in 1986 as a result of Vice President
George Bush’s Task Force on Combating Terrorism — in abusing state power
to squelch democratic forms of dissent in the United States. He also discusses
contingency plans drawn up by the administration for the round-up and de-
portation of dissenters as “terrorist aliens” (including North’s proposal to sus-
pend the U.S. Constitution), as well as the aggressive FBI surveillance cam-
paign which began in 1981 and, in some cases, took advantage of the more
permissive guidelines which governed “cases of suspected international ter-
rorism.” Recently, the Senate Intelligence Committee charged that a “serious
failure” in FBI management led to an unwarranted, 1982–1985 antiterrorist
investigation of a domestic protest group, the Committee in Solidarity with the
People of El Salvador (San Francisco Chronicle, July 15, 1989).

Yet the recent sentence handed down by Federal District Judge Gerhard A.
Gesell in Oliver North’s Iran-contra case — suspended sentences of one, two,
and three years on the three counts, to run concurrently, two years’ probation,
$150,000 in fines, and 1,200 hours of community service in a drug program
aimed at inner-city youth in the District of Columbia — virtually assures that
the investigation into these issues will grind to a halt and that the full story
will never be told. The New York Times editorial of July 6, 1989, called North
a “fortunate felon,” and noted that even a brief imprisonment might have
inspired more public officials to comply with the law and legitimate inquiries
from Congress.

The crimes for which North was convicted by a jury were serious enough:
destroying government documents, lying to Congress, and accepting money
illegally. The first two crimes, however, were primarily an attempt to cover up
an even more profound crime: the Reagan administration’s pursuit of an ille-
gal, secret war in contravention of the will of Congress, a war which cost the
lives of 20,000 Nicaraguan citizens. In his sentence, Judge Gesell stated that:
the indictment involves your [North’s] participation in particular covert events. I do not think that in this area you were a leader at all, but really a low-ranking subordinate working to carry out initiatives of a few cynical superiors. You came to be the point man in a very complex power play developed by higher-ups.

…And along the way you came to accept, it seems to me, the mistaken view that Congress couldn’t be trusted and that the fate of the country was better left to a small inside group, not elected by the people, who were free to act as they chose while publicly professing to act differently.

Thus, you became…part of a scheme that reflected a total distrust in some constitutional values…. [Y]our punishment will not include jail. Indeed, community service may in the end make you more conscious of certain values which at times you and your associates appear to have overlooked in the elite isolation of the White House (New York Times, July 6, 1989, emphasis added).

As investigative journalist of Watergate renown, Bob Woodward, said on ABC’s “Nightline” (July 5, 1989), one constitutional value concerned is that when the Unites States goes to war, it is Congress which is empowered to make that decision, is involved in the prosecution of the war, and funds it. To run a secret war out of the White House, as Oliver North did as an officer in the Marine Corps, is to subvert the highest law of the land, the Constitution. Woodward expressed astonishment at Judge Gesell’s shallow reasoning that to jail North would only “harden his misconceptions” regarding government service. During the Watergate investigation, it was only when Judge Sirica began to hand out jail sentences that people started to tell the truth. Part of the judicial function is precisely to gather the truth.

The decision not to jail North does not serve the ends of justice. It stops the investigation of the special prosecutors in its tracks and, as Howard Metzenbaum (a member of the Senate Judiciary Committee) pointed out, it also leaves the undeniable impression that there is a different system of justice for those in higher positions when they violate the law. This is especially so since a New York Times/CBS News Poll revealed that 64% of those polled in May 1989 thought that President Bush was “hiding something that the public ought to know” (New York Times, May 13, 1989).

Accountability is the issue, yet neither North’s “cynical superiors” nor his partners in crime will pay the cost of their mistakes through the deprivation of liberty. For instance, in March 1989 former national security adviser Robert McFarlane pleaded guilty to misdemeanor charges of withholding information from Congress and received two years of probation. Richard R. Miller, a
communications consultant who pleaded guilty in May 1987 to defrauding the
government by using a tax-exempt foundation in 1985–1986 to raise money
used to arm the *contras*, although such donations were not legally tax-
deductible, was sentenced to two years' probation and 120 hours of
community service. Carl (Spitz) Channell, the conservative fund-raiser who
pleaded guilty in April 1987 to one count of conspiring to defraud the
Treasury of tax revenue due on money he and Oliver North raised for the
Nicaraguan *contras*, and who admitted falsely advising wealthy contributors
that their donations to the *contras* were tax-deductible, was sentenced to two
years' probation and a $50 court fee. Following the North, Miller, and
Channell decisions, the Justice Department, at the request of the CIA, agreed
to block the disclosure of government secrets at the trial of a former CIA
station chief, Joseph F. Fernandez, who was indicted for lying to and
obstructing the inquiries of the Tower Commission and the inspector general
of the CIA about his role in helping North construct a secret resupply airstrip.
The Justice Department's action could force dismissal of all charges against
Fernandez. This development does not bode well for the prosecution in the
upcoming trials of North's boss in 1985–1986, John M. Poindexter, and of the
arms dealers Albert Hakim and Richard V. Secord.

It is noteworthy that a Costa Rican parliamentary committee, which was
set up in 1988 to investigate drug smuggling in Costa Rica, has recommended
an immigration ban on former U.S. Ambassador Lewis Tambs, Oliver North,
and John Poindexter. Under the nonbinding proposal, North, Poindexter,
Tambs, and arms dealer Richard Secord would be forbidden entry to Costa
Rica. The committee said its proposal was based on the belief that they were
in some way involved in arms and drug smuggling in Costa Rican territory.
The panel also recommended cancellation of the Costa Rican citizenship of
U.S.-born farmer John Hull who has been indicted by a local court for arms
and drug trafficking (*San Francisco Chronicle*, July 22, 1989). Hull, incidentally,
was introduced to Oliver North after he met Robert Owen (North's
eventual courier) on a visit in 1983 to the office of Dan Quayle, then a Repub-
lican senator from Indiana. At the time, Owen worked as an aide to Mr.

There is a great deal of information now available on the international ac-
tivities of the counterterrorism cabal, but far less is known about its domestic
activities. The latter is of serious concern since North and his like-minded ac-
complices believed that America's most serious enemies are its domestic ones,
and that plans for "victory" in Central America must entail plans for "victory"
in Washington, D.C. Gilda Zwerman's article, "Domestic Counterterrorism:
U.S. Government Response to Political Violence on the Left in the Reagan
Era," takes up Peter Dale Scott's call to "review the counterterrorism appara-
tus mounted by the Reagan administration" against presumed domestic terror-
ists. She argues that since the late 1970s, there has been a dramatic increase in the number of people incarcerated for acts of political violence in the United States. The charges include armed robbery, bombing of corporate and government buildings, assisting in the escape of radicals from prison, murder, sedition, and conspiracy to overthrow the United States government by force. The actions of this marginal section of the U.S. Left, she continues, provided Reagan administration officials with the raison d'être for a proactive, technocratically organized, and cohesive domestic counterterrorism policy which supported a program of political repression. The strategies developed to apprehend, prosecute, and incapacitate these activists — not as political dissidents or even as ordinary criminals, but rather as terrorists — represented a restructurign and elaboration of domestic peacetime security operations and resulted in considerably expanded capacities for information storage, surveillance, and pre-emptive control of legitimate forms of political dissent, as well as in an erosion of constitutional rights.

The article explores the implications of using the “terrorist” label to rationalize policies within intelligence and law enforcement agencies, the courts, and the prisons. The ease with which a wide range of organizations and individuals — including those not involved in illegal or violent activities — can come to be viewed by the government as “potential” terrorist organizations or “supporters” of terrorism has an extremely chilling effect on democratic institutions. Any reassessment of the political legacy of the Reagan era must seek to objectively determine the extent of selective political repression during this period, taking into account the concurrent demobilization which characterized the progressive movements in the 1980s.

A helpful historical view is given in “Violence, Corruption, and Clientelism: The Assassination of Jesús de Galindez, 1956,” Alan B. Block’s fascinating contribution to this issue. Block discusses the hidden core of U.S.-Dominican relations as they are revealed in the assassination of Galindez, a Dominican critic of the Trujillo dictatorship, who also served as an informant for the FBI and CIA. These relations, grounded in an admixture of secret services, political corruption, and political violence, bound the two states together throughout Trujillo’s regime as well as beyond his own CIA-engineered assassination in 1961.

The article explores the concept of totalitarianism as a tendential property of the modern state. Within that framework, terror — which can be used against categories of “deviants” — rests upon the effectiveness of surveillance, itself an independent source of power. Block relates the reformation of surveillance to the historical process of modernization, in which the industrialization of war has also played a vital role. The creation of a world military order within the global systems of alliance has included the training of military cadres within dependent states by one or the other superpower. The author
then briefly traces the initial development of the U.S. secret political police, which fought the organization of labor in order to “stop communist subversion,” through the CIA-Mafia assassination attempts on Cuba’s Fidel Castro. Based upon the findings of congressional investigations into political murder and the collaboration between intelligence agents and criminals, Block finds that the similar practices of the secret police on both sides of the Cold War divide leaves neither holding the moral high ground.

“The Killing Fields: South Africa’s Human Rights Record in Southern Africa,” by Clifford Luyt, extends the analysis of the level of state terror practiced by South Africa against internal opponents of apartheid to the military and paramilitary activities by the South African security forces against their exiled countrymen and women in the subcontinent. Luyt, who practiced law before the South African Supreme Court before being compelled to leave, chronicles official South African involvement in this violence.

Three book reviews at the end of this issue supplement the themes just addressed. In “Who Guards the Guards? Review of Policing for Profit,” Robert Weiss examines the expansion of private policing powers in the U.S. and Europe and warns against the Brave New World to which ordinary citizens are becoming accustomed. From cameras in shopping centers to drug testing and technological spying on individuals’ workplace performance, private forms of intrusion have supplemented state surveillance. Since legislative protections are lacking, this leaves the guards unguarded.

In “Over Here: A Review of Agents of Repression and War at Home,” Tony Platt looks at two timely and important books. Documenting a brutal chapter in the domestic history of the United States, the books demonstrate that state terrorism, death squads, dirty tricks, and counterinsurgency do not only happen “over there.” The books give detailed case studies of counterinsurgency campaigns against the Black Panther Party (BPP) and the American Indian Movement (AIM), but also provide a service to progressive organizations by telling them how to defend themselves against future repressive operations.

In his review of State Control: Criminal Justice Politics in Canada, Tullio Caputo describes current debates in Canada on the nature of the state and the possibilities of undertaking progressive reforms of the criminal justice system.

Corporate Crimes

“Bhopal: Union Cabide and the Hubris of the Capitalist Technocracy,” by Frank Pearce and Steve Tombs, takes a detailed look at the tragic events at Bhopal, India, which exposed at least 200,000 people to toxic gases, seriously affected more than 60,000, permanently injured over 20,000 of these, and devastated whole communities. The article raises certain theoretical and practical issues relating to the control of the conduct of multinational corporations. The
companion piece, “Criminologists and the Social Movement against Corporate Crime,” is an essay review by Ronald Kramer, which takes on corporate crime as a serious social problem and an important criminological topic. Kramer argues that business corporations, large and small, inflict enormous economic costs on American society through their wrongdoing and also engage in numerous transgressions that result in death and injury for thousands. Transnational corporations relocate these costs and hazards throughout the Third World. The review explores whether these corporate harms can be prevented or controlled and whether criminologists can make an effective contribution to an organized effort to reduce the suffering and death which result from corporate crime.

Pedagogy and Commentary

In “What Is All the Fighting About? Privatism and Neighbor Disputes,” Deborah Baskin makes a contribution to the methodology for studying new forms of conflict resolution that have arisen as pressure and tensions explode between neighbors, families, and friends in the context of a breakdown in traditional mediating institutions. She contrasts working-class communities with middle-class ones to determine similarities and differences in responses to the qualitatively new urban environment characterizing this decade.

“Not One Cent for Defense Either: An Appeal for More Public Indifference” is a commentary by Richard Korn which addresses the dangers inherent in the War on Drugs as an anticrime crusade. He points out the threat posed to the Constitution and also draws on the lessons of Prohibition — particularly with respect to the upsurge in corruption and organized crime — to argue against funding this crusade.

To conclude, we believe this issue gives a varied — and at times controversial — overview of themes which will grow in importance into the 1990s. We encourage responses from readers as well as similar contributions.

G.S.